CITY OF BOULDER
CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY
Boulder, Colorado 80302
Tuesday, May 3, 2016
6 p.m.

AGENDA

1. **CALL TO ORDER AND ROLL CALL**
   A. Declaration of Historic Preservation Month
   B. Update from the **Small Business Development Center**

2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE** (limited to 45 min.) Public may address any city business for which a public hearing is not scheduled later in the meeting (this includes the consent agenda and first readings). After all public hearings have taken place, any remaining speakers will be allowed to address Council. All speakers are limited to three minutes.

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

   A. Consideration of a motion to **approve** the **March 15, 2016 Regular Meeting Minutes**

   B. Consideration of a motion to **approve** the **April 7, 2016 Special Meeting Minutes**

   C. Consideration of a motion to **approve the April 19, 2016 Regular Meeting Minutes**

   D. Consideration of a motion to **accept the February 23 and March 29, 2016 Study Session Summaries on developing a Middle Income Housing Strategy**

   E. Consideration of a motion **to accept the April 5, 2016 Council Meeting Summary on the Update on Civic Area Master Plan Implementation**, including Phase I Park Development, Analyses **Related to the East and West "Bookends," Related Projects** (including the Civic Use Pad and proposed planning and engagement process for the Boulder Community Health/Broadway Campus' redevelopment), and Proposed Next Steps

   F. Consideration of a motion to **approve board appointments for the Downtown Boulder Business Improvement District**

   G. Consideration of a motion to **adjourn from the Boulder City Council and convene as the CAGID Board of Directors; and**

Consideration of a motion **to adopt Resolution No. 275 amending the 2016 Downtown Commercial District Fund** (formerly CAGID Fund) Budget

H. Items related to the Trinity Commons Project (the "Project") at 2200 Broadway:

1. Consideration of a motion to **authorize the City Manager** to enter into and change, as needed, the **Joint Development Agreement between the Central Area General Improvement District (CAGID) and Trinity Lutheran Church of Boulder, Colorado, regarding a public/private partnership for parking** at the Trinity Commons Project in downtown Boulder and to finalize, execute and change, as needed, associated and anticipated documents for the initial and final closings for the Project

2. Consideration of a motion to adopt **Resolution No. 1184 to endorse the Trinity Commons Project and recommend that the Board of Commissioners of the Housing Authority of the County of Boulder issue up to $3,000.000 of Tax-Exempt Multifamily Housing Revenue Bonds** in order to finance the Project; and

Consideration of a motion to **adjourn from CAGID Board of Directors and reconvene as Boulder City Council**

I. Items associated with 2560 28th Street:

1. Consideration of a motion to **approve a BVCP land use map change for the eastern 0.25 acres of land located at 2560 28th Street from Park, Urban ad Other to Mixed Use Business**; and

2. **Second Reading** and consideration of a motion to **adopt Ordinance No. 8115 rezoning 0.25 acres of land located at 2560 28th Street** from **Public zoning district to Business Community** – 2 zoning district, consistent with the Boulder Valley Comprehensive Plan land use designation of Mixed Use Business

J. Introduction, first reading, consideration of a motion to publish by title only, and **adopt as an emergency measure Ordinance No. 8117** authorizing the issuance by the City of Boulder, Colorado, of its Water and Sewer Revenue Bonds, Series 2016, **in the aggregate principal amount of $35,500,000 for the purpose of providing funds to water and sewer improvements by the Utility and pay the costs of issuance of the Series 2016 Bonds;** prescribing the form of said Series 2016 Bonds; providing for the sale of said Series 2016 Bonds; **providing for the payment and redemption** of said Series 2016 Bonds **from and out of the revenues derived directly or indirectly by the City from the Water and Sewer Fee billed to customers of the City's water and sewer systems**; providing other details and approving other documents in connection with said Series

2016 Bonds; and declaring an emergency and providing the effective date hereof

4. POTENTIAL CALL-UP CHECK IN

Opportunity for Council to indicate possible interest in the call-up of an item listed under 8A. No Action will be taken by Council at this time.

8A. Potential Call-Ups

1. **350 Ponca Place - Concept Plan Review**
2. **4655 Hanover Ave - Utility Easement Vacation**

ORDER OF BUSINESS

5. PUBLIC HEARINGS

Note: Any items removed from the Consent Agenda will be considered after any City scheduled Public Hearings

A. **Second Reading** and consideration of a motion **adopt Ordinance No. 8116 amending Chapter 4-20 "Fees,"** and by amending Section 4-20-25 adding a new subsection to impose fee on water users in single family homes and amending **Chapter 11-1 "Water Utility"** by adding a new Subsection to **Section 11-1-44 "Water User Fees" authorizing the city manager to pay claims for damage from water main breaks** and setting forth related details

B. Consideration of a motion to **adopt Resolution No. 1182 conditionally supporting a federal grant application by Jefferson County** to fund planning, design and construction of up **to two underpasses and trail segments** to connect **Rocky Flats National Wildlife Refuge with adjacent City of Boulder and Boulder County trails north of State Highway 128** and approving the accompanying response guidelines

C. Consideration of a motion to **adopt additional changes to the 2016 Downtown Urban Design Guidelines**

6. MATTERS FROM THE CITY MANAGER

A. Update on the **implementation of the Black Bear Protection Ordinance (Ordinance No. 7962)**

B. Consideration of a motion to **Create a Middle Income Housing Strategy Working Group**

C. Update on **Public Participation Initiative and a motion to Appoint One Council Member to a Citizen Participation Planning Committee**

7. MATTERS FROM THE CITY ATTORNEY

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

A. Potential Call-Ups

1. **350 Ponca Place - Concept Plan Review**
2. **4655 Hanover Ave - Utility Easement Vacation**

B. Discuss Annual Retreat Logistics

9. PUBLIC COMMENT ON MATTERS
Public comment on any motions made under Matters

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

11. DEBRIEF
Opportunity for Council to discuss how the meeting was conducted

12. ADJOURNMENT
This agenda and the meeting 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.

Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk's Office at 303-441-4222, 8 a.m. – 5 p.m. Monday through Friday. The Council Chambers is equipped with a T-Coil assisted listening loop and portable assisted listening devices. Individuals with hearing or speech loss may contact us using Relay Colorado 711 (711) or 1-(800)-659-3656. Please request special packet preparation no later than 48 hours prior to the meeting.

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 City Council must be sent to City Clerk staff and will NOT be accepted after 2 p.m. the day of the meeting.

CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
Tuesday March 15, 2016

1. CALL TO ORDER AND ROLL CALL

Mayor Jones called the meeting to order at 6:04 p.m.
Those present were Mayor Jones, Council Members Brockett, Weaver, Morzel, Young, Appelbaum, Yates and Burton. Council Member Shoemaker arrived at 8:32 pm.

Council Member Weaver moved to approve the Amended Agenda by adding Item 6A- Discussion of the Portland Trip under Matters from the City Manager. Council Member Appelbaum seconded the motion. The motion carried 8-0 at 6:05 pm with Council Member Shoemaker absent.

A. Report on Treated Water Distribution and Water Main Breaks
Director of Public Works for Utilities Jeff Arthur introduced this item to Council and showed a presentation. He discussed the reaction time, the process of turning off the water, the cost of water, the longevity of the pipes, costs to incur FTEs for response and answered Council's questions.

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE at 7:22 p.m.
(Please note that public comments are a summary of actual testimony. Full testimony is available on the web at: https://www.bouldercolorado.gov/.)
Open Comment was opened and the following members of the public spoke:

1. Mike Barrow thanked Council for the West TSA project and the North Sky trail. He felt this was an example of sustainable access for Boulder residents.
2. Patrick Murphy, resident, opposed the Municipalization project as he estimated over $17 million spent so far.
3. Rob Smoke, resident, wanted Council to reconsider the camping ban ordinance and respond to the homeless.
4. Stuart Williams, resident, opposed the Farmers Ditch action and tree cutting.
5. Drew Searchinger, resident and student at CU, partnered with off-campus housing and came up with community needs –such as an online resource for students transitioning, an outreach on the hill for party nights, organization of a dialog dinner- to engage in conversation as a cohesive community. Invited Council to the dinner and handed out a flyer invitation.
6. Paul Algreen, resident, showed a presentation to save the trees in the ditch, and asked for a delay as a reasonable way to study the situation.

7. Steven Watts, resident, was in favor of the trails and urged Open Space Board of Trustees to listen to people regarding the North Sky Trail.
8. Edwards David, resident, opposed the trees being cut down in the Farmers Ditch area because the removal is not justified.
9. Darren O'Connor, resident, shared a presentation with a video embedded in the slide, regarding the Candidate Campaign of 2015.
10. Dan Spiegler, resident (pooled with Carla Graubard, Lisa Brusino), reported the costs of damage to his property caused by the water main break.
11. Christine Vanston, resident, continued the report of the cost of damages incurred by the water main break. She asked for full compensation, process improvement and safety for citizens.
12. Jo Morgan, resident, asked if Council had read the memo "Background on Mapleton Mobile Home Park" and asked that the City move on behalf of the residents.
13. Ellie Sciarra, resident, expressed concern regarding large scale homes that have been constructed in her neighborhood. She opposed the scrape-and- build scenarios that are going on there and cited the North Boulder Plan.
14. David Adamson, resident, represented Goose Creek Neighborhoods and hoped to create beautiful and sustainable neighborhoods. Urged everyone to support adopting the goal of "live-where-you-work" and affordable housing.
15. Jan Morzel, resident, spoke about middle income housing and urged Council to understand that big money is being made on small lots with large houses. This is contributing to people coming in to make lots of money. He suggested larger impact fees for these types of situations.

With no further public comment, Open Comment was closed at 8:02 p.m.
City Attorney, Tom Carr responded regarding the cost of Municipalization.

3. CONSENT AGENDA at 8:07 p.m.

A. Consideration of a motion to **approve a change to the Transit Village Area Plan (TVAP) Connections Plan** within the **Reve redevelopment** area as a part of the Site Review application case no. LUR2015-00042, as approved by Planning Board on Jan. 28, 2016

B. Consideration of a motion to **renew the employment agreement of Boulder Municipal Court Associate Judge Jeffrey Cahn**, to modify the employment agreement, and to **award a 3.0% merit increase**

C. **Introduction, first reading** and consideration of a motion to order published by title only **Ordinance No. 8110** amending

section 2-3-8, **"Library Commission," B.R.C. 1981, to conform with 2015 amendments** to city charter sections 132 through 136 and further provide for the general functions and duties of the Library Commission and uses of the Library Fund

D. **Introduction, first reading** and consideration of a motion to order published by title only **Ordinance No. 8109** approving **supplemental appropriations to the 2016 budget covering the second year of the three-year sales and use tax for capital projects** that was approved by the voters in November 2014

Council Member Weaver moved to approve the consent agenda items 3A-3D. Council Member Young seconded the motion. The motion carried 8-0 at 8:08 p.m. with Council Member Shoemaker absent.

4. POTENTIAL CALL-UP CHECK IN at 8:08 p.m.

Opportunity for Council to indicate possible interest in the call-up of an item listed under 8A. No Action will be taken by Council at this time. Council agreed to ask questions of staff at this time so that staff would not have to stay.

Item 8A2- **4403 Broadway.**
Staff Member Chandler Van Schaack answered questions for Council regarding the number of planned apartments.

Jeff Dawson, applicant, answered questions for Council regarding the building height of the buildings.

8A. Potential Call-Ups

1. 940 14th Street- Nonconforming Use Review-
   No interest in calling this calling up this item
2. **4403 Broadway- Site and Use Review-**
   Interest
3. 2110 4th Street- Landmark Alteration Certificate-
   No interest in calling up this item
4. 2303 Bluff Street- Landmark Alteration Certificate
   No interest in calling up this item
5. 4801 Riverbend- Concept Plan
   No interest in calling up this item

5. PUBLIC HEARINGS at 8:23 p.m.

A. Consideration of a motion to **accept the findings of the analysis of the West Fourmile Annexation Scenarios and Design Charrette** related to the Ponderosa Mobile Home Park, and to direct staff to **continue to pursue options** related to the project goals

Staff member Chris Meschuk introduced this matter to Council with a presentation at 8:20 p.m. Two Spanish language interpreters were present.

Council asked questions of staff.

The public hearing was opened at 8:42 p.m. and the following members of the public spoke:

1. Charissa Poteet, resident, spoke about her mobile home park and asked Council to keep the park.
2. Edward Zick, resident of Ponderosa Mobile Home Park, asked to not be annexed and does not want to have a rent increase.
3. Gregory Meduin, resident at Ponderosa, was concerned about increased costs that will force them out of Boulder since there is not enough affordable housing.
4. Stanley Parker, resident, was not opposed to annexation, but wanted services if they become annexed.
5. J Bernard Dueren, resident of the Ponderosa Mobile Home Park, expressed the insecurity about the future of the park. They survived the flood as a community. He was concerned about the taxes and extra costs associated with the annexation.
6. Neil Backstrom, resident of the Ponderosa Mobile Home Park, asked not to be annexed.
7. Tina Buguhn, resident of Ponderosa for the last 11 years, pointed out that all the residents are owner-occupied and was concerned about the homelessness that would occur if the park was closed.
8. Maribel Gonzalez, resident and representative of the Latino community, opposed the annexation for the Ponderosa residents living unified in a community. She urged Council to please maintain the community.
9. Kelly Rostello, resident of Ponderosa Park, enjoyed the community. He reported that residents share the fear of annexing, because then they may not be able to live in Boulder.

Council asked more questions of staff about the potential funding of the study.

Council Member Morzel moved to accept the findings of the analysis of the West Fourmile Annexation Scenarios and Design Charrette related to the Ponderosa Mobile Home Park, and to direct staff to continue to pursue options related to the project goals. Council Member Young seconded the motion. The motion carried 7-2 at 9:32 p.m. with Council Members Burton and Yates opposed.

B. **Second reading** and consideration of a motion to **adopt Ordinance No. 8105 rezoning a 1.94 acre parcel of land located at 3000 Pearl Street a/k/a 3000 Pearl Parkway and 2170 30th Street** from Business - Regional 1 (BR-1) to Mixed Use 4 (MU-4) zoning district and a **1.08 acre parcel of land located at 2120 32nd Street and including a portion of 2100 30th Street** from Industrial – General (IG) to Business-Regional 1 (BR-1) zoning district

Staff member Elaine McLaughlin introduced this item to Council with a presentation.

Council Member Brockett moved to adopt Ordinance No. 8105 rezoning a 1.94 acre parcel of land located at 3000 Pearl Street a/k/a 3000 Pearl Parkway and 2170 30th Street from Business - Regional 1 (BR-1) to Mixed Use 4 (MU-4) zoning district and a 1.08 acre parcel of land located at 2120 32nd Street and including a portion of 2100 30th Street from Industrial – General (IG) to Business-Regional 1 (BR-1) zoning district. Council Member Appelbaum seconded the motion. The motion carried 9-0 at 9:45 p.m.

8B. 2016 Annual Appointments to Boards and Commissions

The City Clerk flipped the city coin and it landed on "heads" therefore the first vote was conducted by last name according to alphabetical order beginning with The Arts Commission and each vote would rotate back and forth between alphabetical order and reverse alphabetical order.

Arts Commission (AC)
Kathleen McCormick, R. Alan Rudy, Ellie Swensson and Mark Villarrel were nominated.
Mark Villarreal received the appointment.

Beverage Liquor Authority (BLA)
Harriet Barker and Alyssa Lundgren were nominated.
Alyssa Lundgren received the appointment.

Board of Zoning Adjustment (BOZA)
Jill Lester and Ellen McCready were nominated.
Jill Lester received the appointment through 2021.
Ellen McCready received the appointment through 2019.

Boulder Junction Access District- Parking Commission and Boulder Junction Access District – Travel Demand Management (BJAD-PC and BJAD-TDM)
Council chose to allow a single applicant to hold similar positions on both boards. Council directed the subcommittee to do a better job at explaining the requirements and allowances of these boards to the community in the future.
Andrew Bush, Catherine Hunziker and Sue Prant were nominated.
Andrew Bush received the appointment for property owner member for both boards.
Sue Prant received the appointment for resident member for both boards.

Boulder Urban Rural Authority (BURA)
Dietrich Hoefner was nominated.
Dietrich Hoefner received the appointment.

Design Advisory Board (DAB)
Jeff Dawson and Charles Rogers were nominated.
Jeff Dawson received the appointment.

Downtown Management Commission (DMC)
Jerry Shapins and Brad Peterson were nominated.
Jerry Shapins received resident member appointment.
Brad Peterson received the property-owner member appointment.

Environmental Advisory Board (EAB)
Christina Gosnell and Jason Vogel were nominated.
Christina Gosnell received the appointment.

Housing Authority (HA)
Nikki McCord was nominated. And Claire Levy were nominated.
Both, **Nikki McCord and Claire Levy** received the appointments.

Human Rights Commission (HRC)
Lauren Gifford, Darren O'Connor and Duncan Honeycutt were nominated.
Lauren Gifford received the appointment.

Landmarks Board (LB)
Ronnie Pelusio and Mark Hafen were nominated for architect/planner seat.
Ronnie Pelusio received the appointment.
Eric Budd, Jyotsna Raj and Hollie Rogin were nominated for resident member seat.
Eric Budd received the appointment.

Library Commission (LC)- (with an extra seat available due to a current member resigning)
Juana Gomez and Joel Koenig were nominated.
Juana Gomez received the appointment through 2021.
Joel Koenig received the appointment through 2017.

Council Member Appelbaum moved to extend the meeting. Council Member Weaver seconded the motion. The motion carried 9-0 at 10:49 p.m.

Open Space Board of Trustees (OSBT)
Beth Bennett and Curt Brown were nominated.
Curt Brown received the appointment.

Parks and Recreation Advisory Board (PRAB)
Lori Fuller and Tyler Romero were nominated.
Tyler Romero received the appointment.

Planning Board (PB)
Jill Grano and Harmon Zuckerman were nominated.
Harmon Zuckerman received the appointment.

Transportation Advisory Board (TAB)
Anna Reid was nominated and received the appointment by acclamation.
Lucianne Conklin, Johnny Drozdek, Tila Duhaime, Julianne McCabe, Jennifer
Nicoll were nominated for the second appointment.
Anna Reid was appointed through 2021.
Jennifer Nicoll received the appointment through 2019.

University Hill Commercial Area Management Commission (UHCAMC)
Karen Gall received the appointment by acclamation.

Water Resources Advisory Board (WRAB)
Don Cote, James Saunders, and Kirk Vincent were nominated.
Kirk Vincent received the appointment.

Council Member Appelbaum moved to ratify the appointments. Mayor Jones seconded the motion. The motion carried 9-0 at 12:21 a.m.

6. **MATTERS FROM THE CITY MANAGER** at 11:37 pm.
   A. **Discussion of Portland/Eugene Trip**
   Council decided to not offer applicant scholarships due to lack of criteria to determine applicant selection.

   Council took a straw pool and Council Member Weaver moved to offer a $1600 scholarship to Boulder Rights Watch group. Mayor Jones seconded the motion. The motion carried 5-4 with Council Members Appelbaum, Shoemaker, Burton and Morzel opposed.

7. **MATTERS FROM THE CITY ATTORNEY**
   Council determined that the Executive Session would be held on April 7, 2016 at 6 p.m.

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL**
   A. Potential Call-Ups
      1. 940 14th Street - Nonconforming Use Review
      2. **4403 Broadway - Site and Use Review**
      3. 2110 4th Street - Landmark Alteration Certificate
      4. 2303 Bluff Street - Landmark Alteration Certificate
      5. 4801 Riverbend - Concept Plan

      There was no interest in calling up items 1, 3, 4 or 5.

   There was interest in calling up 4403 Broadway - Site and Use

Review. Council asked questions of applicant Jeff Dawson and owner Gary Cauldron.

Council Member Brockett moved to call up 4403 Broadway Site and Use Review. Council Member Yates seconded the motion. The motion failed 3-6 with Council Members Weaver, Burton, Appelbaum, Morzel, Young and Mayor Jones opposed.

9. PUBLIC COMMENT ON MATTERS

Public comment on any motions made under Matters

The following members of the public spoke:

1. Eric Ponsiet, resident, opposed the idea of calling up 4403 Broadway and showed a presentation.
2. Darren O'Connor, resident, opposed police action against the homeless regarding camping ban violations.

With no further public comment the Public Comment on Matters was closed at 12:22 a.m.

10. FINAL DECISIONS ON MATTERS

None.

11. DEBRIEF

None.

12. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on March 16, 2016 at 12:25 a.m.

Approved this 3rd day of MAY, 2016.

APPROVED BY:

_____

Suzanne Jones, Mayor

ATTEST:

_____

Lynnette Beck, City Clerk

BOULDER CITY COUNCIL PROCEEDINGS
SPECIAL MEETING
Thursday, April 7, 2016

1. CALL TO ORDER AND ROLL CALL

Mayor Jones called the April 7, 2016 Special Meeting to order at 6:00 p.m. in the Council Chambers.

Mayor Jones, Council Members Yates, Young, Weaver, Morzel, Appelbaum, Burton, Brockett and Shoemaker were present.

2. MATTERS FROM CITY ATTORNEY

A. Consideration of a motion to go into **Executive Session for Legal Advice** and **Discussion Regarding Municipalization Strategy**

Council Member Morzel moved to go into Executive Session for Legal Advice and Discussion Regarding Municipalization Strategy. Council Member Weaver seconded the motion. The motion carried 9-0 at 6:03 p.m.

The Boulder City Council adjourned to the 401 Park Central conference room 7:42 p.m. for the executive session.

At 9 p.m. 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.

3. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on April 7, 2016 at 9:00 p.m.

Approved this 3rd day of MAY, 2016.

APPROVED BY:

_____
Suzanne Jones,
Mayor

ATTEST:

_____
Lynnette Beck, City Clerk

CITY COUNCIL PROCEEDINGS
MUNICIPAL BUILDING, 1777 BROADWAY
Tuesday, April 19, 2016

Mayor Jones called the meeting to order at 6:03 p.m.
Those present were: Mayor Jones, Council Members Appelbaum, Morzel, Shoemaker, Brockett, Burton, Weaver, Yates and Young.

Council Member Weaver moved to amend the April 19, 2016 City Council Meeting Agenda . The motion was seconded by Council Member Brockett. The motion carried 9-0 at 6:05 p.m.

1. CALL TO ORDER AND ROLL CALL

A. eTown Declaration

Council Member Burton presented the declaration to Nick and Helen Forster.

2. OPEN COMMENT and COUNCIL/STAFF RESPONSE

(Please note that public comments are a summary of actual testimony. Full testimony is available on the web at: https://www.bouldercolorado.gov/.)

Open comment was opened and the following members of the public spoke:

1. Timothy Hogan, resident, opposed the North Trail plan.
2. Shawn Coleman, resident, spoke about the marijuana issue.
3. Anna Lou Owen, resident, spoke of her concern regarding a retaining wall and fence on her property.
4. Ken Toltz, resident, opposed the Nablus Sister City.
5. Karen Hollweg (pooled with Sallie Greenwood and Bill Eberle) shared a slide show presentation of the wildlife at risk with the North TSA plan.
6. Jaclyn Ramaley, resident, opposed the North TSA plan.
7. Kari Santos, resident, supported the North TSA plan.
8. Mark Robbins, resident, spoke about the case related to mobile homes. He offered suggestions to Council.
9. Patrick Murphy, resident, opposed the Municipalization project and showed a slide show presentation.
10. Bev Potter, resident, opposed the Nablus Sister City issue.
11. Barry Meriash, resident, had questions about the mediation and the process for/against the Nablus Sister City issue.
12. Jessica Sandler, resident, had questions about the process of mediation and representation.
13. Peter Ornstein, resident, opposed the Nablus Sister City issue and offered suggestions to amend the resolution.
14. Beth Ornstein, resident had questions about the mediation process.
15. Bruce Shaffer, resident, spoke to the political issues of the Nablus application and was concerned about the process of mediation.
16. Bill Cohen, resident, questioned the mediation process and urged that mediation be used correctly.
17. Gordan Pedrow, resident, encouraged the use of the mediation process or facilitated dialogue.
18. Stan Deetz, resident, spoke about the Nablus Sister City issue.

19. Nicole DeBoom, pooled with Tim DeBoom/Ellen Mackey, spoke to encourage the city to repair damages and items from the water main break.
20. Joan Nagel, resident, was concerned about the process of mediation and who should be involved in that process.
21. Essrea Cherin, applicant regarding the Nablus Sister City issue, shared her experience of the painful process and differing views and looked forward to the facilitated dialogue.
22. Julie Shaffer, resident, opposed the Nablus Sister City issue and the involvement of the city in this issue.
23. Jo Morgan, resident, complained about her mobile home board process.
24. Saib Jarrar, resident, was proud that progress has been made to enlarge peace.
25. Carl Tinstman, on the board of the Nablus Sister City Project, pooled with Brenda Mahos/Sergio Atallah, was in favor of the mediation process.
26. Deborah Young, resident, supported the mediation process and facilitated dialogue for this issue.
27. David Edwin Ward, resident, spoke of the common good, housing the homeless, feeding the hungry and healing the sick. Website: nice-world.org

There being no further speakers, open comment was closed at 7:17 p.m.

3. CONSENT AGENDA

A. Motion to **approve the February 29, 2016 Regular Meeting Minutes**

B. Consideration of a motion to **approve Resolution No. 1183** concerning the proposed City of Boulder (acting through its Water Utility Enterprise and its Wastewater Utility Enterprise**) Water and Sewer Revenue Bonds, Series 2016, in the aggregate principal amount of not to exceed $35,500,000**, authorizing the notice of bond sale with respect to said Series 2016 bonds; prescribing certain details concerning said proposed sale and said Series 2016 bonds; approving the form of a preliminary official statement; and providing the effective date of this resolution

C. **Second reading** and consideration of a motion to **adopt Ordinance No. 8110 amending section 2-3-8, "Library Commission,"** B.R.C. 1981, to **conform with 2015 amendments to city charter** sections 132 through 136 and further provide **for the general functions and duties of the Library Commission and uses of the Library Fund**

D. **Introduction, first reading** and consideration of a motion to order published by title only **Ordinance No. 8115 to rezone a 0.25-acre portion of the property at 2560 28th Street, from Public to Business - Community 2,** consistent with the **Boulder Valley Comprehensive Plan land use designation of Mixed Use Business.** Public hearing on the second reading of the ordinance and a request to change the Boulder Valley Comprehensive Plan land use designation on the site from Parks, Urban and Other to Mixed Use Business are scheduled for May 3, 2016.

E. **Introduction, first reading and** consideration of a motion to order published by title only **Ordinance No. 8116** amending Chapter 4-20 "Fees," and by amending Section 4-20-25 **adding a new subsection to impose fee on water users in single family homes and** amending Chapter 11-1 "Water Utility" by **adding a new Subsection** to Section 11-1-44 "Water User Fees" **authorizing the city manager to pay claims for damage from water main breaks** and setting forth related details

F. Consideration of a motion to call a **Special Meeting of the Boulder City Council on Tuesday, May 31, 2016 prior to the Study Session in Council Chambers**, 1777 Broadway, Boulder Colorado 80302

Council Member Weaver moved to approve the consent agenda items 3A-3F. The motion was seconded by Council Member Young. The motion carried 9-0 at 7:19 p.m.

4. POTENTIAL CALL-UP CHECK IN

Opportunity for Council to indicate possible interest in the call-up of an item listed under 8A. No Action will be taken by Council at this time.

8A. Potential Call-Ups

1. **5075 Pearl Parkway- Easement Vacation**
2. **2560 28th Street- Site review**
3. **900 Baseline Road- Landmark Alteration Certificate**

There was no interest in calling up these items.

5. PUBLIC HEARINGS

A. **Second reading** and consideration of a motion to **adopt Ordinance No. 8111** amending Title 9, "**Land Use Code**," B.R.C. 1981, to allow for changes to the **city's sign code related to lettering heights in the Boulder Valley Regional Center and compliance** with a **recent United States Supreme Court ruling regarding content based signage regulations** and setting forth related details

City Attorney Tom Carr presented this item to Council with a slide show presentation.

The public hearing was opened at 7:54 p.m.
There being no speakers the public hearing was closed at 7:54 p.m.

Council Member Yates moved to adopt Ordinance No. 8111 amending Title 9, "Land Use Code," B.R.C. 1981, to allow for changes to the city's sign code related to lettering heights in the Boulder Valley Regional Center and compliance with a recent United States Supreme Court ruling regarding content based signage regulations and setting forth related details. The motion was seconded by Council Member Brockett. The motion carried 9-0 at 7:56 p.m.

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

B. Provide Direction for City Manager **to Fund Mediation Efforts Regarding Nablus Sister City Application**

Council Member Yates provided information regarding this item. Council members discussed whether or not council members should be part of the committee and what should be the accepted outcomes of the mediation. A brief history of the Sister City Program was discussed and concern was expressed over the mixed emotions of the community.

Council Direction was:

1. The City Manager shall select the initial facilitator. The committee will decide on the eventual facilitator.

2. A reasonable number of members of the community, reflecting the diversity of viewpoints on the Sister City Application, will be selected by the City Manager, with the assistance of council members Bob Yates and Aaron Brockett during the month of May, 2016. The application will solicit each applicant's views on the Sister City Application, the applicant's knowledge and understanding of the issues relevant to the Sister City Application, those groups or interests in the community that the applicant believes that she or he can fairly represent, and such other information as the Facilitation Committee deems helpful or appropriate.

3. The goal of the committee will be to foster greater understanding and respect, engage in a productive dialog, heal wounds and explore potential outcomes.

4. It is anticipated that the facilitated discussions will take place approximately twice per month during the months of June, July, August, and September, 2016. The Facilitation Committee will publish the proposed dates of such meetings as part of the application process and each applicant will be ask to confirm that she or he is willing and able to attend most or all of such meetings.

5. All facilitated meetings respecting the Sister City Application will be publicly noticed and will be open to the public. Public comment will be accepted at most or all facilitated meetings, under such meeting guidelines as the moderator and the participants determine. Minutes of each facilitated meeting shall be publicly published and shall be forwarded to the City Council as soon as practicable after each meeting.

6. The city manager will report to the city council when $5,000 has been committed. At that time, Council will revisit this issue and assess the progress of the facilitation.

7. The city manager shall expend no more than $10,000.

6. MATTERS FROM THE CITY MANAGER

A. Reinvestment Strategy Update and Staff Recommendation **for University Hill Public Parking Garage Financing Mechanism**

Director of Community Vitality Molly Winter, Director of Finance Bob Eichem and Hill Development Coordinator Sarah Wiebenson presented this item to Council with a slide show presentation.

Council discussed the financial risks and asked for diligent negotiations to help protect the City's investment.

7. MATTERS FROM THE CITY ATTORNEY

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL (cont.)

A. Potential Call-Ups

1. **5075 Pearl Parkway - Easement Vacation**
2. **2560 28th Street - Site review**
3. **900 Baseline Road - Landmark Alteration Certificate**

B. This item was heard after **Item 5A**. See above.

C. Motion to appoint **2 Council Members** to help staff review the **new community survey process**

Council directed Council Members Weaver and Burton to help the staff review the new community survey process at 10:15 p.m.

9. PUBLIC COMMENT ON MATTERS

10. FINAL DECISIONS ON MATTERS

11. DEBRIEF

12. ADJOURNMENT

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED on April 19, 2016 at 10:17 p.m.

Approved this 3rd day of MAY, 2016.

APPROVED BY:

_____

Suzanne Jones, Mayor

ATTEST:

_____

Lynnette Beck, City Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: May 3, 2016

AGENDA TITLE: Consideration of a motion to accept the February 23 and March 29, 2016 Study Session Summaries on developing a Middle Income Housing Strategy.

PRESENTERS
Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing + Sustainability
Susan Richstone, Deputy Director for Planning
Jeff Yegian, Housing Planning and Policy Manager
Jay Sugnet, Project Manager, Housing Boulder

EXECUTIVE SUMMARY

This agenda item provides a summary of the February 23 and March 29, 2016 Study Sessions on developing a middle income housing strategy.

The purpose of the study sessions was to request council feedback on the following:

- The recently completed *Middle Income Housing Study* undertaken to better understand how the market is currently performing in relation to housing products and choices for middle income households in Boulder;
- Current trends and projections for new housing development under current land use and zoning, from now through "build out" (i.e., what we will likely get under current policies, regulations and market trends) and summarize relevant input from the recently completed community survey;
- Draft "areas of focus" of the strategy;
- Potential interventions based on consultant input, working group discussions, and a review of middle income housing approaches from other cities; and
- Next steps toward developing a Middle Income Housing Strategy for Boulder, including the coordination of analysis, community engagement and policy direction with the Boulder Valley Comprehensive Plan.

STAFF RECOMMENDATION

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

Motion to accept the February 23 and March 29, 2016 Study Session summaries on developing a middle income housing strategy.

February 23, 2016 Study Session Summary on Developing a Middle Income Housing Strategy

PRESENT
City Council: Matt Appelbaum, Aaron Brockett, Suzanne Jones, Lisa Morzel, Andrew Shoemaker, Bob Yates and Mary Young

Staff members: City Manager Jane S. Brautigam, Deputy Director for Planning Susan Richstone, Housing Planning and Policy Manager Jeff Yegian and Senior Planner Jay Sugnet

OVERVIEW
Susan Richstone introduced the agenda item and explained that Council will hear a brief presentation from the project consultants and then ask questions and discuss the results. Ms. Richstone introduced Heidi Aggeler and Mollie Fitzpatrick from BBC Research & Consulting. Ms. Aggeler provided an overview of the Middle Income Housing Study executive summary and described how this work builds upon previous work done by BBC (Housing Market Analysis and Housing Choice Survey) completed in recent years.

Following is a summary of questions raised during the session and responses provided:

- *Concern was expressed that students tend to skew data on income distribution.* The share of low income households is probably exaggerated as a result of student households; Boulder does not have a "normal" or bell-shaped distribution of income categories. Without student households the share of other income categories (i.e., middle and high) would be higher and Boulder would likely be more similar to Boulder County in terms of the relative shares of low, middle and high income households. It was noted that the absolute share is less important than the change in income distribution over time.
- *How was the socioeconomic data collected?* Ms. Aggeler responded that three year rolling American Community Survey data (2011-2013) was used for income data, but that 2015 MLS data was used for home sales.
- *Concern was raised about market fluctuation and the small sample size of homes for sale relative to all homes in Boulder.* Ms. Aggeler responded that the initial intent was to use county assessor's data to compare with 2015 sales, but there are currently issues with the data. BBC used over 800 transactions, a reasonable sample size. It was noted that the 2015 data is the most important to understand because it is what people can buy now.
- *Does the data provide insight into demolition of existing homes replaced by larger, more expensive homes? Concern was raised that the practice eliminates housing that was affordable*

to a larger share of households and replaces it with housing affordable to only a small share of households. Ms. Aggeler responded that the data only reflects the straight prices of what was sold. Assessor's data could provide insight into this particular issue.

- *In regard to the slide showing the increase in average unit size between 2000 and 2015, several council members were interested in what drove that phenomenon. Remodels and scrapes and rebuilds on existing lots or greenfield construction and market trends?* Any factor leading to increased home size was captured in the data, but could not be separated out using basic sales data; however, agents do sometimes chose to report the nature of a change in unit size (e.g., basement finish, new accessory unit) in a listing's comment field.
- *Was access to yard space an important consideration for middle income households?* Ms. Aggeler responded yes; this was a finding from the 2013 Housing Choice survey conducted by BBC. Storage for gear and area outside were also important considerations for in-commuters willing to consider living in Boulder.
- *Considering that most attached products built recently are rentals and not for sale, can we assume that the data is largely reflecting that older for sale units are more affordable?* Ms. Aggeler responded that yes, older condos are more affordable in general.
- *Interest was expressed in further analysis to compare the per square foot cost of attached new construction to older attached units in order to better understand if the attached affordability results primarily from the age of the attached product in Boulder or from the attached nature of the product.* Ms. Aggeler responded that BBC could provide the price per square foot of new construction compared to existing units for attached housing.
- *What is the connection with construction defects and the lack of new attached for sale products?* Ms. Aggeler responded that in her discussions with developers, construction defects was mentioned, but other issues were identified as more significant barriers, including high land costs, the long city review process and the overall complexity of the development code.
- *Concern was raised over including resort towns in the staff analysis of other middle income programs and strategies.*
- *How can we keep middle income units affordable over time (e.g. deed restriction) and how are other cities dealing with this issue?* Ms. Aggeler responded that deed restrictions are more reliable to ensure affordability long term, but that "the solution" is hotly debated in communities across the country. There is no magic bullet (you cannot entirely solve the affordability challenge). An alternative framing of the question is "how can we do the best job possible to maintain our income distribution?" Each community must determine the right combination of policies and programs to achieve its goals. The erosion of the middle class is a nationwide phenomenon with which many other jurisdictions are struggling. For example, Albany, NY, which is not a high growth community, is experiencing high housing prices with high income renters driving up prices.
- *Concern was raised about the cost burden benchmark (no more than 30 percent of income toward housing costs). Is it still an appropriate benchmark for cost burden or have people found ways to make due?* Ms. Aggeler responded that there is strong evidence in the 2014 Housing Choice Survey of households making tradeoffs to live in Boulder, for example paying more and living in overcrowded conditions. In some cases, for example for individuals in their early earning years or for seniors who may have lower costs overall, arguments are made that a higher housing cost burden may be acceptable; however in Colorado we tend to have more sales tax and less property tax, therefore in addition to the benefits to individual households, additional spending power is important to local economies. Ms. Aggeler mentioned a recent study in the Denver Metro area that explored the benefits of reducing housing cost burden.

- *Did you see an increase in social service needs with high housing cost burdened households?* Ms. Aggeler responded that a study was recently completed which examined the economic benefits of reducing cost burden through housing subsidies. She offered to provide the study to council. The study concludes that reducing household spending on housing costs can raise sales tax revenues by redirecting household spending on consumer goods.

Ms. Richstone concluded the meeting by saying that part 2 of the study session on March 29 will go into more detail about staff's proposed areas of focus for a middle income housing strategy.

March 29, 2016 Study Session Summary on Developing a Middle Income Housing Strategy (continued)

PRESENT
City Council: Matt Appelbaum, Aaron Brockett, Jan Burton, Suzanne Jones, Lisa Morzel, Andrew Shoemaker, Sam Weaver, Bob Yates and Mary Young

Staff members: City Manager Jane S. Brautigam, Executive Director of Planning, Housing + Sustainability David Driskell, Deputy Director for Planning Susan Richstone, Comprehensive Planning Manager Lesli Ellis, Housing Planning and Policy Manager Jeff Yegian and Senior Planner Jay Sugnet

OVERVIEW
David Driskell introduced the agenda, explaining the study session would build on the previous study session which delved into BBC Research and Consulting's findings in the Middle Income Housing Study. He provided an overview of the overall Housing Boulder work plan, revisited key themes and findings of the BBC study related to middle income housing issues and potential interventions. Leslie Ellis described the integration of the middle income housing strategy work into the Boulder Valley Comprehensive Plan. Mr. Driskell then presented a proposal to have a working group comprising council members, planning board members and housing advisory group members support development of the Middle Income Housing Strategy.

Following is a summary of questions raised during the session and responses provided:

- *The finding that 99 percent of rentals are affordable to middle income households is still surprising in the context of recent significant rent increases.* Heidi Aggeler with BBC Research and Consulting explained the methodology to calculate affordability and noted that middle income households have quite high incomes, so while rents have increased they remain affordable to this income bracket.
- *Is there a product gap because higher cost housing is unaffordable to lower income households now, but much of it may be undesirable to middle income households? Also, what share of middle income households desire to rent?* Per the Housing Choice Survey, Ms. Aggeler, said, it was true that lower income households were more likely to make the trade off to rent in order to live in Boulder, but middle income households, with more choice, are likely to be more particular about what is an acceptable rental product type and less likely to rent. Though we have a tendency to compartmentalize preferences, people have broader choice driven by preference and what is available in nearby communities. Mr. Driskell noted that Boulder has a

robust rental housing stock and single-family homes are a part of it. He also noted that we are losing the affordability of that product type fastest, so a central question is how we can replace this housing type within the community. We would be stretched to develop new affordable detached housing in Boulder. Ultimately, Mr. Driskell stated, we must ask where we will put our limited resources.

- *The vast majority of housing that has come into the community in recent years has been rental. What tools and leverage do we have to encourage affordable middle income homeownership opportunities?* Mr. Driskell explained that we can drive outcomes in annexation agreements, but in many developments we have no say in tenure. In addition to annexations, the other significant opportunity we have to stipulate the details of product type is through funding our affordable housing partners.
- *What are the numbers behind the trends related to preserving market-rate housing affordable to middle income and large lot redevelopment?* There are instances where middle income households are selling their homes, which are then purchased by higher income households. The market prices and condition is shifting the house to ownership by a higher income household, which in many cases have the resources to maximize the property and add on.
- *Why hasn't the area around Pearl Parkway and the 55th Street corridor and Arapahoe been included?* Ms. Ellis stated that for the 2040 projections, we did not assume residential in industrial areas. Future analysis may occur to explore residential in areas currently zoned industrial.
- *What kinds of assumptions were made about commercial vs. residential outcomes in mixed use areas? How can the city incentivize housing outcomes in mix use-zoned areas given that they are trending commercial currently?* Ms. Ellis stated she would send out the mixed use assumptions after the meeting.

After the presentation, Mr. Driskell invited council to provide feedback on the proposed Areas of Focus, integration of the Middle Income Housing Strategy with the BVCP update, feedback on potential interventions and the proposal to convene a working group that could potentially comprise city council and planning board members as well as housing advisory group members.

Areas of Focus

1. Focus on homeownership opportunities
2. Focus on attached housing types
3. Focus on preservation of existing middle income housing where cost effective
4. Create community and support neighborhoods
5. Ensure that most new housing is affordable to low, moderate and middle income households

There was general support voiced for the areas of focus, with the following concerns and ideas raised:

- **Address pops and scrapes.** Significant concern was expressed by several council members related to pops and scrapes. Though homes that are scraped are generally unaffordable to middle income households prior to redevelopment, this is seen as a loss of relative affordability and a case in which Boulder is "losing its soul" or social fabric. Cases were noted in which the redevelopment of single-family homes increased the home value fourfold. It was also postulated that removing the potential to scrape homes could reduce some appreciation because redevelopment potential would be reduced. *How do we let homeowners know there are other options beyond scraping a home and rebuilding it as big as possible?* Mr. Driskell stated that

there are multiple interventions such as land use and equity recapture and consideration must be made as to where the city's resources should be spent. *How would you approach rezoning in an established neighborhood (to reduce scrapes)?* Mr. Driskell stated that could be explored through the BVCP update.

- **Don't inadvertently create more student housing.** Ensure the product type intended for middle income households doesn't become student rental housing.
- **Mixed opinions on ADUs.** Some concern was raised about wrapping ADUs and OAUs into the Middle Income Housing Strategy effort; however there was some disagreement on this point. One council member mentioned that policies in other cities such as deed restricting ADUs, legalizing illegally established ADUs, and fast track measures highlight simple interventions to enable this housing type. Mr. Driskell stated that ADUs and OAUs are a separate work item not included in the Middle Income Housing Strategy.
- **Too many focus areas.** Some concern was raised that with so many focus areas, there isn't adequate focus. It was proposed that the focus areas should be defined by the desires and needs of the "customer", for example, in-commuters who wish to live in Boulder desire a small yard space or seniors who wish to downsize into a patio home-type product.
- **Consider city policy intervention in condominium defect litigation.** Interest was expressed in exploring potential city interventions in the issue of condominium defect litigation. Related to this, a council member requested that the future analysis include exploration of the possibility that many of the recently built apartment units could convert to for sale condos within five to 10 years, adding 1,000 or so attached for-sale units in Boulder.
- **For new construction, location is important.** There are areas of town that would support redevelopment and a more middle income-oriented product type, but not all of Boulder.
- **Senior housing is key to middle income housing opportunity.** Our efforts should focus in part on the turnover as seniors downsize and our ability to intervene and use that as an opportunity to ensure affordability into the future.
- **In some cases, we must act quickly and prioritize our actions.** Actions should be categorized into short, medium and long term. There are some actions that need to be taken immediately or we will lose the opportunity.
- **Implications of higher share of permanently affordable and deed-restricted housing.** *How much legal authority do we have to require that most or all new housing opportunity is affordable to any income group? What does it mean for the community to have a significantly increasing number of units in the community deed restricted for affordability?*
- **New construction will be a relatively small share of the middle income housing solution.**

Integration with BVCP Update

There was general support for the approach proposed to integrate the Middle Income Housing Strategy into the BVCP update.

- **Careful analysis of middle income product type (get it right).** A request was made that the analysis include a robust look into the product type that truly will serve the middle market, but to avoid trying to over control outcomes.
- **Explore industrial areas for housing opportunities, but consider impacts on sectors served (e.g., service industrial).** Related to areas of change, interest was expressed in looking at industrial areas for housing opportunities, yet concern was also expressed for the loss of the most affordable service industrial lands.
- **Jobs:housing balance.** Related to the jobs:housing balance, interest was expressed in exploring reducing job potential in Boulder as well as the nature of jobs we have attracted to Boulder.

Also, explore what it might look like if jobs still come to Boulder County or the US-36 corridor, but not to Boulder – will the impacts on Boulder be the same regardless? A request was made to, in a follow up to the community survey, explore community sentiment on the jobs:housing balance question in order to better understand public sentiment around controlling the increase of housing and/or job opportunity in the community. There is a paradoxical sentiment that Boulder is growing and changing too much and housing is becoming unaffordable.

- **Beware of overwhelming the community with too much change too quickly.** The rate of growth and change matters, and people are experiencing lots of change currently. We need to understand their appetite for change.
- **Community engagement.** A general request was made to ensure that adequate outreach and engagement occurred around any potential changes.

Potential Interventions

Ideas discussed by the full council:

- **Explore preservation of smaller homes on large lots.**
- **Explore ways to restrict new home sizes in Boulder.**

Ideas mentioned by individual council members:

- **Explore down payment assistance and an evergreen loan fund** to assist middle income homebuyers to purchase single-family homes the city would then secure with deed restricting covenants.
- **Explore a progressive fee based on home size, in which fees are heaviest on large homes.**
- **Prioritize preservation of property rights and incentivize other (e.g., smaller or more units) options.**
- **Consider density increases in under-utilitized, rundown, renter-heavy residential areas combined with recapture methods.**
- **Consider eliminating the per dwelling unit open space requirement.**
- **Consider Area III**. Staff confirmed it was agreed Area III would not be considered as part of this BVCP update.
- **Explore ways to reduce risk to developers.** Review city fees, policies and processes that may add risk to a project. Concern was raised that if city fees are set correctly, then lower fees is a form of subsidy.
- **Explore targeted process streamlining.** *Could we genuinely streamline the process for specific outcomes we desire?* Santa Cruz's ADU program provides pattern books for ADUs.
- **Approach subsidies to middle income households with caution.** Place careful controls and requirements on any subsidies for middle income households.
- **Consider mobile, manufactured and modular homes as part of the Middle Income Housing Strategy.** (Provided in follow-up email posted to the council hotline.)

Working Group

There was general support for moving forward with the concept of a working group that would include council, planning board and city housing advisory groups. A proposal for the process would be presented in the next month. The group would only be advisory and not make decisions. It was suggested that there be a more action-oriented component of next steps.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: May 3, 2015

AGENDA TITLE: Consideration of a motion to accept the April 5, 2016 Council Meeting Summary on the Update on Civic Area Master Plan Implementation, including Phase I Park Development, Analyses Related to the East and West "Bookends," Related Projects (including the Civic Use Pad and proposed planning and engagement process for the Boulder Community Health/Broadway Campus' redevelopment), and Proposed Next Steps.

PRESENTERS:
Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing & Sustainability
Maureen Rait, Executive Director of Public Works
Yvette Bowden, Director of Parks and Recreation
David Farnan, Director of Boulder Library and Arts
Mike Sweeney, Director of Public Works for Transportation
Jeff Arthur, Director of Public Works for Utilities
Molly Winter, Director of Community Vitality
Edward Stafford, Development Review Manager, Public Works
Sam Assefa, Senior Urban Designer
Jeff Haley, Project Coordinator
Joanna Crean, Project Coordinator

EXECUTIVE SUMMARY

This agenda item provides a summary of the April 5, 2016, Matters from City Manager Item 6B – Update on the Civic Area Master Plan Implementation. The purpose of the agenda item was to provide an update on the long-term implementation of the Civic Area, answer questions and get council feedback, particularly in relation to planned next steps for the remainder of 2016. This item was originally intended as a study session, and was rescheduled as an item under Matters From the City Manager in response to the demands on the study session calendar. Due to the complexity of the issues, the importance of maintaining transparency and the importance of further supporting public engagement

efforts, a summary of the discussion and feedback is provided for council review and consideration.

After the meeting, city staff distributed via Hotline a link to the video *2016 Boulder Civic Area Project: Building Excitement!* (or navigate to https://vimeo.com/160943073), which could not be presented during the council meeting due to technical difficulties. The goal of the video is to continue to build momentum and excitement for the Civic Area project by illustrating how the various sub-projects are tied together in the overall process and to give a brief overview of what to expect in 2016.

STAFF RECOMMENDATION

Staff recommends council's approval of the April 5, 2016 summary of the Update on Civic Area Master Plan Implementation.

Suggested Motion Language:

Motion to accept the summary (Attachment A) of the April 5, 2016, Matters from City Manager Item 6B: Update on Civic Area Master Plan Implementation

BACKGROUND

The background information for this topic can be found by clicking the link to review the April 5, Agenda Packet.

NEXT STEPS

Implementation of the Boulder Civic Area Master Plan is expected to take 10 to 20 years to complete. Upcoming steps in the process include:

Third Quarter 2016 – Construction of Phase I park improvements will likely begin after Labor Day at the conclusion of a full slate of summer events and activities in the park. This first phase of improvements is moving forward thanks to the passage of the Community, Culture and Safety Tax in November 2014. Subsequent phases of the Boulder Civic Area Master Plan will be shaped by current analyses, input from stakeholders and the community, feedback from council, and available funding sources.

Future East Bookend Activities – As discussed on April 5, East Bookend planning will be a staff priority for 2016 and into 2017. This work will leverage the public interest and project momentum generated by several components:

- Public Market Hall feasibility analysis and next steps
- Canyon Boulevard Complete Street options, to be discussed at the May 31 council study session
- Boulder Community Health/Broadway Campus site planning coordination
- CU's development of a hotel/conference facility on the Grandview site.

All these work efforts will help define the full program of uses to be accommodated in the East Bookend and their potential configuration.

Future West Bookend Activities – Further work on the West Bookend will proceed after completion of the Library Master Plan and the Human Services Strategy, both of which will help define the desired future program of uses in this area. During this interim period work will focus on program enhancements in existing spaces, such the library's new MakerSpace and the arts cinema in the library auditorium.

Civic Use Pad – Related to the West Bookend, work will also continue on a management agreement for the potential mixed-use building on the pad adjacent to the St. Julien Hotel (known as the Civic Use Pad). As presented at the council meeting, recent analysis suggests that the planned Civic Use Pad would not include a rooftop patio within the city's existing height limit. The City Council's Charter Committee is considering the possibility of proposing an amendment to the city's Charter that would be placed on the ballot for the 2016 election. The potential amendment would allow exceptions to the city's 55 foot height limit under certain circumstances. Council is seeking the Planning Board's input on the potential charter amendment in advance of its May 10 study session when potential ballot items will be considered.

ATTACHMENTS

A: Summary of the April 5, 2016 City Council Matters from the City Manager Item 6B: Civic Area Long-Term Planning Update

April 5, 2016 City Council Matters from the City Manager Item 6B Summary
Civic Area Long-Term Planning Update

PRESENT
City Council: Mayor Suzanne Jones, Mayor Pro Tem Mary Young, Matthew Appelbaum, Aaron Brockett, Jan Burton, Lisa Morzel, Andrew Shoemaker, Sam Weaver and Bob Yates

Staff: Jane S. Brautigam, City Manager; Sam Assefa, Senior Urban Designer; Joanna Crean, Project Coordinator; Jeff Haley, Project Coordinator; Maureen Rait, Executive Director of Public Works; Molly Winter, Director of Community Vitality; Edward Stafford, Development Review Manager, Public Works; Joe Castro, Facilities and Fleet Manager, Public Works

Consultant: David O'Neil, public markets hall consultant; Daniel Guimond, Economic and Planning Systems

PURPOSE
The purpose of the April 5, 2016 Matters from City Manager Item was to provide an update on the Civic Area Master Plan Implementation, including Phase I Park Development, analyses related to the East and West "Bookends," related projects (including the Civic Use Pad and proposed planning and engagement process for the Boulder Community Health/Broadway Campus' redevelopment), and proposed next steps.

Key questions for council consideration were:

Civic Use Pad

1. Does council have any comments or questions on the proposed process and next steps for determining the management agreement with the St. Julien for the Civic Use Pad?

Planning for the Civic Area Bookends

2. Does council have any questions or feedback on the preliminary Market Hall Feasibility Analysis and proposed next steps to further evaluate program and governance options as well as facility alternatives with the community and key stakeholders?
3. Does council have questions or feedback on the flood analysis results and implications for reuse or redevelopment in the "bookend" areas?

Civic Area Implementation Work and 2016 Priorities

4. Does council have questions on other aspects of the Civic Area implementation work (including park design and construction schedule), related work efforts (including the proposed engagement process for the Boulder Community Health/Broadway Campus

site), and staff recommendation to focus on the East Bookend work for the rest of 2016 and early 2017?

HIGHLIGHTS

During discussion of this agenda item, council:

- Acknowledged the complexity of the project and the work underway.
- Expressed interest in further exploration of options to make the Civic Use Pad roof top possible, and general support for the concept of a Market Hall.
- Expressed interest in understanding not only the needs and implications of the items discussed, but also how the related projects fit into the Civic Area Master Plan implementation.
- Supported staff's proposed recommendation for next steps, specifically in regard to focusing on the East Bookend planning as the priority for 2016 and into 2017. This will include pursuing the Market Hall concept, understanding the city facility and program needs in relation to the Boulder Community Health/Broadway site, and exploring the connections to CU Conference Center/Hotel at the Grandview site.
- Supported further work on the West Bookend after completion of the Library Master Plan Update and Human Services Strategy in late 2017 into 2018.

SUMMARY OF COMMENTS BY DISCUSSION SECTION

Civic Area Planning Video & Overview

While the council packet included updates for a number of topics related to the Civic Area (Phase I park improvements; related Community, Culture and Safety projects; Canyon Complete Streets and Glen Huntington Band Shell; historic resources; access enhancements and parking changes; and CU Conference Center/Hotel at the Grandview site, the staff presentation focused on three key topics:

1. Civic Use Pad
2. Preliminary Market Hall Feasibility Analysis
3. Comprehensive Civic Area Flood Analysis

Joanna Crean presented highlights from the April 4 Community Open House. Over 200 community members were able to ask questions and provide comments at each of the 12 stations representing Civic Area-related projects. Most attendees also commented that the open house provided a better perspective on the simultaneous coordination of various projects, and how

those projects all inform future decisions that collectively fit into the Civic Area Master Plan implementation. Crean also addressed a letter from the Library Commission regarding questions about the status of the planning process and park design for events. The current planning process is focused on implementing the Phase I park improvements and beginning the discussion of program uses on the bookends, such as the Market Hall.

Council asked questions regarding event planning support of the park design; ability to accommodate a variety of events over the next five to eight years; and activation and governance for the new park. Jeff Haley explained that the goal has always been to provide opportunities for a wide range of activities. A group of interdepartmental staff is working with the event planners to ensure the success of the space, and a governance team is working to identify the processes that allow the park to be well activated and maintained.

Civic Use Pad

Sam Assefa gave a brief overview of the agreements that have led to the current situation with the potential for a mixed-use building on the pad adjacent to the St. Julien Hotel. The preliminary test fit shows approximately 8,000 sq. ft. of community use flex space on the ground floor (including a warming kitchen) and three levels of hotel use above. Previously plans envisioned that this building would include community roof top access. Based on regulatory, technical and financial analysis, this is not possible due to the height limit. Staff recommended that the project proceed without the roof deck, and instead, special attention be given to the design quality and character of the civic use space. Proposed next steps included forming an advisory group of potential users to provide input as city staff and St. Julien work together to develop a preliminary management agreement.

In response, City Council indicated that the rooftop access is an important aspect of the community benefit gained from this building, and future work should support this outcome. One council question related to how project timing would be affected if changes were made to the city's Charter, via a 2016 ballot process, to allow an exception to the height limit. This scenario would extend the project timeline by 5 or 6 months. Other council comments were about the infrastructure for the rooftop access and the 25 percent of roof space limit. There was acknowledgment that changes to the charter and height limits would have much larger implications, beyond this project.

Council requested that the City Council's Charter Committee consider the possibility of proposing an amendment to the city's Charter which would be placed on the ballot for the 2016 election. The potential amendment would allow exceptions to the city's 55 foot height limit under certain circumstances. Council also requested that Planning Board provide input on the potential charter amendment in advance of its May 10 study session when potential ballot items will be considered.

Council emphasized the importance of ensuring the average person has appropriate access to the space and that it should be addressed in the management agreement. Molly Winter explained that the management plan is being developed and that staff understands the importance of community access to the space. Winter also discussed how different community groups who might use the space will be involved in determining specific elements (such as catering) of the management plan.

Preliminary Market Hall Feasibility Analysis

Sam Assefa presented the process to date, including the scope of the preliminary Market Hall Feasibility Analysis and the ad hoc working group's role. He then introduced the consultant David O'Neil to talk about Market Halls. O'Neil gave an introduction to market halls and spoke about the wide variety of community benefits and forms that a market hall can take. He indicated that a market hall is feasible in Boulder. Assefa concluded the presentation by recommending that the Market Hall Analysis be a focus for 2016, and he mentioned the preliminary architectural test fit has begun to explore options for the 13th Street block.

Council expressed strong interest in the idea of a Market Hall in this area. Several council members described their own positive experiences in market halls in other municipalities. Council indicated this project should build on the success and "magic" of the Boulder County Farmers' Market. Other key features discussed included encompassing a diversity of people and experiences, and having an appropriate building.

David O'Neil responded to questions regarding financial aspects of a Market Hall. He advised that a Boulder market hall can be financially self-sustaining. Detailed analysis has not been done regarding building costs, but results from these studies vary and are not always indicative of success. O'Neil also addressed concerns around competition and indicated that co-locating can actually help grocery stores and farmers' markets.

Assefa reminded council that there are many variables to consider for this program, including the landmark status of the Atrium, the interaction with the Dushanbe Teahouse, the needs of Boulder Museum of Contemporary Art (BMoCA), parking needs, and city facilities. Council requested more information to understand not only how East Bookend project components fit together, but also how a market hall concept might work in a mixed-use building.

Comprehensive Civic Area Flood Analysis

Sam Assefa outlined the dual goals of the Civic Area Master Plan, to create a vibrant civic park while enhancing public safety. He also discussed flood analysis, including a description of the floodplain map and preliminary architectural test fit of possible buildings in the bookends that meet the flood regulations. The work completed in recent months has helped answer the question

of whether new facilities and increased activation *could* be accommodated, from a technical perspective, in a manner consistent with city flood regulations and the Civic Area's guiding principles. Significant work remains to determine what *should* be developed in each bookend.

Council found it helpful to understand the different levels of flood risk across the site. Assefa answered questions about the factors that influence the design of a pedestrian bridge across Canyon Boulevard from the North Wing of the Library, including the possibility to retrofit the pedestrian bridge to connect to the Civic Use Pad.

There was discussion about the possibility of below grade parking structures in the bookends. Edward Stafford explained that while it is technically feasible, it is not recommended due to the flood risk and ground water challenges. Below grade structures are at a greater risk for flood damage and are also a risk for people that may try to leave during a flood. Consideration also needs to be given to the high ground water table and the effect on the surrounding vegetation in the area.

Again, there was interest from City Council in understanding how the many program elements will come together in relation to the space available, especially in relation to the possibility of a hotel on the 13th Street block. Assefa acknowledged the need for an active mix of uses, which will be explored as part of the 2017/2018 Urban Design Criteria and will help determine the program of uses on the bookends.

Civic Area Implementation-2016 Work Plan Priorities

Joanna Crean described the anticipated next steps and staff's recommendation to focus on the East Bookend planning as the priority for 2016 and into 2017. This would build upon the momentum surrounding the public market hall, Canyon Boulevard Complete Street, Boulder Community Health/Broadway campus site planning coordination, and the potential for a CU hotel/conference facility on Grandview. Further work on West Bookend program uses could proceed after completion of the Library Master Plan Update and Human Services Strategy, and in the interim, continue to enhance programs (like the new MakerSpace).

Crean indicated that the Canyon Boulevard Complete Street Study is also related to the East Bookend planning priority. Upcoming outreach efforts, including the April 27 community open house and May 18 joint board/commission meeting for the Canyon Complete Streets Study are intended to collect feedback that will inform evaluation of design options and measures later this summer. Changes to the Glen Huntington Band Shell will be considered as part of the Canyon Complete Street Study. Council will discuss the design options during a study session on May 31. More conversations with the community, boards, commissions and council will occur in the fall as part of the selection of a preferred design option. The preferred design option, or preferred alternative, may or may not impact the Band Shell. Any modifications to the Band Shell or other

features within the landmark boundary will comply with the city's regulations and review process.

Staff reaffirmed a commitment to council to continue to engage the community, boards and commissions as the project moves forward. A number of opportunities exist to continue outreach as the public market hall analysis continues, including placing information in a quarterly stakeholder newsletter, regularly updating the Civic Area website, and hosting many more public engagement events. Assefa responded to concerns about proceeding on some items without having details finalized. Momentum is critical for a project of this scale.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: May 3, 2016

AGENDA TITLE: Consideration of a motion to approve board appointments for the Downtown Boulder Business Improvement District

PRESENTER/S
Sean Maher, CEO, Downtown Boulder Business Improvement District

EXECUTIVE SUMMARY
The purpose of this item is to approve appointments for board positions as per city ordinance, as the result of two board resignations.

STAFF RECOMMENDATION
Staff recommends approval of the appointment of Kent Nuzum, Great Western Bank and Liza Getches to the Downtown Boulder Business Improvement District Board of Directors to fill two seats vacated when members moved their businesses out of the district.

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

Motion to approve appointments to the Downtown Boulder Business Improvement District Board.

BOARD AND COMMISSION FEEDBACK
At its monthly board meeting on April 14, 2016 the Downtown Boulder Business Improvement District Board of Directors voted to approve the appointments of Kent Nuzum and Liza Getches for the Downtown Boulder Business Improvement District Board of Directors.

BACKGROUND

The Downtown Boulder Business Improvement District was created pursuant to the "Business Improvement District Act" part 12 of article 25 of title 31, Colorado Revised Statues. Sponsored by a coalition of property owners and business owners and Downtown Boulder, Inc., in cooperation with the City of Boulder, the Downtown Boulder Business Improvement District (BID) was created to provide enhanced or otherwise unavailable services, facilities and improvements to commercial properties located in downtown Boulder. Operational since January 2000, the BID provides services above and beyond those provided by the city, including, but not limited to, marketing, communications, events, maintenance, business assistance and downtown ambassadors.

ANALYSIS

Attachment A outlines the appointment of two new board members.

The City Council is requested to approve the appointment of Board Members submitted by the board of directors of the Downtown Boulder Business Improvement District.

ATTACHMENTS

A. Board & Appointment of Board of Members

Attachment A

SECTION 1: BOARD & APPOINTMENT OF BOARD MEMBERS
The current board members, terms and the geographic areas they represent are:

Term expires December 31, 2016
Will Frischkorn, Cured, East End
Patty Ross, Clutter Consignment, West End
Kiva Stram, Wells Fargo Bank, Pearl Street Mall

Term expires December 31, 2017
Jay Elowsky, Pasta Jay's, At Large
Marc Ginsberg, Flatirons Technology Group, Pearl Street Mall
Stephen Sparn, Sopher Sparn Architects, PC, At-Large

Term expires December 31, 2018
Barclay Eckenroth, ShipCompliant, At Large
Gannon Hartnett, Patagonia, Pearl Street Mall
David Workman, Unico Properties, East End

Ex-Officio Liaisons
Jane Brautigam, City Manager
Sam Weaver, City Council
Molly Winter, DUHMD
Bob Yates, City Council

Board resignations: Patty Ross resigned effective March 31, 2016, and Barclay Eckenroth resigned effective May 31, 2016. At the April 14, 2016 board meeting, CEO, Sean Maher reported two individuals applied to fill the vacant board seats. Liza Getches, Shoemaker, Ghiselli + Schwartz to fill the At-Large position vacated by Barclay Eckenroth, and Kent Nuzum, Great Western Bank to fill the West End position vacated by Patty Ross. At the April 14, 2016 board meeting board member Marc Ginsberg made a motion to recommend Liza Getches and Kent Nuzum as replacements for the two resigning board members, seconded by board member Will Frischkorn, and approved unanimously.

Appoint to fill one-year term beginning May 2016 and ending December 31, 2016:

Kent Nuzum, West End
Great Western Bank
1900 9th Street, Suite 100
Boulder, CO 80302

Appoint to fill a three-year term beginning June 2016 and ending December 31, 2018:

Liza Getches, At-Large
Shoemaker Ghiselli + Schwartz
1811 Pearl Street, Suite 200
Boulder, CO 80302

CENTRAL AREA GENERAL IMPROVEMENT DISTRICT (CAGID)
BOARD OF DIRECTORS AGENDA ITEM

MEETING DATE: May 3, 2016

AGENDA TITLE: Consideration of a motion to adopt Resolution No. 275 amending the 2016 Downtown Commercial District Fund (formerly CAGID Fund) Budget.

PRESENTERS:
Jane S. Brautigam, City Manager
Bob Eichem, Chief Financial Officer
Cheryl Pattelli, Director of Finance
Molly Winter, Executive Director of Community Vitality
Peggy Bunzli, Executive Budget Officer
Donna Jobert, Financial Manager
Milford John-Williams, Budget Analyst

EXECUTIVE SUMMARY

This budget supplemental resolution is the first to be presented to City Council in 2016 for the Downtown Commercial District (DCD) Fund (formerly CAGID Fund) Budget. All supplementals adjust only the 2016 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 only 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 for additional capital investment needed in the Trinity Commons project, for parking garage construction costs. **Attachment B** shows the impact the supplemental will have on the Downtown 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 Resolution No. 275 approving a supplemental appropriation to the 2016 Downtown Commercial District Fund (formerly CAGID Fund) Budget.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental resolution appropriates funding for capital projects that positively affect economic, environmental or social sustainability in the community.

OTHER IMPACTS

- Fiscal: This resolution will appropriate $1,002,780 from fund balance.

- Staff time for this process is allocated in the Budget Division's regular annual work plan.

BACKGROUND AND ANALYSIS

The Central Area General Improvement District (CAGID) has been in negotiations with the Trinity Lutheran Church of Boulder since 2014 regarding a public private partnership to construct the Trinity Commons Project on the church property at Broadway and Mapleton. Trinity Commons is a mixed use project including 16 units of senior affordable housing, church congregation and office space, and underground parking. Trinity Lutheran has been working on the redevelopment of their current surface parking lot for decades. CAGID's partnership to provide the underground parking is essential for the realization of the project, as the church still needs access to parking for their congregation and the surface parking lot will be redeveloped into other uses. A memorandum of understanding between CAGID and Trinity Lutheran was approved by Council on February 2015 and executed on August 25, 2015.

The project has funding from multiple sources. The housing component is receiving $1,120,000 in affordable housing funds from the city of Boulder, the church is contributing $1,320,000 for project development and the construction of their congregation space, as well as the land valued at $3 million, and CAGID is contributing a total of $4,138,545 in soft and hard construction costs for the underground parking. Once completed, the project will provide three condominium units, the CAGID parking, and the congregation hall and offices. A parking management agreement between CAGID and the church will allow church parking in the CAGID garage on certain days and times.

Several items are before council, as the Board of Directors of CAGID, on May 3, 2016 related to this project. In addition to the adjustment to budget for the remaining construction costs, there are two other items associated with the project that request council's action: authorization of the City Manager to enter into a Joint Development

Agreement to construct the project and itemize the project's additional legal agreements, and recommendation that Boulder County issue tax-exempt revenue bonds to finance the project. The adjustment to budget increases the existing CAGID budget by $1,002,780 from fund balance to provide the additional funds to construct the underground parking. Funds totaling $3,125,765 were previously approved in 2014 and 2015 based on estimates at the project's preliminary and design development phases prior to the final construction and soft costs being determined. In the region, construction costs have been escalating at a rate of approximately 1.25 percent per quarter since July of 2014 which has resulted in higher project costs and the necessity of increasing the budget. CAGID has negotiated a guaranteed purchase cost for the delivery of the underground parking unit. Construction is planned to begin this spring with project completion in 13 months. The total cost to CAGID for this project is $4,135,545.

The most recent CAGID Development and Access projections completed during the first quarter of 2016 estimate the need for 2,400 to 2,822 parking space equivalents (PSE's) by projected downtown build-out in 2035. The access projections rely on multi-modal solutions, including additional travel demand management (TDM) programs, and increased utilization and satellite parking that could account for 1,187 to 1,276 PSE's. The balance of between 1,124 to 635 PSE's would be new parking spaces, including a combination of strategies such as new private parking, redevelopment of CAGID surface parking lots and public private parking partnerships, such as the one with Trinity Lutheran Church.

BOARD AND COMMISSION FEEDBACK

The Downtown Management Commission supports these supplemental requests.

ATTACHMENTS

A. Proposed Resolution amending the 2016 DCD Fund Budget
B. 2016 DCD Fund Activity Summary

RESOLUTION NO. 275

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, 2016, 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 2016 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	$1,002,780

INTRODUCED, READ, PASSED AND ADOPTED this 3rd day of May, 2016.

_____
Chair

Attest:

_____
Secretary

2016 FUND ACTIVITY SUMMARY
1ST BUDGET SUPPLEMENTAL OF 2016

	At January 1, 2016			1st Budget Supplemental		Projected Dec 31, 2016
FUND	Estimated Unreserved 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	4,339,630	8,079,963	8,769,222	0	1,002,780	2,647,591

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: May 3, 2016

AGENDA TITLE: Items related to the Trinity Commons Project (the "Project") at 2200 Broadway:

A. **Consideration of a motion to authorize the City Manager to enter into and change, as needed, the Joint Development Agreement between the Central Area General Improvement District (CAGID) and Trinity Lutheran Church of Boulder, Colorado, regarding a public/private partnership for parking at the Trinity Commons Project in downtown Boulder and to finalize, execute and change, as needed, associated and anticipated documents for the initial and final closings for the Project.**

B. **Consideration of a motion to adopt Resolution No. 1184 to endorse the Trinity Commons Project and recommend that the Board of Commissioners of the Housing Authority of the County of Boulder issue up to $3,000.000 of Tax-Exempt Multifamily Housing Revenue Bonds in order to finance the Project.**

PRESENTER/S
Jane S. Brautigam, City Manager
Molly Winter, Director, Community Vitality
David Gehr, Deputy City Attorney
Hella Pannewig, Assistant City Attorney

EXECUTIVE SUMMARY

The purpose of this agenda item is to authorize the City Manager to enter into the Joint Development Agreement, generally in the form as shown in **Attachment A,** between the Trinity Evangelical Lutheran Church of Boulder, Colorado (Trinity Lutheran) and the Central Area General Improvement District, (CAGID), for CAGID to finance the construction of, own and manage approximately 55 underground parking spaces as a part of the church's Trinity Commons project. The Project includes 16 senior affordable housing units, congregational and office space for the church and underground parking.

The project has received city planning approvals and is anticipated to begin construction later in May. On February 3, 2015, City Council approved a Memorandum of Understanding (**Attachment B**) that provided the framework for Trinity Lutheran and CAGID to negotiate the definitive agreements for the construction, operation, and ownership of a CAGID parking structure as part of the Project.

The financing of the affordable housing units in the Project includes the issuance of tax-exempt multi-family housing revenue bonds through the Housing Authority of the County of Boulder for up to $3,000,000 in principal amount. The County of Boulder has asked that the City endorse the Project and issuing of these bonds by passing the resolution attached to this memorandum as **Attachment C**.

Another item on the May 3, 2016 City Council consent agenda related to this project is the adjustment to the CAGID budget of additional funds from CAGID fund balance which is needed to finance the parking.

According to Trinity Lutheran, the senior affordable housing component will only be possible if CAGID participates as a partner to build and manage the underground parking garage. If CAGID is not a partner, the church cannot finance the underground parking and the project would build additional church related uses only, without the senior housing, retaining the remainder of the site for surface parking for their congregation.

Boulder County Housing Authority is providing conduit bond financing to Trinity Commons Housing Corporation, a Colorado non-profit corporation, so that it may secure financing for the construction of 16 affordable senior rental units for low and moderate income persons to be located at 2200 Broadway. The city intends to contribute affordable housing funds to the project as well as community development block grant funds for disaster relief.

When facilitating this type of tax-exempt bond financing, The Boulder County Housing Authority requests the endorsement and recommendation of the local communities. The purpose of this agenda item is to provide the Boulder City Council an opportunity to endorse the projects and recommend that the Boulder County Housing Authority to Trinity Commons with a bond financing transaction that will assist in building the affordable housing project.

As downtown Boulder continues to evolve, grow and thrive, additional access solutions and resources will be needed. 2016 brings unique challenges that require innovative, multi-faceted approaches incorporating all travel modes. Future parking solutions will be opportunistic, dispersed and come in smaller projects. The collaborative partnership between CAGID and Trinity Lutheran is a timely opportunity and is an example of an Access and Parking Management Strategy (AMPS) District Management strategies: public/private partnerships for shared parking.

STAFF RECOMMENDATION

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

A. The City Council, acting as the board of directors of CAGID, authorizes the City Manager to enter into and change, as needed, the Joint Development Agreement, as substantially represented in **Attachment A**, between CAGID and Trinity Lutheran Church regarding the public/private partnership for the provision of parking as part of the Trinity Commons Project and to execute and change, as needed, associated and anticipated documents for the initial and final closing for the Project.

B. Motion to adopt Resolution No. 1184 endorsing the Trinity Commons Project and recommending that the Board of Commissioners of the Housing Authority of the County of Boulder issue up to $3,000.000 of Tax-Exempt Multifamily Housing Revenue Bonds in order to finance the Project. **Attachment C**

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The project would support the long term economic viability of downtown by providing additional parking demand as part of the overall downtown access options including transit, biking, walking and parking management.
- Environmental – The downtown access strategy includes a balance of multi-modal options that are in line with the city's sustainability goals.
- Social – Providing a variety of multi-modal options ensures a viable downtown. CAGID participation in the Trinity Commons project will enable the senior affordable housing component of the project to be financially feasible as well as providing parking to the congregation of Trinity Lutheran.

OTHER IMPACTS

- Fiscal – The financing of the project would be covered by CAGID's existing fund balance. A major portion of the projected total costs is within the approved 2015 budget.
- Staff time – Work on this project would be incorporated into the existing work plan.

BOARD AND COMMISSION FEEDBACK

Downtown Management Commission unanimously supported the proposal for CAGID to partner with the Trinity Lutheran Church to provide parking as part of the Trinity Commons Project at their meeting on January 5, 2015.

BACKGROUND

In early 2014, discussions began with Trinity Lutheran Church and their agent Element Properties regarding CAGID's participation in providing parking as a part of their development (Trinity Commons) of the church's parking lot at the southwest corner of

Broadway and Pine which is just outside the CAGID boundary. During the week, Trinity Lutheran currently leases the 70 surface parking lot spaces to downtown employees.

The church has been approved to build senior affordable housing units, additional congregational and office space with parking underneath. The Memorandum of Understanding (MOU) (**Attachment B**) between Trinity Lutheran and CAGID, approved by Council on February 3, 2015, outlined the agreement for CAGID to own parking spaces with provisions for the church's use on specific occasions. The church would contribute their land and CAGID would finance the parking. See **Attachment D** for a project and financing overview.

Once completed, the Project will be converted into a condominium regime with three units, a garage unit, a housing unit, and a church unit. The garage unit will be conveyed to CAGID. CAGID's garage unit will be on the lowest level of the structure and will consist of approximately 55 parking spaces; the church unit will consist largely of meeting and office space. The residential unit will include 16 permanently affordable residential units. Above CAGID's parking unit, will be another garage with approximately 26 parking spaces to serve as private parking of the Project. A parking management agreement between CAGID and the church will allow church parking in the CAGID garage on certain days and times.

The housing component of the project is receiving $1,120,000 in affordable housing funds from the city of Boulder; the church is contributing $1,320,000 for project development and the construction of their congregation space as well as the land valued at $3 million; and CAGID is contributing a total of $4,138,545 in soft and hard construction costs for the underground parking. Additional construction costs for the permanently affordable units and church uses will be financed through loans, including tax-exempt bonds issued through the Housing Authority of the County of Boulder.

Without the participation of CAGID, Trinity Lutheran will not proceed with the construction of the affordable senior housing. The project would downsize and include the additional congregational space and church offices. In order to accommodate their congregation, the church needs to maintain on-site surface parking since most of its members drive as they live outside of Boulder.

ANALYSIS

Joint Development Agreement

The Joint Development Agreement between Trinity Lutheran and CAGID lays out the structure of the development, construction, financing, operation and ownership of the CAGID parking at the Trinity Project. It also includes the following:

- Outline of required agreements and documents.
- Requirement of a construction escrow agreement and a construction escrow account.
- Allocation of costs to the CAGID garage unit and remainder of the Project.

- Outline of a payment process out of the construction escrow account, including periodic payment of construction costs for the CAGID garage unit by CAGID.
- Requirement of security interests for CAGID in the form of a recorded Parking Condominium Purchase Agreement and a recorded Grant of Easement for Construction and Use of a Parking Garage, requiring conveyance of the completed CAGID garage unit to CAGID and giving a right to complete and operate the CAGID garage in the case of certain defaults under the Joint Development Agreement. These rights will terminate and be released upon conveyance of the CAGID garage unit.
- Requirements for insurance, bonding, and contractor selection.
- Designation of responsibility for unknown subsurface conditions.
- Designation of Trinity as the Construction Manager.
- Rights of access for inspection and installation of parking systems by CAGID.

Attachments to the Joint Development Agreement will include draft Condominium Declarations, a Pro Forma Condominium Map, the Plans and Specifications for the Project, the Construction Contract, a draft Parking Operations Agreement, Special Warranty Deeds to the three condominium Units.

CAGID will finance and manage the parking and will be responsible for all garage operating costs and common area maintenance. Trinity Lutheran will have the right to purchase five parking permits and will have the use of the parking at no cost from 6am to 10pm on all Sundays and on Christmas and after 3pm on Christmas Eve. In addition the church will have access to a set amount of vehicle entries during the week, Monday through Thursdays, after 5pm for the use of their congregation. Trinity Lutheran retains the air rights above the garage for future development.

ACCESS AND FINANCIAL ANALYSIS.
The total soft and hard construction costs for the underground garage is $4,138,545. Funds totaling $3,125,765 were previously budgeted in 2014 and 2015 based on estimates at the project's preliminary and design development phase prior to the final construction and soft costs. In the region, construction costs have been escalating at a rate of approximately 1.5% per quarter since July 2014 which has resulted in higher project costs and the necessity of the adjustment to budget. A related agenda item requests an adjustment to the existing CAGID budget to provide additional funds ($1,002,779) from fund balance to construct the underground parking. CAGID's 2016 fund balance after reserves is $2,980,268 CAGID has negotiated a guaranteed purchase cost for the delivery of the underground parking unit. Construction is planned to begin this spring with project completion in 13 months.

The most recent CAGID Development and Access projections completed during the first quarter of 2016 estimate the need for 2,400 to 2,822 parking space equivalents (PSE's) by projected downtown build-out in 2035. The access projections rely on multi-modal solutions including additional travel demand management (TDM) programs, increased utilization and satellite parking that could account for 1,187 to 1,276 PSE's. The balance of between 1,124 to 635 PSE's are new parking spaces including a combination of

strategies such as new private parking, redevelopment of CAGID surface parking lots and public private parking partnerships, such as the one with Trinity Lutheran Church. The report on the CAGID Development and Access Projections are included in **Attachment E**.

The Boulder County Housing Authority has requested City Council endorsement of the project and recommendation that it facilitates tax-exempt bond financing and act as a conduit for a nonprofit organization. The Boulder County Housing Authority will assist Trinity Commons Corporation with this bond financing transaction that will assist it in providing 16 senior affordable housing units for low and moderate income households. There is no legal requirement for the endorsement and recommendation. Rather, the County Housing Authority makes this request in the spirit of intergovernmental cooperation.

The Bond will be executed pursuant to a plan of finance that includes a Financing Agreement, by and among the Boulder County Housing Authority, the Funding Lender and Trinity Commons. The proceeds of the Bond will be loaned to Trinity Commons to finance the Project. Trinity Commons' obligation to make payments on the Bond and related collateral securing that obligation are being assigned by the Boulder County Authority to the Funding Lender upon the Funding Lender's payment of the purchase price for the Bond. The Bond does not constitute a debt or liability of the Housing Authority or Boulder County. The City is not directly involved in this portion of the transaction. It will not give rise to any city liability or affect the city's bond capacity or ratings. The City will not have any financial or legal risk or exposure relating to the Bonds.

The aggregate principal amount of the Bonds will be approximately $3,000,000. The housing provided by this portion of Trinity Commons project will contribute to city comprehensive goals related to permanently affordable housing (BVCP § "Housing"). This project provides an opportunity to provide senior affordable housing that will be targeted to households that earn up to 60 percent of the area median income. The Resolution that council is requested to adopt is in Attachment C.

STAFF RECOMMENDATION

Staff recommends that the City Council, acting as the board of directors of CAGID, authorize the City Manager to enter into the Joint Development Agreement between Trinity Lutheran and CAGID as substantially represented in **Attachment A** and to execute other associated and anticipated documents for the Project and to approve proposed Resolution 1184, shown in **Attachment C**.

ATTACHMENTS

A. Draft Joint Development Agreement with Trinity Lutheran and CAGID
B. Memorandum of Understanding
C. Resolution Recommending Boulder County Issuance of Tax-exempt Revenue Bonds
D. Project and Funding Overview
E. CAGID Development and Access Projections

JOINT DEVELOPMENT AND OWNERSHIP AGREEMENT

THIS JOINT DEVELOPMENT AND OWNERSHIP AGREEMENT (the "**Agreement**") between the CITY OF BOULDER CENTRAL AREA GENERAL IMPROVEMENT DISTRICT, a general improvement district formed pursuant to Chapter 8-4, B.R.C. 1981, ("**CAGID**"), and TRINITY COMMONS HOUSING CORPORATION, a Colorado nonprofit corporation ("**Trinity**;" and together with CAGID, collectively, the "**Parties**" and each, a "**Party**"), is entered into as of _____, 2016 (the "**Effective Date**").

RECITALS

WHEREAS, Trinity is the owner in fee simple of those certain parcels of real property located in the City of Boulder, County of Boulder, State of Colorado, and improvements located thereon, as described more particularly on Exhibit A attached hereto and by this reference incorporated herein, and commonly known as 2200 Broadway, Boulder, Colorado (the "**Property**").

WHEREAS, while the Property is not located within CAGID's boundaries, CAGID has full authority to construct, own and maintain parking facilities outside of such boundaries.

WHEREAS, Trinity desires to plan, design, develop, construct, and operate various church–related structures, residences, parking and other improvements on the Property, in whole or in part as a phased condominium regime, including reserved air rights for future condominium expansion (collectively, the "**Project**"), which regime shall be subject to owner association declarations (the "**Declaration**"), and a condominium map (the "**Map**").

WHEREAS, the Project shall initially contain three condominiums: (i) on the lower level a parking structure condominium consisting of approximately fifty-six (56) parking spaces under the control of CAGID (the "**CAGID Parking Condominium**"; (ii) on the upper level a commercial condominium owned by Trinity Horizons, LLC, a Colorado limited liability company, consisting largely of meeting and office space serving Trinity's church-related purposes (the "**Church Condominium**"); and (iii) on the upper levels a residential apartment housing condominium with approximately sixteen (16) residential units (the "**TCH Condominium**"), to be owned by Trinity Commons Housing Corporation, Inc., a Colorado non-profit corporation ("**TCH**"). Above the CAGID Parking Condominium and accessed from Mapleton Avenue, shall be an approximately twenty-six (26) parking space deck, which together with three (3) surface parking spaces adjacent to the existing Trinity church building shall be referred to as the "**Trinity Parking**", and which shall be under the control of Trinity and/or TCH. The CAGID Parking Condominium, the Church Condominium and the TCH Condominium are sometimes referred to in the singular as a "**Unit**" and together as the "**Units**". The Units are generally depicted on Exhibit B, attached hereto and incorporated herein.

WHEREAS, the Parties acknowledge that Trinity, its successors and assigns, shall have the right to annex additional airspace above the CAGID Parking Condominium to construct an additional improvements after completion of the Project as contemplated in this Agreement.

WHEREAS, Trinity intends to finance construction of the Project and finance the completed Church Condominium and TCH Condominium with financing from such lenders as deemed necessary by Trinity, including without limitation financing provided by FirstBank, the City of Boulder and CDBG (each a "**Lender**", and together the "**Lenders**").

WHEREAS, in consideration of (i) Trinity contributing the land necessary for the construction of the CAGID Parking Condominium (with rights to construct further residential units above or adjacent to the same), and (ii) CAGID's agreement to pay periodic construction draws for the costs of construction of the CAGID Parking Condominium and its allocated share of any general and limited common elements associated therewith, it is the intent of the Parties that:

1. CAGID be the owner of the CAGID Parking Condominium, together with certain rights to limited or general common elements appurtenant thereto, and

2. CAGID assume ongoing maintenance obligations with respect to the CAGID Parking Condominium, including its allocated share of the general and limited common elements associated with the CAGID Parking Condominium.

3. Trinity, and its successor and assigns, assume ongoing maintenance obligations with respect to the Church Condominium and the TCH Condominium, including their allocated share of the general and limited common elements associated with those Units.

WHEREAS, the Parties intend to conduct an Initial Closing (defined below) to facilitate commencement and funding of construction of the Project, and following Substantial Completion of the Project, the Parties intend to conduct a Final Closing (defined below) and thereupon convey the individual condominium Units to the intended owners as contemplated hereunder.

WHEREAS, the Parties have agreed to a fixed price (the "**Purchase Price**"), as more fully described and subject only to those adjustments described in Exhibit F hereto and this Agreement, to be paid by CAGID for the CAGID Parking Condominium, which payment is to be made in whole or in part through periodic payments as part of the construction draw process. All other costs associated with the Project shall be the responsibility and at the expense of Trinity.

WHEREAS, the Parties intend that the CAGID Parking Condominium will be constructed, maintained and operated in a good and workmanlike manner, consistent with other parking structures owned or managed by CAGID.

WHEREAS, the Parties intend that the Church Condominium and the TCH Condominium be constructed, maintained, and operated in a good and workmanlike manner.

WHEREAS, the Parties desire to jointly develop the Project as further described herein.

NOW, THEREFORE, in consideration of the promises and obligations set forth herein, the Parties agree as follows:

ARTICLE I
RELATIONSHIP AND PURPOSE

1.1 ***Recitals and Defined Terms***. The foregoing recitals are adopted as material terms and incorporated by reference in this Agreement. The capitalized terms used herein will have the following meanings.

A. "**Act**" shall mean the Colorado Common Interest Community Act as set forth in C.R.S. §38-33.3-201(2).

B. "**Agreement**" shall mean this Joint Development and Ownership Agreement.

C. "**Architect**" shall mean Hartronft Associates, or its successor.

D. "**Architect's Certificate**" shall be defined as provided in Section 3.18D of this Agreement.

E. "**Architect Contract**" shall be defined as the contract between Trinity and the Architect for the Project.

F. "**Association**" shall mean the condominium owner's association to be known as Trinity Horizons Owners' Association, Inc.

G. "**CAGID**" shall mean the City of Boulder Central Area General Improvement District, a general improvement district formed pursuant to Chapter 8-4, B.R.C. 1981.

H. "**CAGID Consultant**" shall mean Tim Ross of Studio Architecture, 1350 Pine Street Suite #1, Boulder, Colorado 80302, or such other consultant as shall be specified in writing by CAGID.

I. "**CAGID Contingency**" shall mean five percent (5%) of the Purchase Price, or $171,128.00, which amount shall be held separately by CAGID.

J. "**CAGID Deed**" shall mean the special warranty deed by which Trinity shall convey the CAGID Parking Condominium to CAGID at the Final Closing, as described more fully in Section 2.6A of this Agreement.

K. "**CAGID Easement**" shall mean the Grant of Easement for Construction and Use of Parking Garage, attached hereto as Exhibit G.

L. "**CAGID Parking Condominium**" shall be defined as provided in the Recitals.

M. "**CAGID Project Manager**" shall mean Molly Winter, and should Ms. Winter no longer be employed by the City of Boulder, or CAGID desire to appoint another

person, then CAGID may designate a replacement CAGID Project Manager with reasonable input and cooperation from Trinity, and upon reasonable advance notice to the Contractor.

N. "**CAGID Soft Costs**" shall be defined as that portion of the design, predevelopment and professional costs and related fees for the Project for which CAGID is responsible, in the amount of $376,553.00.

O. "**CDBG**" shall be defined as Community Development Block Grants issued by the State of Colorado.

P. "**Change Order**" shall mean changes to the design or construction of the Project that result in increases or decreases in costs chargeable by the Contractor above or below the guaranteed maximum price in the Construction Contract. Where "change order" is not capitalized, it shall mean a change to the design or construction of the Project.

Q. "**Changing Party**" shall be defined as provided in Section 4.7 of this Agreement.

R. "**Church Condominium**" shall be defined as provided in the Recitals.

S. "**City Charges**" shall mean building permit, plant investment, and impact fees, as well as excise taxes and similar charges imposed for the Project by the City of Boulder.

T. "**Commencement**" shall be defined as provided in Section 3.15 of this Agreement.

U. "**Construction Budget**" means the budget for construction of the Project agreed upon by the Parties and attached hereto as Exhibit L-1.

V. "**Construction Contract**" shall be defined as the contract between Trinity and Contractor for construction of the Project.

W. "**Construction Cost Allocation**" means the allocation of project costs between the Parties for purposes of progress and final payments by CAGID as anticipated by this Agreement.

X. "**Construction Encumbrances**" shall be defined as provided in Section 1.6E of this Agreement.

Y. "**Construction Escrow Account**" shall be defined as the escrow through which funds are deposited and disbursed to the Contractor to fund the costs associated with the construction of the Project.

Z. "**Construction Escrow Agreement**" shall be defined as provided in Section 4.4 of this Agreement.

AA. "**Construction Manager**" shall mean Element Properties or its successor, as further described in Section 3.8 of this Agreement.

BB. "**Construction Schedule**" shall mean the schedule for construction of the Project attached hereto as Exhibit K.

CC. "**Contract Contingency**" shall be defined as provided in Section 4.11B of this Agreement.

DD. "**Contractor**" shall mean Fischer Construction, Inc. or its successor.

EE. "**COs**" shall be defined as provided in Section 2.2 of this Agreement.

FF. "**Covered Party**" shall be defined as provided in Section 4.11C of this Agreement.

GG. "**Declaration**" shall be defined as provided in the Recitals.

HH. "**Grant of Easement for Construction and Use of Parking Garage**" shall mean that certain agreement between Trinity and CAGID attached hereto as Exhibit G.

II. "**Deeds**" shall mean the special warranty deeds by which Trinity conveys the three Units to their respective owners, as further described in Section 2.3 of this Agreement.

JJ. "**Document Escrow Agreement**" shall be defined as provided in Section 2.3 of this Agreement.

KK. "**Easement Title Policy**" shall be defined as provided in Section 2.4B of this Agreement.

LL. "**Effective Date**" shall be defined as provided in the Recitals.

MM. "**Escrow Agent**" shall mean Land Title Insurance Company.

NN. "**Extra Subsurface Work**" shall be defined as provided in Section 4.11B of this Agreement.

OO. "**Final Closing**" shall mean the date following Substantial Completion and satisfaction of all conditions to closing specified for all Parties hereto upon which the Declaration and the Map are recorded and the Units are conveyed to all three Unit owners, as more fully described in Section 2.8.

PP. "**Hazardous Substances**" shall be defined as provided in Section 4.10B of this Agreement.

QQ. "**Initial Closing**" shall be defined as the date at which the Parties pay or deposit into escrow required funds, documents are executed and placed in escrow, and after which construction of the Project is commenced, as further provided in Section 2.4 of this Agreement.

RR. "**Joint Change Order**" shall be defined as provided in Section 4.6 of this Agreement.

SS. "**Lender**" or "**Lenders**" shall be defined as provided in the Recitals.

TT. "**Loan Approval**" shall be defined as provided in Section 2.4C of this Agreement.

UU. "**Major Decisions**" shall be defined as provided in Section 3.12 of this Agreement

VV. "**Map**" shall be defined as provided in the Recitals.

WW. "**Memorandum of Understanding**" shall be defined as that certain agreement dated August 25, 2015 between the Parties as provided in Section 6.14 of this Agreement.

XX. "**Parking Operations Agreement**" shall mean that agreement between Trinity and the Church for the operation and maintenance of, and special reserved access to parking within, the CAGID Parking Condominium, as more fully described in Exhibit N.

YY. "**Parties**" shall be defined as provided in the Recitals.

ZZ. "**Permitted Encumbrances**" shall be defined as provided in Section 1.6E of this Agreement.

AAA. "**Plans and Specifications**" shall mean the plans and specifications for the construction of the Project, agreed upon by the Parties and the City of Boulder, and attached hereto as Exhibit J-2.

BBB. "**Purchase Agreement**" shall mean the Parking Condominium Purchase Agreement between the Parties for the purchase and sale of the CAGID Parking Condominium, attached hereto as Exhibit F.

CCC. "**Purchase Price**" is the fixed price paid by CAGID for the CAGID Parking Condominium in the amount of $3,442,560.00, which amount shall not be increased except as specifically provided in this Agreement.

DDD. "**Project**" shall be defined as provided in the Recitals.

EEE. "**Project Completion Date**" shall be defined as provided in Section 3.19 of this Agreement.

FFF. "**Property**" shall be defined as provided in the Recitals.

GGG. "**Responsible Party**" shall be defined as provided in Section 4.11C of this Agreement.

HHH. "**Standard Ratio**" shall be defined as one third each to the CAGID Parking Condominium, the Church Condominium and the TCH Condominium.

III. "**Substantial Completion**" shall be defined as provided in Section 3.18 of this Agreement.

JJJ. "**TCH**" shall mean Trinity Commons Housing Corporation, Inc., a Colorado non-profit corporation.

KKK. "**TCH Condominium**" shall be defined as provided in the Recitals.

LLL. "**TCOs**" shall be defined as provided in Section 2.2 of this Agreement.

MMM. "**Trinity**" shall mean Trinity Commons Housing Corporation, a Colorado nonprofit corporation.

NNN. "**Trinity Parking**" shall be defined as provided in the Recitals.

OOO. "**Trinity Project Manager**" shall mean Mark Twietmeyer or should Trinity desire to appoint another person, then Trinity may designate a replacement Trinity Project Manager with reasonable input and cooperation from Trinity, and upon reasonable advance notice to the Contractor.

PPP. "**Trinity's Cash Equity Contribution**" shall mean the $_____ deposited into the Escrow Account at the Initial Closing.

QQQ. "**Unilateral Change Order**" shall be defined as provided in Section 4.7 of this Agreement

RRR. "**Unit**" or "**Units**" shall be defined as provided in the Recitals.

1.2 ***Purpose; Relationship of Parties***. The Parties are entering into this Agreement solely for the purpose of jointly developing, completing, and allocating common costs in association with the construction and development of the Project. The Parties are not forming any joint venture or partnership, nor are they making any agreement to undertake any other project, activity, or business other than to complete the Project. The Project shall not constitute a separate enterprise or unincorporated entity for accounting, income tax, or other purposes. The Parties do not intend to share profits and losses, and each Party shall maintain control over its own assets and resources.

1.3 ***Name***. The name of the Project shall be the "Trinity Horizons Development Project."

1.4 ***Term.*** The term of this Agreement shall commence on the Effective Date of this Agreement and shall continue in full force and effect until terminated in accordance with the provisions of this Agreement.

1.5 ***Other Interests***. Either Party may have other business interests and may engage in any other business, trade, profession, or employment whatsoever, on its own account, or in partnership or joint venture with any other person, firm, or corporation, or in any other capacity, including, without limitation, the ownership, financing, leasing, operation, management,

syndication, brokerage, or development of any real property whether or not in the vicinity of the Property. Trinity and CAGID shall be required to devote to the Project's affairs only such amount of time as is reasonably required in the performance of their duties under this Agreement.

1.6 ***Conditions to Performance***.

A. Conditions to Trinity's Performance. Trinity's obligations under this Agreement are expressly subject to Trinity's satisfaction in its reasonable discretion with the following:

1. Execution and delivery by CAGID to the Escrow Agent at the Initial Closing of all documents in final form as contemplated hereunder or as reasonably required by Trinity or any Lender; and

2. Payment to the Escrow Agent by CAGID at the Initial Closing of (a) the Purchase Price for deposit into the Construction Escrow Account and (b) the CAGID Soft Costs for reimbursement of the same to Trinity as provided herein.

B. Conditions to CAGID's Performance. CAGID's obligations under this Agreement are expressly subject to CAGID's satisfaction in its reasonable discretion with the following:

1. Execution and delivery by Trinity to the Escrow Agent at the Initial Closing of all documents in final form as contemplated hereunder or as reasonably required by CAGID or any Lender; and

2. Payment at the Initial Closing by Trinity to the Escrow Agent of: Trinity's Cash Equity; the CDBG funds in the amount of $883,097.00; the City of Boulder Community Housing Assistance Program funds in the amount of $1,220,000.00; and execution of FirstBank loan documents providing for the funding of the remainder of the budgeted Project costs in the approximate amount of $3,900,000.00.

C. Representations of Trinity. Trinity represents that, as of the date hereof and, except as modified in writing delivered to CAGID, as of the Initial and Final Closings, the following are true, and that any changes to the following between the date hereof and Final Closing shall not materially and adversely affect CAGID:

1. Organization and Authority. Trinity has been duly organized and is validly existing as a Colorado non-profit corporation. Trinity is in good standing in the State of Colorado. Trinity has the right, power and authority to enter into this Agreement and to perform Trinity's obligations as set forth herein.

2. Property Ownership. Trinity is the sole owner of good, fee simple, marketable and insurable title to all of the Property, subject only to matters of record.

3. No Brokers. Other than Element Properties (the costs, fees and commissions for which, if any, shall be paid by Trinity), no real estate brokers have been

engaged by Trinity. Trinity will indemnify and hold harmless CAGID from and against any and all claims, loss, liability, cost and expenses (including reasonable legal fees, costs and expenses) resulting from any claim that may be made against CAGID by any broker or person claiming a commission, fee or other compensation by reason of this transaction, if such claim arises by or on account of any act of Trinity or Trinity's representatives.

4. Truth of Warranties and Representations. The truth and accuracy in all material respects, as of the date of the Initial and Final Closings, of all representations and warranties made by Trinity herein and in Trinity's certificate described in Section 2.8B.1 shall be an express condition to CAGID's obligation to consummate the transactions contemplated herein.

5. Conflict. There is no agreement to which Trinity is a party or which is binding upon Trinity and which is in conflict with this Agreement.

D. Representations of CAGID. CAGID represents that, as of the date hereof and, except as modified in writing delivered to Trinity, as of the Initial and Final Closings, the following are true, and that any changes to the following between the date hereof and Final Closing shall not materially and adversely affect Trinity:

1. Organization and Authority. CAGID has been duly organized and is validly existing as a general improvement district formed pursuant to Chapter 8-4, B.R.C. 1981. CAGID has the right, power and authority to enter into this Agreement and to perform CAGID's obligations as set forth herein.

2. No Brokers. No real estate brokers have been engaged by CAGID as of the date hereof. CAGID agrees to pay any commission, fee, and other compensation for any broker it engages for this transaction.

3. Current Appropriation. CAGID's obligations to fund the Purchase Price and the Soft Costs, as well as the CAGID Contingency referenced herein, are currently appropriated and are not subject to further requirements for approval or appropriation, or subject to termination under any applicable law.

4. Truth of Warranties and Representations. The truth and accuracy in all material respects, as of the date of the Initial and Final Closings, of all representations and warranties made by CAGID herein and in CAGID's certificate described in Section 2.8B.2 shall be an express condition to Trinity's obligation to consummate the transactions contemplated herein.

5. Conflict. There is no agreement to which CAGID is a party or which is binding upon CAGID and which is in conflict with the terms of this Agreement or the performance by CAGID of its obligations hereunder.

E. Marketable Title. Title to the Property at the time of the Initial Closing shall be marketable in Trinity and subject only to those exceptions to title listed on Exhibit C, hereto, (the "**Permitted Encumbrances**") and those deeds of trust, regulatory agreements and other voluntary encumbrances contemplated hereunder or agreed to by the Parties to facilitate

construction of the Project (the "**Construction Encumbrances**"). Title to the CAGID Parking Condominium shall be delivered at Final Closing subject to the Permitted Encumbrances, free of the Construction Encumbrances, but subject to the Declaration, the Map, and such other easements and recorded rights reasonably required hereunder in furtherance of the Parties' intent, approval of which shall not be unreasonably withheld, conditioned or delayed by the Parties hereto.

F. Notice of Failure of Condition to Closing. If either Party is unable to secure fulfillment of the conditions set forth above, then such Party shall provide notice of the same in writing to the other Party prior to Initial Closing. Failure to deliver such notice shall be deemed a waiver by such Party of its right to delay the Initial Closing or terminate this Agreement.

ARTICLE II
THE PROJECT

2.1 ***Project***. The Project shall contain, without limitation, the following elements:

A. TCH Condominium:

1. [_____] square feet (approximately)
2. 16 dwelling units plus appurtenances
3. Rights to allocated general and limited common elements
4. Right to assigned portion of Trinity Parking

B. Church Condominium:

1. [_____] square feet (approximately) including without limitation, office, meeting and fellowship space plus appurtenances
2. Rights to allocated general and limited common elements
3. Right to assigned portion of Trinity Parking

C. CAGID Parking Condominium:

1. Approximately [_____] square feet of partially covered concrete ramp, slab and appurtenances for CAGID's 56 total parking spaces, plus appurtenances
2. Rights to allocated general and limited common elements

D. Common Elements: exterior and interior General and Limited Common Elements as described further in the Declaration, including without limitation twenty-six (26) parking spaces allocated to the TCH Condominium as a limited common element.

2.2 ***Recording of Declaration and Map***. Upon Substantial Completion (defined below) of the Project (as defined below), Trinity shall cause the Declaration in substantially the form attached as Exhibit D and the amended and final Map to be recorded in the office of the

Clerk and Recorder of Boulder County, Colorado. The Parties acknowledge that construction of all three Units will require staging, parking and other activity upon all three Units, and therefore occupancy of any Unit will be prohibited until issuance of Certificates of Occupancy ("**COs**") (or Temporary Certificates of Occupancy ("**TCOs**")) as permitted by the City of Boulder for the relevant Unit has been issued and staging, parking and other activities necessary for completion of construction of the other Units can reasonably be accomplished within such Units. CAGID may also occupy the CAGID Parking Condominium pursuant to the rights established in the CAGID Easement executed pursuant to this Agreement by Trinity and CAGID. Upon written request of CAGID, when (i) completion of the TCH Condominium and the Church Condominium construction can reasonably be accommodated within those Units without the need of staging materials or equipment in or upon the CAGID Parking Condominium, (ii) a CO or TCO for the CAGID Parking Condominium can be issued separately from COs for the other Units, and (iii) the Contractor certifies that issuance of COs or TCOs for such other Units will take at least sixty (60) days longer than issuance of a CO or a TCO for the CAGID Parking Condominium, then Trinity shall direct the Contractor to cease use of the CAGID Parking Condominium for parking, storage, and other staging activities and to deliver the area of the CAGID Parking Condominium to CAGID for occupancy and use. The Parties acknowledge that since the Project occupies the entire lot upon which it is located and no on-site parking or other on-site areas are available for staging and construction activities, the Construction Budget and Construction Schedule is being based on the Contractor's ability to use the CAGID Parking Condominium as long as reasonably required for all construction activities for the Project. The Construction Contract shall require that, upon request by either Trinity or CAGID, the Contractor promptly provide a good faith and workmanlike estimate of the time when a TCO may be issued for use of the individual Units.

2.3 ***Document Escrow Agreement***. Concurrently with the execution of this Agreement, the Parties shall enter into an escrow agreement with Land Title Insurance Company ("**Escrow Agent**") in the form attached as Exhibit E (the "**Document Escrow Agreement**"), whereby Trinity and CAGID shall execute and deposit with Escrow Agent all documents required in order to effect the conveyances described in Section 2.8 of this Agreement, including, without limitation, the Declaration, the Map, the Exhibit T-1, Exhibit T-2 and Exhibit T-3 deeds (together the "**Deeds**"), and any other documents reasonably required by the Parties, the Escrow Agent or the Lenders. The Escrow Agent shall record at the Initial Closing and at the Final Closing those documents as required under the Document Escrow Agreement. The Parties agree to undertake all actions and make all payments necessary at the Final Closing to fulfill the requirements and intent hereof, including without limitation, the delivery and acceptance of delivery of any Deeds contemplated hereunder.

2.4 ***Initial Closing***. Subject to the prior completion of the following respective obligations of the Parties, the "**Initial Closing**" shall occur within five (5) business days following the later to occur of (i) Loan Approval (as defined below), or (ii) the hearing at which the Boulder City Council, sitting as the CAGID Board, is scheduled to approve by resolution the appropriations for CAGID's obligations hereunder (currently scheduled May 3, 2016):

A. Performance of Covenants. As of the Initial Closing Date, both Parties shall have performed their covenants and obligations hereunder and all deliveries to be made by the other Party at Initial Closing shall have been tendered;

B. Title Commitment for Easement. As a condition benefiting CAGID only, upon the sole condition of payment of the premium, at the Initial Closing, the Title Company shall irrevocably commit to issue to CAGID an ALTA standard form owner's Policy of title insurance with the pre-printed standard exceptions deleted, dated as of the date and time of the recording of the Initial Closing in the amount of the Purchase Price and CAGID Soft Costs, insuring CAGID's marketable title to the CAGID Easement, subject only to the Exhibit C Permitted Encumbrances and such documents as may be recorded hereunder prior to the CAGID Easement, (the "**Easement Title Policy**"). Any cost for the Easement Title Policy shall be borne by CAGID.

C. Loan Approval. As a condition benefitting Trinity only, Trinity shall have received from Trinity's Lenders final loan approval, in Trinity's sole discretion, for all loans required for the Project construction hereunder and for permanent financing of the Church Condominium and the TCH Unit ("**Loan Approval**"), and authorization from such Lenders to proceed with construction of the Project.

D. Funds and Document Deliveries. All Parties and Lenders have executed and delivered to the Escrow Agent all documents required under the Document Escrow Agreement and all funds and documents required under the Construction Escrow Agreement.

At the Initial Closing, the Parties shall deliver to the Title Company those executed documents and funds required pursuant to the Document Escrow Agreement attached hereto as Exhibit E. In addition, the Parties shall execute such documents reasonably required by the Lenders for financing of the construction of the Project, including without limitation, Exhibits N, O, and P set forth in Section 2.8B below, and such other documents as the Parties may reasonably require in furtherance of the intent hereof.

2.5 ***Best Efforts***. The Parties shall use best commercially reasonable efforts to fulfill all conditions and obtain such approvals as may be respectively required as a condition of such Party's obligations hereunder.

2.6 ***CAGID Ownership/Security Prior to Final Completion***. At the Initial Closing, the following shall occur:

A. Parking Condominium Purchase Agreement. In order to secure CAGID's right to delivery by Trinity of marketable title to the CAGID Parking Condominium, and in order to secure Trinity's right to receive full payment by CAGID of the Purchase Price, (i) the Parties shall execute and the Escrow Agent shall record at the Initial Closing, with priority over all other documents referenced in Section 2.7, the Purchase Agreement attached hereto as Exhibit F, and (ii) Trinity shall execute and deliver to the Escrow Agent for recording at the Final Closing, the special warranty deed for the CAGID Parking Condominium attached hereto as Exhibit T-1 , (the "**CAGID Deed**"),.

B. **Declaration of Access and Parking Easement**. In order to provide CAGID with a real property interest allowing access to the Property for completion of the CAGID Parking Condominium and the operation of a parking garage under certain circumstances, the Parties shall execute and the Escrow Agent shall record the CAGID Easement

in the form attached hereto as Exhibit G, with a recording priority immediately junior to the Purchase Agreement.

2.7 ***Executable and Approved Documents***. The following Exhibits are appended hereto and are incorporated by reference herein:

EXH.	NAME OF DOCUMENT	SIGNING PARTIES (IF APPLICABLE)	DESCRIPTION OF EXHIBIT OR INSTRUMENT
A	Legal Description of Property	N/A	Legal description for the Trinity Property
B	Pro Forma Condominium Map	Trinity as Declarant, and as applicable, Lender, Surveyor Lender	A preliminary draft of the anticipated Condominium Map upon completion of the Project, showing areas of shared common elements for allocation of maintenance obligations
C	Permitted Encumbrances	N/A	Permitted liens, reservations and encumbrances on Property based on TBD Title Commitment as of date of Initial Closing
D	Condominium Declaration for Trinity Commons	Trinity as Declarant, and, as applicable, Lender	Causes the Development Property and the improvements constructed thereon to be condominiumized. *Approved by Parties by Final Closing.*
E	Document Escrow Agreement	Trinity, CAGID; Land Title and as applicable, Lender, Surveyor Lender	Authorizes the Title Company to record certain documents upon occurrence of specified events. *Executed at Initial Closing*.
F	Parking Condominium Purchase Agreement	Trinity/CAGID	Provides for guaranteed delivery of condominium unit to CAGID upon completion of Project. *Recorded at Initial Closing prior to Project deeds of trust.*

EXH.	NAME OF DOCUMENT	SIGNING PARTIES (IF APPLICABLE)	DESCRIPTION OF EXHIBIT OR INSTRUMENT
G	Grant of Easement for Construction and Use of Parking Garage	Trinity/CAGID	Provides right to CAGID to access, construct, complete, and operate the CAGID Parking Condominium if construction is halted. *Recorded after Exhibit F and prior to Project deeds of trust.*
H-1	Release of Parking Condominium Purchase Agreement	Trinity/CAGID	Upon delivery of CAGID Deed, removes encumbrance created by Purchase Agreement
H-2	Termination of Grant of Easement for Construction and Use of Parking Garage	Trinity/CAGID	Releases CAGID Easement upon Deed to CAGID of CAGID Parking Condominium. *Executed at Initial Closing and delivered to Title Company for recording at Final Closing.*
I	Construction Escrow Agreement	Trinity, CAGID; Lender ; Title Company	Escrow through which funds are deposited and disbursed to the Contractor to fund the costs associated with the construction of the Project. *Executed at Initial Closing and delivered to Title Company.*
J-1	Construction Contract	Trinity Contractor	Contract between Trinity and Contractor for construction of Project. *Executed at Initial Closing and retained by Parties.*
J-2	Plans and Specifications	Trinity, Architect, Contractor and CAGID	Approved by Parties *Executed at Initial Closing*
K	Construction Schedule	Contractor	Parking Garage construction milestones. *Approved by Parties at Initial Closing.*
L-1	Construction Budget	Contractor and Parties	Budget for the Project agreed upon by the Parties and incorporated into the Construction Contract. *Approved by Parties at Initial Closing*

EXH.	NAME OF DOCUMENT	SIGNING PARTIES (IF APPLICABLE)	DESCRIPTION OF EXHIBIT OR INSTRUMENT
L-2	Construction Cost Allocation	Parties	Allocates Project Costs between Parties. *Approved by Parties at Initial Closing.*
M	Preliminary Cost Allocation for Common Area Maintenance under Declaration	Trinity and CAGID	Allocation of percentages to three Unit owners of various general and limited common element charges, to be modified upon one year anniversary. *Approved by Final Closing.*
N	Parking Operations Agreement	Trinity/CAGID	Agreement between Trinity and CAGID for use of CAGID Parking Condominium by Trinity and allocation of maintenance responsibilities and costs. *Approved by Parties prior to Final Closing.*
	LENDER/BOND DOCUMENTS		
O	Collateral Assignment of Joint Development Agreement	Trinity; Lender; CAGID	Assignment to Lender of Trinity's right, title and interest in and to the Joint Development Agreement
P	Collateral Assignment of Parking Condominium Purchase Agreement	Trinity; Lender; CAGID	Assignment to Lender of Trinity's interests under the Parking Condominium Purchase Agreement
	ASSOCIATION AND TRANSFER DOCUMENTS		
Q	Articles of Incorporation	N/A	Incorporation of the Condominium Association
R	Bylaws	Trinity; CAGID	Governs the administration of the Condominium Association

EXH.	NAME OF DOCUMENT	SIGNING PARTIES (IF APPLICABLE)	DESCRIPTION OF EXHIBIT OR INSTRUMENT
S	Organizational and Turnover Minutes	Trinity	Documents Transfer of Ownership of Project to Unit Owners and to Association
T-1	Special Warrant Deed from Declarant to CAGID	Trinity	Executed at Initial Closing and Held in Escrow Until Final Closing
T-2	Special Warrant Deed from Declarant to Trinity Commons Housing Corporation	Trinity	Executed at Initial Closing and Held in Escrow Until Final Closing
T-3	Special Warrant Deed from Declarant to Trinity Horizons, LLC	Trinity	Executed at Initial Closing and Held in Escrow Until Final Closing
U	Assignment of Architect Contract	Trinity; CAGID	Assigns rights under Architect Contract to CAGID
V	Assignment of Construction Contract	Trintiy; CAGID	Assigns rights under Construction Contract to CAGID

2.8 ***Final Closing***. The "**Final Closing**" shall occur within ten (10) business days following the Project's Substantial Completion, as defined in Section 3.18 below.

A. Conditions to Final Closing. Final Closing shall not occur until the following conditions have been completed to the reasonable satisfaction of the Parties:

1. Inspections: The Parties shall have inspected the Project and determined that the Units and associated limited common elements being conveyed to each of them respectively shall be in compliance with the standards set forth herein or in the Exhibits hereto.

2. Certificates of Occupancy: Final or Temporary Certificates of Occupancy have been issued for the Units and the general and limited common elements of the Project (subject to the rights of CAGID to obtain delivery of the Parking Condominium earlier under Section 2.6.

3. Closing Funds: Subject to any retentions or withholdings contemplated herein or in the Construction Contract, all funds due hereunder or under any Exhibits hereto have been paid as required in consideration or the Units being conveyed at Final Closing.

4. Association Formation; Operation and Reserve Accounts: The Association has been duly formed and is in good standing with the Colorado Secretary of State,

the Declaration recorded in the real estate records of the Boulder County Clerk and Recorder, and banking accounts have been established for the same, including reserve accounts as directed by the Association and/or Trinity.

5. Preliminary Budget: The Association's Board of Directors has adopted a preliminary budget for the Association which is acceptable to the Parties.

6. Maintenance Agreements: All reasonably required maintenance and repair and similar services necessary for common building systems and operations post-closing have been obtained and agreements therefor executed.

7. Insurance: All requisite insurance for the Association and the general and limited common elements of the Project have been obtained and are in force as required under the Declaration.

B. Deliverables at Final Closing. The following documentation shall be delivered by the Parties at Final Closing:

1. Executed closing certificate from Trinity.

2. Executed closing certificate from CAGID.

3. Executed Declaration for the Project.

4. Executed and approved final and recordable Map for the Project, including any necessary Lender consents.

5. Executed Articles of Incorporation, Bylaws and Organizational Minutes for the Association.

6. Executed Special Warranty Deed from Declarant to CAGID for the CAGID Parking Condominium, together with final title commitment and binder for issuance of a title policy insuring marketable title, to the same as provided hereunder, free and clear of monetary liens and other encumbrances arising under or on account of Trinity.

7. Executed Assignment of each the Architect Contract and the Construction Contract, in the forms attached hereto as Exhibit___ and ___.

8. Executed Parking Operations Agreement.

9. A copy of the Contractor's As-Built drawings of the CAGID Parking Condominium and associated general or limited common elements, capturing all material changes made to the drawing portion of the Plans and Specifications prior to Substantial Completion, to be delivered by Trinity to CAGID.

10. Such other deliverables and documentation as may be reasonably required by the Parties, their respective lenders, their respective legal counsel and the Title Company.

C. Releases at Final Closing. The following documentation shall be delivered for termination and/or release of certain interests as contemplated in this Agreement:

1. Release of Remaining Documents in Document Escrow for recoding as contemplated herein.

2. Release of Remaining Excess Funds in Construction Escrow, including the balance of the Purchase Price (subject to retentions as provided in this Agreement).

3. Release of Collateral Assignments of CAGID Agreements.

4. Release of Parking Condominium Purchase Agreement attached hereto as Exhibit H-1 (delivered in executed form to the Escrow Agent at Initial Closing).

5. Termination of Grant of Easement for Construction and Use of Parking Garage attached hereto as Exhibit H-2 (delivered in executed form to the Escrow Agent at Initial Closing).

6. Termination and Release of Lender(s) Deed of Trust Encumbering Any Interest in CAGID Parking Condominium and associated general and limited common elements.

7. Such other releases and documentation as may be reasonably required by the Parties, their respective lenders, their respective legal counsel and the Title Company.

The Parties shall provide the required documents and funds, and otherwise complete their respective obligations under this Section 2.8 without unreasonable delay, and in addition to any other remedies at law or in equity available to the Parties, should Trinity unreasonably delay its delivery of the CAGID Parking Unit Deed or application for a TCO or CO for the CAGID Parking Unit, CAGID shall be entitled to exercise its rights pursuant to the CAGID Easement.

ARTICLE III
CONSTRUCTION AND PROJECT MANAGEMENT

Trinity and CAGID agree that they will cooperate in the following manner with respect to the construction and management of the Project. The Parties agree that the construction of the Project will be completed and managed as set forth in this Article III.

3.1 ***Cooperation***. The Parties shall cooperate in good faith to achieve development and completion of the Project.

3.2 ***Property Ownership During Construction***. Until the Final Closing, Trinity shall own all right, title and interest in and to the Property; provided, however, such ownership shall be subject to the rights, duties, and obligations created by this Agreement and the documents referenced herein, including CAGID's rights under the CAGID Easement.

3.3 ***Completion of the Project***. Trinity agrees to diligently and with best efforts complete the Project in accordance with the terms of the Agreement, including the Construction Schedule and the Plans and Specifications attached hereto as Exhibit J-2. Upon Substantial Completion, Trinity agrees to convey the CAGID Parking Condominium to CAGID by the CAGID Deed. CAGID agrees to accept the CAGID Deed to the CAGID Parking Condominium, and pay all remaining amounts due from CAGID as contemplated by this Agreement, subject to permitted withholdings hereunder.

3.4 ***Design, Construction, and Building Standards***. The Project shall be completed in a good and workman like manner in accordance with the approval of the City of Boulder pursuant to LUR2013-00048 and any amendments and modifications thereto and consistent with the requirements of City of Boulder Ordinance No. 7978, dated June 3, 2014, as amended and modified now and in the future, and in accordance with the approved Plans and Specifications (subject to reasonable and expected field modifications and immaterial variances which do not materially affect the intended use and quality of the Project). Trinity shall comply with all of the construction, restoration, inspection, and maintenance procedures and requirements in Title 10, "Structures," B.R.C. 1981, the City's Design and Construction Standards and shall endeavor to comply with all other applicable laws. Interior and exterior finish specifications for the Project's general common elements not otherwise specified in the Plans and Specifications (e.g., carpet, tile, paint, trim) shall be chosen by mutual agreement of the Parties. The Parties may consider cost, quality, durability, aesthetics, and compatibility with other design elements of the Project in their decision on such finish specifications.

3.5 ***Construction Documents***. Trinity shall provide both the CAGID Project Manager and CAGID Consultant with a copy of all updates, modifications, and samples related to the Plans and Specifications for or affecting the CAGID Parking Condominium and associated common elements. With respect to Major Decisions, defined below, the CAGID Project Manager and/or CAGID Consultant shall review all such documents and materials and, to the extent identified by him or her, notify Trinity and the Construction Manager of: (i) any objections to the documents; provided that, in each case, the CAGID Project Manager or CAGID Consultant shall provide any such notice to the Construction Manager not later than the earlier of (A) ten (10) business days of receipt of such documents and materials, and (B) such shorter time as the Construction Manager may reasonably require to prevent any delays in construction of the Project, and provided, further, that in the event such notice is not timely given, CAGID will be deemed to have consented to or approved such documents and materials. The Construction Manager shall be entitled to rely on the first of the CAGID Project Manager or CAGID Consultant to provide notice of objection or acceptance hereunder

3.6 ***Construction Contract***. Trinity agrees that it will exercise reasonable care and execute a construction contract with a reputable contractor for the construction of the Project. CAGID has reviewed and approved the Construction Contract attached hereto and incorporated herein as Exhibit J-1, and approved the Contractor. In the event Trinity replaces the Contractor, Trinity shall request CAGID's input and cooperation in identifying a new contractor and shall obtain CAGID's approval of the new contract and contractor prior to the execution of such construction contract. The Parties agree that, while cost is a factor in selecting a contractor for the Project, it will not be the only factor. In approving such a contractor and construction contract, which approval shall not unreasonably withheld, conditioned or delayed by either Party,

the Parties agree that CAGID may consider any of the factors and requirements set forth in Chapter 2-8, "Purchasing Procedures," B.R.C. 1981. Trinity agrees to structure the Construction Contract to include insurance, bonding, warranty, assignment, payment, retainage, and other provisions for the CAGID Parking Condominium and associated common elements that are consistent with the provisions of this Agreement.

3.7 ***Project Management***. Trinity agrees to be responsible for the Project and for the following:

A. Overseeing the design, procurement, and construction of the Project;

B. Negotiating and entering into separate agreements with the Architect, the Contractor, engineer(s), and such other third parties as deemed appropriate by Trinity, for all or part of the work associated with the Project; and

C. Ensuring that the applicable terms and conditions of this Agreement are included in agreements with all of the contractors and consultants.

3.8 ***Construction Manager***. The general management of the Project shall be entrusted to Trinity, acting through Element Properties, (or such other agent appointed from time-to-time for such project management purpose by Trinity with reasonable input and consent from CAGID) which shall be referred to herein as the "**Construction Manager**." Trinity shall not be liable to CAGID for any losses, damages, claims or causes of action incurred or suffered arising directly or indirectly from Trinity's duties as manager of the Project, unless and except to the extent arising as a result of their willful misconduct, breach of fiduciary duties, or breach of this Agreement, or gross negligence.

3.9 ***CAGID and Trinity Project Managers***.

A. The CAGID Project Manager, shall be responsible for supervising the implementation of the Agreement on behalf of CAGID and representing CAGID in all matters and questions arising under the Agreement affecting the CAGID Parking Condominium (except to the extent the same is delegated to or undertaken by CAGID's consultant). The CAGID Project Manager shall be the person appointed by CAGID to review, inspect and communicate with the Contractor or Architect regarding compliance with drawings and specifications and other contract documents, quality of workmanship and materials and implementation of the Agreement with respect to the CAGID Parking Condominium. The CAGID Project Manager shall have reasonable access to the Project at all times, subject to prior notice and consent of the Contractor. All correspondence to CAGID relating to the Agreement shall be directed to the CAGID Project Manager. The CAGID Project Manager shall make decisions on behalf of CAGID for matters concerning this Agreement.

B. The Trinity Project Manager, shall be responsible for supervising the implementation of the Agreement on behalf of Trinity and representing Trinity in all matters and questions arising under the Agreement or the construction of the Project affecting the CAGID Parking Condominium and associated limited and common elements or CAGID (except to the extent the same is delegated to or undertaken by the Construction Manager or assigned to another party pursuant to the terms of this Agreement). The Trinity Project Manager shall be the

person appointed by Trinity to review, inspect and communicate with the Contractor or Architect regarding compliance with drawings and specifications and other contract documents, quality of workmanship and materials and implementation of the Agreement with respect to the CAGID Parking Condominium. All correspondence from CAGID relating to the Agreement shall be directed to the Trinity Project Manager. The Trinity Project Manager shall have authority and shall make decisions on behalf of Trinity for matters concerning this Agreement and CAGID may rely on such authority.

3.10 ***Bidding of Management Services***. CAGID is required by Section 8-4-11, "Powers of the District," B.R.C. 1981 to follow the purchasing procedures of Chapter 2-8, "Purchasing Procedures," B.R.C. 1981. Pursuant to Section 2-8-3, B.R.C. 1981, the city manager and ex officio general manager of CAGID has determined for the period of construction of the Project and thereafter, that it is not practical and advantageous to call for a competitive bid for the work anticipated by this contract because of the nature of the relationship of CAGID and Trinity in management of the construction hereunder and the joint ownership of the common areas associated with the Project.

3.11 ***Routine Decisions***. The Parties intend that CAGID and Trinity share equally in Major Decisions (as defined in Section 3.12 of this Agreement) affecting the Project, but that otherwise Trinity, through the Construction Manager, shall be in charge of managing and accounting for the day-to-day affairs of the Project, including performance of the duties set forth in Section 3.14 below. Trinity and the Construction Manager shall have full power and authority to carry out the day-to-day management, conduct, and operation of the Project's endeavors in all respects, including, without limitation, the power to enter into contracts concerning the Project and its development and disposition and the power to execute, acknowledge, deliver, file and record on behalf of itself any and all instruments required therefor, and collect and expend funds in accordance with the Construction Budget, which budget is set forth as Exhibit L-1 and is hereby approved by the Parties and is incorporated as the defined construction budget under the Construction Contract. Notwithstanding the foregoing, the CAGID Project Manager must approve any change order that is a Major Decision, as defined in this Article. No person dealing with CAGID or Trinity with respect to the Project shall require any evidence of the authority of Trinity to enter into any of the foregoing transactions, and such authority is fully confirmed hereby.

3.12 ***Major Decisions***. Notwithstanding the provisions of this Article, Trinity shall consult with CAGID and obtain its written consent prior to (i) entering into any contract or incurring any expenditure which may obligate CAGID for any amounts in excess of the Purchase Price; (ii) borrowing money and as security therefor encumbering any portion of the future CAGID Parking Condominium in any way, or refinancing, increasing, modifying, consolidating, or extending any such loan or encumbrance, (provided that CAGID hereby acknowledges its consent to the financing contemplated in those certain loan agreements between Trinity and the Lenders dated as of the Initial Closing Date), (iii) engaging for the Project any accountant, attorney, architect, or general construction contractor, (iv) approving any change order materially affecting the design and/or intended use of the CAGID Parking Condominium or associated common and limited common elements; (v) approving any change order materially affecting the CAGID Parking Unit, which change order would result in costs exceeding Construction Budget and funds available to Trinity for the change from the Construction Escrow Account and under

the First Bank loan documents for the Project, or (vi) bringing or maintaining any action, suit, counterclaim or cross-claim on behalf of the Project in the name of Trinity (subparagraphs (i) through (vi) referred to herein as "**Major Decisions**"). CAGID shall be deemed to have consented to requests made under this Section 3.12 if it has not objected to the request within ten (10) days after the request. Consent hereunder shall not be unreasonably withheld, conditioned or delayed.

3.13 ***Approved Project Consultants***. CAGID and Trinity acknowledge that Trinity has engaged the Architect (Hartronft Associates), the Contractor (Fischer Construction), and legal counsel (Holland & Hart LLP) for the Project. Any decision to engage another architect or contractor for any Unit, or to replace or supplement Architect or Contractor may be made only with the consent of CAGID and Trinity.

3.14 ***Construction Manager's Duties***. Subject to the limitations set forth in this Agreement, Trinity alone, or acting through the Construction Manager, shall have the authority and duty to perform the following functions:

A. Using best efforts, timely submit and diligently pursue obtaining all approvals and permits necessary for the construction and completion of the Project.

B. Obtain and maintain and ensure that the Contractor, all subcontractors, and the Architect obtain and maintain such policies of insurance as are prudent for the Project and sufficient to insure against all liability, claims, demands, and other obligations assumed under this and the respective contracts of the Contractor, subcontractors, and Architect by each respectively. Neither Trinity, nor the Contractor and Architect shall be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types. The Construction Manager shall also procure builder's risk or other insurance coverage for the improvements hereafter erected on the Property insured against loss by fire or hazards included within the term "extended coverage" in an amount at least equal to the insurable value of the Property and commercial liability policies in reasonable amounts naming the Parties as well as the City of Boulder and CAGID and their officials and employees as additional insureds. The additional insured endorsement shall be at least as broad as ISO form CG 20 10 11 85 coverage. All policies of insurance shall be written on a primary basis, non-contributory with any other insurance coverages and/or self-insurance carried by the City of Boulder or CAGID. During the period of construction, standard builders' risk insurance shall be maintained subject to the requirements and claims of any Lender with respect thereto, insurance proceeds shall be applied to restoration or repair of the Property damaged, provided such restoration or repair is economically feasible, and Trinity will exercise a fiduciary duty for itself and CAGID in utilizing such proceeds in effecting such reconstruction or repair. On and after the Final Closing Date, casualty insurance proceeds shall be applied in accordance with the requirements of the Condominium Declaration. Notwithstanding the foregoing, CAGID shall have no consent or approval rights with respect to insurance specific to the Church Condominium and TCH Condominium, including without limitation, lender requirements with respect to the same.

C. Communicate with, and direct, as necessary, the Contractor.

D. Consult with CAGID or the CAGID Project Manager, as required under this Agreement or as otherwise needed, about the construction of the CAGID Parking Condominium and the interfaces between the CAGID Parking Condominium the other elements of the Project.

E. As needed from time to time, and subject to the limited obligations of CAGID for such costs pursuant to the Purchase Agreement, consult with the Architect, the Contractor and such other agents of Trinity or CAGID appointed for such purpose, to allocate limited and general common element costs equitably between the Parties in accordance with their unanimous agreements to the formulas for such allocation, including without limitation, making recommendations for the allocation or reallocation of all such expenses.

F. Promptly deliver to CAGID copies of any and all invoiced amounts, in whole or in part, pertaining to the construction of the CAGID Parking Condominium and any general and limited common elements associated with the CAGID Parking Condominium.

G. Meet with the representatives of CAGID at least monthly during construction of the CAGID Parking Condominium and quarterly thereafter to review the status of construction, budget expenditures, any modifications to the Project, the Construction Schedule, the allocation of costs schedule, and other matters relevant to the completion of the Project.

H. Endorse, if any, checks, drafts, or other evidence of indebtedness necessary to complete the Project.

I. Pay any unpaid taxes, assessments or charges of any governmental authority as to the Project.

J. Execute and deliver contracts and documents relating to the Project.

K. Pay all amounts properly due and payable with respect to the Project to any person or entity.

L. Protect the Project against the filing of mechanics liens by obtaining lien waivers from contractors, subcontractors, laborers and materialmen and other providers of work, labor or materials to the Project, or dispute the same in compliance with the terms hereof or as may be required under any loan documents related to the Property.

M. Employ or engage such agents, officers, employees, consultants and other persons necessary or appropriate to carry out the business and affairs of the Project, and to pay fees, expenses, salaries, wages and other compensation to such persons.

N. To the extent related to the construction of the Project and authorized by the Parties, pay, extend, renew, modify, adjust, submit to arbitration, prosecute, defend or compromise any obligation, suit, liability, cause of action or claim, including taxes, either in favor of or against the Project.

O. Pay any and all reasonable fees and make any and all reasonable expenditures which it deems necessary or appropriate in connection with the organization of the Project, the management of the affairs of the Project, and the carrying out of Trinity's obligations and responsibilities under this Agreement.

P. Take such actions as it may deem appropriate with respect to delays in construction, including imposition of liquidated damages if any, or extension of delivery deadlines, or other matters related to such delays.

Q. Exercise the rights of Trinity under contracts with the Architect and the Contractor as directed by Trinity.

R. Exercise any other powers specifically granted to the Construction Manager in this Agreement or any separate agreement approved by Trinity and CAGID with the Construction Manager.

3.15 ***Commencement of Construction***. As soon as reasonably practicable following the Initial Closing, Trinity shall cause the Architect to authorize commencement of construction of the Project ("**Commencement**"). Approval of Commencement by Trinity shall require prior written approval of each Party of the Architect's Notice of Commencement under the Architect's agreement. If a Party does not provide written approval or objection to the other Party and the Architect within five (5) business days of receipt of the Notice of Commencement, then approval of commencement of construction shall be deemed given by that Party. If such notice of objection is provided in writing to the other Party and the Architect, the Commencement shall be delayed until the earlier of resolution of the objection to the objecting Party's satisfaction, or fourteen calendar days. Either Party may thereafter submit resolution of the objection to arbitration in accordance with Section 6.5 below.

3.16 ***Integration of Parking Systems***. Trinity agrees that the Contractor, Architect, and any other of Trinity consultants to the Project and the Construction Manager shall work with CAGID and CAGID's Consultant and other CAGID consultants and contractors in good faith to incorporate into the design and construction of the Project those structures, mechanical systems and other improvements identified by CAGID as being required or desired for the operation of the CAGID Parking Condominium for its intended purposes, including the accommodation of a controlled access system for the management and control of the CAGID Parking Condominium and an entry structure to the CAGID Parking Condominium. CAGID shall have the right, at CAGID's cost, to install and ensure proper operation of any system, structure, or other improvement identified by CAGID as required or desired for the operation of the CAGID Parking Condominium after substantial completion of the CAGID Parking Condominium and prior to Substantial Completion of the Project.

3.17 ***Best Efforts to Complete Project***. The Parties agree that they shall use their respective reasonably diligent efforts to have the construction of the entire Project substantially completed in accordance with the Construction Schedule contained in the respective construction contracts, as summarized in Exhibit K attached hereto. The Parties shall further cooperate in good faith with reasonably requested extensions to the Construction Schedule.

3.18 ***Substantial Completion***. The date of "**Substantial Completion**" of the Project shall be the date upon which the last of the following occurs:

A. The Units and all associated common elements are sufficiently complete that the surveyor for the Project is able to perform necessary surveys and certify that the all Units are complete as required by C.R.S. §38-33.3-201(2) of the Colorado Common Interest Community Act (the "**Act**");

B. The Map for the Project and the Units and common elements therein may be prepared and recorded in accordance with the Act;

C. A Certificate of Occupancy ("**CO**") or Temporary Certificate of Occupancy ("**TCO**") has been issued for the Project and all Units therein, and all three Units and associated common elements are sufficiently complete such that they are ready for continuous occupancy and operation for the uses and purposes intended, subject only to minor punch list items remaining to be completed to ensure construction of the Project consistent with the terms of this Agreement and its associated contracts and to ensure a satisfactory product and to correct any errors and damage (the temporary non-completion of which does not interfere with the occupancy, use or continuous operation of the any Unit as generally intended); provided, however, the foregoing shall be subject to the provisions of Section 2.6B and CAGID's exercise of its rights under the CAGID Easement;

D. The Architect and any Lender have each certified, without reservation, to such substantial completion of the Project on AIA Form G704 for such certification (the "**Architect's Certificate**").

3.19 ***Completion and Approval of Final Map and Declaration***. Upon Substantial Completion, Trinity shall promptly cause the surveyor to perform necessary surveys and complete the Map within a reasonable time. The Map shall be subject to prompt review and approval by the Parties. Upon approval of the Map, the Parties and any Lender shall execute the Declaration and the Map and deliver it to Escrow Agent for recording with the Declaration. The date upon which the foregoing matters have been completed and the Declaration and the Map and any other applicable documents reasonably required hereunder or by the Escrow Agent have been delivered to Escrow Agent shall be referred to as the "**Project Completion Date**."

3.20 ***Amendments to Declaration and Map***. The Parties acknowledge that the Declaration and Map may require amendment from time to time to correct deficiencies or to address unanticipated circumstances or changes to the Project, both during and after Project Completion. The Parties agree to cooperate in good faith, with respect to such matters and to execute reasonable amendments from time to time to permit each Party full and reasonable utilization of its respective facilities being constructed as part of the Project. Such amendments shall not unreasonably interfere with the reasonable use of the other Party's facilities. The provisions of this section shall survive termination of this Agreement or the Project Completion Date.

3.21 ***Books and Records***. Trinity shall keep its books and records for the Project and reimbursable expenses according to recognized accounting principles and practices, consistently

applied. Trinity shall make them available for CAGID's inspection at all reasonable times, upon prior notice to Trinity. Trinity shall retain such books and records for at least three (3) years after completion of the Project.

3.22 ***Bonding***. Trinity shall require the Contractor to obtain and maintain a performance bond and a labor and material bond as a guarantee for the faithful performance and completion of the work in strict accordance with the terms of this Agreement. The performance bond 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, per Section 3.23 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.

3.23 ***Warranty and Guarantee.*** Trinity shall require that the Contractor guarantee the Project for a period of two (2) years after the date of Substantial Completion. The establishment of the guarantee period shall relate only to the specific obligations of the Contractor to correct known defects in 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 Contractor's 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. Trinity shall require the Contractor to warrant and guarantee to the Parties that all materials and equipment will be new, unless otherwise specified, suitable for the purpose intended and will be consistent with industry quality standards for similar projects, merchantable, and fit for the purpose for which they are intended, and that the work will be performed using the skills and workmanship consistent with industry quality standards for similar projects. 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 shall assign or transfer such warranties and guarantees to the Parties if the Parties request 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.

3.24 ***Schedule***. Trinity agrees to diligently work to make the Project operational and available for CAGID use and complete all work required to be performed under this Agreement consistent with the Construction Schedule attached hereto as Exhibit K. If Trinity fails to complete the Project or prosecute the completion of the same pursuant to the terms of CAGID Easement, then CAGID shall have the ability to complete the CAGID Parking Condominium and any general and limited common elements associated therewith in the manner provided in Exhibit G.

ARTICLE IV
CONTRIBUTIONS AND COST ALLOCATIONS

4.1 ***Soft Costs and Purchase Price***. As CAGID's share of design, permitting, legal fees and other aspects of pre-construction costs incurred by Trinity prior to Closing, CAGID shall pay to Trinity (or as directed by Trinity's lenders) the CAGID Soft Costs. In consideration of the construction and delivery of the CAGID Parking Condominium, CAGID shall pay the Purchase Price to Trinity as provided in Section 4.2. Trinity shall be responsible for the completion of the Project and for payment of all costs of the Project for which payment CAGID is not specifically responsible under Sections 4.1, 4.6, 4.7, and 4.11 of this Agreement.

4.2 ***Deposit of Equity and CAGID Funds***. At the Initial Closing, CAGID shall pay to Trinity the CAGID Soft Costs and shall deposit the Purchase Price with the Escrow Agent, without set-off or hold-back. At the Initial Closing, Trinity shall deposit with the Escrow Agent Trinity's Cash Equity. Trinity shall ensure that, upon depletion of cash deposits required pursuant to Section 1.6B.2, above, the FirstBank loan funds are available to finance the remainder of the Project.

4.3 ***CAGID Parking Condominium Contributions, Treatment of Funds.*** All money contributed, if any, by the Parties for construction and related costs of the Project, and all money received by Trinity in connection with the CAGID Parking Condominium shall be treated and regarded as, and are declared to be, trust funds for the performance and completion of the CAGID Parking Condominium, and for no other purpose, until the Project shall have been fully completed and the Parties shall have made all required payments. CAGID and Trinity shall each make payments of expenses and costs incurred for the construction of the Project according to Section 4.6.

4.4 ***Construction Escrow***. All payments made by CAGID and Trinity, or a Lender on their behalf, to any contractors, architects, engineers and consultants, and to other parties performing work on the Project under a contract or other arrangement with CAGID or Trinity, shall be made through a construction escrow agreement with Escrow Agent in the form attached as Exhibit I (the "**Construction Escrow Agreement**"). The Construction Escrow Agreement shall be executed by CAGID, Trinity and Escrow Agent, and as applicable, some or all of the Lenders, and shall set forth payment procedures reasonably satisfactory to CAGID, Trinity and Lender(s), and shall require, as a condition precedent to the disbursement of any funds, the submission of sworn statements, lien waivers and any other documentation reasonably required so as to protect the Project from false claims and from mechanics' or similar liens or claims.

4.5 ***CAGID Cooperation***. CAGID agrees to cooperate without unreasonable condition or delay with such other reasonable escrow requirements as may be imposed by Trinity's Lender. CAGID has no obligation to agree to any escrow requirements imposed by Trinity's Lender that materially or adversely impact CAGID, as determined in CAGID's reasonable discretion.

4.6 ***Allocation of Shared Costs***. The costs for any Change Order to the Project's common elements in excess of the guaranteed maximum price under the Construction Contract,

which Change Order has been approved by Trinity and CAGID as provided herein (a "**Joint Change Order**") shall be allocated in accordance with the Standard Ratio.

4.7 ***Changes and Unit-Specific Costs***. To the extent any modifications to design, materials, equipment or other matters are specified by any, but less than all Unit owners (the "**Changing Party**" or "**Changing Parties**"), and the same are specific to the Changing Party's(ies') respective Unit(s) and do not materially benefit the other Unit or Units, or any shared common elements of the Project (a "**Unilateral Change Order**"), then any design costs for such Unilateral Change Order shall be borne solely by the Party(ies) requesting such change, and any additional labor or material costs (or savings) associated with the same shall be borne by or accrue solely to the Changing Party(ies). To the extent that any Unilateral Change Order requires changes in design, materials, equipment or other matters that impact other aspects of the Project than just the benefitted Unit, including materially affecting the Construction Schedule, all Parties must consent to such modifications in advance and in writing, which consent shall not be unreasonably withheld.

4.8 ***Taxes***. During the term of this Agreement, Trinity shall be responsible for the payment of real property taxes allocable to the Project and Property, if any. As used herein, the term "real property taxes" shall mean all taxes and assessments, general and special, and all other impositions of every nature and kind whatsoever, which may be levied, assessed, or imposed upon the Project and shall include any form of assessment, license fee, rent tax, levy, penalty, or tax (other than income, inheritance, or estate taxes), now or hereafter imposed by any authority having the direct or indirect power to tax, including any city, county, state, or federal government, or any school, agricultural, lighting, drainage, or other improvement district. The Parties agree to exercise reasonable care to maintain CAGID's tax-exempt status.

4.9 ***Independent Financing***. The financing of each Party's development and construction costs shall be independent of the other. Each Party agrees to take any and all reasonable actions in connection with the efforts of the other Party to obtain suitable financing for its share of the costs of the Project, including any reasonable amendments to this Agreement required by any Lender or investors. Each Party shall be solely responsible for any obligations, liabilities, expenses, recording fees and costs of any kind or character assumed by or charged to such Party in connection with its respective financing of its allocable costs of the Project. CAGID shall be responsible for the costs of recording any documents benefiting solely CAGID, including without limitation, the Purchase Contract and the CAGID Easement. Trinity shall be responsible for the costs of recording all other documents, including without limitation, this Agreement and any releases of documents anticipated in this Agreement.

4.10 ***Environmental Matters***.

A. Trinity represents and warrants to CAGID to the best of Trinity's current actual knowledge that, as of the date of this Agreement, the Trinity Property (including surface water, ground water and improvements) is free of all Hazardous Substances (as defined below) and is free of underground storage tanks as defined by C.R.S. § 8-20.5-101(17) (Supp. 1996), as amended or any successor statute. Trinity agrees to indemnify and defend CAGID in accordance with the terms of this Section 4.10 of this Agreement from and against any costs, fees or expenses (including, without limitation, clean-up expenses, third party claims and environmental

impairment expenses, and reasonable attorneys' fees and expenses) incurred in connection with a breach of its representations and warranties of this Section. If the presence of any Hazardous Substances on the Property caused or permitted by either Party results in any contamination of the Property, such Party shall promptly take all actions at its sole expense as are necessary to return the Property to the condition existing prior to the introduction of any such Hazardous Substances to the Property. The provisions hereof shall survive completion of the Project and any termination of this Agreement.

B. As used in this Agreement, "**Hazardous Substances**" shall mean (i) "hazardous substances" as defined in the Comprehensive Environmental Response, Compensation and Liability Act, as amended, or as defined in applicable state law provisions, (ii) "PCBs" as defined in 40 C.F.R. 761, *et seq*. and "TCDD" as defined m 40 C.F.R. 775, *et seq*., or, in either case, analogous regulations promulgated under the Toxic Substances Control Act, as amended, (iii) "asbestos" as defined in 29 C.F.R. 1910 1001, *et seq*., or analogous regulations promulgated under the Occupational Safety and Health Act of 1970, as amended, (iv) oil and petroleum based products, (v) "hazardous wastes" as defined in Resource Conservation and Recovery Act, as amended, (vi) "hazardous substance" as defined in the Federal Water Pollution Control Act, (vii) "hazardous waste" as defined in the Federal Resource Conservation and Recovery Act; and (viii) "regulated substance" as defined in Subchapter IX, Solid Waste Disposal Act (Regulation of Underground Storage Tanks), as such acts may be amended from time to time, and as such terms may be expanded by additional legislation of a similar nature.

4.11 ***Assumed Responsibility***.

A. General. Each Party shall be responsible for any losses, damages, liabilities, deficiencies and expenses (including reasonable attorneys' fees) incurred by the other Party by reason or arising out of any failure by the other Party to perform any obligation or duty required to be performed by it under any provision of this Agreement.

B. Subsurface Contingencies. If, during excavation of the Property, subsurface conditions are encountered that are sufficiently material to result in the contractor obtaining an increase in the guaranteed maximum price contract for additional excavation or other services or work, (the "**Extra Subsurface Work**"), the costs therefor shall be paid initially from the $100,000 contingency fund under the Construction Budget (the "**Contract Contingency**"), and then by CAGID up to the full amount of the CAGID Contingency. If the increase in costs for such Extra Subsurface Work exceeds the CAGID Contingency, then unless the Parties agree otherwise, or either Party elects to solely assume such additional costs, either Party may terminate this Agreement and invoke the provisions of Section 5.1. Nothing herein shall be deemed to limit the obligation of either Party for its share of the costs of a Joint Change Order or a Unilateral Change Order.

C. Notice of Claim. In the event that any claim in writing is asserted by a third party for which a single Party hereto may be responsible under this Agreement, the Party against whom such claim is asserted (the "**Covered Party**") shall give notice thereof to the Party hereunder responsible for the claim (the "**Responsible Party**"), which notice shall be accompanied by a copy or statement of the claim. Following such notice, the Responsible Party

shall have the right, but not the obligation, to participate, at its sole expense, in the defense, compromise, or settlement of such claim with counsel of its choice. If the Responsible Party shall fail timely to defend, contest or otherwise protect against any suit, action or other proceeding arising from such claim, the Covered Party shall have the right to defend, contest or otherwise protect itself against same and, upon not less than ten (10) days' notice to the Responsible Party, to make any reasonable compromise or settlement thereof. In connection with any claim as aforesaid, the Parties hereto shall cooperate fully with each other and make available all pertinent information necessary or advisable for the defense, compromise or settlement of such claim.

4.12 ***Reporting and Meetings***. On or before the tenth (10th) day of each month, starting with the first full month after the date of Commencement, the Construction Manager shall provide to CAGID monthly status reports regarding progress on the schedule of performance for the Project. Reports hereunder may be provided by email or other common communication method agreed upon by both Parties. CAGID and Trinity shall meet regularly with each other in order to determine the feasibility of the Project and identify the approvals and documents necessary to develop and operate the Project.

4.13 ***Protection of Property Interests***. Exclusive of CAGID exercising its rights pursuant to the CAGID Easement, if a Party fails to perform the covenants and agreements contained in this Agreement, or if any action or proceeding is commenced which materially affects a Party's interest in the Property or which materially affects the completion of the Project as contemplated herein, then such affected Party, at its option, with at least ten (10) business days prior written notice to the other Party and the other Party's Lender, if any, may make such appearances, disburse such sums and take such action as is necessary to protect the affected Party's interest, including without limitation payment of the following:

A. any general or special taxes or assessments levied or accruing against the Property;

B. the premiums on any insurance necessary to protect any improvements comprising a part of the Property;

C. sums due on any prior lien or encumbrance on the Property;

D. the reasonable costs and expenses of defending, protecting, and maintaining the Property and affected Party's interest in the Property, including repair and maintenance costs and expenses, costs and expenses of protecting and securing the Property, receiver's fees and expenses, inspection fees, appraisal fees, court costs, attorney fees and costs, and fees and costs of an attorney in the employment of the affected Party;

E. all other costs and expenses allowable by this Agreement; and

F. such other costs and expenses that may be authorized by a court of competent jurisdiction.

Any amounts disbursed by an affected Party pursuant to this Section 4.13 shall become indebtedness of the other Party. Such amounts shall be payable upon notice, and the affected

Party may commence an arbitration as provided hereunder to collect any amounts so disbursed plus interest at the rate of ten percent (10%) per annum. Nothing contained in this Section shall require an affected Party to incur any expense or take any action hereunder.

4.14 ***Additional Payment Provisions***. The Parties agree to the following payment provisions for the Project.

A. Periodic Billing to Construction Escrow. Construction payments will be based upon invoices prepared by the Construction Manager in accordance with an approved draw schedule, and submitted to the CAGID Project Manager, the Lender(s), and the Escrow Agent for their respective review, processing and payment.

B. Payment Approval Procedure for CAGID. Payments from CAGID's portion of the Construction Escrow Account shall be made from the Construction Escrow Account no more frequently than every thirty (30) days as the work for the Project progresses. Payments will be based upon invoices submitted to the CAGID Project Manager for his/her review and approval. The CAGID Project Manager shall, within ten (10) days of receipt of invoices and the Construction Manager's request for disbursement, either authorize payment or return the invoice to Construction Manager indicating in writing the reasons for refusing to recommend payment. CAGID may withhold payment pursuant to the criteria established for withholding progress payments in Section 4.14H, below. Ninety-five percent (95%) of the calculated value for any work completed shall be paid until the work required by the Construction Contract on the CAGID Parking Condominium has been performed. The five percent (5%) retainage shall be retained until the Project is accepted by CAGID and Trinity as Substantially Complete and Authorization of Final Payment is issued by the Architect. The Contractor shall warrant that it will pay each subcontractor promptly upon receipt of payment from CAGID and Trinity the amount to which the subcontractor is entitled. Notwithstanding anything to the contrary, the Contractor shall not be required to pay a subcontractor or supplier that has not performed in accordance with its subcontract or purchase order. The Contractor shall, by appropriate agreement with each subcontractor, require each subcontractor to make payments to the subcontractor's subcontractors in similar manner. CAGID and Trinity may furnish each subcontractor information regarding the percentages of completion or the amounts applied for by the Contractor

C. Advances on Behalf of Other Party. If any payment from Trinity includes an amount allocable to CAGID, Trinity shall deliver a statement to CAGID advising it of such amount. If any payment from CAGID includes an amount allocable to Trinity, CAGID shall deliver a statement to Trinity advising it of such amount. Each Party agrees to pay its allocable portion into the Construction Escrow Account within ten (10) business days of receipt of such statement

D. No Mark-Up By Trinity. All costs allocated to CAGID will be at the actual cost charged to Trinity by its contractors without mark-up.

E. Final Payment Procedure. Prior to CAGID approving final payment from the Construction Escrow, Trinity or the Construction Manager shall make application for final payment following the procedure for progress payments set forth in Section 4.14B, above. The

application for final payment shall contain a final estimate of the total cost of all work done under the Agreement, as charged and allocated to the Parties. Prior to final payment, a CO or TCO shall have been issued for all Units. Prior to final payment the CAGID Project Manager will inspect the work and review the application for final payment to determine if Trinity has materially fulfilled its obligations under the Agreement. CAGID may also withhold payment based on the criteria established for withholding of progress payments in Section 4.14H, below. The CAGID Project Manager will, within ten (10) days of receipt of the application for final payment, give written notice to Trinity that the work is acceptable or return the application for final payment indicating in writing the reasons for refusing final payment in which case Trinity shall make the necessary corrections; if no such notice is received from the CAGID Project Manager within such ten (10) day period, the application for final payment shall be deemed approved, unless a claim is filed pursuant to Section 38-26-107, C.R.S. After making the necessary corrections, Trinity and/or the Construction Manager shall resubmit its application for final payment as required pursuant to the terms of the Construction Escrow, which shall be reviewed as outlined above. Final payment shall not be made to Trinity until CAGID advertises 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, pursuant to Section 38-26-107, C.R.S. If no claims are filed before final settlement, CAGID shall authorize payment from the Construction Escrow Account of the advertised amount, after deducting all payments previously authorized and all other charges properly chargeable to Trinity under the terms of the Agreement.

F. Procedure for Withholding All or Part of Final Payment. CAGID is required to comply with Section 38-26-101 et seq., C.R.S., which statute generally allows a supplier or a subcontractor to file a verified statement of claim, upon which CAGID is required to withhold funds from Trinity or the Construction Escrow Accountas set forth in the statute. Further, the statute allows unpaid subcontractors and suppliers who have filed verified statements of claim to file a notice of *lis pendens* with CAGID, in which event CAGID must continue to withhold amounts longer than ninety days after the date of final settlement.

G. Payment of Bills. The Escrow Agent shall promptly pay all bills for labor and material performed and furnished by others in performance of the Project, unless Trinity or CAGID shall in good faith contest such bills. Provided CAGID has been provided with notice and approved the decision to contest bills for materials or work affecting the CAGID Parking Condominium, the costs of any dispute relative to such bill contest shall be allocated equitably between CAGID and Trinity based on the percentage allocation for the cost of such work under the Construction Cost Allocation of Exhibit L-2.

H. Qualifications to CAGID's Obligations to Pay. Notwithstanding any other terms of this Agreement, CAGID may withhold consent to an appropriate amount of disbursement from the Construction Escrow Account (whether a progress payment or final payment) if any one or more of the following conditions exists:

1. Trinity is in default of any of its material obligations under this Agreement, after notice and opportunity to cure as provided herein.

2. Any part of such payment is attributable to services which are not performed according to this Agreement; provided, however, that CAGID will pay for any part thereof attributable to services performed according to this Agreement.

3. The Escrow Agent has failed to make payments when due to any third parties used in the services for which CAGID has already made payment.

4. CAGID cannot reasonably verify that the work for which payment was requested has been completed in accordance with the terms of this Agreement and the Plans and Specifications.

5. CAGID reasonably determines that the work for which payment is sought is defective, and such defective work has not been remedied.

6. CAGID reasonably determines that Trinity does not and will not have adequate escrowed, reserved or loaned funds available to complete the CAGID Parking Condominium and associated common elements in accordance with this Agreement and the Construction Schedule.

7. Payment is not consistent with the approved Construction Budget or the Construction Cost Allocation of Exhibit L-2.

8. Failure of the Contractor to pay subcontractors.

Subject to the estoppel requirements under Section 1.1, above, no authorization of partial payment shall constitute final acceptance or approval of that part of the Project or task paid for, nor shall any such payment relieve Trinity of any of its obligations under this Agreement. If any payment is withheld by CAGID based on the existence of any of the above-referenced conditions, CAGID shall authorize release of the full amount of such payment from the Construction Escrow Account immediately after such condition is cured or otherwise ceases to exist, the determination of which shall be reasonably made, without unreasonable condition or delay.

4.15 ***Capital Replacement Reserve***. The Parties agree to engage the services of a capital replacement reserve consultant to advise and recommend the proper amount to be initially funded at Final Closing to a capital replacement reserve for the Project, and the schedule for future payments to such capital replacement reserve. Upon approval of such recommendation by the Parties, the Parties shall fund such reserve commencing upon the Final Closing

4.16 ***Second Phase Construction***. The Parties acknowledge that Trinity or the owner of the Church Condominium may construct additional improvements, including without limitation, residences, office or church-related space, above the Church Condominium and the CAGID Parking Garage, and CAGID agrees to cooperate in good faith with Trinity in the construction of the same. Such cooperation may include temporary suspension of use of all or part of the CAGID Parking Condominium by CAGID, subject to Trinity reimbursing CAGID for actual lost income from the CAGID Parking Condominium, during such periods as Trinity shall require use of the CAGID Parking Condominium to stage such construction or during such periods as use of the CAGID Parking Condominium is deemed by both Parties to be in conflict

with such construction activities. Trinity, or the then owner of the Church Condominium, shall indemnify and hold harmless CAGID from any injury or damage to person or property of CAGID or of third parties from such use of the CAGID Parking Condominium. Any contractor performing such work shall carry insurance in such form and in such amounts as may be required by the Association. CAGID and Trinity agree to cooperate in good faith in designing, modifying and constructing any systems or general or limited common elements materially affected by the design and construction of such additional residential units. Disruption to use of the CAGID Parking Condominium shall be minimized to the maximum extent possible during construction of the additional eight residential dwelling units. The provisions of this Section 4.16 shall survive the Initial Closing, the Final Closing and the expiration or earlier termination of this Agreement.

4.17 ***Appropriation Requirement***. Any change order under the Construction Contract or Architect Contract increasing the costs of the Purchase Price beyond appropriated funds is prohibited unless CAGID confirms in writing that the costs to CAGID of the additional work has been lawfully appropriated and the appropriations are available prior to performance of the additional work. This prohibition does not apply if the work is covered under a remedy-granting provision of this Agreement, the Construction Contract or Architect Contract, as applicable.

4.18 ***Liquidated Damages***. Any liquidated damages owed by the Contractor under the Construction Contract shall be divided consistent with the Standard Ratio and such damages shall be immediately released to the Parties.

ARTICLE V
TERMINATION AND DEFAULT

5.1 ***Termination***. Subject to the rights of any Lender under a collateral assignment of this Agreement executed and acknowledged by each of CAGID and Trinity, this Agreement shall terminate upon the earliest to occur of the following events:

A. At the election of the non-breaching Party, a material breach or default by the other of any of the terms, obligations, covenants, representations or warranties under this Agreement, which breach or default is not cured within thirty (30) days after written notice, provided that this Agreement shall not terminate if the breach or default by its nature cannot be cured within thirty (30) days, and the defaulting Party is acting diligently and in good faith to cure the breach or default;

B. At the election of the other Party, the dissolution, liquidation, or event of bankruptcy of one of the Parties;

C. As otherwise provided in this Agreement; or

D. The mutual agreement of the Parties.

5.2 ***Release of Purchase Price.*** Upon termination of this Agreement prior to conveyance of the CAGID Unit to CAGID and for reasons other than a default in material obligations under this Agreement by CAGID, any amount of Purchase Price remaining in the Construction Escrow Account shall immediately be released to CAGID. Upon termination by

reason of default in material obligations by CAGID, any amount of the Purchase Price remaining in the Construction Escrow Account exceeding any amount CAGID is required to pay to Trinity per mutual agreement or binding arbitration or court order, shall be immediately released to CAGID.

5.3 ***Reimbursement for Work as of Date of Termination.*** Upon a termination by mutual agreement of the Parties or by CAGID pursuant to its rights under Section 4.11B. Subsurface Contingencies, CAGID agrees to pay its share of the construction costs reasonably incurred as of and through the date of termination and its share of other reasonable costs the Contractor legitimately incurs as a result of the termination, consistent with the Construction Cost Allocations as shown in Exhibit __. The Parties shall bear any other termination fee of the Contractor in accordance with the Standard Ratio.

5.4 ***Default***. CAGID and Trinity acknowledge and agree that if either Party shall default in its material obligations under this Agreement, it would be impractical or extremely difficult to affix damages thereunder, and that monetary damages are an inadequate remedy for loss of the bargain under this Agreement. Accordingly, the Parties agree that, in the event of default by either Party under the terms of this Agreement, the Party not in default shall be entitled to seek the equitable remedy of specific performance requiring the defaulting Party to perform under this Agreement, in addition to recovery of damages and other remedies available at law or in equity.

ARTICLE VI
MISCELLANEOUS PROVISIONS

6.1 ***Notices***. Any formal notice, request, approval or other communication to be provided by either Party shall be in writing and dispatched by first class mail, registered or certified mail, postage prepaid, return-receipt requested, or by electronic facsimile or email transmission followed by delivery of a “hard” copy, or by personal delivery (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), to the addresses of CAGID and Trinity set forth below. Such written notices, requests, approvals or other communication may be sent in the same manner to such other addresses as either Party may from time to time designate.

Any notice that is transmitted by electronic facsimile or email transmission followed by delivery of a “hard” copy, shall be deemed delivered upon its transmission; any notice personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt; and any notice that is sent by registered or certified mail, postage prepaid, return-receipt requested shall be deemed received on the date of receipt thereof:

If to Trinity:

Mark Twietmeyer
Trinity Lutheran Church
2200 Broadway St.
Boulder, CO 80302
Phone (303) 442-2300
Facsimile (303) 545-5527

with required copies to:

Holland & Hart LLP
1800 Broadway, Suite 300
Boulder, Colorado 80302
Attention: J. Marcus Painter
Phone (303) 473-2729
Facsimile (303) 975-5476

If to CAGID:

CAGID
c/o the Boulder City Manager
1500 Pearl Street, Suite 302
Boulder, CO 80302
Phone (303) 413-7300
Facsimile (303) 413-7301

with required copies to:

Boulder City Attorney
Attn: Hella Pannewig
1777 Broadway
P.O. Box 791
Boulder, CO 80306
Phone (303) 441-3020
Facsimile (303) 441

When notice/any documents or information is required to be provided to CAGID's Consultant, to:

STUDIO Architecture
Attn: Tim Ross
1350 Pine St., #1
Boulder, CO 80302

6.2 ***Inspection***. Either Party may make reasonable entries upon and inspection of the Property in the performance of the terms of this Agreement, provided that CAGID shall give Trinity notice prior to any such inspection of areas.

6.3 ***No Assignment***. This Agreement shall not be assigned by any Party without the written consent of the other Party, and all the provisions of this Agreement shall be binding upon the respective employees, delegates, successors, heirs, and permitted assigns of the Parties. No interest of the Parties in the Property may be assigned, encumbered, pledged, transferred or hypothecated except as otherwise allowed herein or by mutual agreement of the Parties. However, in the event that a Party desires to obtain financing accommodations, such Party may assign, encumber, pledge, or hypothecate to the lending institution, as security for such financing, its interest in the Property (or its condominium unit(s)) and its interest under this Agreement) without the consent of the other Party, (except as otherwise required under this Agreement, the Purchase Agreement and the CAGID Easement), and such other Party shall fully cooperate with and agrees to execute and deliver whatever additional documents and to perform such additional acts as may be necessary or appropriate to acknowledge such assignment, encumbrance, pledge or hypothecation. Without limiting the generality of the foregoing, Trinity shall be entitled to collaterally assign its interests in this Agreement to the Lender(s) providing financing for the Project, the Church Condominium and/or the TCH Condominium. Further, the Parties acknowledge that Trinity may, without consent of CAGID, assign its rights and obligations hereunder to a single purpose entity controlled by Trinity.

6.4 ***Relationship of Parties***. Neither Party to this Agreement shall be deemed to be an agent of the other or be deemed as acting on the other's behalf for agency purposes. Each Party agrees not to assume, create, or enter into any obligation, agreement, or commitment of any nature on behalf of the other, except as specifically authorized in this Agreement. Both Parties further agree not to make any warranties to any third Party concerning any matters that are not in accordance with this Agreement. Trinity shall not be deemed to be, nor shall it represent itself as, employee, partner, or joint venture with CAGID. No employee or officer of CAGID shall supervise Trinity.

6.5 ***Application of Colorado Law, Arbitration***. This Agreement, and the application or interpretation hereof, shall be governed exclusively by its terms and by the laws of the State of Colorado.

A. If any controversy, claim or dispute remains unresolved after negotiations between CAGID and Trinity, the Parties shall submit the disputes to nonbinding mediation, prior to submission to binding arbitration. The mediator shall be a trained mediator with experience on construction projects. The Parties shall attempt to jointly select the mediator from a list of proposed mediators generated by the Parties. The Parties may seek the assistance of the American Arbitration Association in generating a list of potential mediators. In the event that the Parties are unable to agree on a mediator, the Chief Judge of Boulder District Court may appoint one. Each Party shall bear its own costs associated with presenting any disputes to the mediator, which costs shall not be recoverable as part of a change order or in any subsequent litigation or arbitration.

B. The Parties hereby agree that any controversy, claim or dispute which arises between them that cannot be resolved informally or by mediation as provided above within thirty (30) following delivery of written notice of a dispute shall be decided by submission of the dispute to binding arbitration before the American Arbitration Association pursuant to such Association's Commercial Arbitration Rules, and not by a lawsuit or by resort to court process. Such arbitration shall take place in the Denver, Colorado metropolitan area. Each Party shall bear its own costs and attorneys' fees incurred in connection with the arbitration. The arbitrator's fees shall be born equally by the Parties. Notwithstanding the foregoing, the arbitrator shall have the discretion to award attorney fees, arbitrator's fees, and costs to the prevailing Party. The judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

6.6 ***Construction***. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural, and the masculine gender shall include the feminine and neuter genders and vice versa, and the word "persons" or "Party" shall include a corporation, firm, partnership, proprietorship or other form of association.

6.7 ***Headings***. The headings in this Agreement are inserted for convenience only and are in no way intended to describe, interpret, define, or limit the scope, extent or intent of this Agreement or any provision hereof.

6.8 ***Counterparts***. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

6.9 ***Force Majeure***. Neither Party shall be considered to be in default in performance of any of its obligations under this Agreement if failure of performance shall be due to force majeure; the term "force majeure" meaning any cause beyond the control of the Party affected including, but not limited to, flood, earthquake, storm, fire, lightning, epidemic, war, riot, civil disturbance, labor disturbance, sabotage, and restraint by court order or public authority, which by exercise of due foresight such Party could not reasonably have been expected to avoid, and which by exercise of due diligence it shall be unable to overcome. Neither Party shall be relieved of liability for failure of performance if such failure is due to causes arising out of its own negligence or to removable or remediable causes which it fails to remove or remedy with commercially reasonable efforts. Nothing contained herein, however, shall be construed to require either Party to prevent or settle a strike or other labor dispute against its will.

6.10 ***Additional Acts***. The Parties agree to cooperate as required to carry out the intent of this Agreement. Each Party agrees to execute and deliver whatever additional documents and to perform such additional acts as may be necessary or appropriate to effectuate and perform all of the terms, provisions, and conditions of this Agreement and the transactions contemplated by this Agreement.

6.11 ***Timely Completion of Additional Agreements***. Trinity and CAGID each commit to continue to work in good faith towards completion of all of those tasks necessary for and precedent to the creation of those documents enumerated in Section 2.7.

6.12 ***No Third Party Beneficiaries.*** The Parties intend no third party beneficiaries under this Agreement. Except for those third parties, including the Lenders, to which specific assignment of rights hereunder has been approved by the Parties, any person other than CAGID or Trinity receiving services or benefits under this Agreement is an incidental beneficiary.

6.13 ***Reasonableness of Consent***. Unless otherwise specified, any consent, approval or similar condition of agreement hereunder shall be deemed subject to the standards of reasonableness and good faith, and shall not be unreasonably withheld, conditioned or delayed.

6.14 ***Entire Agreement***. This Agreement supersedes all prior or contemporaneous agreements, representations, warranties and understandings and contains the entire agreement between the Parties hereto with regard to its subject matter; provided, however, in the event of an ambiguity hereunder, the Memorandum of Understanding between the Parties dated August 25, 2015, may be used for interpretation purposes only, and in no event shall the provisions of such Memorandum of Understanding supersede the provisions hereof.

6.15 ***Amendment in Writing; No Waiver***. Except as otherwise specifically provided for in this Agreement, no amendment, modification, termination, or waiver of any provision of this Agreement nor consent or any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by duly authorized representatives of the Parties, and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. No failure or delay on the part of any Party in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power, or remedy hereunder.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date first written above.

CITY OF BOULDER CENTRAL AREA
GENERAL IMPROVEMENT DISTRICT,
a General Improvement District Formed Pursuant to
Chapter 8-4, Boulder Revised Code 1981

By:_____
City Manager of the City of Boulder
as ex officio general manager

Attest:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

TRINITY COMMONS HOUSING CORPORATION,
a Colorado nonprofit corporation

by its sole director and shareholder,

TRINITY EVANGELICAL LUTHERAN CHURCH OF BOULDER, COLORADO,
a Colorado nonprofit corporation, f/k/a Trinity Evangelical English Lutheran Church, a Colorado nonprofit corporation

By:_____
Name: Marvin Dehne
Title: Council President

EXHIBITS:

Exhibit A:	Legal Description of Property
Exhibit B:	Pro Forma Condominium Map
Exhibit C:	Permitted Encumbrances
Exhibit D:	Condominium Declaration for Trinity Commons
Exhibit E:	Document Escrow Agreement
Exhibit F:	Parking Condominium Purchase Agreement
Exhibit G:	Grant of Easement for Construction and Use of Parking Garage
Exhibit H-1:	Release of Parking Condominium Purchase Agreement
Exhibit H-2	Termination of Grant of Easement for Construction and Use of Parking Garage
Exhibit I:	Construction Escrow Agreement
Exhibit J-1:	Construction Contract
Exhibit J-2:	Plans and Specifications
Exhibit K:	Construction Schedule
Exhibit L-1:	Construction Budget
Exhibit L-2:	Parking Garage Construction Cost Allocation
Exhibit M:	Preliminary Cost Allocation for Common Area Maintenance Under Declaration
Exhibit N:	Parking Operations Agreement
Exhibit O:	Collateral Assignment of Joint Development Agreement
Exhibit P:	Collateral Assignment of Parking Condominium Purchase Agreement
Exhibit Q:	Articles of Incorporation
Exhibit R:	Bylaws
Exhibit S:	Organizational Minutes and Turnover Minutes
Exhibit T-1:	Special Warranty Deed to CAGID
Exhibit T-2:	Special Warranty Deed to TCH
Exhibit T-3:	Special Warranty Deed to Trinity Horizons, LLC
Exhibit U:	Assignment of Construction Contract Rights to CAGID
Exhibit V:	Assignment of Construction Contract Rights to CAGID

EXHIBIT A

Legal Description of Property

All of Lots 4, 5, and 6, and a strip of land 10 feet wide off the south side of Hill Street in the City of Boulder and contiguous to the north line of Lots 4, 5, and 6, all of Lot 7, and the west 45 feet of Lot 8, all in Block 149, Boulder Plat.
City of Boulder, State of Colorado.

[EXECUTION VERSION]

MEMORANDUM OF UNDERSTANDING

between

CAGID OF BOULDER

and

TRINITY EVANGELICAL LUTHERAN CHURCH OF BOULDER, COLORADO

Dated as of Aug. 25, 2015

[EXECUTION VERSION]

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this "**MOU**") is entered into as of Aug 25, 2015 by and between the **CENTRAL AREA GENERAL IMPROVEMENT DISTRICT**, a general improvement district formed pursuant to Chapter 8-4, Boulder Revised Code and the laws of the State of Colorado ("**CAGID**"), and **TRINITY EVANGELICAL LUTHERAN CHURCH OF BOULDER, COLORADO** ("**Trinity**"), (CAGID and Trinity being collectively referred to herein as the "**Parties**" and individually as a "**Party**") with reference to the following facts:

RECITALS:

A. Trinity is the owner in fee simple of those certain parcels of real property located in the City of Boulder, County of Boulder, State of Colorado, and improvements located thereon, as described more particularly on **Exhibit A** attached hereto and by this reference incorporated herein, and commonly known as 2200 Broadway, Boulder, Colorado (the "**Property**").

B. While the Property is not located within CAGID's boundaries, CAGID has full authority to construct, own and maintain parking facilities outside of such boundaries.

C. Trinity desires to plan, design, develop, construct, and operate various church–related structures, residences, parking and other improvements on the Property, in whole or in part as a phased condominium regime, including reserved air rights for future condominium expansion (collectively, the "**Project**"), which regime shall be subject to owner association declarations and a condominium map (together the "**Declarations**").

D. The Project shall contain at least one parking structure (the "**Parking Structure**") which shall contain a condominium unit consisting of approximately 26 parking spaces, plus five surface parking spots, under the control of Trinity or its assigns (the "**Trinity Parking Condominium**") and a condominium unit beneath the Trinity Parking Condominium consisting of approximately 54 parking spaces under the control of CAGID (the "**CAGID Parking Condominium**"). The Trinity Parking Condominium and the CAGID Parking Condominium are referred to jointly herein as the "**Parking Condominiums**" and are generally depicted on **Exhibit B**, attached hereto and incorporated herein.

E. In consideration of (i) Trinity contributing the land necessary for the construction of the Parking Structure, (with rights to construct further residential units above or adjacent to the same), and (ii) CAGID's agreement to pay periodic construction draws for the costs of construction of the Parking Structure allocated to CAGID, it is the intent of the Parties that:

1. CAGID be the owner of the CAGID Parking Condominium, together with certain rights to limited or general common elements appurtenant thereto, and

2. CAGID assume ongoing maintenance obligations with respect to the CAGID Parking Condominium, including the limited common elements associated with the CAGID Parking Condominium.

F. The Parties intend that, as additional consideration, Trinity shall be able to use parking at specified limited times in the CAGID Parking Condominium.

G. The Parties intend that the Parking Structure will be constructed, maintained and operated in a good and workmanlike manner, consistent with other parking structures owned or managed by CAGID.

H. Execution of a binding Development and Ownership Agreement (as defined below in Paragraph 4.a.) between the Parties is conditioned upon (1) CAGID and Trinity completing their respective due diligence on the economic and operational feasibility of the Project, the issuance of bonds for the benefit of CAGID or appropriation of the necessary financing for CAGID, and the approval of financing for Trinity, all in such Parties' respective sole discretion. This MOU is not intended to be a binding obligation to approve any matter or grant any entitlement for which notice and hearing or other legislative action is required. All terms contained herein shall become effective only after all required hearings and approval by the Boulder City Council acting as the Board of Directors of CAGID authorizing the city manager to negotiate and, if found economically and financially feasible by the city manager, execute the Definitive Agreements (as defined below) (the "**CAGID Approval**"), and approval by the Trinity Lutheran Church membership (the "**Trinity Approval**"). Further, while Trinity has obtained certain approvals from the City of Boulder (the "**City**") for the Project, the obligations of the Parties hereunder shall be subject to final approval by the City of Plans and Specifications and the issuance of building permits and third party lender financing for the Project in favor of Trinity.

I. This MOU is intended to provide a frame work for the Parties to negotiate in good faith those definitive agreements for the construction, development and operation of the Parking Structure, and the creation of the ownership interests and associated rights expressly and impliedly contemplated herein. This MOU is not intended to constitute the definitive and ultimate binding agreement between the Parties as to such construction, development and operation or other subject matter set out in this MOU.

NOW, THEREFORE, based on the foregoing recitals, the Parties are entering into this MOU.

UNDERSTANDING

1. **Purpose**. The purpose of this MOU is to provide an outline of the general terms of the understanding of the Parties with respect to the Project and the Parking Structure in order for the governing boards of both Parties to approve the general structure of the transaction and authorize the Parties and their legal counsel to complete the definitive and binding documentation for the same.

2. **Trinity Obligation to Construct and Convey**. Upon execution of the Definitive Agreements as defined below, and upon satisfaction of all of the conditions precedent to Trinity's obligations as set forth therein, Trinity will (a) convey the Property to CAGID as tenants in common with Trinity for the time of construction of the Project and until construction of the CAGID Parking Condominium is completed and accepted by CAGID and the CAGID Parking Condominium is conveyed to CAGID, or enter into such other agreements with CAGID

that CAGID finds will adequately secure CAGID's rights in and to the CAGID Parking Condominium as CAGID funds construction thereof; (b) construct the Parking Structure in accordance with the Plans and Specifications in the time agreed upon by the Parties, and (c) convey the completed CAGID Parking Condominium to CAGID.

3. **CAGID Obligation to Acquire CAGID Parking Condominium Unit**. In consideration of the foregoing, upon execution of the Definitive Agreements and satisfaction of the conditions precedent to CAGID's obligations as set forth therein, CAGID will take delivery of a deed to the CAGID Parking Condominium and during the term of CAGID's ownership thereof, will operate and maintain the CAGID Parking Condominium in accordance with the terms of the Definitive Agreements.

4. **Anticipated Definitive Agreements**. The Definitive Agreements shall include, without limitation, the following documents, and such other documents as may be determined jointly by the Parties or their respective counsel to be required to fulfill the Parties' intent (the "**Definitive Agreements**"):

a. Development and Ownership Agreement – such agreement to contain the terms of the Parties' agreement for the respective development, construction, design, and payment obligations of the Parties through completion of the Parking Structure;

b. Construction Agreement – such agreement to contain the terms of construction of the Parking Structure between Trinity and the chosen general contractor for the Parking Structure;

c. Parking Structure Operation Agreement – such agreement to contain the terms by which CAGID shall operate the Parking Structure, including periods during which Trinity may use parking within the CAGID Parking Condominium as described in this MOU, charges for parking obligation violations (e.g., parking by Trinity during paid parking times established hereunder by CAGID, failure of CAGID to make available parking to Trinity as required hereunder). CAGID will make available parking that Trinity may access without charge in the CAGID Parking Condominium for church related uses from 5:00 p.m until 11:00 p.m., Monday through Thursday for up to eighty (80) passes per week, with daily use not to exceed third-five (35) passes as described in paragraphs 8.a and 10 below ("**Weekly Usage**"). With respect to Weekly Usage, prior to utilizing parking spaces in the CAGID Parking Condominium, Trinity shall first use available parking spaces located in the Trinity Parking Condominium, and then spaces available in the CAGID Parking Condominium, with the overall intent to minimize, to the extent possible, use of the CAGID Parking Condominium for the Weekly Usage.

d. Trinity Commons Owners Association ("TCOA") Declarations – the Declarations to contain the respective ownership rights, common area maintenance obligations, respective Parking Structure maintenance obligations, pro-rata obligations for ongoing expenses and capital expenditures, and such other allocated rights and responsibilities as may be typically included in similar Declarations.

e. TCOA Condominium Map – such map to be prepared in accordance with applicable law and industry standards reflecting as built general and limited common elements, unit boundaries, and expansion rights in air space for additional condominium units.

f. TCOA Bylaws, Articles of Incorporation, Rules and Regulations.

5. **Conditions Precedent to Definitive Agreements**. Before commencement of preparation of the Definitive Agreements, as defined below, the following conditions shall have been fulfilled, both Parties agreeing to pursue fulfillment of such conditions in good faith and as soon a reasonably practicable:

a. CAGID Approval (CAGID previously submitted a draft of the MOU to the Boulder City Council for consideration and authorization for the city manager to execute this MOU and negotiate and execute the Definitive Agreements. This MOU, in substantially this form, was approved by the Boulder City Council on or about **February 3, 2015**. The Definitive Agreements shall be executed on or before **October 1, 2015**);

b. Trinity Approval (Trinity's membership approved the MOU, in substantially this form, on or about **March 1 ,2015**. The Definitive Agreements shall be executed by Trinity on or before **October 1, 2015**, unless otherwise extended as provided herein);

c. Confirmation of requisite financing commitments for Trinity's development of the Project, including without limitation:

i. Reimbursement of pre-development soft costs for planning, design, legal and similar preconstruction work and consulting;

ii. Agreed allocation of expenses between CAGID and Trinity for predevelopment soft costs and hard costs of construction and other related project costs;

iii. Closing on Housing and Fellowship loans by Trinity;

iv. Allocation to Trinity of CDBG grants for the Project;

d. Appropriation of funds by CAGID for its agreed upon share of the costs of the Parking Structure;

e. Modification of lot boundaries and legal descriptions for underlying Property as necessary to achieve qualifying financing for affordable condominium units and other applicable land use and other restrictions.

f. Confirmation of availability of a controlled access system that will provide adequate control to CAGID, as determined by CAGID, over the use of the CAGID Parking Condominium.

6. **Trinity Development Rights**. Trinity shall retain development rights as Declarant of the TCOA to construct additional commercial and/or residential and/or parking facilities, and annex the same into the TCOA in accordance with, and for not less than the time period allowed for completion of all phases of the development approval for and related to City of Boulder LUR2013-00048 and consistent with the requirements of City of Boulder Ordinance No. 7978, dated June 3, 2014. Such rights shall include the right to annex air rights and construct additional residential units as part of the Project. Nothing herein shall be deemed to limit the ability of Trinity to obtain through applicable governmental processes, additional development rights with respect to the Project and which do not materially interfere with the intent of the Parties hereunder and, in particular, the rights of CAGID with respect to the CAGID Parking Condominium.

7. **CAGID Operation Rights and Obligations**. CAGID's operating rights and obligations shall include the following with respect to the CAGID Parking Condominium:

a. Issuance of permits for the parking spaces therein, subject to use by Trinity as set forth below;

b. A controlled access system to the CAGID Parking Condominium that provides adequate control to CAGID, as determined by CAGID, over the use of the CAGID Parking Condominium;

c. Operation of, and responsibility for, all systems for access control and payment for parking in the CAGID Parking Condominium, including upgrades to the same;

d. Maintenance of those limited common elements and general common elements associated with, or necessary for the operation of the paid parking within the CAGID Parking Condominium; the Parties agree that the maintenance obligation for these limited common elements and general common elements will be equitably shared with the owners of all other units these general and limited common elements are associated with;

e. Maintenance of the CAGID Parking Condominium in accordance with the Boulder Revised Code and CAGID parking garage maintenance and operation standards;

f. Payment of all ongoing expenses associated with the operation of the CAGID Parking Condominium, including without limitation, utilities, insurance, licenses, ADA compliance, taxes, if any, and upgrades;

g. Selection and placement of directional and enforcement signage; the selection and placement of any signage that is to be located outside of the CAGID Parking Condominium shall be subject to Trinity's and the TCOA's reasonable consent, which consent shall not be unreasonably withheld, conditioned or delayed.

h. Trinity shall have the right but not the obligation to obtain, at standard CAGID rates and under standard CAGID conditions, quarterly permits for up to five parking spaces in the CAGID Parking Condominium, on a right of first refusal

basis, upon Trinity giving CAGID not less than 60 days notice. Otherwise, issuance of all parking permits lies within CAGID's sole discretion.

i. CAGID shall have the right to review and approve any bids and contracts, drawings, plans, associated with and to inspect the construction of the Parking Structure. CAGID will not be required to make payments related the planning, design, construction, or other consulting work for which payment is required under the Definitive Agreements unless CAGID approved such work. CAGID agrees to review bids, contracts, drawings and plans within 60 days of their delivery to CAGID for purposes of review. CAGID's approval shall not be unreasonably withheld.

j. Prior to construction of any development on the Property pursuant to Paragraph 6 of this Agreement, such development shall be reviewed and approved by CAGID. CAGID agrees to review drawings and plans of such development within 60 days of their delivery to CAGID for purposes of review. CAGID may refuse to provide its approval if CAGID determines that the proposed development may have negative impacts on the CAGID Parking Condominium structure.

8. **Use of Parking in the CAGID Parking Condominium**. CAGID will operate the CAGID Parking Condominium as follows:

a. For the first five years following the commencement of parking operations in the CAGID Parking Condominium, CAGID will issue quarterly parking permits for parking in the CAGID Parking Condominium ("CAGID Permits"). After 5:00 p.m. on weeknights and all day on Saturdays, parking in the CAGID Parking Condominium will be available to the public on an hourly or similar fee basis as determined by CAGID. During these first five years, Weekly Usage parking in the CAGID Parking Condominium shall be free for Trinity after 5:00 p.m. until 11:00 p.m of the same day on weeknights and all day Saturday.

b. Following the first five years, CAGID may, in its sole discretion, change its operation of the CAGID Parking Condominium except that Trinity shall retain the exclusive use of the CAGID Parking Condominium on Sundays, Christmas, and Christmas Eve as described in c. below. In addition, after the first five years, Trinity will continue to have access to Weekly Usage parking without charge within the CAGID Parking Condominium for church related uses from 5:00 p.m. until 11:00 p.m., Monday through Thursday, of up to eighty (80) passes per week, with daily use not to exceed thirty-five (35) passes. For purposes of this MOU, each entry of a vehicle into the CAGID Parking Condominium shall count as one (1) pass.

c. Sundays, Christmas and Christmas Eve: As long as Trinity holds the fee simple interest to the Property and is a church, Trinity shall have exclusive use, at no cost to Trinity, of the CAGID Parking Condominium parking from 6:00 a.m. to 10:00 p.m. on all Sundays of the year and on Christmas Day, and after 3:00 p.m. on Christmas Eve.

d. Notwithstanding Trinity's right to Weekly Usage, during and after the first five year period, Trinity's daily right to use up to thirty-five (35) parking spaces, or weekly right to use up to eighty (80) parking spaces, shall be subject to the right of CAGID Permit holders who parked prior to 5:00 p.m. to continue parking past such time in the Parking Structure. CAGID shall have no duty to remove or take other action against such CAGID Permit holders after 5:00 p.m. in order to provide the minimum number of spaces allotted Trinity for Weekly Usage under Paragraph 4.c., above.

e. The Parties recognize that over time, and from time to time, the intensity of Weekly Usage by Trinity may vary on different days of the week as Trinity's evening schedule of activities changes. The Parties therefore agree to work together in good faith after the commencement of parking operations to modify from time to time the allocation of the minimum number of spaces required for Trinity's Weekly Usage for specific days of the week, in order to reasonably accommodate the parking needs of Trinity while also reasonably accommodating the need of CAGID not to reserve an excessive number of parking spaces for Trinity on a given night of the week (i.e., Trinity's schedule may not require an allotment of 35 spaces on certain nights of the week, in which event, CAGID would be permitted to make additional spaces available for public parking on those nights).

f. The Parties acknowledge that the fifty four (54) spaces in the CAGID Parking Unit may be subject to further reduction based on design limitations with gates or other security systems. The Parties, in their respective sole discretion, may determine to terminate the MOU if such space reductions or parking designs are deemed unacceptable.

9. **Construction Funding Obligations of CAGID**:

a. Trinity shall contract with the general contractor for the construction of the Parking Structure (including the CAGID Parking Condominium), in conjunction with other facilities and infrastructure for Trinity's use and for affordable housing construction on the Property. CAGID shall have the right to review and participate in the approval of the contract with the general contractor. The parties agree that CAGID can consider any factors and requirements set forth in Chapter 2-8, "Purchasing Procedures,' B.R.C. 1981 in the approval of the contract. CAGID's approval shall not be unreasonably withheld. All bills/construction draws for the Parking Structure shall be submitted to CAGID once per month, and CAGID shall process such bills as construction draws and pay the general contractor directly therefore within sixty (60) days of delivery of such invoicing (or as otherwise required under the construction contract). The process for such payments shall be set out in the Definitive Agreements and shall include a procedure that will ensure compliance with the notice of final settlement requirements of Section 38-26-107, C.R.S. The terms of Trinity's construction contract with the general contractor addressing, including, but not limited to, insurance and bonding requirements, guarantees and warranties, building defects

and contract breaches affecting the Parking Structure shall also be set out in the Definitive Agreements.

b. It is the intent hereof that all hard and soft costs for the design, site investigation, engineering reports, and architecture, as well as all hard costs for the construction of the Parking Structure allocated to CAGID, shall be paid by CAGID in consideration of its receipt of title to the CAGID Parking Condominium (such costs to be approved by CAGID, which approval shall not be unreasonably withheld, conditioned or delayed).

c. Construction shall be conducted pursuant to a maximum fixed price bid agreement with the general contractor. The costs attributable to the Parking Structure shall be separated by the general contractor (or by a third party engaged by Trinity and/or the general contractor) from the other Project costs into a distinct Schedule of Values for that portion of the work with sufficient detail and information for CAGID to conduct a third party cost verification. Costs of third party verification of costs and construction by CAGID shall be at CAGID's expense. CAGID's share of the Parking Structure costs shall generally include:

   i. an equitable allocation of other overall Project costs directly or indirectly benefitting the CAGID Parking Condominium (exclusive of the costs of the Property, which is being contributed by Trinity to the TCOA at no additional allocated cost to CAGID);

   ii. costs of construction of the Parking Structure, exclusive of the costs for construction solely benefitting Trinity. Costs exclusively benefitting Trinity include costs incurred for structural support upgrades to support potential buildings in the airspace above the structure;

   iii. CAGID's pro rata share of common elements of the Parking Structure or otherwise benefitting or supporting uses of the Parking Structure; Trinity shall be responsible for its pro rata share of common elements of the Parking Structure or otherwise benefitting or supporting the uses of the Parking Structure

   iv. pro rata share of the waterproofing of all subgrade foundation elements of the Parking Structure and waterproof deck coating of the CAGID Parking Condominium and the Trinity Parking Condominium.

d. Trinity shall be responsible for the completion of the Project and for payment of all costs that are associated with the Parking Structure and the remainder of the Project that CAGID is not specifically responsible for.

e. Specific allocations of construction costs between the Parties shall be included in the Definitive Agreements. To the fullest extent legally permissible, as determined by each Party in its sole discretion for the records the Party holds, and in order to protect bidders' proprietary information, the Parties shall maintain

bidding information, if any, confidential from third parties, other bidders or the public prior to awarding the construction contract.

10. **Future Modifications to Parking Rights**: The Parties agree, following the fifth (5th) anniversary of the date of commencement of parking operations at the Parking Structure, if requested at that time by either Party, to engage in good faith negotiations to modify the Parties' respective parking rights. While the Parties agree to negotiate in good faith at that time upon request by either party, the Parties further agree that CAGID may, in its sole discretion, change its operation of the CAGID Parking Condominium following the fifth (5th) anniversary of the date of commencement of the parking operations at the Parking Structure except that Trinity shall retain the exclusive use of the CAGID Parking Condominium on Sundays, Christmas, and Christmas Eve as described in 8.c. above and that after the first five years of operation, Trinity will have access to parking without charge (subject to limitations on availability caused by CAGID Permit holders remaining in the Parking Structure past 5:00 p.m.), within the CAGID Parking Condominium for church related uses from 5:00 p.m. until 11:00 p.m., Monday through Thursday, of up to eighty (80) passes per week, with daily use not to exceed thirty-five (35) passes as described in 8.a. above.

11. **Use of Congregation Space**: To the extent consistent with the Boulder Revised Code or City of Boulder Ordinance No. 7978, in addition to the religious assembly use, Trinity may use congregation and community meeting space for uses that are accessory to the religious assembly use and to support non-profit organizations or other community uses.

12. **Declarations of TCOA**: The Declarations shall contain standard and transaction-specific common interest community provisions consistent with the intent of the Parties as expressed herein and in other Definitive Agreements, including without limitation:

a. Reserved Declarant Rights with respect to voting and board appointments, and Reserved Development Rights to construct and annex additional units;

b. Agreement as to equitable allocation of TCOA Dues;

c. Specific provisions as to operation, maintenance and access to the Parking Structure and parking spaces in the CAGID Parking Condominium;

d. Special association expense allocations between the CAGID Parking Condominium, the congregation's spaces and the residential units;

e. Restrictions on uses acceptable to CAGID and Trinity;

f. Equitable allocation of voting rights between different uses within the TCOA;

g. Allocation of insurance costs and agreed insurance requirements for different uses (TCOA to maintain property, liability and other agreed insurance on the TCOA property, board and managers, and such other insurance as TCOA may determine, and owners to maintain liability insurance on respective condominium units (CAGID to be able to self-insure as long as CAGID maintains an active self-insurance program);

h. Construction defect provisions;

i. Arbitration provisions;

j. Assessments and remedies;

k. Obsolescence and termination of Association;

l. Reserved CAGID rights with respect to parking;

m. Expansion rights for Trinity;

n. Provisions for right of first refusal and right of first offer in Trinity in the event of a sale of the CAGID Parking Condominium;

o. Provisions for self-help in the event of non-performance of obligations or abandonment of property.

13. **Monthly Status Reports**. On or before the tenth (10th) day of each month, starting with the first full month after the Effective Date, Trinity shall provide to CAGID monthly status reports regarding progress on the schedule of performance for the Project. Reports hereunder may be provided by email or other common communication method agreed upon by both Parties.

14. **Regular Meetings**. CAGID and Trinity shall meet regularly with each other in order to determine the feasibility of the Project and identify the approvals and documents necessary to develop and operate the Project.

15. **Schedule of Documentation**: The Parties shall endeavor in good faith and without unreasonable delay or condition to meet the following deadlines:

a. Trinity Approval: (Holland & Hart and Trinity)

b. CAGID Approval: (City)

c. Cost Schedules: (Architect)

d. Plan Approval for Parking Structure: (Architect)

e. Preliminary Loan Approval/Final or Other Loan Approval (Holland & Hart)

f. Declarations, Articles and Bylaws for TCOA: (Holland & Hart)

g. Condominium Map (upon completion of construction): (Holland & Hart, Architect and Surveyor)

h. Development and Ownership Agreement (City Attorney's Office and Holland & Hart)

i. Construction Agreement (Architect and Holland & Hart)

16. **Termination**. Unless modified by written agreement of the Parties, this MOU shall automatically terminate upon execution of the Development and Ownership Agreement, or if not so executed, then on **October 1, 2015** (the "**Termination Date**"). Notwithstanding the foregoing, in the event the closing and funding of the Housing and Fellowship loans are delayed by Trinity's lenders or any material requirement of such lenders, Trinity may, by providing written notice to CAGID on or before October 1, 2015, extend the Termination Date for up to one hundred twenty (120) days.

17. **Notices**.

a. Any formal notice, request, approval or other communication to be provided by either Party shall be in writing and dispatched by first class mail, registered or certified mail, postage prepaid, return-receipt requested, or by electronic facsimile or email transmission followed by delivery of a "hard" copy, or by personal delivery (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), to the addresses of CAGID and Trinity set forth below. Such written notices, requests, approvals or other communication may be sent in the same manner to such other addresses as either Party may from time to time designate.

b. Any notice that is transmitted by electronic facsimile or email transmission followed by delivery of a "hard" copy, shall be deemed delivered upon its transmission; any notice personally delivered (including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service), shall be deemed received on the documented date of receipt; and any notice that is sent by registered or certified mail, postage prepaid, return-receipt requested shall be deemed received on the date of receipt thereof.

c. If to CAGID:

CAGID
c/o the Boulder City Manager
Boulder Municipal Building
P.O. Box 791
Boulder, CO 80306
Phone (303) 413-7300
Facsimile (303) 413-7301

With a required copies to:
the Boulder City Attorney
Attn: Hella Pannewig
1777 Broadway
P.O. Box 791
Boulder, CO 80306 Telephone:
Phone (303) 441-3020
Facsimile (303) 441-3859

d. If to Trinity:

Mark Twietmeyer
Trinity Lutheran Church
2200 Broadway
Boulder, CO 80302
Phone (303) 442-2300
Facsimile (303) 545-5527

With a Copy to:

Christopher A. Gunlikson, Esq.
Holland & Hart, LLP
1800 Broadway, Suite 300
Boulder, CO 80302
Phone 303-473-2700
Facsimile (303) 975-5476

18. **Counterpart Originals**. This MOU may be executed in two (2) counterpart originals which, when taken together, shall constitute but one and the same instrument.

19. **Amendment**. This MOU may not be amended unless agreed as such in writing and certified by the signatures of the Parties hereunder.

20. **Governing Law**. This MOU shall be interpreted and enforced in accordance with the provisions of Colorado laws in effect at the time it is executed, without regard to conflict of law provisions.

21. **Effective Date**. This MOU shall be submitted to the Boulder City Council when executed by Trinity. The "Effective Date" shall be the date this MOU is approved by the Boulder City Council and executed on behalf of CAGID.

22. **Non-Binding**. Notwithstanding anything to the contrary set forth herein, the Parties acknowledge that this MOU is not intended to be binding in any respect. There shall be no binding contract on any other provision of this MOU unless and until the Definitive Documents are executed and delivered by both Parties and approved by all applicable governmental action, including approval thereof by the Boulder City Council. This MOU is only an expression of interest and may not become part of any eventual contracts. The MOU is not intended to impose any obligation to bargain other than in good faith but at arms' length.

23. **Financial Obligations of CAGID**. Any and all financial obligations of CAGID under this MOU are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations. Nothing in this MOU shall be deemed a pledge of CAGID's credit, or a payment guarantee by CAGID to Trinity.

24. **Independent Contractor**. The relationship between Trinity and CAGID is that of an independent contractor. Trinity shall not be deemed to be, nor shall it represent itself as, employee, partner, or joint venture with CAGID. No employee or officer of CAGID shall supervise Trinity.

25. **No Third Party Beneficiaries**. The Parties intend no third party beneficiaries under this MOU. Any person other than CAGID or Trinity receiving services or benefits under this MOU is an incidental beneficiary.

(Signatures on next page)

[EXECUTION VERSION]

IN WITNESS WHEREOF, this MOU has been executed and delivered as of the date first written above.

TRINITY EVANGELICAL LUTHERAN CHURCH OF BOULDER, COLORADO,
a Colorado nonprofit corporation, f/k/a Trinity Evangelical English Lutheran Church, a Colorado nonprofit corporation

Nancy Smith

By: Nancy Smith
Its: Council President

State of Colorado)
) ss.
County of Boulder)

The foregoing instrument was acknowledged before me this 28 day of July, 2015, by Nancy Smith as Council President of Trinity Evangelical Lutheran Church of Boulder, a Colorado nonprofit corporation, f/k/a Trinity Evangelical English Lutheran Church, a Colorado nonprofit corporation.

Witness my Hand and Seal.
My Commission Expires:

Mary C. McKibben

[Seal]

MARY C MCKIBBEN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134080276
MY COMMISSION EXPIRES DECEMBER 30, 2017

Notary Public

[EXECUTION VERSION]

CENTRAL AREA GENERAL IMPROVEMENT DISTRICT,
a General Improvement District Formed Pursuant To
Chapter 8-4, Boulder Revised Code 1981

By: Jane S Brautigam
City Manager of the City of Boulder
as ex officio general manager

Attest:

Alisa D Lewis
City Clerk

APPROVED AS TO FORM:

Heather Pa
City Attorney

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

(*See* attached.)

Exhibit A: Legal Description

All of Lots 4,5,and 6, and a strip of land 10 feet wide off the south side of Hill Street in the City of Boulder and contiguous to the north line of lots 4, 5, and 6, all of lot 7, and the west 45 feet of lot 8, all in block 149, Boulder Plat.
City of Boulder, State of Colorado.

Address: «CSM_ADDRESS»

EXHIBIT B

Trinity Parking Condominium and

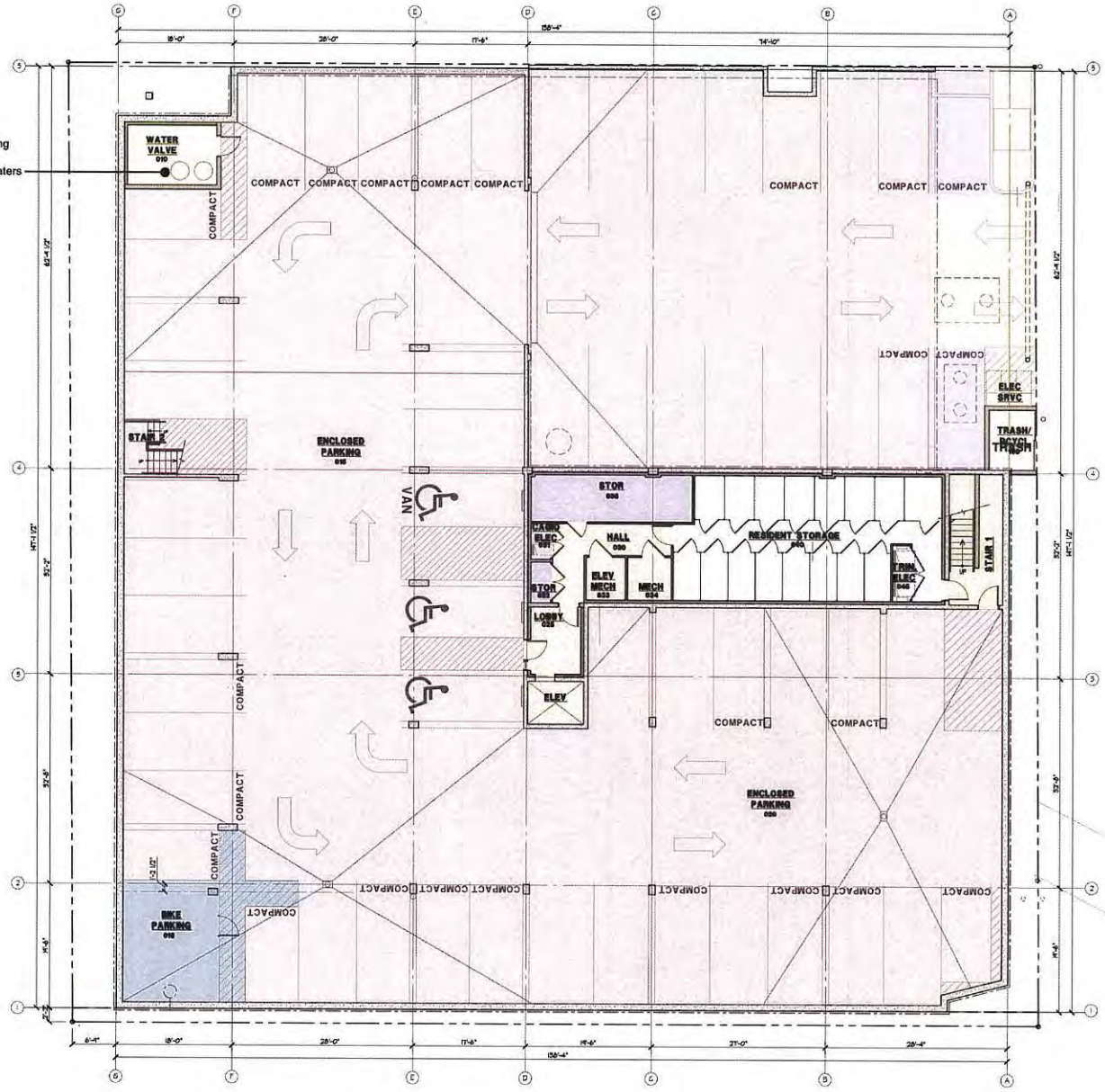
CAGID Parking Condominium

(See Attached)

LEGEND

- BUILDING COMMON AREAS
- EXTERIOR COMMON AREAS
- CAGID PARKING CONDOMINIUM
- TRINITY LUTHERAN CHURCH CONDOMINIUM
- RESIDENTIAL CONDOMINIUM
- RESIDENTIAL COMMON AREAS
- SHARED COMMON AREAS - TRINITY & RESIDENTIAL

WATER VALVE RM:
- Water Entry for Building
- Fire Sprinkler Riser
- Residential Water Heaters



A1 / A2.1 FLOOR PLAN - LOWER PARKING LEVEL
1/8" = 1'-0"

B.R.C. FLOOR AREA: 13450 SF
DOES NOT INCLUDE PARKING GARAGE OR UNINHABITABLE SPACES

NORTH

HARTRONFT ASSOCIATES
A Professional Corporation
Planning
Architecture
Interior Design

950 Spruce Street, #1A
Louisville, CO 80027
TEL: 303.673.9304
FAX: 303.673.9319

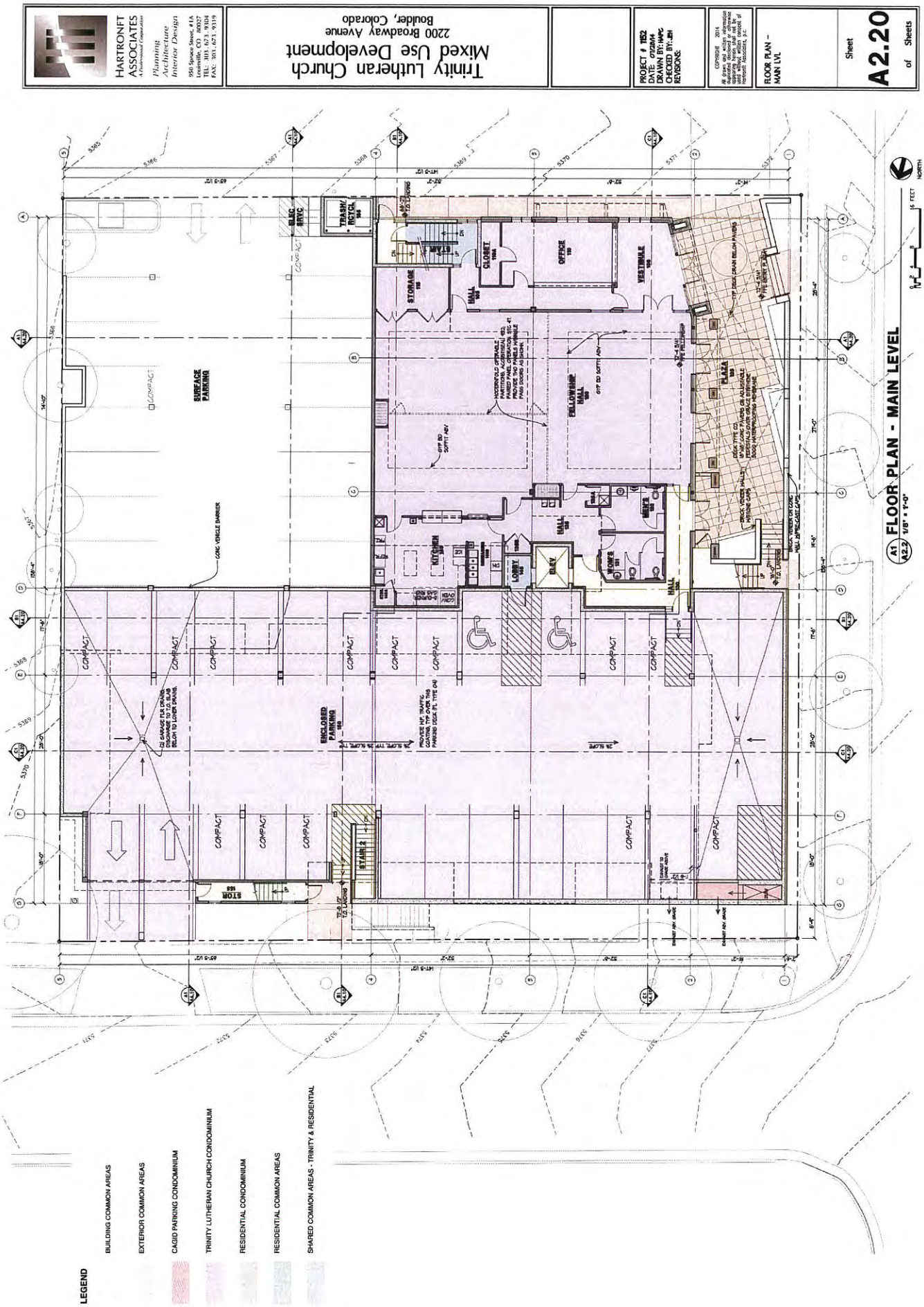
Trinity Lutheran Church
Mixed Use Development
2200 Broadway Avenue
Boulder, Colorado

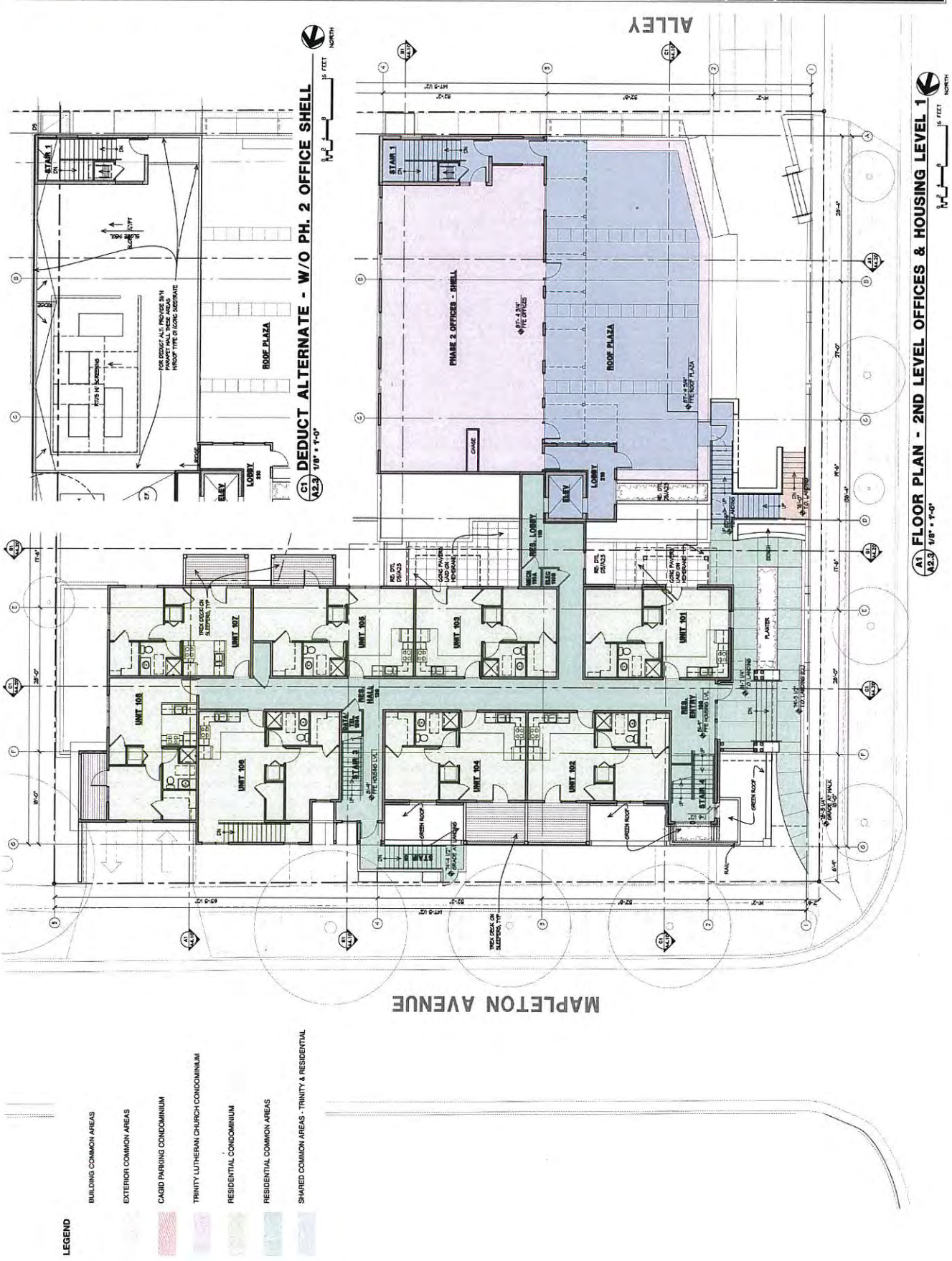
PROJECT # 1152
DATE: 7/15/15
DRAWN BY: HAPC
CHECKED BY: JBH
REVISIONS:

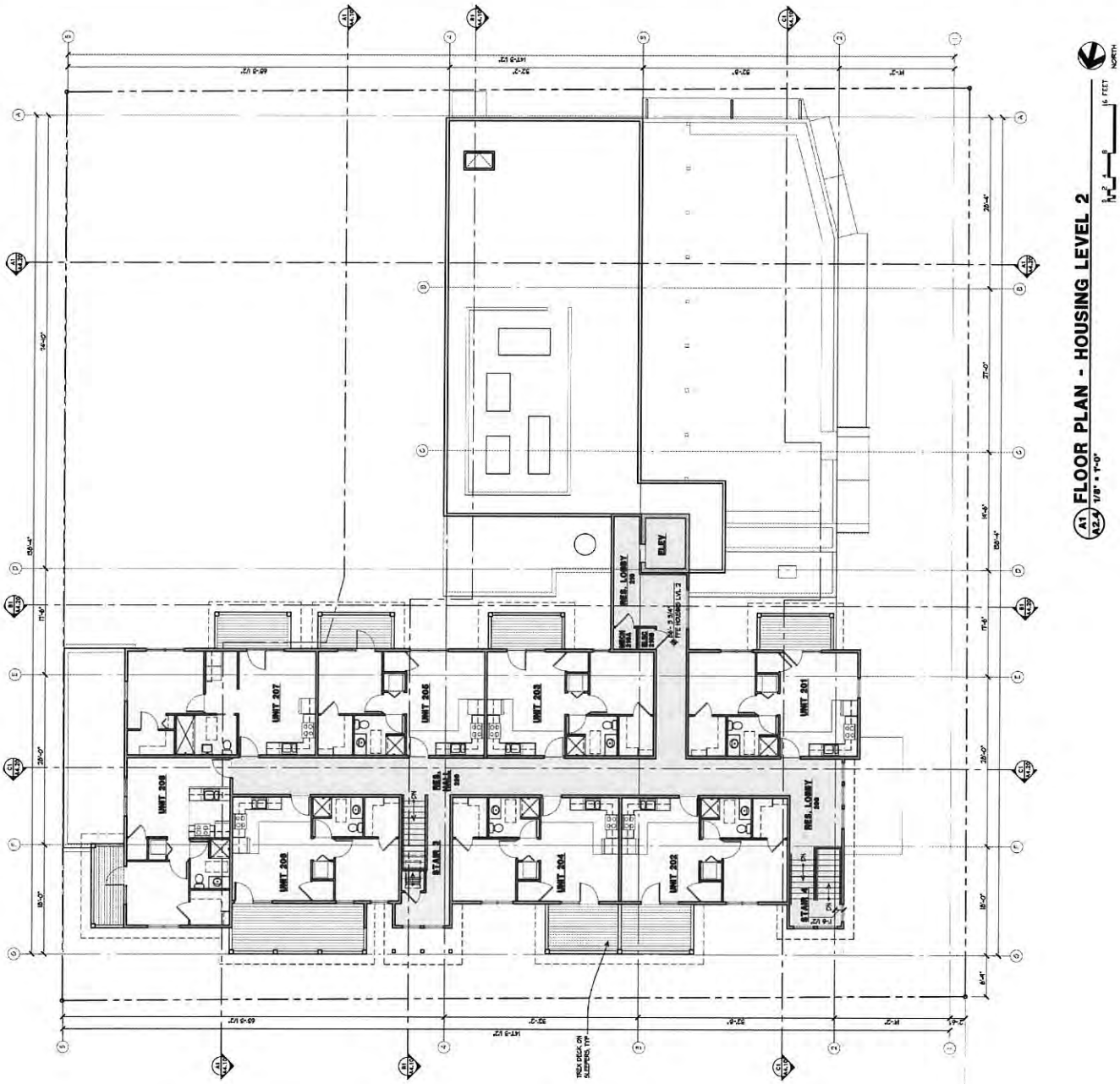
COPYRIGHT 2015
All drawn and written information depicted, disclosed or otherwise appearing herein shall not be used without written consent of Hartronft Associates, p.c.

FLOOR PLAN - LOWER PARKING LVL

Sheet
A2.10
of Sheets

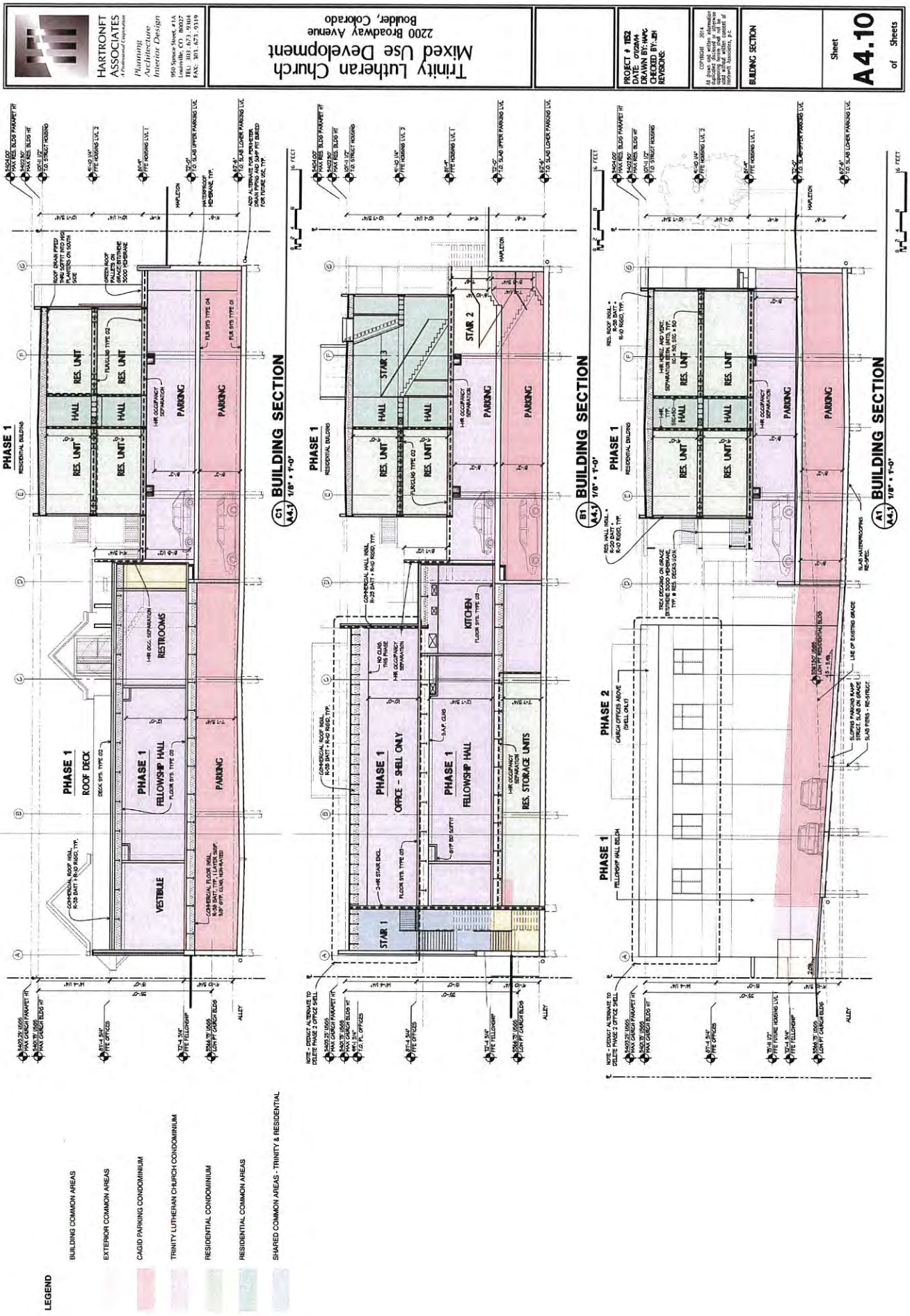

HARTRONFT ASSOCIATES
A Professional Corporation
Planning
Architecture
Interior Design
950 Spruce Street, #1A
Louisville, CO 80027
TEL: 303.673.9304
FAX: 303.673.9319
Trinity Lutheran Church
Mixed Use Development
2200 Broadway Avenue
Boulder, Colorado
PROJECT # 1152
DATE: 07/20/14
DRAWN BY: HAC
CHECKED BY: HAC
REVISIONS:
FLOOR PLAN - MAIN LVL
Sheet
A2.20
of Sheets
A1 FLOOR PLAN - MAIN LEVEL
A2.2 1/8" = 1'-0"
NORTH
16 FEET
SURFACE PARKING
ENCLOSED PARKING
COMPACT
STORAGE
CLOSET
OFFICE
VESTIBULE
HALL
FELLOWSHIP HALL
KITCHEN
LOBBY
ELEV.
WOMEN
MEN
PLAZA
STAIR 2
STOR
TRASH/ RECYCL.
ELEC. SERVICE
CONC. VEHICLE BARRIER
LEGEND
BUILDING COMMON AREAS
EXTERIOR COMMON AREAS
CAGID PARKING CONDOMINIUM
TRINITY LUTHERAN CHURCH CONDOMINIUM
RESIDENTIAL CONDOMINIUM
RESIDENTIAL COMMON AREAS
SHARED COMMON AREAS - TRINITY & RESIDENTIAL


HARTRONFT ASSOCIATES
Planning
Architecture
Interior Design
Trinity Lutheran Church
Mixed Use Development
2200 Broadway Avenue
Boulder, Colorado
PROJECT # 1152
DATE: 07/26/14
DRAWN BY: HAPC
CHECKED BY: JH
REVISIONS:
FLOOR PLAN - HOUSING LVL 1
Sheet
A2.30
of Sheets
C1 DEDUCT ALTERNATE - W/O PH. 2 OFFICE SHELL
A1 FLOOR PLAN - 2ND LEVEL OFFICES & HOUSING LEVEL 1
ALLEY
MAPLETON AVENUE
ROOF PLAZA
PHASE 2 OFFICES - SHELL
UNIT 101
UNIT 102
UNIT 103
UNIT 104
UNIT 105
UNIT 106
UNIT 107
UNIT 108
STAIR 1
STAIR 2
STAIR 3
STAIR 4
ELEV
LOBBY
RES. LOBBY
RES. HALL
RES. ENTRY
GREEN ROOF
PLANTER
LEGEND
BUILDING COMMON AREAS
EXTERIOR COMMON AREAS
CAGID PARKING CONDOMINIUM
TRINITY LUTHERAN CHURCH CONDOMINIUM
RESIDENTIAL CONDOMINIUM
RESIDENTIAL COMMON AREAS
SHARED COMMON AREAS - TRINITY & RESIDENTIAL



LEGEND

- BUILDING COMMON AREAS
- EXTERIOR COMMON AREAS
- CAGID PARKING CONDOMINIUM
- TRINITY LUTHERAN CHURCH CONDOMINIUM
- RESIDENTIAL CONDOMINIUM
- RESIDENTIAL COMMON AREAS
- SHARED COMMON AREAS - TRINITY & RESIDENTIAL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Trinity Lutheran Church
Mixed Use Development
2200 Broadway Avenue
Boulder, Colorado
PROJECT # 1152
DATE: 07/22/14
DRAWN BY: Arc
CHECKED BY: JEH
REVISIONS:
BUILDING SECTION
Sheet
A4.10
of Sheets
PHASE 1
ROOF DECK
PHASE 1
FELLOWSHIP HALL
PARKING
VESTIBULE
RESTROOMS
RES. UNIT
HALL
STAIR 1
STAIR 2
STAIR 3
OFFICE - SHELL ONLY
KITCHEN
RES. STORAGE UNITS
PHASE 2
CHURCH OFFICES ABOVE
(SHELL ONLY)
PHASE 1
FELLOWSHIP HALL BELOW
C1 A4.3 BUILDING SECTION 1/8" = 1'-0"
B1 A4.3 BUILDING SECTION 1/8" = 1'-0"
A1 A4.3 BUILDING SECTION 1/8" = 1'-0"
ALLEY
LEGEND
BUILDING COMMON AREAS
EXTERIOR COMMON AREAS
CAGID PARKING CONDOMINIUM
TRINITY LUTHERAN CHURCH CONDOMINIUM
RESIDENTIAL CONDOMINIUM
RESIDENTIAL COMMON AREAS
SHARED COMMON AREAS - TRINITY & RESIDENTIAL

HARTRONFT ASSOCIATES
Trinity Lutheran Church
Mixed Use Development
2200 Broadway Avenue
Boulder, Colorado
BUILDING SECTION
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PHASE 1
RES. CORRIDOR
STAIR
PARKING
RES. UNIT
ELEV LOBBY
STUCCO A
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OFFICE - SHEL ONLY
FELLOWSHIP HALL
TENANT STOR
TENANT HALL
PARKING RAMP
ROOF DECK
ENTRY PLAZA
BROADWAY
EXISTING GRADE
C1 BUILDING SECTION
B1 BUILDING SECTION
A1 BUILDING SECTION
LEGEND
BUILDING COMMON AREAS
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CAGID PARKING CONDOMINIUM
TRINITY LUTHERAN CHURCH CONDOMINIUM
RESIDENTIAL CONDOMINIUM
RESIDENTIAL COMMON AREAS
SHARED COMMON AREAS - TRINITY & RESIDENTIAL

RESOLUTION NO. 1184

RESOLUTION OF THE BOULDER CITY COUNCIL CONCERNING THE ISSUANCE OF A TAX-EXEMPT MULTIFAMILY HOUSING REVENUE BOND BY THE HOUSING AUTHORITY OF THE COUNTY OF BOULDER, COLORADO OR OTHER APPROPRIATE ISSUING AUTHORITY FOR THE TRINITY COMMONS HOUSING CORPORATION.

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

1. The Trinity Commons Housing Corporation, a Colorado nonprofit corporation and an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended and its permitted successors and assigns (the "Borrower"), has requested the Housing Authority of the County of Boulder, Colorado (the "Authority"), or another appropriate issuing authority to issue in one or more series up to $3,000,000 in principal amount of the Authority's Multifamily Housing Revenue Bond (Trinity Commons Housing Corporation Project) Series 2016 (the "Bond") pursuant to the applicable laws of the State of Colorado (the "State") to provide said applicant with funds to finance: (a) the acquisition, construction, equipping and improvement of an affordable housing project that is comprised of 16 affordable senior residential rental units for low- and moderate-income persons to be located within the boundaries of the City of Boulder, Colorado (the "City") at 2200 Broadway, Boulder, Colorado (the "Project"); and (b) to pay certain issuance expenses of the Bond; and

2. The Project will be comprised of 16 one bedroom/one bathroom apartments each measuring approximately 550 square feet, and the tenants will have an income equal to or less than 60% of the area median income; and

3. The proposed Project will promote safe and affordable housing within the City, thereby promoting the City's public health, welfare, safety, convenience and prosperity; and

4. Nothing contained in this resolution shall constitute a debt, indebtedness or multiple fiscal year obligation of the City within the meaning of the State Constitution or the City's Home Rule Charter, nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers; and

5. The Borrower will undertake to fully comply with all applicable zoning and development regulations and policies.

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

Section 1. The City Council of the City endorses the Project and recommends that the Board of Commissioners of the Authority, or other appropriate issuing authority, issue up to $3,000,000 of the Bond in order to finance the Project.

Section 2. A copy of this resolution shall be forwarded to the Board of Commissioners of the Authority or other appropriate issuing authority and the Borrower by the Clerk of the City.

IN WITNESS WHEREOF, this Resolution was adopted by the majority vote of the City Council of the City of Boulder, Colorado, on this 3rd day of May, 2016.

CITY OF BOULDER, COLORADO

By: _____
Mayor

Attest:

By:_____
City Clerk

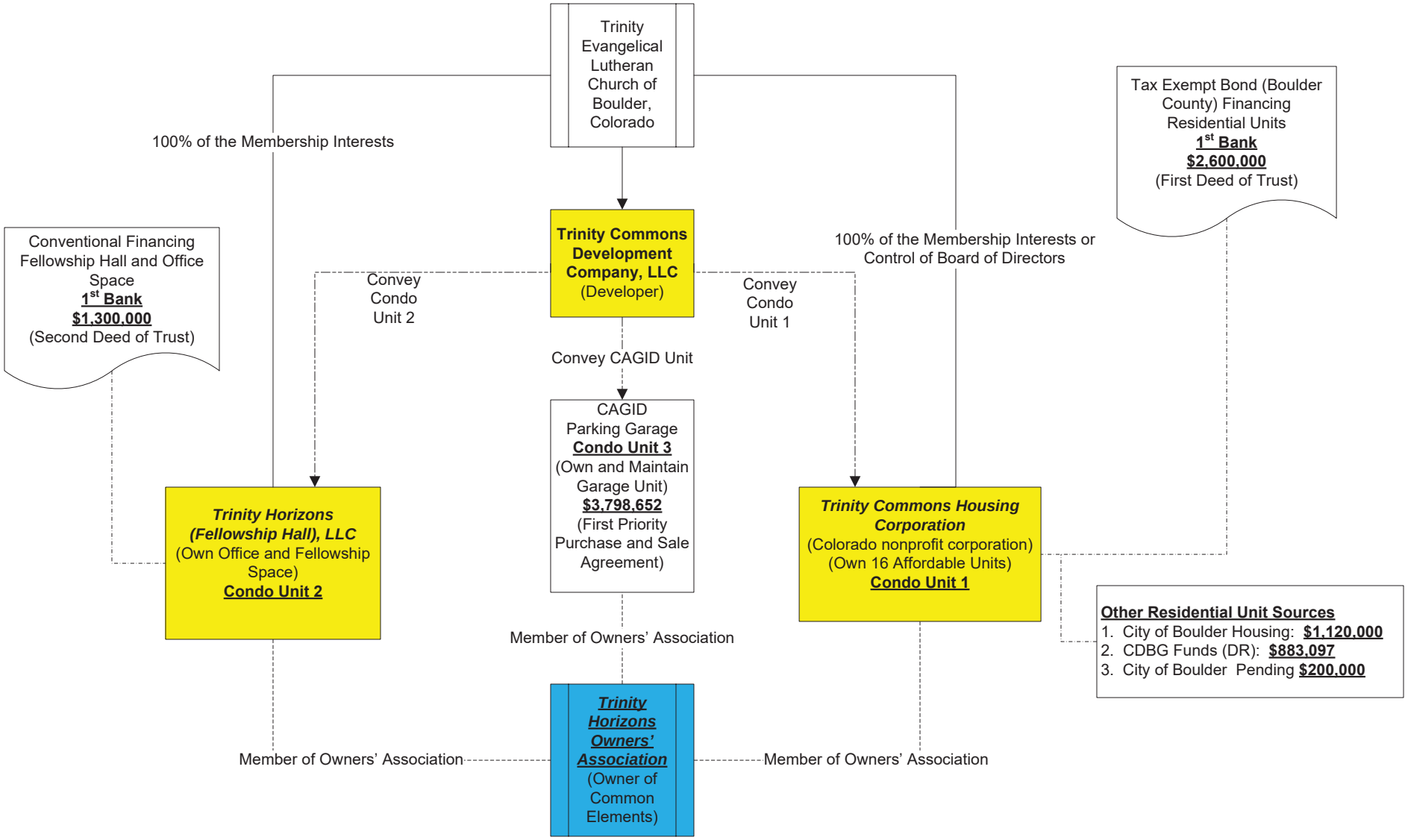
TRINITY LUTHERAN CHURCH

ATTACHMENT D: Project and Funding Overview

Trinity Horizons

Project Structure with Financing Sources

Updated: 3/15/2016



CAGID and Civic Area Plan (CAP) Development Projections

February 29, 2016

Prepared for:

City of Boulder – Downtown and University Hill Management Division & Parking Services

Prepared by:

RRC Associates
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Boulder, CO 80303
303/449-6558
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RRC ASSOCIATES SM

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INTRODUCTION

This report summarizes development projections for the City of Boulder Central Area General Improvement District (CAGID) and the Civic Area Plan areas (CAPs), as prepared by RRC Associates. The projections are intended to provide a base of information which can be used for a variety of general planning purposes, and most specifically as an input for transportation and parking studies that are currently being conducted for the CAGID area (excluding the CAPs).

The development projections contained in this report are the latest in a series of periodic efforts by the Downtown and University Hill Management Division & Parking Services (DUHMD & PS) to assess downtown development patterns and projections, building upon prior analyses conducted by RRC in 2013, 2011, 2006, 2001, and 1997 (when initially conducted as part of the Downtown Alliance effort).

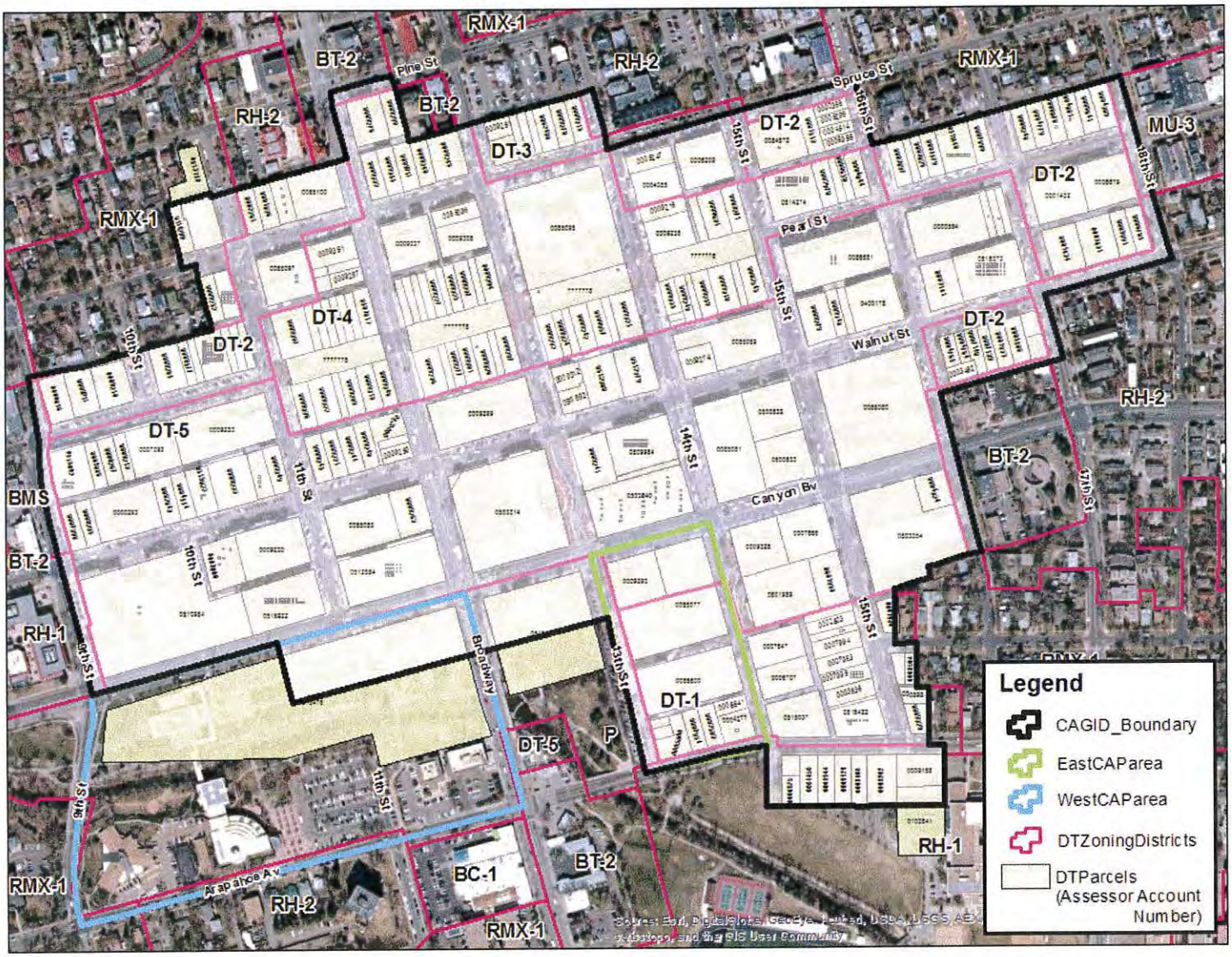
Since the 2013 update, several large projects have been approved and are in various stages of construction or are completed, the CAP planning process has advanced, and the Boulder economy and development environment has continued to evolve and strengthen. The current update is intended to reflect these changes, and also incorporate updated feedback from selected downtown property owners about their future development plans. It is also intended to capture the latest available data regarding land area, building space and employment from relevant databases.

This report first summarizes the results and methodology of the buildout analysis for CAGID; then examines buildout projections for the CAP areas; and finally summarizes buildout projections for the CAGID and CAP areas combined.

Figure 1 to follow illustrates the study area, with the boundaries of CAGID, zoning districts, the east CAP area, and the west CAP area highlighted. It should be noted that CAGID and the CAP areas overlap to some degree, particularly in the east CAP area (bounded by Arapahoe, Canyon, 13th, and 14th). As a general rule, all data presented in this report for CAGID is for CAGID exclusive of the CAP areas (but inclusive of the civic pad next to the St Julien Hotel), unless noted otherwise. Additionally, it should be noted that all square footage data discussed in this report excludes floor area associated with parking garages.

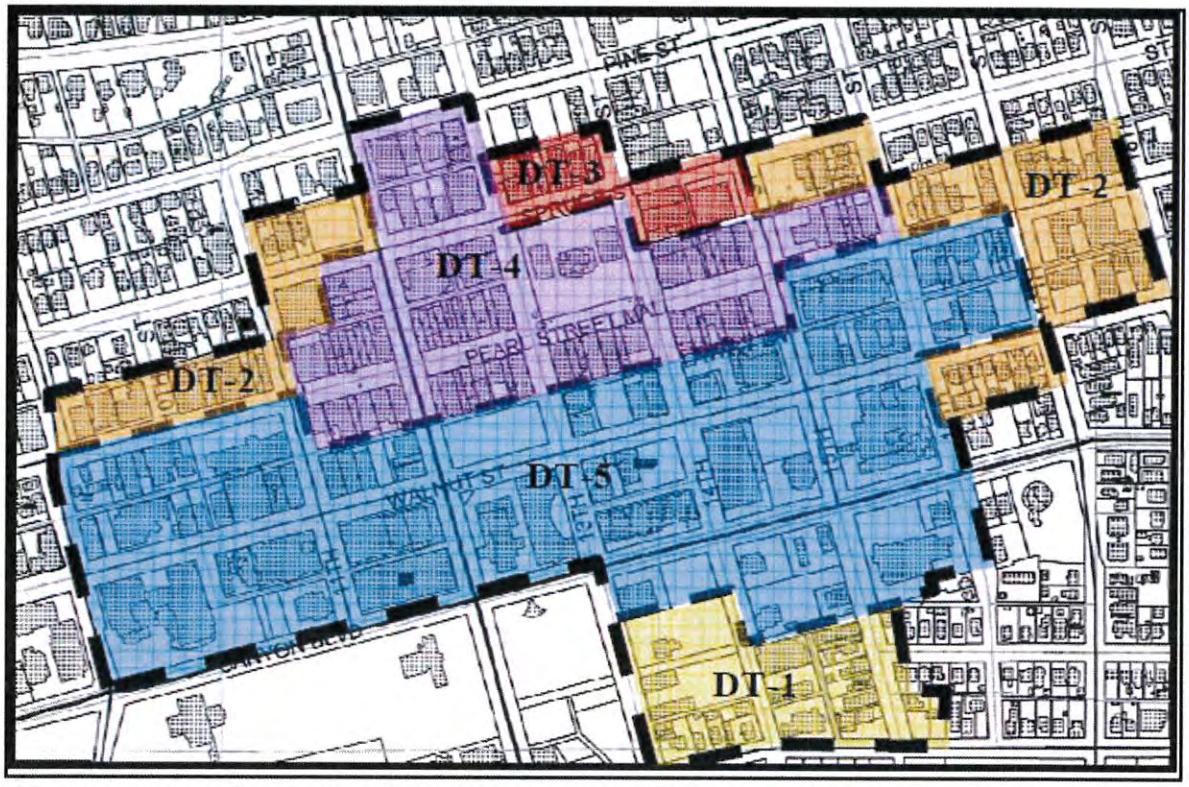
Figure 2 to follow illustrates the boundaries of the DT-1 through DT-5 zoning districts within CAGID, in a more visually clear way.

Figure 1
Map of CAGID and CAP Boundaries, and Zoning Districts



Source: City of Boulder GIS; RRC Associates. Note: West CAP also includes the civic pad located next to the St Julien Hotel.

Figure 2
Map of DT (Downtown) Zoning Districts Within CAGID



Source: City of Boulder Planning and Development Services (map of building footprints is several years old).

CAGID DEVELOPMENT PROJECTIONS (EXCLUDING CAPS)

This section of the report contains a summary of the results, methodology and assumptions of the buildout analysis for the CAGID area (excluding the portions of CAGID in the CAP areas, and excluding Boulder High School - BHS).[1]

Summary of projections

Table 1 below shows current and projected square footage, residential units, employment, and employment density ratios for CAGID (excluding the CAP areas and BHS).

Table 1
Projected Gross Square Footage, Residential Units and Employment:
CAGID (excluding CAPs & BHS), 2015 thru Buildout

		2020			2025			2035 (buildout)		
Measure	2015	Low	Midpoint	High	Low	Midpoint	High	Low	Midpoint	High
Nonresidential gross sqft	3,182,291	3,672,801	3,672,801	3,672,801	3,961,063	3,961,063	3,961,063	4,434,882	4,434,882	4,434,882
Residential gross sqft	408,960	477,902	477,902	477,902	577,868	577,868	577,868	763,874	763,874	763,874
Total gross sqft	3,591,251	4,150,703	4,150,703	4,150,703	4,538,931	4,538,931	4,538,931	5,198,755	5,198,755	5,198,755
Residential units	260	294	294	294	343	343	343	434	434	434
Approximate full-time employees (25+ hrs/week)	6,404	7,255	7,377	7,499	7,775	7,972	8,169	8,669	8,991	9,314
Approximate part-time employees (<25 hrs/week)	2,552	2,829	2,859	2,889	3,005	3,055	3,104	3,323	3,406	3,489
Total employees	8,956	10,083	10,235	10,388	10,781	11,027	11,273	11,992	12,398	12,803
Full-time equivalent employees (25+ hrs/week)	7,935	8,952	9,092	9,232	9,579	9,805	10,031	10,663	11,035	11,407
Employees per 1000 gross nonresidential sqft	2.81	2.75	2.79	2.83	2.72	2.78	2.85	2.70	2.80	2.89
Gross nonresidential sqft per employee	355	364	359	354	367	359	351	370	358	346

Note: All results exclude CAGID area south of Arapahoe (i.e. BHS parking lots and portion of school building) and in CAPs.
Note: All results exclude above- and below-grade parking.
Note: Nonresidential sqft includes building space occupied by commercial, governmental, religious, and other nonresidential uses.
Note: Analysis assumes that any need for additional public parking can be accommodated (i.e. analysis hasn't tested whether need for public parking may serve as a constraint on buildout scenarios).
Source: Built sqft from Boulder County Assessor (supplemented by 2006 DBI databases and City of Boulder Facilities Management databases). Buildout assumptions per RRC, based on zoning and other factors.

[1] The CAGID boundary includes a modest amount of land south of Arapahoe currently used as BHS parking lots and a portion of the BHS building. These parcels are zoned RH-1 (Residential High-1). When the CAGID boundary was originally established, these parcels were privately owned (e.g. the former Sturtz & Copeland greenhouse and other uses). These parcels have been excluded from this CAGID buildout analysis, insofar as it is assumed that future uses will continue to be school-related and only slightly affected by CAGID land use/transportation policies. Qualifying BHS employees are eligible for CAGID-funded Ecopasses.

As shown in Table 1, key results include the following:

- Built square footage: As of late 2015 (the time when data for this report was collected), the CAGID area was estimated have approximately 3.59 million built square feet (sqft). RRC projects that built space will grow to approximately 4.15 million sqft by 2020, 4.54 million sqft by 2025, and 5.20 million sqft by 2035 (assumed buildout), with total built square footage increasing by 44 percent (1.61 million sqft) between 2015 and buildout.

- Built square footage by type (residential vs. nonresidential): Residential space is projected to grow from approximately 409,000 sqft today to 764,000 sqft at buildout, an increase of 87 percent (355,000 sqft). Nonresidential space is projected to grow from approximately 3.18 million sqft today to approximately 4.43 million sqft at buildout, an increase of 39 percent (1.25 million sqft).

- Residential units: The CAGID area is currently estimated to have 260 residential units. Total residential units are projected to increase to 294 units by 2020, 343 units by 2025, and 434 units by 2035 / buildout.

- Employees: The CAGID area is currently estimated to have 8,956 employees, including approximately 6,404 full-time employees working at least 25 hours a week (72 percent), and 2,552 part-time employees (28 percent). Depending on the employment intensity assumptions utilized, total employment is projected to grow to 10,083 – 10,388 employees by 2020, 10,781 – 11,273 employees by 2020, and 11,992 – 12,803 employees by 2035 / buildout. "Full-time equivalent employees," calculated as the number of employee equivalents working at least 25 hours/week (with part-time employees assumed to average 15 hours/week)[2], is projected to grow from 7,935 currently to 10,663 – 11,407 at buildout.

- Employees per 1000 gross square feet: Currently, there are approximately 2.81 employees per 1000 gross square feet of nonresidential building space in CAGID. At buildout, employment intensity ratios are projected to be in the range of 2.70 to 2.89 employees per 1000 square feet (midpoint 2.80), thus bracketing the existing employment intensity ratio of 2.81 employees per 1000 square feet.

Existing and projected square footage by location and zoning district

Table 2 to follow illustrates existing and projected square footage in CAGID by location, with key findings described below.

[2] 2009-13 ACS PUMS data for the PUMA encompassing the City of Boulder indicates that local residents working 1-24 hours per week work an average of 14.66 hours per week.

- Existing space: Approximately half of the existing built sqft in CAGID (excluding the CAPS) is located in the DT-5 zoning district (51 percent), with an additional 3 percent in DT-1, 11 percent in DT-2, 4 percent in DT-3, 31 percent in DT-4, and 1 percent in RMX-1. Ninety-six percent of the existing space is located north of Canyon, while four percent is south of Canyon.

- Incremental additional space: A total of approximately 1.61 million incremental additional square feet of space is projected to be developed between 2015 and buildout. Of this incremental floor area, 7 percent is projected to be in the DT-1 zoning district, 17 percent in DT-2, 2 percent in DT-3, 9 percent in DT-4, and 66 percent in DT-5. Of this space, 70 percent is projected to be built north of Canyon, and 30 percent is projected to be built south of Canyon.

- At buildout, approximately 5.20 million square feet of space is expected be present in CAGID. Of this space, 4 percent is projected to be in the DT-1 zoning district, 13 percent in DT-2, 3 percent in DT-3, 24 percent in DT-4, and 55 percent in DT-5. Of this space, 88 percent is projected to be located north of Canyon, and 12 percent is projected to be located south of Canyon.

Table 2
Existing Built Square Footage and Projected Square Feet at Buildout, by Zoning District

		EXISTING (2015) BUILT SQFT (excluding parking garages)			PROJECTED FUTURE INCREMENTAL CONSTRUCTION (excluding parking garages)			PROJECTED SQFT AT BUILDOUT (excluding parking garages)		
Area & Zoning District	Land Area (Sqft)	Non-residential	Residential	Total	Non-residential	Residential	Total	Non-residential	Residential	Total
CAGID - NORTH OF CANYON (including Civic Pad in West CAP):										
DT-2	392,845	353,826	55,310	409,136	151,803	117,984	269,787	505,629	173,294	678,923
DT-3	83,153	127,412	0	127,412	25,614	6,269	31,883	153,026	6,269	159,295
DT-4	554,182	1,068,513	31,201	1,099,714	108,918	33,271	142,189	1,177,431	64,472	1,241,903
DT-5 (N of Canyon)	1,167,532	1,492,494	263,279	1,755,773	611,622	64,649	676,272	2,104,116	327,928	2,432,045
RMX-1	44,683	7,592	30,926	38,518	0	0	0	7,592	30,926	38,518
Subtotal	*2,242,396*	*3,049,837*	*380,716*	*3,430,553*	*897,957*	*222,173*	*1,120,130*	*3,947,794*	*602,889*	*4,550,683*
CAGID - SOUTH OF CANYON (excluding East and West CAP):										
DT-1 (excl. CAP)	129,122	73,301	28,244	101,545	40,455	67,985	108,440	113,756	96,229	209,985
DT-5 (S of Canyon; excl CAP)	175,235	59,153	0	59,153	314,179	64,756	378,935	373,332	64,756	438,088
Subtotal	*304,357*	*132,454*	*28,244*	*160,698*	*354,634*	*132,741*	*487,374*	*487,088*	*160,985*	*648,072*
CAGID TOTAL, EXCLUDING EAST AND WEST CAP (but incl. St. Julien Civic Pad)										
Total	2,546,753	3,182,291	408,960	3,591,251	1,252,591	354,914	1,607,504	4,434,882	763,874	5,198,755
(DT-5 total, excl. east CAP)	*1,342,767*	*1,551,647*	*263,279*	*1,814,926*	*925,801*	*129,405*	*1,055,206*	*2,477,448*	*392,684*	*2,870,132*

Source: City of Boulder GIS; Boulder County Assessor; RRC Associates.

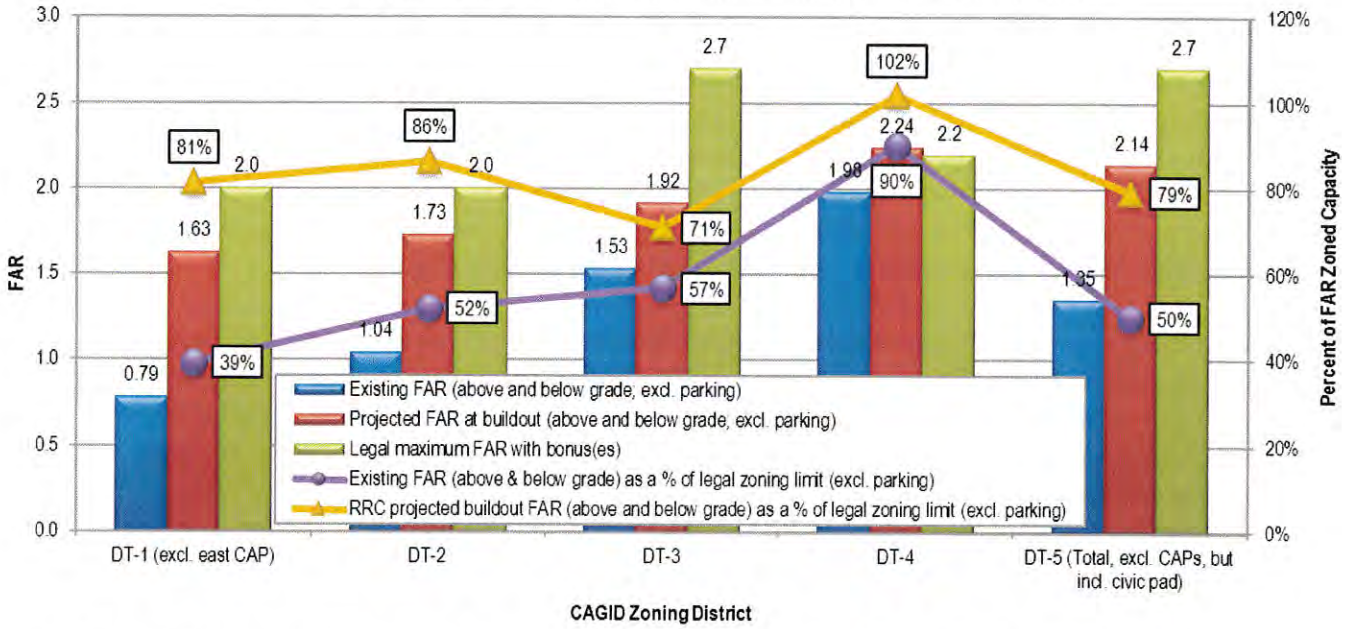
Existing and projected development relative to FAR zoned capacity

To help place existing and projected development in context, development can be expressed in FAR terms, and compared to FAR zoned capacity, by CAGID zone district (Figure 3).

Excluding parking structures (but including below-grade building space), existing development varies from a low of 0.79 FAR in DT-1 to a high of 1.98 FAR in DT-4. When expressed as a ratio to zoned capacity, existing built FAR (above and below grade) varies from a low of 39 percent of zoned capacity in DT-1 to a high of 90 percent of zoned capacity in DT-4.

At practical buildout, FAR is projected to vary from 1.63 FAR in DT-1 to 2.24 FAR in DT-4. The DT-1, DT-2, DT-3 and DT-5 zoning districts are each projected to be built to 71 – 86 percent of their zoned capacity, while DT-4 is projected to be built to 102 percent of its zoned capacity (due to some buildings currently exceeding zoned capacity, as well as significant below-grade space).

Figure 3
Existing, Buildout, and Legal Maximum FAR; and Existing & Projected FAR vs. Legal Maximum FAR Summary by DT Zoning District; Above-Grade Parking Structures Excluded



Source: RRC Associates (projections); Boulder County Assessor (existing building sqft); City of Boulder GIS (land area).

It should be cautioned that insofar as the existing and projected FAR calculations include below-grade building space (which doesn't count against legal FAR limits), and excludes above-grade enclosed parking space (which does count as FAR), the comparisons to legal FAR limits are not

entirely "apples to apples," and thus are not fully representative of current and projected development relative to legal FAR standards.[3]

Projections methodology

The current projections followed a largely similar methodology to that employed in 2013 and 2011. Specifically, a six step process was undertaken, as listed below and summarized in more detail to follow.

1. Prepare land and building inventory
2. Project future incremental floor area
3. Project future incremental development by time period
4. Project future incremental development by type of use
5. Project future incremental employment
6. Project future incremental residential units

The following discussion describes the six-step approach and accompanying assumptions used in the buildout analysis.

Step 1: Prepare land and building inventory

City of Boulder GIS staff has developed an inventory of "summary sites" in CAGID, consisting of legal parcels or (in some cases) combinations of parcels under common ownership or subject to a single development plan. A total of 231 sites or sub-sites have been identified in CAGID. For each site, data was compiled regarding the total land area, existing built square footage (broken down by residential vs. nonresidential space, and above vs. below-grade space), and selected other items such as year of construction and number of residential units.

The primary data sources were Boulder County Assessor records (for built space and building characteristics) and City GIS (for land area). In a few instances when Assessor records were incomplete, older CAGID building inventory records were used to estimate square footage. The City of Boulder rental license database was also used to help estimate the number of rental dwelling and rooming units in the study area.

As summarized previously (Table 1), the analysis found that the CAGID area currently has an aggregate of approximately **3.59 million square feet of existing floor area** (excluding floor area in parking garages).

[3] For additional context, approximately 4.0 percent of existing floor area in CAGID is below grade, including a higher 6.9 percent in the DT-4 zone district. Above-grade parking structures also account for significant floor area in CAGID, although exact figures are not currently available.

Step 2: Project future incremental floor area

Projections of additional development were primarily based on an analysis of additional zoned development capacity. It was assumed that not all sites would develop to their theoretical maximum zoned potential in the foreseeable future, due to physical, regulatory, and/or market/financial constraints. Instead, for projections purposes, it was assumed that sites with additional zoned capacity would eventually develop to a level somewhat below the theoretical legal maximum, on average. Specifically, in DT-5, it was assumed that sites with remaining development capacity would develop to an average FAR of 2.5, or 0.2 below the maximum legal FAR (with bonuses) of 2.7. Similarly, in DT-1 through DT-4, it was assumed that sites would develop to an FAR of 0.15 to 0.40 below the theoretical legal maximum applicable to each district (Table 3 to follow). Note that individual sites might develop to a greater or lesser degree than these thresholds; the thresholds represent averages for modeling purposes. These same assumptions were also applied in the 2013 update.

Moreover, it was further assumed that future development would only take place if there was a minimum of 2500 sqft (DT-1 through DT-4) or 3500 sqft (DT-5) of additional floor area that could be built up to the assumed practical buildout thresholds; or if the additional development capacity was equal to at least 10 percent of the size of the existing floor area at the site; whichever minimum threshold was greater. Again, these were the same as the assumptions applied in the 2013 update.

Additionally, based on existing uses and recency of development, some parcels with additional zoned capacity were assumed to be unlikely to be redeveloped in the foreseeable future, e.g. the U.S. Post Office site, selected residential developments, religious uses, and selected other sites.

RRC also interviewed owners of several parcels with the largest remaining development capacity. In instances where the owners anticipated future redevelopment, they frequently expressed an intention to maximize the FAR. RRC feels that this feedback, along with recent development patterns, provides some general support for the development assumptions outlined below.

Table 3
Development Intensity Assumptions for Sites with Remaining Zoned Capacity

Zoning District	Legal maximum FAR (with bonuses)	RRC assumed practical buildout FAR	RRC assumed minimum additional capacity threshold (between existing FAR and practical buildout FAR) for development to occur
DT-1	2.0	1.8	2500 sqft or 10% of existing building sqft, whichever is greater
DT-2	2.0	1.85	2500 sqft or 10% of existing building sqft, whichever is greater
DT-3	2.7	2.3	2500 sqft or 10% of existing building sqft, whichever is greater
DT-4	2.2	2.05	2500 sqft or 10% of existing building sqft, whichever is greater
DT-5	2.7	2.5	3500 sqft or 10% of existing building sqft, whichever is greater
RMX-1	variable	n/a	n/a - assumed already built out

Source: RRC Associates. Note: Density projections exclude any floor area in above-grade parking structures.

Figure 4 to follow illustrates site-by-site projections of additional development potential. As shown, additional incremental development is assumed to occur on 105 sites in the future, with an aggregate total of **1.61 million additional square feet** of floor area developed. The bulk of the development is projected to occur on a relatively small number of parcels. Specifically, 18 percent of the projected 1.61 million incremental square feet is currently under construction (or recently completed) at five development sites. An additional 31 percent of remaining development capacity is projected to occur on six sites with at least 50,000 sqft of additional developable sqft each; 10 percent is projected to occur on six sites with 25,000 – 49,999 developable sqft each; and 21 percent of additional development is projected to occur on 28 sites with 10,000 – 24,999 developable sqft each. The final 20 percent is projected to occur across 60 sites with 2,500 – 9,999 developable sqft each. (Note: these projections are for modeling purposes only; actual development patterns could differ.)

Although some site-specific projections are shown in the east and west CAP areas, it should be noted that more meaningful development expectations in those areas have been prepared through the CAP design process, as summarized in more detail in in a later chapter of this report.

Figure 4
Projected Future Incremental Built Square Footage in CAGID by Summary Site

Additional Anticipated Development in CAGID (EX. CAPs)

		Future Add'l Sqft	
Additional Sqft per Site	# Sites	#	%
Under construction	5	296,697	18%
50,000+ sqft	6	495,122	31%
25,000 - 49,999 sqft	6	164,023	10%
10,000 - 24,999 sqft	28	332,679	21%
2,500 - 9,999 sqft	60	318,983	20%
Assume no more building	113	0	0%
Boulder HS & Central Park	13	0	0%
Grand Total	**231**	**1,607,504**	**100%**

Step 3: Project future incremental development by time period

The development projections outlined above were broken down by five-year time period, specifically 2016-20, 2021-25, and 2026 or later (i.e. through likely practical buildout, assumed to be 2035).

In CAGID, for a small number of parcels, timing assumptions were developed based on feedback from owners. For all remaining parcels, timing assumptions were applied based on the age of the existing building. Specifically:

- For buildings built in 1995 or before, it was assumed for projection purposes that:
  - 25 percent of the remaining practical development capacity would be built in the 2016-20 timeframe;
  - 35 percent would be built in the 2021-25 timeframe; and
  - 40 percent would be built in the 2026+ timeframe (to buildout).
  - (For these sites, it should be noted that a given individual site would not necessarily be expected to develop pursuant to these assumptions, but rather that the sites in aggregate would be assumed to exhibit this general timing distribution.)
- For buildings built in 1996 or later, it was assumed that any future redevelopment would take place in the 2026+ time period.

In the study area as a whole, approximately 297,000 sqft is currently under construction (or completed since data was collected in 2015). In addition, RRC projects that another 263,000 sqft will be built in the 2016-20 period; 388,000 sqft will be built in the 2021-25 period; and 660,000 sqft will be built in the 2026 – buildout period

Step 4: Project future incremental development by type of use

Existing built square footage was assumed to continue in its present use mix into the future. To the extent that some existing buildings might be "scraped" and/or redeveloped, it was assumed that a commensurate amount of space in a new building would have the same use mix in the future. For the remaining incremental development, a varying mix of uses was assumed for each zoning district. These assumptions were based on RRC's judgment, as informed by development patterns in each area, and described further below.

For DT-5 (other than parcels where RRC had specific owner feedback), land use assumptions varied by FAR increment (below 0.9 vs. above 0.9, corresponding roughly to ground floor vs. upper floor space) and time period, as described below and illustrated in Table 4 to follow:

- DT-5: Remaining available FAR increment between 0.0 and 0.9: 100% of remaining available FAR increment between 0.0 to 0.9 is assumed to develop as commercial.
- DT-5: Remaining available FAR increment between 0.9 and 2.5:

- Sites developed in 2016-20: 95% development is assumed to be commercial. (This reflects an assumption that market conditions currently favor commercial development over residential development, and will continue to do so in the next five years. However, for later time periods, summarized below, it is assumed that market conditions for residential development will become more competitive.)
- Sites developed in 2021-25: 82.5% development as commercial and 17.5% development as residential.
- Sites developed in 2026+: 72.5% development as commercial and 27.5% development as residential.

Table 4
Land Use Assumptions for Incremental New Development: DT-5 Zoning District

	Incremental new development (built 2016+)			
	Ground floor mix:	Upper floor mix:		
	Built 2016-2026+	Built 2016-20	Built 2021-25	Built 2026+
DT-5: Nonresidential share	100%	95%	82.5%	72.5%
DT-5: Residential share	0%	5%	17.5%	27.5%
Total	100%	100%	100.0%	100.0%

Source: RRC Associates.

For DT-1 through DT-4, land use assumptions varied by zoning district and floor, as summarized in Table 5 to follow. In all zoning districts, ground floor development is assumed to be more heavily commercial than upper floors. Additionally, development in the DT-1 district (entirely south of Canyon) is assumed to tilt more heavily residential than the other zoning districts. Again, it should be noted that a given individual site would not necessarily be expected to develop pursuant to these assumptions. Instead, it is assumed that the development sites in aggregate will exhibit this distribution of use assumptions. These assumptions are the same as those employed in the 2013 update.

Table 5
Land Use Assumptions for Incremental New Development: CAGID Zoning Districts Other Than DT-5

	Incremental new development (built 2016+)			
	Ground Floor Mix:		Upper Floor(s) Mix:	
Zoning District	Nonresidential share	Residential share	Nonresidential share	Residential share
DT-1	60%	40%	30%	70%
DT-2	85%	15%	50%	50%
DT-3	100%	0%	80%	20%
DT-4	90%	10%	75%	25%
RMX-1	Built out	Built out	Built out	Built out

Source: RRC Associates.

Step 5: Project future incremental employment

Incremental future employment was projected based on the following assumptions regarding the utilization of commercial space (also illustrated in Table 6 to follow):

- Leasable space is equivalent to 85 percent of gross square footage (after deducting for common areas, stairways, etc.).
- Commercial vacancy rate is 5% (i.e. effective full occupancy).
- First-floor tenants have a range of 4.55 to 5.1 employees per 1000 sqft of leased area (corresponding to the low and high range of "employment intensity" observed in CAGID in selected years over the 1994 – 2015 period). (A history of CAGID employment intensities is shown in Table 7 to follow.)
- Upper-floor tenants have a range of 2.7 to 3.6 employees per 1000 sqft of leased area (corresponding to the low and high range of "employment intensity" observed in CAGID in selected years over the 1994 – 2015 period).

Table 6
Employment Assumptions for Incremental New Nonresidential Development

% of gross commercial space which is leasable:		85%
Commercial vacancy rate:		5%
Employees per 1000 sqft of leasable space:		
	"Typical" first floor uses	"Typical" upper floor uses
Historic minimum	4.45	2.7
Midpoint of min & max	4.78	3.15
Historic maximum	5.1	3.6
Hotels: assume 1 employee per room		

Source: RRC Associates; DUHMD-PS/DBI tenant / Ecopass databases.

Table 7
CAGID Employees per 1000 Square Feet of Leasable Nonresidential Space: Historic Comparisons

Database date	"Typical" first floor uses*	"Typical" upper floor uses**
12/31/1994	4.8	3.4
1999/00	4.8	3.6
2005	5.1	3.1
May 2011	4.45	2.70
Oct. 2013	4.69	2.84
Jul. 2015	4.74	3.20
Historic minimum	4.45	2.70
Historic maximum	5.10	3.60
Midpoint of min & max	4.78	3.15

*Assumed "typical" first floor uses: Retail, restaurant, personal services, one-third share of downtown banking & financial services uses.
**Assumed "typical" upper floor uses: Office, government, two-thirds share of downtown banking/financial services uses, nonprofit uses (exclusive of places of worship).
Factors exclude City and County government employment (accounted for separately for Ecopass purposes).
Source: DUHMD/PS and DBI Ecopass and Tenant databases; RRC Associates.

A set of "low," "midpoint" and "high" employment scenarios were developed corresponding to the low, high, and midpoint employment intensity measures described above. As illustrated in Table 8 to follow, between 2015 and buildout, the CAGID area is projected to add 3,036 to 3,847 jobs (midpoint estimate 3,442 jobs), depending on the employment intensity assumptions used.

Table 8
Projected Incremental Jobs (Low, Midpoint, and High) by Time Period (2016 to Buildout)

	Built 2016-20			Built 2021-25		Built 2026+		Total
	First Floor	Upper Floors	Hotel/ Civic Pad	First Floor	Upper Floors	First Floor	Upper Floors	incremental: 2015 to buildout (2035)
Nonresidential Square Footage:								
Gross nonresidential sqft	91,365	352,745	58,000	209,854	66,808	126,195	347,624	1,252,591
* 85% leasable area	85%	85%	n/a	85%	85%	85%	85%	n/a
* 95% occupancy rate	95%	95%	n/a	95%	95%	95%	95%	n/a
= Occupied (net) nonresidential sqft	73,777	284,842	58,000	169,457	53,947	101,902	280,706	1,022,632
Employment Generation Rates:								
Jobs/1000 net sqft: historic minimum (est.)	4.45	2.70	assume 30 jobs	4.45	2.70	4.45	2.70	n/a
Jobs/1000 net sqft: historic maximum (est.)	5.10	3.60	assume 30 jobs	5.10	3.60	5.10	3.60	n/a
Projected Employment:								
Minimum projected employment	328	769	30	457	240	454	758	3,036
Midpoint projected employment	352	897	30	534	258	487	884	3,442
Maximum projected employment	376	1,025	30	610	275	520	1,011	3,847

Source: RRC Associates; DUHMD/PS and DBI Ecopass and Tenant databases.

Step 6: Project future incremental residential units

Incremental future residential units were projected based on the following assumptions regarding residential space:

- Deduct 15 percent of gross residential space for hallways, stairways, and related common areas.
- Divide remaining square footage by an assumed average of 1,732 square feet per unit (the approximate average size of the 217 CAGID residential units built in the 1998 – 2015 period).

Table 9
Residential Unit Assumptions for New Residential Development

Share of gross sqft used for common areas, access, etc.	15%
Average unit size (sqft):	1732

Source: RRC Associates; Boulder County Assessor database.

Additional background: development and employment data and trends

This section of the report contains additional background data on various development and employment trends. The data is intended to provide an additional frame of reference for some of the buildout assumptions used in the analysis, including assumptions regarding intensity, use mix, timing of development, and employment.

Projects built or under construction in CAGID since 2013 analysis

Since the last round of CAGID buildout projections were prepared in 2013, one major project has been completed (26 apartments at 1707 Walnut), and five major projects are currently under construction (or very recently completed), as summarized in Table 10 to follow. Altogether, three of the projects are in the DT-2 zone and three are in DT-5. Collectively, these six projects account for approximately 339,155 square feet, including 298,572 square feet of nonresidential development (87 percent of total) and 42,583 square feet of residential development (13 percent of total). The DT-2 projects will collectively build very close to the maximum allowable FAR (FAR 1.99 vs. 2.0 maximum). The DT-5 projects will build to a proposed above-grade FAR of 2.56 and a total (above and below grade, excluding parking) FAR of 2.86, as compared to the legal maximum above-grade FAR of 2.7. Several of the projects will involve significant amounts of parking, while some will provide no parking or reduced parking from existing conditions.

Table 10
Projects Built or Under Construction in CAGID Since 2013 Buildout Update

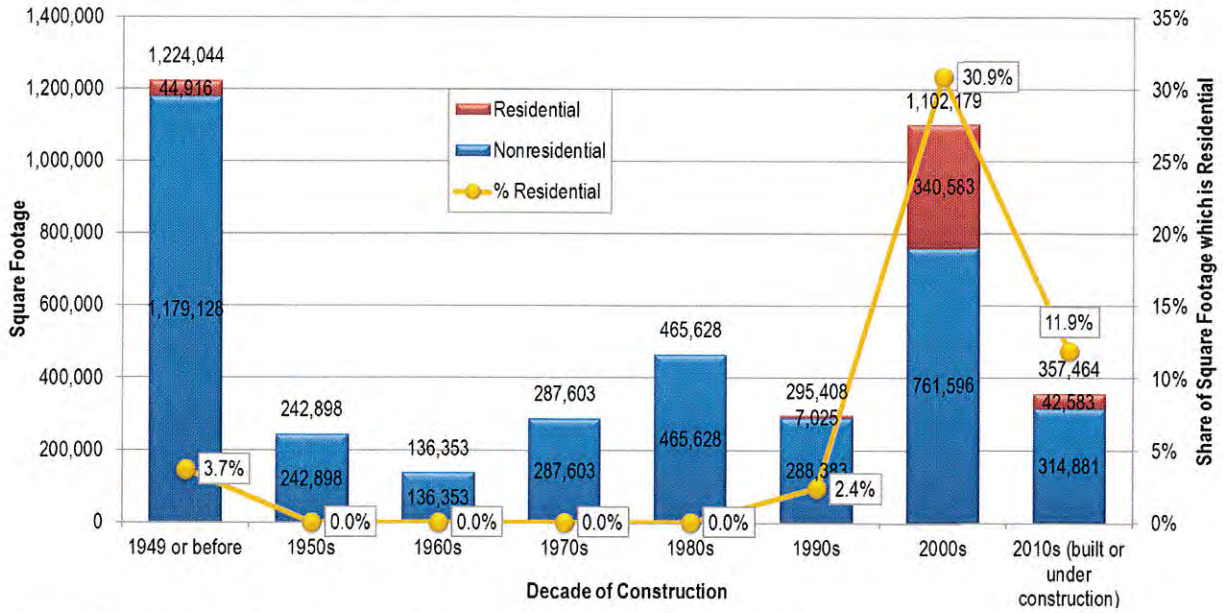
			SQFT AT BUILDOUT (excluding parking)						Max allowable			
Address	Zone	Site sqft	Total (above & below grade)	Above grade	Below grade	Non-residential	Resi-dential	Buildout Res. units	FAR (w/ additions)	Proposed above-grade FAR (ex. prkg)	Proposed total FAR (excl. pkg)	Parking spaces
1707 Walnut	DT-2	14,096	28,098	28,098	0	0	28,098	26	2.0	1.99	1.99	26
1738 Pearl	DT-2	21,132	42,000	42,000	0	42,000	0	0	2.0	1.99	1.99	25
901 Pearl	DT-2	10,803	21,632	21,632	0	7,147	14,485	4	2.0	2.00	2.00	13
DT-2 total		46,031	91,730	91,730	0	49,147	42,583	30	2.0	1.99	1.99	38
1048 Pearl	DT-5	59,266	173,446	159,934	13,512	173,446	0	0	2.7	2.70	2.93	271
1301 Walnut	DT-5	21,037	59,505	47,128	12,377	59,505	0	0	2.7	2.24	2.83	10
909 Walnut	DT-5	6,300	14,474	14,474	0	14,474	0	0	2.7	2.30	2.30	0
DT-5 total		86,603	247,425	221,536	25,889	247,425	0	0	2.7	2.56	2.86	281
Grand Total		132,634	339,155	313,266	25,889	296,572	42,583	30	n/a	2.36	2.56	319

Source: City of Boulder Planning and Development Services; RRC Associates.

Long-term historic development patterns in CAGID

Figure 5 to follow illustrates the decade of construction and use mix of buildings in CAGID, including buildings currently under construction.

Figure 5
Decade of Construction and Use Mix of Buildings in CAGID (Existing and Under Construction)



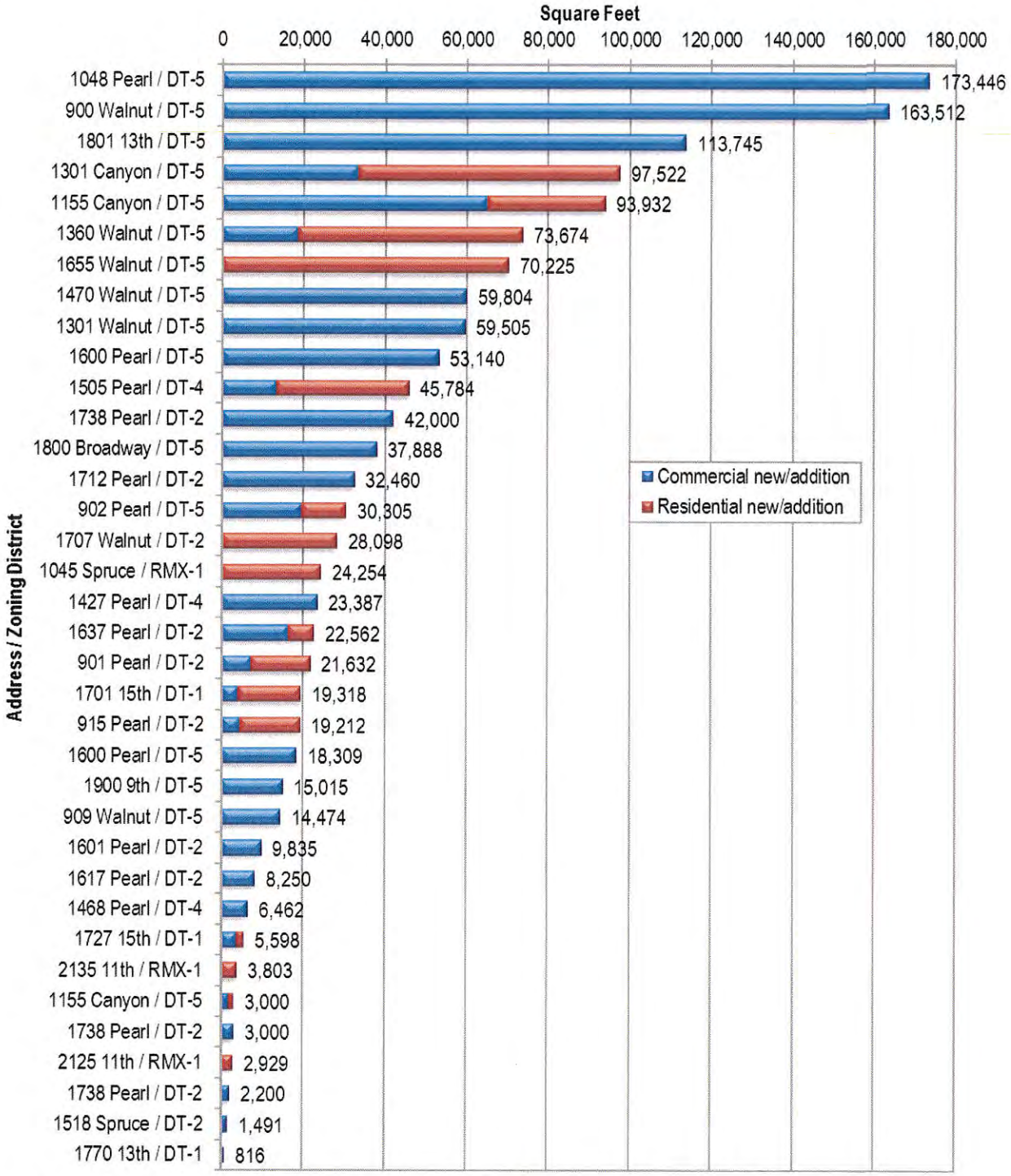
Source: Boulder County Assessor; City of Boulder building permits; RRC Associates

Among the patterns of interest, Figure 5 shows a burst of development in the 2000s, when approximately 1.1 million sqft was constructed, of which a relatively high share of 31 percent was residential and 69 percent was nonresidential. The surge of total development and residential development relative to preceding years was likely influenced by favorable market conditions and changes to zoning regulations (particularly the addition of residential density bonuses beginning in 2000 to encourage more residential units downtown).

Midway through the 2010s decade, development completed or under construction to date totals approximately 357,000 sqft, with 12 percent residential and 88 percent nonresidential. (Note that the zoning code was revised in 2011 to add a floor area addition up to a maximum of 1.0 for commercial uses in DT-5 zone district subject to a housing linkage fee, in part to respond to an expressed community need for more and better office space in the downtown core.) Should development occur at the same pace through the 2016-19 period, total development for the 2010 – 19 decade would total approximately 596,000 sqft, or about 54 percent of the volume experienced in the 2000-09 decade. If this level of development occurs, the 2010s would to have a high volume of construction activity relative to the decades prior to 2000, albeit a lower level of activity than in the 2000s.

Figure 6 to follow shows a listing of 36 newer projects built or under construction in CAGID over the past 19 years (since 1997), including the total size and use mix of each project. The chart illustrates that projects have had a wide range of sizes, although larger projects have accounted for the bulk of the square footage. In particular, the six largest projects have accounted about 51.1 percent of the square footage built since 1997, and the next six largest projects have accounted for an additional 23.6 percent of the square footage. In total, these 12 projects (one third of the total) have accounted for 74.7 percent of the space built.

Figure 6
New and Expanded Buildings in CAGID, 1997 - 2015 (including buildings currently under construction)



Source: City of Boulder building permits; RRC Associates. Excludes garage space and rooftop patios.

Employment trends by sector

Employment in the CAGID area has been tracked over time by DUHMD/PS as part of its processing of Ecopasses. Full-time employees (working at least 25 hours per week and qualifying for Ecopasses) have been documented very accurately, while part-time employees and others not qualifying for Ecopasses (e.g. contractors) have been tracked on a more informal basis, where possible.

Over the 2011 – 15 period, total full- and part-time employment in CAGID (excluding the City of Boulder and Boulder County) is estimated to have risen from 7,744 to 8,643, an increase of 12 percent (Table 11). "Office" types of employment are estimated to have increase by 36 percent, while "non-office" types of employment are estimated to have decreased by 8 percent. Within the office segment, the greatest absolute growth has occurred in the "technology" sector, which has grown by 93 percent (774 employees) since 2011, clearly indicating a boom in that sector. Nonprofits (up 172 percent) and green energy (up 154 percent) have also shown exceptionally strong growth, and professional services and creative services have also shown significant growth. By contrast, personal services and "other" employment have declined significantly, and restaurants, financial services, architectural and building services, and government employment (other than City and County employment, for which historic data is not currently available) have dipped more slightly.

Among the categories listed, restaurants are the biggest employer (2,171 jobs in 2015), followed by technology (1,610), retail (1,006), creative services (837), professional services (777), and financial services (651).

Table 11
Employment in CAGID: 2011 – 2015, by Sector

		EMPLOYMENT			CHANGE IN EMPLOYMENT	
Space Type	Industry Sector	As of 7/1/15	As of 10/23/13	As of 5/25/11	# Change 2011-15	% Change 2011-15
Non-office employment:						
Non-office	Personal Service - Health/Fitness/Spa/Salon/Therapy/Travel	302	334	413	(111)	-27%
Non-office	Restaurant	2,171	2,203	2,216	(45)	-2%
Non-office	Retail	1,006	1,029	967	39	4%
Non-office	Hotel, Other	476	486	708	(232)	-33%
	Non-office total	**3,955**	**4,052**	**4,304**	(349)	**-8%**
Office employment:						
Office	Government - excluding City & County of Boulder	55	63	70	(15)	-21%
Office	Non-profit (including religious)	269	215	99	170	172%
Office	Office: Architectural/Design/Building/Engineering	235	216	264	(29)	-11%
Office	Office: Creative Services - Marketing/design/advertising/video/web	837	883	740	97	13%
Office	Office: Financial services - Bank/brokerage/financial planning	651	615	694	(43)	-6%
Office	Office: Green/Energy - solar/wind/etc.	231	199	91	140	154%
Office	Office: Professional Services - Legal/Accounting/Real Estate	777	712	622	155	25%
Office	Office: Technology	1,610	1,182	836	774	93%
Office	(Blank / unassigned)	23	25	24	(1)	-4%
	Office total	**4,688**	**4,110**	**3,440**	**1,248**	**36%**
	Grand total - excluding City and County of Boulder	**8,643**	**8,162**	**7,744**	**899**	**12%**
	City of Boulder: Non-office (library, senior center, police, parking)	25	n/a	n/a	n/a	
	City of Boulder: Office	38	n/a	n/a	n/a	
	Boulder County	250	n/a	n/a	n/a	
	Grand total - including City and County of Boulder	**8,956**	**n/a**	**n/a**	**n/a**	

Source: DUHMD/PS Ecopass database; City of Boulder Facilities Management; Boulder County Human Resources; RRC Associates. Shifts in some categories, such as "other," may in part be influenced by reclassifications.

Additional employment characteristics by sector

Table 12 to follow illustrates the mix of full time and part-time employees by sector, as well as employment intensity rates (employees per square foot) by sector as of 2015. As shown, "non-office" sectors (as defined in the illustrated groupings) have a mix of 55 percent full-time employees and 45 percent part-time employees. The grouping averages 4.29 employees per 1,000 leased square feet, with very wide differences between sectors (varying from 8.27 employees/1000 sqft for restaurants, to 1.94 employees /1000 sqft for hotel/post office/other).

"Office" sectors in aggregate have a higher share of full-time employees (84 percent) and lower share of part-time employees (16 percent) than non-office sectors. In aggregate, office sectors also have lower employment intensity, averaging 3.03 employees per 1000 sqft of leased space. The largest sector, "technology", is estimated to have an average employment intensity of 3.69 employees per 1000 leased sqft.

In aggregate, CAGID as a whole is estimated to have approximately 3.50 employees per 1000 sqft of leased nonresidential space, or about 285 sqft of leased space per employee.[4]

Table 12
Employment Characteristics by Sector, 2015

		CAGID employment (excl. CAPs)				Employees per	Leased sqft
Space Type	Industry Sector	Full-time*	Part-time*	Total	% Part-time*	1000 leased sqft**	per Employee**
Non-office employment:							
Non-office	Personal Service - Health/Fitness/Spa/Salon/Therapy/Travel	211	91	302	30%	4.43	226
Non-office	Restaurant	1,104	1,067	2,171	49%	8.27	121
Non-office	Retail	511	495	1,006	49%	3.02	331
Non-office	Hotel, Post Office, Other	369	143	512	28%	1.94	517
Non-office	City of Boulder: Non-office (library, senior center, police, parking)	n/a	n/a	25	n/a	n/a	n/a
Non-office total		**2,195**	**1,796**	**4,016**	**45%**	**4.29**	**233**
Office employment:							
Office	City of Boulder: Office	n/a	n/a	38	n/a	n/a	n/a
Office	Government - excluding USPS & City of Boulder	n/a	n/a	269	n/a	n/a	n/a
Office	Non-profit (including religious)	194	75	269	28%	1.57	636
Office	Office: Architectural/Design/Building/Engineering	213	22	235	9%	3.88	257
Office	Office: Creative Services - Marketing/design/advertising/video/web	732	105	837	13%	3.69	271
Office	Office: Financial services - Bank/brokerage/financial planning	518	133	651	20%	2.24	446
Office	Office: Green/Energy - solar/wind/etc.	212	19	231	8%	4.80	208
Office	Office: Professional Services - Legal/Accounting/Real Estate	667	110	777	14%	2.68	373
Office	Office: Technology	1,347	263	1,610	16%	3.69	271
Office	(Blank / unassigned)	18	5	23	22%	n/a	n/a
Office total		**3,901**	**732**	**4,940**	**16%**	**3.03**	**330**
Grand total		**6,096**	**2,528**	**8,956**	**29%**	**3.50**	**285**

*Full-time and part-time employment counts exclude City and County employees, and selected other government employers.
**Employees intensity assumptions based on subset of Ecopass database records for which both employment and leased sqft is available.
Source: DUHMD/PS Ecopass database; RRC Associates.

CAP DEVELOPMENT PROJECTIONS

This section of the report summarizes development projections for the East and West CAP areas. This includes the portions of the East CAP which lie within CAGID. However, it excludes the West CAP's "civic use pad," located next to the St. Julien Hotel; unless noted otherwise, the civic pad is excluding from the CAP discussion below (since it has been included in the CAGID projections).

[4] For additional context, current BVCP buildout projections assume 3.51 employees per 1000 gross sqft of nonresidential floor area in the DT-1 through DT-5 zoning districts. Additionally, the 2016 City of Boulder development impact fee study currently underway assumes future employment intensities citywide of 2.51 employees / 1000 gross nonresidential sqft for retail/restaurant/service, and 3.59 employees/1000 gross nonresidential sqft for office. These figures are not fully comparable to the figures shown in Table 12 and Table 7, insofar as those results are based on leased, occupied sqft (rather than gross sqft), as well as differences in the geographic areas included (in the case of the impact fee study).

Current building and employment data for the CAP areas has been gathered from Boulder County Assessor records, the CAGID Ecopass database, and City of Boulder Facilities Management. Future projections regarding development density, uses, and timing are based on CAP documentation and input from city staff, and are subject to change insofar as the mix and sizing of the components of the CAP plans have yet to be fully determined.

Projected built square footage

Table 13 below summarizes the various development components being considered for the CAP areas, again keeping in mind that the selection and sizing of components has yet to be finalized. Two groups of options are being considered, each of which has low and high development scenarios, for four total alternatives. In addition, one of the potential project components is envisioned as either a hotel or apartments, adding an additional layer of alternatives with regards to use mix. Summary square footages are shown both including and excluding the proposed development for the civic use pad.

Table 13
Projected development at buildout in East and West CAP areas
(Note: Actual development could differ, depending on the mix and size of project components that get built)

		SQUARE FEET AT BUILDOUT			
		Option A		Option B	
Location	Use	Low SF	High SF	Low SF	High SF
East CAP	Public market	9,000	15,000	9,000	15,000
East CAP	Municipal office - core services	0	0	80,000	120,000
East CAP	Private office	50,000	100,000	50,000	100,000
East CAP	Hotel or apartments (100-200 rooms/dwellings)	100,000	200,000	100,000	200,000
East CAP	Existing Teahouse	4,000	4,000	4,000	4,000
East CAP	BMOCA (currently 16000 sqft)	16,000	26,000	16,000	16,000
East or West CAP	Performing arts center (500-700 seats)	50,000	70,000	50,000	70,000
West CAP	Existing library (includes Canyon Theatre & art space)	84,000	84,000	84,000	84,000
West CAP	Existing Senior Center	16,000	16,000	16,000	16,000
West CAP	Senior Center Expansion	14,000	24,000	14,000	34,000
West CAP	N. of Canyon: Gallery - arts - events	10,000	10,000	10,000	10,000
West CAP	N. of Canyon: Hotel expansion (~30 rooms)	48,000	48,000	48,000	48,000
West CAP	Municipal building (municipal court? museum?)	24,000	24,000	24,000	24,000
TOTAL SQFT		**425,000**	**621,000**	**505,000**	**741,000**
Total nonresidential		**325,000 - 425,000**	**421,000 - 621,000**	**405,000 - 505,000**	**541,000 - 741,000**
Total residential		**0 - 100,000**	**0 - 200,000**	**0 - 100,000**	**0 - 200,000**
TOTAL SQFT - excluding civic pad N. of Canyon		**367,000**	**563,000**	**447,000**	**683,000**
Total nonresidential - excluding civic pad N. of Canyon		**267,000 - 367,000**	**363,000 - 563,000**	**347,000 - 447,000**	**483,000 - 683,000**
Total residential - excluding civic pad N. of Canyon		**0 - 100,000**	**0 - 200,000**	**0 - 100,000**	**0 - 200,000**

Source: PDS staff; RRC Associates.

Excluding the civic use pad, total development at buildout is projected to range from 367,000 to 683,000 sqft across the alternatives, including 267,000 – 683,000 nonresidential sqft, and 0 – 200,000 residential sqft. It should be noted that actual development could be less (and below the low end projections), if some components do not get built or have smaller sizes.

Table 14 below illustrates projected development in the CAP areas, along with existing built square footage, for the various alternatives under consideration. The CAP areas are estimated to currently have approximately 220,148 built square feet, of which approximately 201,525 sqft is nonresidential and 18,623 sqft is residential. Relative to this existing level of development, incremental additional development projected in the future is projected to range from approximately 147,000 sqft to 463,000 sqft, of which approximately 65,000 – 481,000 is nonresidential, and (19,000) to +181,000 is projected to be residential. (Note that future plans envision the removal of the existing Park Central and New Britain buildings, and the potential redevelopment and/or expansion of several other properties in the CAPs area.)

Table 14
Existing and Projected Built Square Footage in CAP Areas

		EXISTING (2015) BUILT SQFT (excluding parking garages)			PROJECTED FUTURE INCREMENTAL CONSTRUCTION (excluding parking garages)			PROJECTED SQFT AT BUILDOUT (excluding parking garages)		
Area	Land Area (Sqft)	Non-residential	Residential	Total	Non-residential	Residential	Total	Non-residential	Residential	Total
EAST AND WEST CAP AREAS (excluding Civic Pad)										
Option A - low sqft	TBD	201,525	18,623	220,148	65,475 - 165,475	(18,623) - 81,377	146,852	267,000 - 367,000	0 - 100,000	367,000
Option A - high sqft	TBD	201,525	18,623	220,148	161,475 - 361,475	(18,623) - 181,377	342,852	363,000 - 563,000	0 - 200,000	563,000
Option B - low sqft	TBD	201,525	18,623	220,148	145,475 - 245,475	(18,623) - 81,377	226,852	347,000 - 447,000	0 - 100,000	447,000
Option B - high sqft	TBD	201,525	18,623	220,148	281,475 - 481,475	(18,623) - 181,377	462,852	483,000 - 683,000	0 - 200,000	683,000

Source: Boulder County Assessor; City of Boulder Facilities Management; CAP documentation; PDS staff; RRC Associates.

Projected timing of development

Timing assumptions were estimated by PDS staff for the various project components, assuming the project components get built (not a given). The timing assumptions were expressed in terms of the probability that the respective elements would get built in the three respective time periods, as shown in Table 15 to follow.

Based on these probabilities, projected incremental development by time period is shown in Table 16 to follow. As illustrated, a net total of 22,700 – 62,500 sqft is projected to be added in

the 2016-20 period; 124,326 – 350,926 sqft is projected to be added in the 2021-25 period; and (174) – 49,426 sqft is projected to be added beyond 2025. Note that these square footages are net incremental, and thus represent the difference between new buildings added and old buildings removed. Additionally, the amount of development by time period will likely differ in practice, as these results are for modeling purposes and based on probabilities (with potential new buildings pro-rated across time periods).

Table 15
Timing Assumptions for Project Components in the East and West CAP Areas

		If project occurs, likelihood of occurring in:		
Location	**Use**	**2016-20**	**2021-25**	**2026+**
East CAP	Public market	30%	60%	10%
East CAP	Municipal office - core services	20%	70%	10%
East CAP	Private office	20%	70%	10%
East CAP	Hotel or apartments (100-200 rooms/dwellings)	0%	80%	20%
East CAP	Existing Teahouse	Existing	Existing	Existing
East CAP	BMOCA expansion	0%	50%	50%
East or West CAP	Performing arts center (500-700 seats)	20%	70%	10%
West CAP	Existing library (includes Canyon Theatre & art space)	Existing	Existing	Existing
West CAP	Existing Senior Center	Existing	Existing	Existing
West CAP	Senior Center Expansion	0%	50%	50%
West CAP	N. of Canyon: Gallery - arts - events	80%	20%	0%
West CAP	N. of Canyon: Hotel expansion (~30 rooms)	80%	20%	0%
West CAP	Municipal building (municipal court? museum?)	Existing	Existing	Existing

Source: PDS staff; RRC Associates.

Table 16
Projected Incremental Development by Time Period in the East and West CAP Areas

	Existing built sqft	Incremental 2016-20	Incremental 2021-25	Incremental 2026+	Total incremental (existing to buildout)	Buildout sqft (existing + incremental)
CAP - HOTEL SCENARIO:						
Nonresidential	201,525	22,700 - 62,500	133,638 - 360,238	9,138 - 58,738	165,475 - 481,475	367,000 - 683,000
Residential	18,623	0	-9,312	-9,312	-18,623	0
Total	*220,148*	*22,700 - 62,500*	*124,326 - 350,926*	*-174 - 49,426*	*146,852 - 462,852*	*367,000 - 683,000*
CAP - APARTMENT SCENARIO:						
Nonresidential	201,525	22,700 - 62,500	53,638 - 200,238	-10,863 - 18,738	65,475 - 281,475	167,000 - 583,000
Residential	18,623	0	70,689 - 150,689	10,689 - 30,689	81,377 - 181,377	100,000 - 200,000
Total	*220,148*	*22,700 - 62,500*	*124,326 - 350,926*	*-174 - 49,426*	*146,852 - 462,852*	*367,000 - 683,000*

Source: PDS staff; RRC Associates.

Projected employment and residential units

Within the CAP areas, incremental future employment was projected based on RRC and PDS staff assumptions regarding employment:sqft ratios for the respective types of uses, as summarized in Table 17 below.

Table 17
Employment Assumptions for Incremental New Nonresidential Development (inside of CAP areas)

Component	Assumed employees/1000 gross sqft
Public market	5
Municipal office	2.8
Private office	2.8
Hotel	1 employee/unit
Expanded BMOCA	0.5
Performing arts center	0.5
Gallery - arts related	1
Senior Center	1

Source: RRC Associates; PDS staff.

Based on the employment assumptions outlined above, total employment at buildout is projected to range from 453 to 1,189, depending on the development scenario. By comparison, there are an estimated 441 employees working in the CAP areas today. Incremental additional employment added between existing conditions and buildout is projected to range from 12 to 748 employees. Note that actual buildout employment could be less (and potentially below the projections outlined here), insofar as some project components may not get built or may be downsized.

Table 18
Existing Employment and Projected Employment at Buildout

	EMPLOYEES - AT BUILDOUT			
	Option A		Option B	
	Low SF	High SF	Low SF	High SF
Existing employment	441	441	441	441
Incremental employment to buildout: hotel scenario	112	407	336	748
Incremental employment to buildout: apartments scenario	12	207	236	548
Total employment at buildout: hotel scenario	553	848	777	1,189
Total employment at buildout: apartments scenario	453	648	677	989

Source: RRC Associates; PDS staff; City of Boulder Facilities Management; DUHMD/PS Ecopass database.

With regards to residential units, there are currently estimated to be 25 residential units in the CAP areas, including 14 units at the Arapahoe Court apartments and 11 privately owned units. Projected units at buildout are projected to range from 0 to 200 units, depending on whether

the apartment scenario is built or not, and the number of units included in the apartments, if built (currently assumed to range between 100 and 200 units).

COMBINED CAGID/CAP DEVELOPMENT PROJECTIONS

Summary of development projections

Development projections for the combined CAGID/CAP area are based on summing the results of the CAGID and CAP projections respectively. Key results are summarized in Table 19 below and the text which follows.

Table 19
Existing Conditions and Projected Buildout: CAGID/CAP Areas

		Incremental to Buildout		Buildout		Existing as a % of Buildout		% Change: Incremental vs. Existing	
	Existing	Low	High	Low	High	Low	High	Low	High
Built sqft by area:									
CAGID N of Canyon (incl. civic pad)	3,430,553	1,120,130	1,120,130	4,550,683	4,550,683	75%	75%	33%	33%
CAGID S of Canyon (excl. CAPs)	160,698	487,374	487,374	648,072	648,072	25%	25%	303%	303%
East & West CAPs	220,148	146,852	462,852	367,000	683,000	60%	32%	67%	210%
CAGID/CAPs total	3,811,399	1,754,356	2,070,356	5,565,755	5,881,755	68%	65%	46%	54%
Built sqft by use:									
Nonresidential sqft	3,383,816	1,318,066	1,734,066	4,701,882	5,117,882	72%	66%	39%	51%
Residential sqft	427,583	336,291	536,291	763,874	963,874	56%	44%	79%	125%
Total sqft	3,811,399	1,754,356	2,070,356	5,565,755	5,881,755	68%	65%	46%	54%
Employees:	9,397	3,048	4,595	12,445	13,992	76%	67%	32%	49%
Residential units:	285	149	349	434	634	66%	45%	52%	122%

- Existing conditions: The total CAGID/CAP area currently has approximately 3.81 million square feet of developed residential and nonresidential floor area (excluding parking garages). This includes approximately 428,000 sqft of residential floor area (11 percent of total), and 3.38 million sqft of nonresidential floor area (89 percent of total).

  Of the 3.81 million existing square feet, approximately 220,000 sqft is located in the CAP areas (6 percent), while 3.59 million (94 percent) is in CAGID (excluding the portions of CAGID in the east and west CAP areas).

  The CAGID/CAP areas are also estimated to currently have approximately 9,397 employees (including 8,956 in CAGID and 441 in the CAPs). The combined area is also

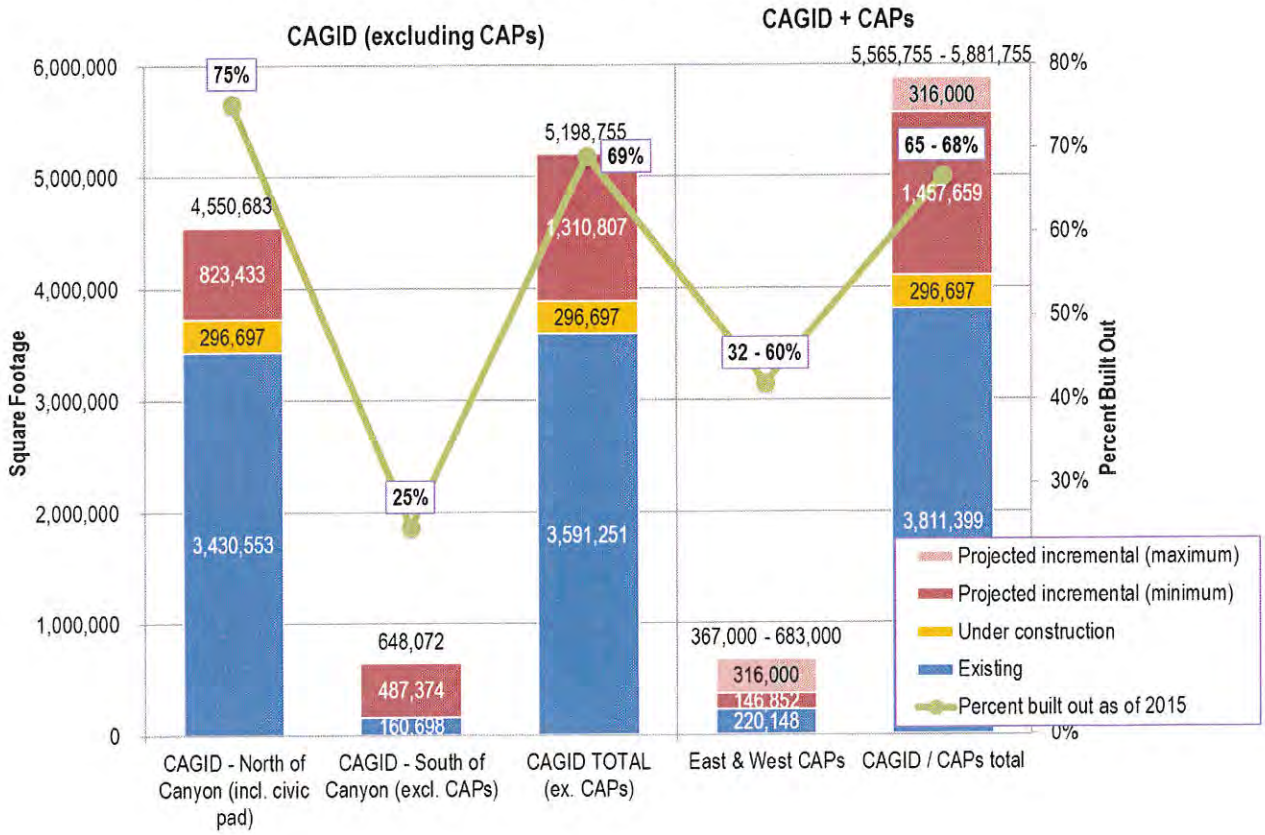
estimated to currently have 285 housing units (including 260 units in CAGID and 25 units in the CAPs).

- Projected development at buildout: At buildout, the combined area is projected to have approximately 5.57 to 5.88 million square feet, depending on the CAP development scenario assumed. Total employment at buildout is projected to range between 12,445 and 13,992, and total housing units are projected to range between 434 and 634.

- Percent change: development at buildout vs. existing conditions: Depending on the development scenarios assumed, total square footage at buildout is projected to be 46 percent to 54 percent higher than today's levels. Total employment is projected to be 32 percent to 49 percent higher than today's levels, and total housing units are projected to be 52 percent to 122 percent higher than today's count.

Figure 7 below graphically illustrates existing and projected square footage by location, including existing square footage, square footage under construction, and additional square feet to buildout, with minimum and maximum buildout levels varying depending on the CAP development program assumed.

Figure 7
Existing and Projected Square Footage in CAGID/CAP Area, by Location



Comparison of 2015 and 2013 development projections

As a reasonableness check and for comparison purposes, Table 20 below illustrates development projections prepared in the current (2015) and previous (2013) round of updates. As shown, each of the measures tracked shows some degree of change, including the following:

- Existing development: Existing development in CAGID has increased slightly from 2013 as a result of new construction, as well as updated estimates of the square footage of preexisting buildings in the Assessor's database. Total housing units have increased by an estimated 26 units. Total employment has increased by an indeterminate amount (since City of Boulder and Boulder County employment in CAGID were not tabulated in 2013).

- Projected development at buildout (low and high scenarios): Projected development at buildout has increased slightly in CAGID, as a result of slight increases in the base amounts of square footage estimated by the Assessor, and slight increases in projected future incremental development (driven by changes in the underlying development assumptions and factors). By contrast, projected development in the CAP areas has diminished somewhat, as a result of scaling back some of the development assumptions (e.g. dropping the potential for up to 100 new senior housing units near the senior center). Total housing units are also projected to have declined, particularly in the high buildout scenario, in large part due to this shift.

Table 20
Comparison of 2015 and 2013 Development Projections: CAGID/CAP Areas

	Existing development			Low Buildout Scenario			High Buildout Scenario		
	2015	2013	% Chg	2015	2013	% Chg	2015	2013	% Chg
Built sqft by area:									
CAGID N of Canyon (incl. civic pad)	3,430,553	3,270,377	4.9%	4,550,683	4,354,147	4.5%	4,550,683	4,354,147	4.5%
CAGID S of Canyon (excl. CAPs)	160,698	159,385	0.8%	648,072	644,110	0.6%	648,072	644,110	0.6%
East & West CAPs	220,148	220,148	0.0%	367,000	390,472	-6.0%	683,000	801,472	-14.8%
CAGID/CAPs total	3,811,399	3,649,910	4.4%	5,565,755	5,388,729	3.3%	5,881,755	5,799,729	1.4%
Built sqft by use:									
Nonresidential sqft	3,383,816	3,263,762	3.7%	4,740,576	4,502,178	5.3%	5,156,576	4,926,178	4.7%
Residential sqft	427,583	386,148	10.7%	778,551	786,551	-1.0%	963,874	1,073,551	-10.2%
Total sqft	3,811,399	3,649,910	4.4%	5,565,755	5,388,729	3.3%	5,881,755	5,799,729	1.4%
Employees:	9,397	TBD	TBD	12,445	TBD	TBD	13,992	TBD	TBD
Residential units:	285	259	10.0%	434	442	-1.8%	634	742	-14.6%

FOX TUTTLE HERNANDEZ
TRANSPORTATION GROUP

MEMORANDUM

To: **Molly Winter**

From: **Bill Fox**

Date: **March 4, 2016**

Subject: **Summary of CAGID Area Access and Parking Projections – Year 2016 to Buildout**

We have completed an update of the CAGID access and parking model for downtown Boulder. This update has utilized existing conditions in 2015 to recalibrate the model and project future parking needs for Year 2021, 2026 and buildout conditions. The updated model incorporates:

- current land use projections developed by RRC with 5-year planning horizons of existing, 2021, 2026 and buildout;
- a range of future employee density (low, midpoint, and high) developed by RRC;
- current CAGID parking supply and utilization information (2015 data);
- current private parking supply and utilization information in downtown Boulder (2015 data);
- updated parking supply and demand rates for the CAGID area using 2015 information;
- current CAGID permit waiting list information and its effect on parking demand rates;
- a range of specific transportation demand management strategies and tools, and their effect on reducing the demand for parking;
- the effect of increased CAGID parking supply utilization on reducing the future need for parking;
- the effect of increased private parking supply utilization on reducing the future need for parking;
- projections on the utilization of satellite parking and its effect on reducing downtown parking demand;
- new development and its impact on displacing existing parking supply;
- projections on the additional non-residential or commercial parking supply provided by new development; and

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- a range of additional options for CAGID to increase the available parking supply in downtown Boulder, including a new structure, a joint venture with a developer, or leasing existing underutilized parking during the business day (such as a church lot).

The net result of incorporating all of these factors is a projected range of parking surplus or deficit in the future for each planning horizon. This information is then available to assist CAGID in strategic planning to accommodate future multimodal access to downtown Boulder as land use progresses toward buildout conditions.

This memorandum summarizes the model update process and highlights the key variables that must be considered when considering future parking supply and demand in the CAGID area.

Attached to this memorandum are the following four tabulations:

- Table 1. CAGID Public Parking Supply and Typical Weekday Utilization
- Table 2. Boulder CAGID Private Parking – Weekday Supply & Utilization by Block
- Table 3. Total Public and Private Parking Supply in Downtown Boulder
- Table 4. Net Parking Surplus or Deficit in CAGID for Various Employment Density, TDM, and New Parking Construction Scenarios

The components of the parking model are discussed by topic as follows:

1.0 Land Use in the CAGID Area

It is our understanding based on a report from RRC (2/29/16) that at present in the CAGID area there are:

- 3,182,291 sq. ft. of non-residential floor area
- 260 dwelling units
- 8,956 employees (full and part time)

Projections for buildout of the downtown include:

- 1,252,591 additional sq. ft. of non-residential floor area
- 174 additional dwelling units
- Between 3,036 and 3,847 additional employees, depending on employment density within the developed space

This land use information provides the basis for projecting additional parking supply and demand.

2.0 Existing Parking Supply and Demand in CAGID

The attached Tables 1-3 provide a detailed summary of existing parking supply and demand in the CAGID area as updated in 2015. It can be seen that:

- CAGID currently manages 3,652 parking spaces, including 293 spaces in six surface lots, 2,209 spaces in five parking structures, 810 on-street metered spaces, and 340 commuter spaces in the NPP zones around the downtown area.
- During normal weekday peak periods, the CAGID spaces are approximately 80% occupied. (Note that this average occupancy has increased from 74% in 2011). The current occupancy of each category of parking spaces can be seen in Table 1.
- In 2011 there was no waiting list for permit spaces in the CAGID parking lots or structures. Since then the demand for permit parking in the downtown has grown significantly and there is currently a waiting list of over 1,700 parking permit requests. While some of these permit requests may be speculative in nature, it was estimated by CAGID staff that at least 75% of the waiting list demand (approximately 1,300) would purchase a parking permit today if available.

- There are approximately 3,190 private parking spaces in the CAGID area. These include surface lots, structures, and spaces off of the alleys.
- When surveyed during a normal weekday peak period, these private parking spaces were observed to be approximately 66% occupied. See Table 2. (Note that this observed occupancy was 61% in 2011).
- Residential parking supply information suggests that there are approximately 1.6 parking spaces per residential unit in the CAGID area. On this basis it is estimated that approximately 400 of the existing private parking spaces serve residential units.

- In aggregate, the CAGID area includes a total of 6,843 parking spaces, of which approximately 74% were observed to be occupied during a normal weekday mid-day peak period.
- While this analysis focuses on the weekday mid-day peak parking demand time, it should be noted that there are

other times during the week and year when there are localized peak parking demands that exceed the average weekday CAGID-wide demand described above. For example, on most Friday evenings the three parking structures west of Broadway are full or nearly full. There are also times during weekend days, when the two structures east of Broadway are also completely full. During these time periods, the on-street parking demand on roadways in the CAGID area and in the surrounding residential neighborhoods is high as well.

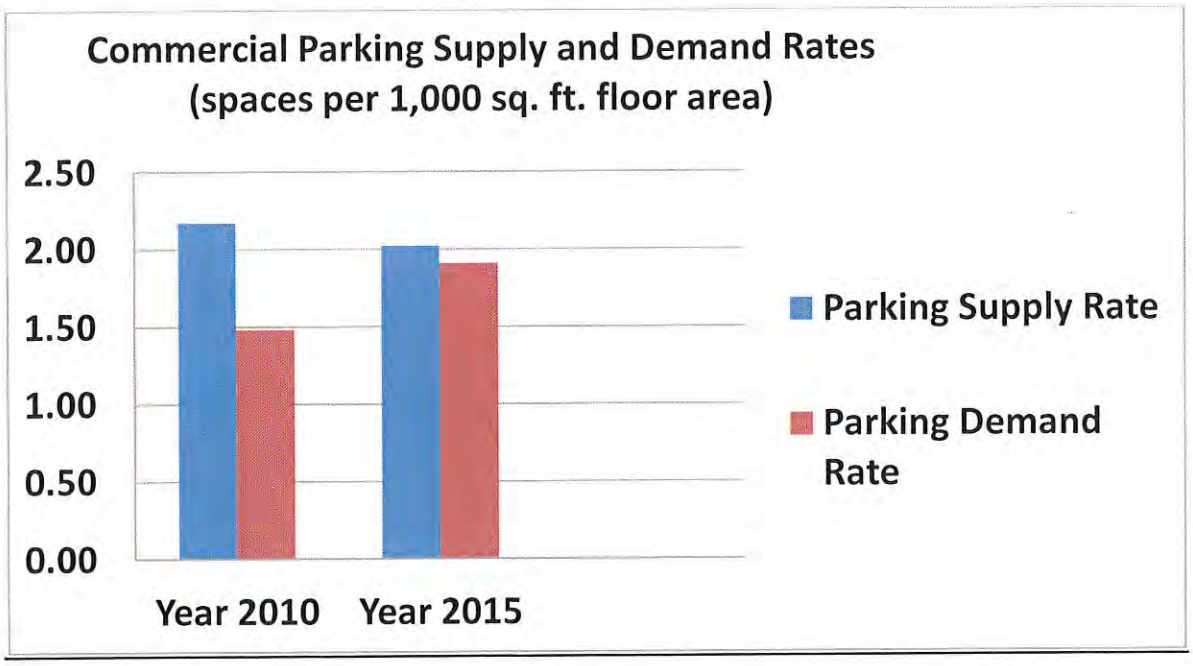
- It should also be noted that there is a significant amount of "shared parking" that occurs in the CAGID area on a regular basis. Spaces that serve downtown employees also serve double duty by serving the influx of downtown visitors that occurs on weekday evenings and on weekends.

3.0 Existing CAGID Commercial Parking Supply and Demand Rates

Using the existing land use and parking supply and demand information described above, the following existing parking supply and demand rates have been developed for the CAGID area. Comparable average ITE parking supply and demand rates have been listed as a benchmark:

- **CAGID commercial parking supply:** **2.02 spaces per 1,000 sq.ft. floor area**
- **CAGID commercial parking demand:** **1.91 spaces per 1,000 sq. ft. floor area (includes waiting list demand)**

Compared to 2010, the parking supply rate has gone down slightly while the parking demand rate has increased significantly as indicated in the chart below:



4.0 Projected Increase in Parking Demand At Buildout With Existing Parking Demand Rates

Using the projected buildout land use changes described above, and the existing CAGID commercial parking demand rates (with existing travel mode patterns for downtown access), the following additional parking demand is projected for each level of employee density:

Existing or Midpoint Employee Density:

- commercial parking space demand increase 2,392 spaces
- existing parking spaces displaced by new development 218 spaces *(includes 107 spaces in the Wells Fargo lot, 61 spaces at Broadway/Spruce, and an estimated 50 additional spaces in smaller surface lots)*
- net commercial parking space demand increase 2,610 spaces

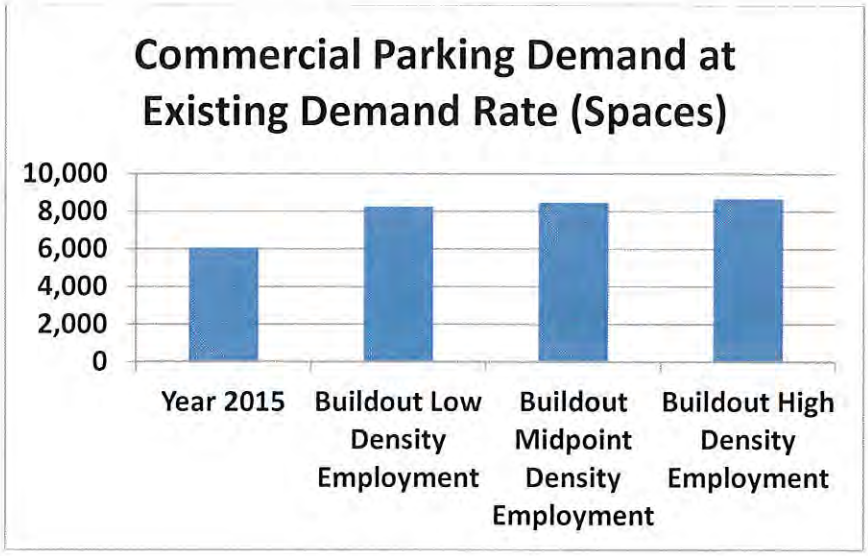
High Employee Density:

- commercial parking space demand increase 2,603 spaces
- existing parking spaces displaced by new development 218 spaces
- net commercial parking space demand increase 2,821 spaces

Low Employee Density:

- commercial parking space demand increase 2,181 spaces
- existing parking spaces displaced by new development 218 spaces
- net commercial parking space demand increase 2,399 spaces

The impact of the employee density on parking demand is calculated using employee travel mode share information to estimate what percentage of the employees would demand a parking space in the area. It can be seen that at buildout, the employee density range results in the projected demand for parking varying by over 420 spaces.



5.0 Measures to Reduce the Need for Future Parking Spaces

The parking model incorporates a number of measures that will help reduce the need for future parking in the CAGID area. They are discussed below:

5.1 Transportation Demand Management (TDM)

Downtown Boulder has been very successful in achieving a high non-SOV (single occupant vehicle) mode share for downtown access. Recent surveys indicate that less than half of the downtown employees and visitors arrive as automobile drivers needing a place to park. It is the goal of the City to continue this trend, both in the downtown and city-wide.

As part of this downtown parking update, City staff has identified a set of specific TDM measures that could be implemented in the CAGID area, and then utilized a TDM model to estimate the peak hour automobile trip generation decrease (and associated reduction in the future need for parking spaces) for each TDM measure. The TDM measures were combined into two likely packages, and range (low and high) of effectiveness was estimated for each five year planning horizon. **The details of this TDM analysis are summarized in an attached report.** The effective reduction in parking space demand is summarized as follows:

Potential Reduction in Parking Space Need Due to TDM Measures

TDM Strategy/ Planning Horizon	2020 Low	2020 High	2025 Low	2025 High	Buildout Low	Buildout High
A. Parking Cash Out Plus Parking Price Increase	244	251	344	360	680	726
B. Parking Price Increase Plus Expanded Eco Pass Program	460	474	492	515	720	769

5.2 Increasing the Utilization of Existing Parking Supply

Increasing the utilization of the existing parking supply downtown will reduce the need to add more parking in the future. As noted above, the peak period utilization or occupancy of spaces managed by CAGID has increased from 74% to 80% over the past 5 years. During that same period, observations indicate that the peak utilization of private spaces in the downtown has increased from 61% to 66%.

While there are limitations to CAGID's ability to increase occupancy due to the need to provide both short term and permit parking in the parking structures, this analysis has tested the impact of CAGID being able to increase the utilization of its structures by another 5% with technological advancements over time. If successful, the need for additional structured parking could be reduced by 140 spaces over time.

Increased demand for parking will also likely result in increased peak utilization of the private parking supply in the downtown over time. This analysis has projected an additional 2% utilization of the private spaces, which represents a 67 space reduction in the need for additional parking.

5.3 Use of Satellite Parking to Reduce Downtown Parking Demand

As part of the ongoing AMPS process, Boulder is evaluating the potential to provide a series of satellite parking lots around the perimeter of Boulder in commuter corridors with high frequency transit service and/or direct access to Boulder's network of bicycle facilities. These lots could then be used by downtown employees as an alternative to parking downtown. For this analysis it has been projected that the need for up to 300 parking spaces could be mitigated by those who park in a satellite lot and then travel downtown by an alternative to the automobile. This estimate is in addition to the potential use of satellite parking lots that may increase due to the TDM measures considered above.

6.0 Alternatives for Increasing the Supply of Parking in the CAGID Area

After considering the various methods of reducing the demand for parking in downtown Boulder, the parking model then considers the impact of various methods of adding to the available commercial parking supply. Considerations include:

- Known locations where development proposes to add parking, such as the Pearl West project;
- Locations where existing surface parking may be replace by development that includes a net increase in commercial parking supply, such as a development on the Wells Fargo lot;
- CAGID leases surface parking from adjacent sites where the weekday parking demand is low, such as a church parking lot;
- CAGID builds a new parking structure at the existing Broadway/Spruce surface lot;

- CAGID procures additional commercial parking as part of a joint venture with a private developer;
- The City of Boulder constructs a parking structure on the east end of the Civic area that includes a net increase in parking spaces available to CAGID.

7.0 Using the Access and Parking Model to Project Future Parking Demand Increases

The existing parking supply, demand, and alternative mode use information summarized above, coupled with the projected land use changes over time, form the basis for projecting the increase in parking demand in the CAGID area. The parking model then allows the user to test the impact of various parking demand reduction and supply increase strategies to provide the necessary balance between parking supply and demand in the downtown area.

As noted above, the following key variables and/or assumptions are used in this parking model process:

- Land use increases by type and five year planning horizon (to an assumed buildout year of 2030 or beyond, per RRC projections)
- Parking demand adjustment based on a range of employee density assumptions provided by RRC
- Existing parking that is displaced by new development
- Parking demand increases using existing parking demand rates
- Parking demand reductions (or parking space equivalents (PSEs)) resulting from TDM measures
- Additional PSEs generated by increasing the utilization percentage of spaces in CAGID parking structures.
- Additional PSEs generated by increasing the utilization percentage of spaces in private lots and structures. Achieving this goal may involve CAGID management of private parking spaces.
- Utilization of satellite parking lots as an alternative to parking downtown.
- Additional parking spaces constructed by CAGID, private developers, or some CAGID/private developer joint venture.

The attached Table 5A is illustrates the factors considered in the parking and access model.

The bottom line in this analysis is a determination of an aggregate parking surplus or deficit in the downtown area for each 5 year increment and at area buildout. The surplus (positive) or deficit (negative) for a range of assumptions on the many variables listed above is illustrated in Table 4. The twelve rows in Table 4 illustrate the impact of three employment density ranges and four TDM scenarios, while holding the assumptions on all the other variables constant. Clearly there could be any number of additional scenarios tested using different planning assumptions for the range of variables considered in the parking model. Below is one example calculation:

Year 2030 or Buildout Example Projection:

- Future demand for parking or PSEs using existing employment density: 2,392
- Existing parking spaces displaced by new development: 218
  (Wells Fargo lot, Broadway/Spruce lot, other smaller lots)
- Net increased demand for PSEs: 2,610
  (ranges from 2,400 to 2,822 depending on empl. Density)
- Parking demand reduced by TDM measures (with parking pricing and eco pass): -726
  (ranges from 680 to 769 PSEs)
- Increased utilization of CAGID and Private spaces (140 + 67): -207
- Utilization of Satellite Parking by downtown employees: -300
- Remaining unmet demand for downtown parking spaces: 1,377
- Construction of additional parking spaces: -1,233
  (ex. 579 private spaces, 200 CAGID structure, 200 CAGID joint venture,
  54 leased by CAGID, 200 additional for CAGID in new civic area structure)

- Remaining parking deficit in CAGID area: (144)

Considering these same assumptions phased over the 5 year increments until buildout results in:

Year 2021: 87 space deficit
Year 2026: 101 space deficit
Year 2031: 144 space deficit
(see row A2 in attached Table 4)

I hope this preliminary summary is helpful. Please do not hesitate to call with any questions.

BF/

2016 Downtown Boulder Parking Update

FOX TUTTLE HERNANDEZ TRANSPORTATION GROUP

Table 1. CAGID Public Parking Supply and Typical Weekday Utilization

Parking Facility	Quadrant[1]	Total Parking Spaces Available	Long Term Parking Spaces (includes punch cards)[4]	Short Term Parking Spaces	Permits Sold	Waiting List for Permits	Typical Peak Hour % of Permits Being Utilizated[3]	Typical Peak Hour Number of Permit Users On-site	Typical Peak Hour Number of Punch Card Users On-site	Typical Peak Hour Short-Term Users On-Site[2]	Typical Peak Hour Total Space Utilization[3]	Typical Total Peak Hour Parking Demand[5]
Surface Lots												
1336 Canyon	SE	66	66	0	85	74	90%	59			90%	59
1775 14th	SE	52	52	0	62	74	90%	47			90%	47
1745 14th	SE	85	85	0	106	103	90%	77			90%	77
Broadway/Spruce	NW	61	0	61	n.a.					52	85%	52
13th St. Conference	SE	6	6	0			90%	5			90%	5
Atrium	SE	23	23	0			90%	21			90%	21
Surface Lot Subtotal:		293	232	61	253	251					89%	261
Parking Structures												
1000 Walnut - CAGID	SW	556	232	324	510	213	44%	224	8	112	62%	345
1500 Pearl	NE	686	473	214	725	348	50%	363	110	179	95%	652
1100 Spruce	NW	392	189	203	341	160	51%	174	15	172	92%	361
1100 Walnut	SW	273	159	114	258	170	52%	134	25	78	87%	238
1400 Walnut	SE	302	168	134	317	295	45%	143	25	35	67%	202
Parking Structure Subtotal:		2,209	1,221	988	2,151	1186					81%	1,797
Off-Street Subtotal:		2,502										
On-Street Metered Parking												
Northwest Quadrant	NW	235	0	235	n.a.						85%	200
Southwest Quadrant	SW	105	0	105	n.a.						85%	89
Southeast Quadrant	SE	154	0	154	n.a.						85%	131
Northeast Quadrant	NE	316	0	316	n.a.						85%	269
On-Street Subtotal:		810	0	810							85%	689
Commuter Permits in NPP Zones												
Goss/Grove (northern 1/3)	SE	10	10	0	10	0	80%	8			80%	8
Mapleton	NW	75	75	0	78	0	80%	62			83%	62
High/Sunset	NE	43	43	0	12	0	80%	10			22%	10
Whittier	NE	174	174	0	100	0	80%	80			46%	80
West Pearl	NW	38	38	0	39	0	80%	31			82%	31
NPP Commuter Permit Subtotal:		340	340	0	239	0	80%	191			56%	191
Total - All Public Spaces:		**3,652**	**1,793**	**1,859**	**2,643**	**1,437**					**80%**	**2,937**
Total Parking Supply (All Types) By Quadrant:												
Northwest Quadrant		801	302	499							88%	706
Southwest Quadrant		934	392	542							72%	671
Southeast Quadrant		698	410	288							79%	550
Northeast Quadrant		1,219	690	530							83%	1,010
		3,652	**1,793**	**1,859**							**80%**	**2,937**

Notes:

1. Downtown quadrants are divided by Walnut Streets and 13th Streets
2. Peak parking meter space utilization estimated at 85% occupancy
3. Peak employee parking in CAGID surface lots estimated at 90% occupancy. Peak occupancy of NPP commuter spaces estimated at 80% of permits sold.
4. In parking structures, the long term parking space count equals the number of permit users plus punch card users on-site. The balance of the spaces in the structure are considered to be available for short term utilization.
5. It should also be noted that there are other peak times, such as Friday evenings, when the occupancy of parking structures is higher than during typical weekday mid-day peak periods. For example, the 1100 Walnut and 1100 Spruce structures are often full on Friday evenings and the CAGID portion of the 1000 Walnut structure is often over 90% full. There are also times on Saturdays, such as during the Farmers Market, that the RTD structure and the 1500 Pearl structure are completely full.
6. In additon to automobile parking, there are approximately x,xxx bicycle racks in the CAGID area that provide parking space for approximately x,xxx bicyles. Annual peak bike parking observations on a warm summer Saturday have indicated a steady increase in bicycle parking over time, with 2,800 parked bicycles observed in 2007 and over 4,000 bicycles observed in 2009.

2016 Downtown Boulder Parking Update

Table 2. Boulder CAGID Private Parking - Weekday Supply & Utilization by Block

FOX TUTTLE HERNANDEZ TRANSPORTATION GROUP

Block	Description	Surface/Driveway Parking		Structure/Garage Parking		Alley Parking		Total Parking		
		Supply	Demand	Supply	Demand	Supply	Demand	Supply	Demand	% Occupied
1	11th/Spruce NW corner (building only)	1	1	9	9	0	0	10	10	100%
2	Broadway/Spruce NW corner (to alley)	6	4	0	0	2	0	8	4	50%
2N	Broadway/Spruce NW corner (church)	30	8	0	0	0	0	30	8	27%
3	13th/Spruce NW corner (To Pine)	32	26	67	17	9	5	108	48	44%
3N	13th/Pine NW corner (church)	100	82	0	0	0	0	100	82	82%
4	14th/Spruce NW corner (to alley)	12	9	0	0	16	11	28	20	71%
4N	14th/Spruce NW corner N. of alley (hotel, County)	111	49	0	0	0	0	111	49	44%
4E	14th/Spruce NE corner (church)	62	53	0	0	0	0	62	53	85%
5	18th/Pearl NW corner (to alley)	22	12	0	0	19	13	41	25	61%
6	17th/Pearl NW corner (to alley)	3	3	7	4	21	18	31	25	81%
7	16th/Pearl NW corner	19	7	55	39	33	19	107	65	61%
8	15th/Pearl NW corner	0	0	305	284	3	3	308	287	93%
9	14th/Pearl NW corner	67	45	0	0	0	0	67	45	67%
10	13th/Pearl NW corner	10	7	0	0	12	9	22	16	73%
11	Broadway/Pearl NW corner	0	0	0	0	12	9	12	9	75%
12	11th/Pearl NW corner	11	7	16	6	9	4	36	17	47%
13	10th/Pearl NW corner (to alley)	5	4	22	11	6	6	33	21	64%
14	10th/Walnut NW corner	28	17	113	71	18	11	159	99	62%
15	11th/Walnut NW corner	0	0	16	9	2	1	18	10	56%
16	Broadway/Walnut NW corner	28	15	0	0	26	16	54	31	57%
17	13th/Walnut NW corner	107	53	0	0	0	0	107	53	50%
18	14th/Walnut NW corner	0	0	0	0	20	15	20	15	75%
19	15th/Walnut NW corner	24	6	0	0	8	1	32	7	22%
20	16th/Walnut NW corner	15	8	0	0	0	0	15	8	53%
21	17th/Walnut NW corner	18	15	100	63	20	13	138	91	66%
22	18th/Walnut NW corner	12	12	52	30	15	7	79	49	62%
23	17th/Walnut SW corner (to alley)	8	6	10	4	22	11	40	21	53%
24	16th/Canyon NW corner	38	19	0	0	0	0	38	19	50%
25	15th/Canyon NW corner	21	11	82	58	0	0	103	69	67%
26	14th/Canyon NW corner	5	2	240	230	12	9	257	241	94%
27	13th/Canyon NW corner	0	0	184	137	0	0	184	137	74%
28	Broadway/Canyon NW corner	0	0	111	60	0	0	111	60	54%
29	11th/Canyon NW corner	0	0	195	97	5	3	200	100	50%
30	10th/Canyon NW corner (Saint Julien private only)	0	0	100	46	0	0	100	46	46%
31	Library lot south of Canyon	0	0	0	0	0	0	0	0	#DIV/0!
32	14th/Canyon SW corner (to ditch)	22	12	0	0	0	0	22	12	55%
33	15th/Canyon SW corner (to ditch)	115	76	0	0	0	0	115	76	66%
34	16th/Canyon SW corner (to ditch)	99	36	0	0	0	0	99	36	36%
35	15th/Arapahoe NW corner (to ditch)	102	70	26	24	0	0	128	94	73%
36	14th/Arapahoe NW corner (to ditch)	20	12	0	0	24	16	44	28	64%
37	15th/Arapahoe NE corner (to Grove, half block)	2	1	0	0	12	7	14	8	57%
	Subtotal - (excluding Boulder High School Parking Lot)	**1,155**	**688**	**1,710**	**1,199**	**326**	**207**	**3,191**	**2,094**	**66%**
38	Boulder High School lot south of Arapahoe	220	211	0	0	0	0	220	211	96%
	Total (including Boulder High Lot	**1,375**	**899**	**1,710**	**1,199**	**326**	**207**	**3,411**	**2,305**	**68%**

Table 3. Total Public and Private Parking Supply in Downtown Boulder[1]

	Public Parking Spaces				Private Parking Spaces				All Public and Private Parking Spaces
	Long Term	Short Term	NPP Commuter	Total Public	Surface Lots	Parking Structures	Alleys	Total Private	
Total	1,453	1,859	340	3,652	1,155	1,710	326	3,191	6,843

Notes:

1. Includes CAGID area and private lots at the edge of CAGID (church, Boulderado, Boulder County). Does not include Civic Campus outside of CAGID or Boulder High School Lot.

Table 4

Net Parking Surplus or Deficit in CAGID Area for Various Employment Density, TDM, and New Parking Construction Scenarios

Scenario	Land Use Increase	Employee Density	TDM Package	CAGID Structure Space Utilization Increase by Buildout	Private Parking Space Utilization Increase By Buildout	Private Parking Spaces Added By Buildout	CAGID Structured Spaces Added By 2026	CAGID / Private Joint Venture Spaces Added By Buildout	Potential Spaces In New Civic Area Parking Structure Avalalable to CAGID By Buildout	Satellite Parking Spaces Utilized by Buildout	Year 2021 Surplus or Deficit	Year 2026 Surplus or Deficit	Buildout Surplus or Deficit
A1	Yes	Existing / Midpoint	A Low	5%	2%	579	200	200	200	300	-94	-117	-190
A2	Yes	Existing / Midpoint	A High	5%	2%	579	200	200	200	300	-87	-101	-144
A3	Yes	Existing / Midpoint	B Low	5%	2%	579	200	200	200	300	122	31	-151
A4	Yes	Existing / Midpoint	B High	5%	2%	579	200	200	200	300	136	54	-101
B1	Yes	High	A Low	5%	2%	579	200	200	200	300	-231	-303	-402
B2	Yes	High	A High	5%	2%	579	200	200	200	300	-224	-287	-356
B3	Yes	High	B Low	5%	2%	579	200	200	200	300	-15	-155	-362
B4	Yes	High	B High	5%	2%	579	200	200	200	300	-1	-132	-313
C1	Yes	Low	A Low	5%	2%	579	200	200	200	300	-72	-47	20
C2	Yes	Low	A High	5%	2%	579	200	200	200	300	-65	-31	66
C3	Yes	Low	B Low	5%	2%	579	200	200	200	300	144	101	60
C4	Yes	Low	B High	5%	2%	579	200	200	200	300	158	124	109

Notes:

1 Using latest development projections from RRC for CAGID area
2 Using a range of employment density based on information from RRC
3 Using various TDM packages and expected results from TDM model prepared by GO Boulder staff
4 Assume CAGID parking structure utilization increased by 5 % by buildout
5 Assume private parking utilization increased by 2% by buildout
6 Assume some private developments or redevelopments provide parking for non-residential uses, Including Pearl West, Wells Fargo lot, etc.
7 Assume CAGID enters into a joint venture with a private development and provides a net of 200 additional spaces for use by CAGID
8 Assume CAGID builds a 200 space parking garage on the Broadway/Spruce surface lot
9 Assume City constructs structured parking spaces on the Civic campus of which a net increase of 200 spaces are available to CAGID
10 Assume satellite parking utilization increases to 300 spaces by downtown employees by buildout

Table 5A

2016 Downtown Boulder Parking Supply and Demand Model[8]

Last Updated: 3/4/2016

FOX TUTTLE HERNANDEZ TRANSPORTATION GROUP

Key Assumptions in this Scenario:

- *** *Weekday Mid-day Peak Period Evaluation* [10]
- *** *With Revised Zoning in the DT5 District*
- *** *With 75% of current permit waiting list treated as existing parking demand (1300 space demand equiv.)*
- *** *With CAGID parking structure space utilization increasing by 5% over time*
- *** *With downtown employee non-SOV mode use decreasing due to a range of TDM options*
- *** With employee density at existing (Midpoint) range
- *** *With Satellite parking utilization increasing to 300 spaces by 2026*
- *** *With private parking space utilization increasing by 2% over time*

Existing Downtown Boulder Parking Supply and Demand Rates	
Current Commercial Parking SUPPLY Rate in CAGID Area:	2.02 spaces per 1,000 sq. ft.
Current Commercial DEMAND Rate in CAGID (incl. wait list):	1.91 spaces per 1,000 sq. ft.
Current Residential Parking SUPPLY Rate In CAGID Area:	1.6 spaces per DU
Current Residential Parking DEMAND Rate In CAGID Area:	0.97 spaces per DU
Aggregate non-driver mode share for downtown access:	48%
Aggregate SOV or MOV driver mode share for downtown access:	52%
(this includes long term (employees) and short term visitors of downtown based on latest survey information)	
Existing employee density	2.81 emp. per 1,000 sq. ft.
Incremental employee density - Low estimate	2.42 emp. per 1,000 sq. ft.
Incremental employee density - Midpoint estimate	2.75 emp. per 1,000 sq. ft.
Incremental employee density - High estimate	3.07 emp. per 1,000 sq. ft.
Buildout employee density - Low estimate	2.70 emp. per 1,000 sq. ft.
Buildout employee density - Midpoint estimate	2.80 emp. per 1,000 sq. ft.
Buildout employee density - High estimate	2.89 emp. per 1,000 sq. ft.

	Existing	Planning Horizon 2016 - 2020	2021 - 2025	2026 +	Subtotal 2016 - 2026+	Buildout Total
Downtown Boulder Development By Planning Horizon[1]						
Residential Units (DUs)	260	34	49	91	174	434
Commercial Floor Area (sq. ft.), includes current RRC info. N&S of Canyon + CAP East High Only	3,182,291	490,510	288,262	473,819	1,252,591	4,434,882
Employees - Low	8,956	1,127	698	1,211	3,036	11,992
Employees - Midpoint	8,956	1,279	792	1,370	3,441	12,397
Employees - High	8,956	1,432	885	1,530	3,847	12,803
Parking Supply and Demand Increases And Supply Reductions[2]						
Residential Parking Supply[4]	400	54	78	146	278	678
Residential Parking Demand[5]	252	33	48	88	169	421
Commercial Parking Supply at 2015 supply rate[4]	6,443	991	582	957	2,530	8,973
Commercial Parking Demand at 2015 demand rate plus waiting list demand[5]	6,071	937	551	905	2,392	8,463
Total Parking Supply - residential and commercial	6,843	1,045	661	1,103	2,809	9,652
Total Parking Demand - residential and commercial	6,331	970	598	993	2,561	8,892
Existing parking space supply displaced by new development[3]		50	61	107	218	218
Incremental parking supply increase due to development at existing supply rates:		1,095	722	1,210	3,027	3,027
Cumulative parking supply increase due to new development at existing supply rates:		1,095	1,817	3,027	3,027	3,027
Adjustment for increased or decreased employee density:[12]		0	0	0	0	0
Incremental COMMERCIAL parking demand increase due to new development at existing rates		**937**	**551**	**905**	**2,392**	**2,392**
Cumulative COMMERCIAL parking demand increase due to new development at existing rates		**937**	**1,487**	**2,392**	**2,392**	**2,392**
Commercial Parking Space Demand Reductions: Parking Space Equivalents Resulting from TDM efforts (PSEs)[6][7]						
PSEs reduced by TDM Package A LOW range:		(244)	(344)	(680)	(680)	(680)
PSEs reduced by TDM Package A HIGH range:		(251)	(360)	(726)	(726)	(726)
PSEs reduced by TDM Package B LOW range:		(460)	(492)	(720)	(720)	(720)
PSEs reduced by TDM Package B HIGH range:		(474)	(515)	(769)	(769)	(769)
Total Cumulative Parking Demand Increase (with TDM A LOW Scenario):		**693**	**1,143**	**1,712**	**1712**	**1712**
Total Cumulative Parking Demand Increase (with TDM A HIGH Scenario):		**686**	**1,127**	**1,666**	**1666**	**1666**
Total Cumulative Parking Demand Increase (with TDM B LOW Scenario):		**477**	**995**	**1,672**	**1672**	**1672**
Total Cumulative Parking Demand Increase (with TDM B HIGH Scenario):		**463**	**972**	**1,623**	**1623**	**1623**
Parking Space Equivalents by Increasing CAGID "Parking Structure" Space Utilization[9]						
Percent increase in existing parking space utilization:		3%	4%	5%	5%	5%
CAGID structured parking spaces available	2209	2209	2409	2809	2,809	2809
PSEs realized from increased space utilization:		(66)	(96)	(140)	(140)	(140)
Parking Space Equivalents by Increasing PRIVATE Parking Space Utilization[10]						
Percent increase in existing parking space utilization:		0%	1%	2%	2%	2%
Private spaces available in lots and structures (excludes alley spaces)	2865	3244	3308	3333	3,333	3333
PSEs realized from increased space utilization:		0	(33)	(67)	(67)	(67)
Parking Space Equivalents by use of Satellite Parking in intercepter lots outside of CAGID area						
Downtown employees who utilize satellite parking lots and bus or bike to CAGID area		(100)	(200)	(300)	(300)	(300)
Potential Physical Parking Space Supply Increases:						
Developer built commercial parking at Daily Camera building		388	0	0	388	388
Large lot developer built parking (such as Colorado Building or the Wells Fargo lots)		16	100	0	116	116
Small lot developer built parking supply		25	25	25	75	75
CAGID leases parking in vicinity to downtown (such as church lots)		54	0	0	54	54
CAGID / Private joint venture parking structure		0	0	200	200	200
CAP East End Parking: Net supply increase of 200 spaces for office uses plus CAGID lots replaced[11]		0	0	200	200	200
New CAGID parking structure (possibly at the Broadway/Spruce lot)		0	200	0	200	200
Subtotal: Physical Parking Space Supply Increase		483	325	425	1,233	1,233
Cumulative Physical Parking Space Supply Increase:		483	808	1,233	1,233	1,233
Cumulative Unmet Commercial Parking Demand: (positive = deficit, negative = surplus) TDM A LOW		**94**	**117**	**190**	**190**	**190**
Cumulative Unmet Commercial Parking Demand: (positive = deficit, negative = surplus) TDM A HIGH		**87**	**101**	**144**	**144**	**144**
Cumulative Unmet Commercial Parking Demand: (positive = deficit, negative = surplus) TDM B LOW		**-122**	**-31**	**150**	**150**	**150**
Cumulative Unmet Commercial Parking Demand: (positive = deficit, negative = surplus) TDM B HIGH		**-136**	**-54**	**101**	**101**	**101**
Total Cumulative Non-Residential Parking Supply:	6,443	6,876	7,140	7,458	7,458	7,458

Notes:

1 All land use and development projections provided by RRC and/or CAGID
2 Parking supply and demand rates based on existing parking supply and demand inventory
3 Assumes that the Daily Camera structure and Colorado Building lot is consumed by construction by 2016 and the Wells Fargo lot is consumed by construction by buildout
4 Existing Parking Supply based on 2015 inventory (6843 spaces minus estimated 400 residential spaces). Future parking supply based on current parking supply rates in the CAGID area
5 Future parking demand based on current parking demand rates in the CAGID area (including 75% of current waiting list as equivalent existing demand)
6 City TDM staff have prepared a range of possible TDM plans that should reduce SOV access to the downtown above and beyond today's current Non-SOV access.
7 A parking space equivalent (PSE) is a parking space that is not physically needed due to access to the downtown area by an alternative to the single occupant or multi-occupant automobile driver that would otherwise have needed to park in the downtown area. This includes the use of Satellite parking lots.
8 This parking model analyzes the weekday mid-day parking supply and demand in the CAGID area of downtown Boulder. This weekday mid-day peak likely has the highest CAGID-wide parking demand, but it should be noted that there are other peak times where there are even higher localized parking demands in the downtown area, such as on Friday evening when the parking structures and on-street spaces west of Broadway are full, or on weekend days when the parking structures east of Broadway can become full.
9 Assumes that the existing 81% utilization rate of CAGID parking structures is increased over time. Note that the structure utilization has been increased from 73% in 2011.
10 Assumes that the existing 66% utilization rate of PRIVATE parking is increased over time. Note that the private utilization rate has increased from 61% in 2011.
11 This model includes current RRC land use for CAGID north and south of Canyon Plus Civic Area Plan East End Only which includes office uses, etc. The CAP East analysis assumes CAGID lots are replaced and 200 net new spaces are added specifically for the office type uses in this east end area. Other special event uses and their associated parking is not addressed in this scenario for either the east or west ends of the civic area.
12 This adjustment in commercial parking demand is based on RRC employment density low and high range estimates coupled with existing car driver mode share information(employee difference from midpoint X 0.52)

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: May 3, 2016

AGENDA TITLE:

Consideration of a request to change the Boulder Valley Comprehensive Plan land use designation on a 0.25-acre portion of the property at 2560 28th Street from Park, Urban and Other to Mixed Use Business.

Second reading and consideration of a motion to adopt Ordinance No. 8115 rezoning a 0.25-acre portion of the property at 2560 28th Street, from Public to Business - Community 2, consistent with the Boulder Valley Comprehensive Plan land use designation of Mixed Use Business (LUR2015-00072).

PRESENTER/S
Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing & Sustainability
Susan Richstone, Deputy Director
Charles Ferro, Development Review Manager
Chandler Van Schaack, Planner II

EXECUTIVE SUMMARY

The proposed ordinance (*Attachment A*) would rezone a 0.25-acre portion of the property located at 2560 28th Street from Public (P) to Business - Community 2 (BC-2). The request for a rezoning is tied to a proposed land use map change from Park, Urban and Other to Mixed Use Business, and a Site Review proposal to redevelop the subject property with 10 attached residential units (LUR2015-00104). Planning Board took action on the proposed project at their April 7, 2016 meeting, voting 6-0 (L. May absent) to approve the Site Review and request for a land use map change and voting 6-0 to recommend approval of the rezoning request incorporating the staff memorandum as findings of fact. On April 19, 2016, City Council approved first reading of Ordinance 8115 by consent, and did not vote to call up the proposed Site Review. There were no questions for staff. The purpose of this public hearing is for City Council to make decisions on the following:

- Boulder Valley Comprehensive Plan (BVCP) land use designation change on a portion of the site from Park, Urban and Other to Mixed Use Business.

- Rezoning of a portion of the site from Public (P) to Business – Community 2 (BC-2).

Council's action on the BVCP land use designation change is a legislative action. Council's action on the rezoning request is quasi-judicial in nature and based on the detailed criteria for Rezoning found in the Land Use Code section 9-2-18(e), B.R.C. 1981.

Criteria for Council's Decision and Staff Findings on the Criteria.
The analysis section of this memo outlines the criteria that Council must consider in making its decision on the subject proposal and staff's analysis of the degree to which the proposal meets the criteria for each aspect of the request. In short, the criteria and staff's findings are as follows:

BVCP change: Council must find that the change is consistent with the policies and overall intent of the Boulder Valley Comprehensive Plan. Additionally, since this change is being considered outside of either the BVCP mid-term or major updates, the proposal must meet the criteria for BVCP changes that can be made at any time; for example, that the proposed change does not materially affect the land use and growth projections that were the basis of the comprehensive plan.

In its review of the proposed BVCP land use map change, staff found that the proposed change is consistent with the policies and overall intent of the comprehensive plan, and meets the criteria for changes that can be made at any time. The "Park, Urban and Other" land use designation applies specifically to "*public lands used for a variety of active and passive recreational purposes.*" The City, who used to own the area of land proposed for a land use map change, transferred the western portion of the land to merge with the eastern lot and serve a private commercial use. The City no longer intended a "Park, Urban and Other" land use for the property. Given the strong multi-modal connections to the site, the vibrant mixed-use context that has developed around the property and the fact that the eastern portion of the property is no longer planned to be developed as a public park or other public facility, amending the land use map to allow for a broader range of private redevelopment opportunities consistent with the land use designation on properties north of the site and the western portion of this parcel would improve the site's consistency with a number of BVCP core values and policies.

Rezoning: The city may only grant rezoning approvals if the proposal is consistent with the goals and policies of the BVCP. Further, a rezoning that is not part of a general revision of the zoning map must meet at least one of 6 criteria. For the current proposal, the criterion that has been cited is that the proposed rezoning is necessary to come into compliance with the BVCP land use map; therefore, if Council finds that the proposed BVCP land use map change is consistent with the policies and overall intent of the comprehensive plan and approves the land use map change, the rezoning would be meet the criteria.

In its review of the proposed rezoning, staff found that, if the proposed land use map change is approved, the rezoning is consistent with the goals and policies of the BVCP and is necessary to come into compliance with the BVCP land use map change recommended above.

Planning Board Consideration of Rezoning.
On April 7, 2016, Planning Board reviewed the requested BVCP land use change and Rezoning request as well as the associated Site Review (meeting packet and minutes available here (go to 2016 → 04 Apr)), and voted 6-0 (L. May absent) to approve the Site Review and request for a land use map change and to recommend approval of the rezoning request incorporating the staff memorandum as findings of fact. In recommending approval, the Planning Board found that the rezoning request is consistent with Land Use Code section 9-2-18(e), B.R.C. 1981. The draft ordinance to rezone is found in **Attachment A.** The Site Review approval is conditioned on a rezoning of the eastern 0.25-acre portion of the property at 2560 28th Street to BC-2.

STAFF RECOMMENDATION
The Staff recommendation below reflects the Planning Board's action on the project. Staff requests council consideration of this matter and action in the form of the following motion:

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

a) *Motion to approve a BVCP land use map change for the eastern 0.25 acres of land located at 2560 28th Street from Park, Urban and Other to Mixed Use Business; and*

b) *Motion to adopt Ordinance No. 8115 rezoning 0.25 acres of land located at 2560 28th Street from Public zoning district to Business Community – 2 zoning district, consistent with the Boulder Valley Comprehensive Plan land use designation of Mixed Use Business (LUR2015-00072).*

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The rezoning would result in consistent zoning of the property of BC-2.BC-2 is a more intense zone district than the P zoning district. BC-2 zoning supports a number of neighborhood-scale commercial uses as well as high-density residential uses. The rezoning would require no public expenditure and costs.Any development of the site would be undertaken and paid for by the property owner. The redevelopment of the site would enable the possibility for additional tax revenue flows to the City.

- Environmental – The existing land use designation and zoning for the site severely restrict development opportunities, so rezoning the property to allow for a broader range of residential and commercial infill development allows for more efficient use of land within the urban growth boundary.

- Social – None identified.

OTHER IMPACTS

- Fiscal – City services are existing and available to this site.
- Staff time: The applicant has submitted the required rezoning application fee to cover staff review time of this application for a rezoning.

PUBLIC FEEDBACK
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.

Staff received comments from several nearby property owners expressing opposition to the proposed project. Specifically, neighbors expressed concerns about the requested parking reduction based on potential parking and traffic impacts to neighboring commercial properties. There were no public comments on the proposed project at the April 7, 2016 Planning Board meeting.

BACKGROUND
The current BVCP Land Use Designations and associated zoning designations for the property at 2560 28th Street are reflective of the site's somewhat unique history. As shown below in **Figures 1 and 2**, the site currently has two separate land use designations, "Mixed Use Business" on the western portion of the property on which the existing commercial building is located, and "Park, Urban and Other" on the undeveloped eastern portion of the site. The zoning of the property corresponds to the land use designations, and is split between BC-2 (Business – Community 2) on the west and P (Public) on the east. As shown in the below figures, the Mixed Use Business land use designation and BC-2 zoning apply to properties along the east side of 28th St. to the north of the project site as well as along the west side of 28th to the north and south.

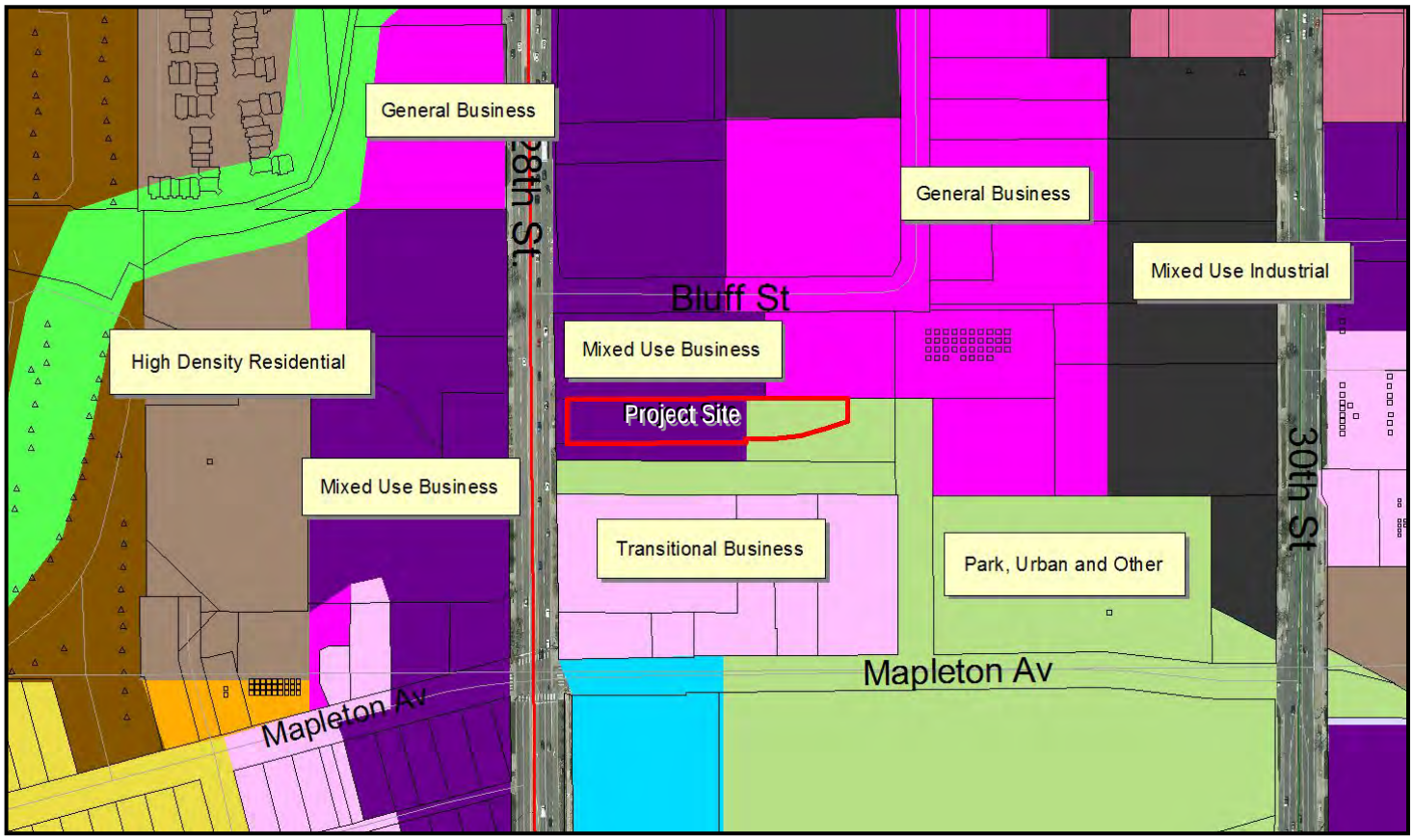


Figure 1: BVCP Land Use Map

The BVCP Land Use Map description for Mixed Use Business areas is as follows:

Mixed Use-Business development may be deemed appropriate and will be encouraged in some business areas. These areas may be designated Mixed Use-Business where business or residential character will predominate. Housing and public uses supporting housing will be encouraged and may be required. Specific zoning and other regulations will be adopted which define the desired intensity, mix, location and design characteristics of these uses

The "Park, Urban and Other" land use designation and P zoning designation that apply to the eastern portion of the project site are otherwise only found on the city-owned properties to the south and east of the site containing the Goose Creek path and Mapleton Ballfields. The BVCP defines the intent of the "Park, Urban and Other" land use designation as follows:

Urban and Other Parks includes public lands used for a variety of active and passive recreational purposes. Urban parks provided by the city include pocket parks, neighborhood parks, community parks and city parks as defined in the Parks and Recreation Master Plan. The specific characteristics of each park depend on the type of park, size, topography and neighborhood preferences… Other public recreational facilities, including city recreation centers, a golf course, swimming pools, ballfields, and the Eldorado Canyon State Park are also included in this category.

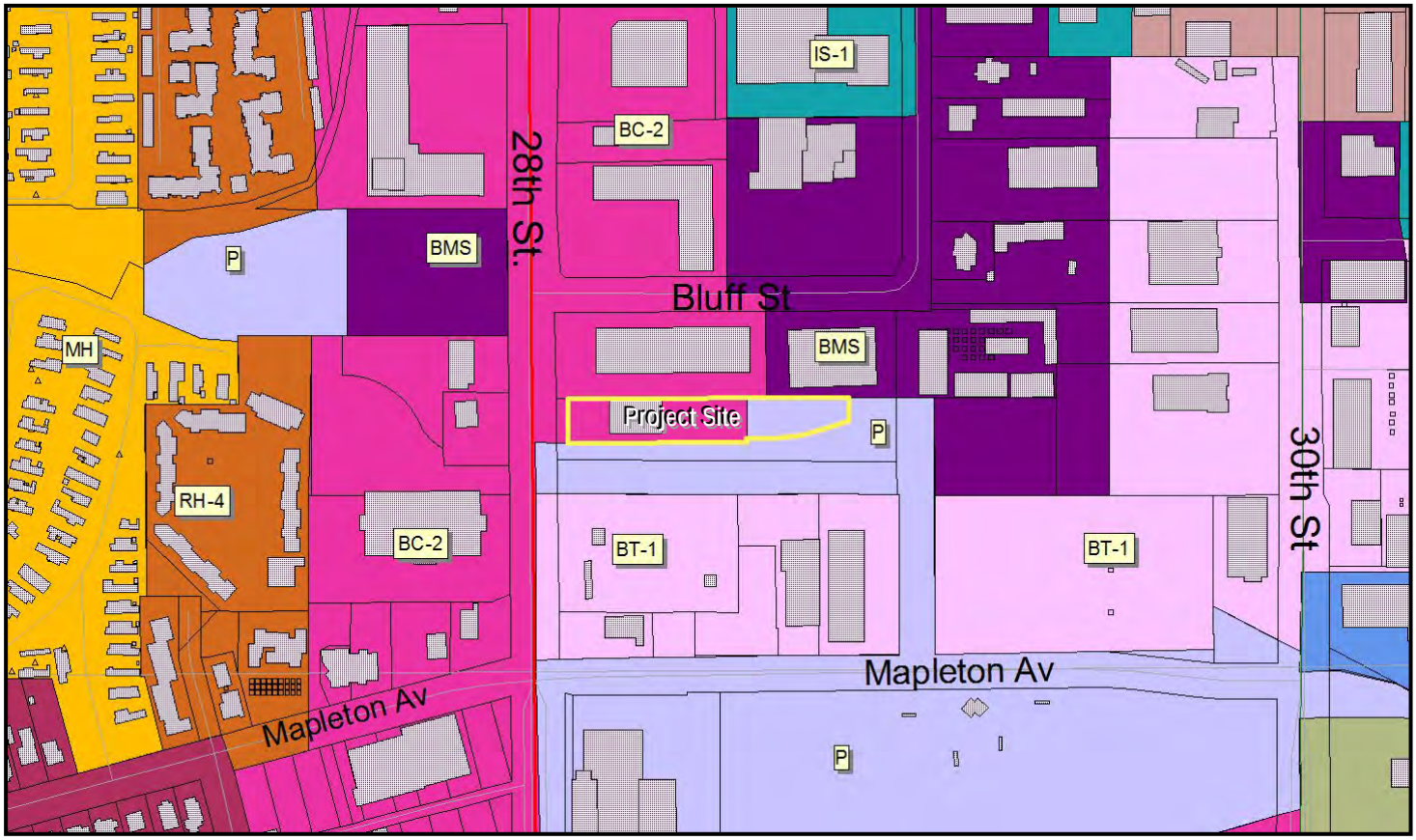


Figure 2: Zoning Map

The current split land use designation and zoning of the project site are the result of a land transfer that took place between the City and the former property owner in 1999 as part of the planning and construction of the Goose Creek flood control project. At the time of the land swap, Jack Pease owned Lot 1 of the Channel Park Subdivision and the City owned Lot 2 of the Channel Park Subdivision. The west line of Lot 1 borders 28th Street. Lot 2 was a flag lot to the east of Lot 1 with a 30-foot flag on the south side of Lot 1. The flag was encumbered by easements benefitting Lot 1. The City and the former owner negotiated the conveyance of a strip of land along 28th Street to the City and the extinguishment of a portion of the easement encumbering the flag of the City-owned Lot 2 in order to accommodate a city flood control project for Goose Creek as well as a 28th Street transportation improvement project. In exchange, the City transferred a portion of Lot 2 to Jack Pease. See **Figure 3** for an exhibit depicting the land swap.

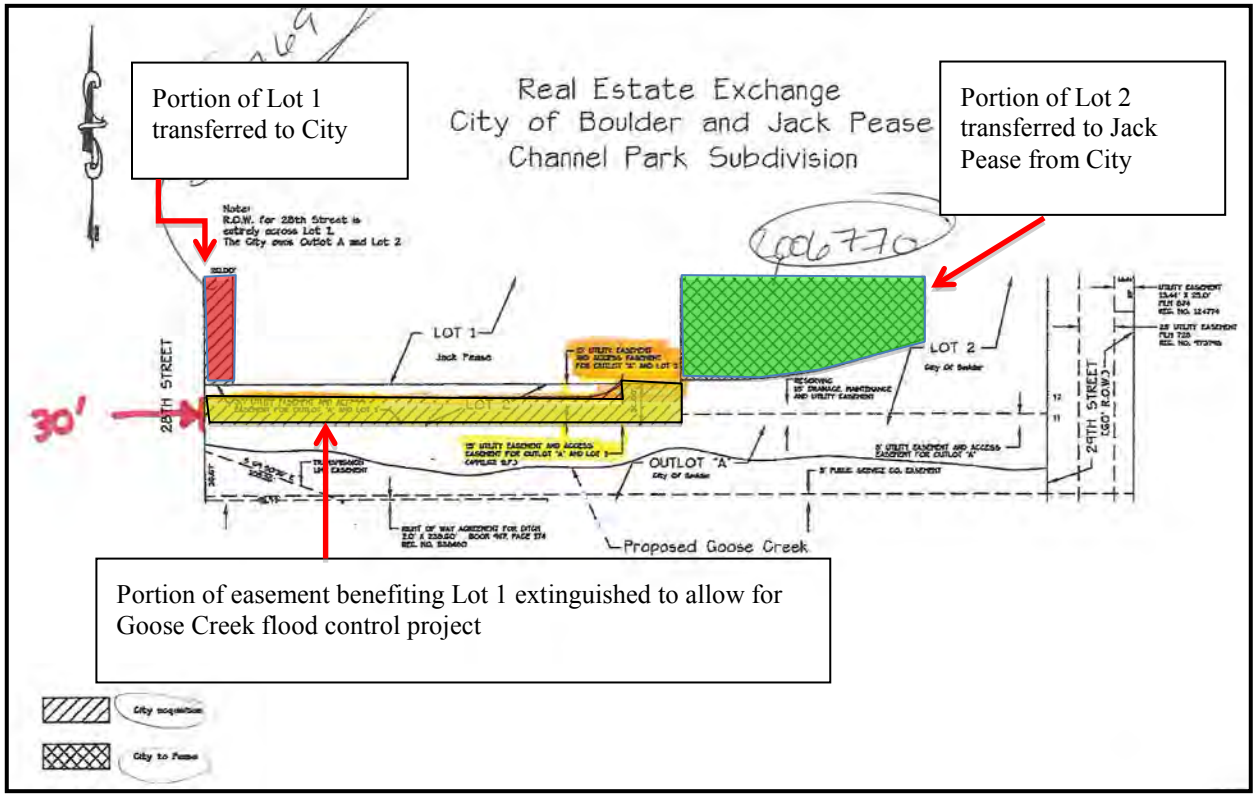


Figure 3: Land Swap Exhibit

The transfer of the portion of Lot was intended to create one larger merged building lot with Lot 1 and to initially serve as a parking area for uses located on Lot 1. The City agreed to install the parking improvements. City Council approved the land transfers. The intent of the land swap was to provide the property owner with one redevelopable site under the BC-E zoning (now known as BC-2). As part of the land swap, the city hired a consultant to explore potential redevelopment scenarios. These scenarios (included in **Attachment B**) anticipated an addition to the existing commercial building of 3,000 to 4,000 square feet, with the associated increase in required parking being accommodated on the eastern portion of the site. As noted by the applicant, the redevelopment scenarios created at that time appear to anticipate CB-E (now know as BC-2) zoning across the entire site.

Given that the land swap anticipated the eastern portion of the site being used for parking for the commercial use and that the land use code requires that "*any building additions or site improvements shall be regulated according to the zoning district in which such additions or improvements are located*" (section 9-9-2(d), B.R.C. 1981), it seems clear that a rezoning of the land transferred to the property owner by the city was anticipated. Following the land swap, the merged property was sold. The land use designation and zoning on the portion of Lot 2 transferred from City to the former property owner were never amended.

As described above, the current zoning on the subject site is split between BC-2 (Business – Community 2) on the western portion of the site and P (Public) on the eastern portion of the site. The intent of the BC-2 zone district is defined in section 9-5-2(c)(2)(G), B.R.C. 1981 as "*Business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate."* As such, a variety of commercial uses are allowed by-right in the BC-2 zone, including retail, personal service and office uses among others. While the intent of the BC-2 zone is primarily for retail and other commercial uses, duplexes and attached dwelling units are also uses allowed by-right in the zone. In fact, the BC-2 zone allows for the maximum residential density found in the land use code (27.2 DU/acre), which is based on a 1,600 sq. ft. minimum lot area per dwelling unit requirement with a minimum required open space per dwelling unit of 600 sq. ft. It is also worth noting that in the BC-2 zone, principal building height may be increased up to 40 feet without Site Review if the property is not adjacent to any residential zone district or residential land use designation.

The intent of the Public zoning district is defined in section 9-5-2(c)(5)(A), B.R.C. 1981 as "*Public areas in which public and semi-public facilities and uses are located, including without limitation, governmental and educational uses."* Given that the intent of the P zone is to support public and semi-public uses, most commercial uses, including retail, office and restaurant uses, are prohibited. Duplexes and attached residential uses are allowed only if approved through Use Review, and at a low density of 6.2 dwelling units per acre.

LAND USE MAP CHANGE

The request for a rezoning is tied to the proposed land use map change that council will be asked to consider at its May 3rd meeting. Land use map changes may be considered at the time of rezoning subject to the following criteria:

Criteria for eligibility for changes that may be considered at any time:

(1) Land Use Map changes:

The Land Use Map is not intended to be a zoning map. It is intended to provide policy direction and definition for future land uses in the Boulder Valley. Thus, a change to the land use designations may be considered at any time if it is related to a proposed change in zoning or proposed annexation and meets all of the following criteria:

1. ***The proposed change is consistent with the policies and overall intent of the comprehensive plan.***

The proposed land use map change is consistent with the policies and overall intent of the comprehensive plan. As discussed above, the portion of property in question was transferred to the property owner by the city in 1999 in exchange for property and an easement required to accommodate the Goose Creek flood control project and 28th Street improvements. The land transferred to the property owner was previously owned by the city and anticipated to be developed as open space, hence the "Park, Urban and other" land use designation and associated Public zoning designation. As the documentation shows, the intent of the land swap was not to maintain the eastern portion of the subject property as open space or park land, but to make up for lost parking for the existing commercial use while allowing for additional parking should the commercial use be expanded in the future. The "Park, Urban and Other" land use designation applies specifically to "*public lands used for a variety of active and passive recreational purposes.*" The City transferred the western portion of the land to merge with the eastern lot and serve a private commercial use. The City no longer intended a "Park, Urban and Other" land use for the property.

Since the land swap was completed in 1999, the Goose Creek flood control project has been completed, and the area surrounding the project site has been developed as a mix of residential, retail, office and recreational uses. Since that time, the eastern portion of the subject property has remained in private ownership and has served as parking for the existing commercial use on the western portion of the site. Given the strong multi-modal connections to the site, the vibrant mixed-use context that has developed around the property and the fact that the eastern portion of the property is no longer planned to be developed as a public park or other public facility, amending the land use map to allow for a broader range of private redevelopment opportunities consistent with the land use designation on properties north of the site and the western portion of this parcel would improve the site's consistency with a number of BVCP core values and policies. Specifically, adopting the proposed land use and zoning to allow for infill development on an underutilized site close to transit and bike/ped facilities would support the BVCP core values of **sustainability** as a unifying framework, **compact, contiguous** development and infill that supports evolution to a more **sustainable urban form,** a diversity of **housing** types and price ranges, and an all-mode **transportation** system to make getting around without a car easy and accessible to everyone. In addition, the proposed land use map change would meet a number of specific BVCP Policies, including but not limited to the following:

- **1.16 Adapting to Limits on Physical Expansion**

"…*maintaining and improving the quality of life within defined physical boundaries"*

As discussed above, the "Park, Urban and Other" land use designation no longer fits the site due to the fact that the city transferred the land to private ownership in 1999 and has no intention of developing the site as a park or other public use. The existing land use designation and zoning for the site severely restrict redevelopment opportunities, so allowing for a change of land use to accommodate zoning which

allows for a broader range of residential and commercial infill development allows for more efficient use of land within the urban growth boundary.

- **1.19 Jobs:Housing Balance**

"…encouraging new housing and mixed use neighborhoods in areas close to where people work, encouraging transit-oriented development in appropriate locations…"

The existing land use and zoning of the property are not intended to support residential development, and allow only for low-density residential uses through discretionary review. The proposed land use of Mixed Use Business would allow for a rezoning to BC-2, which allows for a much greater range and density of housing types (as demonstrated by the current site review application, which would add 10 new townhouse-style units where only 4 units would be possible under the existing zoning and land use).

- **2.03 Compact Development Pattern**

"… The city prefers redevelopment and infill as compared to development in an expanded Service Area in order to prevent urban sprawl and create a compact community."

Changing from the current land use designation and zoning which are intended only for public uses to a land use designation and zoning intended for residential or commercial character will allow for more efficient redevelopment of the land and for infill development that is compatible with the surrounding area.

- **2.16 Mixed Use and Higher Density Development**

"The city will encourage well-designed mixed use and higher density development that incorporates a substantial amount of affordable housing in appropriate locations, including in some commercial centers and industrial areas and in proximity to multimodal corridors and transit centers."

The project site is located within an existing mixed use context immediately adjacent to a major multi-modal corridor and is within 1/3 mile of Boulder Junction transit facilities. Amending the land use from "Paerks, Urban and other" to "Mixed Use Business" would allow for a rezoning to BC-2, thereby allowing for a variety of mixed use and higher density development not currently allowed under the existing zoning on the site.

- **2.21 Commitment to a Walkable and Accessible City**

"The city and county will promote the development of a walkable and accessible city by designing neighborhoods and business areas to provide easy and safe access by foot to places such as neighborhood centers, community facilities, transit stops or centers, and shared public spaces and amenities."

In terms of walkability, the subject site is optimally located immediately adjacent to the Goose Creek path. As discussed above, the existing land use and zoning on the site

are intended for public uses. Given that the site is not intended for public development and is currently in private ownership, changing the land use to allow for more residential and commercial uses would facilitate new development close to existing pedestrian amenities as described above.

- **4.04 Energy-Efficient Land Use**

"*The city and county will encourage energy conservation through land use policies and regulations governing placement, orientation and clustering of development"*

The site's proximity to existing services, transit and multi-modal corridors makes it ideal for energy efficient redevelopment, and changing the land use and zoning to allow for a broader range of redevelopment opportunities consistent with the existing character of the surrounding area would facilitate such redevelopment.

- **6.02 Reduction of Single Occupancy Auto Trips**

"*The city and county will support greater use of alternatives to single occupancy automobile travel."*

Changing the land use designation from "Park, Urban and Other" to "Mixed Use Business" will support redevelopment of this transit-rich and well-connected site from an overflow parking lot. Redevelopment on the subject site will be able to access transit and a wide array of amenities via the Goose Creek multi-use path, thereby reducing the demand for SOV travel to and from the site.

2. ***The proposed change would not have significant cross-jurisdictional impacts that may affect residents, properties or facilities outside the city.***

Standard met. Given that the project site was transferred to the property owner by the city in 1999 and that it is no longer intended for public use as well as the fact that the new requested land use designation of MUB currently applies to much of the surrounding area, and its location near the 28th Street corridor and away from city boundaries, staff finds that the requested land use map change would not have any cross-jurisdictional impacts. In addition, the small size of the portion of property proposed to be rezoned limits the overall redevelopment potential such that any new development on that portion of the site under BC-2 zoning would be limited to a relatively small size, thereby reducing the chance that there would be any cross-jurisdictional impacts.

3. ***The proposed change does not materially affect the land use and growth projections that were the basis of the comprehensive plan.***

Standard met. The small size of the portion of property to be rezoned limits the redevelopment potential of the site to such an extent that any new development would not be large enough to affect the overall growth projections included in the BVCP. Using the current Site Review proposal as an example, the number of additional potential residential units (10) are not a significant change from what was projected.

Further, it is important to note that the subject portion of property was exchanged for land that was previously held under private ownership and which could theoretically have allowed for additional redevelopment beyond what is currently existing on the site. When looked at in that context, the overall amount of redevelopment potential on the site following the land swap is roughly equivalent to what would have been possible anyways without the land swap.

4. ***The proposed change does not materially affect the adequacy of availability of urban facilities and services to the immediate area or to the overall service area of the City of Boulder,***

   Standard met. The proposed change, and the requested residential development associated with the change, would not affect the adequacy of availability of urban facilities and services to the immediate or greater surrounding area. In fact, the requested land use map change would allow for efficient, infill development within a mixed use context, and would allow for greater utilization of existing urban services and facilities. It would not require that new services and facilities be extended into an undeveloped area.

5. ***The proposed change would not materially affect the adopted Capital Improvements Program of the City of Boulder.***

   Standard met. The proposed change would have no impact on the adopted Capital improvements Program, as it applies only to a small portion of property that is not included in CIP projections.

6. ***The proposed change would not affect the Area II/Area III boundaries in the comprehensive plan.***

   Standard met. The subject site is located in Area I.

Therefore, staff recommends that city council, at its May 3rd meeting, approve a land use map change from Park, Urban and Other to Mixed Use Business.

REZONING

Rezonings of individual properties are quasi-judicial in nature and may be approved by city council only if city council finds that the rezoning criteria are met. Section 9-2-18, "Rezoning," B.R.C. 1981, states:

> ***The city´s zoning is the result of a detailed and comprehensive appraisal of the city´s present and future land use allocation needs. In order to establish and maintain sound, stable, and desirable development within the city, rezoning of land is to be discouraged and allowed only under the limited circumstances herein described.***

Rezoning Criteria:

City council shall grant a rezoning application <u>only if the proposed rezoning is consistent with the policies and goals of the Boulder Valley Comprehensive Plan</u>, <u>and</u>, for an application not incidental to a general revision of the zoning map, <u>meets one of the following criteria</u> (see below for the latter criteria analysis):

Staff finds the requested rezoning and associated land use map change to be consistent with the goals and policies of the Boulder Valley Comprehensive Plan (BVCP), specifically with the overall intent of the comprehensive plan and several goals and policies pertaining to sustainability, compact development, multi-modal transportation and provision of housing that were discussed above.

> ***✓ The applicant demonstrates by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map;***
>
> The requested rezoning from Public (P) to Business- Community 2 (BC-2) is predicated upon a change in the underlying land use from "Parks, Urban and Other" to "Mixed Use Business." With a land use designation of Mixed Use Business, rezoning of the project site from P to BC-2 would be necessary to bring the property into compliance with the BVCP land use map. The BVCP Land Use Map description for Mixed Use Business areas is as follows:
>
> *Mixed Use-Business development may be deemed appropriate and will be encouraged in some business areas. These areas may be designated Mixed Use-Business where business or residential character will predominate. Housing and public uses supporting housing will be encouraged and may be required. Specific zoning and other regulations will be adopted which define the desired intensity, mix, location and design characteristics of these uses*
>
> The existing Public zoning on the subject site does not correspond to the above intent. The intent of the Public zoning district is defined in section 9-5-2(c)(5)(A), B.R.C. 1981 as "*Public areas in which public and semi-public facilities and uses are located, including without limitation, governmental and educational uses.*" The existing zoning is the result of the former "Park, Urban and other" land use designation, which was intended for public recreational facilities. Given that the intent of the P zone is to support public and semi-public uses, most commercial uses, including retail, office and restaurant uses, are prohibited.
>
> While the intent of the Mixed Use Business land use designation does not necessarily correspond with one particular zoning district city-wide, in the area surrounding the project site along the east side of 28th St. to the north and along the west side of 28th to the north and south, BC-2 zoning has historically been applied to implement the

Mixed Use Business land use designation. The intent of the BC-2 zone district is defined in section 9-5-2(c)(2)(G), B.R.C. 1981 as "*Business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate.*"

Upon amendment of the Land Use Map as recommended in this memo, the intent of the P zone district would no longer be in compliance with the underlying land use designation and the BC-2 zone would be in keeping with the intent of the Mixed Use Business land use designation and as such has been applied to properties with a Mixed Use Business land use designation in the surrounding area; it follows that upon a change in the Land Use Map to a Mixed Use Business designation, rezoning of the subject property from P to BC-2 would be necessary to bring the property into compliance with the BVCP land use map.

N/A ***The existing zoning of the land was the result of a clerical error;***

N/A ***The existing zoning of the land was based on a mistake of fact;***

N/A ***The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage;***

N/A ***The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area; or***

N/A ***The proposed rezoning is necessary in order to provide land for a community need that was not anticipated at the time of adoption of the Boulder Valley Comprehensive Plan.***

ATTACHMENTS

Attachment A: Ordinance No. 8115

Attachment B: Land Swap Redevelopment Scenarios

ORDINANCE NO. 8115

AN ORDINANCE REZONING 0.25 ACRES OF LAND LOCATED AT 2560 28th STREET FROM THE PUBLIC (P) TO THE BUSINESS - COMMUNITY 2 (BC-2) ZONING DISTRICT AS DESCRIBED IN CHAPTER 9-5, "MODULAR ZONE SYSTEM," B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

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

A. A public hearing before the Planning Board of the City of Boulder was duly held on April 7, 2016, in consideration of rezoning approximately 0.25 acres of land from the Public (P) to the Business - Community 2 (BC-2) zoning district; the 0.25 acres of land are generally located at 2560 28th Street, City of Boulder, County of Boulder, State of Colorado, as more particularly described on Exhibit A attached to this ordinance (the "Property").

B. The Planning Board found that the rezoning of the Property from the Public (P) to the Business - Community 2 (BC-2) zoning district is consistent with the policies and goals of the Boulder Valley Comprehensive Plan; is necessary to bring the Property into compliance with the Boulder Valley Comprehensive Plan map; and meets the criteria for rezoning as provided in Chapter 9-2, "Review Processes," B.R.C. 1981.

C. The Planning Board recommended that the City Council amend the zoning district map to include the Property in the Business - Community 2 (BC-2) zoning district as provided in Chapter 9-5, "Modular Zone System," B.R.C. 1981.

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

Section 1. Chapter 9-5, "Modular Zone System," B.R.C. 1981, and the zoning district map forming a part thereof are amended to include the Property within the Business - Community 2 (BC-2) zoning district.

Section 2. The City Council finds that the rezoning of the Property from the Public (P) to the Business - Community 2 (BC-2) zoning district is consistent with the policies and goals of the Boulder Valley Comprehensive Plan, is necessary to bring the Property into compliance with the Boulder Valley Comprehensive Plan map, and meets the criteria for rezoning as provided in Chapter 9-2, "Review Processes," B.R.C. 1981. The City Council adopts the recitals as a part of this ordinance.

Section 3. The City Council has jurisdiction and legal authority to rezone the Property.

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. The rezoning of the Property bears a substantial relation to, and will enhance the general welfare of, the Property and of the residents of the City of Boulder.

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

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 19th day of April, 2016.

_____
Mayor

Attest:

_____
City Clerk

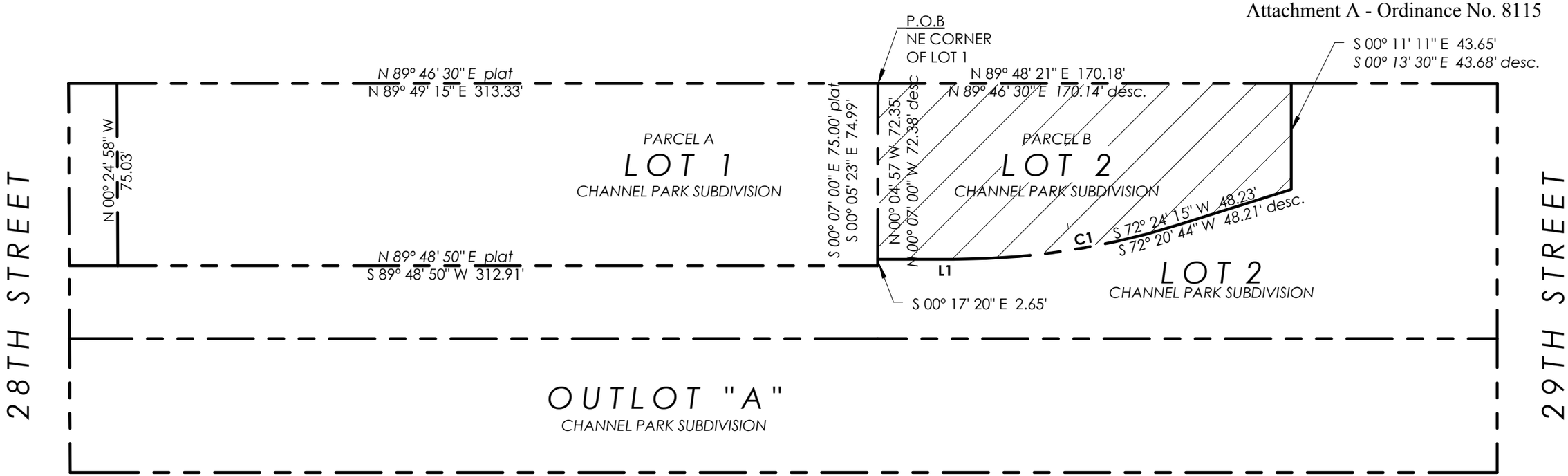
READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of May, 2016.

_____
Mayor

Attest:

_____
City Clerk

EXHIBIT A



CURVE	DELTA ANGLE	RADIUS	ARC	CHORD	CHORD BEARING
C1	17°25'39" *(17°25'30" desc.)*	310.50'	*94.44' (94.43' desc.)*	94.07'	S 81°03'29"

LINE	BEARING	DISTANCE
L1	S89°50'14"W *(S89°48'13"W desc.)*	31.30'

LEGAL DESCRIPTION

A PARCEL OF LAND BEING A PORTION OF LOT 2, CHANNEL PARK SUBDIVISION. A SUBDIVISION LOCATED IN THE NORTHEAST 1/4 OF THE NORTWEST 1/4 OF SECTION 29. TOWNSHIP 1 NORTH. RANGE 70 WEST OF THE 6TH P.M. CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO. THE PLAT OF WHICH IS RECORDED IN PLANFILE P-8.F-3.#17 OF THE BOULDER COUNTY RECORDS. SAID PARCEL OF LAND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS

BEGINNING AT THE NORTHEAST CORNER OF LOT 1 OF SAID CHANNEL PARK SUBDIVISION.
THENCE N 89°46'30" E ALONG THE NORTH LINE OF LOT 2 OF SAID CHANNEL PARK SUBDIVISION. 170.14 FEET;
THENCE S 00°13'30" E. 43.68 FEET;
THENCE S 72°20'44" W. 48.21 FEET;
THENCE 94.43 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, SAID CURVE HAVING A RADIUS OF 310.50 FEET. A CENTRAL ANGLE OF 17°25'30". AND A CHORD THAT BEARS S 81°03'29" W. 94.07 FEET;
THENCE S 89°46'13" W. 31.30 FEET TO A POINT ON THE EAST LINE OF SAID LOT 1:
THENCE N 00°07'00" W. ALONG THE EAST LINE OF SAID LOT 1. 72.38 FEET TO THE POINT OF BEGINNING.
THE ABOVE DESCRIBED STRIP OF LAND CONTAINS 10,894 SQUARE FEET (0.250 ACRES) MORE OR LESS.

EXHIBIT MAP:
A PORTION OF LOT 2
CHANNEL PARK SUBDIVISION

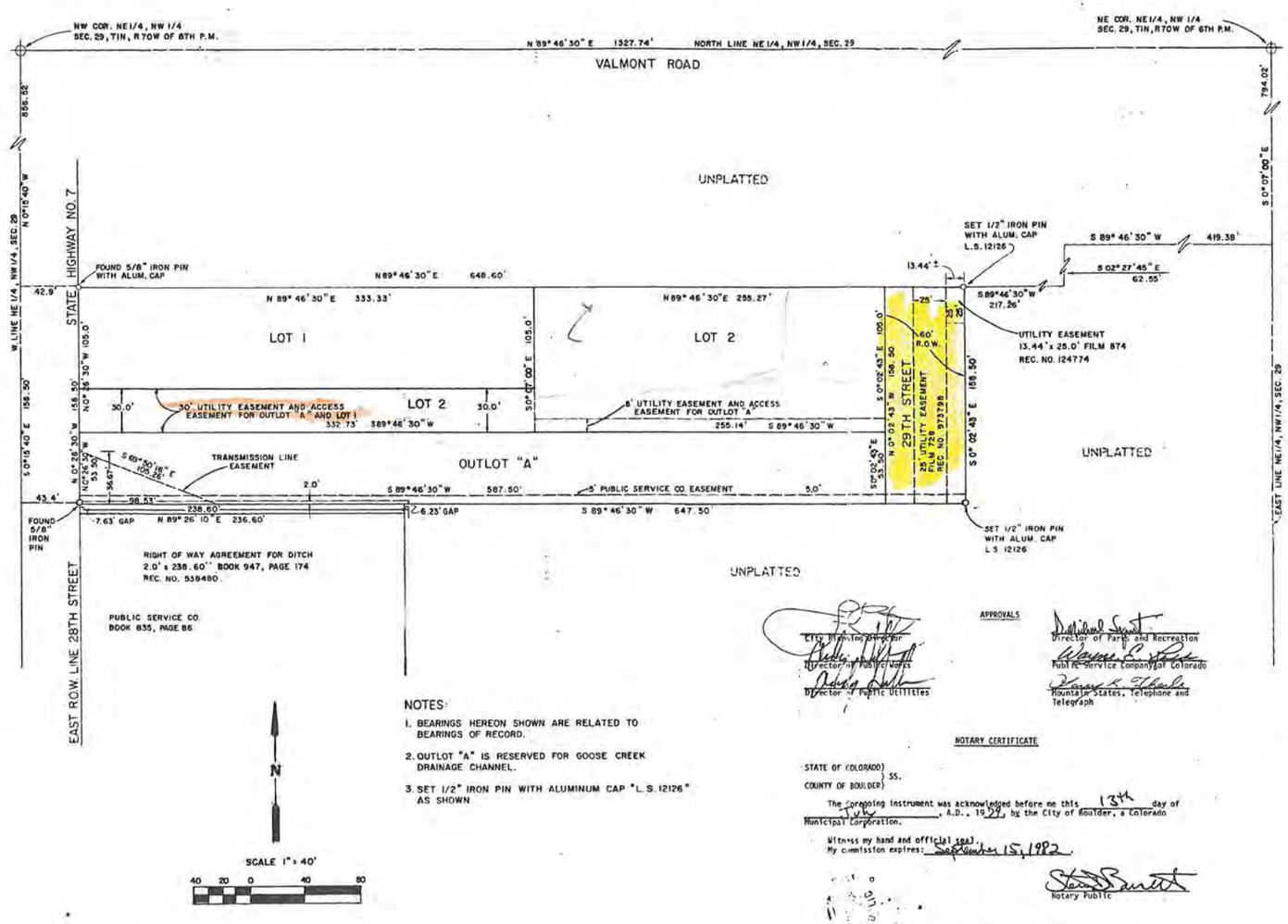
LOCATED IN THE NE 1/4 NW 1/4
SECTION 29, T1N, R70W, CITY OF
BOULDER, COUNTY OF BOULDER,
STATE OF COLORADO

NOTE:

THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY OR TITLE SEARCH PERFORMED BY COBURN DEVELOPMENT, INC. THERE MAY EXIST EASEMENTS AND/OR OTHER ENCUMBRANCES AFFECTING THE SUBJECT PROPERTY THAT ARE NOT SHOWN HEREIN.

CHANNEL PARK SUBDIVISION

A SUBDIVISION OF A PART OF THE NE 1/4 OF THE NW 1/4 OF SECTION 29, T1N, R70W OF THE 6TH P.M.
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
AREA = 2.358 ACRES, MORE OR LESS



NOTES:

1. BEARINGS HEREON SHOWN ARE RELATED TO BEARINGS OF RECORD.
2. OUTLOT "A" IS RESERVED FOR GOOSE CREEK DRAINAGE CHANNEL.
3. SET 1/2" IRON PIN WITH ALUMINUM CAP "L.S. 12126" AS SHOWN

APPROVALS

City Planning Director
Director of Public Works
Director of Public Utilities
Director of Parks and Recreation
Public Service Company of Colorado
Mountain States, Telephone and Telegraph

NOTARY CERTIFICATE

STATE OF COLORADO } SS.
COUNTY OF BOULDER }

The foregoing instrument was acknowledged before me this 13th day of July, A.D., 1979, by the City of Boulder, a Colorado Municipal Corporation.

Witness my hand and official seal.
My commission expires: September 15, 1982.

Notary Public

SURVEYOR'S CERTIFICATE

I, Albert O. Rose, do hereby certify that this plat as shown on the accompanying map was prepared under my supervision and that the same is correct to the best of my knowledge and belief. I have complied with Colorado Revised Statutes, Chapter 51, Article 2, (1963, as amended in 1967).

Registered Land Surveyor
No. 1926

DEDICATION

KNOW ALL MEN BY THESE PRESENTS:

That the City of Boulder, a Colorado Municipal Corporation is the owner of that real property situated in the City of Boulder, County of Boulder, State of Colorado, and lying within the exterior boundary of Channel Park Subdivision, a subdivision of a part of the NE¼ of the NW¼ of Section 29, T1N, R70W of the 6th P.M., City of Boulder, County of Boulder, State of Colorado, described as follows:

Commencing at the NW corner of said Section 29;

thence S 0°07'00" E, 794.02 feet along the East line of the NE¼ of the NW¼ of said Section 29;

thence S 89°46'30" W, 419.38 feet parallel with the North line of the NE¼ of the NW¼ of said Section 29 to a point on the Easterly line of that tract of land described in Book 906 at Page 205 in the Boulder County Records;

thence S 2°27'45" E, 62.55 feet along the Easterly line of said tract of land described in said Book 906 at Page 205 to the Southeast corner thereof;

thence S 89°46'30" W, 217.26 feet along the South line of said tract of land described in said Book 906 at Page 205 to the True Point of Beginning;

thence S 0°02'43" E, 158.50 feet along the West line of that tract of land described on said Film 874 as Reception No. 124774 to the Southwest corner thereof;

thence S 89°46'30" W, 647.50 feet parallel with the North line of the NE¼ of the NW¼ of said Section 29 and also being along the South line of that tract of land described in Book 809 at Page 350 in the said Boulder County Records to the East ROW line of 28th Street (State Highway No. 7);

thence N 0°26'30" W, 158.50 feet along the East line of said 28th Street to the South line of said tract of land described in said Book 906 at Page 205;

thence N 89°46'30" E, 648.60 feet along the South line of said tract of land described in said Book 906 at Page 205 to the True Point of Beginning.

That the City of Boulder has laid out, subdivided and platted said land as per the drawing hereon contained under the name Channel Park, a subdivision of a part of the City of Boulder, Colorado, and by these presents do dedicate the street as shown on the accompanying plat for the public use thereof forever and does further dedicate those portions of said real property which are so designated as "Utility Easements" on the accompanying plat as easements for all municipally owned or municipally franchised utilities and services.

Executed this 13TH day of JULY, 1979.

City Manager

Director of Finance and Records
Ex-officio City Clerk

PLANNING BOARD CERTIFICATE

This is to certify the within plat has been approved by the Planning Board of the City of Boulder, Colorado.

Chairman

MAYOR'S CERTIFICATE

This is to certify that the City of Boulder, Colorado, by motion of its City Council did on the 10TH day of JULY, 1979, adopt and approve this plat and accept the dedications hereon made.

Mayor

ATTEST:

Director of Finance and Records
Ex-officio City Clerk

CITY SEAL

CLERK AND RECORDER'S CERTIFICATE

STATE OF COLORADO } SS.
COUNTY OF BOULDER }

I hereby certify that this plat was filed in my office at 9:38 AM o'clock A.M. on the 19th day of July, 1979, and is duly recorded in Plan File P-8 F-3 #17. Fees Paid $10.00

FILM 1093
Recp 349135

Recorder

By: Deputy

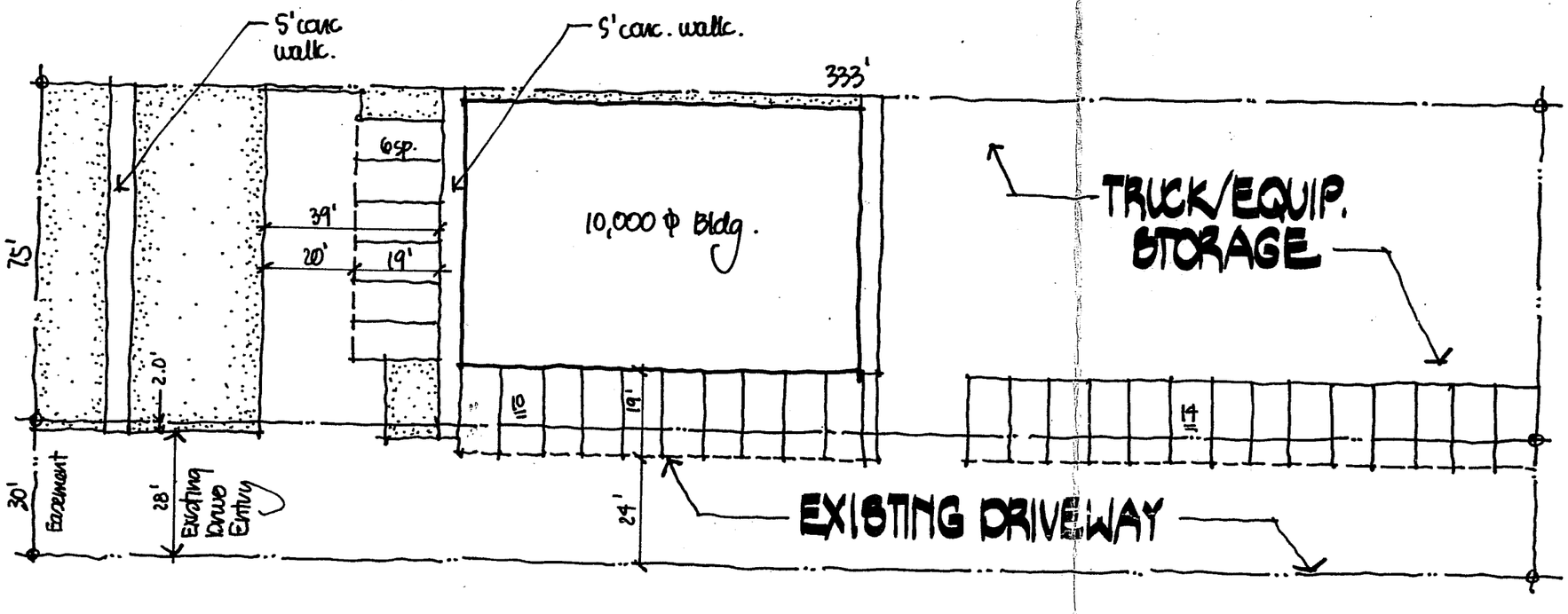
P-8 F-3 #17

PIANFILE P-8 F-3 #17

July 19 1979

Film 00349135

ATTACHMENT "A"



ZONING: CB-E

min lot area: 6,000 ϕ
Parking: 1 sp./300 ϕ
min Front Yd. SB (Landscaped): 20' *
min side Yd: 12' (if any provided)
min Rear Yd: 20'
Max Ht: 35'

* 90' SB from ℄ of major arterial (or) 25' from ROW, whichever is greater.

TOTAL PARKING: 29 spaces + storage
TOTAL POTENTIAL PARKING (if incl. storage): 45 spaces.

TOTAL CITY ELECTRIC SITE: 75' x 333.33' = 25,000 ϕ
+ EASEMENT: 30' x 333.33' = 10,000 ϕ
TOTAL: 35,000 ϕ

EXISTING CONDITION

CITY ELECTRIC SITE STUDIES
BOULDER, COLORADO

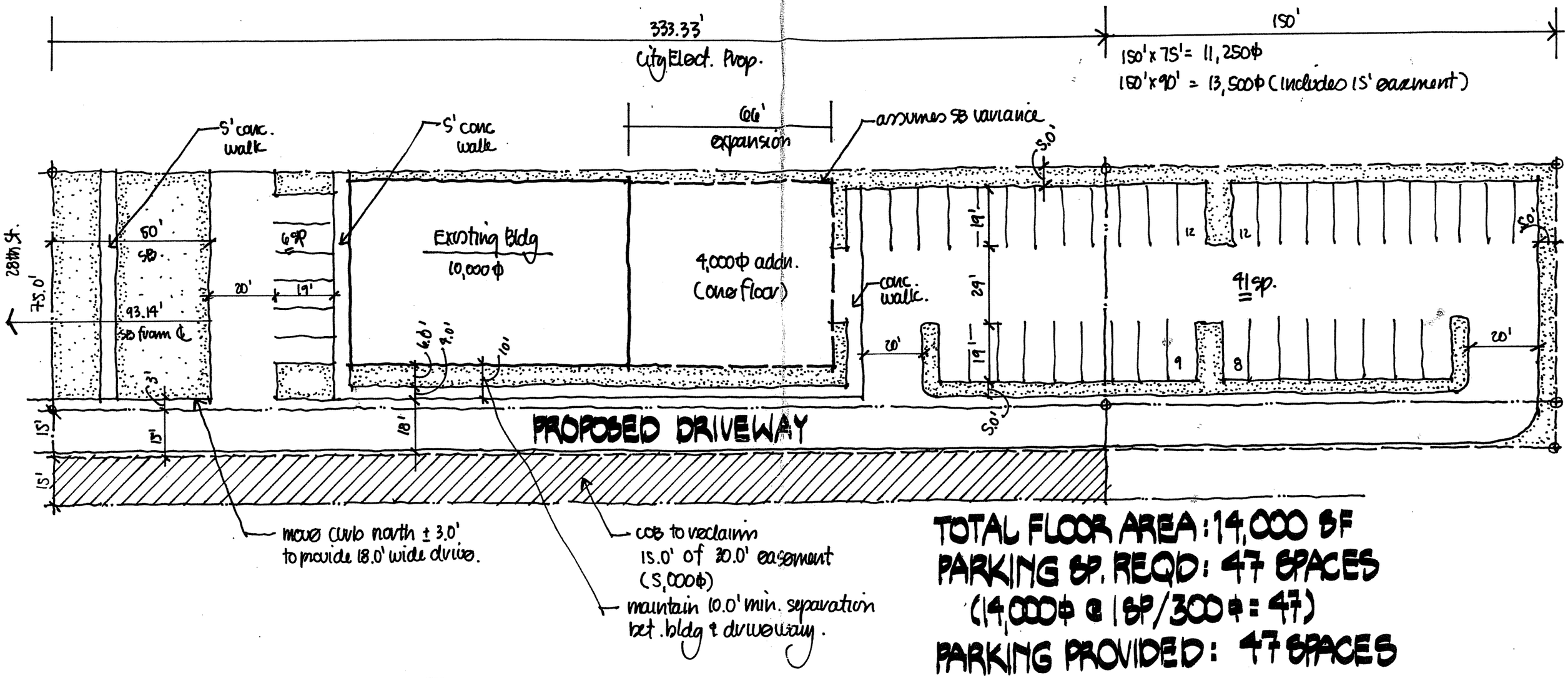
N

1" = 30.0'

30 JUNE 1995

BLACKWOOD & Company
URBAN DESIGN AND PLANNING

ATTACHMENT "A"



TOTAL FLOOR AREA: 14,000 SF
PARKING SP. REQD: 47 SPACES
(14,000 ϕ @ 1 SP/300 ϕ = 47)
PARKING PROVIDED: 47 SPACES

DEVELOPMENT SCENARIO 1.

4,000 ϕ single story addn.

CITY ELECTRIC SITE STUDIES
BOULDER, COLORADO

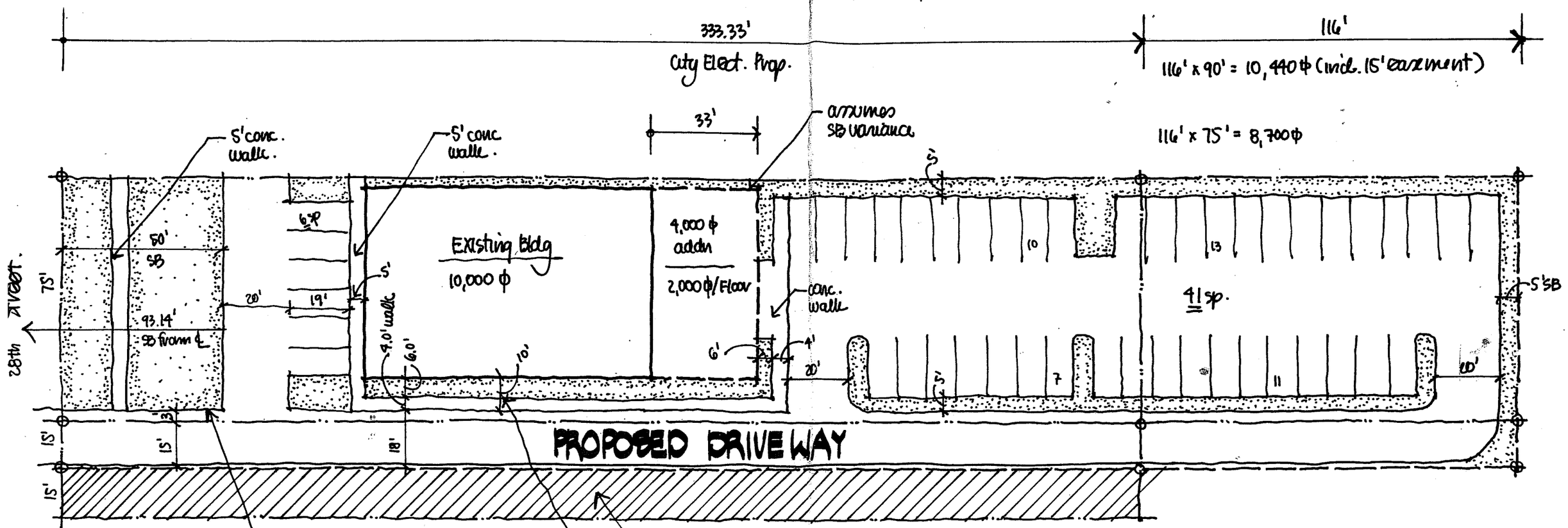
N

1" = 30.0'

30 JUNE 1995

BLACKWOOD & Company
URBAN DESIGN AND PLANNING

ATTACHMENT "A"



TOTAL FLOOR AREA: 14,000 SF
PARKING SP. REQD: 47 SPACES
(14,000 ϕ @ 1 SP/300 ϕ = 47)
PARKING PROVIDED: 47 SPACES

DEVELOPMENT SCENARIO 2

4,000 ϕ · two · story addn.

CITY ELECTRIC SITE STUDIES
BOULDER, COLORADO

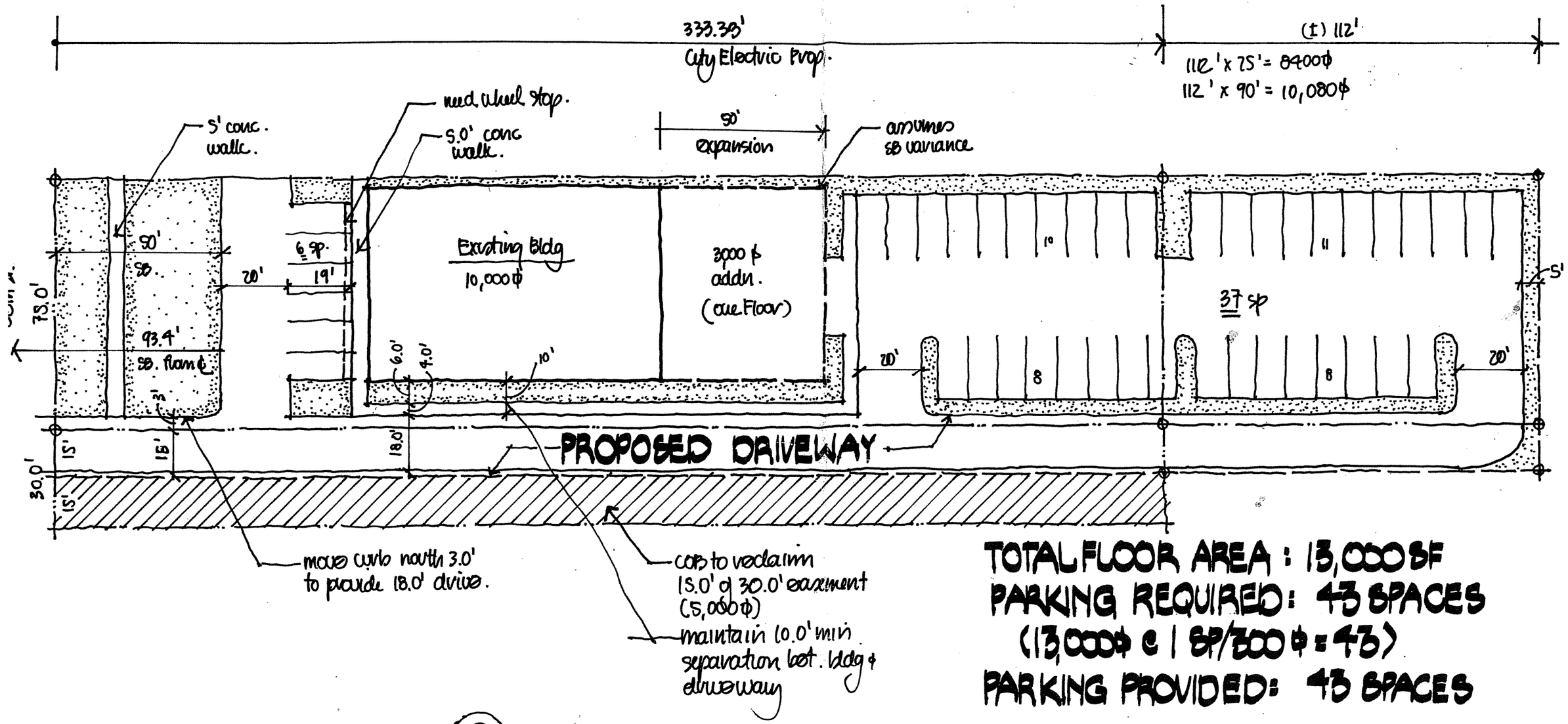
N

1" = 30.0'

30 JUNE 1995

BLACKWOOD & Company
URBAN DESIGN AND PLANNING

ATTACHMENT "A"



TOTAL FLOOR AREA : 13,000 SF
PARKING REQUIRED: 43 SPACES
(13,000 ϕ @ 1 SP/300 ϕ = 43)
PARKING PROVIDED: 43 SPACES

DEVELOPMENT SCENARIO 3. 3,000 ϕ · one-story addition

CITY ELECTRIC SITE STUDIES
BOULDER, COLORADO

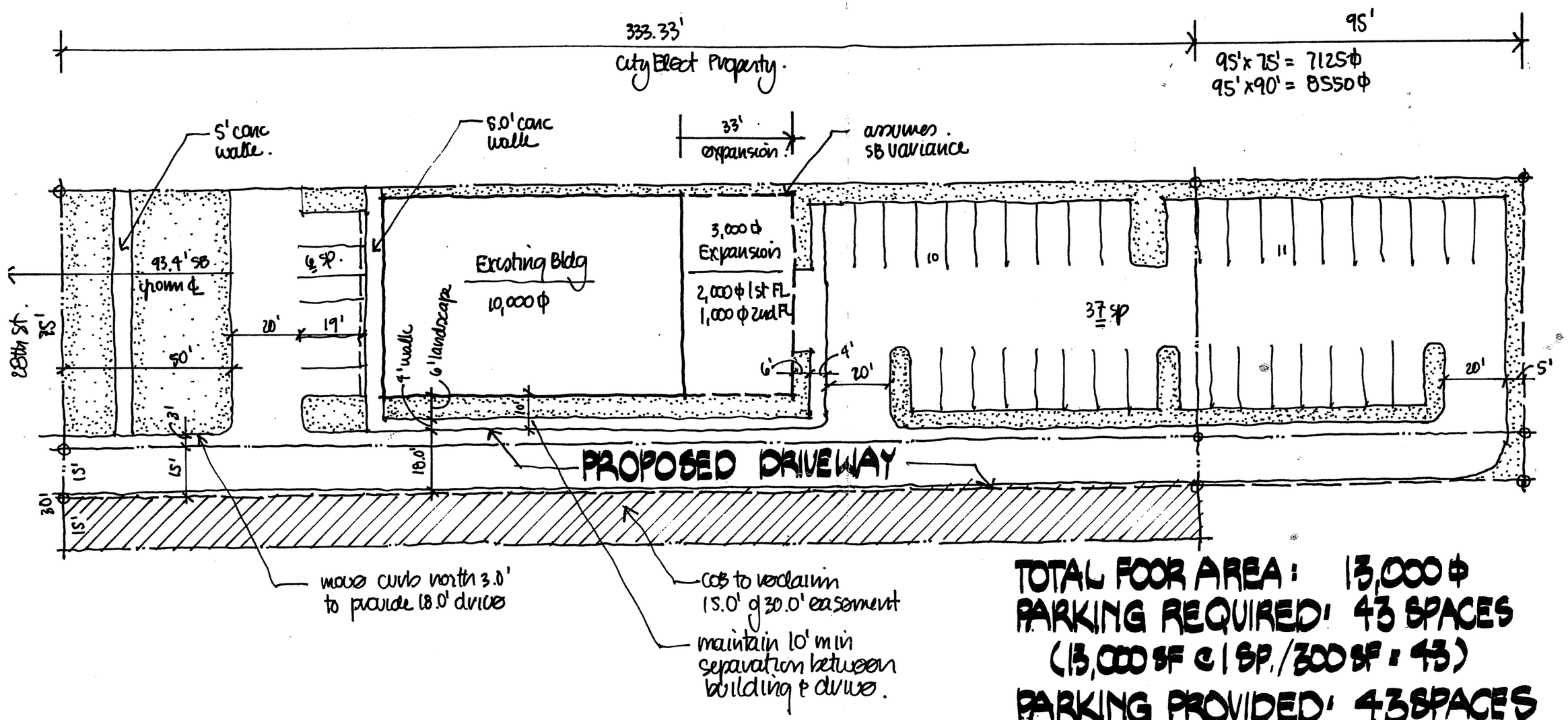
N

1" = 30.0'

30 JUNE 1995

BLACKWOOD & Company
URBAN DESIGN AND PLANNING

ATTACHMENT "A"



TOTAL FOOR AREA: 13,000 ϕ
PARKING REQUIRED: 43 SPACES
(13,000 SF @ 1 SP./300 SF = 43)
PARKING PROVIDED: 43 SPACES

DEVELOPMENT SCENARIO 4

3,000 SF addn: First Floor = 2000 ϕ / 2nd Floor = 1,000 ϕ

CITY ELECTRIC SITE STUDIES
BOULDER, COLORADO

N

1" = 30.0'

30 JUNE 1995

BLACKWOOD & Company
URBAN DESIGN AND PLANNING

CBE parking requirement = 1/300 ft² → 1 show. now

No parking along 28th St. - 90' SB from ℄ major arterial or 6 mos. site review (maybe w/ expansion)

Rezoned?

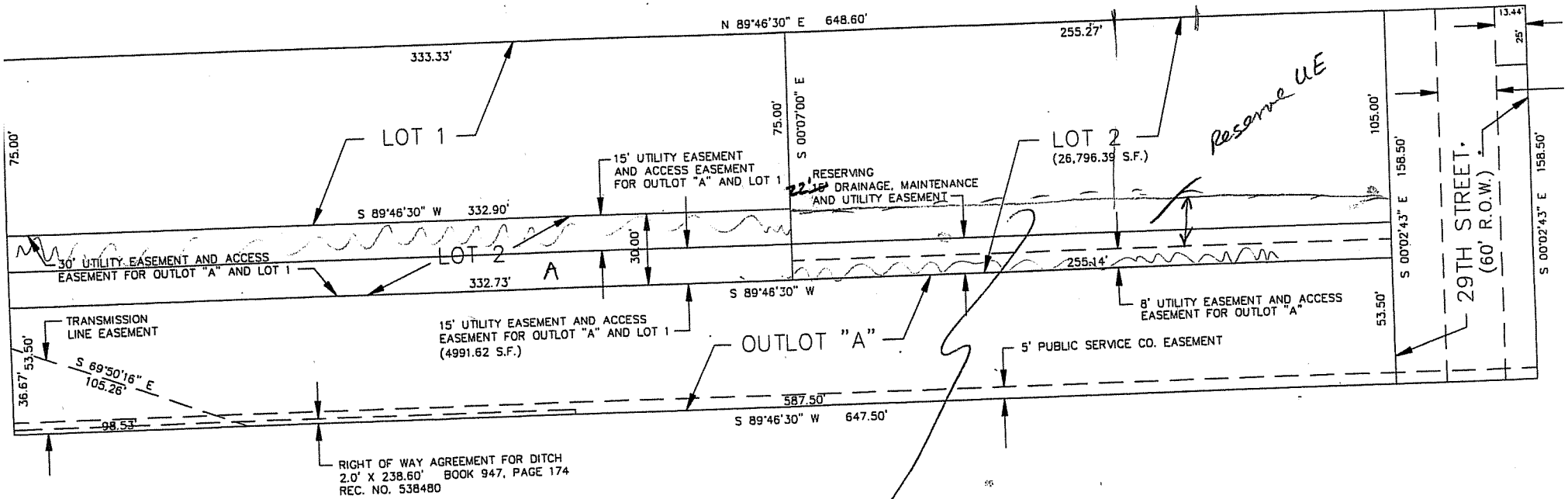
Vacate the access but not the UE

Reserve 22' U & Access Easement

Russ - pave future code changes

75' x 150'

105'



Settlement Plan

1:1 on access ease trade

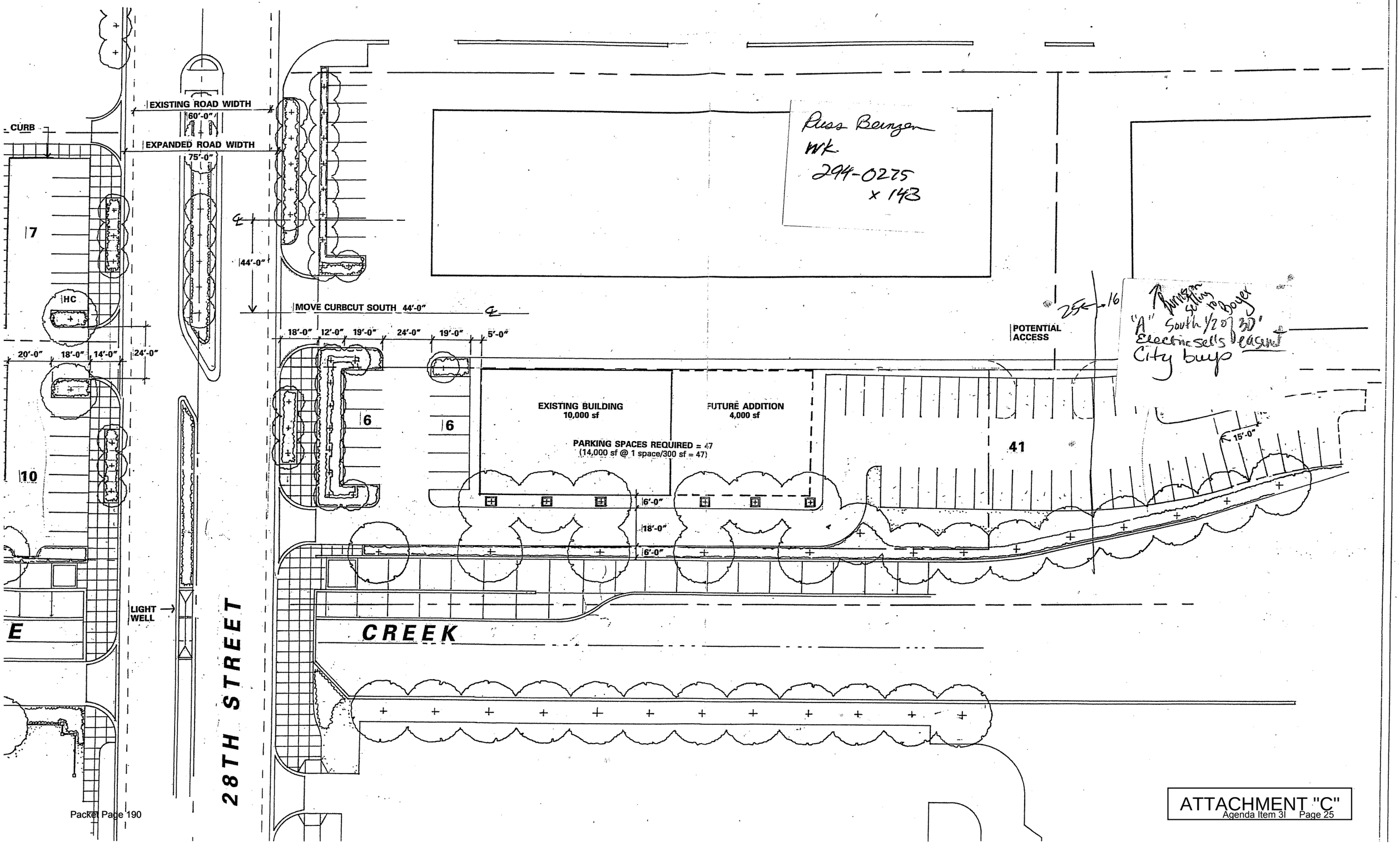
City does sidewalk & front parking & driveway

City owes for x parking spaces & replaces in rear for free

& is remaining access ease from Russ vs land area sold to Russ which is 75' x 105'

City keeps & gives C-E an access ease

ATTACHMENT "B"


EXISTING ROAD WIDTH
60'-0"
EXPANDED ROAD WIDTH
75'-0"
CURB
7
HC
10
E
20'-0"
18'-0"
14'-0"
24'-0"
44'-0"
MOVE CURBCUT SOUTH 44'-0"
18'-0"
12'-0"
19'-0"
24'-0"
19'-0"
5'-0"
6
6
EXISTING BUILDING
10,000 sf
FUTURE ADDITION
4,000 sf
PARKING SPACES REQUIRED = 47
(14,000 sf @ 1 space/300 sf = 47)
6'-0"
18'-0"
6'-0"
41
15'-0"
POTENTIAL ACCESS
LIGHT WELL
28TH STREET
CREEK
Russ Benzer
wk
294-0275
x 143
"A" South 1/2 of 30'
City buys
ATTACHMENT "C"
Agenda Item 3I Page 25

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

MEETING DATE: May 3, 2016

AGENDA TITLE:
Introduction, first reading, consideration of a motion to publish by title only, and adopt as an emergency measure Ordinance No. 8117 authorizing the issuance by the City of Boulder, Colorado, of its Water and Sewer Revenue Bonds, Series 2016, in the aggregate principal amount of $35,500,000 for the purpose of providing funds to water and sewer improvements by the Utility and pay the costs of issuance of the Series 2016 Bonds; prescribing the form of said Series 2016 Bonds; providing for the sale of said Series 2016 Bonds; providing for the payment and redemption of said Series 2016 Bonds from and out of the revenues derived directly or indirectly by the City from the Water and Sewer Fee billed to customers of the City's water and sewer systems; providing other details and approving other documents in connection with said Series 2016 Bonds; and declaring an emergency and providing the effective date hereof.

PRESENTERS:
Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works
Jeffrey Arthur, Director of Public Works for Utilities
Tom Carr, City Attorney
Kathy Haddock, Senior Assistant City Attorney
Bob Eichem, Chief Financial Officer
Cheryl Pattelli, Director of Finance
Ron Gilbert, Assistant Controller
Ken Baird, Financial Manager, Utilities

EXECUTIVE SUMMARY:

On April 19, 2016, City Council approved Resolution No. 1183 authorizing the City Manager to call for a public sale of City of Boulder, Colorado (acting through its Water and Sewer Utility Enterprise) Water and Sewer Revenue Bonds, Series 2016. The sale of the bonds was held today, May 3, 2016 and was done by competitive sale.

The bond proceeds will be used to finance water and sewer improvements by the Utility and pay the costs of issuance of the Series 2016 Bonds. The bond sale ordinance must be adopted as an emergency measure because the bid for the bonds is only valid for 24 hours.

The below amounts will be filled in prior to the May 3rd meeting.

Change in principal amount from original Agenda Memo –

Interest rate bids by maturity –

Maturity (December 1)	Principal Amount	Interest Rate

Winning Bidder:

Bid amounts and total interest cost (TIC):

Bidder Name	TIC

STAFF RECOMMENDATION:

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

A motion to publish by title only, and adopt as an emergency measure Ordinance No. 8117 authorizing the issuance by the City of Boulder, Colorado, of its Water and Sewer Revenue Bonds, Series 2016, in the aggregate principal amount of $35,500,000 for the purpose of providing funds to water and sewer improvements by the Utility and pay the costs of issuance of the Series 2016 Bonds; prescribing the form of said Series 2016 Bonds; providing for the sale of said Series 2016 Bonds; providing for the payment and redemption of said Series 2016 Bonds from and out of the revenues derived directly or indirectly by the City from the Water and Sewer Fee billed to customers of the City's water and sewer systems; providing other details and approving other documents in connection with said Series 2016 Bonds.

COUNCIL SUSTAINABILITY ASSESSMENTS AND IMPACTS:

- Economic: Maintaining the structural integrity of the wastewater collection system is one of the critical components of the utility's asset management goals. The cured-in-place pipe (CIPP) lining rehabilitation program is a very cost effective way to extend the infrastructure's useful life compared to full replacement. The wastewater treatment facility (WWTF) upgrades using bond proceeds represent a long-term economically viable solution to meet Colorado Department of Public Health and Environment (CDPHE) effluent regulations.

- Environmental: Maintaining the wastewater collection system is critical to meeting the City's environmental goals by minimizing sanitary sewer overflows. The WWTF upgrades will allow the facility to meet more stringent CDPHE nitrogen effluent discharge regulations.

- Social: Achieving quality and reliable wastewater conveyance and treatment is necessary to the health, safety, and well being of the community. Wastewater conveyance and treatment is a critical Public Works goal and priority

OTHER IMPACTS:

- Staff time: Administration of the revised debt service on this bond issue is part of

normal staff time that is included in the appropriate department budgets.:

- Fiscal impact: The issuance of the bonds will address major capital needs of the utility. The rates required to finance the annual debt service payments are included in the rate increases that were approved by City Council and implemented in January of 2016.

ADDITIONAL BOND INFORMATION

- The City applied to Moody's and Standard & Poor's for ratings on these bonds. They are two of the major rating services in the United States. On April 19th, 2016, the City was notified the 2016 Water and Sewer Revenue Bonds were given ratings of Aa1 from Moody's and AAA from Standard and Poor's. These are strong ratings for a city the size of Boulder. Credit ratings are made after analyzing the credit worthiness of the issuer and the quality of the bonds being issued. The ratings are then used by potential buyers of the bonds as one of the determinants in whether they will purchase the bonds or not. The highest investment grade rating given is AAA and the lowest is BBB. The higher the ratings received from the rating agencies the lower the interest rate paid by the issuer of the bonds. Staff will provide the actual interest rate and winning bidder at the council meeting.

ATTACHMENT A: Ordinance (to be updated at the day of the meeting)

ORDINANCE NO. 8117

AN EMERGENCY ORDINANCE AUTHORIZING THE ISSUANCE BY THE CITY OF BOULDER, COLORADO (ACTING THROUGH ITS WATER UTILITY ENTERPRISE AND ITS WASTEWATER UTILITY ENTERPRISE), OF ITS WATER AND SEWER REVENUE BONDS, SERIES 2016, IN THE PRINCIPAL AMOUNT OF $_____, FOR THE PURPOSE OF PROVIDING FUNDS (A) TO CONSTRUCT, ACQUIRE, IMPROVE AND EQUIP CERTAIN TREATMENT AND TRANSMISSION FACILITIES IN THE CITY'S WATER SYSTEM, (B) TO ESTABLISH A RESERVE FUND, AND (C) TO PAY NECESSARY, INCIDENTAL AND APPURTENANT EXPENSES IN CONNECTION THEREWITH, INCLUDING THE COSTS OF ISSUANCE OF THE 2016 BONDS; PROVIDING THE FORM, TERMS AND CONDITIONS OF THE 2016 BONDS, THE MANNER AND TERMS OF THEIR ISSUANCE, THE MANNER OF THEIR EXECUTION, THE METHOD OF PAYING THEM AND THE SECURITY THEREFOR; PROVIDING FOR THE COLLECTION AND DISPOSITION OF GROSS INCOME DERIVED FROM THE OPERATION OF THE MUNICIPAL SANITARY SEWER SYSTEM AND THE MUNICIPAL WATER SYSTEM; PROVIDING FOR THE PAYMENT OF THE 2016 BONDS FROM THE NET INCOME OF THE WATER SYSTEM AND SANITARY SEWER SYSTEM; PROVIDING OTHER DETAILS CONCERNING THE 2016 BONDS, THE WATER SYSTEM, THE SANITARY SEWER SYSTEM, AND FUNDS APPERTAINING THERETO INCLUDING, BUT NOT LIMITED TO, COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; PROVIDING OTHER MATTERS RELATING THERETO; AND DECLARING AN EMERGENCY AND PROVIDING THE EFFECTIVE DATE HEREOF.

All capitalized terms used herein shall have the meaning set forth in Section 1.02 of this Instrument.

WHEREAS, the City of Boulder (the "City"), in the County of Boulder and the State of Colorado (the "State"), is a municipal corporation duly organized and existing as a home rule city under Article XX of the Constitution of the State and the Charter of the City (the "Charter"); and

WHEREAS, the City now owns, operates and maintains:

(a) a municipal water system (as hereinafter defined, the "Water System"); and

(b) a municipal sanitary sewer system (as hereinafter defined, the "Sewer System") (which Water System and Sewer System are herein jointly designated as the "Facilities"); and

WHEREAS, Ordinance No. 5601, introduced, read, passed and adopted on the 9th day of November 1993 (the "Enterprise Ordinance"), added new sections 11-1-55 to -61 to the Boulder

Revised Code, 1981 (the "City Code") providing for the establishment of the City's water system as a "water activity enterprise" within the meaning of Part 1 of Article 45.1 of Title 37, Colorado Revised Statutes, as amended, and naming the City's water system the "Water Utility Enterprise"; and

WHEREAS, the Enterprise Ordinance also added new sections 11-2-36 to -42 to the City Code, providing for the establishment of the City's sanitary sewer system as a "water activity enterprise" within the meaning of Part 1 of Article 45.1 of Title 37, Colorado Revised Statutes, as amended, and naming the City's sanitary sewer system the "Wastewater Utility Enterprise"; and

WHEREAS, pursuant to the Charter and the City Code, the City Council of the City (the "Council") is the governing body of the Water Utility Enterprise and the Wastewater Utility Enterprise and the Council need not announce or acknowledge that actions taken by the Council are taken by the governing body of the Water Utility Enterprise and/or the Wastewater Utility Enterprise; and

WHEREAS, pursuant to the Charter and the City Code, the Water Utility Enterprise and the Wastewater Utility Enterprise may issue revenue bonds payable from revenues derived from the operation of such enterprise without voter approval so long as such enterprise qualifies as an "Enterprise" within the meaning of TABOR (as hereinafter defined) in the City's fiscal year of the issuance of such revenue bonds; and

WHEREAS, Article X, Section 20 of the State Constitution ("TABOR") requires that bonded debt (other than certain refunding bonds) not be issued without prior voter approval unless the issuer is an "Enterprise" as defined in TABOR; and

WHEREAS, the Water Utility Enterprise and the Wastewater Utility Enterprise are "Enterprises" within the meaning of TABOR; and

WHEREAS, the current outstanding bonds payable from, and the payment of which is secured by a pledge of revenues derived from the operation of the Facilities, i.e., both the Sewer System and Water System, or any part thereof, are the bonds designated as (a) the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2005B (the "2005B Bonds") issued in the original principal amount of $7,900,000 and currently outstanding in the aggregate principal amount of $830,000 payable as to both principal and interest solely out of the Net Income derived from the operation of the Sewer System and the Water System and issued in accordance with Ordinance No. 7421 of the City, (b) the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2007 (the "2007 Bonds") issued in the original principal amount of $25,935,000 and currently outstanding in the aggregate principal amount of $8,180,000, payable to both principal and interest solely out of the Net Income derived from operation of the Sewer System and Water System and issued in accordance with Ordinance No. 7524 of the City; (c) the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2010 (the "2010 Bonds") issued in the original principal amount of $9,980,000 and currently outstanding in the

aggregate principal amount of $7,960,000, payable to both principal and interest solely out of the Net Income derived from operation of the Sewer System and Water System and issued in accordance with Ordinance No. 7754 of the City; (d) the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2011 (the "2011 Bonds") issued in the original principal amount of $18,335,000 and currently outstanding in the aggregate principal amount of $10,910,000, payable to both principal and interest solely out of the Net Income derived from operation of the Sewer System and Water System and issued in accordance with Ordinance No. 7781 of the City; (e) the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2012 (the "2012 Bonds") issued in the original principal amount of $24,325,000 and currently outstanding in the aggregate principal amount of $24,325,000, payable to both principal and interest solely out of the Net Income derived from operation of the Sewer System and Water System and issued in accordance with Ordinance No. 7875 of the City; and (f) the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise) Water and Sewer Revenue Bonds, Series 2015 (the "2015 Bonds") issued in the original principal amount of $10,075,000 and currently outstanding in the aggregate principal amount of $10,075,000, payable to both principal and interest solely out of the Net Income derived from operation of the Sewer System and Water System and issued in accordance with Ordinance No. 8074 of the City (the 2005B Bonds, the 2007 Bonds, the 2010 Bonds, the 2011 Bonds, the 2012 Bonds and the 2015 Bonds shall be collectively referred to herein as the "Outstanding Parity Bonds"); and

WHEREAS, the Council has determined, and does hereby declare its intent to issue its Water and Sewer Revenue Bonds, Series 2016 in the principal amount of $_____ (the "2016 Bonds") pursuant to the Charter and the Supplemental Public Securities Act (being Part 2, Articles 57, Title 11 of the Revised Statutes of the State of Colorado) as now in effect and as it may from time to time be amended (the "Supplemental Public Securities Act"), for the purpose of providing funds to construct, acquire, improve and equip certain treatment and transmission facilities in the City's water system, establishing a reserve fund and paying all necessary, incidental and appurtenant expenses in connection therewith, including the costs of issuance of the 2016 Bonds; and

WHEREAS, except as hereinabove provided with respect to the remaining Outstanding Parity Bonds, the City has not pledged, nor in any way hypothecated, revenues derived and to be derived from the operation of the Facilities to the payment of any bonds or for any other purpose (excluding proceedings authorizing the issuance of any bonds which have heretofore been paid in full, or provision for the payment thereof in full has been made), with the result that the resulting Net Income may now be pledged lawfully and irrevocably for payment of the 2016 Bonds herein authorized on a parity with the Outstanding Parity Bonds as provided herein; and

WHEREAS, Ordinance No. 7421, Ordinance No. 7524, Ordinance No. 7754, Ordinance No. 7781, Ordinance No. 7875 and Ordinance No. 8074 (collectively, the "Prior Ordinances") introduced, read, passed and adopted on the 3rd day of May, 2005, the 8th day of November, 2005, the 5th day of June, 2007, the 7th day of September, 2010, the 18th day of January, 2011, the 16th day of October, 2012, and the 1st day of September, 2015, respectively, include certain

financial tests that must be met prior to the issuance of any additional bonds payable from the Net Income; and

WHEREAS, the 2016 Bonds are being issued in compliance with the Prior Ordinances authorizing the Outstanding Parity Bonds; and

WHEREAS, the proceeds of the 2016 Bonds shall bear interest payable semiannually on the first days of June and December in each year, commencing December 1, 2016; and the 2016 Bonds shall mature on the first day of December in the years designated by the Council during the term of the 2016 Bonds; and

WHEREAS, it is advisable and in the best interests of the City to make appropriate provisions herein for the future issuance of additional bonds or other securities payable from revenues to be derived from the Facilities, which additional bonds or other securities, if and when authorized in accordance with law, will, subject to designated conditions, occupy a position of parity and enjoy an equality of lien on the resulting Net Income from the operation and use of the Facilities with the Outstanding Parity Bonds and the 2016 Bonds herein authorized, and further to prescribe the restrictions, covenants and limitations which shall govern the issuance of any additional bonds or any other securities payable from such Net Income; and

WHEREAS, the gross income derived from the Facilities is in excess of requirements for their operation and maintenance; and pursuant to the laws of the State and the Charter, such excess income may lawfully be pledged to secure the payment of debt service on the 2016 Bonds; and

WHEREAS, the 2016 Bonds shall be secured by an irrevocable and first and prior (but not exclusive) lien upon the Net Income and upon moneys deposited from time to time in the Bond Fund and the Reserve Fund for the 2016 Bonds; and

WHEREAS, after advertising the sale of the 2016 Bonds, the Council hereby finds, in accordance with Section 98 of the Charter, that the highest responsible bidder for the 2016 Bonds is the Original Purchaser, whose bid is in all cases to the best advantage of the City, and the City hereby determines to sell the 2016 Bonds to the Original Purchaser; and

WHEREAS, it is now necessary by ordinance to authorize the issuance, sale and delivery of the 2016 Bonds and to provide details of and the security for the 2016 Bonds as hereinafter described.

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

ARTICLE I

SHORT TITLE, DEFINITIONS, INTERPRETATION, RATIFICATION, AUTHENTICATION, PUBLICATION AND EFFECTIVE DATE

Section 1.01. Short Title. This ordinance may be designated by the short title "Series 2016 Bond ordinance" (the "Instrument").

Section 1.02. Meanings and Construction.

(a) ***Definitions***. The terms in this Section defined for all purposes of this Instrument and of any instrument amendatory hereof or supplemental hereto, and of any other instrument or any other document appertaining hereto, except where the context by clear implication otherwise requires, shall have the meanings herein specified:

"*Bond Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2016 Interest and Bond Retirement Fund" created in Section 4.01(a) hereof and required to be accumulated and maintained in Section 5.16 hereof.

"*Charter*" means the charter of the City.

"*Chief Financial Officer*" means the Chief Financial Officer of the City.

"*City*" means the City of Boulder, Colorado, and its successors.

"*Clerk*" means the City Clerk of the City.

"*Code*" means the Internal Revenue Code of 1986, as amended.

"*Commitment*" means that certain offer dated May __, 2016 to issue the 2016 Reserve Policy designated as the Commitment, issued by the 2016 Reserve Policy Provider.

"*Council*" means the City Council of the City.

"*Director of Finance*" means the Director of Finance of the City.

"*DTC*" shall mean The Depository Trust Company, New York, New York, or its successors or assigns and any other securities depository for the 2016 Bonds.

"*Event of Default*" means any of the events stated in Section 10.03 hereof.

"*Facilities*" means, collectively, the Sewer System and the Water System of the City.

"*Federal Securities*" means bills, certificates of indebtedness, notes, bonds or similar securities which are direct obligations of, or the principal and interest of which securities are unconditionally guaranteed by, the United States of America or evidences of such indebtedness which are noncallable at the option of the issuer thereof.

"*Financial Advisor*" means Piper Jaffray & Co.

"*Fiscal Year*" for the purposes of this Instrument means the Fiscal Year as provided by State law.

"*Gross Income*" means all income and revenues derived directly or indirectly by the City from the operation and use of the Sewer System, and the Water System, as may

be designated, or any part thereof, whether resulting from improvements, extensions, enlargements, repairs or betterments thereto, or otherwise, including interest earnings on moneys in any fund or account created by this Instrument and includes all revenues earned by the City therefrom, including without limiting the generality of the foregoing, all rentals, fees, rates and other charges for the use thereof, or for any service rendered by the City in the operation thereof, but excluding any moneys received as grants, appropriations or gifts from the United States of America, the State, or other sources, the use of which is limited by the grantor or donor to the construction of capital improvements therefor, except to the extent any such moneys shall be received as payments for the use of the Facilities, or any part thereof.

"*Hereby*," "*herein*," "*hereinabove*," "*hereinafter*," "*hereinbefore*," "*hereof*," "*hereto*," "*hereunder*," and any similar term refer to this Instrument and not solely to the particular portion thereof in which such work is used; "*heretofore*" means before the adoption of this Instrument; and "*hereafter*" means after the adoption of this Instrument.

"*Independent Accountant*" means any certified public accountant, or any firm of such certified public accountants, duly licensed to practice and practicing as such under the laws of the State, appointed and paid by the Council, in the name of the City, as determined by the Council:

(i) who is, in fact, independent and not under the domination of the City;

(ii) who does not have any substantial interest, direct or indirect, with the City; and

(iii) who is not connected with the City as an officer or employee thereof, but who may be regularly retained to make annual or similar audits of any books or records of the City.

"*Instrument*" means this ordinance, designated in Section 1.01 hereof by the short title "Series 2016 Bond ordinance;" and the terms "instrument of the City," "instrument of the Council," "amendatory instrument," "supplemental instrument," or any phrase of similar import means any ordinance adopted by the Council on behalf of the City.

"*Insured Bank*" means a bank which is a member of the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation.

"*Issuance Expense Fund*" means the "City of Boulder, Colorado Water and Sewer Revenue Bonds, Series 2016 Issuance Expense Fund" created in Section 4.01(d) hereof.

"*Manager*" means the City Manager or Acting City Manager of the City.

"*Mayor*" means the Mayor of the City.

"*Minimum Bond Reserve*" means an amount equal to not less than the average annual debt service on the 2016 Bonds and all other Parity Bonds, less amounts on

deposit in any reserve fund in connection with Parity Bonds heretofore or hereafter issued.

"*Net Income*" means the Gross Income derived from the operation and use of the Sewer System and the Water System as may be designated, after the deduction of the Operation and Maintenance Expenses other than those Operation and Maintenance Expenses set forth in clause (a) of the definition of Operation and Maintenance Expenses set forth in this Instrument.

"*Operation and Maintenance Expenses*" means all reasonable and necessary current expenses of the City, paid or accrued, for operating, maintaining and repairing the Water System and the Sewer System as may be designated; and the term may include at the City's option (except as limited by law), without limiting the generality of the foregoing, (a) engineering, auditing, reporting, legal and other overhead expenses of the City directly related to the administration, operation and maintenance thereof; (b) insurance and fidelity bond premiums; (c) the reasonable charges of the Paying Agent and any other depositary bank appertaining thereto; (d) payments to pension, retirement, health and hospitalization funds; (e) any taxes, assessments or other charges which may be lawfully imposed on the City or its income or operations of any properties under its control and appertaining thereto; (f) ordinary and current rentals of equipment or other property; (g) refunds of any revenues lawfully due to others; (h) expenses in connection with the issuance of bonds or other securities evidencing any loan to the City and payable from Gross Income; (i) the expenses and compensation of any trustee or other fiduciary; (j) contractual services and professional services required by this Instrument; (k) salaries, labor and the cost of materials and supplies used for current operation; and (l) all other third party administrative, general and commercial expenses, but:

(i) excluding any allowance for depreciation or any amounts for capital replacements;

(ii) excluding the costs of improvements, extensions, enlargements and betterments (or any combination thereof) that qualify as capital items in accordance with generally accepted accounting principles, or any reserves therefor;

(iii) excluding any reserves for operation, maintenance or repair of the Facilities;

(iv) excluding any allowance for the redemption of any bond or other security evidencing a loan, or the payment of any interest thereon, or any reserve therefor; and

(v) excluding liabilities incurred by the City as the result of its negligence in the operation of the Facilities or other ground of legal liability not based on contract, or any reserve therefor.

"*Ordinance No. 7421*" means Ordinance No. 7421, introduced, passed and adopted by the Council on the 3rd day of May, 2005.

"*Ordinance No. 7524*" means Ordinance No. 7524, introduced, passed and adopted by the Council on the 5th day of June, 2007.

"*Ordinance No. 7754*" means Ordinance No. 7754, introduced, passed and adopted by the Council on the 7th day of September, 2010.

"*Ordinance No. 7781*" means Ordinance No. 7781, introduced, passed and adopted by the Council on the 18th day of January, 2011.

"*Ordinance No. 7875*" means Ordinance No. 7875, introduced, passed and adopted by the Council on the 16th day of October, 2012.

"*Ordinance No. 8074*" means Ordinance No. 8074, introduced, passed and adopted by the Council on the 1st day of September, 2015.

"*Original Purchaser*" means the original purchaser of the 2016 Bonds as designated in Section 9.06 hereof.

"*Outstanding*" when used with reference to bonds as of any particular date means all bonds payable from the Net Income of the Facilities in any manner theretofore and thereupon being executed and delivered:

(i) except any bond canceled by the City, by the Paying Agent, or otherwise on the City's behalf, at or before said date;

(ii) except any bond for the payment or the redemption of which moneys at least equal to the principal amount of, any prior redemption premium due in connection with, and the interest on the bond to the date of maturity or the prior redemption date, shall have theretofore been deposited with a commercial bank in escrow or in trust for that purpose, as provided in Section 9.01 hereof; and

(iii) except any bond in lieu of or in substitution for which another bond shall have been executed and delivered pursuant to Section 3.08, Section 3.09 or Section 11.08 hereof.

"*Parity Bonds*" means bonds or other obligations payable from Net Income on a parity with the 2016 Bonds herein authorized to be issued.

"*Paying Agent*" means U.S. Bank National Association, or its successors, acting hereunder as, among other things, paying agent, registrar and authenticating agent.

"*Permitted Investments*" means any investment permitted by the laws of the State and the City's investment policies.

"*Person*" means a corporation, firm, other body corporate, partnership, association or individual, and also includes an executor, administrator, trustee, receiver or other representative appointed according to law.

"*Project*" means the construction, improvement, acquisition and equipping of certain treatment and capacity improvements to the City's water treatment and transmission facilities and other capital improvements with respect to the Facilities.

"*Project Fund*" means the "City of Boulder, Colorado Water and Sewer Revenue Bonds, Series 2016 Project Fund" created in Section 4.01(c) hereof.

"*Rebate Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2016 Rebate Fund" created in Section 5.18 hereof.

"*Rebate Income Account*" means the Rebate Income Account created in Section 5.18 hereof.

"*Rebate Principal Account*" means the Rebate Principal Account created in Section 5.18 hereof.

"*Record Date*" shall mean the 15th day of the month prior to each interest payment date with respect to the 2016 Bonds.

"*Registered Owner*" or "*holder*" shall mean the Person or Persons in whose name or names a bond shall be registered on the registration books of the City maintained by the Paying Agent.

"*Reserve Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2016 Reserve Fund" created in Section 4.01 hereof.

"*Sewer Income Fund*" means the "City of Boulder Sewer Income Fund," created and designated as the "City of Boulder Gross Income Sewer Fund" in Section 9, Ordinance No. 2000, and directed to be continued and redesignated in Section 5.02 hereof.

"*Sewer System*" means the City's municipally-owned sanitary sewer system, consisting of all properties, real, personal, mixed, or otherwise, now owned or hereafter acquired by the City, through purchase, construction, or otherwise, and used in connection with the sanitary sewer system of the City, and in any way appertaining thereto, whether situated within or without the corporate boundaries of the City, or both within and without the corporate boundaries of the City.

"*Sewer System Operation and Maintenance Fund*" means the "City of Boulder Sewer System Operation and Maintenance Fund" created by Ordinance No. 2577, and directed to be continued in Ordinance No. 7421, Ordinance No. 7524, Ordinance No. 7754, Ordinance No. 7781, Ordinance No. 7875, Ordinance No. 8074 and in Section 5.03 hereof.

"*State*" means the State of Colorado.

"*Subordinate Bonds*" means bonds payable from Net Income subordinate and junior to the lien of the 2016 Bonds herein authorized to be issued.

"*Supplemental Public Securities Act*" shall mean Part 2, Article 57, Title 11 of the Revised Statutes of the State of Colorado, as amended.

"*Tax Letter of Instructions*" means the Tax Letter of Instructions, dated the date of delivery of the 2016 Bonds, delivered by Kutak Rock LLP to the City, as the same may be superseded or amended as provided in Section 5.18 hereof.

"*2005B Bonds*" means the "City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2005B," authorized by Ordinance No. 7421.

"*2005B Bond Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Refunding Bonds, Series 2005B Interest and Bond Retirement Fund," created in Ordinance No. 7421.

"*2005B Minimum Bond Reserve*" means the "Minimum Bond Reserve," as defined in Ordinance No. 7421.

"*2005B Reserve Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Refunding Bonds, Series 2005B Reserve Fund," created in Ordinance No. 7421.

"*2007 Bonds*" means the "City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2007, authorized by Ordinance No. 7524."

"*2007 Bond Fund*" means the "City of Boulder, Colorado Water and Sewer Revenue Bonds Series 2007 Interest and Bond Retirement Fund," created in Ordinance No. 7524.

"*2007 Minimum Bond Reserve*" means the "Minimum Bond Reserve," as defined in Ordinance No. 7524.

"*2007 Reserve Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Refunding Bonds, Series 2007 Reserve Fund," created in Ordinance No. 7524.

"*2007 Reserve Policy*" means the Municipal Bond Debt Service Reserve Insurance Policy issued by Financial Security Assurance Inc. and deposited in or credited to the 2007 Reserve Fund pursuant to Ordinance No. 7524.

"*2010 Bonds*" means the "City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2010," authorized by Ordinance No. 7754.

"*2010 Bond Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2010 Interest and Bond Retirement Fund," created in Ordinance No. 7754.

"*2010 Minimum Bond Reserve*" means the "Minimum Bond Reserve," as defined in Ordinance No. 7754.

"*2010 Reserve Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2010 Reserve Fund," created in Ordinance No. 7754.

"*2011 Bonds*" means the "City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2011," authorized by Ordinance No. 7781.

"*2011 Bond Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2011 Interest and Bond Retirement Fund," created in Ordinance No. 7781.

"*2011 Minimum Bond Reserve*" means the "Minimum Bond Reserve," as defined in Ordinance No. 7781.

"*2011 Reserve Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2011 Reserve Fund," created in Ordinance No. 7781.

"*2012 Bonds*" means those bonds designated as the "City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2012."

"*2012 Bond Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Refunding Bonds, Series 2012 Interest and Bond Retirement Fund," created in Ordinance No. 7875.

"*2012 Minimum Bond Reserve*" means the "Minimum Bond Reserve," as defined in Ordinance No. 7875.

"*2012 Reserve Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Refunding Bonds, Series 2012 Reserve Fund," created in Ordinance No. 7875.

"*2012 Reserve Policy Agreement*" means the Reserve Policy Insurance Agreement, dated as of November 1, 2012, by and between the City and the 2012 Reserve Policy Provider with respect to the 2012 Bonds and the 2012 Reserve Policy.

"*2012 Reserve Policy Provider*" means Assured Guaranty Municipal Corp., and its successors and assigns.

"*2012 Reserve Policy*" means the municipal bond debt service reserve insurance policy issued by the 2012 Reserve Policy Provider guaranteeing certain payments from the Reserve Fund with respect to the 2012 Bonds.

"*2015 Bonds*" means those bonds designated as the "City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2015."

"*2015 Bond Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2015 Interest and Bond Retirement Fund," created in Ordinance No. 8074.

"*2015 Minimum Bond Reserve*" means the "Minimum Bond Reserve," as defined in Ordinance No. 8074.

"*2015 Reserve Fund*" means the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2015 Reserve Fund," created in Ordinance No. 8074.

"*2015 Reserve Policy Agreement*" means the Reserve Policy Insurance Agreement, dated as of October 1, 2015, by and between the City and the 2015 Reserve Policy Provider with respect to the 2015 Bonds and the 2015 Reserve Policy.

"*2015 Reserve Policy Provider*" means Assured Guaranty Municipal Corp., and its successors and assigns.

"*2015 Reserve Policy*" means the municipal bond debt service reserve insurance policy issued by the 2015 Reserve Policy Provider guaranteeing certain payments from the Reserve Fund with respect to the 2015 Bonds.

"*2016 Bonds*" means those bonds issued hereunder and designated as the "City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2016."

"*2016 Reserve Policy Agreement*" means the Reserve Policy Insurance Agreement, dated as of June 7, 2016, by and between the City and the 2016 Reserve Policy Provider with respect to the 2016 Bonds and the 2016 Reserve Policy.

"*2016 Reserve Policy Provider*" means Assured Guaranty Municipal Corp., and its successors and assigns.

"*2016 Reserve Policy*" means the municipal bond debt service reserve insurance policy issued by the 2016 Reserve Policy Provider guaranteeing certain payments from the Reserve Fund with respect to the 2016 Bonds, which shall be credited to the 2016 Reserve Fund.

"*Water Income Fund*" means the "City of Boulder Water Income Fund," created and designated as the "City of Boulder Gross Income Water Fund" in Section 9, Ordinance No. 2000, and directed to be continued and redesignated in Section 5.02 hereof.

"*Water System*" means the City's municipally-owned water system, consisting of all properties, real personal, mixed or otherwise, now owned or hereafter acquired by the City, through purchase, construction, or otherwise, and used in connection with the water system of the City, and in any way appertaining thereto, whether situated within or without the City limits, or both within and without the City limits.

"*Water System Operation and Maintenance Fund*" means the "City of Boulder Water System Operation and Maintenance Fund" created in Section 5.03 of Ordinance No. 5491 and directed to be continued in Ordinance No. 7421, Ordinance No. 7524, Ordinance No. 7754, Ordinance No.7781, Ordinance No.7875, Ordinance No. 8074 and Section 5.03 hereof.

(b) ***Construction***. This Instrument, except where the context by clear implication herein otherwise requires, shall be construed as follows:

(i) Definitions include both singular and plural.

(ii) Pronouns include both singular and plural and cover all genders.

(iii) Any percentage of 2016 Bonds is to be figured on the unpaid principal amount thereof then Outstanding.

(iv) Articles, sections, subsections, paragraphs and subparagraphs mentioned by number, letter, or otherwise, correspond to the respective articles, sections, subsections, paragraphs and subparagraphs of this Instrument so numbered or otherwise so designated.

(v) The titles applied to articles, sections, subsections, paragraphs and subparagraphs of this Instrument are inserted only as a matter of convenience and ease in reference and in no way define, limit or describe the scope or intent of any provisions of this Instrument.

Section 1.03. Successors. Whenever herein the City or the Council is named or is referred to, such provision shall be deemed to include any successors of the City or the Council, respectively, whether so expressed or not. All of the covenants, stipulations, obligations and agreements by, or on behalf of, and other provisions for the benefit of the City or the Council contained herein, shall bind and inure to the benefit of any such successors and shall bind and inure to the benefit of any officer, board, district, commission, authority, agent or instrumentality to whom or to which there shall be transferred by, or in accordance with law, any right, power or duty of the City or the Council or of their respective successors, if any, the possession of which is necessary or appropriate in order to comply with any such covenants, stipulations, obligations, agreements or other provisions hereof.

Section 1.04. Parties Interested Herein. Nothing herein expressed or implied is intended or shall be construed to confer upon or give to any Person, other than the City, the Council and the holders of the 2016 Bonds any right, remedy or claim under or by reason hereof or any covenant, condition or stipulation hereof. All the covenants, stipulations, promises and agreements herein contained by and on behalf of the City shall be for the sole and exclusive benefit of the City, the Council and any holder of any 2016 Bonds.

Section 1.05. Ratification. All action heretofore taken (not inconsistent with the provisions of this Instrument) by the Council, the officers of the City, the Financial Advisor and otherwise by the City directed toward the sale and delivery of the City's 2016 Bonds for that purpose, shall be, and the same hereby is, ratified, approved and confirmed, including, without

limiting the generality of the foregoing, the public sale of the 2016 Bonds and giving notice thereof.

Section 1.06. Instrument Irrepealable. After any of the 2016 Bonds are issued, this Instrument shall constitute an irrevocable contract between the City and the holder or holders of the 2016 Bonds; and this Instrument (subject to the provisions of Article XI hereof), if any 2016 Bonds be in fact issued, shall be and shall remain irrepealable until the 2016 Bonds and the interest thereon shall be fully paid, canceled and discharged, as herein provided.

Section 1.07. Severability. If any section, subsection, paragraph, clause or other provision of this Instrument shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause or other provision shall not affect any of the remaining provisions of this Instrument.

Section 1.08. Repealer. All bylaws, orders, and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any bylaw, order, or other instrument, or part thereof, heretofore repealed.

Section 1.09. Recordation and Publication. This instrument, immediately on its final passage, shall be recorded in the City's Ordinance Record kept for that purpose, authenticated by the Mayor and the Clerk, and shall be published by title only in *The Daily Camera*, a daily newspaper printed, published and of general circulation in the City, in accordance with the provisions of the Charter of the City.

Section 1.10. Emergency and Effective Date. Due to fluctuations in municipal bond prices and interest rates, and due to currently favorable interest rates, and due to the need to finally act upon and accept the bid of the highest responsible bidder (in accordance with the Charter) for the 2016 Bonds in an expeditious manner (said bids being submitted for immediate acceptance), it is hereby declared that, in the opinion of the Council, an emergency exists, this Instrument is necessary for the preservation of the public peace, health and property of the City and its inhabitants and shall be in full force and effect upon its passage.

ARTICLE II

COUNCIL'S DETERMINATIONS, AUTHORITY FOR AND AUTHORIZATION OF PROJECT AND OBLIGATION OF CITY

Section 2.01. Authority for this Instrument. This Instrument is adopted by virtue of the City's powers as a city organized and operating pursuant to Articles X and XX of the State Constitution, the Charter, the Enterprise Ordinance and the Supplemental Public Securities Act (being Part 2, Article 57, Title 11 of the Revised Statutes of the State of Colorado) as now in effect and as it may from time to time be amended (the "Supplemental Public Securities Act"); and the City has ascertained and hereby determines that each and every matter and thing as to which provision is made herein is necessary in order to carry out and to effectuate the purposes of the City in accordance with the Charter.

Section 2.02. Necessity of Project and 2016 Bonds. It is necessary and for the best interests of the City and the inhabitants thereof that the City effect the Project and defray the cost thereof by issuing revenue bonds therefor; and the Council hereby so determines and declares.

Section 2.03. Authorization of Project. The Council, on behalf of the City, does hereby determine to improve, better and extend the Facilities as hereinabove delineated; and the Project is hereby so authorized.

Section 2.04. Estimated Cost of Project. The Cost of the Project is estimated not to exceed $_____, excluding any such cost funded or to be funded by any source other than the proceeds of the principal amount of the 2016 Bonds and excluding amounts to be paid as costs of issuance or to be used to fund the Reserve Fund.

Section 2.05. Instrument to Constitute Contract. In consideration of the purchase and the acceptance of the 2016 Bonds by those who shall hold the same from time to time, the provisions hereof shall be deemed to be and shall constitute contracts between the City and the holders from time to time of the 2016 Bonds; and the covenants and agreements herein set forth to be performed on behalf of the City shall be for the equal benefit, protection and security of the holders of any and all of the Outstanding 2016 Bonds, all of which, regardless of the time or times of their issue or maturity, shall be of equal rank without preference, priority or distinction of any of the 2016 Bonds over any other thereof, except as otherwise expressly provided in or pursuant to this Instrument.

Section 2.06. Special Obligations. All of the 2016 Bonds, together with the interest accruing thereon, shall be payable and collectible solely out of the Net Income to be derived from the operation and use of the Facilities, the Net Income of which is so pledged; the holder or holders thereof may not look to any general or other fund for the payment of principal of and interest on such obligations except the herein-designated special funds pledged therefor; the 2016 Bonds shall not constitute an indebtedness or a debt within the meaning of any constitutional, Charter or statutory provision or limitation; and the 2016 Bonds shall not be considered or held to be general obligations of the City but shall constitute its special obligations. None of the covenants, agreements, representations and warranties contained herein or in the 2016 Bonds issued hereunder, in the absence of any breach thereof, shall ever impose or shall be construed as imposing any liability, obligation or charge against the City or its general credit, payable out of its general fund or out of any funds derived from taxation.

ARTICLE III

AUTHORIZATION, TERMS, EXECUTION AND ISSUANCE OF THE 2016 BONDS

Section 3.01. Authorization of the 2016 Bonds. The "City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2016," in the principal amount of $_____, payable both as to principal and interest solely out of the Net Income derived from the operation and use of the Facilities, are hereby authorized to be issued, pursuant to the City's powers as a home rule city;

and the City pledges irrevocably, but not necessarily exclusively, such Net Income to the payment of the 2016 Bonds and the interest thereon.

Section 3.02. Bond Details.

(a) The 2016 Bonds shall be issued as fully registered bonds without coupons in the denomination of $5,000 or any integral multiple thereof. The 2016 Bonds shall be initially registered in the name of Cede & Co., as nominee of DTC, as registered owner of the 2016 Bonds, and immobilized in the custody of DTC. A single certificate for each maturity date of the 2016 Bonds shall be issued and delivered to DTC for the total principal amount due on each maturity date of the 2016 Bonds. Beneficial owners of 2016 Bonds shall not receive physical delivery of 2016 Bond certificates. All subsequent transfers of ownership interests, after immobilization of the original 2016 Bond certificates as provided above, shall be made by book-entry only, and no investor or other party purchasing, selling or otherwise transferring 2016 Bonds shall receive, hold or deliver any 2016 Bond certificates as long as DTC or any successor depository holds the immobilized 2016 Bond certificates, except as hereinafter provided. Payments to DTC made hereunder shall be made in accordance with the Blanket Issuer Letter of Representations from the City to DTC (the "Representations Letter"). Certificated 2016 Bonds may be issued directly to beneficial owners of 2016 Bonds, other than DTC, or its nominee, but only in the event that (i) DTC determines not to continue to act as securities depository for the 2016 Bonds (which determination shall become effective upon 60 days' written notice to the City); (ii) the City has advised DTC of its determination (which determination is conclusive as to DTC and the beneficial owners of the 2016 Bonds) that DTC is incapable of discharging its duties; or (iii) the City has determined (which determination is conclusive as to DTC and the beneficial owners of the 2016 Bonds) that the interests of the beneficial owners of the 2016 Bonds might be adversely affected if the book-entry system of transfer is continued. Upon occurrence of any of the foregoing events, the City shall use its best efforts to attempt to locate another securities depository. If the City fails to locate another qualified securities depository to replace DTC, the City shall authenticate and deliver 2016 Bonds in certificate form. In the event the City makes the determination noted in (ii) or (iii) above (the City undertakes no obligation to make any investigation to determine the occurrence of any events that would permit the City to make such determination), and has also made provisions to notify the beneficial owners of the 2016 Bonds by mailing an appropriate notice to DTC, it shall issue 2016 Bonds in certificate form to any DTC participant making such a request.

The 2016 Bonds shall be dated the date of issuance (June 7, 2016), and shall bear interest from their date; provided, however, that if interest on the 2016 Bonds shall be in default, 2016 Bonds issued in exchange for 2016 Bonds surrendered for transfer or exchange shall bear interest from the date to which interest has been paid in full on the 2016 Bonds surrendered, or if no interest has been paid, then from June 7, 2016. Interest shall be payable on the 2016 Bonds on June 1 and December 1 of each year, commencing December 1, 2016.

(b) The 2016 Bonds shall be consecutively numbered, shall mature on the first day of December in the principal amounts and years, and shall bear interest at the rates per annum, as shown in the following schedule:

SERIES 2016 BONDS

Maturity (December 1)	Principal Amount	Interest Rate
2016	$	%
2017		
2018		
2019		
2020		
2021		
2022		
2023		
2024		
2025		
2026		
2027		
2028		
2029		
2030		
2031		
2032		
2033		
2034		
2035		
2036		

(c) If, upon presentation at maturity, payment of any 2016 Bond is not made as herein provided, interest shall continue thereon at the interest rate designated in the 2016 Bond until the principal thereof is paid in full.

(d) Principal of and premium, if any, on the 2016 Bonds shall be payable in lawful money of the United States of America at the principal office of U.S. Bank National Association, at its operations center in St. Paul, Minnesota, or of its successor or assign as paying agent (the "Paying Agent"). Interest on the 2016 Bonds is payable by check or draft of the Paying Agent mailed on the interest payment date to such person as is the registered owner thereof on the Record Date.

Section 3.03. Paying Agent. The Paying Agent is hereby appointed as bond registrar for the City for purposes of the 2016 Bonds. The Paying Agent shall maintain on behalf of the City books for the purpose of registration and transfer of the 2016 Bonds, and such books shall specify the person entitled to the 2016 Bonds and the rights evidenced thereby, and all transfers of the 2016 Bonds and the rights evidenced thereby. The 2016 Bonds may be transferred or

exchanged without cost, except for any tax or governmental charge required to be paid with respect to such transfer or exchange the principal office of the Paying Agent in Denver, Colorado. The 2016 Bonds may be exchanged for a like aggregate principal amount of 2016 Bonds of other authorized denominations of the same maturity and interest rate. Upon surrender for transfer of any 2016 Bond, duly endorsed for transfer or accompanied by an assignment duly executed by the Registered Owner or the Registered Owner's attorney duly authorized in writing, the City shall execute and the Paying Agent shall authenticate and deliver in the name of the transferee or transferees a new 2016 Bond or 2016 Bonds of the same maturity and interest rate for a like aggregate principal amount. The Person in whose name any 2016 Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes.

Section 3.04. Redemption.

(a) The 2016 Bonds maturing on and after December 1, 2025 shall be callable for redemption at the option of the City, in whole or in part, and if in part in such order of maturities as the City shall determine and by lot within a maturity on December 1, 2024, and on any date thereafter, at a redemption price equal to the par amount thereof plus accrued interest to the redemption date.

(b) Notice of any redemption will be given by the Paying Agent in the name of the City, by sending a copy of such notice by certified or registered first class, postage prepaid mail, at least 30 days prior to the redemption date, to the Registered Owners of each of the 2016 Bonds being redeemed. Such notice shall specify the number or numbers of the 2016 Bonds so to be redeemed and the redemption date. If any of the 2016 Bonds shall have been duly called for redemption and if, on or before the redemption date, there shall have been deposited with the Paying Agent in the Bond Fund, funds sufficient to pay the redemption price of such 2016 Bonds at the redemption date, then said 2016 Bonds shall become due and payable at such redemption date, and from and after such date interest will cease to accrue thereon. Any 2016 Bonds redeemed prior to their maturity by call for prior redemption or otherwise shall not be reissued and shall be cancelled the same as 2016 Bonds paid at or after maturity.

[ADD TERM BOND LANGUAGE IF NECESSARY]

Section 3.05. Execution of the 2016 Bonds. The 2016 Bonds shall be executed in the name and on behalf of the City with the manual or facsimile signature of the Mayor, shall bear a manual or facsimile of the seal of the City and shall be attested by the manual or facsimile signature of the Clerk. Should any officer whose manual or facsimile signature appears on the 2016 Bonds cease to be such officer before delivery of the 2016 Bonds, such manual or facsimile signature shall nevertheless be valid and sufficient for all purposes. The Mayor and the Clerk are hereby authorized and directed to prepare and to execute the 2016 Bonds in accordance with the requirements of this Instrument. When the 2016 Bonds have been duly executed and sold, the officers of the City are authorized to, and shall, deliver the 2016 Bonds to the Paying Agent for authentication. No 2016 Bond shall be secured by this Instrument or entitled to the benefit hereof, or shall be valid or obligatory for any purpose, unless the certificate of authentication of the Paying Agent, in substantially the form set forth in this Instrument, has been duly executed by the Paying Agent. Such certificate of the Paying Agent upon any 2016 Bond shall be

conclusive evidence and the only competent evidence that such 2016 Bond has been authenticated and delivered hereunder. The Paying Agent's certificate of authentication shall be deemed to have been duly executed by it if manually signed by an authorized officer of the Paying Agent, but it shall not be necessary that the same officer sign the certificate of authentication on all of the 2016 Bonds issued hereunder.

Section 3.06. Delivery of 2016 Bonds. Upon the authentication of the 2016 Bonds, the Paying Agent shall deliver the same to the Original Purchaser or its designees as directed by the City as hereinafter provided. Prior to the authentication and delivery by the Paying Agent of the 2016 Bonds there shall be filed with the Paying Agent the following:

(a) a certified copy of this Instrument; and

(b) a request and authorization to the Paying Agent on behalf of the City and signed by its Mayor to authenticate and deliver the 2016 Bonds to the Original Purchaser upon payment to the City of a sum specified in such request and authorization plus accrued interest thereon to the date of delivery. The proceeds of such payment shall be paid over to the City and deposited as provided in this Instrument.

Section 3.07. Replacement of 2016 Bonds. If any Outstanding 2016 Bond shall become lost, apparently destroyed or wrongfully taken, it may be replaced in the form and tenor of the lost, destroyed or taken 2016 Bond upon the owner furnishing, to the satisfaction of the Paying Agent: (a) proof of ownership (which shall be shown by the registration books of the Paying Agent), (b) proof of loss or destruction, and (c) payment of the cost of preparing and issuing the new security, in which case the Paying Agent shall then authenticate the 2016 Bonds required for replacement.

Section 3.08. Other Replacement. Nothing contained in the provisions of Section 3.07 hereof shall be construed as prohibiting the City from replacing, upon such terms and conditions as the Chief Financial Officer may determine, any Outstanding 2016 Bond which shall have become lost or completely destroyed, in which case, the Paying Agent shall then authenticate the 2016 Bonds required for replacement.

Section 3.09. Bond Form. Subject to the provisions of this Instrument, each 2016 Bond shall be in substantially the following form, with such omissions, insertions, endorsements and variations as to any recitals of fact or other provisions as may be required by the circumstances, be required or permitted by this Instrument, or be consistent with this Instrument and necessary or appropriate to conform to the rules and requirements of any governmental authority or any usage or requirement of law with respect thereto:

[**Form of 2016 Bond**]

EXCEPT AS OTHERWISE PROVIDED IN THE HEREINAFTER DEFINED ORDINANCE, THIS GLOBAL BOOK-ENTRY 2016 BOND MAY BE TRANSFERRED, IN WHOLE BUT NOT IN PART, ONLY TO ANOTHER NOMINEE OF THE SECURITIES DEPOSITORY (AS DEFINED HEREIN) OR TO A SUCCESSOR SECURITIES DEPOSITORY OR TO A NOMINEE OF A SUCCESSOR SECURITIES DEPOSITORY.

UNITED STATES OF AMERICA

CITY OF BOULDER, COLORADO
(ACTING THROUGH ITS WATER UTILITY ENTERPRISE
AND ITS WASTEWATER UTILITY ENTERPRISE)
WATER AND SEWER REVENUE BONDS
SERIES 2016

R-___ $_____

Interest Rate:	**Maturity Date:**	**Original Issue Date:**	**CUSIP:**
___%	December 1, ____	June 7, 2016	_____

REGISTERED OWNER: **CEDE & CO.**

PRINCIPAL SUM: **_____ DOLLARS**

The City of Boulder, in the County of Boulder and State of Colorado (the "City"), for value received, hereby promises to pay to the order of the registered owner above or registered assigns, solely from the special funds as hereinafter set forth, on the maturity date stated above, the principal sum stated above, in lawful money of the United States of America, with interest thereon from June 7, 2016, at the interest rate per annum stated above, payable on December 1, 2016, and semiannually thereafter on the first day of June and the first day of December of each year, the principal of and premium, if any, on this bond being payable at the office of U.S. Bank National Association, at its operations center in St. Paul, Minnesota, or at the office of its successor, as Paying Agent (the "Paying Agent"), and the interest hereon to be paid to such person as is the registered owner hereof as of the Record Date by check or draft of the Paying Agent mailed on the interest payment date to said registered owner. The Record Date is the 15th day of the month preceding any interest payment date.

This bond is one of an issue of bonds of the City designated "Water and Sewer Revenue Bonds, Series 2016" issued in the principal amount of $_____ (the "2016 Bonds"). The 2016 Bonds are being issued by the City for the purpose of providing funds to (a) construct, acquire,

improve and equip certain treatment and transmission facilities in the City's water system, (b) fund a bond reserve fund; and (c) pay the cost of issuing the 2016 Bonds, pursuant to and in full conformity with the Constitution and laws of the State of Colorado, the charter of the City of Boulder, Colorado (the "Charter"), an ordinance (the "Ordinance") duly passed and adopted by the City prior to the issuance hereof and the Supplemental Public Securities Act.

The 2016 Bonds maturing on and after December 1, 2025 shall be callable for redemption at the option of the City, in whole or in part, and if in part in such order of maturities as the City shall determine and by lot within a maturity on December 1, 2024, and on any date thereafter, at a redemption price equal to the par amount thereof plus accrued interest to the redemption date.

Redemption shall be made upon not less than 30 days prior notice by sending a copy of such notice by certified or registered first class, postage prepaid mail, at least 30 days prior to the redemption date specified in such notice, to the registered owners of each of the 2016 Bonds being redeemed. Such notice shall specify the number or numbers of the 2016 Bonds so to be redeemed and the redemption date. If this bond shall have been duly called for redemption and if, on or before the redemption date, there shall have been deposited with the Paying Agent funds sufficient to pay the redemption price of this bond at the redemption date, then this bond shall become due and payable at such redemption date, and interest hereon shall cease to accrue after the redemption date.

This bond is transferable by the registered owner hereof in person or by the registered owner's attorney duly authorized, in writing, at the principal office of the Paying Agent in Denver, Colorado, but only in the manner, subject to the limitations and upon payment of the charges provided in the Ordinance, and upon surrender and cancellation of this bond. Upon such transfer, a new registered 2016 Bond or 2016 Bonds of the same maturity and interest rate and of authorized denomination or denominations ($5,000 and integral multiples thereof) for the same aggregate principal amount will be issued to the transferee in exchange therefor. The City and the Paying Agent may deem and treat the registered owner hereof as the absolute owner hereof (whether or not this bond shall be overdue) for the purpose of receiving payment of, or on account of, principal hereof and premium, and neither the City nor the Paying Agent shall be affected by any notice to the contrary.

The 2016 Bonds do not constitute a debt or an indebtedness of the City within the meaning of any constitutional, charter or statutory provision or limitation, shall not be considered or held to be general obligations of the City, and are payable and collectible solely out of the net income derived from the operation and use of the City's municipal water system (the "Water System") and the net income derived from the operation of the City's municipal sewer system (the "Sewer System") (herein collectively designated as the "Facilities," and the net income derived therefrom as the "Net Income"), which Net Income is so pledged; and the holder hereof may not look to any general or other fund for the payment of the principal of and the interest on this bond except the special funds pledged therefor. Payment of the 2016 Bonds and the interest thereon shall be made solely from and as security for such payment there are irrevocably and exclusively pledged, pursuant to the Ordinance, two special accounts identified as the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2016 Interest and Bond Retirement Fund" (the "Bond Fund") and as the "City of Boulder, Colorado, Water and Sewer Revenue

Bonds, Series 2016 Reserve Fund" (the "Reserve Fund"). The City covenants to pay into the 2016 Bond Fund from the Net Income remaining from the Water System, after provision only for all necessary and reasonable expenses of the operation and maintenance of the Water System, sums sufficient to pay when due the principal of and the interest on the 2016 Bonds and to pay the same from the Net Income of the Sewer System to the extent the Net Income from the Water System is insufficient therefor.

The 2016 Bonds are equitably and ratably secured by a lien on the Net Income of the Facilities, and the 2016 Bonds constitute an irrevocable and first lien (but not necessarily an exclusive first lien) upon said Net Income on a parity with the lien thereon of the outstanding City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2005B; City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2007; City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2010; City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2011; City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Refunding Bonds, Series 2012, and City of Boulder, Colorado (Acting through its Water Utility Enterprise and Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2015. Subject to expressed conditions in the Ordinance, additional bonds and other obligations, may be issued and made payable from the Net Income of the Facilities on a subordinate and junior basis to the 2016 Bonds. Subject to additional expressed conditions in the Ordinance, additional bonds and other obligations may be issued and made payable from the Net Income of the Facilities on a parity with the 2016 Bonds.

The City covenants and agrees with the holder of this 2016 Bond and with each and every person who may become the holder hereof that it will keep and will perform all of the covenants of the Ordinance, including without limitation its covenant against the sale or mortgage of the Facilities unless provision shall be made for the payment of the principal of and the interest on the 2016 Bonds, and its covenant that it will fix, maintain and collect charges for services rendered and use of the Facilities sufficient to produce Gross Income or earnings annually to pay the annual operation and maintenance expenses and 125% of both the principal of and the interest on the bonds (including, without limitation, the 2016 Bonds) and any other obligations payable annually from the Net Income of the Facilities (excluding the reserves therefor).

Reference is made to the Ordinance and any and all modifications and amendments thereof, and to the Charter of the City, as from time to time amended, for an additional description of the nature and extent of the security for the 2016 Bonds, the accounts, funds or income pledged, the nature and extent and manner of enforcement of the pledge, the rights and remedies of the holders of the 2016 Bonds with respect thereto, the terms and conditions upon which the 2016 Bonds are issued, and a statement of rights, duties, immunities and obligations of the City, and other rights and remedies of the holders of the 2016 Bonds.

To the extent and in the respects permitted by the Ordinance, the provisions of the Ordinance or any instrument amendatory thereof or supplemental thereto may be modified or amended by action of the City taken in the manner and subject to the conditions and exceptions

prescribed in the Ordinance. The pledge of Net Income and other obligations of the City under the Ordinance may be discharged, at or prior to the respective maturities or redemption of the 2016 Bonds, upon the making of provision for the payment thereof on the terms and conditions set forth in the Ordinance.

It is hereby certified that all conditions, acts and things required by the constitution and laws of the State of Colorado, and the Charter and ordinances of the City, to exist, to happen and to be performed, precedent to and in the issuance of this bond, exist, have happened and have been performed, and that the City of Boulder, Colorado (Acting through its Water Utility Enterprise and its Wastewater Utility Enterprise), Water and Sewer Revenue Bonds, Series 2016, do not exceed any limitations prescribed by said constitution or laws of the State of Colorado, or the Charter or ordinances of the City.

The 2016 Bonds are issued pursuant to the Supplemental Public Securities Act, constituting Part 2, Article 57, Title 11 of Colorado Revised States, as amended. This recital shall conclusively impart full compliance with all of the provisions of the Ordinance and shall be conclusive evidence of the validity and regularity of the issuance of the 2016 Bonds after their delivery for value and that all of the 2016 Bonds issued are incontestable for any cause whatsoever after their delivery for value.

This bond shall not be entitled to any benefit under the Ordinance, or become valid or obligatory for any purpose, until the Paying Agent shall have signed the certificate of authentication hereon.

IN WITNESS WHEREOF, the City of Boulder, Colorado, has caused this bond to be signed with the facsimile signature of its Mayor, sealed with a facsimile of the impression of its seal, and attested with the facsimile signature of its Clerk.

[CITY SEAL]

CITY OF BOULDER, COLORADO

By _____
Mayor

Attest:

By _____
Clerk

Date of Authentication: June 7, 2016

This is one of the Water and Sewer Revenue Bonds, Series 2016, described in the within-mentioned Ordinance.

U.S. BANK NATIONAL ASSOCIATION,
as Paying Agent

By _____
Authorized Signatory

FOR VALUE RECEIVED, _____, the undersigned, hereby sells, assigns and transfers unto _____ (Tax Identification or Social Security No. ____) the within bond and all rights thereunder, and hereby irrevocably constitutes and appoints _____ attorney to transfer the within bond on the books kept for registration thereof, with full power or substitution in the premises.

Dated: _____

_____

NOTICE: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever.

[End of Form of 2016 Bond]

Section 3.10. Authentication Upon Exchange or Replacement of the 2016 Bonds. The Paying Agent shall authenticate any 2016 Bonds exchanged or replaced under Section 3.03, 3.08 and 3.09 hereof upon the written direction of the Chief Financial Officer or Director of Finance; such 2016 Bonds exchanged or reissued shall not be valid until so authenticated.

ARTICLE IV

USE OF 2016 BOND PROCEEDS AND RESERVE POLICY

Section 4.01. Disposition of 2016 Bond Proceeds. The proceeds of the 2016 Bonds upon the receipt thereof, shall be deposited promptly by the Chief Financial Officer in an Insured Bank designated by the Council (except as otherwise provided hereafter) and shall be accounted for in the following manner and priority and are hereby pledged therefor:

(a) ***Bond Fund***. There shall be credited to a separate account hereby created and to be known as the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2016 Interest and Bond Retirement Fund," all moneys received, if any, as accrued interest on the 2016 Bonds from their sale by the City from the date of the 2016 Bonds to the date or respective dates of their delivery to the Original Purchaser, to be applied to the payment of interest on the 2016 Bonds as the same becomes due after their delivery, in accordance with Section 5.18 hereof.

(b) ***Reserve Fund***. There initially will be credited to a separate account hereof created and to be known as the "City of Boulder, Colorado, Water and Sewer Revenue Bonds, Series 2016 Reserve Fund," funded by the 2016 Reserve Policy in an amount equal to the Minimum Bond Reserve. The amount of 2016 Bond proceeds used for the 2016 Reserve Policy premium shall be equal to $[_____].

(c) ***Project Fund***. An amount equal to $[_____] of the proceeds derived from the sale of the 2016 Bonds, except as herein otherwise expressly provided, shall be credited to a separate account hereby created and to be known as the "City of Boulder, Colorado Water and Sewer Revenue Bonds, Series 2016 Project Fund."

(d) ***Issuance Expense Fund***. $[_____] of proceeds of the 2016 Bonds shall be credited to a separate account hereby created and to be known as the "City of Boulder Water and Sewer Revenue Bonds, Series 2016 Issuance Expense Fund" and shall be used to pay costs of issuance in connection with the 2016 Bonds. Upon the determination of the City that all costs of issuance of the 2016 Bonds have been paid or are determinable, any balance remaining in this account shall be transferred to the Bond Fund.

Section 4.02. Use of Project Fund. The moneys in the Project Fund, except as herein otherwise expressly provided, shall be used and paid out solely for the purpose of paying costs of the Project including, without limitation, interest during construction of the Project, engineering, inspection, fiscal and legal expenses, costs of financial, professional and other estimates and advice, contingencies, any reimbursements due to the federal government, or any agency, instrumentality or corporation thereof, of any moneys theretofore expended for or in connection

with the Project, and all such other incidental expenses as may be necessary or incidental to the financing and construction of the Project, or any part thereof, the issuance of the 2016 Bonds and the placing of the Project in operation.

Section 4.03. Application of Project Fund. Moneys, except as herein otherwise expressly provided, shall be withdrawn from the Project Fund for the purposes designated in Section 4.02 hereof upon written direction of the Manager or her designee. Moneys shall be disbursed only upon receipt of bills or invoices indicating that the required sum is then due and owing for materials supplied or work satisfactorily completed in substantial accordance with the plans and specifications for the work involved. Any interest earnings on moneys deposited to the Project Fund shall be retained in the Project Fund until the Project shall have been completed and then shall be transferred as provided in Section 4.05 below.

Section 4.04. Prevention of Bond Default. The Chief Financial Officer shall use any 2016 Bond proceeds credited to the Project Fund, without further order or warrant, to pay the interest on and the principal of the 2016 Bonds as the same become due whenever and to the extent moneys in the Bond Fund or otherwise available therefor are insufficient for that purpose, unless such 2016 Bond proceeds shall be needed to defray obligations accrued and to accrue under any contracts then existing and appertaining to the Project. The Chief Financial Officer shall promptly notify the Council of any such use. Any moneys so used shall be restored to the Project Fund, as permitted by Section 5.25 hereof, from the Net Income of the Facilities thereafter received and not needed to meet the requirements provided in Sections 5.03 through 5.23 hereof.

Section 4.05. Completion of Project. When the Project shall have been completed in accordance with the relevant plans and specifications and all amounts due therefor, including all proper incidental expenses, shall have been paid, or for which full provision shall have been made, the Chief Financial Officer shall cause to be transferred to the Reserve Fund, all surplus moneys remaining in the Project Fund, if any, to the extent the amount on deposit in the Reserve Fund is less than the Minimum Bond Reserve, and any remaining surplus moneys shall be transferred to the Bond Fund, except for moneys to be retained to pay any unpaid accrued costs or contingent obligations. Nothing herein contained shall be construed as preventing the Chief Financial Officer from causing to be transferred from the Project Fund to the Reserve Fund, to the extent of any deficiency, at any time prior to the termination of the Project Fund any moneys which will not be necessary for the Project.

Section 4.06. Original Purchaser Not Responsible. The validity of the 2016 Bonds shall not be dependent on, nor be affected by, the validity or regularity of any proceedings relating to the acquisition, construction, reconstruction or replacement of the Project, or any part thereof, or to the completion of the Project. The Original Purchaser of the 2016 Bonds, any associate thereof, and any subsequent holder of any 2016 Bond shall in no manner be responsible for the application or disposal by the City or by any of its officers, agents and employees of the moneys derived from the sale of the 2016 Bonds or any other moneys herein designated.

Section 4.07. Lien on Bond Proceeds. Until the proceeds of the 2016 Bonds are applied as hereinabove provided and used to defray costs of the Project from time to time, the

2016 Bonds shall be secured by a lien on such proceeds which are pledged for the benefit of the holders of the 2016 Bonds from time to time as provided in Section 5.01.

Section 4.08. 2016 Reserve Policy. In connection with the issuance of the 2016 Reserve Policy by the 2016 Reserve Policy Provider, the City hereby authorizes the execution and delivery of the 2016 Reserve Policy Agreement. The Chief Financial Officer or Director of Finance of the City is also hereby authorized and directed to take all actions necessary to cause the 2016 Reserve Policy Provider to issue the 2016 Reserve Policy in accordance with the Commitment, including without limitation, payment of the premium(s) due in connection therewith and entering into any authorizing agreement, including the 2016 Reserve Policy Agreement. The execution of the Commitment by the Chief Financial Officer, Director of Finance or other authorized officer of the City is hereby ratified and approved.

ARTICLE V

ADMINISTRATION OF AND ACCOUNTING FOR PLEDGED REVENUES

Section 5.01. Pledge Securing 2016 Bonds. Subject only to the right of the City to cause amounts to be withdrawn therefrom and paid on account of Operation and Maintenance Expenses of the Facilities, the Net Income and all moneys and securities paid, or to be paid to, or held, or to be held, in any account under Article V of this Instrument or under Section 4.01 hereof are hereby pledged to secure the payment of the principal of and the interest on the 2016 Bonds; and this pledge of the resulting Net Income shall be valid and binding from and after the date of the first delivery of any 2016 Bonds, and the moneys, as received by the City and hereby pledged, shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge and the obligation to perform the contractual provisions hereby made shall have priority over any or all other obligations and liabilities of the City, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the City irrespective of whether such parties have notice thereof.

Section 5.02. Income Deposits. So long as any of the 2016 Bonds shall be Outstanding, either as to principal or interest, or both, the entire Gross Income of the Facilities shall be set aside and credited, as follows:

(a) ***Sewer Income Fund***. For the purposes of this Instrument, a separate account shall continue to be set aside, maintained and known as the "City of Boulder Sewer Income Fund" (the "Sewer Income Fund"). So long as any of the 2016 Bonds shall be Outstanding, either as to principal or interest, all Gross Income derived from the operation of the Sewer System shall continue to be credited to the Sewer Income Fund.

(b) ***Water Income Fund***. For the purposes of this Instrument, a separate account shall continue to be set aside, maintained and known as the "City of Boulder Water Income Fund" (the "Water Income Fund"). So long as any of the 2016 Bonds shall be Outstanding, either as to principal or interest, all Gross Income derived from the operation of the Water System shall continue to be credited to the Water Income Fund.

Section 5.03. Administration of Income Funds. So long as any of the 2016 Bonds hereby authorized shall be Outstanding, either as to principal or interest, or both, as provided herein in Sections 5.03 through 5.18 hereof, the following payments shall be made from the Sewer Income Fund and the Water Income Fund:

(a) ***Sewer O. & M. Expenses***. First, as a first charge thereon, there shall be set aside from the Sewer Income Fund in an account heretofore created by Ordinance No. 2577 and reauthorized by Ordinance No. 7421, Ordinance No. 7524, Ordinance No. 7754, Ordinance No. 7781, Ordinance No. 7875, Ordinance No. 8074 and this Instrument and known as the "City of Boulder Sewer System Operation and Maintenance Fund" (the "Sewer System Operation and Maintenance Fund"), moneys sufficient to pay Operation and Maintenance Expenses of the Sewer System as they become due and payable, and thereupon they shall be promptly paid. Any surplus remaining at the end of the Fiscal Year and not needed for Operation and Maintenance Expenses shall be transferred to the Sewer Income Fund and be used for the purposes thereof, as herein provided.

(b) ***Water O. & M. Expenses***. Concurrently, as a first charge thereon, there shall be set aside from the Water Income Fund in an account heretofore created and reauthorized by Ordinance No. 7421, Ordinance No. 7524, Ordinance No. 7754, Ordinance 7781, Ordinance No. 7875, Ordinance No. 8074 and this Instrument, known as the "City of Boulder Water System Operation and Maintenance Fund" (the "Water System Operation and Maintenance Fund"), moneys sufficient to pay Operation and Maintenance Expenses of the Water System, as they become due and payable, and thereupon they shall be promptly paid. Any surplus remaining at the end of the Fiscal Year and not needed for Operation and Maintenance Expenses shall be transferred to the Water Income Fund and be used for the purposes thereof, as herein provided.

Section 5.04. 2005B Bond Fund Payments. Second, and concurrently with the payments required by Sections 5.06, 5.08, 5.10, 5.12, 5.14 and 5.16 hereof, from any moneys remaining in the Water Income Fund, there shall be credited to the 2005B Bond Fund the following:

(a) ***Interest Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2005B Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2005B Bonds then Outstanding.

(b) ***Principal Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2005B Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2005B Bonds.

The moneys credited to the 2005B Bond Fund shall be used to pay the principal of and interest on the 2005B Bonds as the same become due.

Section 5.05. 2005B Reserve Fund Payments. Third, and concurrently with the payments required by Sections 5.07, 5.09, 5.11, 5.13, 5.15 and 5.17 hereof, from any moneys remaining in the Water Income Fund, except as provided in Sections 5.19 and 5.20, and in addition to the moneys required to be deposited in the 2005B Reserve Fund by Section 4.01 of Ordinance No. 7421, there shall be credited to the 2005B Reserve Fund any moneys necessary to make up any deficiency in the 2005B Reserve Fund, to the extent moneys on deposit in the 2005B Reserve Fund are less than the 2005B Minimum Bond Reserve. No payment need be made into the 2005B Reserve Fund so long as the moneys therein are at least equal to the 2005B Minimum Bond Reserve. The moneys in the 2005B Reserve Fund shall be maintained as a continuing reserve to be used, except as hereinafter provided in Section 5.19 and in Section 5.20 hereof, only to prevent deficiencies in the payment of the principal of and the interest on the 2005B Bonds resulting from the failure to deposit into the 2005B Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided herein, if a deficiency in the 2005B Reserve Fund arises due to a transfer from the 2005B Reserve Fund to the 2005B Bond Fund, then such deficiency shall be made up from the Sewer Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2005B Reserve Fund in excess of the 2005B Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2005B Reserve Fund, may be withdrawn therefrom and transferred to the 2005B Bond Fund.

Section 5.06. 2007 Bond Fund Payments. Fourth, and concurrently with the payments required by Sections 5.04, 5.08, 5.10, 5.12, 5.14 and 5.16 hereof, from any moneys remaining in the Water Income Fund, there shall be credited to the 2007 Bond Fund the following:

(a) ***Interest Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2007 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2007 Bonds then Outstanding.

(b) ***Principal Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2007 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2007 Bonds.

The moneys credited to the 2007 Bond Fund shall be used to pay the principal of and interest on the 2007 Bonds as the same become due.

Section 5.07. 2007 Reserve Fund Payments. Fifth, and concurrently with the payments required by Sections 5.05, 5.09, 5.11, 5.13, 5.15 and 5.17, from any moneys remaining in the Water Income Fund, except as provided in Sections 5.19 and 5.20, and in addition to the moneys required to be deposited in the 2007 Reserve Fund by Section 4.01 of Ordinance No. 7524, there shall be credited to the 2007 Reserve Fund any moneys necessary to make up any deficiency in the 2007 Reserve Fund, to the extent moneys on deposit in the 2007 Reserve Fund are less than the 2007 Minimum Bond Reserve. No payment need be made into the 2007 Reserve Fund so long as the moneys therein are at least equal to the 2007 Minimum Bond Reserve. The moneys

in the 2007 Reserve Fund shall be maintained as a continuing reserve to be used (including draws on the 2007 Reserve Policy), except as hereinafter provided in Section 5.19 and in Section 5.20 hereof, only to prevent deficiencies in the payment of the principal of and the interest on the 2007 Bonds resulting from the failure to deposit into the 2007 Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided herein, if a deficiency in the 2007 Reserve Fund arises due to a transfer from the 2007 Reserve Fund to the 2007 Bond Fund (or a draw on the 2007 Reserve Policy), then such deficiency shall be made up from the Sewer Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2007 Reserve Fund in excess of the 2007 Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2007 Reserve Fund, may be withdrawn therefrom and transferred to the 2007 Bond Fund.

Section 5.08. 2010 Bond Fund Payments. Sixth, and concurrently with the payments required by Sections 5.04, 5.06, 5.10, 5.12, 5.14 and 5.16 hereof, from any moneys remaining in the Water Income Fund, there shall be credited to the 2010 Bond Fund the following:

(a) ***Interest Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2010 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2010 Bonds then Outstanding.

(b) ***Principal Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2010 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2010 Bonds.

The moneys credited to the 2010 Bond Fund shall be used to pay the principal of and interest on the 2010 Bonds as the same become due.

Section 5.09. 2010 Reserve Fund Payments. Seventh, and concurrently with the payments required by Sections 5.05, 5.07, 5.11, 5.13, 5.15 and 5.17 hereof, from any moneys remaining in the Water Income Fund, except as provided in Sections 5.19 and 5.20, and in addition to the moneys required to be deposited in the 2010 Reserve Fund by Section 4.01 of Ordinance No. 7754, there shall be credited to the 2010 Reserve Fund any moneys necessary to make up any deficiency in the 2010 Reserve Fund, to the extent moneys on deposit in the 2010 Reserve Fund are less than the 2010 Minimum Bond Reserve. No payment need be made into the 2010 Reserve Fund so long as the moneys therein are at least equal to the 2010 Minimum Bond Reserve. The moneys in the 2010 Reserve Fund shall be maintained as a continuing reserve to be used, except as hereinafter provided in Section 5.19 and in Section 5.20 hereof, only to prevent deficiencies in the payment of the principal of and the interest on the 2010 Bonds resulting from the failure to deposit into the 2010 Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided herein, if a deficiency in the 2010 Reserve Fund arises due to a transfer from the 2010 Reserve Fund to the 2010 Bond Fund, then such deficiency shall be made up from the Sewer Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2010 Reserve Fund in

excess of the 2010 Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2010 Reserve Fund, may be withdrawn therefrom and transferred to the 2010 Bond Fund.

Section 5.10. 2011 Bond Fund Payments. Eighth, and concurrently with the payments required by Sections 5.04, 5.06, 5.08, 5.12, 5.14 and 5.16 hereof, from any moneys remaining in the Water Income Fund, there shall be credited to the 2011 Bond Fund the following:

(a) ***Interest Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2011 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2011 Bonds then Outstanding.

(b) ***Principal Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2011 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2011 Bonds.

The moneys credited to the 2011 Bond Fund shall be used to pay the principal of and interest on the 2011 Bonds as the same become due.

Section 5.11. 2011 Reserve Fund Payments. Ninth, and concurrently with the payments required by Sections 5.05, 5.07, 5.09, 5.13, 5.15 and 5.17 hereof, from any moneys remaining in the Water Income Fund, except as provided in Sections 5.19 and 5.20, and in addition to the moneys required to be deposited in the 2011 Reserve Fund by Section 4.01 of Ordinance No. 7781, there shall be credited to the 2011 Reserve Fund any moneys necessary to make up any deficiency in the 2011 Reserve Fund, to the extent moneys on deposit in the 2011 Reserve Fund are less than the 2011 Minimum Bond Reserve. No payment need be made into the 2011 Reserve Fund so long as the moneys therein are at least equal to the 2011 Minimum Bond Reserve. The moneys in the 2011 Reserve Fund shall be maintained as a continuing reserve to be used, except as hereinafter provided in Section 5.19 and in Section 5.20 hereof, only to prevent deficiencies in the payment of the principal of and the interest on the 2011 Bonds resulting from the failure to deposit into the 2011 Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided herein, if a deficiency in the 2011 Reserve Fund arises due to a transfer from the 2011 Reserve Fund to the 2011 Bond Fund, then such deficiency shall be made up from the Sewer Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2011 Reserve Fund in excess of the 2011 Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2011 Reserve Fund, may be withdrawn therefrom and transferred to the 2011 Bond Fund.

Section 5.12. 2012 Bond Fund Payments. Tenth, and concurrently with the payments required by Sections 5.04, 5.06, 5.08, 5.10, 5.14 and 5.16 hereof, from any moneys remaining in the Sewer Income Fund, there shall be credited to the 2012 Bond Fund the following:

(a) ***Interest Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2012 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2012 Bonds then Outstanding.

(b) ***Principal Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2012 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2012 Bonds.

The moneys credited to the 2012 Bond Fund shall be used to pay the principal of and interest on the 2012 Bonds as the same become due.

Section 5.13. 2012 Reserve Fund Payments. Eleventh, and concurrently with the payments required by Sections 5.05, 5.07, 5.09, 5.11, 5.15 and 5.17 hereof, from any moneys remaining in the Sewer Income Fund, except as provided in Sections 5.19 and 5.20, and in addition to the moneys required to be deposited in the 2012 Reserve Fund by Section 4.01 of Ordinance No. 7875, there shall be credited to the 2012 Reserve Fund any moneys necessary to make up any deficiency in the 2012 Reserve Fund, to the extent moneys on deposit in the 2012 Reserve Fund are less than the 2012 Minimum Bond Reserve or to repay the 2012 Reserve Policy Provider for a drawing on the 2012 Reserve Policy. No payment need be made into the 2012 Reserve Fund so long as the moneys therein are at least equal to the 2012 Minimum Bond Reserve and no draw has been made on the 2012 Reserve Policy credited to the 2012 Reserve Fund. The moneys in the 2012 Reserve Fund shall be maintained as a continuing reserve to be used (including draws on the 2012 Reserve Policy), except as hereinafter provided in Section 5.19 and in Section 5.20 hereof, only to prevent deficiencies in the payment of the principal of and the interest on the 2012 Bonds resulting from the failure to deposit into the 2012 Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided herein, if a deficiency in the 2012 Reserve Fund arises due to a transfer from the 2012 Reserve Fund to the 2012 Bond Fund (or a draw on the 2012 Reserve Policy), then such deficiency shall be made up from the Water Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2012 Reserve Fund in excess of the 2012 Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2012 Reserve Fund, may be withdrawn therefrom and transferred to the 2012 Bond Fund.

Section 5.14. 2015 Bond Fund Payments. Twelfth, and concurrently with the payments required by Sections 5.04, 5.06, 5.08, 5.10, 5.12 and 5.16 hereof, from any moneys remaining in the Sewer Income Fund, there shall be credited to the 2015 Bond Fund the following:

(a) ***Interest Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2015 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2015 Bonds then Outstanding.

(b) ***Principal Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2015 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2015 Bonds.

The moneys credited to the 2015 Bond Fund shall be used to pay the principal of and interest on the 2015 Bonds as the same become due.

Section 5.15. 2015 Reserve Fund Payments. Thirteenth, and concurrently with the payments required by Sections 5.05, 5.07, 5.09, 5.11, 5.13 and 5.17 hereof, from any moneys remaining in the Sewer Income Fund, except as provided in Sections 5.19 and 5.20, and in addition to the moneys required to be deposited in the 2015 Reserve Fund by Section 4.01 of Ordinance No. 8074, there shall be credited to the 2015 Reserve Fund any moneys necessary to make up any deficiency in the 2015 Reserve Fund, to the extent moneys on deposit in the 2015 Reserve Fund are less than the 2015 Minimum Bond Reserve or to repay the 2015 Reserve Policy Provider for a drawing on the 2015 Reserve Policy. No payment need be made into the 2015 Reserve Fund so long as the moneys therein are at least equal to the 2015 Minimum Bond Reserve and no draw has been made on the 2015 Reserve Policy credited to the 2015 Reserve Fund. The moneys in the 2015 Reserve Fund shall be maintained as a continuing reserve to be used (including draws on the 2015 Reserve Policy), except as hereinafter provided in Section 5.19 and in Section 5.20 hereof, only to prevent deficiencies in the payment of the principal of and the interest on the 2015 Bonds resulting from the failure to deposit into the 2015 Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided herein, if a deficiency in the 2015 Reserve Fund arises due to a transfer from the 2015 Reserve Fund to the 2015 Bond Fund (or a draw on the 2015 Reserve Policy), then such deficiency shall be made up from the Water Income Fund as soon as any moneys become available therein. Any moneys at any time in the 2015 Reserve Fund in excess of the 2015 Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the 2015 Reserve Fund, may be withdrawn therefrom and transferred to the 2015 Bond Fund.

Section 5.16. Bond Fund Payments. Fourteenth, and concurrently with the payments required by Sections 5.04, 5.06, 5.08, 5.10, 5.12 and 5.14 hereof, from any moneys remaining in the Water Income Fund, there shall be credited to the Bond Fund, created in Section 4.01 hereof, the following:

(a) ***Interest Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2016 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of interest on the 2016 Bonds then Outstanding.

(b) ***Principal Payments***. Monthly, commencing on the first day of the month immediately succeeding the delivery of any of the 2016 Bonds, an amount in equal monthly installments necessary, together with any other moneys from time to time available therefor, from whatever source, to pay the next maturing installment of principal of the Outstanding 2016 Bonds.

The moneys credited to the Bond Fund shall be used to pay the principal of and interest on the 2016 Bonds as the same become due.

Section 5.17. Reserve Fund Payments. Fifteenth and concurrently with the payments required by Sections 5.05, 5.07, 5.09, 5.11, 5.13 and 5.15 hereof, from any moneys remaining in the Water Income Fund, except as provided in Sections 5.19 and 5.20, and in addition to the moneys required to be deposited in the Reserve Fund by Section 4.01 hereof, there shall be credited to the Reserve Fund any moneys necessary to make up any deficiency in the Reserve Fund, to the extent moneys on deposit in or credited to the Reserve Fund are less than the Minimum Bond Reserve or to repay the 2016 Reserve Policy Provider for a drawing on the 2016 Reserve Policy. No payment need be made into the Reserve Fund so long as the moneys therein or credited thereto are at least equal to the Minimum Bond Reserve and no draw has been made on the 2016 Reserve Policy credited to the Reserve Fund. The moneys in the Reserve Fund shall be maintained as a continuing reserve to be used (including draws on the 2016 Reserve Policy), except as hereinafter provided in Section 5.19 and in Section 5.20 hereof, only to prevent deficiencies in the payment of the principal of and the interest on the 2016 Bonds resulting from the failure to deposit into the Bond Fund sufficient funds to pay said principal and interest as the same accrue. Except as otherwise provided herein, if a deficiency in the Reserve Fund arises due to a transfer from the Reserve Fund to the Bond Fund (or a draw on the 2016 Reserve Policy), then such deficiency shall be made up from the Sewer Income Fund as soon as any moneys become available therein. Any moneys at any time in the Reserve Fund in excess of the Minimum Bond Reserve, including investment earnings derived from amounts on deposit in the Reserve Fund, may be withdrawn therefrom and transferred to the Bond Fund.

Section 5.18. Rebate Fund.

(a) The City hereby establishes the "City of Boulder, Colorado Water and Sewer Revenue Bonds, Series 2016 Rebate Fund" (the "Rebate Fund"), which shall be expended in accordance with the provisions hereof and the Tax Letter of Instructions, and there is further established within said Rebate Fund the Rebate Principal Account and the Rebate Income Account. The City shall make deposits to and disbursements from the Rebate Fund in accordance with the Tax Letter of Instructions, shall invest the Rebate Fund pursuant to said Tax Letter of Instructions, and shall deposit income from said investments immediately upon receipt thereof in the Rebate Income Account, all as set forth in the Tax Letter of Instructions. The deposits required to be made to the Rebate Fund shall be made from any Net Income of the Facilities, including amounts on deposit in any fund or account created by this Instrument. The City shall make the calculations, deposits, disbursements and investments as may be required by the immediately preceding sentence or, to the extent it deems necessary in order to ensure the tax-exempt status of interest on the 2016 Bonds, shall employ at its expense a person or firm with recognized expertise in the area of rebate calculation, to make such calculations. The Tax Letter of Instructions may be superseded or amended by a new Tax Letter of Instructions drafted by, and accompanied by an opinion of, nationally recognized bond counsel addressed to the City to the effect that the use of said new Tax Letter of Instructions will not cause the interest on the 2016 Bonds to become includible in Gross Income for the purposes of federal income taxation.

(b) The City shall annually make the rebate deposit described in the Tax Letter of Instructions. Records of the determinations required by this Section 5.18 and the Tax Letter of Instructions shall be retained by the City until six years after the final retirement of the 2016 Bonds.

(c) Not later than 30 days after the end of the fifth anniversary of the date of issuance of the 2016 Bonds and every five years thereafter, the City shall pay to the United States of America 90% of the amount required to be on deposit in the Rebate Principal Account as of such payment date and 100% of the amount on deposit in the Rebate Income Account as of such payment date. Not later than 60 days after the final retirement of the 2016 Bonds, the City shall pay to the United States of America 100% of the balance remaining in the Rebate Principal Account and the Rebate Income Account. Each payment required to be paid to the United States of America pursuant to this Section 5.18 shall be filed with the Internal Revenue Service Center, Ogden, Utah 84201. Each payment shall be accompanied by a copy of the Internal Revenue Form 8038-G originally filed with respect to the 2016 Bonds and a statement summarizing the determination of the amount to be paid to the United States of America.

Section 5.19. Termination of Deposits. No payment need be made into the Bond Fund, the Reserve Fund, or both, if the amount in the Bond Fund and the amount in the Reserve Fund total a sum at least equal to the entire amount of the Outstanding 2016 Bonds, both as to principal and interest to their respective maturities, or to any prior redemption date on which the City shall have exercised or shall have obligated itself to redeem prior to their respective maturities the 2016 Bonds then Outstanding and thereafter maturing, and both accrued and not accrued, in which case, moneys in said two accounts in an amount, except for any interest or other gain to accrue from any investment of moneys in Permitted Investments from time to time of any such deposit to the time or respective times the proceeds of any such investment shall be needed for such payment, at least equal to such principal and interest requirements, shall be used together with any such gain from investments solely to pay such as the same become due; and any moneys in excess thereof in said two accounts and any other moneys derived from the operation of the Facilities may be used in any lawful manner determined by the Council.

Section 5.20. Defraying Delinquencies. If, in any month, the City shall for any reason fail to pay into the Bond Fund the full amount above stipulated from the Water Income Fund, then an amount shall be paid into the Bond Fund in such month from the Reserve Fund (or from a draw on the 2016 Reserve Policy), in accordance with Section 5.17 hereof, equal to the difference between that paid from the Water Income Fund and the full amount so stipulated. The money so used shall be replaced in the Reserve Fund (or used to reimburse a draw on the 2016 Reserve Policy) from the first income thereafter received from the operation of the Facilities not required to be otherwise applied by Sections 5.03 through 5.18 hereof, but excluding any payments required for any Subordinate Bonds. In the event that other bonds are Outstanding, any lien to secure the payment of which on the Net Income is on a parity with the lien thereon of the 2016 Bonds, and the proceedings authorizing the issuance of those bonds require the replacement of moneys in a reserve fund therefor, then the moneys replaced in the Reserve Fund for the 2016 Bonds (or used to reimburse a draw on the 2016 Reserve Policy) and in each such other reserve fund shall be replaced on a pro rata basis as moneys become available therefor. If, in any month, the City shall for any reason fail to pay into the Reserve Fund (or reimburse a

draw on the 2016 Reserve Policy) the full amount above stipulated, if any, from the Net Income, the difference between the amount paid and the amount so stipulated shall in a like manner be paid therein from the first Net Income thereafter received and not required to be applied otherwise by Sections 5.03 through 5.17 and 5.18 hereof, but excluding any payments required for any Subordinate Bonds. The moneys in the Bond Fund and in the Reserve Fund shall be used solely and only for the purpose of paying the principal of and the interest on the 2016 Bonds; provided, however, that any moneys at any time in excess of the Minimum Bond Reserve in the Reserve Fund may be withdrawn therefrom and used as herein provided for the payment of the 2016 Bonds as they become due or on any prior redemption date; and provided, further, that any moneys in the Bond Fund and in the Reserve Fund in excess of accrued and unaccrued principal and interest requirements to the respective maturities or designated prior redemption date of the Outstanding 2016 Bonds may be used as hereinabove provided in Section 5.19 hereof.

Section 5.21. Payment of Additional Bonds. Sixteenth, but either concurrently with, in the case of additional Parity Bonds, or subsequent to, in the case of additional Subordinate Bonds, the payments required by Sections 5.03 through 5.18 hereof, as provided in Section 7.03 through Section 7.16 hereof, any moneys remaining in the Water Income Fund and in the Sewer Income Fund, after making the payments hereinabove provided, may be used by the City for the payment of interest on and the principal of additional bonds hereafter authorized to be issued and payable from the Net Income of the Facilities, including reasonable reserves therefor, as the same accrue; provided, however, that the lien of such additional bonds on the Net Income of the Facilities and the pledge thereof for the payment of such additional bonds shall be on a parity with, in the case of additional Parity Bonds, or subordinate to, in the case of additional Subordinate Bonds, the lien and pledge of the bonds herein authorized, as hereinafter provided.

Section 5.22. Facilities Income Pledge. Anything herein to the contrary notwithstanding, if moneys in the Water Income Fund or the Sewer Income Fund are at any time insufficient to pay the amounts required to be paid therefrom, after permitted transfers from the Reserve Fund, then moneys in either such fund shall be used to pay all items payable therefrom pursuant to this Article V.

Section 5.23. Use of Remaining Revenues. After making the payments hereinabove required to be made by Sections 5.03 through 5.18 hereof, any remaining income derived from the operation of the Water System in the Water Income Fund, and any remaining income derived from the operation of the Sewer System in the Sewer Income Fund, shall be used for any one of any combination of purposes, as follows:

(a) ***Payment of Obligations***. For the payment of the interest on and principal of general obligation bonds, debt and other obligations, if any, incurred in the acquisition, construction, improvement and equipping of the Facilities;

(b) ***Purchase of Obligations***. For the purchase in the open market of the 2016 Bonds or any other Outstanding bonds or other obligations incurred for any such purpose or purposes and payable from the Net Income of the Facilities, at the best price obtainable, not, however, in excess of the call price therefor then applicable, or if none be then applicable, not in excess of a reasonable price therefor;

(c) ***Prior Redemption***. For the prior redemption of the 2016 Bonds or any other Outstanding bonds or other obligations payable from the Net Income of the Facilities, in accordance with the provisions of the 2016 Bonds or other obligations and any instrument authorizing their issuance, including but not necessarily limited to this Instrument, but not in excess of a price at which such 2016 Bonds or other obligations can be purchased in the open market;

(d) ***Improvement***. For the repair, enlargement, extension, betterment and improvement of the Facilities;

(e) ***O. & M. Expenses***. For defraying any Operation and Maintenance Expenses for which provision has not otherwise been made (i) of the Sewer System with surplus water Gross Income or (ii) of the Water System with surplus sewer Gross Income; and

(f) ***Any Other Purpose***. For any lawful purpose or purposes authorized by the Constitution and laws of the State and the resolutions, ordinances and Charter of the City, as the same may be amended from time to time.

ARTICLE VI

GENERAL ADMINISTRATION

Section 6.01. Administration of Accounts. The special accounts designated in Articles IV and V hereof shall be administered as provided in this Article VI.

Section 6.02. Places and Times of Deposits. Each of the special accounts hereinabove designated in Article IV and Article V hereof shall be separately accounted for in the records of the City, which special accounts shall be in one bank account or more in an Insured Bank or Insured Banks as determined and designated by the Council (except as otherwise expressly stated herein). Each such account shall be continuously secured to the fullest extent required or permitted by the laws of the State for the securing of public funds and shall be irrevocable and not withdrawable by anyone for any purpose other than the respective designated purposes. Each periodic payment shall be credited to the proper account not later than the date therefor herein designated, except that when any such date shall be a Sunday or a legal holiday, then such payment shall be made on or before the next preceding secular day. Notwithstanding any other provision herein to the contrary, moneys shall be deposited with the Paying Agent prior to each interest payment date herein designated sufficient to pay the interest, and principal and any prior redemption premiums then becoming due on the 2016 Bonds.

Section 6.03. Investment of Moneys. Any moneys in any account designated in Articles IV and V hereof, and not needed for immediate use, may be invested or reinvested by the Chief Financial Officer in securities or obligations which are lawful investments for such funds of the City and which constitute Permitted Investments. The Permitted Investments so purchased as an investment or reinvestment of moneys in any such account shall be deemed at all times to be part of the account, and (unless otherwise expressly provided herein) any interest accruing thereon and any other gain realized therefrom shall be credited to the account, and any

loss resulting from such investment shall be charged to the account; provided, however, that any yield from investments of moneys in the Reserve Fund in excess of the Minimum Bond Reserve may be credited to the Sewer Income Fund or Water Income Fund on a pro rata basis based on each fund's share of the Reserve Fund. In computing the amount in any such account for any purpose hereunder, except as herein otherwise expressly provided, such obligation shall be valued at the lower of the cost or market value thereof, exclusive of any accrued interest or any other gain. The expenses of purchase, safekeeping, sale and all other expenses incident to any investment or reinvestment of moneys pursuant to this Section 6.03 shall be accounted for as Operation and Maintenance Expenses. The Chief Financial Officer shall present for redemption or sale on the prevailing market at the best price obtainable any Permitted Investments so purchased as an investment of moneys in the account whenever it shall be necessary so to do to provide moneys to meet any withdrawal, payment or transfer from such account. The Chief Financial Officer shall not be liable or responsible for any loss resulting from any such investment made in accordance with this Instrument.

Section 6.04. Character of Funds. The moneys in any account herein authorized shall consist either of lawful money of the United States of America or Permitted Investments, or both such money and such securities. Moneys deposited in a demand or time deposit account in, or evidenced by, a certificate of deposit of an Insured Bank pursuant to Section 6.02 hereof, appropriately secured according to the laws of the State, shall be deemed lawful money of the United States of America.

Section 6.05. Accelerated Payments. Nothing contained in Article V hereof shall be construed to prevent the accumulation in any account herein designated of any monetary requirements at a faster rate than the rate or minimum rate, as the case may be, provided in Article V; provided, however, that no payment shall be so accelerated if such acceleration shall cause the Council to default in the payment of any obligation of the City appertaining to the Facilities. Nothing herein contained shall be construed to require in any Fiscal Year, the accumulation in any account for the payment of the principal of, the interest on, and any prior redemption premiums due in connection with any series of bonds payable from Net Income and herein or hereafter authorized, in excess of any principal, the interest, and any prior redemption premiums due on the first day of June in that Fiscal Year and on the next succeeding first day of December, but excluding any reserves required to be accumulated and maintained therefor.

Section 6.06. Payment of Bonds Requirements. The moneys credited to any account designated in Article V hereof for the payment of the principal of, the interest on, and any prior redemption premiums due in connection with any series of bonds or other securities herein or hereafter authorized shall be used, without requisition, voucher or other direction or further authority than is contained herein, to pay promptly the principal of, the interest on, and any prior redemption premiums due in connection with the bonds payable therefrom as the same become due, as herein provided, except to the extent any other moneys are available therefor, including without limitation moneys accounted for in the Bond Fund.

ARTICLE VII

SECURITIES LIENS AND ADDITIONAL BONDS

Section 7.01. First Lien Bonds. The 2016 Bonds authorized herein, subject to the payment of all necessary and reasonable Operation and Maintenance Expenses of the Facilities, constitute an irrevocable and first lien (but not necessarily an exclusive first lien) upon the resulting Net Income derived from the operation and use of the Facilities on a parity with the lien thereon of the Outstanding Parity Bonds.

Section 7.02. Equality of 2016 Bonds. The 2016 Bonds authorized to be issued hereunder and from time to time Outstanding are equitably and ratably secured by a lien on Net Income and shall not be entitled to any priority one over the other in the application of the Net Income regardless of the time or times of the issuance of the 2016 Bonds, it being the intention of the Council that there shall be no priority among the 2016 Bonds regardless of the fact that they may be actually issued and delivered at different times.

Section 7.03. Issuance of Parity Bonds. Nothing in this Instrument contained shall be construed in such a manner as to prevent the issuance by the City of additional bonds payable from Net Income and constituting a lien thereupon on a parity with, but not prior nor superior to, the lien of the 2016 Bonds, nor to prevent the issuance of bonds refunding all or a part of the 2016 Bonds; provided, however, that before any such additional Parity Bonds are authorized or actually issued (excluding any parity refunding bonds other than any bonds refunding Subordinate Bonds as permitted in Section 7.11 hereof):

(a) ***Absence of Default***. The City shall not have defaulted in making any payments required by Article V hereof during the 24 calendar months immediately preceding the issuance of such additional bonds, or if none of the 2016 Bonds have been issued and Outstanding for a period of at least 24 calendar months, for the longest period any of the 2016 Bonds have been issued and Outstanding.

(b) ***Facilities Earnings Test***. The annual Gross Income derived from the operation of the Facilities for the Fiscal Year immediately preceding the date of the issuance of such additional Parity Bonds shall have been sufficient to pay the annual Operation and Maintenance Expenses of the Facilities for said Fiscal Year, and, in addition, sufficient to pay an amount representing 125% of the combined maximum annual principal and interest requirements of the Outstanding Parity Bonds of the City payable from and constituting a lien upon Net Income of the Facilities and the bonds proposed to be issued, except as hereinafter otherwise expressly provided.

(c) ***Reduction of Annual Requirements***. The respective annual principal and interest requirements (including as a principal requirement the amount of any prior redemption premiums due on any prior redemption date as of which any Outstanding bonds have been called or have been ordered to be called for prior redemption) shall be reduced to the extent such requirements are scheduled to be paid each of the respective Fiscal Years with moneys held in trust or in escrow for that purpose by any Insured Bank

located within or without the State and exercising trust powers, including the known minimum yield from any investment in Federal Securities.

(d) ***Consideration of Additional Expenses***. In determining whether or not additional Parity Bonds may be issued as aforesaid, consideration shall be given to any probable increase (but not reduction) in Operation and Maintenance Expenses of the Facilities, that will result from the expenditure of the funds proposed to be derived from the issuance and sale of the additional bonds.

(e) ***Reserve Fund***. There shall be established a reserve fund in an amount equal to at least the average annual debt service on such additional Parity Bonds.

(f) ***Reserve Policy Costs***. In addition to the requirements set forth in subsection (b) above, the annual Gross Income derived from the operation of the Facilities for the Fiscal Year immediately preceding the date of the issuance of such additional Parity Bonds shall have been sufficient to pay 100% of the Policy Costs then due and owing on the Reserve Policy and any reserve policy on any Outstanding Parity Bonds.

Section 7.04. Certification of Gross Income. A written certification by the Chief Financial Officer, Director of Finance or an Independent Accountant that said annual Gross Income, when adjusted as hereinabove provided in subsections (c) and (d) of Section 7.03 hereof, is sufficient to pay said amounts, as provided in subsection (c) of Section 7.03 hereof, shall be conclusively presumed to be accurate in determining the right of the City to authorize, issue, sell and deliver additional bonds on a parity with the 2016 Bonds.

Section 7.05. Subordinate Bonds Permitted. Nothing herein contained shall be construed so as to prevent the City from issuing additional bonds payable from Net Income and having a lien thereon subordinate, inferior and junior to the lien of the 2016 Bonds authorized to be issued by this Instrument.

Section 7.06. Superior Bonds Prohibited. Nothing herein contained shall be construed so as to permit the City to issue additional bonds payable from Net Income and having a lien thereon prior and superior to the 2016 Bonds.

Section 7.07. Use of Proceeds. The proceeds of any additional bonds (other than refunding securities) payable from revenues of the Facilities shall be used only for improving, enlarging or extending the Sewer System or the Water System or both systems (or any combination thereof), as the Council may from time to time determine.

Section 7.08. Payment Dates of Additional Bonds. Any additional Parity Bonds or Subordinate Bonds (including any refunding bonds) issued in compliance with the terms hereof shall bear interest payable semiannually on the first days of June and December in each year, except that the first interest payment date may be for interest accruing for any period not in excess in the aggregate of one year; and such additional bonds shall mature on the first day of December in the years designated by the Council during the term of the additional bonds.

Section 7.09. Refunding Bonds. The provisions of Sections 7.03 and 7.04 hereof are subject to the exceptions provided in Sections 7.10 through 7.13 hereof for the issuance of refunding bonds.

Section 7.10. Issuance of Refunding Bonds. If at any time after the 2016 Bonds, or any part thereof, shall have been issued and remain Outstanding, the Council shall find it desirable to refund any Outstanding 2016 Bonds payable from and constituting a lien upon Net Income, said 2016 Bonds or any part thereof, may be refunded.

Section 7.11. Issuance of Parity Refunding Bonds. No refunding bonds payable from Net Income shall be issued on a parity with the 2016 Bonds herein authorized unless:

(a) ***Parity Lien***. The lien on Net Income of the Outstanding bonds so refunded is on a parity with the lien thereon of the 2016 Bonds herein authorized; or

(b) ***Default and Earnings Tests***. The refunding bonds are issued in compliance with Section 7.03 hereof (including subsections (a) through (f) thereof).

Section 7.12. Partial Refundings. The refunding bonds so issued shall enjoy complete equality of lien with the portion of any bonds of the same issue which is not refunded, if any there be; and the holder or holders of such refunding bonds shall be subrogated to all of the rights and privileges enjoyed by the holder or holders of the unrefunded bonds of the same issue partially refunded by the refunding bonds.

Section 7.13. Limitations Upon Refundings. Any refunding bonds payable from Net Income shall be issued with such details as the Council may provide, subject to the provisions of Section 7.08 hereof, and subject to the inclusion of any such rights and privileges designated in Section 7.12 hereof, but without any impairment of any contractual obligation imposed upon the City by any proceedings authorizing the issuance of any unrefunded portion of such Outstanding bonds of any one or more issues (including but not necessarily limited to the 2016 Bonds herein authorized). If only a part of the Outstanding bonds of any issue or issues payable from Net Income is refunded, then such bonds may not be refunded without the consent of the holders or holders of the unrefunded portion of such bonds:

(a) ***Requirements Not Increased***. Unless the refunding bonds do not increase any aggregate annual principal and interest requirements evidenced by such refunding bonds and by the Outstanding bonds not refunded on and prior to the last maturity date of such unrefunded bonds, and the lien of any refunding bonds on the Net Income is not raised to a higher priority than the lien thereon of the bonds thereby refunded; or

(b) ***Subordinate Lien***. Unless the lien on Net Income for the payment of the refunding bonds is subordinate to each such lien for the payment of any bonds not refunded.

Section 7.14. Supplemental Instrument.

(a) Additional bonds payable from Net Income shall be issued only after authorization thereof by a supplemental instrument of the Council stating the purpose or

purposes of the issuance of such additional bonds, directing the application of the proceeds thereof to such purpose or purposes, directing the execution thereof, and fixing and determining the date, principal amount, maturities, designation and numbers thereof, the maximum rate or the rate or rates of interest to be borne thereby, any prior redemption privileges of the City with respect thereto and other provisions thereof in accordance with this Instrument.

(b) All additional bonds shall bear such date, shall bear such numbers and series designation, letters or symbols prefixed to their numbers distinguishing them from each other security, shall be payable at such place or places, may be subject to redemption prior to maturity on such terms and conditions, and shall bear interest at such rate or at such different or varying rates per annum, as may be fixed by instrument of the Council.

ARTICLE VIII

MISCELLANEOUS PROTECTIVE COVENANTS

Section 8.01. General. The City hereby particularly covenants and agrees with the holders of the 2016 Bonds and makes provisions which shall be a part of its contract with such holders to the effect and with the purpose set forth in the following provisions and sections of this Article VIII hereof.

Section 8.02. Performance of Duties. The City, acting by and through the Council or otherwise, will faithfully and punctually perform or cause to be performed all duties with respect to the Net Income and the Facilities required by the Constitution and laws of the State and the various instruments and Charter of the City, including but not limited to, the making and collection of reasonable and sufficient rates and charges for services rendered or furnished by, or the use of, the Facilities, as herein provided, and the proper segregation of the Net Income and its application to the respective accounts or funds provided from time to time therefor.

Section 8.03. Further Assurances. At any and all times the City shall, so far as it may be authorized by law, pass, make, do, execute, acknowledge and deliver all and every such further instruments, acts, deeds, conveyances, assignments, transfers, other documents, and assurances as may be necessary or desirable for the better assuring, conveying, granting, assigning and confirming all and singular the rights, the Net Income, and other funds and accounts hereby pledged or assigned, or intended so to be, or which the City may hereafter become bound to pledge or to assign, or as may be reasonable and required to carry out the purposes of this Instrument. The City, acting by and through the Council, or otherwise, shall at all times, to the extent permitted by law, defend, preserve and protect the pledge of the Net Income of the Facilities and other funds and accounts pledged hereunder and all the rights of every holder of any 2016 Bond hereunder against all claims and demands of all persons whomsoever.

Section 8.04. Conditions Precedent. Upon the date of issuance of any 2016 Bonds, all conditions, acts and things required by the Constitution or statutes of the State or this Instrument to exist, to have happened, and to have been performed precedent to, or in the issuance of, the 2016 Bonds shall exist, have happened, and have been performed; and the 2016 Bonds, together

with all other obligations of the City, shall be within every debt and other limitation prescribed by the State Constitution, statutes, or Charter of the City.

Section 8.05. Efficient Operation and Maintenance. The City shall at all times operate the Facilities properly and in a sound and economical manner; and the City shall maintain, preserve and keep the same properly or cause the same to be so maintained, preserved, and kept, with the appurtenances and every part and parcel thereof in good repair, working order, and condition, and shall, from time to time, make or cause to be made all necessary and proper repairs, replacements and renewals so that, at all times, the operation of the Facilities may be properly and advantageously conducted, all as the City shall reasonably determine.

Section 8.06. Rules, Regulations and Other Details. The City, acting by and through the Council, shall establish and enforce reasonable rules and regulations governing the operation, use and services of the Facilities. All compensation, salaries, fees and wages paid by it in connection with the maintenance, repair and operation of the Facilities shall be reasonable and no more than would be paid by other corporations, municipalities or public bodies for similar services. The City shall comply with all valid acts, rules, regulation, orders and directions of any legislative, executive, administrative or judicial body applicable to the Facilities or to the City.

Section 8.07. Payment of Governmental Charges. The City shall pay all taxes and assessments or other municipal or governmental charges, if any, lawfully levied or assessed upon, or in respect of, the facilities, or upon any part thereof, or upon any portion of the Net Income, when the same shall become due, and shall duly observe and comply with all valid requirements of any municipal or governmental authority relative to any part of the Facilities; and the City shall not create or suffer to be created any lien or charge upon the Facilities, or any part thereof, or upon the Net Income, except the pledge and lien created by this Instrument for the payment of the principal of, any prior redemption premium due in connection with, and the interest on the 2016 Bonds, and except as herein otherwise permitted. The City shall pay or cause to be discharged or will make adequate provision to satisfy and to discharge, within 60 days after the same shall become payable, all lawful claims and demands for labor, materials, supplies or other objects which, if unpaid, might by law become a lien upon the Facilities, or any part thereof, or the Net Income; provided, however, that nothing in this Section contained shall require the City to pay or to cause to be discharged or to make provision for any such lien or charge, so long as the validity thereof shall be contested in good faith and by appropriate legal proceedings.

Section 8.08. Prejudicial Action Prohibited. No contract will be entered into nor any other action taken by the City which the rights of any holder of any 2016 Bond might be impaired or diminished.

Section 8.09. Protection of Security. The City, the officers, agents and employees of the City, and the Council shall not take any action in such manner or to such extent as might prejudice the security for the payment of the 2016 Bonds and the interest thereon according to the terms thereof.

Section 8.10. Accumulation of Interest Claims. In order to prevent any claims for interest after maturity, the City will not directly or indirectly extend or assent to the extension of

the time for the payment of any claim for interest on any of the 2016 Bonds; and the City will not, directly or indirectly, be a party to or approve any arrangements for any such extension or for the purpose of keeping alive any such claims. In case the time for the payment of any interest shall be extended, such installment or installments of interest after such extension or arrangement shall not be entitled, in case of default hereunder, to the benefit or the security of this Instrument, except upon the prior payment in full of the principal of all 2016 Bonds then Outstanding and of all matured interest on such 2016 Bonds the payment of which has not been extended.

Section 8.11. Prompt Payment of 2016 Bonds. The City will promptly pay the principal of and the interest on every 2016 Bond issued hereunder and secured hereby at the place, on the dates, and in the manner specified herein and in the 2016 Bonds according to the true intent and meaning hereof.

Section 8.12. Use of Reserve Funds. The Bond Fund and the Reserve Fund shall be used solely and only and the moneys credited to said account (including the 2016 Reserve Policy) are hereby pledged for the purpose of paying the interest on and the principal of the 2016 Bonds, except for those moneys in the Bond Fund and in the Reserve Fund that are in excess of the interest on and the principal of the 2016 Bonds, both accrued and not accrued, to their respective maturities (subject to the provisions of Section 9.01 hereof), and except for those moneys in the Reserve Fund in excess of the Minimum Bond Reserve, as hereinabove provided.

Section 8.13. Additional Bonds. The City shall not hereafter issue any bonds payable from Net Income and having a lien on a parity with the 2016 Bonds herein authorized so long as any 2016 Bonds herein authorized are Outstanding, unless such additional bonds (other than bonds issued pursuant to Section 7.10 through 7.13 hereof and refunding bonds on a parity with the 2016 Bonds) on a parity with the bonds herein authorized are issued in such manner as provided in Sections 7.03, 7.04, 7.07, 7.08, 7.11 and 7.12 hereof. Any other bonds hereafter authorized to be issued and payable from Net Income shall not hereafter be issued, unless such additional bonds are also issued in conformance with the provisions of Articles V and VIII hereof.

Section 8.14. Other Liens. Other than as provided by this Instrument, there are no liens or encumbrances of any nature whatsoever on or against the Facilities, or any part thereof, or on or against Net Income derived or to be derived.

Section 8.15. Corporate Existence. The City will maintain its corporate identity and existence so long as any of the 2016 Bonds herein authorized remain Outstanding, unless another body corporate and politic by operation of law succeeds to the duties, privileges, powers, liabilities, immunities and rights of the City and is obligated by law to operate and maintain the Facilities as herein provided without adversely affecting to any substantial degree the privileges and rights of any holder of any Outstanding 2016 Bond at any time.

Section 8.16. Disposal of Facilities Prohibited. Except for the use of the Facilities or services thereby rendered in the normal course of business, neither all nor a substantial part of the Facilities shall be sold, leased, mortgaged, pledged, encumbered, alienated or otherwise disposed of, until all the 2016 Bonds have been paid in full, both principal and interest, or unless provision has been made therefor, or until the 2016 Bonds have otherwise been redeemed,

including but not necessarily limited to the termination of the pledge herein authorized; and the City shall not dispose of its title to the Facilities or to any useful part thereof, including any property necessary to the operation and use of the Facilities and the lands and interest in lands comprising the sites of the Facilities, except as provided in Section 8.17 hereof.

Section 8.17. Disposal of Unnecessary Property. The City may sell, exchange, lease or otherwise dispose of at any time and from time to time any property constituting a part of the Facilities and not useful in the construction, reconstruction, or operation thereof, or which shall cease to be necessary for the efficient operation of the Facilities, or which shall have been replaced by other property of at least equal value. Any proceeds of any such sale, exchange, lease or other disposition received and not used to replace such property so sold or so exchanged or otherwise so disposed of, and appertaining to the Sewer System or the Water System, shall be deposited by the City as Gross Income in the Sewer Income Fund or the Water Income Fund, respectively, to which the transaction appertains.

Section 8.18. Competing Facilities. As long as any of the 2016 Bonds hereby authorized are outstanding, the City shall not grant any franchise or license to any competing facilities, nor shall it permit during said period (except as it may legally be required so to do) any Person to sell water, water services, sanitary sewer services or any rights to use water facilities or sanitary sewer facilities to any consumer, public or private, within the City.

Section 8.19. Competent Management. The City shall employ experienced and competent management personnel for the Facilities who shall have full control over the Facilities and shall operate the Facilities for the City, subject to the reasonable control by and direction of the Council and the Manager.

Section 8.20. Employment of Management Engineers. In the event of default on the part of the City in paying principal of or interest on the 2016 Bonds promptly as each falls due, or in the keeping of any covenants herein contained, and if such default shall continue for a period of 60 days, or if the Net Income of the Facilities in any Fiscal Year should fail to equal at least the amount of the principal of and the interest on the Outstanding 2016 Bonds and other bonds (including all reserves therefor specified in the authorizing proceedings, including but not limited to this Instrument) payable from the Net Income in that Fiscal Year, the City shall retain a firm of competent management engineers skilled in the operation of such facilities to assist the management of the Facilities so long as such default continues or so long as the Net Income is less than the amount hereinabove designated. (The right of any holder or holders of the 2016 Bonds to require the appointment of such management engineers shall not be exclusive, and in the event of default as herein outlined, such holder or holders shall have the right to proceed in law or in equity to require the performance of the covenants herein contained or otherwise to proceed in any action which to them shall seem appropriate, as herein elsewhere provided.)

Section 8.21. Reserved.

Section 8.22. Budgets. The Council and officials of the City shall annually and at such other times as may be provided by law prepare and adopt a budget appertaining to the Facilities.

Section 8.23. Reasonable Charges. While the 2016 Bonds or any of them remain Outstanding and unpaid, the rates, fees, and other charges for the use of and all services rendered by the Facilities to the City and to its inhabitants and to all other consumers within or without the boundaries of the City shall be reasonable and just, taking into account and consideration the costs and value of the Facilities, the Operation and Maintenance Expenses thereof, the proper and necessary allowances for the depreciation thereof, and the amounts necessary for the retirement of all 2016 Bonds and other bonds and obligations payable from Net Income, the accruing interest thereon, and reserves therefor.

Section 8.24. Adequacy and Applicability of Charges. There shall be charged against all purchasers of service and all users of the Facilities, such rates, fees and other charges as shall be adequate to meet the requirements of this and the preceding sections hereof. Such rates and amounts from the Facilities shall be sufficient to produce Gross Income or earnings annually to pay the annual Operation and Maintenance Expenses, 125% of both the principal of and the interest on the 2016 Bonds and any other bonds payable annually from Gross Income (excluding the reserves therefor), all of which income, including any income received from the City, shall be subject to distribution to the payment of Operation and Maintenance Expenses of the Facilities and to the payment of principal of and interest on all bonds payable from any Net Income, including reasonable reserves therefor. No free service or facilities shall be furnished by the Facilities, except to the City in its discretion.

Section 8.25. Levy of Charges. The City will forthwith and, in any event, prior to the delivery of any of the 2016 Bonds herein authorized, fix, establish and levy the fees, rates and other charges which are required by Section 8.24 of this Instrument, if such action be necessary therefor. No reduction in any initial or existing rate schedule for the Facilities may be made:

(a) ***Proper Application***. Unless the City has fully complied with the provisions of Article V of this Instrument for at least the full Fiscal Year immediately preceding such reduction of the initial rate schedule;

(b) ***Sufficient Revenues***. Unless the audit required by the Independent Accountant by Section 8.30 of this Instrument for the full Fiscal Year immediately preceding such reduction discloses that the estimated revenues resulting from the proposed rate schedule, after its proposed reduction, for the Facilities will be sufficient to pay an amount at least equal to the Operation and Maintenance Expenses of the Facilities for the said period and, in addition, 125% of both the principal of and interest on 2016 Bonds and any other securities payable annually from any Net Income from the Facilities including reasonable reserves therefor.

Section 8.26. Collection of Charges. The City shall cause all rates, fees and other charges appertaining to the Facilities to be collected as soon as reasonable, shall prescribe and enforce rules and regulations for the payment thereof and for the connection with and the disconnection from properties of the Facilities, and shall provide methods of collection and penalties including, but not limited to, denial of municipal water service for nonpayment of such rates, fees and service charges, to the end that Net Income of the Facilities shall be adequate to meet the requirements hereof.

Section 8.27. Procedure for Collecting Charges. All bills for water, water facilities, electric current appertaining thereto, and sanitary sewer service or facilities furnished or served by or through the Facilities shall be rendered to customers on a regularly established and orderly basis when needed. The fees, rates and other charges due shall be collected in a lawful manner, including without limitation discontinuance of service by the City.

Section 8.28. Records. So long as any of the 2016 Bonds remain Outstanding, proper books of record and account will be kept by the City, separate and apart from all other records and accounts, showing complete and correct entries of all transactions relating to the Facilities. Such books shall include (but not necessarily be limited to) monthly records showing:

(a) ***Numbers***. The number of customers by classes;

(b) ***Receipts***. The revenues received from charges by classes of customers; and

(c) ***Expenses***. A detailed statement of the expenses of the Facilities.

All requisitions, requests, certificates, opinions and other documents received by any Person on behalf of the City in connection with the Facilities under the provisions of this Instrument shall be retained in such Person's possession or in the City's official records.

Section 8.29. Rights Concerning Records and Facilities. Any holder of any of the 2016 Bonds or any duly authorized agent or agents of such holder shall have the right, at all reasonable times, to inspect all records, accounts and data relating thereto, concerning the Facilities or the Net Income, or both, to make copies of such records, accounts and data, and to inspect the Facilities and all properties comprising the Facilities.

Section 8.30. Audits Required. The City shall, following the close of each Fiscal Year, order an audit for the Fiscal Year of such books and accounts to be made forthwith by an Independent Accountant.

Section 8.31. Contents of Audits. Each such audit, in addition to whatever matters may be thought proper by the accountant to be included therein, shall include the following:

(a) ***Statement***. A statement in detail of the income and expenditures of each system constituting the Facilities for the audit period, including but not necessarily limited to a statement of Gross Income, of Net Income, and of the amount of any capital expenditures appertaining to each system for the audit period, as well as a statement of the profit or loss for the audit period; and

(b) ***Insurance List***. The audit shall have attached to it an unaudited list of the insurance policies in force at the end of the Fiscal Year, setting out as to each policy the amount of the policy, the risks covered, and the expiration date of the policy.

Section 8.32. Distribution of Audits and Reports. The City agrees to furnish by first-class mail, postage prepaid, forthwith, and in any event by July 31 of each year, a copy of each of such audits and reports to the holder of any of the 2016 Bonds at the holder's request and without request to:

(a) ***Original Purchaser***. The Original Purchaser, or any known successor thereof;

(b) ***Paying Agent***. The Paying Agent, or any known successor thereof; and

(c) ***Others***. Any other Person designated in any instrument or other proceedings appertaining to any Outstanding bonds payable from Net Income other than the 2016 Bonds;

after each such audit and report has been prepared; and any such holder shall have the right to discuss with the Independent Accountant or with the person making the audit and report the contents thereof and to ask for such additional information as such holder may reasonably require.

Section 8.33. Insurance and Reconstruction. The City shall, at all times, maintain fire and extended coverage insurance, worker's compensation insurance, public liability insurance, and all such other insurance as is customarily maintained with respect to facilities of like character against loss of, or damage to, the Facilities and against public and other liability to the extent reasonably necessary to protect the interests of the City and of each holder of a 2016 Bond, except as herein otherwise provided. The City shall be deemed to have obtained sufficient insurance coverage under this section if it chooses to self-insure the Facilities. If any useful part of the Facilities shall be damaged or destroyed, the City shall, as expeditiously as may be possible, commence and diligently prosecute the repair or replacement of the damaged or destroyed property so as to restore the same to use unless such property is deemed obsolete or unnecessary by the City. The proceeds of any such property insurance appertaining thereto shall be payable to the City and shall be deposited in the Sewer Income Fund or the Water Income Fund, respectively, as Gross Income, depending upon which fund or funds the insurance proceeds appertain. In the event that the costs of such repair and replacement of the damaged or destroyed property exceed the proceeds of such property insurance available for payment of the same, in the case of property pertaining to the Sewer System moneys in the Sewer Income Fund and in case of property pertaining to the Water System moneys in the Water Income Fund, shall be used to the extent necessary for such purposes, as permitted by Sections 5.22 and 5.23 hereof.

Section 8.34. Fire and Extended Coverage Insurance. Except for the time when the contractors, or any of them, engaged in constructing, furnishing and equipping any of the Facilities shall be responsible pursuant to the provisions of their respective contracts for loss or damage, the City shall procure and maintain, or continue to maintain, fire and extended coverage insurance of the Facilities, all in amounts at least sufficient to provide for not less than full recovery whenever the loss from perils insured against does not exceed 80% of the full insurable value, so long as any of the 2016 Bonds are Outstanding, except as otherwise provided in Section 8.33.

Section 8.35. Other Insurance. Upon receipt of any proceeds from the sale of the 2016 Bonds, the City will be obligated, except as otherwise provided in Section 8.33 with respect to self-insurance, to maintain in connection with the Facilities, other insurance to the extent considered reasonable and necessary as determined by comparison with other comparable facilities.

Section 8.36. Reliability and Payment. Insurance required by Sections 8.33, 8.34 and 8.35 hereof shall be carried with a reliable insurance company or companies authorized to do business in the State; and the premiums on such insurance, or an allocable and pro rata share thereof, shall be paid as Operation and Maintenance Expenses.

Section 8.37. Proof of Loss. Upon the occurrence of any loss or damages covered by any of the insurance policies specified above in Sections 8.33, 8.34 and 8.35 hereof from one or more causes to which reference is made therein, the City will cause to be made due proof of loss and will cause to be done all things necessary to cause the insuring companies to make payment in accordance with the terms of such policy or policies.

Section 8.38. Additional Tax Covenants.

(a) The City covenants that it shall not use or permit the use of any proceeds of the 2016 Bonds or any other funds of the City from whatever source derived, directly or indirectly, to acquire any securities or obligations and shall not take or permit to be taken any other action or actions, which would cause any of the 2016 Bonds to be an "arbitrage bond" within the meaning of Section 148 of the Code, or would otherwise cause the interest on the 2016 Bonds to be includible in Gross Income for federal income tax purposes. The City covenants that it shall at all times do and perform all acts and things permitted by law and which are necessary in order to assure that interest paid by the City on the 2016 Bonds shall, for purposes of federal income taxation, not be includible in Gross Income under the Code or any other valid provision of law.

(b) In particular, but without limitation, the City further represents, warrants and covenants to comply with the following restrictions of the Code, unless it receives an opinion of nationally recognized bond counsel stating that such compliance is not necessary:

(i) Gross proceeds of the 2016 Bonds shall not be used in a manner which will cause the 2016 Bonds to be considered "private activity bonds" within the meaning of the Code.

(ii) The 2016 Bonds are not and shall not become directly or indirectly "federally guaranteed."

(iii) The City shall timely file Internal Revenue Form 8038-G which shall contain the information required to be filed pursuant to Section 149(e) of the Code.

(iv) The City shall comply with the Tax Letter of Instructions delivered to it on the date of issue of the 2016 Bonds with respect to the application and investment of 2016 Bond proceeds, subject to Section 5.18 hereof.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Defeasance. When all principal, interest and any prior redemption premiums due in connection with the 2016 Bonds have been duly paid, the pledge and lien and all obligations hereunder shall thereby be discharged and the 2016 Bonds shall no longer be deemed to be Outstanding within the meaning of this Instrument. There shall be deemed to be such due payment when the City has placed in escrow or in trust with a commercial bank located within or without the State and exercising trust powers an amount sufficient (including the known minimum yield from Federal Securities in which such amount, wholly or in part, may be initially invested) to meet all requirements of principal, interest and any prior redemption premiums due as the same become due to the final maturities of the 2016 Bonds or upon any prior redemption date as of which the City shall have exercised or shall have obligated itself to exercise its prior redemption option by a call of the 2016 Bonds for payment then. The Federal Securities shall become due prior to the respective times on which the proceeds thereof shall be needed in accordance with a schedule established and agreed upon between the City and such bank at the time of the creation of the escrow or trust, or the Federal Securities shall be subject to redemption at the option of the holders thereof to assure such availability as so needed to meet such schedule.

Section 9.02. Delegated Powers. The officers of the City be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Instrument including, without limitation, the execution of the 2016 Bonds, the tenure and identity of the officials of the Council and of the City, the delivery of the 2016 Bonds, the receipt of the bond purchase price and, if it be in accordance with fact, the absence of litigation, pending or threatened, affecting the validity thereof.

Section 9.03. Statute of Limitations. No action or suit based upon any 2016 Bond or other obligation of the City shall be commenced after it is barred by any statute of limitations appertaining thereto. Any trust or fiduciary relationship between the City and the holder of any 2016 Bond or other obligee regarding any such obligation shall be conclusively presumed to have been repudiated on the maturity date or other due date thereof unless the 2016 Bond is presented for payment or demand for payment of any such obligation is otherwise made before the expiration of the applicable limitation period. Any moneys from whatever source derived remaining in any fund or account reserved, pledged or otherwise held for the payment of any such obligation, action or suit for the collection of which is barred shall revert to the Sewer Income Fund unless the Council shall otherwise provide by Instrument of the City. Nothing herein contained shall be so construed as to prevent the payment of any such obligation after any action or suit for its collection has been barred if the Council deems it in the best interests of the public so to do and orders such payment to be made.

Section 9.04. Evidence of Bondholders. Any request, consent or other instrument which this Instrument may require or may permit to be signed and to be executed by the holder of any 2016 Bonds may be in one or more instruments of similar tenor and shall be signed or shall be executed by each such holder in person or by his attorney appointed in writing as shown

on the registration books of the Paying Agent although the Paying Agent may nevertheless, in its discretion, require further or other proof as it deems advisable.

Section 9.05. Warranty Upon Issuance of 2016 Bonds. Any 2016 Bonds authorized as herein provided, when duly executed and delivered for the purpose provided for in this Instrument, shall constitute a warranty by and on behalf of the City for the benefit of each and every future holder of any of the 2016 Bonds that the 2016 Bonds have been issued for a valuable consideration in full conformity with law.

Section 9.06. Sale of 2016 Bonds. The 2016 Bonds, when executed as provided by law, shall be delivered to [_____], the bid received to the best advantage of the City (the "Original Purchaser"), whose bid is hereby accepted. The 2016 Bonds, when executed as provided by law, shall be delivered to the Original Purchaser, upon receipt of $[_____] (equal to the par amount of $[_____], plus a net original issue premium of $[_____] minus an underwriting discount paid to the Original Purchaser of $[_____]). The arbitrage yield on the 2016 Bonds shall be [_____]% per annum, as computed by the City's financial advisor in accordance with the resolution authorizing the public sale of the 2016 Bonds. Such sale of the 2016 Bonds is hereby found to be to the best advantage of the City after advertising and receipt of bids for the 2016 Bonds in accordance with the Charter. The issuance of the 2016 Bonds by the City shall constitute a warranty by and contract of and on behalf of the City, for the benefit of each and every registered owner of the 2016 Bonds, that the 2016 Bonds have been issued for valuable consideration in full conformity with law.

ARTICLE X

PRIVILEGES, RIGHTS AND REMEDIES

Section 10.01. Bondholder's Remedies. Each holder of any 2016 Bond issued hereunder shall be entitled to all of the privileges, rights and remedies permitted at law or in equity or by statute, except no real or personal property appertaining to the Facilities or otherwise has been conveyed to secure the payment of the 2016 Bonds by deed of trust or mortgage to a trustee for the benefit and the security of the holder or holders from time to time of the 2016 Bonds, or by any other encumbrance or other pledge of property, subject to the provisions herein concerning the pledge of and the covenants and the other contractual provisions concerning the Net Income of the Facilities.

Section 10.02. Right to Enforce Payment. Nothing in this article contained shall affect or impair the right of any holder of any 2016 Bond issued hereunder to enforce the payment of the principal of and the interest on such 2016 Bond or the obligation of the City to pay the principal of and the interest on each 2016 Bond issued hereunder to the holder thereof at the time and the place expressed in the 2016 Bond.

Section 10.03. Events of Default. Each of the following events is hereby declared an "event of default," that is to say:

(a) ***Nonpayment of Principal and Premium***. Payment of the principal of any of the 2016 Bonds or any prior redemption premium due in connection therewith or both

shall not be made when the same shall become due and payable either at maturity or by proceedings for prior redemption or otherwise.

(b) ***Nonpayment of Interest***. Payment of any installment of interest on the 2016 Bonds shall not be made when the same becomes due and payable or within 30 days thereafter.

(c) ***Incapable to Perform***. The City shall for any reason be rendered incapable of fulfilling its obligations hereunder.

(d) ***Nonperformance of Duties***. The City shall have failed to carry out and to perform (or in good faith to begin the performance of) all acts and things lawfully required to be carried out or to be performed by it under any contract relating to Gross Income or to the Facilities or otherwise and such failure shall continue for 60 days after receipt of notice from either the Original Purchaser of the 2016 Bonds or from the holders of 10% in principal amount of the 2016 Bonds authorized by this Instrument and then outstanding.

(e) ***Failure to Reconstruct***. The City shall discontinue or shall unreasonably delay or shall fail to carry out with reasonable dispatch the reconstruction of any part of the Facilities which shall be destroyed or damaged and shall not be promptly repaired or replaced unless such failure to repair is due to obsolescence.

(f) ***Appointment of Receiver***. An order or decree shall be entered by a court of competent jurisdiction with the consent or acquiescence of the City appointing a receiver or receivers for the Facilities or for the Net Income of the Facilities or both or if an order or decree having been entered without the consent or acquiescence of the City shall not be vacated or discharged or stayed on appeal within 60 days after entry.

(g) ***Default of Any Provision***. The City shall make default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the 2016 Bonds or in this Instrument on its part to be performed, and such default shall continue for 60 days after written notice specifying such default and requiring the same to be remedied shall have been given to the City by either the Original Purchaser of the 2016 Bonds or by the holders of 10% in principal amount of the 2016 Bonds then Outstanding.

Section 10.04. Remedies for Defaults. Upon the happening and continuance of any of the events of default as provided in Section 10.03 hereof, then and in every case the holder or holders of not less than 10% in principal amount of the 2016 Bonds then Outstanding, including, but not limited to, a trustee or trustees therefor, may proceed against the City and its agents, officers and employees to protect and to enforce the rights of any holder of the 2016 Bonds under this Instrument by mandamus or by other suit, action or special proceedings in equity or at appointment of a receiver or for the specific performance of any covenant or agreement contained herein or in an award of execution of any power herein granted for the enforcement of any proper legal or equitable remedy as such holder or holders may deem most effectual to protect and to enforce the rights aforesaid, or thereby to enjoin any act or thing which may be unlawful or in violation of any right of any holder of any 2016 Bond, or to require the City to act

as if it were the trustees of an express trust or any combination of such remedies. All such proceedings at law or in equity shall be instituted, had and maintained for the equal benefit of all holders of the 2016 Bonds then Outstanding.

Section 10.05. Receiver's Rights and Privileges. Any receiver appointed in any proceedings to protect the rights of such holders hereunder, the consent to any such appointment being hereby expressly granted by the City, may enter and may take possession of the Facilities, operate and maintain the same, prescribe rates and charges and collect, receive and apply all Net Income arising after the appointment of such receiver in the same manner as the City itself might do.

Section 10.06. Rights and Privileges Cumulative. The failure of any holder of any Outstanding 2016 Bond to proceed in any manner herein provided shall not relieve the City, its Council or any of its officers, agents or employees of any liability for failure to perform or carry out any duty, obligation or other commitment. Each right or privilege of any such holder (or trustee thereof) is in addition and is cumulative to any other right or privilege, and the exercise of any right or privilege by or on behalf of any holder shall not be deemed a waiver of any other right or privilege thereof.

Section 10.07. Duties Upon Defaults. Upon the happening of any of the events of default as provided in Section 10.03 hereof, the City, in addition, will do and perform all proper acts on behalf of and for the holders of the 2016 Bonds to protect and to preserve the security created for the payment of their 2016 Bonds and to insure the payment of the principal of and the interest on the 2016 Bonds promptly as the same become due. During any period of default, so long as any of the 2016 Bonds herein authorized either as to principal or as to interest are outstanding, all Net Income shall be paid into the Bond Fund or, in the event of bonds issued and Outstanding during said period of time on a parity with the 2016 Bonds herein authorized, shall be paid into bond funds for all Parity Bonds on an equitable and prorated basis and used for the purposes therein provided. In the event that the City fails or refuses to proceed as in this Section provided, the holder or holders of not less than 10% in principal amount of the 2016 Bonds then Outstanding, after demand in writing, may proceed to protect and to enforce the rights of the holders of the 2016 Bonds as hereinabove provided; and, to that end, any such holders of Outstanding 2016 Bonds shall be subrogated to all rights of the City under any agreement, lease or other contract involving the Facilities entered into prior to the effective date of this Instrument or thereafter while any of the 2016 Bonds herein authorized are Outstanding.

Section 10.08. Duties in Bankruptcy Proceedings. In the event that any user of the Facilities proceeds under any laws of the United States relating to bankruptcy, including any action under any law providing for corporate reorganization, it shall be the duty of the City, and its appropriate officers are hereby authorized and directed, to take all necessary steps for the benefit of the holders of the 2016 Bonds in said proceedings, including the filing of any claims for unpaid fees, rates and other charges or otherwise arising from the breach of any of the covenants, terms or conditions of any contract involving the Facilities.

ARTICLE XI

AMENDMENT OF INSTRUMENT

Section 11.01. Limitations Upon Amendments. This Instrument may be amended or supplemented by instruments adopted by the Council in accordance with the laws of the State, without receipt by the City of any additional consideration, but with the written consent of the holders of more than 50% of the 2016 Bonds authorized by this Instrument and Outstanding at the time of the adoption of such amendatory or supplemental instrument (not including in any case any 2016 Bonds which may then be held or owned for the account of the City but including such refunding any of the 2016 Bonds herein authorized if such refunding securities are not owned by the City).

Notwithstanding the foregoing, so long as the 2005B Bonds, the 2007 Bonds, the 2010 Bonds, the 2011 Bonds, the 2012 Bonds, the 2015 Bonds and the 2016 Bonds remain outstanding, this Instrument may be amended or supplemented by instruments adopted by the Council in accordance with the constitution and laws of the State without receipt by the City of any additional consideration and without receipt by the City of any additional consideration and without notice to and consent from the holders of any of the 2016 Bonds, for the purposes of (i) curing any ambiguity or defective or inconsistent provision contained in this Instrument as the City may deem necessary and desirable and not inconsistent with the provisions of this Instrument and which shall not materially adversely affect the interests of the owners of the 2016 Bonds or any other Parity Bonds, (ii) subjecting additional properties to the lien of this Instrument or (iii) amend Section 11.12 hereof.

The foregoing paragraphs are subject to the condition, however, that no such instrument shall have the effect of permitting:

(a) ***Changing Payment***. A change in the maturity or in the terms of redemption of the principal of any Outstanding 2016 Bond or any installment of interest thereon; or

(b) ***Reducing Return***. A reduction in the principal amount of any 2016 Bond, the rate of interest thereon or any prior redemption premium payable in connection, therewith without the consent of the holder of the 2016 Bond; or

(c) ***Prior Lien***. The creation of a lien upon or a pledge of revenues ranking prior to the lien or to the pledge created by this Instrument; or

(d) ***Modifying Any Bond***. A reduction of the principal amount, percentages or otherwise affecting the description of 2016 Bonds the consent of the holders of which is required for any such modification or amendment; or

(e) ***Priorities Between Bonds***. The establishment of priorities as between 2016 Bonds issued and Outstanding under the provisions of this Instrument; or

(f) ***Partial Modification***. The modification of or otherwise affecting the rights of the holders of less than all of the 2016 Bonds then Outstanding.

Section 11.02. Notice of Amendment. Whenever the Council shall propose to amend or modify this Instrument under the provisions of this article, unless otherwise not required it shall cause notice of the proposed amendment to be provided in the same manner specified in Section 3.05 hereof. Such notice shall briefly set forth the nature of the proposed amendment and shall state that a copy of the proposed amendatory instrument is on file in the office of the Clerk for public inspection.

Section 11.03. Time for Amendment. Whenever at any time within one year from the date of the publication or mailing of said notice there shall be filed in the office of the Clerk an instrument or instruments executed by the holders of more than 50% in aggregate amount of the 2016 Bonds then Outstanding as in this article defined, which instrument or instruments shall refer to the proposed amendatory instrument described in said notice and shall specifically consent to and approve the adoption thereof, thereupon, but not otherwise (except as provided in Section 11.01 whereby consent is not required), the Council may adopt such amendatory instrument and such instrument shall become effective.

Section 11.04. Binding Consent to Amendment. If the holders of more than 50% in aggregate principal amount of the 2016 Bonds Outstanding, as in this article defined, at the time of the adoption of such amendatory instrument, or if the predecessors in title of such holders, shall have consented to and approved the adoption thereof as herein provided, no holder of any bond, whether or not such holder shall have consented to or shall have revoked any consent as in this article provided, shall have any right or interest to object to the adoption of such amendatory instrument or to object to any of the terms or provisions therein contained or to the operation thereof or to enjoin or restrain the City from taking any action pursuant to the provisions thereof.

Section 11.05. Time Consent Binding. Any consent given by the holder of a 2016 Bond pursuant to the provisions of this article shall be irrevocable for a period of six months from the date of the publication or mailing of the notice above provided for and shall be conclusive and binding upon all future holders of the same 2016 Bond during said period. Such consent may be revoked at any time after six months from the date of the publication or mailing of such notice, by the holder who gave such consent or by a successor in title by filing notice of such revocation with the Clerk, but such revocation shall not be effective if the holders of 50% in aggregate principal amount of the 2016 Bonds Outstanding, as in this article defined, have, prior to the attempted revocation, consented to and approved the amendatory instrument referred to in such revocation.

Section 11.06. Unanimous Consent. Notwithstanding anything contained in the foregoing provisions of this article, the terms and the provisions of this Instrument or of any instrument amendatory thereof or supplemental thereto and the rights and the obligations of the City and of the holders of the 2016 Bonds thereunder may be modified or amended in any respect upon the adoption by the City and upon the filing with the Clerk of an instrument to that effect and with the consent of the holders of all the then Outstanding 2016 Bonds, such consent to be given as provided in Section 9.04 hereof; and no notice to holders of 2016 Bonds shall be required as provided in Section 11.02 hereof, nor shall the time of consent be limited except as may be provided in such consent.

Section 11.07. Exclusion of City's Bonds. 2016 Bonds owned or held by, or for the account of, the City shall not be deemed Outstanding and shall be excluded for the purpose of consent or of other action or of any calculation of Outstanding 2016 Bonds provided for in this article, and the City shall not be entitled with respect to such 2016 Bonds to give any consent or to take any other action provided for in this article. At the time of any consent or of other action taken under this article, the City shall furnish the Clerk and the Paying Agent a certificate of the Chief Financial Officer upon which the City may rely describing all 2016 Bonds so to be excluded.

Section 11.08. Notation on 2016 Bonds. 2016 Bonds authenticated and delivered after the effective date of any action taken, as in this article provided, may bear a notation by endorsement or otherwise in form approved by the Council as to such action; and if any such 2016 Bond so authenticated and delivered shall bear such notation, then upon demand of the holder of any 2016 Bond Outstanding at such effective date and upon presentation of his 2016 Bond for the purpose at the principal office of the Paying Agent, suitable notation shall be made on such 2016 Bond by the Clerk and the Paying Agent as to any such action. If the Council shall so determine, new 2016 Bonds so modified as in the opinion of the Council to conform to such action shall be prepared, authenticated and delivered and upon demand of the holder of any 2016 Bond then Outstanding shall be exchanged without cost to such holder for 2016 Bonds then Outstanding upon surrender of such 2016 Bonds.

Section 11.09. Proof of Instruments. The fact and date of execution of any instrument under the provisions of this article may be proved as provided in Section 9.04 hereof.

Section 11.10. Proof of 2016 Bonds. The amount and number of the 2016 Bonds held by any Person executing such instrument and the date of his holding the same may be proved as provided by Section 9.04 hereof.

Section 11.11. Approval of Official Statement and Miscellaneous Documents. All action heretofore taken by any of the City's officials and the efforts of the City directed toward the issuance and sale of the 2016 Bonds, including use of a Preliminary Official Statement, are hereby ratified, approved and confirmed. The Council hereby ratifies and approves the final Official Statement in substantially the form of the Preliminary Official Statement, and the Mayor is hereby authorized and directed to execute the final Official Statement, with such changes as he shall deem necessary or appropriate. The Mayor, the Clerk, the Chief Financial Officer and the Director of Finance are hereby authorized to execute and deliver, and such officials and all other officers of the City are hereby authorized and directed to execute all other documents and certificates necessary or desirable to effectuate the issuance of the 2016 Bonds and the transactions contemplated thereby.

Section 11.12. Execution and Delivery of Continuing Disclosure Undertaking. The Mayor, Chief Financial Officer or Director of Finance is hereby authorized to execute and deliver, for and on behalf of the City, the Continuing Disclosure Undertaking with respect to the 2016 Bonds, the execution of the Continuing Disclosure Undertaking by such officer being conclusive evidence of the approval on behalf of the City of the terms and provisions thereof.

INTRODUCED, READ AND ADOPTED AS AN EMERGENCY ORDINANCE BY A TWO-THIRDS VOTE OF THE COUNCIL MEMBERS PRESENT AND ORDERED PUBLISHED BY TITLE THIS 3rd DAY OF MAY 2016.

[CITY SEAL]

By _____
Mayor

Attest:

By _____
Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: May 3, 2016

AGENDA TITLE: Second Reading and consideration of a motion to adopt Ordinance No. 8116 amending Chapter 4-20 "Fees," and by amending Section 4-20-25 adding a new subsection to impose fee on water users in single family homes and amending Chapter 11-1 "Water Utility" by adding a new Subsection to Section 11-1-44 "Water User Fees" authorizing the city manager to pay claims for damage from water main breaks and setting forth related details.

PRESENTERS
Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Bob Eichem, Chief Financial Officer
Maureen Rait, Executive Director Public Works
Jeff Arthur, Director Public Works for Utilities
Cheryl Pattelli, Finance Director
Jessica Pault-Atiase, Senior Assistant City Attorney

EXECUTIVE SUMMARY

At the March 15, 2016 council meeting, the city council directed staff to study the possibility of paying claims for damages caused by water main breaks, in situations where the city would not be legally obligated to pay for such damages. Council's interest in making these payments was the result of an incident on February 15, 2016, which resulted in the flooding of several homes in North Boulder. A second incident occurred on March 25, 2016 in South Boulder. To date, the city has received 18 claims totaling $304,236.36 arising out of these two incidents. To put this into perspective, over the last ten years the city has paid $306,678.29 for all water and sewer claims. Accepting this new liability would result in a significant increase in the city's financial responsibility.

Staff's recommendation is that council not support this change and continue the current policy of paying only claims for which the city is legally liable. If council agrees,

staff will continue to evaluate and make recommendations on the claims filed to date and will also be prepared to present a more comprehensive evaluation of operating and capital expenditures and revenue issues to council for consideration as part of the 2017 Budget process. If council adopts the ordinance, further guidance from council regarding the implementation of the provisions of this ordinance would be appreciated.

Suggested Motion Language:
If Council decides to adopt the ordinance, action should be in the form of the following motion:

Motion to adopt on second reading and order published by title only, an ordinance amending Chapter 4-20 "Fees," by adding a new Section 4-20-69 adding a fee on water users in single family homes and amending Chapter 11-1 "Water Utility" by adding a new Subsection to Section 11-1-44 "Water User Fees" authorizing the city attorney, with the city manager's approval to pay claims for damage from water main breaks and setting forth related details.

Staff's Recommended Motion Language:
Motion to direct staff to evaluate and make recommendations on the claims filed to date and to present a more comprehensive evaluation of operating and capital expenditures and revenue issues to council for consideration as part of the 2017 Budget process.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: The imposition of a small fee on single family residential water bills will have a small, but not significant economic impact.
- Environmental: None.
- Social: Shared responsibility for losses suffered is an important community social value.

OTHER IMPACTS

- Fiscal: The liability assumed through this ordinance would be financed through the new fee. There is no expected fiscal impact from the proposed ordinance. Accepting liability without a new funding source could have significant adverse impacts on the utility's financial situation.
- Staff Time: Implementation will be accomplished with existing staff. Staff expects that paying claims for which the city is not legally liable will increase the number of claims and require additional staff time.

BOARD AND COMMISSION FEEDBACK

None.

BACKGROUND & ANALYSIS

At the March 15, 2016 council meeting, council directed staff to consider whether the city should adopt a policy of paying for the damage caused by events like the February 15, 2016 Norwood Avenue water main break. The proposed ordinance is the product of that work.

City Liability

All governments have what is known as sovereign immunity. This concept derives from English common law under which the king was immune from suit. Modern American law generally waives sovereign immunity for many, but not all claims. In Colorado, this waiver was accomplished through the Colorado Governmental Immunities Act. C.R.S. §§ 24-10-102 to 24-10-120. Under the CGIA, a government is generally only liable for injuries arising from a government facility that is a dangerous condition. A government also can be liable for any injuries arising from the negligent operation or maintenance of water facilities, even if the facilities are not in a dangerous condition. However, a government cannot be held strictly liable or liable without proof of negligence. Strict liability is a legal concept through which individuals who engage in activities that are inherently dangerous can be held liable for injuries without proof of negligence. For example, a manufacturer can be liable for damages caused by a product if the produce is unreasonably dangerous when in a defective condition. Under the CGIA, a government cannot be held strictly liable.

It is not uncommon for the city to receive claims for which the city is not liable. These include not only claims for water main breaks, but also claims for backed up sewers, potholes and even traffic accidents not involving city employees or vehicles. The city's longstanding policy has been only to pay claims in which the damage was caused by the city's negligence. Paying for damage for water mains would be a significant departure from this policy.

Funding

If council decides that the city should to pay claims for which it is not legally liable, staff recommends creating a dedicated funding source for this new liability. During the budget process, council balances anticipated revenues with needs and adopts a budget. Exposing the city to this new potential liability without providing associated funding would ultimately reduce the funding available for preventative maintenance and capital replacement of the system. The water utility does maintain a reserve. It is not good fiscal policy to invade a reserve to pay ongoing expenses. Reserves are one-time money. Utility rates and fees provide ongoing funding. Thus, when the city funds an obligation out of utility rates and fees, the funding can fund the obligation on an ongoing basis. Once one-time money is spent, it is gone. Using reserves to pay ongoing expenses either reduces the amount of the reserves or requires funding additional contributions to replenish the reserves.

The city's water utility enterprise operates and maintains approximately $1 billion dollars in infrastructure and other assets. With assets of this value, replacement and repair costs from a disaster can reach tens of millions of dollars relatively quickly. During the September 2013 floods, the city's financial reserves allowed the city begin rebuilding damaged infrastructure immediately. Other communities were forced to wait for assistance from the state or federal governments. Considering the nature and extent of Boulder's system and the threats from floods and wild land fires, it is particularly important that the city maintain sufficient financial reserves. Loss of water service for any period of time would be devastating to our community. A recently analysis prepared by CH2M estimated the economic impact of loss of Boulder's water supply for 30 days at roughly $186 million dollars (about $6.2 million per day).

Most reserves are designated for unforeseen emergencies including natural disasters, major equipment failures, and major droughts. The city is largely self insured and reserves cover gaps where private insurance is either not available or would be cost prohibitive. Repair of water main breaks is not covered through reserves. Repairs are funded through the annual operating budget based on projected costs. The city's cost to repair a single water main break can range from about $5,000 to over $100,000. The city spends roughly $600,000 each year to respond to water main breaks. Private property damage claims from water main breaks would be a recurring annual expense added to this amount. It would be highly problematic and inefficient to continuously deplete and then replenish reserves for an ongoing expense. This approach would also ultimately provide little benefit to water utility customers because both operating and reserves are funded through utility rates and fees. Because paying claims the city is not liable for would become a financial obligation that the city would still be expected to meet during disaster situations, it would arguably be a basis for increasing reserves, not reducing them.

The undesignated reserves for the water fund at the end of 2014 (the 2015 audit is currently in process and will be completed by the end of July) was $33.4 million. It consists of:

- Bond Reserve – When bonds are issued the city pledges to maintain a bond reserve when issuing debt to finance major capital projects. This reserve is currently approximately $3 million, but varies over time based on outstanding debt obligations.

- Operating Reserve – City policy is to maintain an operating reserve equal to 25% of operating expenses. This equates to roughly 90-days of operating expenses. In the event of a major disaster impacting revenue, this reserve would allow the water utility to continuing to operate and meet financial obligations. This reserve is currently approximately $4.4 million. The city pledged to maintain this reserve in its bond documents.

- Capital Reserve – The city maintains this reserve to allow for restoration of water infrastructure and continuation of critical capital projects in a major emergency.

This reserve is currently funded at approximately $2 million. The city also pledged to maintain this reserve in its bond documents.

- FEMA Reserve – The city received significant reimbursements from the Federal Emergency Management Agency following the 2013 flood. FEMA's historic practice with other disasters has been to conduct an audit several years following the event and require recipients to repay a portion of the dollars provided. The city established reserves in all funds receiving FEMA reimbursement in anticipation of some repayment being required. The water utility reserve is $87,000. The reserve will be eliminated following completion of the FEMA audit.

- Sick/Vacation/Bonus Reserve – All city departments are required to maintain reserves to compensate departing employees for accrued leave. The water utility is currently required to maintain a reserve of approximately $530,000 for this purpose.

- Lakewood Pipeline Reserve – The Lakewood Pipeline conveys untreated water from Lakewood Reservoir to the Betasso Water Treatment Facility. During construction of the pipeline, the city identified significant construction defects. The city ultimately reached a legal settlement in which the contractor provided the city with funding to address future failure or loss of service life in lieu of reconstructing the pipe. The pipeline has a design life of approximately 100-years and a current replacement value of approximately $50-80 million. The current balance in the reserve is approximately $15.2 million and would fund only a partial replacement or limited emergency repair. The Lakewood Pipeline is the city's most secure source of water. The city's two other source water conveyance facilities both have significant vulnerabilities. The Barker Gravity Line from Barker Reservoir to the Betasso Water Treatment Facility consists largely of original pipe installed when the Barker Dam was built in the early 1900's. The proposed water utility capital improvements program includes accelerated investment in rehabilitation of this pipe. The remainder of Boulder's source water is conveyed from Carter Lake to Boulder Reservoir via an open canal. The canal is not operational in the winter and was rendered inoperable by flooding in both 2013 and 2015. Funding for replacement of the canal with a buried pipeline is proposed in the 2016 capital improvements program. Until the city can increase the dependability of the Barker Gravity Line and construct a Carter Lake pipeline, it is important to maintain the financial capacity to repair the Lakewood pipeline quickly. A higher level of reliability in the Barker Gravity Line and Carter Lake systems would buy time in the event of failure of the Lakewood Pipeline. The financial risk to ratepayers would remain, but this risk of loss of water supply would be reduced.

- Additional Unappropriated Fund – The remaining balance of $8.8 million is primarily related to pay as you go financing of planned capital projects. This balance fluctuates significantly over time as funds are accrued and then

> appropriated through the budget process. In addition to reducing the need to issue debt, this balance can be appropriated by council to cover unanticipated water utility expenses or revenue fluctuations in a given year.

The water utility recently received a high AA rating from Moody's and a AAA rating from Standard and Poor's for the bonds to be sold on May 3. The rating agencies also reconfirmed the same ratings for all other currently outstanding bonds. Two of the main reasons given for the high ratings were the strong reserves (liquidity) and strong fiscal management. The one area where concern was expressed was the coverage ratio for the annual debt payments. This ratio compares revenue to debt payments. The coverage the city maintains is less than that which would normally earn the AA+/AAA rating given to the city's debt. What offsets this concern are the amount of reserves, the strong financial and operational management of the enterprise, and fact that council has increased rates when rate increase have been needed. If the water enterprise did not have these strengths the ratings could drop to AA or even A. Such a drop would have a significant effect on the city's finances. If the $35 million in bonds to be issued on May 3 carried a AA rating, the city would pay an additional $1.1 million in interest over the twenty year life of the debt. The additional interest would be $2.6 million if the rating dropped to single A.

There has been some question whether the interest on the reserve funds could be used to fund new liability for claims that the city is not legally obligated to pay. The interest that the city receives on the utility reserves generally is less than the rate of inflation. Thus, adding the interest to the reserve helps to mitigate against the erosion of buying power caused by inflation. Using the interest for another purpose would be effectively the same as reducing the reserve. The lost funds would eventually need to be replaced by revenue from another source.

The February 15, 2016 Water Main Break

As staff has learned more about February 15 water main break, it appears that a high level of damage was the result of a number of unfortunate circumstances that were relatively unique in the city's recent history. The location of the break at the top of a hill in an area without curb and gutter drainage increased the damage from the incident. The properties at issue were more vulnerable to a water main break, because Norwood Avenue does not have curbs and gutters. The city's drainage system uses the streets to redirect water flow and prevent flooding. In some sections of the city, however, residents have expressed a preference for a more rural approach to drainage. The North Boulder Sub-Community plan provides as follows:

> For streets in the lower density residential areas of North Boulder, residents have expressed an interest in maintaining the character of the "rural" street section, characterized by no sidewalks, grassy borrow ditches instead of curb and gutter drainage, no or few painted traffic lines, and little street lighting . . . . From an environmental standpoint, borrow ditches are preferable to the piped drainage offered by curb and gutter,

since it allows storm water to percolate back into the ground, filtered by the soil as it flows.

North Boulder Sub-Community Plan at 21-22.[1]

Many areas of north Boulder were originally subdivided in the County and subsequently annexed to the city at a later date. Based on this progression many of the associated streets retain the rural character of the original county improvements including no curb/gutter, road-side swales instead of storm drains, and no sidewalks.

Adjacent property owners were required to improve Norwood Avenue as a condition of annexation. The implemented Norwood Avenue street improvements including the rural street character and traffic mitigation features (no curb/gutter, raised intersections, chicanes) were constructed through a Local Improvement District (LID) financed by the adjacent property owners and the city. The implemented street design was developed through an extensive public engagement process involving residents and property owners.

City staff's research has found no evidence of any negligence either before or after the break. The original stories regarding delay in response and in turning off the water were the product of miscommunication. In fact, the standby water operator arrived within 5 minutes of the fire department and shut off the water within 20 minutes. This is well within industry standard for response. There was no prior indication that this particular water main would fail and no history of prior leaks. From a legal standpoint the city has no liability.

If council chooses to pay water main break claims that the city is not liable for, staff proposes the compensation plan described below to apply to future claims and to claims arising out of the February 15 water main break.

To date, the city has received 10 claims totaling $207,425.62 arising from this incident.

The March 25, 2016 Water Main Break

At approximately 2:00 p.m. on Friday, March 25, 2016, operators at the Betasso Water Treatment Facility received a phone call reporting a water main break on Hartford Drive. The operators contacted the Water Distribution System Supervisor immediately. A water system operator responded from the city's Municipal Services Center at 5050 E. Pearl. The damaged section of pipe was isolated from the remainder of the system by approximately 2:30 p.m. By 8:00 p.m., city crews had replaced approximately 15 feet of cracked pipe and customers were back in service.

[1] The North Boulder Sub-Community Plan can be found at https://www-static.bouldercolorado.gov/docs/north-boulder-sub-plan-1-201305151136.pdf.

The break occurred on an 8 inch diameter polyvinyl chloride (PVC) pipe installed by a contractor in 1980 as part of a water main replacement project. Staff's initial assessment is that the contractor may have laid the pipe around the sharp curve in Hartford Drive in a manner that stressed the pipe and contributed to the failure. The bedding and backfill material around the pipe also appeared to be inconsistent with current standards. While 36-years is less than the expected life of a PVC water main, it is beyond the period of time where the city could successfully pursue a claim against the contractor.

While the investigation is still ongoing, staff's current understanding is that private property damage was primarily related to treated water entering a sanitary sewer manhole immediately adjacent to the break. That water overwhelmed the sanitary sewer system resulting in basement backups into multiple homes. City staff and the city's claims consultant, CCMSI, are continuing to review claims and meet with property owners to document damages. Sewer backups are largely influenced by a home's plumbing configuration and elevation, so damaged homes are not necessarily in the immediate vicinity of the break.

To date, the city has received 8 claims totaling $96,810.74 arising from this incident.

The Proposed Ordinance

Under the proposed policy, the city attorney, with the approval of the city manager would have discretion to pay claims arising from water main breaks. The city would create a limited program to help defer the costs associated with water main damage without imposing too great a burden on water ratepayers. Such payments would be limited to $10,000 per claim. The city council could approve any claim above $10,000. The city would compensate residents for damage to drywall, flooring, furnaces and water heaters. The city would not pay for damage caused to more expensive finishes in basements, such as kitchens, bathrooms or upgraded tile flooring or carpeting. The rationale for this limitation is that it would not be equitable to ask other ratepayers to pay for expensive basement finishes.

The proposal funds these payments through a limited special charge for several reasons. First, any payment from the existing water fund would necessarily require using operating funds to pay claims. The utility would be using funds intended to improve or maintain infrastructure to pay claims.

Establishing a special charge would allow the utility to appropriately fund infrastructure improvement and pay claims. In addition, the majority of utilities funding is from charges based on monthly water use. The amount of water a property uses each month does not have any correlation to the risk of damages from a water break. The benefits of the proposed fund are also not proportional to water use, that is, a large water user would not be eligible for proportionally greater compensation.

The fee and the benefit from the fee would be limited to accounts for "Single Unit Dwellings." This term is defined as follows:

> *Single Unit Dwelling* means a detached principal residential building including townhomes, other than a mobile home, designed for or used as a dwelling exclusively by one group.

§ 11-1-2, "Definitions," B.R.C. 1981.

In drafting the proposed ordinance, staff attempted to balance the benefits likely to be received with the cost imposed. That is, staff believes that the residents of single family homes are most likely to suffer an uninsured loss from a water main break. Businesses and multi-family residences are more likely to be able to obtain comprehensive coverage for such losses. In addition, the water utility has only approximately 2,000 business accounts. A $1 per month charge on those accounts would not fund the additional potential liability that the fund would assume if those accounts were included.

A per unit charge on a multi-family residence would, in most cases, include units above ground level not likely to suffer any damage from a water main break. Owners of such properties would be paying more than could be justified by the anticipated benefit. The monthly bill impact would vary based on number of units, but is estimated to be in the range of a 6-12% increase in monthly charges. Since the proposed ordinance excludes contents, a tenant would likely see an increase in the monthly charges passed along to them while receiving no direct benefit. Finally, mobile homes are, by their nature, above ground and do not have basements. It would seem inappropriate to charge these residents for a benefit that they are unlikely to receive.

Thus, the proposal is that only residents of single family homes pay the fee and receive the benefit. It appears that it is difficult or impossible for single family home owners to obtain insurance for this type of losses. This program is intended to fill the gap by providing a fund to pay claims not normally covered by insurance. The fund will likely disproportionately assist residents of single family homes with basements and/or that have built homes lower than the street in areas with limited storm drainage facilities. However, there is not sufficient data available to limit contribution to a subset of single family homes, such as only those with basements.

Staff also recommends that, at least at the outset, payment be limited to water main breaks. Sewer backups present more challenging circumstances. Most sewer backups result from issues with the customer's service line. It usually requires some level of investigation to determine the actual source of the backup. Staff recommends that sewer claims continue to be addressed on a case by case basis.

The water utility has 22,800 single family residential accounts. A $1 monthly surcharge on each account would generate approximately $273,600 per year in funding. A $12 per year increase is roughly equivalent to a 2.5% rate increase for a typical single

family residential customer. It is impossible to know whether this will be sufficient to cover all claims. The most likely outcome is that there will be some years which will exceed that amount and others in which there is a balance to be carried over to fund future shortfalls.

Claims History

It is difficult to predict the ultimate impact of the proposed ordinance. While the city maintains records of claims received and claims paid, there is no record of damage for which no claim was filed. It is fair to assume that some percentage of individuals who were told that the city would not pay a claim decided not to file a claim. The following chart demonstrates the city's history for claims over the ten year period between January 2006 and December 2015:

Year	Total Claims	Claims Paid	Total Paid	Avg. Paid	Avg./Claim
2006	7	4	$91,183.08	$22,795.77	$13,026.15
2007	9	2	$5,087.24	$2,543.62	$565.25
2008	9	7	$25,188.41	$3,598.34	$2,798.71
2009	8	4	$7,916.90	$1,979.23	$989.61
2010	4	1	$1,894.50	$1,894.50	$473.63
2011	16	5	$45,657.44	$9,131.49	$2,853.59
2012	12	5	$81,920.81	$16,384.16	$6,826.73
2013	7	1	$234.00	$234.00	$33.43
2014	57	1	$2,000.00	$2,000.00	$35.09
2015	10	4	$45,595.91	$11,398.98	$4,559.59
	139	34	$306,678.29	$9,019.95	$2,206.32

During that 10 year period, the city received 139 water and sewer claims and paid all or part of 34 claims. Of the 139 claims, 51 were for damages suffered during the September 2013 flood, mostly for sewer damage. The city did not pay any of those claims. The average payment for all claims paid was $9,019.95. The average per claim, that is, including the claims that were not paid, was $2,206.32. The total paid was $306,678.29 or an average of $30,667.83 per year. If the city had paid all claims with an average payment of $9,019.95, the city would have paid $947,094.72. If the flood claims are excluded, the total would have been $487,077.28. Again, it should be clear that this history most likely understates the potential liability.

First Reading Questions

Council members asked the following first reading questions:

1. Why are we considering helping residents who have had water flooding but not sewer backups?

Staff's understanding is that City Council requested a proposal related to water main break claims where the city is not liable. The city receives claims and other requests for compensation for a very broad range of incidents where it is not liable. Sewer backup claims are often considerably more complex than water main break claims. Substantial additional analysis would be needed prior to proposing a program to settle sewer back up claims where the city is not liable.

While most water main breaks occur as the result of natural forces such as corrosion and ground movement, sewer backups have a wider variety of causes and potentially responsible parties. Property owners are responsible for maintenance of the sewer service line that connects their home to the public sewer main. Backups are often the result of issues in the property owner's service line and not in the city sewer main. Backups can also occur as the result of actions that another party may be liable for. For example, improper maintenance of grease traps by a restaurant can clog public sewer lines and cause backups. Private utility contractors periodically damage sewer lines while doing underground construction. If the city were to accept broad responsibility for all sewer backups, the public would be taking responsibility for claims where private parties could be liable.

Insurance coverage for sewer backups is available as a rider on homeowner's insurance policies for a relatively small additional cost. A city funded program would essentially require customers to purchase a service through utility rates and fees that they can currently purchase at their discretion based on their specific needs.

2. How did we come up with $10K as the maximum payout? In the case of Norwood, at least one resident has significantly more damage. What would be the process to evaluate her situation?

This limitation is in current code. Section 2-2-14(e) of the Boulder Revised Code provides as follows:

> (e) To the extent that appropriated funds are available for the purpose, the city attorney, with the city manager's approval, is authorized to settle any claim against the city or suit in which the city is a party defendant if no more than $10,000.00 is paid by the city for settlement of the claim or suit, whether denominated as attorneys' fees, damages or otherwise. In all other cases, approval by the city council is required. No other city official is authorized to settle any claim for damage, injury or otherwise, nor expend any funds to address or resolve potential liability against the city or an official or employee of the city.

The $10,000 limit is the limit of staff authority without council approval. If council elects to settle claims in excess of $10,000, the proposed funding mechanism would most likely not be sufficient.

3. Is the report that the water utility has reserves of $30 million accurate? How are those funds currently designated for use, and what is our estimate of potential payout of those funds? (I understand the need to have a reserve, but will this last for 30 years while we increase the billing to our citizens?)

Reserves are discussed above.

4. How do we rationalize $273,600 funding per year (with the suggested $1/month fee) with the projection of paying out substantially less?

The city does not currently have data that can be used to accurately predict future claims. Because the city has not paid claims for water main breaks where it is not liable in the past and has regularly advised the public of this, we can only assume that the number of claims historically received is less than the number of potential claims. During the first three months of 2016, the city experienced a total of 17 water breaks and is in receipt of claims totaling $ 304,236.36 for water breaks on Norwood Avenue and Hartford Drive. If a similar trend continued for the remainder of the year, this limited history would suggest annual claims of over $1.2 million. If the city were to pay all of those claims, it would require a monthly fee of $4.25 to generate associated revenues. The proposed limitations on eligible claims are intended to limit associated impacts to ratepayers. If the funding is determined to be insufficient once claims history is available, adjustments to the program and/or fee would be necessary. If funding is determined to excessive and a substantial balance accrues, council could reduce the fee and/or enhance the program benefits.

5. What would be the effective rate increases if we charged other categories of water users, including (separately and together) multi-family residential and business? What would be the impact of charging not just a fixed, identical, monthly amount for each customer, but an incremental percentage charge based on the fixed (non-usage) part of the water bill, since that theoretically represents the potential usage (and thus the strain on the system's pipes) for each customer?

The proposed water main break fund concept has been developed with minimal data and without the benefit of stakeholder process in the interest of expediting a response to City Council's request. The proposal is based on the following assumptions:

- Based on very limited and largely anecdotal data, most water main breaks involving private property damage appear to involve single family residential structures with basements.

- There does not appear to be a direct relationship between the amount of water a customer uses and the risk of private property damage from a water main break.

- There does not appear to be a direct relationship between the amount of water a customer uses and the risk of water main breaks in the overall water distribution system.

- Multi-family, Commercial, Institutional, and Industrial customers have different risks, insurance coverage needs, and private insurance options than single family residential customers.

- It is assumed that there is a direct relationship between the coverage provided and the potential claims received i.e. unlimited coverage to all customer classes would have a higher cost than limited coverage to some customer classes.

Based on these assumptions, the draft proposal assesses a flat monthly fee only to single family residential accounts and provides the associated benefit only to those customers. Other funding scenarios are provided below. Because there is insufficient data to project claims costs at this time, the scenarios reflect only the revenue generated by the scenario and not the anticipated claims.

$1/month – All Accounts

- Single Family Residential - $273,600/year
- Multi-Family - $31,200/year
- Commercial/Industrial/Institutional - $24,000/year
- Irrigation - $16,800/year
- Total Revenue - $345,600/year

$1/month – Irrigation Accounts Excluded

- Single Family - $273,600/year
- Multi-Family - $31,200/year
- Commercial/Industrial/Institutional - $24,000/year
- Total Revenue - $328,800/year

$1/month – Multi-Family Assessed Per Unit, Irrigation Only Accounts Excluded

- Single Family - $273,600/year
- Multi-Family - $350,000/year
- Commercial/Industrial/Institutional - $24,000/year
- Total Revenue - $647,600/year

10% Increase in Fixed Monthly Service Charge – All Accounts

- Single Family - $301,299/year
- Multi-Family - $96,479/year
- CII - $97,732/year
- Irrigation - $32,865/year
- Total Revenue - $528,375/year

Fixed monthly services charges are based on water meter size. A typical single family residential home has a ¾" diameter meter and would see an increase of $1.04/month. The largest fixed service charge applies to 8" meters located outside of city

limits. There is currently one customer in this category and the monthly increase would be $156.10.

6. What might be the financial trade-offs of spending more (possibly quite a bit more) money on replacing old(er) pipes sooner versus allocating more/new funds for emergency fixes of broken pipes plus reimbursement for property damage?

The city currently replaces approximately 4 miles of water distribution pipe each year at a cost of approximately $3.5M. This program focuses on cast iron and ductile iron pipes which account for the vast majority of water main breaks. At the current funding rate, it would take approximately 70 years to replace all of the iron pipe in the water distribution system. Expediting this effort is expected to be necessary over time to avoid an increase in water main breaks frequency as the system continues to age. There is not currently sufficient data available to predict a level of short term investment that would substantially eliminate water main breaks, but it can be assumed that it would be well beyond the city's financial means.

Expediting water distribution main replacement at the expense of addressing other system vulnerabilities is not recommended at this time. As part of the 2017 CIP, staff will be recommending funding to initiate a replacement program for the city's treated water transmission mains (pipes larger than 12-inch diameter) at a cost of $2M/year. While those portions of the water system currently have a lower frequency of breaks, the consequences of failure are more severe. The proposed CIP also recommends increased investment in source water facilities such as untreated water conveyance facilities and dams. Failures in the source water system can result in widespread or citywide impacts with much greater consequences than water distribution main breaks.

There may be other smaller scale investments that would improve the efficiency and effectiveness of the main replacement program. For example, main replacement is currently performed almost exclusively by outside contractors. While this is cost effective when replacing mains in an entire neighborhood, it can be difficult to get competitive prices for smaller jobs. The addition of an in-house water main replacement crew to supplement contracted resources could potentially provide the ability to do targeted replacements in smaller areas more quickly and cost effectively than could be done through the annual contract. As an added benefit, this approach would increase the number of skilled staff available to respond when emergencies do occur.

Conclusion

Staff recommends that council not pass the proposed ordinance. If council agrees, staff will continue to evaluate and make recommendations on the claims filed to date and will also be prepared to present a more comprehensive evaluation of operating and capital expenditure and revenue issues to council for consideration as part of the 2017 Budget process. If council decides to pass the ordinance, staff would appreciate any further guidance council might have regarding the provisions of the ordinance.

ATTACHMENT

Attachment A – Proposed Ordinance

ORDINANCE NO. 8116

AN ORDINANCE AMENDING CHAPTER 4-20 "FEES," BY ADDING A NEW SECTION 4-20-69 ADDING A FEE ON WATER USERS IN SINGLE FAMILY HOMES AMENDING CHAPTER 11-1 "WATER UTILITY" BY ADDING A NEW SUBSECTION TO SECTION 11-1-44 "WATER USER FEES" AUTHORIZING THE CITY MANAGER TO PAY CLAIMS FOR DAMAGE FROM WATER MAIN BREAKS AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 4-20-25 is amended as follows:

4-20-25. - Monthly Water User Charges.

(a) Treated water monthly service charges:

Meter Size	***Inside City***	***Outside City***
¾″	$ 10.44	$ 15.67
1″	17.57	26.36
1½″	37.84	56.76
2″	66.29	99.44
3″	147.46	221.19
4″	261.10	391.65
6″	585.92	878.88
8″	1,040.64	1,560.97

(b) Treated water quantity charges:

(1) Block Rate Structure:

	Block Rates (per thousand gallons of water)	***Block Size (% of monthly water budget)***
Block 1	$ 2.76	0—60%
Block 2	3.68	61—100%
Block 3	7.36	101—150%

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Block 4	11.04	151—200%
Block 5	18.40	Greater than 200%

(2) Definitions:

(A) *Block Rate Structure* is the water budget rate structure which includes Blocks 1—5. These blocks represent an increasing block rate structure such that the price of water increases as more water is used, particularly when the amount of water used exceeds the customer's water budget. This rate structure is intended to:

- promote water conservation and the efficient use of water;
- support community goals;
- reflect the value of water;
- send a price signal to customers who waste water;
- recover needed revenues for administration, operations, maintenance, capital projects, debt payments, and reserves for the water utility;
- avoid additional costs of new water development; and
- avoid additional costs of new and expanded water treatment.

The rate structure provides an individualized water budget to each customer that is expected to meet the customer's specific water needs. The revenues generated from the block rate structure will be used to satisfy the quantity charge portion of the basic revenue requirements of the water utility.

(B) *Monthly water budget* means the amount of water allocated to the water utility customers to meet their anticipated watering needs for the month. The monthly water budget shall be the indoor and/or outdoor allocation for each water utility customer. The allocation shall be based on reasonable and necessary indoor and/or outdoor use, water conservation, and other relevant factors associated with water use in the city. The allocations shall be defined by rules and guidelines issued by the city manager.

(c) Bulk water and metered hydrant rate: $8.00 per thousand gallons of water used. (Service charges do not apply.)

(d) Water leased on an annual basis: Colorado Big Thompson $35 per acre foot; all other based on cost of assessment plus ten percent administrative fee or $35 per acre foot, whichever is greater.

<u>(e) Effective June 1, 2016, water utility customers with accounts for Single Unit Dwellings shall pay a $1 per month fee.</u>

<u>Section 2.</u> Section 11-1-44 is amended as follows:

11-1-44. - Water User Charges.

(a) The water utility shall bill water users once a month. Failure by the water utility to so notify a water user shall not constitute a waiver of any fee or charge imposed by this chapter.

(b) Charges for water service consist of a monthly service charge and a quantity charge as prescribed by section 4-20-25, "Monthly Water User Charges," B.R.C. 1981. For those customers served by more than one meter, the appropriate service charge shall be applied to each meter. Monthly service charges shall be billed to each meter in use regardless of whether any quantity charge is made. A meter is considered to be in use as long as it is in place.

(c) If water users institute or terminate service or when the ownership of the property is transferred on other than established billing dates, the water utility shall prorate the charges for water services. When the ownership of the property is transferred, the established customer class average winter consumption will be used to calculate water charges until the next average winter consumption calculation period.

(d) For all water supplied by the city to the Boulder Valley School District No. RE 2 or to any of the properties that are located within the boundaries of the former Boulder Valley Water and Sanitation District, the inside city water rates apply.

(e) For all water supplied by the city outside of the city limits used for firefighting training purposes by bona fide and legally constituted firefighting units located in Boulder County, the inside city water rates apply.

(f) If any meter fails to register in any billing period, the water user shall be charged according to the average quantity of water used in a similar period as shown by the meter when in order.

(g) Billing for water service and any other notices relating to the water utility are effective on the date that they are deposited in the mail addressed to the last known address of the water user as shown on the records of the city water utility.

(h) All charges for the use of water prescribed by this section are due and payable within ten days after the date of the bill.

(i) To the extent that appropriated funds are available for the purpose, the city attorney, with the city manager's approval, is authorized to settle any claim against the city arising from damage to a Single Unit Dwelling caused by water released from facilities operated by the water utility. Such payments shall be limited to payments for damage to basements and replacement or repair equipment and appurtenances normally found in basements such as common flooring, drywall, furnaces, boilers and water heaters. No funds shall be provided for extraordinary basement finishes, including but not limited to kitchens, bathrooms or upgraded tile flooring or carpeting. Payments under this section shall be funded through fees collected through Section 4-20-25(e), "Water User Charges," B.R.C. 1981. Payment of such claims shall be subject to the limitations of Section 2-2-14, "Initiation and Settlement of Claims and Suits," B.R.C. 1981.

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

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

INTRODUCED, READ ON FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY this 19th day of April 2016.

_____
Suzanne Jones
Mayor

Attest:

_____
Lynnette Beck
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of May, 2016.

_____
Suzanne Jones
Mayor

Attest:

_____
Lynnette Beck
City Clerk

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: May 3, 2016

AGENDA TITLE: Consideration of a motion to adopt Resolution No. 1182 conditionally supporting a federal grant application by Jefferson County to fund planning, design and construction of up to two underpasses and trail segments to connect Rocky Flats National Wildlife Refuge with adjacent City of Boulder and Boulder County trails north of State Highway 128 and approving the accompanying response guidelines.

PRESENTERS
Jane S. Brautigam, City Manager
Tracy Winfree, Director, Open Space and Mountain Parks
Deryn Ruth Wagner, OSMP Planner
Carl Castillo, Policy Advisor

EXECUTIVE SUMMARY

The purpose of this memo is to provide City Council with background information on a proposed Resolution (Resolution, **Attachment A**) and accompanying response guidelines (**Attachment B**) that, if approved, would affirm and guide the city's participation in a grant application by Jefferson County to connect the Rocky Flats National Wildlife Refuge (NWR) with a city-and county-owned trail system to the north. The Resolution and guidance specify the conditions under which the city could support the trail connections, including specifics on the type of soil sampling and results of such sampling that would be considered acceptable by the city. These conditions were developed in close coordination with Boulder County and U.S. Fish and Wildlife Service (USFWS) to ensure a shared understanding of intent, and feasibility of data collection and analysis.

Jefferson County requested that the city provide financial support for the connection as part of an effort to recruit partners for a federal grant application to fund planning, design and construction of a portion of the Rocky Mountain Greenway (RMG). The RMG is an interagency effort to connect federal lands with local communities along the Front Range. As part of the larger RMG trail project, Jefferson County, on behalf of the RMG effort, seeks to

connect Rocky Flats NWR with public lands to the north and east. The portion of the project affecting the city's Open Space and Mountain Parks (OSMP) property would connect Rocky Flats NWR with OSMP and Boulder County Parks and Open Space (BCPOS) trails to the north, via one or two underpasses across State Highway 128 (S.H. 128). This memo focuses only on these proposed S.H. 128 crossings (Site Two in Figure 1), the exact location of which will be determined in future project stages.

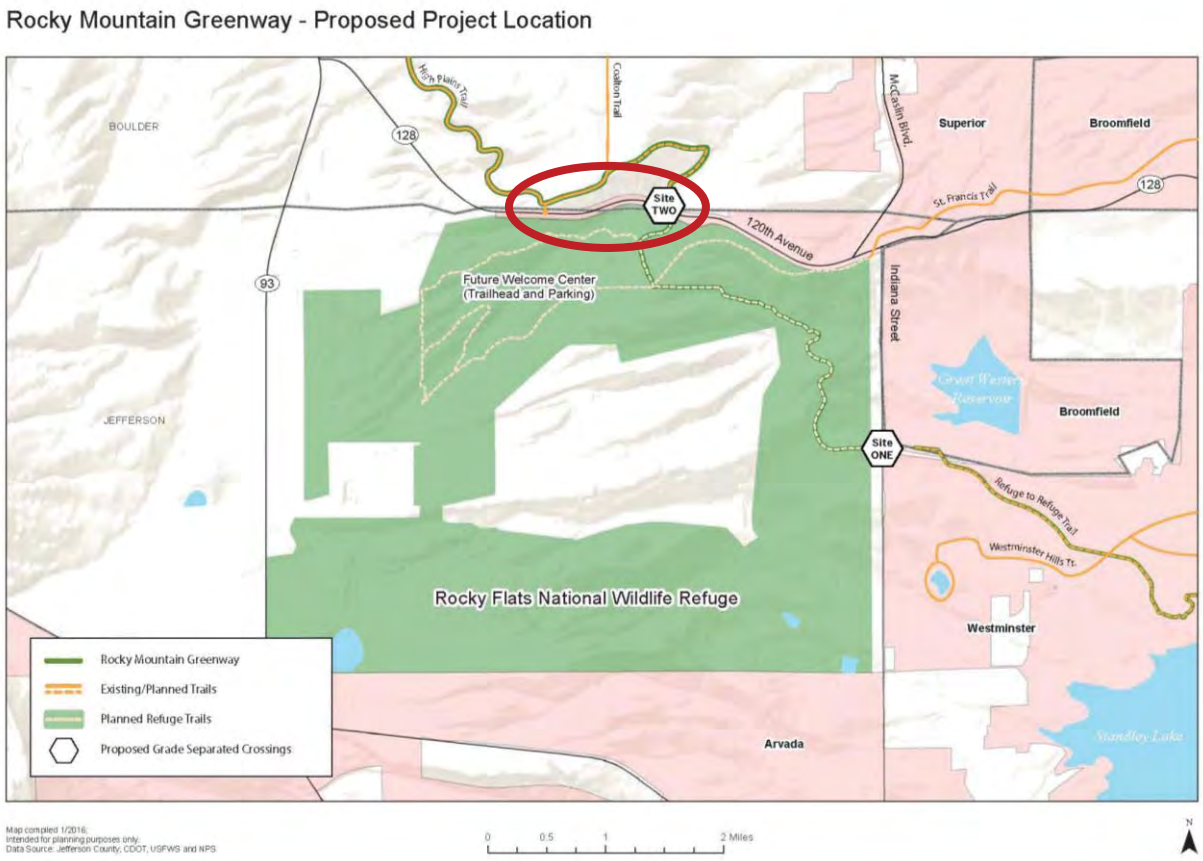


Figure 1: Site Two, proposed project location

To meet a federal grant application deadline of May 21, the City of Boulder must provide Jefferson County with documentation of its commitment to support the project no later than Friday, May 6. A financial contribution from the city is required to satisfy the 17.21 percent local match requirements for Jefferson County's grant application to the Federal Lands Access Program (FLAP). FLAP grants fund transportation-related facilities that provide access to federal lands. Local partners including Boulder County, the Town of Superior, and Jefferson County are being asked to provide contributions towards local match requirements. These local funds could help leverage a federal contribution of more than $3 million, a rare opportunity in the field of trail design and construction. If awarded, these federal funds would require additional planning, evaluation and public process to determine final design and alignments.

As discussed below, consideration of local government support for the FLAP application has recently become enmeshed in concerns over the safety of allowing public access to the Rocky Flats NWR. The decision to build trails within the Rocky Flats NWR and to allow public access has already been determined by the federal government and is not a matter for council consideration. Nevertheless, given the relation between that issue and the FLAP grant, conditions were added to the proposed Resolution to ensure that construction of any new connections with OSMP land are protective of human health. Council Member Morzel, in her role as council's representative to the Rocky Flats Stewardship Council (RFSC), took a lead in negotiating these conditions with U.S. Fish and Wildlife Services and will be available to speak towards these matters with council.

STAFF RECOMMENDATION

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

Motion to adopt Resolution No. 1182 conditionally supporting a federal grant application by Jefferson County to fund planning, design and construction of up to two underpasses and trail segments to connect Rocky Flats National Wildlife Refuge with adjacent City of Boulder and Boulder County trails north of State Highway 128 and approving the accompanying response guidelines.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- ≠ Environmental: This project involves the use of federal funding, which would be expended in compliance with the National Environmental Policy Act (NEPA). NEPA provides an opportunity to identify environmental effects of the proposed project, and supports the avoidance and minimization of adverse effects to a variety of environmental resources.
- ≠ Economic: OSMP contributes to the economic vitality goal of the city as it provides the context for the diverse and vibrant economic system that sustains services for residents. The land system and the quality of life it represents attracts visitors and helps businesses to recruit and retain quality employees. The RMG project has the potential to attract visitors to Boulder where spending on goods and services would generate sales tax revenues supporting city service delivery including OSMP land acquisition and management.
- ≠ Social: This facility would provide linkages with communities to the north and south of the Boulder Valley, providing off-road recreational opportunities for Boulder residents to the nearby Rocky Flats NWR. It would also provide longer distance options to visit the Two Ponds and Rocky Mountain Arsenal refuges. Since the trail, like all OSMP lands, facilities and programs, is equally accessible to all members of

the community, the proposed project helps to support the city's community sustainability goal because all residents "who live in Boulder can feel a part of and thrive in" this aspect of their community.

OTHER IMPACTS

- ≠ Fiscal: The financial contribution from OSMP could range up to $200,000 and would be counted towards the 17.21 percent local match requirements depending on final design and contracting requirements. This contribution would help leverage an additional $3 to $4 million in federal grant funds. There are sufficient funds in the Open Space Fund for this expenditure. If City Council approves participation in this grant application, OSMP will request allocation of capital funding as part of the 2017 budget process.
- ≠ Staff time: Regional trail planning is part of the normal work plan for OSMP staff.

BOARD AND COMMISSION FEEDBACK

This item was heard as part of the Open Space Board of Trustees (OSBT) public meeting, held on Feb. 10, 2016. Discussion from board members included concern over possible resource impacts resulting from a potential trail segment across the Rock Creek riparian area. These concerns have subsequently been addressed by modification in the conceptual trail crossing location. The following motion passed unanimously:

> *The Open Space Board of Trustees (OSBT) recommends that, pending support from other local partners, City Council resolves or affirms the city's intention to approve financial support, and that City Council approves financial support for an application by Jefferson County for grant funding through the Federal Lands Access Program, which, if awarded, would fund planning, design and construction of a grade-separated trail crossing of State Highway 128 and trail segments to connect the Rocky Flats National Wildlife Refuge and City of Boulder and Boulder County trails to the north. OSBT cautions that this should not be considered a commitment to the current proposed crossing location or trail alignment.*

PUBLIC FEEDBACK

The OSBT meeting was advertised in the *Daily Camera* on Feb. 7, 2016. One member of the public spoke, requesting that decision makers consider the long-term effects of making this trail connection. In addition, this City Council meeting scheduled for Tuesday, May 3, 2016 was advertised in the *Daily Camera* on May 1, 2016. Lastly, if federal grant funds are awarded, additional opportunities for input will be advertised to invite greater community involvement.

On April 5, 2016, the Boulder County Commission held a public hearing on the FLAP grant. Most of the public (about 8) who spoke were adamantly against any opening of the Rocky Flats NWR, and asked Boulder County not to support the FLAP grant application. Council Member Morzel spoke in favor of applying for the FLAP grant arguing

that it would provide additional opportunities for soil sampling and chemical and radionuclide analyses for the RMG path across the Rocky Flats NWR. Boulder County Board of County Commissioners (BOCC) directed staff to address the public's concerns in the county's resolution to support the grant application. That resolution – which has been closely coordinated with the drafting of the City of Boulder's resolution – will be heard at an upcoming BOCC business meeting.

BACKGROUND

In 2012, Colorado Governor Hickenlooper and Ken Salazar, former U.S. Secretary of Interior, established the Rocky Mountain Greenway in an effort to link the Rocky Mountain Arsenal, Two Ponds National Wildlife Refuge, Rocky Flats National Wildlife Refuge, and Rocky Mountain National Park using local and regional trails and transit opportunities (see **Attachment C** for vicinity map). As part of the Obama administration's *America's Great Outdoors* initiative, the RMG has a focus on providing families and children access to public lands. The goal of both initiatives has been to support locally-driven projects and strengthen economies and communities with greater access to open spaces and outdoor recreation. The City of Boulder has a seat on the statewide steering committee, currently filled by Council Member Morzel.

City Council has placed a high priority on the planning and development of regional trails. The Rocky Mountain Greenway is one of several regional trail planning projects that is currently active. In partnership with staff from OSMP, BCPOS, and other local partners, the Federal Highways Administration (FHWA) has been leading a feasibility study. The current focus of the study is to assess relative several potential routes for connecting Rocky Flats NWR through the City of Boulder to the town of Lyons. Eventually the trail is envisioned to connect all the way to Rocky Mountain National Park. Meanwhile, the Rocky Mountain Arsenal NWR in Commerce City and the Two Ponds NWR in Arvada are already connected by the Rocky Mountain Greenway, and the section from Two Ponds to Rocky Flats is almost complete. In January of this year, the Rocky Mountain Greenway received state support as one of the "16 in 16" trails identified in Governor Hickenlooper's *Colorado the Beautiful* initiative. This state initiative focuses on recreational opportunities to access and enjoy public lands with the intent of raising environmental awareness and promoting active living.

The underpasses beneath S.H. 128 would be the first step on the path for the Rocky Mountain Greenway to connect Rocky Flats NWR with Rocky Mountain National Park. Initial potential road crossing locations have been explored in the ongoing study being led by FHWA. Building on that work, the consultant working with Jefferson County to develop options for the grant application selected a site on the east side of the Rock Creek drainage. Subsequently, OSMP, OSBT and BCPOS shared their concerns about the proposed crossing location and the importance of connecting with the Coalton Trail. The consultant's first conceptual alignment

would have crossed Rock Creek, affecting habitat for Preble's meadow jumping mouse, contributing to the fragmentation of this large block of grassland habitat, disrupting current agricultural operations, and jeopardizing values central to a conservation easement held by OSMP on BCPOS's Lindsay open space property.

As a result, Jefferson County's consultant adjusted the proposal as reflected below in Figure 2. Site 2 (A) reflects a pedestrian crossing, with minimal trail construction needed to connect to the Coalton and High Plains trails. Site 2 (A) is now considered the proposed, favorable location for a pedestrian crossing at this early stage of the project. Site 2 (B) reflects the possibility of a **wildlife-only** crossing where Rock Creek flows beneath S.H. 128. This separate wildlife crossing would connect to BCPOS's Lindsay property. It may be constructed as part of this grant-funded project or through a separate effort, if FLAP funds do not cover this portion of the project.

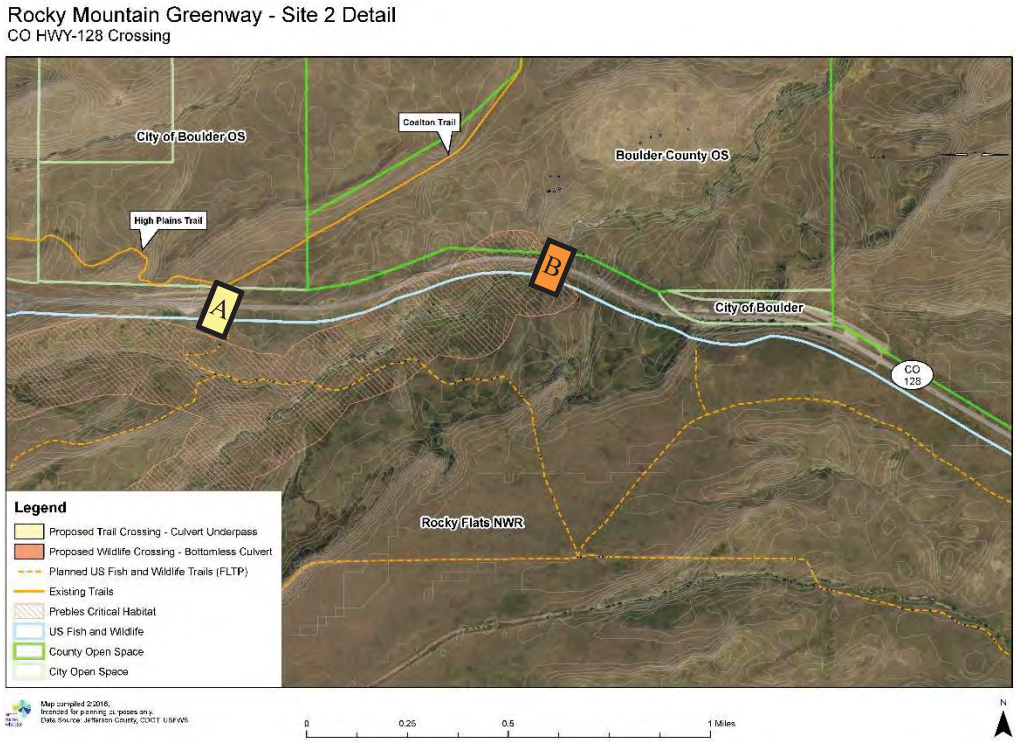


Figure 2: Latest proposal for potential crossing locations

In both options, an underpass would be constructed across the Colorado Department of Transportation's right of way for S.H. 128. Trail construction south of the highway on the Rocky Flats NWR would be guided by the Comprehensive Conservation Plan for the refuge (**Attachment D**).

It should be noted that while Site 2 (A) is considered the favorable location to connect Rocky Flats NWR with city and county lands to the north, additional alternatives may be explored

during the NEPA process if funds are awarded. For example, an option to route the Rocky Mountain Greenway around the refuge on the east and north sides may be considered during the development of a reasonable range of alternatives for further analysis in NEPA.

As the city's representative to one of several Rocky Flats organizations since 1996, as current chair of the Rocky Flats Stewardship Council and the city's representative on the Rocky Mountain Greenway, Council Member Morzel provided additional background information on this project as it relates to the Rocky Flats NWR. As part of this background, staff has included as **Attachment E,** a map Council Member Morzel received at the April 4 Rocky Flats Stewardship Council meeting from USFWS which shows the proposed visitor facility improvements on the Rocky Flats NWR.

The plan to open Rocky Flats NWR will not be without controversy due its past history as a nuclear weapons facility. Since the former plant's closing and subsequent environmental cleanup, a Comprehensive Conservation Plan (CCP) was approved in 2004 after an extensive public process, completion of an Environmental Impact Statement (EIS) and Record of Decision (ROD). In developing the CCP, the USFWS developed four alternatives:

1. No action where no public use facilities would be developed and would not implement any management, restoration or educational programs.
2. Wildlife, habitat, and public use alternative that best balances wildlife and habitat with public uses.
3. Ecological restoration alternative that emphasizes conservation and restoration of large tracts of wildlife habitat with very limited public access.
4. Public use alternative that emphasizes public use which would preclude some habitat restoration and monitoring.

The seven members of the former Rocky Flats Coalition of Local Governments were split in their opinions on which alternative to pick. Four (Broomfield, Westminster, Arvada, and Jefferson County) chose alternative 2; Boulder County chose alternative 1; Boulder and Superior chose alternative 3. Boulder County later joined with Boulder and Superior supporting ecological restoration but very limited public access to Rocky Flats. The Coalition operated on a super-majority vote requiring a 5-2; since that did not happen, the Coalition did not take a formal position.

USFWS has decided to move forward with alternative 2 implementing the CCP with the proposed trails as shown on the attached map (**Attachment E**) (red lines represent existing paths/roads; blue are new proposed trails). In addition, the agency is working to substantially increase its engagement of the public during this development process. The Rocky Mountain

Greenway would access mostly an existing road/path across the northeast corner of the refuge.

ANALYSIS

Site 2 (A) (Proposed location for pedestrian crossing)

OSMP staff recognizes that – depending on the final location and alignment selected – an underpass and trail connector could directly affect open space managed by Boulder County, on which the city owns a conservation easement, and/or lands managed by OSMP. A crossing at Site 2 (A) would most directly affect the Kelsall city open space property (Figure 3). The OSMP Visitor Master Plan included this property in the Southern Grasslands Habitat Conservation Area (HCA), which protects a 3,000-acre block of grassland as well as the plant and animal species that depend upon it. The ecological value of this area has also been recognized in the OSMP Grassland Plan, in which it was designated a Best Opportunity Area for grassland conservation. Rare plant communities are present along the Coalton and High Plains trails (especially to the north of the trail), due to undisturbed soils, unfragmented grassland blocks, and the limited presence of weeds.

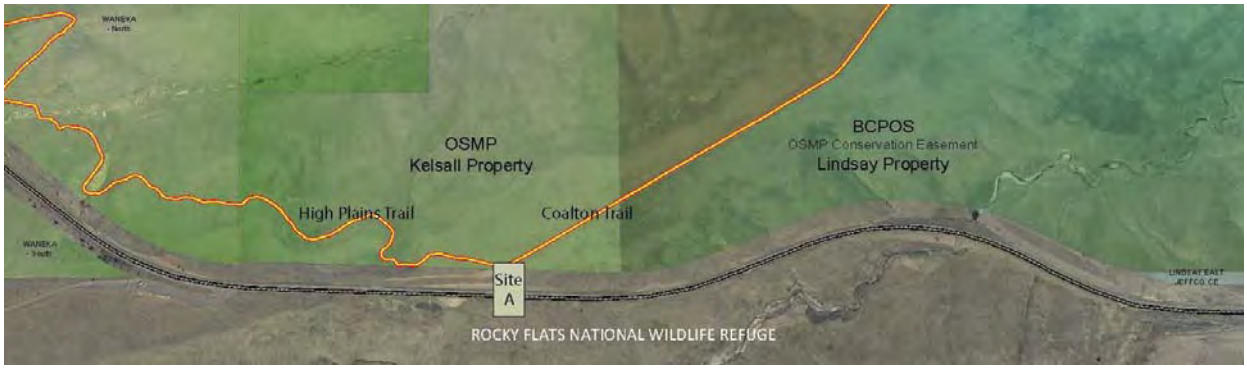


Figure 3: Proposed pedestrian crossing (Site A)

Site 2 (A) is currently used by members of the public to access the Coalton and High Plains trails, and includes an informal parking area within the Colorado Department of Transportation (CDOT) right of way. The 2005 OSMP Marshall Mesa-Southern Grasslands Trail Study Area Plan anticipated increased visitation with the potential need for additional infrastructure in this area. Existing topography would require substantial grading and drainage to construct a pedestrian underpass in this location.

Future Environmental Planning and Analysis

The use of FLAP grant funds necessitate an environmental clearance process in accordance with NEPA requirements. A process determination will be made by the lead federal agency (FHWA) to require either a categorical exclusion (CatEx), an Environmental Impact Statement (EIS) or an Environmental Assessment (EA). Both an EIS and an EA require the consideration of alternative approaches to meet the objectives of the project, as well as analysis of resources potentially impacted by the alternatives. After a preliminary desktop analysis of resources in this area, OSMP staff believes an EA or EIS will be required. An EA or EIS would also create an opportunity to require further soil sampling on Rocky Flats NWR in order to assess potential locations for siting trail connections and/or potential underpasses.

In addition, NEPA requires consultation with the U.S. Army Corps of Engineers and U.S. Fish and Wildlife Service when wetlands and threatened species habitat are affected. These agencies oversee compliance with Clean Water Act and Endangered Species Act regulations respectively. Federal regulations common to both these laws require consideration of designs that avoid impacts to these resources as a first approach, and the minimization of effects where avoidance is not practicable. Compensatory mitigation is typically required for the unavoidable effects of a project. **Attachment B** outlines proposed response guidelines that, if approved by council, would direct city staff in subsequent efforts to ensure the sufficiency of future environmental analysis and permitting.

Funding

Figure 4 below outlines estimates for local contributions according to rough cost estimates for both Site 2 (A) and Site 2 (B). These estimates include costs for design, permitting, NEPA, construction management and contingencies. However, these numbers are subject to change based on next steps outlined below, including final confirmation of support from local partners and scope confirmation by FHWA if the project is short-listed. Therefore, the city's expected contribution to the project could range up to – and would not exceed – $200,000. After local match requirements are met, all of the project costs would be covered by the grant. The federal investment would total roughly $4.2 million.

To date, verbal agreements among local partners suggest that local governments would collectively provide 17.21 percent of match, divided equally among local government partners in Boulder County and Jefferson County. The Boulder County entities originally included Boulder County, the City of Boulder, and the Town of Superior. However, as of Monday, April 25, 2016, Superior's Board of Trustees unanimously rejected a resolution to provide local match. Therefore, pending final confirmation from Arvada, Westminster, Jefferson County and Boulder County, the local match would be split five ways. The following table outlies how this breakdown would play out if all five partners commit to supporting the grant application in equal amounts. In the event that other partners decide not to contribute local match, the City of Boulder's contribution would be recalculated; however, it would still not exceed $200,000.

Site 2A Highway 128 Underpass (TRAIL) from Flats to City of Boulder		**Site 2B Highway 128 Underpass (WILDLIFE CROSSING) from Flats to Boulder County**	
Estimated Cost	$775,025	Estimated Cost	$3,505,520
Approximate 17.21% Match	*$133,382*	*Approximate 17.21% Match*	*$603,300*
Split between Jeffco Entities & Boulder Entities		Split between Jeffco Entities & Boulder Entities	
Arvada	$26,676	**Arvada**	$120,660
Westminster	$26,676	**Westminster**	$120,660
Jeffco	$26,676	**Jeffco**	$120,660
City of Boulder	$26,676	**City of Boulder**	$120,660
Boulder County	$26,676	**Boulder County**	$120,660

Figure 4: Potential breakdown of funding contributions, subject to change

Local partners would contribute funding only if federal funds are awarded, and city funds would be included as part of OSMP's Capital Improvements Program (CIP) for 2017. Jefferson County has requested general confirmation of the city's support ahead of the CIP budget process in order to meet the FLAP application deadline of May 21, 2016. If the grant is awarded, the City of Boulder would enter into a reimbursable agreement with the Federal Highways Administration, which typically allows flexibility in terms of when the match dollars can be paid. The project can be scheduled out for three to five years, but would be targeted for 2017-2018 since that aligns with the USFWS trail funding and development at

Rocky Flats NWR. An estimate within 10 percent of actual cost will be available prior to final grant selection (roughly October 2016).

NEXT STEPS

Following approval of the Resolution and response guidelines, OSMP staff would provide documentation of the city's support to Jefferson County for inclusion in its grant application – which is due May 21. If added to FHWA's short-list for grant funds, the project would then undergo more in-depth scope confirmation this summer, during which FHWA would identify the selected NEPA pathway (CatEx, EA or EIS), refine cost estimates and develop a schedule for completion. FHWA will announce final selection of grant recipients in September or October, after which financial agreements with local partners would be executed to confirm local match funding.

As described in the proposed response guidelines, this process would include the city's negotiation of an intergovernmental agreement with Jefferson County and other local funding partners to confirm the terms by which the City of Boulder would withhold funding if the conditions in the Resolution were not satisfied. Simultaneously, OSMP staff will coordinate with the city's 2017 CIP budget process, so that if federal funds are awarded, the city's financial contribution will be appropriately identified in the 2017 budget.

Separate from this FLAP application, Council Member Morzel also intends to collaborate with Boulder County and other regional partners to request additional soil sampling on refuge areas that are outside the scope of the FLAP project. This effort may include a letter to USFSW requesting soil sampling along proposed alignments for constructing new trails and a new visitor contact station on the refuge, as well as broader conversations with City Council and other elected leaders in the region to request extensive soil testing elsewhere throughout Rocky Flats NWR that would be conducted on a regular, on-going basis.

ATTACHMENTS

Attachment A – Proposed City of Boulder Resolution No. 1182
Attachment B – Proposed City of Boulder Response Guidelines for Subsequent Environmental or Land Use Review or Permitting Processes for Trail Connection to Rocky Flats National Wildlife Refuge
Attachment C – Vicinity Map
Attachment D – Visitor Use Map, Rocky Flats National Wildlife Refuge Comprehensive Conservation Plan
Attachment E – Rocky Flats National Wildlife Refuge Proposed Visitor Facility Improvements (April 4, 2016)

RESOLUTION NO. 1182

A RESOLUTION SUPPORTING A FEDERAL GRANT APPLICATION BY JEFFERSON COUNTY TO FUND PLANNING, DESIGN AND CONSTRUCTION OF UP TO TWO UNDERPASSES AND TRAIL SEGMENTS TO CONNECT ROCKY FLATS NATIONAL WILDLIFE REFUGE WITH ADJACENT CITY OF BOULDER AND BOULDER COUNTY TRAILS NORTH OF STATE HIGHWAY 128 AND APPROVING THE ACCOMPANYING RESPONSE GUIDELINES.

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

The Boulder City Council recognizes the health and conservation benefits of connecting residents and visitors to the natural world, and encourages and supports projects that provide those benefits; and

The Rocky Mountain Greenway (RMG) of Colorado is envisioned as a way to enhance and protect our natural heritage and connect Coloradoans with this heritage; and

The goal of the RMG is to create a regional network comprised of trails and transportation systems that connects three urban wildlife refuges with Rocky Mountain National Park. The combined trail and transportation system would link the Rocky Mountain Arsenal National Wildlife Refuge (NWR) in Commerce City, Two Ponds NWR in Arvada, and the Rocky Flats NWR before continuing through Boulder County and the City of Boulder toward Rocky Mountain National Park; and

The RMG statewide steering committee includes representatives from federal, state and local levels, including Colorado Department of Natural Resources, Federal Highway Administration, US Fish and Wildlife Service, Jefferson County, Boulder County, City of Boulder (represented by Councilmember Lisa Morzel), City and County of Denver, City of Aurora, Trust for Public Land, and several private organizations; and

Managed by the Federal Highways Administration, the RMG core team includes local staff representatives from City of Boulder Open Space and Mountain Parks (OSMP), Transportation and Greenways, Boulder County Parks and Open Space (BCPOS) and Transportation, Jefferson County, Town of Lyons, and the Town of Superior; and

The RMG will use existing trails to create this newly branded regional network of trails and transportation systems. The RMG core team will make recommendations where it is necessary for new trail segments to create connections between existing trails. Within and adjacent to the City and city-owned lands managed as open space, the RMG will require a new grade-separated trail crossing of State Highway 128 (underpass) and a new trail segment to connect the Rocky Flats NWR with City of Boulder and Boulder County trails to the north; and

In support of a grant application to the Federal Lands Access Program (FLAP), Jefferson County has requested financial assistance from the cities of Arvada and Westminster, City of Boulder (OSMP), Boulder County and the Town of Superior to support planning, design and construction of up to two underpasses and trail connection. Jefferson County would also contribute funding. These contributions would help satisfy the 17.21 percent local match required by FLAP if federal grant funds are awarded; and

If awarded, federal funds would require some level of environmental analysis through the National Environmental Policy Act (NEPA), through one of three pathways – a categorical exclusion, environmental assessment (EA) or an environmental impact statement (EIS). As described in the attached response guidelines, the City of Boulder believes that an EA or EIS is likely to be required in order to develop reasonable alternatives for locating and designing up to two underpasses and trail connection, to confirm the health and safety of connecting to Rocky Flats NWR, to adequately analyze potential impacts to natural resources, and to select a preferred alternative that avoids, minimizes or mitigates those impacts to the greatest extent possible; and

Through the City of Boulder charter, as well as management plans, local partnerships with BCPOS, fee ownership of the Kelsall Property and a conservation easement held by OSMP on BCPOS's Lindsay property, the City of Boulder is charged with protecting natural resource values in the area affected by a potential underpass and trail segment. Natural resource values in this area include the Rock Creek riparian area, wetlands, known habitat for a threatened species (Preble's meadow jumping mouse), and high-quality grasslands including tallgrass prairie; and

City of Boulder recognizes that the lands adjacent to the Rocky Flats NWR were used as a nuclear weapons plant, which raises public concerns regarding the health and safety of accessing the Refuge. Site-specific soil sampling for radionuclides where public access will be allowed is appropriate to understand the risk associated with residents accessing the Refuge through city-managed lands; and

The RMG project is considering options for siting and designing a pedestrian underpass, trail connection, and possibly a separate wildlife underpass. Therefore, the Boulder City Council supports subsequent analysis, planning and design through NEPA that follows the attached response guidelines in order to determine the best options, and will continue to provide core team members to represent the City's interests; and

This Resolution affirms the City of Boulder's intention to provide a 2017 financial contribution towards local match requirements for Jefferson County's FLAP grant application, subject to support from other local partners.

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

Section 1. The Boulder City Council hereby pledges its support for Jefferson County's FLAP grant application, to include the following elements and conditions:

1. An agreement with Jefferson County to commit up to $200,000 to support future analysis, planning, design and construction of up to two underpasses and a trail connection to connect Rocky Flats National Wildlife Refuge with City of Boulder lands to the north.
2. This commitment is contingent upon the support from other local partners and project compliance with the accompanying response guidelines, including satisfactory results from soil sampling.
3. A pledge by Jefferson County, in addition to contributing funds, to support the environmental and trail location concerns of the City of Boulder and to advocate for a sound and thorough NEPA and permitting process to ensure protection of OSMP lands and values.

Section 2. The Boulder City Council hereby approves the accompanying response guidelines to direct City staff's participation in efforts to adequately analyze soil conditions on Rocky Flats NWR as well as potential impacts to natural resources resulting from this project, and to select a preferred alternative that avoids, minimizes or mitigates those impacts to the greatest extent possible in the planning, design and construction of this section of the Rocky Mountain Greenway (RMG).

APPROVED this _____ day of _____ 2016.

_____
Mayor

ATTEST:

_____
City Clerk

City of Boulder Response Guidelines for Subsequent Environmental or Land Use Review or Permitting Processes for Trail Connection to Rocky Flats National Wildlife Refuge As Approved by City Council on _____

The Boulder City Council approves the following policy guidelines to inform and guide coordinated staff responses to any subsequent environmental or land use review or permitting process resulting from federal funds awarded to Jefferson County for the planning, design and construction of at least one underpass and trail segment across State Highway 128 (S.H. 128) to connect Rocky Flats National Wildlife Refuge (NWR) with City and County open space lands and trails to the north. City comments will be coordinated through the Open Space and Mountain Parks (OSMP) Department.

1. **Sufficiency of Analysis of Environmental Impacts** – The city insists on a complete and thorough analysis in accordance with the National Environmental Policy Act (NEPA) to consider impacts and mitigation for potential environmental impacts and public health concerns. The NEPA process shall consider potential environmental impacts to the Rock Creek riparian area, wetlands, known habitat for a threatened species (Preble's meadow jumping mouse), high-quality grasslands and rare plant communities. In addition, the NEPA process shall incorporate an analysis of soil conditions on Rocky Flats NWR to affirm public safety. To that end, the City of Boulder maintains that either an environmental assessment (EA) or environmental impact statement (EIS) may be required to develop reasonable alternatives for locating and designing up to two underpasses and trail connections, to adequately analyze potential impacts to public safety and natural resources, and to select a preferred alternative that avoids or minimizes impacts to the greatest extent possible and provides compensatory mitigation for remaining unavoidable impacts.

2. **Health and Safety of Connecting to Rocky Flats NWR** – To address public health and safety concerns related to lands adjacent to Rocky Flats NWR, the city insists that soil sampling shall be conducted to support the NEPA process. Testing shall occur at all sites south of State Highway 128 that are included in Jefferson County's grant application to the Federal Lands Access Program (FLAP). Sampling protocols shall include a full panel of testing for radionuclides. In addition, sampling shall be conducted in accordance Environmental Protection Agency (EPA) protocols and be conducted through EPA-approved labs. The number of soil samples to be conducted within each of the site areas included in the FLAP grant proposal shall be determined in accordance with EPA-recommended methodology. The city's pledge of support and funding commitment are contingent on the results of the soil sampling demonstrating that contamination levels fall below the federal human-health standard/criteria.

3. **Consistency with Plans, Agreements, Codes, Regulations and Policies** – The city supports aligning all comments with applicable policies established through existing, council-approved plans such as the Boulder Valley Comprehensive Plan, OSMP's

Visitor Master Plan, and the OSMP Marshall Mesa-Southern Grasslands Trail Study Area Plan. In addition, comments shall align with terms laid out in the conservation easement held by OSMP on Boulder County's Lindsay property located north of S.H. 128. Lastly, comments shall require project compliance with applicable City of Boulder codes, regulations and policies.

4. **Range of Reasonable Alternatives** – To select the best route for connecting the Rocky Mountain Greenway on the east side of Rocky Flats NWR with city and county lands to the north of the refuge, the City of Boulder asserts that the NEPA process shall consider a reasonable range of alternatives. These alternatives shall explore the viability of various routes and crossing locations, including one option that stays outside of Rocky Flats NWR along the east and north sides.

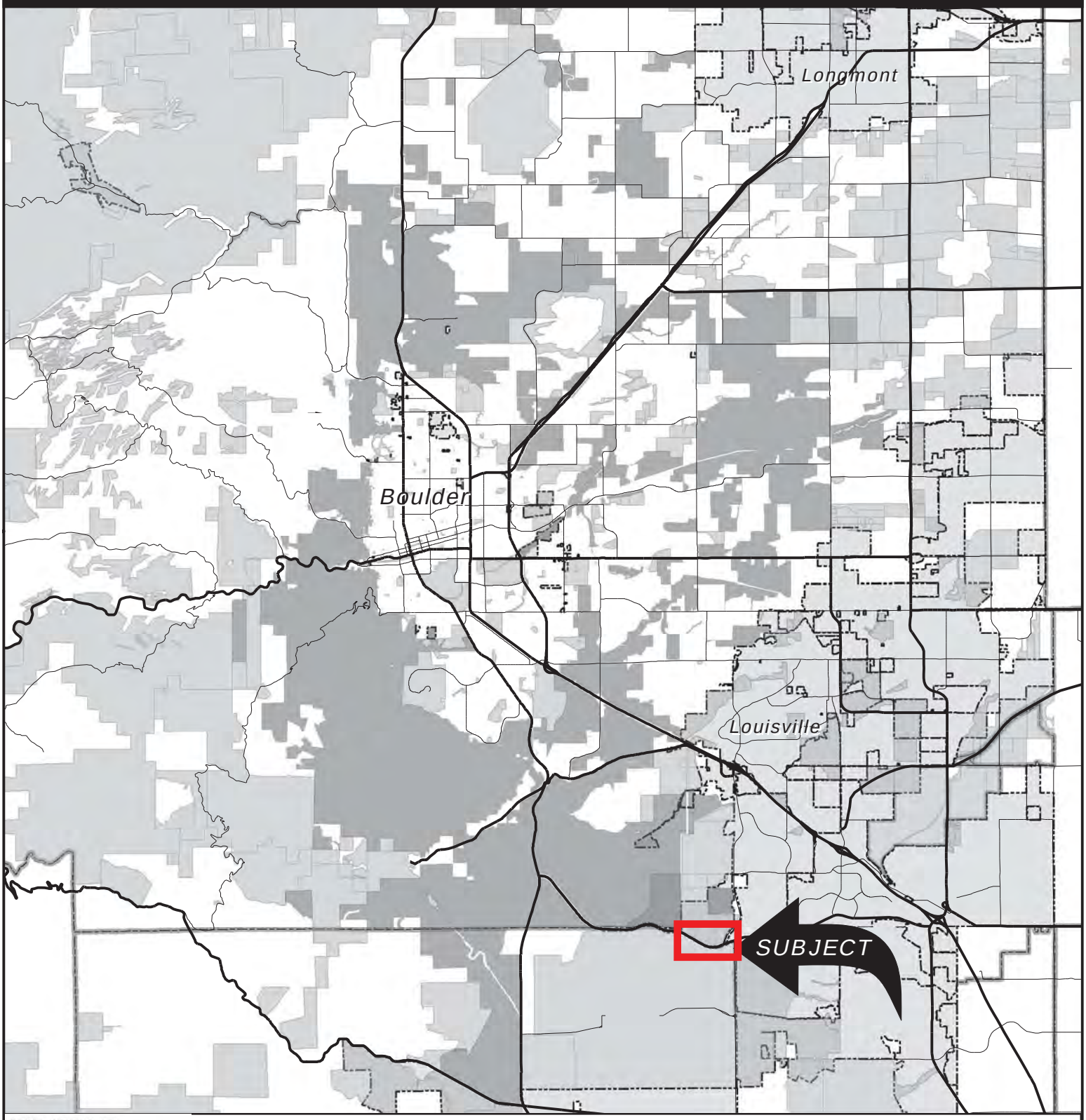
5. **Important Elements of Preferred Alternative -** The city believes that, at this time, there is not enough information to endorse one location or design for the underpasses or trail connection, prior to the completion of the NEPA process. However, it is possible to identify important elements that will support best practices, meet regulatory requirements and develop a balanced preferred alternative that meets community needs and protects resources. The city will support a preferred alternative that:

    - Adequately addresses comments received from the public and funding partners throughout the process;
    - Supports an effective balance of visitor infrastructure, resource protection and public safety;
    - Creates a quality recreation experience for communities along the greenway with connections to local neighborhoods
    - Ensures universally accessible and sustainable guidelines following best practices and regulatory requirements
    - Avoids or minimizes impacts to the Rock Creek riparian area and wetlands;
    - Avoids or minimizes impacts to Preble's meadow jumping mouse habitat;
    - Avoids or minimizes impacts to grasslands and rare plant communities north of the Coalton and High Plains trails; and
    - Provides compensatory mitigation for unavoidable impacts to the resources listed above.

6. **Intergovernmental Agreement (IGA)** – If FLAP funds are awarded to support this project, City of Boulder staff shall negotiate an IGA between Jefferson County and participating local governments to address:
    - The funding obligations of each of the local governments and the adequacy of the funding to meet the required local match;
    - Conditions of each local government partner for the NEPA analysis or any other conditions which may affect the project; and
    - How the grant and project will proceed if the conditions of each local government have not been met through the NEPA analysis.

ATTACHMENT C - City of Boulder Open Space & Mountain Parks

VICINITY MAP -
Rocky Mtn Greenway-State Hwy 128 Underpass



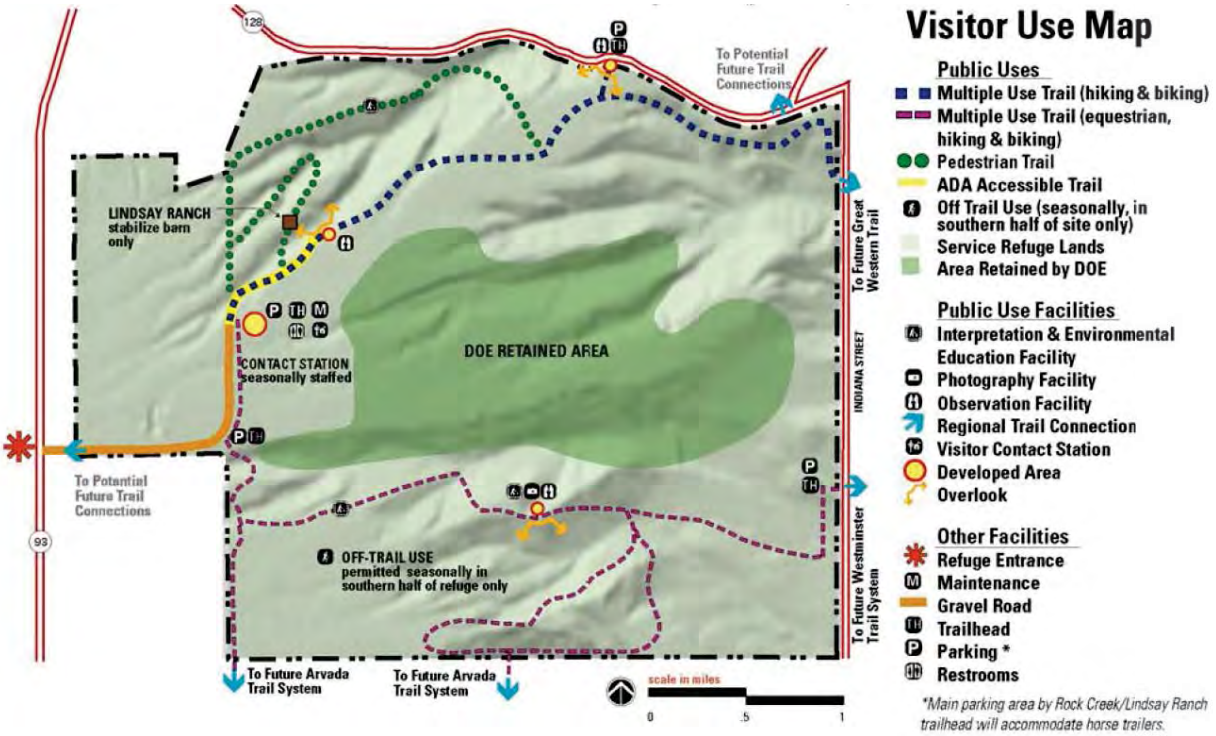
City of Boulder OSMP

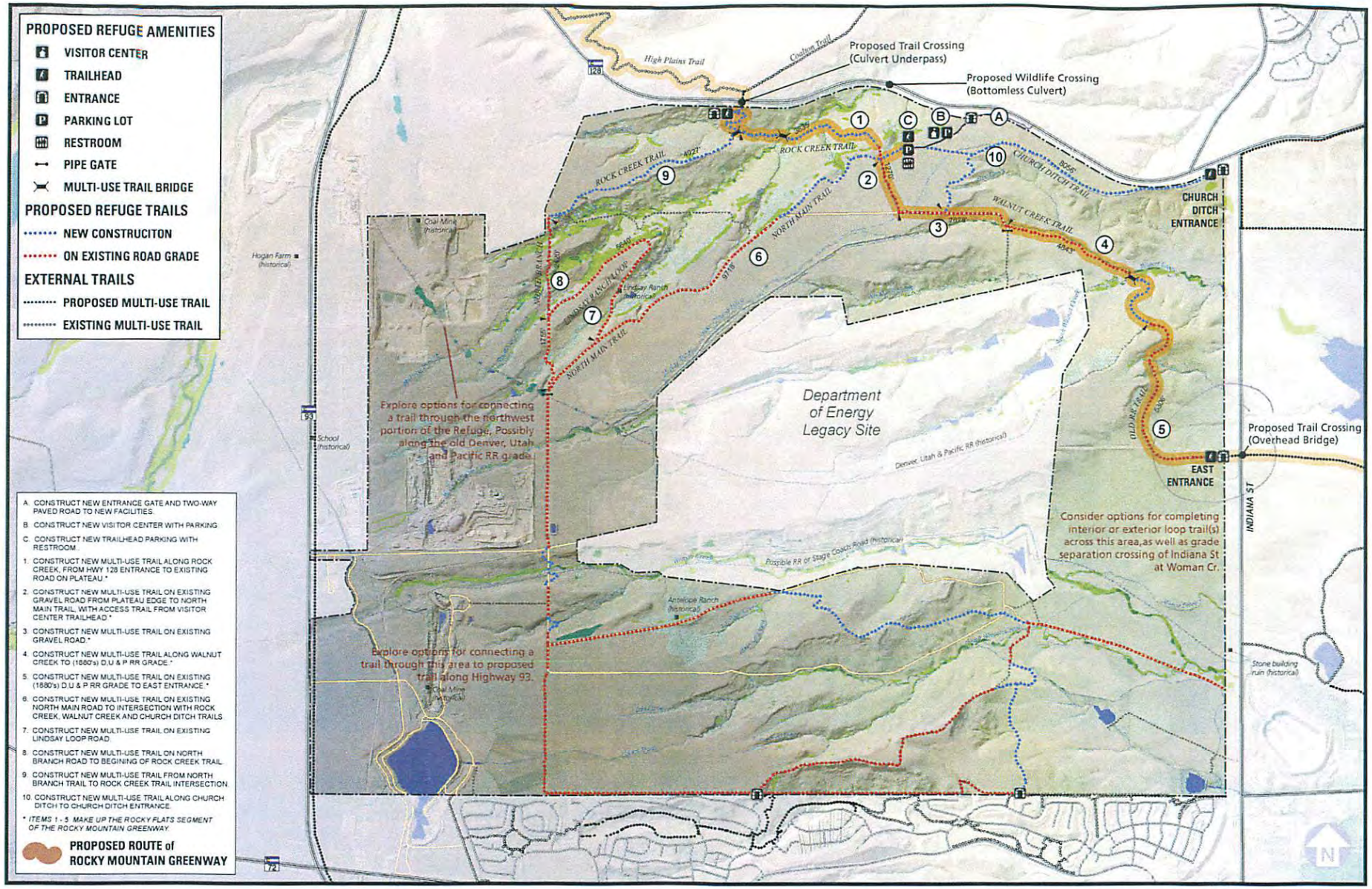
Other Public Lands

0 0.5 1 2 3 4 5 Miles

2012 aerial photography- approximate property boundaries from Boulder County Assessor's data.

E:\Mapfiles\Property\vicinityJoderCoxAcquisition.mxd


Visitor Use Map
Public Uses
Multiple Use Trail (hiking & biking)
Multiple Use Trail (equestrian, hiking & biking)
Pedestrian Trail
ADA Accessible Trail
Off Trail Use (seasonally, in southern half of site only)
Service Refuge Lands
Area Retained by DOE
Public Use Facilities
Interpretation & Environmental Education Facility
Photography Facility
Observation Facility
Regional Trail Connection
Visitor Contact Station
Developed Area
Overlook
Other Facilities
Refuge Entrance
Maintenance
Gravel Road
Trailhead
Parking *
Restrooms
*Main parking area by Rock Creek/Lindsay Ranch trailhead will accommodate horse trailers.
LINDSAY RANCH stabilize barn only
CONTACT STATION seasonally staffed
DOE RETAINED AREA
OFF-TRAIL USE permitted seasonally in southern half of refuge only
To Potential Future Trail Connections
To Potential Future Trail Connections
To Future Great Western Trail
INDIANA STREET
To Future Westminster Trail System
To Future Arvada Trail System
To Future Arvada Trail System
128
93
scale in miles
0
.5
1



ROCKY FLATS NATIONAL WILDLIFE REFUGE | proposed visitor facility improvements |

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: MAY 3, 2016

Consideration of a motion to adopt additional changes to the 2016 Downtown Urban Design Guidelines.

PRESENTER/S
Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing, + Sustainability (PH+S)
Susan Richstone, Deputy Director of PH+S
Kalani Pahoa, Urban Designer, PH+S

EXECUTIVE SUMMARY

The purpose of this agenda item is City Council consideration of a motion to adopt additional revisions to the 2016 Downtown Urban Design Guidelines (Guidelines). The Guidelines were unanimously adopted by Council on February 16, 2016. Council's adoption included the following recommendations for the Planning Board's consideration during its March 3, 2016 review and adoption of the Guidelines (**Attachment A**):

A. Revise the bulleted list on page 4 to include additional language about views.

B. Allow solar panels to be visible from the public right-of-way outside of the Historic District.

C. Discourage surface parking lots throughout the downtown area.

Consistent with Ordinance 8028 (Height Modifications), Council's February 16 adoption of the Guidelines added areas north of Canyon Boulevard within the DT-4 and DT-5 zoning as areas where height modifications may be considered. Ordinance 8028 reads as follows:

> *"Section 4. The council orders the city manager to add those areas north of Canyon Boulevard and within the DT-4 and DT-5 zoning districts, to the map designated as Appendix J, "Areas Where Height Modifications May be Considered," B.R.C. 1981 after the final completion and adoption by the City Council of amendments that are presently under review for the 2002 Downtown Urban Design Guidelines."'*

On March 3, the Planning Board introduced three separate motions in its deliberation to adopt the Guidelines. While the first motion failed, two separate motions which included

additional revisions recommended by the Planning Board as well as the three revisions recommended by Council during its February 16 deliberation, passed. The Planning Board's motions and votes were as follows:

A. Motion 1: To adopt the updated Downtown Urban Design Guidelines dated February 16, 2016, as attached to the staff memo dated March 3, 2016. Motion failed. No second. (**Attachment B**)
B. Motion 2: To make modifications and amendments to the *Introduction (Vision Subsection), Section 2: The Non-Historic and Interface Area*s and *Section 3: Public Realm* including reinstating original language regarding views, sun and shade, building design, and discouraging surface parking lots. Motion passed 5-0. (**Attachment B**)
C. Motion 3: To adopt the revised Guidelines dated February 16, 2016 subject to amending the requirements for solar panel and skylight visibility from the public right-of-way in the Non-Historic and Interface Areas. Motion passed 5-0. (**Attachment B**).

STAFF RECOMMENDATION

Staff recommends Council adopt additional revisions to the 2016 Downtown Urban Design Guidelines, listed in the suggested motion language below, which incorporates the three Council recommendations from February 16 (Items 1-3) and a single, additional Planning Board amendment adopted on March 3 (Item 4).

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

Motion to adopt the following amendments to 2016 Downtown Urban Design Guidelines:

1. Page 4, Sidebar - Add bullet with "The preservation and celebration of Boulder's mountain views from the public realm and surrounding area"; and,
2. Page 26, 2.1.B.2 – Revise item to "Be sensitive to the views from the upper floors of neighboring buildings. Skylights and solar panels should have low profiles. Solar panels should be as unobtrusive as possible"; and,
3. Page 26, 2.1.E.2 – Revise item to "Surface parking is discouraged. Locate any surface parking to the rear of the property and screen from view."; and,
4. Page 4, Sidebar – Revise bullet 3 to "Human-scaled buildings and spaces that result from the designed interplay of enclosing mass, void, and light".

Staff does not recommend inclusion of the following revisions adopted by the Planning Board on March 3, outlined in the staff analysis section of this memo, for the following reasons:

1. The additional revisions represent a significant amount of change to revisions that were agreed upon through the working group's consensus process; and,
2. A number of the recommended revisions will provide little, if any, increase in effectiveness and usability of the Guidelines; and,
3. The changes will require additional staff time to complete, which will impact other work priorities.

STAFF ANALYSIS OF THE NEW REVISIONS RECOMMENDED BY THE PLANNING BOARD DURING ITS MARCH 3 DELIBERATIONS

At its March 3 deliberations, the Planning Board recommended additional amendments in the following three areas:

1. **Reinstate Original Language from the 2002 Guidelines Regarding Views, Sun and Shade**
   A. ADD 2.1.B (inserted before the currently proposed 2.1.B) "Views: Downtown Boulder is blessed with exceptional mountain views and projects should be designed to preserve access to this extraordinary asset from the surrounding area. The south and west edges of downtown offer the most spectacular views."
   B. ADD 2.1.C (inserted before the currently proposed 2.1.B) "Sun and Shade: In Boulder's climate, sun and shade are important design considerations for providing natural light in buildings, and creating appealing pedestrian areas that are ice free and sunny in the winter and shady in the summer."
   C. DELETE 2.2.B.3 "Consider the effect of building height on shading and views. Building height can shade sidewalks during winter months leading to icy sidewalks and unappealing pedestrian areas."
   D. ADD 3.2.B (inserted before the currently proposed 3.2.B) "Views: Downtown Boulder is blessed with exceptional mountain views and projects should be designed to preserve access to this extraordinary asset from the public realm and surrounding area. The south and west edges of downtown offer the most spectacular views."
   E. ADD 3.2.C (inserted before the currently proposed 3.2.B) "Sun and Shade: In Boulder's climate, sun and shade are important design considerations for creating appealing public realm areas that are ice free and sunny in the winter and shady in the summer."

Analysis

The question of reinstating the original language from the 2002 Guidelines regarding views, sun and shade was extensively discussed during the working group sessions. The current language used in the document reflects the consensus reached during those sessions. While statements that express high-level design objectives are appropriate to include in the Guidelines, without specific design direction, staff and a number of the working group members found the 2002 language on views, sun and shade to be contradictory to other objectives for the downtown. For example, creating appealing pedestrian sidewalks that are ice free and sunny in the winter at all locations in the downtown is practically impossible since even a one story building would cast a shadow and create icy conditions.

2. **Patio Extensions and Signage**
   A. CHANGE 3.2.C.1, third bullet point Railings: "Railing designs should reflect an open, transparent feeling. Visually closed-in railings that "box-in" the extension area are not appropriate. No signage, advertising, goods or merchandise may be placed on railings. Railing design in the Historic District shall be simple."

   Analysis

   This statement would be redundant and is covered in other sections of the Guidelines and code requirements. Patio railings are required to be compatible with the character of the historic district (See 3.5.D) and signage is required to be building integrated (See 3.1.C). Signage and patio extensions within the Downtown Pedestrian Mall are subject to existing permitting requirements, obtaining a revocable lease for any extensions into the right-of-way, staff review, and review by the Downtown Management Commission and/or the Landmarks Board.

3. **Additional Non-Historic and Interface Area Building Design Guidelines**
   A. ADD "2.1.H Rhythm: "Maintain the rhythm established by the repetition of the traditional approximately 25' facade widths for projects that extend over several lots by changing the materials, patterns, reveals, or building setbacks in uniform intervals or by using design elements such as columns or pilasters."
   B. ADD 2.1.I Floor Height: "Distinguish ground floor height from upper floor heights. Ground level floor to floor height is encouraged to be taller than upper stories
   C. ADD 2.1.J Shade: "Shade storefront glass by appropriate means such as awnings or recesses."
   D. MOVE 2.1 (H, I, and J) move to 2.2 Commercial Buildings in the Non-Historic

Analysis

The working group had extensive discussion regarding the Non-Historic area during sessions 3 & 4. Included in these discussions were elements of how to facilitate compatible, yet contemporary, design reflective of the time. With this in mind, review of the 2002 Guidelines revealed the *Section 2: The Non-Historic and Interface Areas* guidelines to be repetitive of *Section 1: The Historic District* guidelines. The working group and staff determined this was contradictory to the design objectives listed in the Guidelines which encourage new construction to be of its time. The original 2002 Guidelines were also inconsistent with the Secretary of the Interior Standards which encourage differentiating between contemporary and historic buildings.

The working group discussed and agreed upon encouraging more flexibility and design creativity in the Non-Historic Area. "Maintaining the historic or predominant building set back line", compatible "height, mass, and scale", consideration for "incorporating traditional façade elements in new and contemporary ways", and maintaining "human scale" were identified as priorities for design in *Section 2: The Non-Historic and Interface Areas*.

Staff finds the updated Guidelines sufficiently address issues of building mass, rhythm, and proportioning to encourage compatible development in the Non-Historic Area. Guideline 2.2.A encourages designers to incorporate traditional building design elements identified in *Section 1: The Historic District*. Guideline 2.2.C.1 limits a single façade length to 75' and requires dividing the façade into familiar intervals. Guideline 2.2.C.3 requires distinction between the ground and upper floors of a building. In addition, evaluation of existing conditions within both the Historic and Non- Historic Areas reveals inconsistency in the use of awnings or building recesses for storefront shading without apparent impact to the overall historic character of the area.

ATTACHMENTS

Attachment A – 2016 Downtown Urban Design Guidelines dated May 3, 2016
Attachment B – March 3, 2016 Planning Board Minutes

DOWNTOWN URBAN DESIGN GUIDELINES

CITY OF BOULDER, CO

MAY 3, 2016

Acknowledgements

This third edition of the Downtown Urban Design Guidelines is the result of recommendations from a 2015 joint-board working group consisting of representatives from the Landmarks Board, Design Advisory Board, Downtown Management Commission, the Planning Board and City staff.

Much of the basis of this document may be attributed to earlier work by the Downtown Alliance, a group of city boards and commissions, non-profit organizations and neighborhood groups including the city of Boulder Planning Board; the Landmarks Board; the Design Advisory Board; the Downtown Management Commission; Downtown Boulder, Inc.; Historic Boulder; and representatives from the Whittier, West Pearl, Mapleton Hill, Goss Grove, and Flatirons neighborhoods.

Photo Credits:
Cover photo courtesy of Downtown Boulder, Inc. (DBI)

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Note:
The design guidelines include photographs and diagrams to illustrate acceptable or unacceptable approaches. These photographs and diagrams are provided as examples and are not intended to indicate the only options. Adherence to the diagrams and photographs does not guarantee appropriateness of a proposed project, nor does it imply the proposed project meets all the criteria required for an approval.

Note:
In general, these guidelines adhere to Local, State and Federal regulations, but wherever a discrepancy may arise, the higher standard shall be applied.

What is the purpose of the guidelines?

The purpose of this third edition of the Downtown Urban Design Guidelines is to provide a basis for understanding, discussing, and assessing the design quality of proposed preservation, renovation and new construction projects located within the boundaries of the Downtown Historic District, the Non-Historic Area, and the Interface Area.

Through the use of these guidelines, it is anticipated both private and public projects will endeavor to preserve and enhance the unique form, scale, and visual character of Downtown while strengthening the identity of the area through encouraging new, compatible development.

How are the guidelines organized?

The guidelines are organized into three sections. The first two sections address specific geographic areas of the Downtown: the Downtown Historic District and the Non-Historic & Neighborhood Interface Areas. The last section addresses the Public Realm.

The sections are organized around several principal guidelines and a number of "follow-up" guidelines. Within the margins are excerpts marked "Note:" and "Code:" reserved for more in depth references to the subject matter.

How are the guidelines revised?

The guidelines are part of a Downtown Area Plan and are adopted by Planning Board and City Council with recommendation from the Design Advisory Board. The Landmarks Board independently adopts guidelines for the Downtown Historic District.

How are the guidelines administered?

The three review bodies primarily responsible for administering these guidelines are the LB, DAB, and the DMC. Specifically, the LB reviews and applies the Guidelines to all projects located in the Downtown Historic District and individually landmarked properties located outside of the historic district but within the downtown boundaries. DAB reviews and applies the guidelines on all projects with a construction value over $25,000 in the Non-Historic and Interface Areas, and the DMC applies the Guidelines in review of projects located on the Downtown Boulder Mall. The PB applies these guidelines as part of the site review process.

When this document uses terms such as "encouragement" and "generally", it acknowledges that these guidelines are utilized in a mandatory review and voluntary context; however, in the review of Landmark Alteration Certificates and Site Review applications, the guidelines may be applied with mandatory effect in the analysis of specific review criteria.

Downtown Vision

Downtown Boulder is characterized by the eclectic, fine grained and compact urban character of the Downtown Historic District nestled in against the natural backdrop of the Rocky Mountains. These qualities are reflected in the traditional buildings associated with the original settlement of the area, the street grid and bustling economy, and civic life of downtown. This is also where the historic fabric is the setting for contemporary, vibrant and active urban life where people are living, working, shopping and recreating in the shadow of a visible history.

The urban design quality becomes a vital part of what makes Downtown Boulder a memorable place. These guidelines are intended to encourage the preservation and enhancement of Downtown's built environment through recognition of design attributes that are intrinsic to its existing character or essential to its ongoing appeal:

- Design innovation and excellence in form and visual character that respects and references the historic architectural context;
- Careful consideration of the urban and natural interface including views, green spaces, and waterways;
- The preservation and celebration of Boulder's mountain views from the public realm and surrounding area;
- Human-scaled buildings and spaces that result from the designed interplay of enclosing mass, void, and light;
- Street-level design oriented toward the pedestrian in motion; and,
- Sustainable design practice with respect to solar access, water, energy and materials.

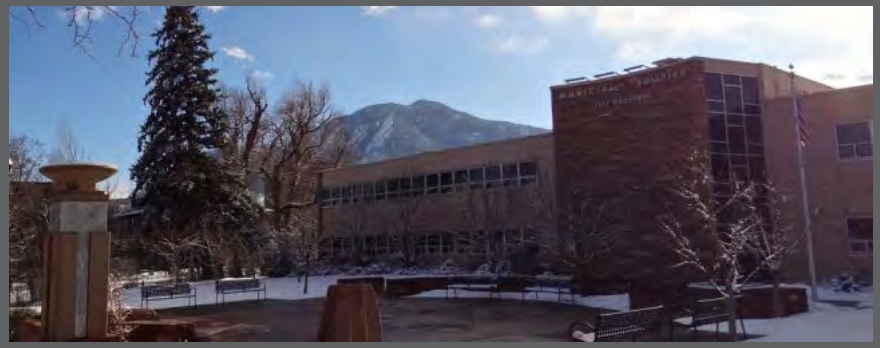


Photo Credits:
DBI, Anish Palekar (OSMP), City of Boulder

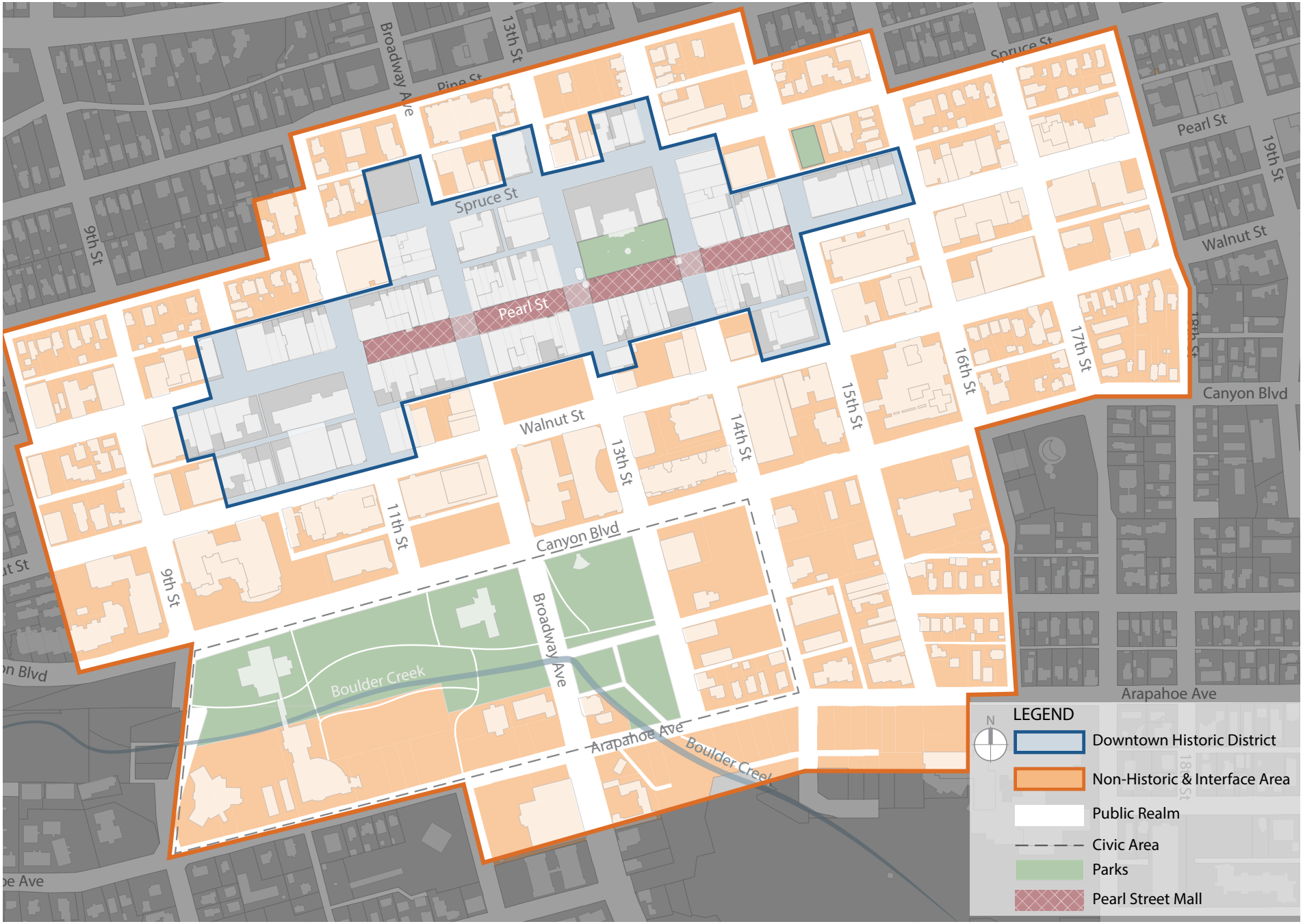


Fig. 1 Map of Downtown Boulder (City of Boulder)

The Review Process

Note:
Scheduling a design review early is important. In addition, scheduling a design review with the appropriate review body is the responsibility of the property owner, developer or their representative. In general, a meeting should be scheduled before a formal application is made to the city for a building permit or development review. For more information regarding the design review and application procedure please contact (303) 441-1880.

Note:
When requested LB or DAB may act in an advisory capacity to the other board.

Note:
For further map data please see the City of Boulder Zoning Map.

The Landmark Alteration Certificate (LAC) Review Process

Landmark Alteration Certificate (LAC) review through the Historic Preservation Program is required for exterior changes to individually landmarked properties and all properties located within the Downtown Historic District boundaries. The majority of applications are reviewed by the Landmarks Design Review committee (LDRC) that meets each week. Routine changes, such as patios and signage, are reviewed by staff. More complex projects, including demolition or new construction, are reviewed by the Landmarks Board. To find out more or for an application, visit the City of Boulder Historic Preservation website, or call (303) 441-1880.

The Design Advisory Board (DAB) Process

The Design Advisory Board (DAB) reviews projects valued over $25,000 located in the Non-Historic Area and Interface Area which involve the construction of a new building or exterior work on an existing building. The board provides comments to persons responsible for the design and development, and assures compliance with the most recent Downtown Urban Design Guidelines. DAB also reviews projects that require a discretionary review. To find out more, visit the DAB website, or call (303) 441-1880.

The Downtown Management Commission (DMC) Process

The DMC manages, controls and supervises the business affairs of the Central Area General Improvement District (CAGID) which includes review of projects which extend into the public right-of-way in the Downtown Boulder Pedestrian Mall. Typical projects reviewed by the DMC include outdoor eating areas, signs, awnings, and other elements. To find out more, visit the DMC website, or call (303) 413-7300.

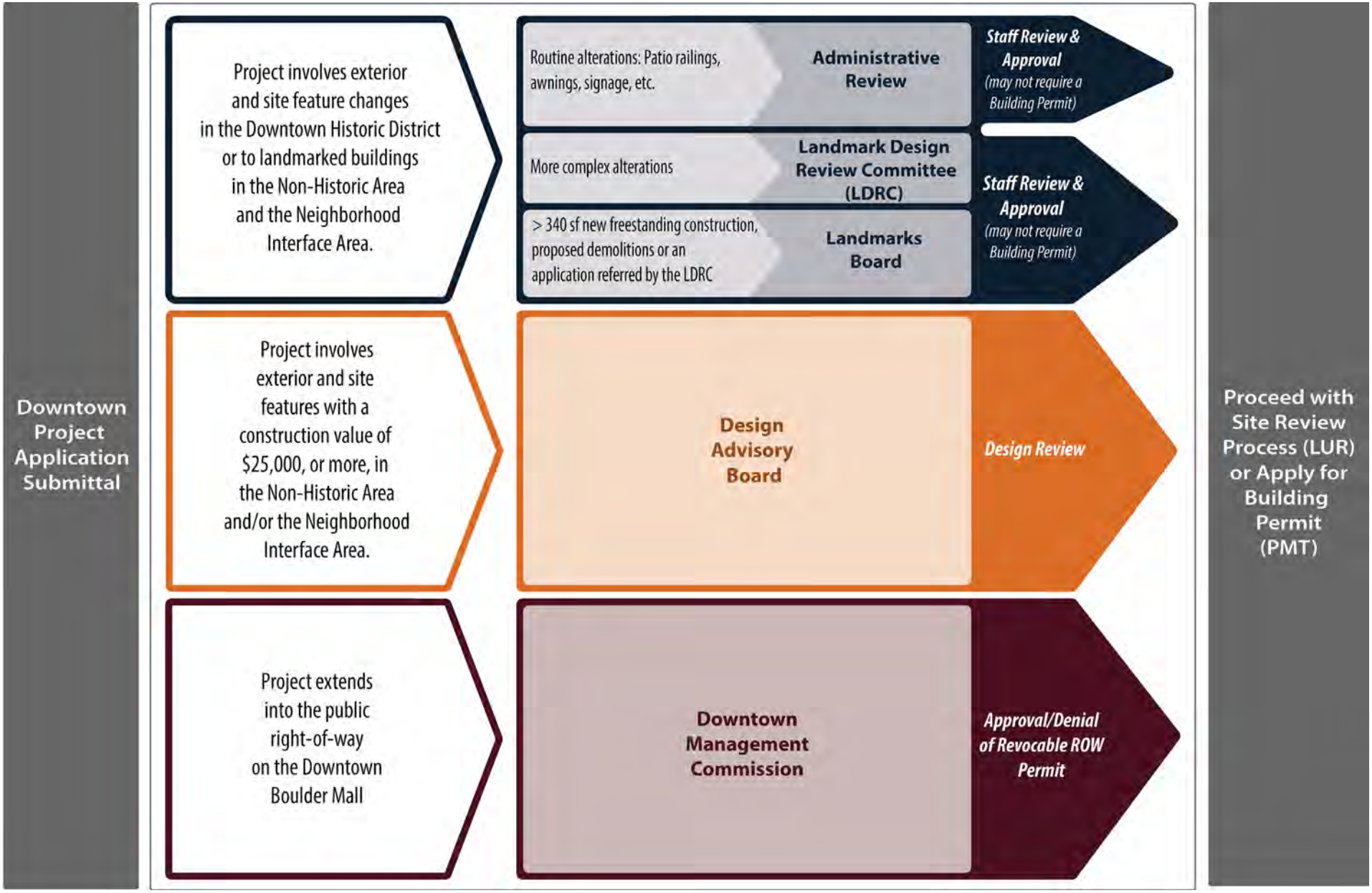


Fig. 2 Application progression for projects within Downtown Boulder

Downtown History

Note:
More information, on the history of Boulder, including historic photographs and other relevant background, is available at the Boulder History Museum and the Carnegie Branch Library for Local History .

Note:
Please see the National Register of Historic Places "Downtown Boulder Historic District" nomination for more specific details regarding the historic context and significance as it relates to the architectural history of the area.

In February of 1859, the Boulder City Town Company was organized to establish a supply center for miners going into the mountains in search of gold and silver in the hope that it would grow to "be an important town." Establishment of the two square mile town site followed the discovery of gold near present day Denver, and a resulting flood of prospectors to the area. One such prospector, George R. Williamson recounted that a straight line was laid out for the main street by driving a stake in the ground at the corner of what is now Broadway and Pearl Streets and "a sighting (was made) across this stick to the black spur on the prairie, known as Valmont Butte" made to establish the alignment of Pearl Street.[1] From the beginning Pearl Street has been the nucleus of the community, and its main street. In 1860, the fledgling town was described as containing about sixty log buildings (all with dirt floors), located mainly along Pearl Street. Several years later, upon visiting Boulder the intrepid English visitor described the town as "a hideous collection of frame houses on a burning plain." [2]

While growth in Boulder was slow until after the end of the Civil War, business generated from the mining camps, together with Boulder's selection as the county seat in 1861, the arrival of the railroad in 1873, and establishment of a state university in 1876, provided the foundation for steady growth and the construction of substantial business blocks in the commercial center of the town. Businesses were established along Pearl Street and adjoining streets to supply the needs of the town, local farmers, and mining camps.

By the 1880s, the commercial area had developed into bustling hub of restaurants, groceries, saloons, liquor stores, liveries, lumber yards, drug stores, dry goods stores, hardware stores, feed and flour stores, barbers, paint shops, and tailors, in addition to fraternal lodges and the county courthouse. An 1880 account of Boulder in the Boulder County News observed, "I've never seen a city of this size with so many saloons (approximately eighteen) and so few drunks."[3]

Streetcar service enabled residents in new areas of the city to conveniently shop and conduct business downtown as Boulder transformed from a supply town to a sleepy university city with commercial activities centered on and around Pearl Street. The Denver & Interurban Railroad (an intercity connection with Denver) ran along Pearl Street from 1908 until 1917. During the 1920s, several new commercial buildings were erected, updating the appearance of the downtown with Twentieth Century influences. The first decades of the 1900s also saw a rising awareness of Boulder's potential to draw newcomers and tourists with construction of the Boulderado Hotel in 1909 and the citywide planning for the improvement of Boulder with the Frederick Law Olmsted, Jr. masterplan in 1910. Increasingly, Boulder residents were becoming sensitive to the built and natural environment, leading Saco DeBoer's 1928 zoning proposal establishing the first zoning ordinance creating seven zoning districts and the first height restrictions limiting downtown buildings to seventy-five feet and neighborhood shopping districts to thirty-five feet.

Boulder experienced tremendous growth after World War II as the university grew and the city marketed itself as a perfect place to locate "clean" industry. This led to a number of scientific research institutions and companies locating in the city. The resulting new jobs led to many new residential neighborhoods and automobile-oriented neighborhood shopping areas outside of the core area, creating competition to downtown and leading to the "modernization" of storefronts during the 1950s and 1960s. By the early 1970s, a merchant-led effort to revitalize Pearl Street was underway. Recognizing Boulder's area growth limitations as a result of acquisition of open space around the city, community leaders joined with downtown property owners and merchants to turn the four blocks of Pearl Street between 11th and 15th Streets into a pedestrian mall. The Pearl Street Mall is among the most successful such pedestrian ways in the United States with many restored historic buildings and a vibrant commercial area. In 1980, the Downtown Historic District was listed in the National Register of Historic Places and in 1999 the area was designated a local historic district.

Photo Credits:
Carnegie Branch Library for Local History/Boulder Historical Society Collection; City of Boulder

1 "Boulder in Perspective – From Search for Gold to the Gold of Research", J.B. Schooland, Johnson Pub., 1980, p.136
2 " A Lady's Life in the Rocky Mountains", Isabella L. Bird, John Murray Pub., 1879, p.230
3 "Boulder in Perspective – From Search for Gold to the Gold of Research", J.B. Schooland, Johnson Pub., 1980

McCLURE WHITE MERCANTILE COMPANY
MRP

POTTER'S DRUG
Coca-Cola

MAJESTIC SAVINGS

COLORADO
BUILDING
DEMOCRATIC
ART cinema
WESTERN WEAR

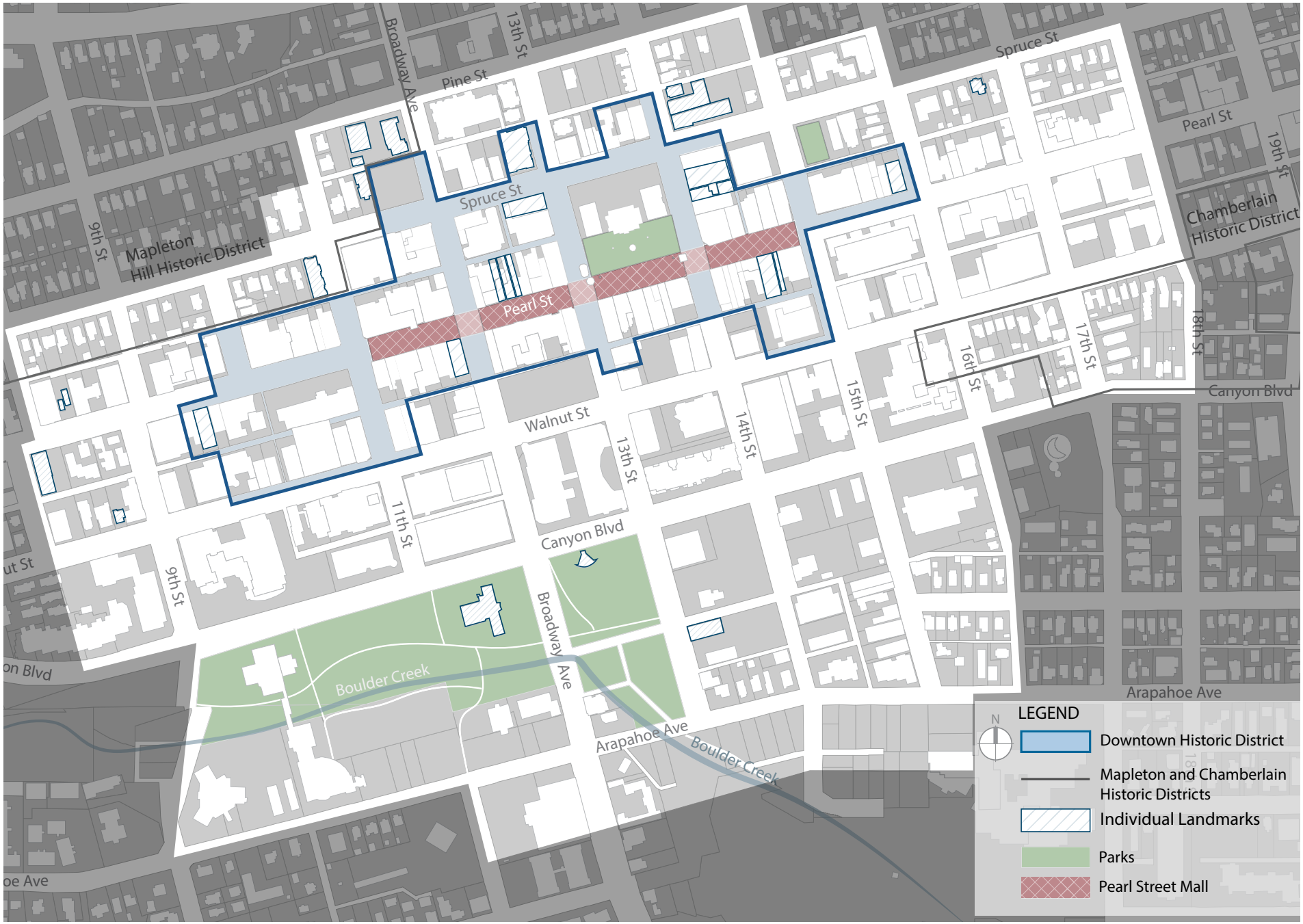


Fig. 2 Downtown Historic District Map (Source: City of Boulder)

Section 1 The Historic District

Note:
All buildings in the district have been evaluated for historic significance and are subject to Landmarks Board review when exterior work is involved. Any changes to a building, or site, require a Landmark Alteration Certificate prior to commencement.

The boundaries of the Downtown Historic District, designated in 1999 with a period of significance from 1858-1946, generally conform to the boundaries of the Downtown Boulder National Register Historic District. The district contains the City's greatest concentration of historic commercial buildings, especially along Pearl Street which forms its central spine. These buildings not only serve as a link with our cultural heritage, they also establish a model for design quality. Such buildings are resources for education, recreation and human enjoyment. They provide Downtown with a rich character and a human scale that are unique assets for both residents and visitors.

Development in the Downtown Historic District must be especially sensitive to issues of compatibility. The economic success of the area is in many ways dependent on maintaining the historic character and quality that sets the it apart from other shopping areas. For this reason, the preservation, restoration, and appropriate rehabilitation of older buildings in this district is of great importance.

The urban design objectives for the Downtown Historic District are to:

- Preserve and restore historic buildings.
- Preserve the integrity of the historic architectural features of individual buildings.
- Ensure that alterations and new construction strengthen and maintain the historic integrity of individual buildings and of the district at large.
- Encourage new development that will respect and enhance the visual character.
- Preserve the central area as a place for intense pedestrian activity.

Note:
The City's planning department maintains a file of each building in the Downtown area more than 50 years in age. The official Inventory/Survey forms on file indicate the level of significance of each building within the Downtown Historic District. For more information please visit the City of Boulder Historic Preservation website or call (303) 441-1800.

Historic properties are organized into three categories:

- **Local Landmark Buildings** - These buildings are officially designated as City of Boulder local landmarks. They have a special character, historic, architectural, or aesthetic interest or value in Boulder's local history. Landmarked buildings may include contributing properties to the Downtown Historic District. The greatest care must be given to preserving, restoring, and designing additions to these buildings.
- **Contributing Buildings** - Contributing buildings are those built during the district's period of significance (1858 through 1946) that exist in comparatively "original" condition, or that have been appropriately restored, and that clearly contribute to the historic significance and integrity of the area. Such buildings may have additions that are compatible with the historic character of the original building, have original material now covered, or have experienced some alteration, yet continue to convey some sense of history. Rehabilitations and additions should be sensitive and appropriate to the historic building and district.
- **Non-Contributing Buildings** - There are two types of non-contributing buildings in the Downtown Boulder Historic District. First, buildings built during the district's period of significance that have been altered to such an extent that historic information is not interpretable and restoration is not possible. Such buildings should be evaluated on a case by case basis to determine if saving and restoring them is feasible or desirable. Second, buildings erected after 1946 which are not individually significant. For alterations to these buildings, the guidelines for new construction and/or remodel of non-contributing buildings in this section apply.

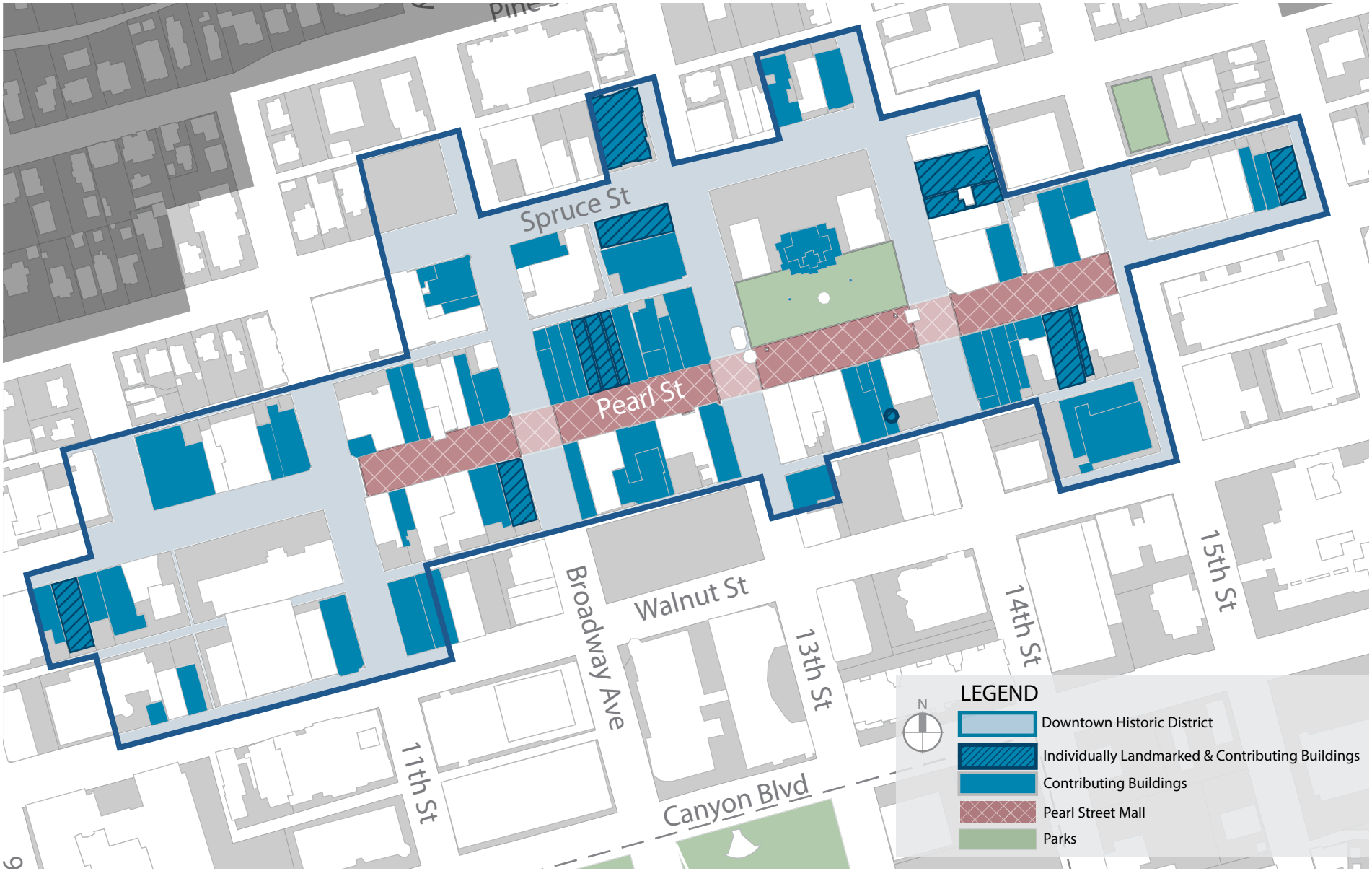


Fig. 3 Downtown Historic District Properties (Source: City of Boulder)

Note:
It is neither the intention of this guideline to recreate the past, nor to encourage theme design in the historic district, if the original building facade or original building materials do not exist. However, if documentary evidence exists, such as photographs, then an acceptable alternative is to reconstruct the facade.

Note: For further information on recommended treatments for historic properties please see The Secretary of the Interior Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring and Reconstructing Historic Buildings.

1.1 General guidelines for the Historic District

The following guidelines apply to all areas of the Downtown Boulder Historic District.

A. The use of traditional, durable materials as the primary building material is encouraged to reflect the historic building construction and development pattern within the district. Choose accent materials similar in texture and scale to others in the district.
   1. These following materials are generally appropriate:
      - Full dimension brick and stone masonry
      - Finish carpentry details, e.g. cornice molding, door and window casing
      - Finished lumber to achieve traditional patterns, e.g. horizontal siding rather than diagonal
      - Finished, embossed or painted metal and sheet metal
      - Clear or lightly tinted glass
      - Ceramic tiles
      - Brick, clay and ceramic pavers
      - Slate, finished metal, glazed ceramic and tile roofs
      - Brick, concrete or stone lintels
      - Brick, wood or stone columns
   2. The following materials are generally inappropriate:
      - Thin veneer products
      - Vinyl replacement windows
      - EIFS systems or EIFS decorative elements
      - Faux or simulated materials, including composite wood
      - Coarsely finished, "rustic" materials, such as wood shakes, shingles, barn board or stained fir plywood
      - Poorly crafted or "rustic" woodworking and finishing techniques
      - Indoor-outdoor carpeting or astro-turf
      - Corrugated metal and fiberglass (unless used sparingly)
      - Moss rock
      - "Antique" or old brick with partial paint, mottled light variegated brick, oversized brick and white brick mortar
      - Ornate wrought-iron, "New Orleans" style grille and rail work
      - Stucco surfaces that are highly textured such as those sometimes associated with a "hacienda" or "Mediterranean" style
      - Expanded metal
      - Silver or clear anodized aluminum sheets
      - Silver or clear aluminum extrusions for windows and doorways
      - Residential type sliding glass doors
      - Imitation wood siding or stone
      - Flat or molded plastic sheeting in quantities exceeding five square feet when used as primary facade materials
      - Imitation metal "rock work"
      - Plastic molded imitations of any conventional building material
      - Mirror or metalized reflective glass
      - Glass block

B. Awnings may be used to provide visual depth and shade.
   1. Awnings should be designed to fit the storefront opening to emphasize the building's proportions and have at least an

Note:
For detailed information on historic buildings and preservation information on individual building elements see the National Park Service (NPS) Technical Briefs.

Code:
See the Boulder Revised Code (B.R.C.) Section 9-9-16, "Outdoor Lighting" for lighting requirements.

Code:
See the B.R.C. Section 9-9-14, "Parking Lot Landscaping Standards" for parking lot screening requirements.

eight foot clearance from the sidewalk. Awnings should not obscure or damage important architectural details.

2. Operable fabric awnings are encouraged. Metal awnings or canopies that are similar in form to fabric awnings may be appropriate when designed as an integral part of the building facade, and do not appear as tacked-on additions. Awning color should be coordinated with the color scheme of the entire building front. Awnings on the upper stories are discouraged.

C. Select building colors appropriate to the area's historic character.
   1. Select a color scheme that will visually link the building to its past as well as to others in the area. Consider colors that are compatible with the building's predominant materials, or do an analysis of colors pre-existing on the building and use one of the colors found.
   2. Develop a comprehensive color scheme. Consider the building as a whole as well as the details that need emphasis. Softer muted colors establish a uniform background. Establish a hierarchy for the color palette with one color on similar elements such as window frames. Reserve brighter colors for small special accents to emphasize entry ways and to highlight special structural ornamentation.
   3. It is not appropriate to paint unpainted brick. If the brick is already painted, paint removal is preferred. Avoid paint removal procedures that damage the original brick finish such as sand blasting or caustic chemicals. Before removing paint conduct a test to determine detrimental effects. If the existing paint on the brick is in poor condition and paint removal will damage the underlying brick, the brick should be repainted.

D. Minimize the visibility of mechanical, structural, or electrical appurtenances.
   1. Use low-profile mechanical units and elevator shafts that are not visible from the street. If this is not possible, set back or screen rooftop equipment from view. Be sensitive to views from the upper floors of neighboring buildings. Skylights or solar panels should have low profiles and not be visible from the public right-of-way. These features should be installed in a manner which minimizes damage to historic materials.

E. Improve rear or side alley elevations to enhance public access from parking lots and alleys.
   1. Where buildings are built to the alley edge, consider opportunities for alley display windows and secondary customer or employee entries.
   2. Screening for service equipment, trash, or any other rear-of-building elements should be designed as an integral part of the overall design. Where intact, historic alley facades should be preserved along with original features and materials. Alterations should be compatible with the historic scale and character of the building and block.

F. Exterior building lighting should be designed to enhance the overall architecture of the building. Security lighting should be designed for safety, as well as night-time appearance.

G. Reduce the visual impact of structured and surface parking.
   1. Parking structures should be compatible with the historic district, overall block and adjacent buildings. All parking structures should be architecturally screened and/or wrapped with an occupiable use.
   2. Surface Parking should be located to the rear of the property and screened from view.
   3. Pedestrian routes in structures and parking lots should be easily identifiable and accessed, with clear visual connections to the sidewalks and buildings.

H. The law requires that universal access be located with the principal public entrance.
   1. In existing buildings, where the only route is not accessible from the principal public entrance, a rear or side service entrance route may be considered.
   2. Ramps and related accessibility modifications to a historic property should be compatible with the character of the building.

Note:
For detailed information the preservation, rehabilitation and restoration of historic buildings and specific building elements see the NPS Technical Briefs.

1.2 Guidelines for the preservation and restoration of local landmarks and contributing buildings

While it is acknowledged that changes to structures in the Downtown Historic District will occur over time, it is also a concern that these changes not damage the historic building fabric and character of the area. Preservation of the exteriors and storefronts of these buildings will continue their contribution to the unique historic character of the Downtown. Any building renovation or alteration, no matter the planned use, must retain the overall design integrity of the historic building by protecting the original features and materials and respecting the traditional design elements. The following are the guidelines for the preservation and restoration of local landmarks and contributing buildings:

A. Preserve Original Character, Façades and Materials. Wherever possible retain these elements through restoration and repair, rather than replacement. If portions of the original material must be replaced, use a material similar to the original. The following elements are part of the traditional storefront building typology indicative to the development of Downtown Boulder. These elements include:

1. Full-dimension bricks, or stone
2. Display window bulkheads
3. Large storefront display windows
4. Recessed and corner entrances
5. Secondary entrances and detailing
6. Storefront transom
7. Sign bands and storefront cornice
8. Parapet walls, caps, and/or roof cornices
9. Upper story vertically proportioned windows and/or fenestrations
10. Columns, pilasters, and piers
11. Decorative window sills, lintels, window hoods, and other window assembly elements

B. Avoid concealing or removing original materials. If the original material has been covered, uncover it if feasible.

C. Maintain the historic building set back line. Preserve the historic relationship of the building to the street or property line. Where buildings are built to the alley edge, consider secondary customer entries if original materials and features are not damaged.

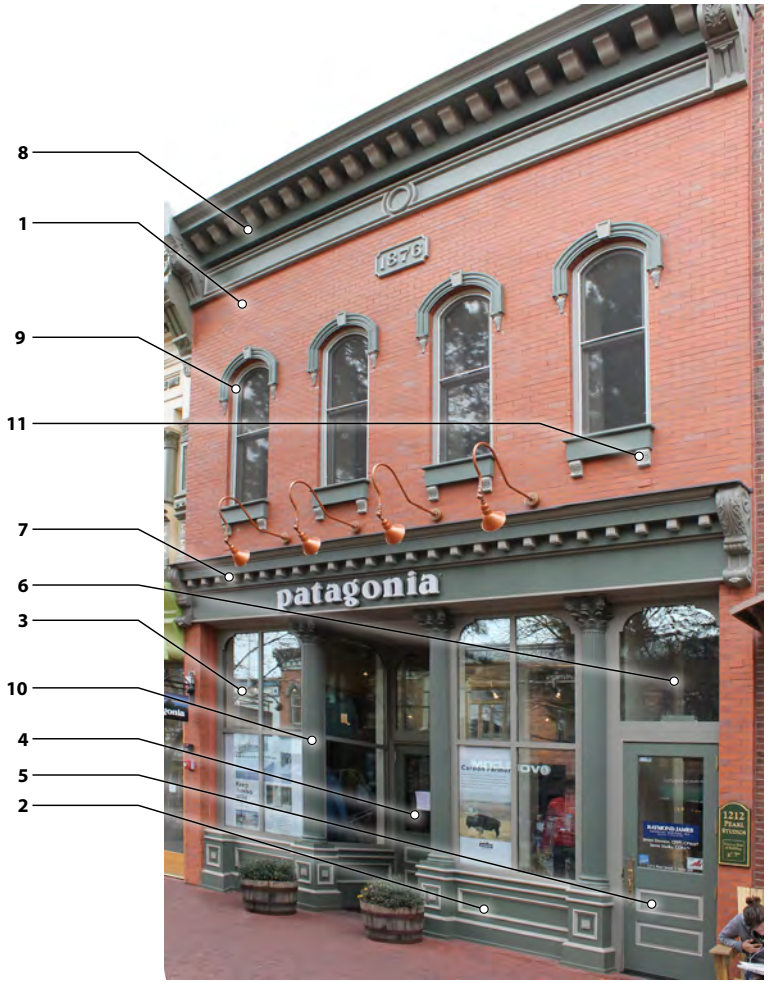


Fig. 4 Historic Building Elements (Source: City of Boulder)

Code:
See the B.R.C. Section 9-7-1, "Schedule of Form and Bulk Standards" for additional information on height and set back requirements.

1.3 Guidelines for contemporary alterations and additions to local landmarks and contributing buildings

The purpose of this section is to provide guidance for the design of additions or alterations to contributing buildings in order to retain the historic character of the overall district. While renovations and building design is expected to reflect the character of its own time acknowledging the Downtown as a living district, it is important that it also respect the traditional qualities that make the Downtown unique, such as massing, scale, use of storefront detailing, and choice of materials.

A. Distinguish additions to historic buildings. Additions to historic buildings should be differentiated, yet compatible, from the original while maintaining visual continuity through the use of design elements such as proportion and scale, siting, facade set back, and materials that are of a similar color and texture. When design elements contrast too strongly with the original structure, the addition will appear visually incompatible. Conversely, when the original design is replicated, the addition is indistinguishable and the historical evolution of the building becomes unrecognizable. New additions should be subordinate to the original building form.

B. For additions to a historic building, retain the original proportions, scale, and character of the main facade. Position the addition so it is subordinate to the original building. Express the difference between the original facade and the addition with a subtle change in color, texture or materials.

C. Maintain the proportions and the established pattern of upper story windows. In addition, upper floors should incorporate traditional vertically proportioned window openings with less window glazing and transparency than the lower floors. Use windows similar in size and shape to those used historically to maintain the facade pattern of the block.

D. Maintain the rhythm established by the repetition of the traditional ~25' facade widths for projects that extend over several lots by changing the materials, patterns, reveals, and building set backs in uniform intervals or by using design elements such as columns or pilasters.

E. Set back vertical additions to historic buildings maintaining the height of the primary, historic facade. Lateral additions should be subordinate and differentiated from the primary historic building. Additions need to demonstrate a harmonious relationship with the historic building height, mass, and scale.

Fig. 5 A new addition to a historic block with compatible scale
(Source: National Park Service)

Fig. 6 Historic pattern of building widths along Pearl Street Mall
(Source: City of Boulder)

Fig. 7 A non-conforming addition with incompatible materials, massing and window proportioning
(Source: National Park Service)

Fig. 8 A new addition demonstrating a differentiated, yet compatible, use of materials
(Source: Gossens Bachman Architects)

Code:
Objects or building elements extending into the public right-of-way require a revocable right-of-way permit and/or lease agreement, see the B.R.C Section 8-6-6, "Requirements for Revocable Permits, Short-Term Leases and Long-Term Leases" for more information.

1.4 Guidelines for new construction and remodeling non-contributing buildings in the Downtown Historic District

The purpose of this section is to provide guidance for the design of new construction and the renovation of non-contributing buildings in order to retain the historic character of the overall district. While new building design is expected to reflect the character of its own time acknowledging the Downtown as a living district, it is important that it also respect the traditional qualities that makes the Downtown unique, such as massing, scale, use of storefront detailing, and choice of materials.

A. Incorporate traditional building elements in new design and construction. Careful integration of traditional facade features reinforces patterns and visual alignments that contribute to the overall character of the district. These features may be interpreted in new and contemporary ways. Please see Section 1.2 for a list of historic building elements.

B. Construct new buildings to maintain the continuity of the historic building relationship to the street, adjacent properties, and/or the block.

C. Maintain a human scale rather than a monolithic or monumental scale. Smaller scale buildings and the use of traditionally-sized building components help to establish a human scale and maintain the character of Downtown. Standard size brick, uniform building components, and standard window sizes are most appropriate.

D. Consider the proportioning of the height and mass to the building footprint. In general, buildings should appear similar in height, mass, and scale to other buildings in the historic area to maintain the historic district's visual integrity and unique character. At the same time, it is important to maintain a variety of heights. While the actual heights of buildings are of concern, the perceived heights of buildings are equally important. One, two and three story buildings make up the primary architectural fabric of the Downtown, with taller buildings located at key intersections.
   1. Relate the height of buildings to neighboring structures at the sidewalk edge. For new structures that are significantly taller than adjacent buildings, upper floors should be set-back a minimum of 15' from the front facade to reduce the perceived height.
   2. Consider the effect of building height on shading and views. Building height can shade sidewalks during winter months leading to icy sidewalks and unappealing pedestrian areas

E. Provide a variation of roof heights and types.

F. Buildings are expected to be designed on all exposed elevations. Primary facade materials are to extend to secondary elevations, or wrap building corners, a proportionally relevant distance as to portray a sense of depth.

G. Construct residential units to include entry stoops and/or porches. Residential entry porches are encouraged to extend 18" to 30" above grade. Construct commercial buildings at grade.

Fig. 9 A compatible renovation with references to adjacent building height and contemporary references to the storefront building typology in a historic district, San Jose, California (Source: Bruce Damonte/Olson Kundig)

Fig. 10 New construction with compatible material, scale and window proportioning (Source: City of Boulder)

Fig. 11 New construction with contemporary, yet compatible, references to historic building elements (Source: Jorge Mastropietro Architects Atelier)

Fig. 12 New construction with appropriate historic references including materiality and scale (Source: City of Boulder)

Fig. 13 Map of the Downtown Historic District, Non-HIstoric and the Interface Area (Source: City of Boulder)

SECTION 2 THE NON-HISTORIC & INTERFACE AREAS

Code:
See the B.R.C. Section 9-2-4, "Good Neighbor Meetings and Management Plans" or contact the DMC at (303) 413-7300.

The boundaries of the Non-HIstoric & Interface Areas generally conform to the perimeter of Downtown and surround the historic core. The Non-Historic Area is primarily located on the blocks from Pearl Street south towards Arapahoe Avenue. This area is includes a mix of retail businesses, urban residential buildings, and a large civic area with buildings, a park, and Boulder Creek. The Interface Area is located on the northern, western and eastern borders of Downtown. The Interface Areas includes a wide variety of residential buildings. The area is composed of the blocks that link the core of the Downtown to the surrounding residential neighborhoods. This area requires special design sensitivities that must be addressed when commercial buildings are located adjacent to residential areas.

The important design elements are 1) the Non-Historic Area's relationship to its surroundings, including the Historic Area, the Civic Park area, and the residential quality of the Interface Area; 2) the pedestrian quality of the area including the Downtown Boulder Pedestrian Mall, East and West Pearl Street, Spruce and Walnut streets, Canyon Boulevard and the north-south streets that connect the Civic Area to the Downtown Boulder Pedestrian Mall area; 3) new building design can reflect the character of its own time and have meaningful juxtapositions, while respecting the integrity, scale, and massing of historic buildings in the surrounding areas; and 4) minimizing impacts to the surrounding residential through careful design in the Interface Area which respects the scale and quality of adjacent residential uses and thoughtfully transitions the commercial and residential areas.

Creative interpretations of traditional design elements, and designs that reflect the character of their time, are encouraged. The designs should be compatible with the surrounding historic context, but distinguishable. These guidelines also discourage projects that create inhospitable pedestrian design, and buildings that are inappropriate in scale and massing to their surroundings.

The urban design objectives for the Non-Historic and Interface Areas are to:

- Reinforce the character of Downtown as a pedestrian place by encouraging architectural solutions that are visually pleasing, reflective of contemporary times yet stylistically appropriate to the context, and compatible in scale and character with their street.
- Encourage sensitive design along the edge where the Downtown commercial area abuts residential neighborhoods.
- Emphasize a clear distinction between the commercial and residential interface areas.
- Maintain the diversity in building type and size, and respect the adjoining residential character.
- Discourage adverse impacts from noise, night lighting, poor building design, and commercial service areas on adjacent residential neighborhoods.

Note:
See Section 3 for encroachments into the public right-of-way discussion on revocable lease and allowable dimensions.

Code:
See the B.R.C. Section 9-9-14, "Parking Lot Landscaping Standards" for parking lot screening requirements.

Code:
See the B.R.C. Section 9-9-16, "Outdoor Lighting" for lighting requirements.

Note:
A goal of the city is to make the Downtown as accessible as possible. All accessible design elements must conform to all applicable Federal, State and Local laws and codes. Wherever a discrepancy may arise, the higher standard shall be applied.

2.1 General guidelines for the Non-Historic and Interface Areas

A. Maintain the historic or predominant building set back line.
   1. Maintain the relationship and continuity of the building wall to the street or property line.
   2. For commercial uses in residential buildings, maintain the predominant residential set back of the block, including any porches.

B. Minimize the visibility of mechanical, structural, or electrical appurtenances.
   1. Use low-profile mechanical units and elevator shafts that are not visible from the street. If this is not possible, set back or screen rooftop equipment from view.
   2. Be sensitive to the views from the upper floors of neighboring buildings. Skylights and solar panels should have low profiles. Solar panels should be as unobtrusive as possible.

C. Design all sides of the building including alley elevations.
   1. Well designed rear building entrances, windows, balconies, and planting areas are encouraged.
   2. Improve rear or side alley elevations to enhance public access from parking lots and alleys.
   3. Where buildings are built to the alley edge, consider opportunities for alley display windows and secondary customer or employee entries.
   4. Materials utilized on the primary elevation are to extend, or wrap, around building corners onto the secondary elevations extending back at least the width of a structural bay.
   5. Screening for service equipment, trash, or any other rear-of-building elements should be designed as an integral part of the overall design. Where intact, historic alley facades should be preserved along with original features and materials.

D. Exterior building lighting should be designed to enhance the overall architecture of the building. Security lighting should be designed for safety, as well as night-time appearance.

E. Reduce the visual impact of structured and surface parking.
   1. Parking structures should be compatible to the historic district and adjacent buildings. All parking structures should be architecturally screened and/or wrapped with an occupiable use.
   2. Surface parking is discouraged. Locate any surface parking to the rear of the property and screen from view.
   3. Pedestrian routes in structures and parking lots should be easily identifiable and accessed, with clear visual connections to the sidewalks and buildings.

F. The law requires that universal access be located with the principal public entrance.

G. Consider the quality of open space incorporated into new and renovated buildings. When appropriate to the context, integrate the surrounding open spaces into the building design. Well programmed plazas, courtyards, outdoor seating and dining areas on or adjacent to open spaces and pedestrian routes are encouraged.

Fig. 14 A contemporary infill development with appropriate massing and human scale elements (Source: Joseph Romeo Photography /Beyer Blinder Belle)

Fig. 15 A contemporary infill development with traditional materials, an innovative approach to historic window proportioning and recessed upper floor (Source: Jorge Mastropietro Architects Atelier)

Fig. 16 A contemporary infill development with alternative material choices and a traditional storefront building form (Source: Ben Benscheider/Olson Kundig)

Code:
See the B.R.C. Section 9-7-1, "Schedule of Form and Bulk Standards" for specific height and set back requirements.

2.2 Commercial buildings in the Non-Historic and Interface Areas

A. Consider incorporating traditional facade elements in new and contemporary ways. See Section 1: The Downtown Historic District for specific building elements.

B. Consider the height, mass, and scale of buildings.
   1. In general, buildings should appear similar in height, mass, and scale to other buildings in the area. At the same time, it is important to maintain a variety of heights. While the actual heights of buildings are of concern, the perceived heights of buildings are equally important. One, two and three story buildings make up the primary architectural fabric of the Downtown, with taller buildings located at key intersections.
   2. Consider the height and proportion of buildings to neighboring structures. For new structures that are significantly taller than adjacent buildings, upper floors should be set-back a minimum of 15 feet from the front facade to reduce the perceived height.
   3. Consider the effect of building height on shading and views. Building height can shade sidewalks during winter months leading to icy sidewalks and unappealing pedestrian areas.
   4. Maintain the traditional, established breaks between buildings, such as existing paseos.
   5. For projects located in the Interface Area, construct buildings three floors or less and consider the adjacent residential height, mass, and scale.
   6. Commercial construction on a primarily residential block should be designed to reflect a residential character, e.g. residential set back on a primarily residential street.

C. Maintain a human scale, rather than monolithic or monumental scale.
   1. Avoid large featureless facade surfaces. Include architectural elements and patterns that divide the facade into familiar intervals. A single facade should not exceed a maximum of 75 linear feet.
   2. Consider how the texture and pattern of building materials will be perceived. Use traditionally sized building components in a way that incorporates details, textures, and patterns to establish a sense of human scale.
   3. Maintain the distinction between ground and upper floors. Develop the first floor facade as primarily transparent. Consider using windows and other architectural features to create a pattern that will reinforce the traditional facade rhythm found on commercial buildings in the Downtown area. Ground floors are generally differentiated by a higher percentage of glazing and transparency than upper floors.

D. Construct primary entrances at grade.

Fig. 17 An adaptive reuse building with contemporary materials
(Source: David J. Murray,ClearEyePhoto.com/McHenry Architecture)

Fig. 18 An example of a commercial use in an existing residential building in a DT-1 commercial zoning district
Fig. 19 (Source: City of Boulder)

Fig. 20 A contemporary commercial building with traditional storefront proportioning including delineating the bottom, middle and top sections (Source: City of Boulder)

2.3 Residential buildings in the Non-Historic and Interface Areas

A. Maintain the diverse architectural character of the residential buildings in the Interface Area.

B. Construct residential units to include entry stoops and/or porches. Residential entry porches are encouraged to extend 18" to 30" above grade, except when the context or character of the block demonstrates at grade entries.

C. When feasible, maintain residential uses in historic residential buildings.

Fig. 21 An alley elevation with an appropriately screened trash enclosure (Source: City of Boulder)

Fig. 22 A contemporary row house with compatible materials and overall form (Source: City of Boulder)

Fig. 23 A contemporary multifamily residential development with compatible materials and vertically oriented exterior detailing reflecting a townhome or rowhouse building type
(Source: Studio Architects)

Fig. 24 A contemporary multifamily or duplex with compatible materials and form (Source: City of Boulder)

Fig. 23 The Downtown Pedestrian Mall (Source: City of Boulder)

SECTION 3 THE PUBLIC REALM

The term "public realm" refers to the entire system of open space, landscaping, signage, streets and sidewalks, by which people circulate through and experience the Downtown. Our image of Downtown Boulder, and the ease and safety with which we move through it, is determined by the quality of the streetscape.

The urban design objectives of the Public Realm Guideline are to:

- Unify the visual image of Downtown by creating a series of public sitting areas, completing the rhythm of street trees and street lighting, and providing landscaping with seasonal color or other qualities of visual interest.
- Create a pedestrian-oriented environment that is safe, accessible, visually pleasing, and comfortable.
- Strengthen Downtown's visual connections. Visually and functionally connect the Downtown Boulder pedestrian mall and Civic Park, or east and west Pearl Street to the Downtown Boulder pedestrian mall.
- Maintain the visual unity and historic character of the Downtown Boulder pedestrian mall through the use of traditional materials.
- Respect and preserve adjacent residential neighborhoods through the use of residentially appropriate streetscape design.
- Encourage design and sign placement that promotes Downtown businesses while complementing the character and scale of the building.
- Promote signs that are designed as an integral yet noticeable part of a building's overall design.
- Promote the sign design and placement that is effective individually and harmonious with the overall signage of the block.
- Encourage comfortable spaces by integrating appropriate landscaping and street trees into the public realm.
- Create an overall image in which a building, signage, and site design relate to each other.

Fig. 24 A wall sign with directional lighting (Source: City of Boulder)

Fig. 25 Awning signs and patio extension (Source: City of Boulder)

Fig. 26 A projecting sign (Source: City of Boulder)

Code:
Awnings, signage, patio extensions, and other associated structures or objects extending into the public right-of-way require a revocable right-of-way permit and/or lease agreement, see the B.R.C Section 8-6-6, "Requirements for Revocable Permits, Short-Term Leases and Long-Term Leases" for more information.

Note:
The following is meant as a supplement to the city's Sign Code. Sign permits, obtained through the Planning Department, are required. Signs that extend into the Downtown Boulder pedestrian mall will require review by the Downtown Management Commission. For further information call the DMC at (303) 413-7300 and the Planning Department at (303) 441-1880.

Code:
Signs on historic buildings or in historic districts must comply with the B.R.C. Chapter 9-11 "Historic Preservation" and Section 9-9-21, "Signs" provisions.

3.1 Signs

A. Commercial signs should function to identify and locate businesses, promote commercial activity, attract customers, provide direction and information, and in some cases create visual delight and architectural interest.

B. Following are principal sign types that are applicable in the Downtown:
   1. Wall Signs:
      Wall signs are limited in size and defined as projecting less than 15 inches from the building. Wall signs should be positioned within architectural features such as the panels above storefronts, sign bands, on the transom windows, or flanking doorways. Wall mounted signs should align with others on a block to maintain established patterns.
   2. Projecting Signs:
      Projecting signs should be positioned along the first floor level of the facade. Projecting signs may take on their own special shape, or create their own symbol within the overall facade design.
   3. Awning Signs:
      Awnings should be positioned to emphasize special shapes or details of the facade, to draw attention to the shop entrances or to emphasize a display window. Awning signs may be illustrated with letters or symbols.

C. Signage should be designed as an integral part of the overall building design. In general, signs should not obscure important architectural details. When several businesses share a building, signs should be aligned or organized in a directory.

D. Use simple signs to clearly convey their messages.
   1. Sign materials should be durable and easy to maintain. Appropriate sign materials include painted or carved wood, carved wooden letters, epoxy letters, galvanized sheet metal, stone, specialty or decorative glass, clear and colored acrylic, or neon.
   2. Lighting external to the sign surface with illumination directed toward the sign is preferred. External lighting may also highlight architectural features. Internally lit signs are generally discouraged. The light level should not overpower the facade or other signs on the street. The light source should be shielded from pedestrian view. The lighting of symbol signs is encouraged. Internal lighting may be appropriate where only letters are illuminated or neon is used. Neon is acceptable, though restricted in size, if it does not obscure architectural detail or overly illuminate display windows.
   3. Signs should be designed in simple, straight-forward shapes that convey their message clearly. Symbols are easily read and enhance the pedestrian quality of the Downtown.
   4. Lettering styles should be proportioned, simple, and easy to read. In most instances, a simple typeface is preferred over a faddish or overly ornate type style. The number of type styles should be limited to two per sign. As a general rule, the letter forms should occupy not more than 75% of the total sign panel.

Note:
In general, the predominate material in the Downtown is brick. The use of brick to highlight and define the streetscape zones is especially appropriate in the blocks adjacent to the mall. Other appropriate materials include sandstone, or the use of art work which is stenciled or sandblasted into the concrete surface.

Note:
Colored concrete scored or formed to imitate brick or stone is inappropriate.

3.2 The Streetscape

A. The existing street hierarchy is the basis for designing the streetscape. The concept of a street hierarchy is based on understanding how various Downtown streets function. For example, Canyon Boulevard and Broadway are major vehicular streets, thus street improvements should provide for large volumes of traffic while buffering pedestrians from traffic impacts. Four types of streets have been identified:

1. The Downtown Boulder pedestrian mall (a vehicle-free pedestrian street):
   The Downtown Boulder pedestrian mall, which encompasses Pearl Street from 11th to 15th Streets, is the most intensely used pedestrian zone in the area. As a shopping, festival, and public gathering place it will remain a vehicle free area with a unified brick paving design. Elaborate landscape treatments, including seasonally-varied plants and coordinated street furniture, add to the pedestrian ambiance.
2. Canyon Boulevard and Broadway (major vehicular through streets):
   Canyon Boulevard and Broadway accommodate large volumes of traffic moving through the Downtown. Streetscape features should be designed to buffer pedestrians from traffic impacts, provide greater building set backs and detached sidewalks with planting strips between the sidewalk and curb. The exception is the section of Broadway between Canyon Boulevard and Spruce Street in which attached sidewalks are needed to accommodate more intense pedestrian use. In areas with detached sidewalks, well designed landscaping and street trees shall be provided. On Canyon Boulevard, the use of landscaped median strips and pedestrian safe zones should be designed to minimize pedestrian/vehicular conflicts.
3. 9th, 10th, 11th, 13th, and 14th Streets (north/south pedestrian connectors):
   These five north/south streets provide the main pedestrian connections between the Downtown Boulder pedestrian mall and the Civic Park. Where these streets cross Canyon Boulevard, which is very wide, crosswalk designs that visually link the north and south sides of the boulevard are important. The use of similar materials, intersection gateway features, landscaping, and street furniture will help to visually weave the areas together and promote pedestrian access between these two important Downtown public gathering places.
4. All other streets in the Downtown (general pedestrian-oriented streets):
   In order to create a unified image in the area, all streets should share common features. At minimum, these should include similar sidewalk scoring patterns, similar paving materials, similar street trees and tree grates, coordinated street furniture, the inclusion of sidewalk neck downs and pedestrian safe zones, removal of pedestrian obstructions, and consolidation of streetscape elements such as newspaper vending boxes, other traffic and directional signage, and pedestrian scale street lighting.
5. Alleyways (minor service-oriented streets):
   Alleyways serve as secondary circulation and alternative routes for both pedestrians and vehicles to navigate Downtown. They can provide an alternate means of access to shops, restaurants and other commercial uses. Care must be taken in balancing the service function of the alley and making the street safe for pedestrians.
6. Walkways/Multiuse paths (vehicles free pathways):
   Walkways provide mid-block pedestrian only access. Multiuse paths traverse the civic and park areas. To promote pedestrian circulation throughout the downtown area both should be encouraged in large projects. Design such connections to be interesting places with thoughtful integration into the overall circulation. They should be handicap accessible, illuminated, appropriately landscaped, and paved in materials compatible with their locations and surrounding context.

B. Use materials that reinforce the continuity and integrity of the overall Downtown district.
Any variations from the standard materials and patterns required by the Design and Construction Standards should be based on a streetscape plan that illustrates how the variation adds to the visual unity and improves the downtown streetscape, adjacent properties, and the overall image of the block. The design and materials should be durable, classic, and elegant

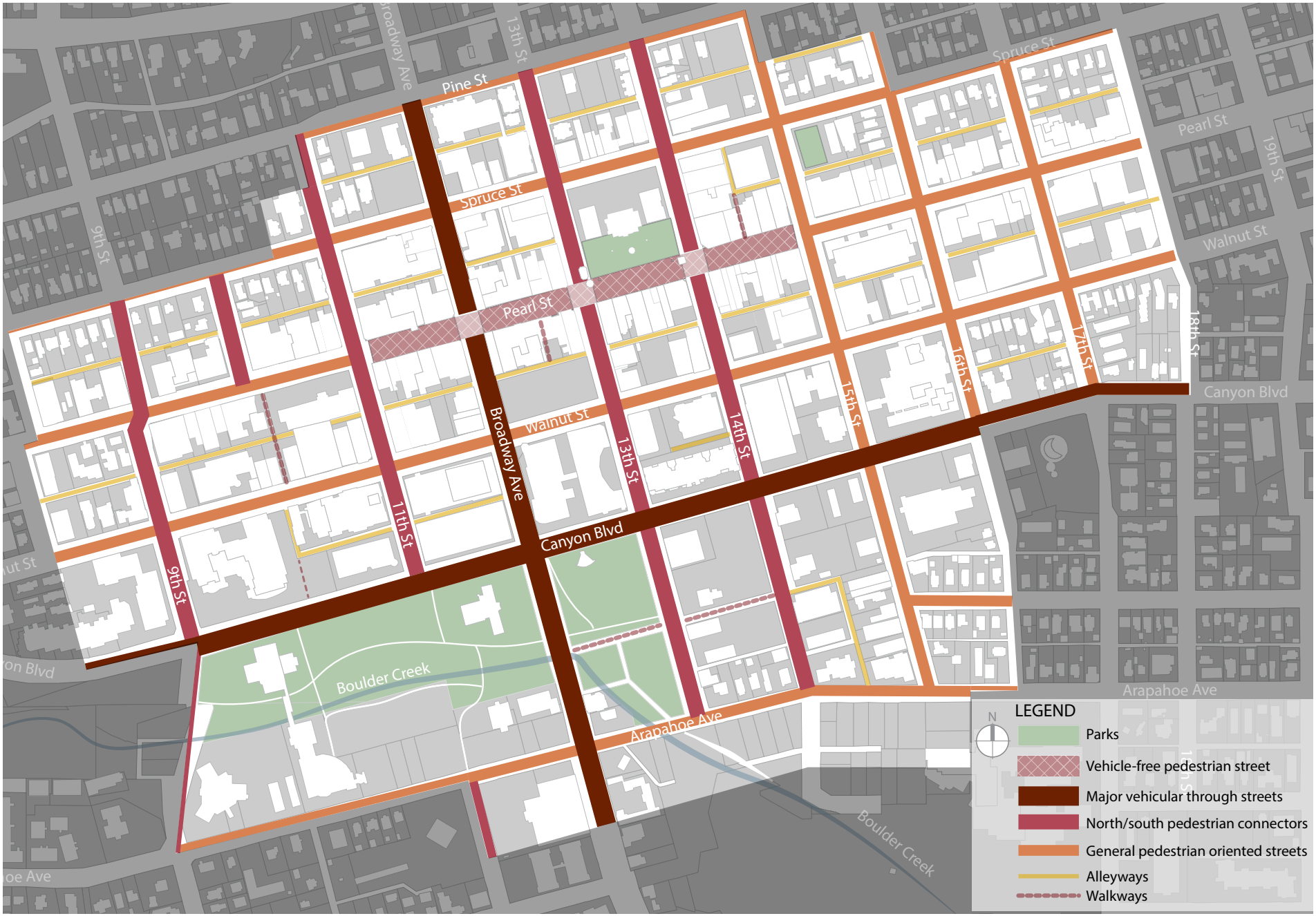


Fig. 27 Street Type Key Map (Source: City of Boulder)

Code:
See the Design and Construction Standards "Chapter 11 Technical Drawings" and the B.R.C. "Section 9-9-13, " Streetscape Design Standards" for additional requirements.

Note:
Permanent kitchen equipment, new basement level extensions, second floor extensions and greenhouses are generally not permitted within the right-of-way.

Note:
Light weight or movable handrails, chains, ropes and unsupported railings are inappropriate railing materials.

Note:
Improvements in the right-of-way shall match the existing materials. Any proposals to differentiate the materials may require approval. For more information visit the City of Boulder Planning website or contact, (303) 441-1880.

Note:
For more information on patio extensions and cafe seating contact the DMC at (303) 413-7300.

including:

1. Brick
2. Sandstone
3. Scored grey concrete
4. Black enamel street furniture and utility elements, e.g. right-of-way lighting, benches, trash receptacles, bollards, etc.
5. Outdoor seating

C. Use a basic sidewalk design to unify the visual image of Downtown. In most locations throughout the area, sidewalks average 15 feet wide from curb to property line. Streets should incorporate the following basic sidewalk elements:

1. Frontage Zone
   The frontage zone width may vary by street and allows for extensions into the right-of-way which create comfortable and attractive sitting areas. Included within this zone are projecting signs, awnings, cafe seating, and gated patio encroachments.
   - Design public right-of-way extensions that are visually appropriate to the street character.
   - Seating areas for dining are limited to the width of the building frontage. All tables and chairs are to be removable.
   - Railing designs should reflect an open, transparent feeling. Visually closed-in railings that "box-in" the extension area are not appropriate.
   - Consider building programs and spatial layouts which provide alternative solutions to the need for gated, exterior dining areas. There must be a minimum 7' clearance between the edge of the railing or seating area and any vertical obstruction.
   - Create comfortable and attractive sitting areas, plazas, and small open spaces. Tables and chairs must be movable.
   - Orient seating to take advantage of views, sunshine in the winter, and shade in the summer.
2. Pedestrian Zone
   The sidewalk pedestrian-through zone is the travel area designated for pedestrians and must be kept clear of all obstacles.
   - Pedestrian zones walkway surfaces should be delineated from the curb zone or buffer areas.
3. Curb Zone
   The curb zone should consist of a 4' wide area measured perpendicular from the inside of the curb.
   - Street elements and landscaping should be organized to allow for pedestrian access to adjacent street parking.
   - On residential transition streets in the Interface Area blocks use landscaping in the curb zone rather than hard surface concrete.
   - Include a travel lane, or clear zone unobstructed by street furniture or landscaping, for bicyclists .
4. Corner Zone
   At a minimum, the standard corner zone should include the following elements:
   - A pedestrian area where only essential "regulatory" elements, such as, signal posts, crosswalk signals and lighting are allowed. All other amenities including benches, bike racks, newspaper racks, are prohibited.
   - Corner "amenity areas" are located at either side of the pedestrian area. Elements such as benches and bike racks should be carefully arranged in an attractive and accessible fashion outside of any pedestrian throughways. Benches should be arranged to facilitate social interaction.
5. Intersections
   Important streets may require additional material detailing to match adjacent streetscape design and overall block character.
   - Materials include utilizing brick and scored concrete patterning, similar to adjacent pedestrian and curb zones, in the crosswalks and special paving within intersection squares. Important intersections are the areas between the Civic Park and Downtown Boulder pedestrian mall.

A Frontage Zone

On the Pedestrian Mall - 10′ maximum extension of into the right-of-way.

On all other streets - 6′ maximum extension into the right-of-way.

B Pedestrian Zone

On the Pedestrian Mall - The unobstructed pedestrian throughway must be no less than 8′. A 9′6″ wide throughway is encouraged. Any type of extensions into the right-of-way must allow for the pedestrian circulation requirements.

On all other streets - An unobstructed pedestrian throughway of no less than 7′ wide is required between vertical elements such as trees or poles and buildings.

Standard surface materials include brushed natural color gray concrete tooled in a maximum 4′x 4′ square with brick accents.

C Curb Zone

A minimum 4′ curb zone will include trees, bike parking, landscaping strips, furniture, street and/or utility elements.

Strandard suface materials include brushed natural color gray concrete tooled in a 2′ x 2′ square pattern, possibly with brick accents.

Fig. 28 Diagram of the typical sidewalk zones (Source: City of Boulder)

Code:
For more information on landscaping requirements see the City of Boulder "Design and Construction Standards" and the B.R.C. Section 9-9-12, "Landscaping and Screening Standards".

Note:
Unsuitable streets trees not to be placed in the public right-of-way include Cottonwood, Chinese and Siberian Elm, Poplar, Russian Olive, Silver Maple, Tree of Heaven, Willow, evergreens that create sight obstructions, and clump forms or multi-stem trees.

Note:
Tree and landscape maintenance on commercially zoned properties, the maintenance of trees, tree grates, and surrounding hard and soft landscaping located in the public right-of-way is the responsibility of the private property owner. This includes all maintenance and repair of landscaping, trees, irrigation, spraying, fertilizing, and replacing plant materials and tree grates.

Note:
The city provides pruning, removal of street trees in the public right-of-way, safety inspections, and consultation on street trees that may pose a health or safety concern.

Note:
Contact the DMC at (303) 413-7300 for additional information regarding street furniture, trash receptacles, bicycle stands, and bollard variations for the Pedestrian Mall.

3.3 Landscaping

A. Select street trees that are appropriate to their intended location and function.
Plant trees that will tolerate full sun, drought, varying soil pH. Keep in mind that the conditions of various planting sites in the Downtown will vary and should be evaluated for individual landscape objectives and suitability to the specific street on which they are to be planted. The following guidelines should be followed:

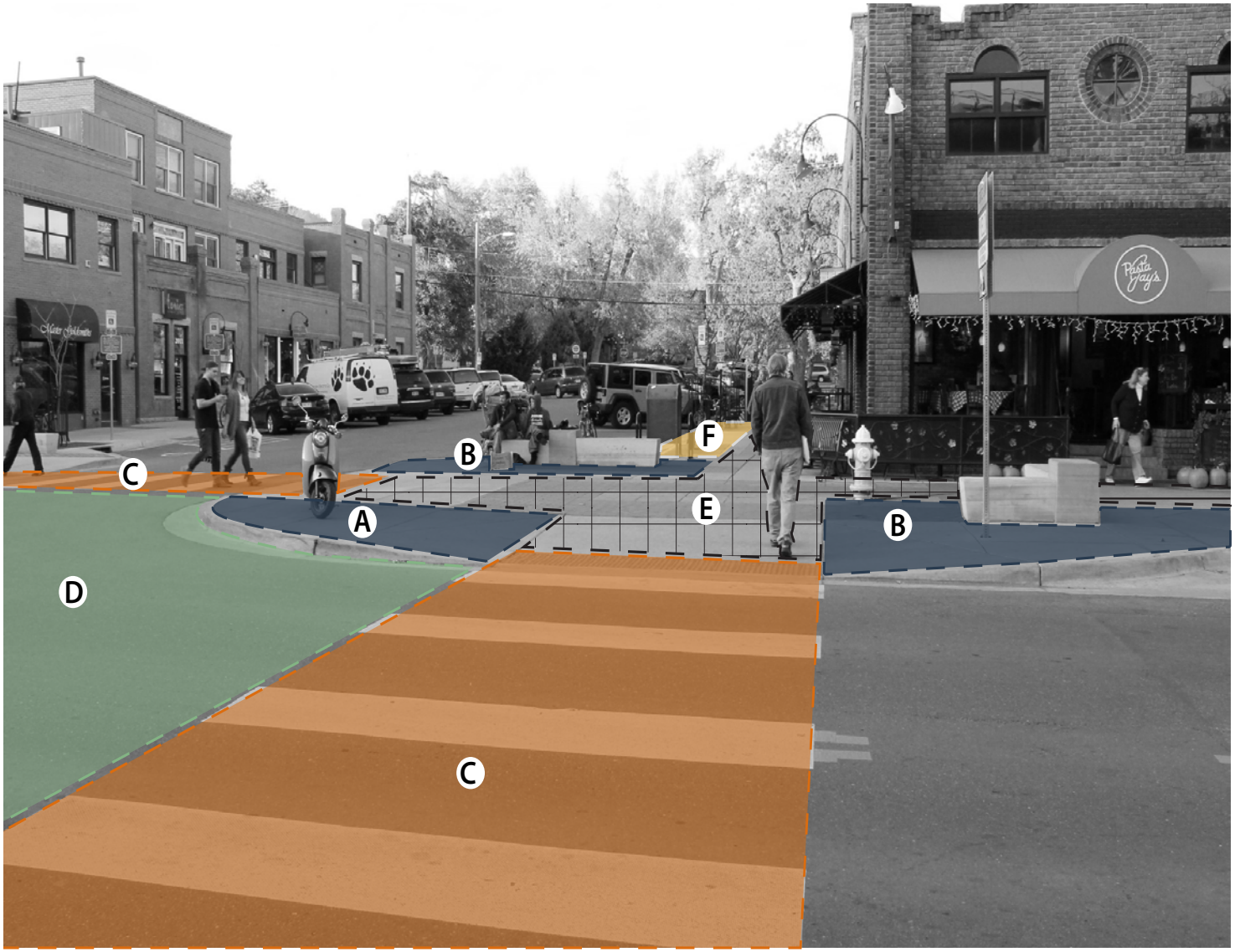
1. Large trees should be located along Canyon Boulevard, wide right-of-way streets, and principal access streets such as Pearl and Walnut Streets. Large trees should also be used to highlight corners, to provide cover for large plazas, or as accents against the skyline.
2. Large maturing trees may be located on all downtown streets.
3. Small trees should be used to provide seasonal color and a visual focal point for special locations such as a building entrance, corner area, sitting area, bus stop, or other significant area or view corridor.
4. Install street trees in tree grates at areas of adjacent parking and high pedestrian traffic, except at locations where they occur in special raised planters in the curb zone, in large planted areas that are integrated with a sidewalk area, and in locations where existing trees located in the curb zones have a root system that has pushed up above grade where the use of a grate will injure the tree.
5. Maintain at least a 10 foot distance between tree trunk and building line. This refers to the distance between a tree and building, not the distance necessary to maintain an unobstructed pedestrian area between a tree, as a vertical element, and a railing that encloses a sidewalk restaurant
6. Where tree grates are used they should be aligned with paving pattern score lines and be placed with careful consideration of sidewalk use, such as a sidewalk cafe or curb cuts.
7. Consider alternative methods to increase tree soil volume, e.g. modular, pre-engineered suspended pavement and structural cell systems.

B. Select ground level plants that suit their location and function.

1. Use landscaping, shrubs and ground cover to accent areas.
2. Limit the use of annuals and high maintenance plants to the planting beds in the Downtown Boulder pedestrian mall. Use drought tolerant, climate appropriate landscaping, including shrubs, flowering perennials, ground cover, and ornamental grasses in planter beds.
3. Do not use gravel or rough stone in place of ground cover in the curb zone.
4. Whenever feasible, flowers and ornamental grasses should be used in combination to accent gateway locations and special sites.
5. Plantings are preferred in natural, at-grade planting beds rather than planter pots or other containers.
6. Consider maintenance requirements in the placement and design of these features.

C. Maintain the character of Canyon Boulevard.

1. Continue the large tree rows on either side of the street and center landscape median.
2. In general, trees and other plant material should be arranged in an urban linear pattern that parallels the street rather than a less formal random arrangement.
3. The primary trees along Canyon do not need to be planted with tree grates.
4. The median should be planted to enhance the "boulevard" quality of the corridor.
5. Incorporate grasses, paved areas or ground covers within the overall design of tree rows.



A Corner Zone - A pedestrian area or clear zone that is free of obstacles and lined up with the sidewalk pedestrian zone.

Standard surface treatment includes brushed natural gray concrete scored in a 2'x 2' square pattern parallel to the street.

B Corner "amenity areas" - The amenity areas may incorporate benches, bike racks, news racks, and similar elements.

Standard surface treatment includes brushed natural gray concrete scored in a 4'x 4' square pattern and may have brick detailing.

C Crosswalks - Pedestrian crosswalks should be a minimum of 10' wide with a 1' buffer on either side.

Standard surface treatment includes truncated dome ramps and marking the crosswalk zone.

D Intersection Squares - the center area of intersections have the same surface material as the surrounding street surfaces.

E Pedestrian Zone

F Curb Zone

Fig. 29 Diagram of the typical corner and intersection zones (Source: City of Boulder)

Fig. 30 Brick, sandstone, and scored concrete defining a corner zone (Source: City of Boulder)

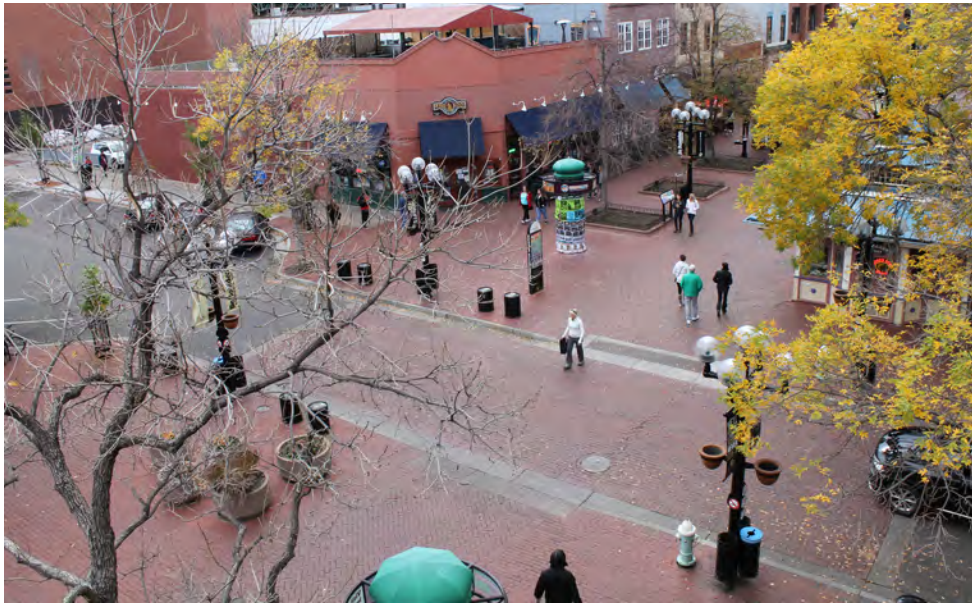


Fig. 31 Brick pavers and street features within the Pedestrian Mall (Source: City of Boulder)

Fig. 32 Typical bicycle rack and tree grate (Source: City of Boulder)

Fig. 33 View of compatible patio extension with sandstone posts and iron railings
(Source: City of Boulder)

Note:
The Arts Commission, DMC, DAB, and LB are among the groups involved in making public art decisions in the Downtown.

3.4 Street Furnishings

A. Use street furnishings to create a unified visual appearance in Downtown.

B. In general, install standard benches, trash receptacles, appropriately sized bollards, pedestrian-scale street lighting, and bike stands in durable black metal to unify the visual quality of the Downtown.

C. Strategically locate newspaper stands, kiosks and other furniture adjacent high-traffic areas, e.g. bus stops, intersections, etc.

D. Create attractive, safe and comfortable bus stops crafted in durable and elegant materials.

3.5 Historic Features

A. Preserve historic features of the streetscape. Whenever possible, preserve, restore, and reuse historic fixtures of the streetscape, such as flagstone sidewalks, globe light fixtures, or any other existing historic features located in the public right-of-way.

B. Repair or replacement of paving in the Historic District should be consistent with the character of the overall district and requires review by the Historic Preservation Program, in addition to any approvals needed by the DMC.

C. Historic signs, such as those painted on side walls, should be preserved.

D. Extensions into the right-of-way involving historic resources should be compatible and not substantially alter the property.

3.6 Public Art

A. Enrich the downtown with public art and carefully site art within appropriate areas of the public realm. Consider the context, materials, purpose of the artwork at the proposed site.

B. Freestanding artwork should not obscure building elements. Thoughtfully integrated artwork may be incorporated into the surface or facade design.

C. Artwork may be utilized as gateway features within discrete areas of Downtown.

D. Public art should be complementary and subordinate to associated historic properties and complement the period of significance of the building or district.

Fig. 34 West Pearl gateway obelisk (Source: City of Boulder)

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
March 3, 2016
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:
Bryan Bowen, Chair
John Gerstle
Leonard May
Liz Payton
Crystal Gray

PLANNING BOARD MEMBERS ABSENT:
John Putnam

STAFF PRESENT:
Charles Ferro, Development Review Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Jessica Stevens, Civil Engineer II
David Thompson, Civil Engineer II, Transportation
Kalani Pahoa, Urban Designer
Sam Assefa, Senior Urban Designer
Chandler Van Schaack, Planner II

1. CALL TO ORDER
Chair, **B. Bowen**, declared a quorum at 5:03 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES
On a motion by **J. Gerstle** and seconded by **L. Payton** the Planning Board voted 5-0 (**J. Putnam** absent) to approve the February 2 and February 4, 2016 minutes as amended.

3. PUBLIC PARTICIPATION
No one spoke.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

A. Call Up Item: Wetland Map Revision (LUR2016-00005). Boulder Creek Path at 30th Street. This decision may be called up before Planning Board on or before February 24, 2016.

B. Call Up Item: Boulder Creek Path Improvements at 30th Street Underpass, Floodplain Development Permit (LUR2015-00120), Wetland Permit (LUR2015-00116). This decision may be called up before Planning Board on or before March 11, 2016.

C. Call Up Item: Approval of a Use Review to establish an animal kennel (cat boarding area) within a cat only veterinary clinic at 1915 28th St. in the Business – Regional 1 (BR-1) zone district. Case No. LUR2016-00011

None of the items were called up.

5. PUBLIC HEARING ITEMS

A. AGENDA TITLE: Consideration of a motion to adopt the 2016 Update to the Downtown Urban Design Guidelines (Guidelines) incorporating revisions recommended by the Planning Board at its February 4, 2016 hearing. Adoption of the Guidelines will result in inclusion of the DT-4 and DT-5 downtown zone districts in the identified areas where height modifications may be considered through the city's Site Review process, per the height modifications ordinance approved by Council on March 31, 2015.

Staff Presentation:
S. Assefa introduced the item.
K. Pahoa presented the item to the board.

Board Questions:
K. Pahoa answered questions from the board.

Public Hearing:

1. **Jamison Brown**, chair of the Design Advisory Board and member of the working group, spoke in support of adopting the DUDG as submitted and explained that there was a consensus of the final version and it was a consensus driven process. He urged the Planning Board to adopt the version of the DUDG as adopted by City Council.
2. **Kate Remley,** chair of the Landmarks Board and member of the working group, stated that she did not feel the introductory material had been fully vetted by the working group. She asked the Planning Board to change the language in the introductory section. She stated the working group did not see the final document. She asked to restore some of the original language stating it would assist the Landmarks Board in dealing projects that they see on a regular basis.

Board Comments:

- **L. May**, in regards to the staff time involved to make the proposed edits, stated that he appreciates the burden it may impose upon them, but it is the board's job to vet these items and he felt that had not been done properly.
- **C. Gray** stated that that she did not feel pressure from the staff to push the document through. She stated that the committee should take some of the responsibility if discussions did not cover all areas or a final wrap up.
- **B. Bowen** agreed with **C. Gray**.

- **L. Payton** stated that significant language had been removed and the motions to be offered will restore that missing language and that was in the original set of DUDG.
- **J. Gerstle** agreed and added that it is more than wordsmithing that is being proposed.

Motion:
On a motion by **B. Bowen** that the Planning Board adopt the updated Downtown Urban Design Guidelines dated February 16, 2016, as attached to the staff memo dated March 3, 2016. Motion failed. No second.

On a motion by **L. May**, seconded by **L. Payton**, the Planning Board voted 5-0 (**J. Putnam** absent) to make the following modifications to the Downtown Vision Section, Section 2 – The Non-Historic and Interface Areas and Section 3 – Public Realm:

- *ADD 2.1.B (inserted before the currently proposed 2.1.B) "**Views:** Downtown Boulder is blessed with exceptional mountain views and projects should be designed to preserve access to this extraordinary asset from the surrounding area. The south and west edges of downtown offer the most spectacular views."*

- *ADD 2.1.C (inserted before the currently proposed 2.1.B) "**Sun and Shade**: In Boulder's climate, sun and shade are important design considerations for providing natural light in buildings, and creating appealing pedestrian areas that are ice free and sunny in the winter and shady in the summer."*

Renumber clauses following these insertions

- *DELETE 2.2.B.3*

- *ADD 3.2.B (inserted before the currently proposed 3.2.B) "**Views:** Downtown Boulder is blessed with exceptional mountain views and projects should be designed to preserve access to this extraordinary asset from the public realm and surrounding area. The south and west edges of downtown offer the most spectacular views."*

- *ADD 3.2.C (inserted before the currently proposed 3.2.B) "**Sun and Shade**: In Boulder's climate, sun and shade are important design considerations for creating appealing public realm areas that are ice free and sunny in the winter and shady in the summer."*

Renumber clauses following these insertions

- *CHANGE Downtown Vision (gray bar on the left) bullet point 3 to "Human scale buildings and spaces;"*

- *ADD Downtown Vision (gray bar on the left) bullet point 4 "The preservation and celebration of Boulder's mountain views from the public realm and surrounding area."*

- *CHANGE 3.2.C.1, third bullet point* ***Railings:*** *"Railing designs should reflect an open, transparent feeling. Visually closed-in railings that "box-in" the extension area are not appropriate. No signage, advertising, goods or merchandise may be placed on railings. Railing design in the Historic District shall be simple."*

- *ADD "2.1.H* ***Rhythm:*** *"Maintain the rhythm established by the repetition of the traditional approximately 25' facade widths for projects that extend over several lots by changing the materials, patterns, reveals, or building setbacks in uniform intervals or by using design elements such as columns or pilasters."*

- *ADD 2.1.I* ***Floor Height:*** *"Distinguish ground floor height from upper floor heights. Ground level floor to floor height is encouraged to be taller than upper stories."*

- *ADD 2.1.J* ***Shade:*** *"Shade storefront glass by appropriate means such as awnings or recesses."*

- *ADD to 2.1.E.2* ***Parking Lots:*** *"Surface parking is discouraged."*

- *MOVE 2.1. (H, I and J) to the 2.2 section that is "Commercial Buildings in the Non-Historic."*

Board Comments to the Motion:

- **B. Bowen** stated for the record this action damages the integrity of the work process. Specifically some of the points being added were discussed as a group and now are going to be undone as a result of this motion. This is unfortunate and this process should be discussed in the future. He stated that there is a difference of opinion that some felt that the existing DUDG gave a protection of views from the public realm. Others felt that the views from the buildings were to be maximized. We are making a substantive change without public input. In addition, the changing of materials at 25 foot widths, this was discussed at length and it was decided not to be done but now that will be undone. The working group agreed that if views from the public realm are important, then there should be a process to define which ones would be discussed. All buildings impact views. The working group decided that the place in the land use code to discuss height of buildings would be in the zoning. He stated that this motion will be a mistake.
- **C. Gray**, as a member of the working group, stated that they did spend a lot of time discussing the preamble and the document. There was never total agreement on a few items in the preamble and the two landmark representatives expressed this. She was under the impression that there would be final review and approval by the Planning Board and all items that had consensus by the working group would still be reviewed and commented on by the two reviewing bodies - Planning Board and Landmarks. She also suggested that we discuss, at the retreat, PB participation in working groups and the expectation of the delegated PB members to those groups.
- **L. May** stated that the motion is meant to be restorative. Regarding the interpretation of the intent with regard to views, it is about the general access to views from the public realm, the surrounding area of a new building. Not to pertain to the views of people in the

building. He stated that he is attempting to make it more about the public realm. He added that he is not being critical of the process, but the Planning Board needed to have its own review.

- **L. Payton** stated that with the proposed motion, important language is being restored.
- **J. Gerstle** stated that he supports **L. May's** motion.

On a motion by **L. May**, seconded by **B. Bowen**, the Planning Board voted 5-0 (**J. Putnam** absent) to adopt the revised Downtown Urban Design Guidelines dated February 16, 2016 subject to the following additional information:

- *CHANGE 2.1.B.1* ***Solar Panels:*** *– DELETE final sentence and REPLACE with "Skylights and solar panels should have low profiles. Skylights should not be visible from the public right-of-way. Solar panels should be as unobtrusive as possible."*

Friendly Amendment by **B. Bowen**, accepted by **L. May**, the Planning Board passed 5-0 (**J. Putnam** absent) to delete the second sentence currently reading: "*Skylights should not be visible from the public right-of-way.*"

B. AGENDA TITLE: Public hearing and consideration of a Site and Use Review (LUR2011-00071) to redevelop the site located at 4403 Broadway Ave. with a new mixed use development. The western portion of the site, zoned RM-1 (Residential – Medium 1) would include twelve 3-story townhome units divided between two buildings. The eastern portion of the site, zoned MU-2 (Mixed Use – 2), would include three new mixed use buildings containing an additional 16 attached residential units above 9,207 sq. ft. of commercial and restaurant space. The proposal includes a request for a height modification to allow for both townhome buildings and two of the mixed use buildings to exceed the 35 foot height limit for the zone (requested heights range from 36'3" to 43'6") as well as a request for a 5% parking reduction to allow for 57 parking spaces where 60 are required. The proposal also includes a Use Review request to allow for three restaurants which close after 11:00 p.m., two of which are over 1,000 sq. ft. in floor area. The applicant is seeking to create vested property rights as provided for in section 9-2-19, B.R.C. 1981.

Applicant: Jeff Dawson
Owner: Emerald Investments I, LLC

Staff Presentation:
C. Ferro introduced the item.
C. Van Schaack presented the item to the board.

Board Discussion Regarding Public Process and Notification:

- A minor defect in notification (the sign was only posted on the property for seven days rather than ten days leading up to the hearing as required by the land use code) that does not impair the surrounding property owners' ability to participate in the public review

process occurred. The board had the ability to stay the hearing if they felt adequate public notice was not provided.

- Board opened it up to the public to see if they felt that proper public notification had or had not been met.

  1. **Eric Ponslet** spoke in support to stay the hearing stating that proper notification was not made to the public in the surrounding area because most of the residents who occupy the residents are not owners, but renters.

- The board discussed the continuation of this item to a later date.

Motion:
On a motion by **C. Gray**, seconded by **J. Gerstle**, the Planning Board voted 2-3 (**J. Putnam** absent) to move forward with the public hearing, to allow public and input and to continue board deliberations at another date after which proper notification could take place and to reopen public input at the March 17, 2016 Planning Board meeting. Motion failed.

On a motion by **B. Bowen**, seconded by **L. May**, the Planning Board voted 4-1 (**J. Putnam** absent) that adequate notification was satisfied and agreed with staff's recommendation. Motion passes.

Staff Presentation:
C. Ferro introduced the item.
C. Van Schaack presented the item to the board.

Board Questions:
C. Van Schaack answered questions from the board.

Applicant Presentation:
Jeff Dawson, with Studio Architecture, the applicant, presented the item to the board.

Board Questions:
Jeff Dawson, the applicant, and **Nader Ghadimi** with Emerald Investments, the owner, answered questions from the board.

Public Hearing:

1. **Catherine Canlin** expressed concern regarding the new height requirement and asked the board to give consideration in terms of noise and height.
2. **Eric Ponslet (pooling time with Lucie Parietti, Liesel Ritchie, Anupam Barlow and Zak Keirn)** spoke in opposition to the project. His focus was the proposed height modifications and spoke in opposition to them.

Board Comments:
Key Issue #1: Is the proposed project consistent with the vision for the area as established in the adopted 1997 North Boulder Subcommunity Plan (NBSP)?

- **L. Payton**, **C. Gray** and **L. May** agreed that most of the NBSP guidelines are met except for height.
- **L. Payton** added that the proposed building design does not seem compatible with Violet Crossing across the street to the east. The proposed design seems to be battling with the topography language in the NBSP. In addition, while the plan would be providing housing, it would in fact increase the demand for housing by adding jobs. She stated she could not grant the height modification as there is no public support and that Buildings A, B, #1 and #2 are taller than provided for in the zoning that was established with the NBSP. The transition between the project and the residential neighborhoods is not effective.
- **C. Gray** agreed regarding the issue of height and the transition of height. The internal sidewalks should be more defined.
- **L. May** added that this plan is targeting affluent people and that a diversity of housing and affordability should be provided. In regards to the height proposals, the MU-2 zoning states a clear maximum of two stories and there should be no reason to give an exception. In the residential zone, there is no limit to number of stories; however the proposed third stories on the townhome units would be considered gratuitous space which would increase the cost. He felt that by removing floor area from the third floor of the townhouse units, the units would become more affordable. He added that the project site is a transit rich site and that the amount of parking should be reduced. Driving should not be encouraged therefore parking should be constrained and unbundled.
- **J. Gerstle** stated he has the same concerns regarding the proposed height but he agrees with the vision of the project. He agreed that the commercial space proposed for the ground floors in the MU-2 zone would be reasonable. The project does not have sufficient transition in intensity between Uptown Broadway and the residential area on the south side of Violet. In regards to parking, he agreed with fellow board members regarding unbundling declaring that it would encourage people to not have vehicles and make residences more affordable. He stated this would be necessary.
- **B. Bowen** felt that the project fit the NBSP and he did not have an issue with the proposed height given the site constraints related to grade and floodplain. He mentioned that many of the buildings in Uptown Broadway are 44 to 48 feet in height and that at a maximum height of 43'6" the proposed buildings would still accomplish the desired transition. Street frontage and setbacks make sense. He supports the idea of having mixed uses extending down to the corner of Violet and Broadway. He pointed out that in terms of context, the project would transition to a school (35 foot height limit) and not into residences, and that amore urban edge was therefore appropriate. Regarding the site design and housing diversity, this zoning is disappointing in that it does not provide for outdoor communal space but rather surface parking. In terms of unbundled parking, he suggested behind Building A as a location.
- **L. Payton** added that if the proposed buildings were limited to 35 ft in height, then the parking requirements could change. Height, the missing middle income housing and parking are all tied together. She would be in support of a parking reduction as requested by other board members and unbundling that section that is not tied to the individual townhomes.

<u>Key Issue #2:</u> Is the proposed Site Review consistent with the Site Review criteria as set forth in section 9-2-14(h), B.R.C. 1981?

- **J. Gerstle**, in regards to setback issues, disagreed that a diminished setback would be appropriate. He did not see a valid reason to change.
- **B. Bowen** explained that the 20 foot setback would be too much for townhomes. He referred to townhomes in the Holiday development as examples of successful setbacks under 20 feet. He stated that he agrees with proposed plan and that at tight urban streetscape would work well. In terms of height, he referred to various successful townhome projects that are three-stories along Broadway.
- **C. Gray** agreed with **B. Bowen** regarding setbacks. **L. Payton** did not want to make the setbacks an issue.
- **B. Bowen** suggested a compromise regarding the height issue. Perhaps Buildings 1 and 2 are at issue and Buildings A, B and C are appropriate as planned.
- **L. May** explained that the height exception takes away from the units being affordable. It is less of an issue in the MU zone due to the apartments that would be provided; however, he still feels that the height limit for the MU-2 zone should be respected.
- **C. Gray** stated that she would like to see all buildings conform to the height limit without modifications. Buildings A and B have such a large presence on Broadway.
- **B. Bowen** explained to fellow board members that a good reason to have a one to two foot height exception for Buildings 1 and 2 would be the ability to access a roof deck with a stair. He stated that these would be great amenities for future residents. Head room over a stair cannot exist without violating the height exception. The NBSP does call for building mass along Broadway as a sound mitigation for what lies behind it and should be a consideration in terms of height.

Applicant Rebuttal:
Jeff Dawson, with Studio Architecture, the applicant, responded to some of the items brought up by the board regarding Key Issues 1 and 2. He offered to remove the third story lofts from the end units of each of the townhome buildings to reduce the apparent massing and remove floor area, to reduce the extent of the requested height modification for Building B in order to make it less than or equal to the height of Building A (39 feet), and to unbundle the parking for the apartment units.

Board Questions:
Jeff Dawson, the applicant, answered questions from the board

Board Comments:

- **C. Gray** and **L. Payton** both stated that they would not be inclined to give the height modifications as it would violate the NoBo Plans and does not meet the site review criteria. They would ask the applicants to come back with plans within guidelines. In addition, the project does not transition into the surrounding residential area effectively. They are okay with three stories but only if the buildings are kept within the 35 foot height limit.
- **B. Bowen** mentioned that there would be a strong benefit of having rooftop access in Buildings 1 and 2 for future residents, and that at a minimum there should be a height modification granted to allow for stair landings to provide rooftop access.

- **L. May** agreed with B. Bowen's proposal for Buildings 1 and 2. In regards to the residential zone (Buildings 1 and 2), he would be willing to do the height exception to the extent that a rooftop access is provided. He stated that he would not support a height modification for Buildings A, B and C.
- **J. Gerstle** agreed that the suggestion for Buildings A, B and C to meet the height restrictions but have three stories is reasonable. Regarding Buildings 1 and 2, to allow access to the roof and allow an exception to the height requirement for that purpose would be acceptable. Finally he encouraged the applicant to include basements on Building 1.
- **L. Payton** restated that she did not feel there was an adequate transition from the project to residential.
- The board was not open to a 38 foot height limit to Buildings A, B and C although it is available in the BMS zone to the north.

Key Issue #3: Does the proposed project meet the Use Review criteria as set forth in section 9-2-15(e), B.R.C. 1981?

- **C. Gray** requested that the hours of the proposed restaurant be changed to close at 11:00p.m. rather than 12:00a.m.
- No other board members had issue with the closing time of 12:00a.m. therefore the closing time remained at 11:00p.m.

Architectural Issues:

- **L. May** stated that the street facades were well done, but appeared jumbled on the following elevations: Building A (west and north sides) and Building B (west and east sides).
- **B. Bowen** approved of the back side elevations. He suggested an improvement on Buildings A and B, on the third story of the Broadway side, to wrap with brick rather than use stucco specifically grids 4 through 7 of Building A and grids 1 through 5 on Building B on the east elevations, such brick shall wrap around the corners of those buildings as follows: on Building A including grids A through D on the south elevation, and on Building B including grid B-through E on the north elevation. All board members agreed.
- The board agreed that the overall designs are well done.

Motion:

On a motion by **B. Bowen** seconded by **L. Payton** the Planning Board voted 5-0 (**J. Putnam** absent) to approve the Site and Use Review application LUR2011-00071, adopting the staff memorandum as findings of fact, including the attached analysis of review criteria, and subject to the recommended conditions of approval, with the following modifications:

Add to Site Review Condition 3.a.: *The final site plans shall be revised to show the following:*

- *Buildings A, B, and C shall not exceed the 35 ft height limit; only Buildings A and B, but not C, may have three stories;*

- *Buildings 1 and 2 shall not exceed the zoning district's maximum height, the only elements that may exceed that height limit shall be stairway access from each unit to the roof tops;*

- *The garages behind Building A shall be unbundled parking;*

- *From the proposed concrete path at the north east corner of Building 1, extend a five foot wide pervious path west to 10th Street with a public access easement;*

- *All buildings shall have conduit for future photo voltaic systems from the house panel of each unit to the roof;*

- *One dual cord electrical vehicle charging station to serve unbundled surface spots; and*

- *The brick on the east elevation of Buildings A and B shall extend up to the third floor and replace the stucco, including grids 4 through 7 of Building A and grids 1 through 5 on Building B on the east elevations, such brick shall wrap around the corners of those buildings as follows: on Building A including grids A through D on the south elevation, and on Building B including grid B-through E on the north elevation.*

C. AGENDA TITLE: Concept Plan (case no. LUR2015-00106) proposal to redevelop the properties located at 4801, 4855, 4865 and 4885 Riverbend Rd. within the Riverbend Office Park with a new 76,000 sq. ft., 55 foot hospital building and a 5-story, 467-stall parking structure with accessory office and retail space. The new facility would house BCH's relocated inpatient behavioral health, inpatient rehab and neurology department. The proposal includes consolidating the existing properties into one 2.55-acre project site and rezoning the site from BT-2 (Business – Transitional 2) to P (Public). Changes to the existing access and circulation are also proposed

Applicant: Darryl Brown for Boulder Community Health
Property Owner: Boulder Community Health

Staff Presentation:
C. Van Schaack presented the item to the board.

Board Questions:
C. Van Schaack answered questions from the board.

Applicant Presentation:
Jackie Attlesey-Pries with Boulder Community Health, and **Mary Fiore** with Boulder Associates Architects, the owner's representative, presented the item to the board.

Board Questions:
Jackie Attlesey-Pries with Boulder Community Health, **Mary Fiore** with Boulder Associates Architects, and **Vince Porreca**, a consultant for BCH, answered questions from the board.

Public Hearing:
No one spoke.

Board Comments:
Key Issue #1: Is the Concept Plan proposal compatible with the goals, objectives and recommendations of the Boulder Valley Comprehensive Plan (BVCP)?

Key Issue #2: Are the proposed Rezoning and amendment to the BVCP Land Use Designation appropriate for the surrounding context?

- The board gave comments regarding the two key issues in terms of compatibility with the BVCP and if the proposed rezoning and amendment to the BVCP Land Use Designation would be appropriate.
- **C. Gray** stated that the zoning and height would be appropriate and supports the parking garage. She supports the parking garage materials. She suggested that some of the design elements be simplified. She also suggested looking at an additional access from 48th Street.
- **L. May** agreed with the community cycles comments sent to the board. A larger area plan should be thought about and not piecemealed. He suggested that the parking should be thought through even more and that the hospital should work harder toward diverting employees and visitors away from parking at the facility. In terms of the architecture, he stated that the garage design is more successful than care facility. He suggested that the design be more organized.
- **B. Bowen** supports the rezoning. He urged the continuation of the maximization of the sight so the hospital can thrive in this location. He suggested that the applicant pursue uses that can be expanded in the public zone and to ask for a setback variance to create an urban medical campus. He asked the applicants to look at how to conserve their energy usage by both sharing and becoming an eco-district or look at renewables. Finally, he suggested looking at resiliency.
- **L. Payton** stated that it does meet the BVCP policies. She does support the height modification request due to the context and approves of the architecture. She offered to the applicant to put an emphasis on the landscaping.
- **J. Gerstle** agrees with the other board members that the project should move forward. He offered that BCH needs to gain more credibility with respect to transportation demand management with its employees. In his opinion, the most effective way to do this would be to stop providing free parking.

Board Summary:
B. Bowen gave a summary of the board's recommendations. Since this is a Concept Review, no action is required on behalf of the Planning Board. Overall, the board was in unanimous support for rezoning for the public and for City Council to allow building to 55 feet in height. The board supported the idea of an ordinance to allow additional commercial uses beyond merely "accessory" uses to create more of a rich, urban village that would support employees, neighbors and guests. The board asked to carefully consider parking and to get more serious about a transportation demand management plan. This can start with monitoring and collecting data. The board expressed a strong interest in renewable energy, EV parking, PV shading on the garage at

the time of construction. They urged to look at eco-districts and to have a plan for resiliency and to have clear goals for sustainability. The architecture needs to be reviewed. There were mixed comments on the design of the hospital building. The materials for both the parking garage and the facility were acceptable. There was clear inertest in extending the vision beyond and to a master plan by asking what your future growth plans are. The board suggested that the landscaping should be over and above the standards. **L. May** add that the architecture be more organized. The board supported evolving the architecture in a more organized and refined composition.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Planning Board 2016 Retreat

- The board agreed to table this matter to the March 17, 2016 meeting.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 10:46 p.m.

APPROVED BY

Board Chair

3·17·16

DATE

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: May 3, 2016

AGENDA TITLE: Update on the implementation of the Black Bear Protection Ordinance (Ordinance No. 7962)

PRESENTER/S
Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning Housing & Sustainability
Susan Richstone, Deputy Director of Planning, PH&S
Greg Testa, Police Chief
Lesli Ellis, Comprehensive Planning Manager, PH&S
Valerie Matheson, Urban Wildlife Conservation Coordinator, PH&S
Kara Mertz, Environmental Action Project Manager, PH&S
Tom Trujillo, Boulder Police Department Commander
Jennifer Riley, Code Enforcement Supervisor
Janee Boswell, Animal Control Supervisor

EXECUTIVE SUMMARY

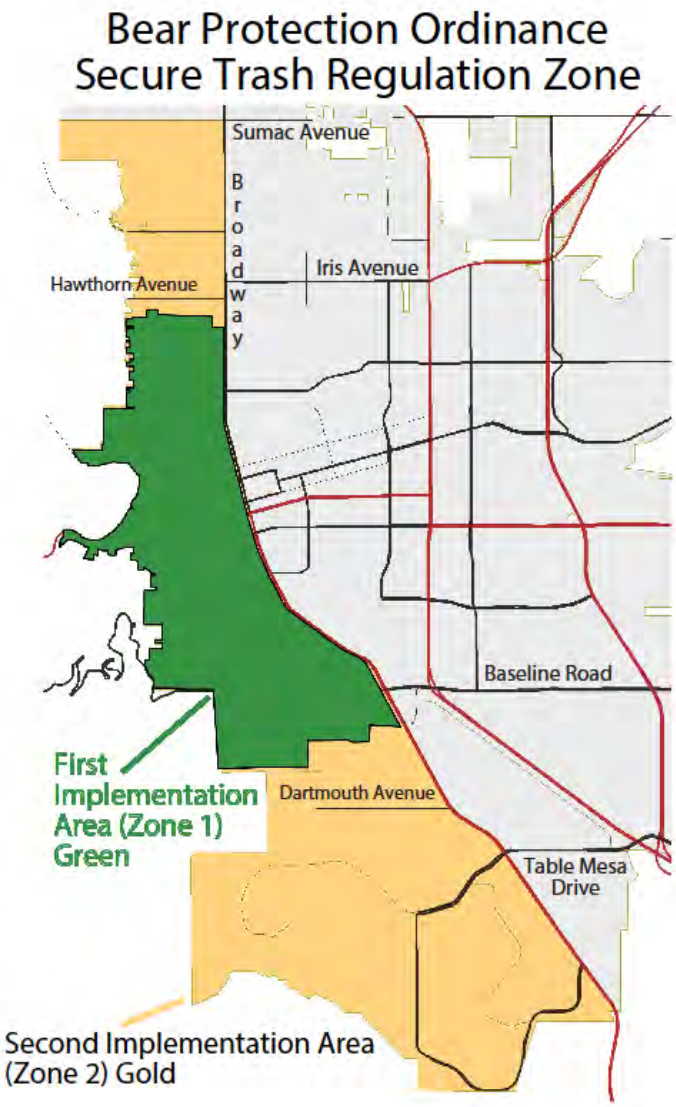
The purpose of this memo is to provide council with an update on the implementation of the Black Bear Protection Ordinance (Ordinance No. 7962, adopted by City Council on March 18, 2014).

This memo includes information on:

- the phased approach to implementing Ordinance No. 7962;
- 2015 urban bear activity in comparison to the past six years;
- waste disturbances by bears and waste cart monitoring; and
- the development of a black bear study in partnership with Colorado Parks and Wildlife (CPW).

Ordinance No. 7962 requires trash and curbside compost containers to be secure from bears at all times within the Secure Trash Regulation Zone. Implementation efforts began in the spring of 2014 and include the following three phases:

- **Phase I**- single family residences with approximately 6,000 trash and compost carts in Zone 1, effective Oct. 1, 2014.
- **Phase II**- commercial and multifamily units comprised of an estimated 580 dumpsters in all of the Secure Trash Regulation Zone, and single family residences with an estimated 8,700 trash and compost carts in Zone 2, effective June 15, 2016.
- **Phase III-** all public waste containers in the entire Secure Trash Regulation Zone in coordination with the implementation of the Universal Zero Waste Ordinance effective date to be determined.



Specific patterns identified in the 2015 urban bear report and monitoring data include:

- In the trash monitoring area (612 residences) bears had knocked over and strewn trash from a similar number of carts in 2015 (five carts) as compared to 2014 (four carts), and considerably fewer than in 2013 (116 carts) and 2012 (142 carts), and
- The proportion of bear reports east of the Secure Trash Regulation Zone (Broadway) was greater in 2015 than previous years.

Though bear activity east of Broadway increased in 2015, staff is not recommending an expansion of the Secure Trash Regulation Zone in response to the past year. 2015 was

the first bear season the ordinance was implemented and a difficult year for bears to find food in natural areas across the Front Range due to a natural food crop failure.

The city and CPW staff are working together to develop a study to gain additional information about how and when bears use the urban area. The goal of the study is to improve human-bear coexistence by better understanding how black bears use the urban area of Boulder.

No council action is requested but staff will be available on May 3, to answer questions.

BACKGROUND

Bear Protection Ordinance

On March 18, 2014 council adopted Ordinance No. 7962 requiring trash and curbside compost containers to be secure from bears at all times in most of the city west of Broadway. (See March 18, 2014 City Council agenda item titled: Consideration of a motion to adopt on third reading Ordinance No. 7962 https://documents.bouldercolorado.gov/WebLink8/0/doc/125025/Electronic.aspx.)

Implementation at the time of the ordinance adoption included a phased approach, hiring additional enforcement staff, and monitoring the effectiveness of the ordinance and bear behavior. For more information on the background of the ordinance see ***Attachment A***.

ANALYSIS

This section includes information about the efforts made, and the information gathered through each phase of Ordinance No. 7962 implementation. The information is organized by each of the three phases of implementation, and includes information on:

- phase timeline, area, and waste containers involved;
- education and enforcement efforts; and
- urban bear activity and waste cart monitoring.

Phase I ordinance implementation (June – Dec. 2014)

Phase I of Ordinance No. 7962 implementation began in the spring of 2014 and included single family residences in Zone 1. During the months of June through September 2014, approximately 3,100 trash, and 2,900 curbside compost bear-resistant carts were put in use at single family residences in Zone 1. This phase also involved: notifying landowners, residents, and property managers about the ordinance requirements, working with local trash haulers to establish a feasible cart distribution and compliance timeline, focused education and enforcement, and monitoring the effectiveness of the ordinance, and bear behavior.

Education and Enforcement
In June 2014, the city mailed 9,392 informational postcards (***Attachment B***) to residents, property managers and landowners that were responsible for waste management in the approximate 7,000 residences and business in Zone 1.

In Sept. 2014, staff began monitoring bear-resistant cart use. (See Waste cart monitoring section below.) Staff observed a pattern of bear-resistant cart misuse (i.e., lids not being latched) and developed an educational door hanger to reinforce the importance of latching the carts (***Attachment B***). These door hangers were distributed by Code Enforcement staff and Boulder Bear Coalition volunteers at locations were cart misuse was observed. On Oct. 1, ordinance enforcement began. Between Oct. 1 and Dec. 1, 2014, Code Enforcement issued 245 warnings. Most of the warnings were for cart misuse, but some were for not storing waste in a bear-resistant cart or enclosure. All properties where warnings were issued voluntarily complied, and the city issued no summonses.

Urban bear activity
Reported bear activity from 2009 through 2013 showed only one report of a bear west of Broadway and north of Sumac (Wonderland Lake)**.** In 2014, the pattern of activity looked different with several bear reports north of Sumac and west of Broadway (***Attachment C***). The number of reports north of Sumac was greater (13 reports) than in previous years (8 reports total 2009 to 2013).

In 2014 there were factors independent of secure trash and compost containers that contributed to less urban bear activity. These factors included: (1) good natural and domestic fruit tree production (though some of the drainages and fruit producing vegetation west of town were scoured by the flood of 2013); and (2) a lower number of bears in the area in 2014 because four habituated bears were killed in Boulder in 2013 which lowered the number of bears in the area in 2014.

Waste cart monitoring
In 2012 and 2013, (prior to Ordinance No. 7962 requiring trash to be secure from bears) the City of Boulder partnered with Colorado Parks and Wildlife (CPW) to monitor trash violations including trash being strewn by bears in the area that is now encompassed by the Secure Trash Regulation Zone (for 2013 Bear Education and Enforcement Pilot Final Report including waste cart monitoring route and methods visit: www.boulderwildlifeplan.net "Background"). In the fall of 2014 staff monitored the same route to compare trash storage practices prior to and after the implementation of Ordinance No.7962. The monitoring route included 612 single

family homes and was conducted for 12 days in 2014, and compared to12 days of monitoring data collected in the fall of 2012 and 2013.

Staff monitoring (**Table I**) and community reports suggest there were fewer trash cart disturbances in 2014 compared to previous years. Staff received feedback from the community that alleys west of Broadway looked substantially cleaner and have had less trash strewn.

***Phase II ordinance implementation* (Feb. 2015- Dec. 2016)**

Phase II of Ordinance No. 7962 implementation includes changing approximately 580 dumpsters in use in the Secure Trash Regulation Zone to bear-resistant dumpsters and changing approximately 4,400 trash carts and 4,300 curbside compost carts with bear-resistant carts at single family residences throughout Zone 2. Residents in Zone 2 began receiving their fully-automated, retrofitted, bear-resistant carts in February 2015. Some residents, particularly older adults, expressed concerns with the weight of the carts when moving them to and from the curb. City staff and Western Disposal explored ways to accommodate all residents and as a result, Western began testing lighter versions of the cart and the city pushed back the enforcement date from June 15, 2015 to June 15, 2016. This change allowed the city and Western Disposal to fully examine options for increasing the usability of bear-resistant carts and dumpsters, and allowed residents who were challenged by the weight of the new carts to use their regular, non-bear resistant carts for up to one year without receiving a fine. Western Disposal tested and certified lighter versions of the fully automated 32, 64 and 96 gallon bear-resistant retrofitted carts at the Grizzly and Wolf Discovery Center in Montana in 2015.

There have been two ordinance exemptions requests from multifamily units (Presbyterian Manor and Juniper Townhomes HOA). The exemptions were requested due to potential challenges for some residents with physical impediments using the heavy lids on bear-resistant dumpsters. Staff has not pursued ordinance exemptions as council specifically considered challenges with the use of bear resistant containers during the ordinance development and allowed for covered enclosures. Council member comments (Sept. 1, 2015 City Council meeting) indicated they would like to see the ordinance strictly enforced. Staff believes allowing opportunities for unsecured trash in the Secure Trash Regulation Zone will lead to reducing the effectiveness of the ordinance. Staff is working with property managers to explore options for trash enclosures, or other ways to be in compliance with the ordinance.

Phase II also includes focused education and enforcement, and monitoring urban bear activity and waste carts to evaluate the effectiveness of the ordinance.

Education and Enforcement

The City of Boulder partnered with Colorado Parks and Wildlife to educate residents within the enforcement area about the ordinance and the bear resistant containers. CPW volunteers were provided with educational door hangers by the city (***Attachment B***) to distribute to households where volunteers observed violations such as bins not being latched or closed properly, overflowing garbage or compost, broken containers, or containers that were not bear resistant. Over 300 residences were provided with these door hangers over the course of more than 20 volunteer days. Additionally, University of Colorado's office of Off Campus Housing distributed postcards about the ordinance and the importance of properly using bear-resistant dumpsters to returning students as part of their move in packets and welcome bags.

For 2015, 952 trash violations were issued in the Secure Trash Regulation Zone. There were 321 summonses issued; most were for cart misuse, and some were for not storing waste in a bear-resistant container. Code Enforcement utilized a comprehensive enforcement approach that included enforcement of four different trash regulations that pertain to how waste containers must be stored, and when containers can be put out for collection. Some properties were cited for a combination of violations for not securing trash. Though properties within the Secure Trash Regulation Zone are not required to obtain bear-resistant dumpsters until June 15, 2016, properties that have obtained them are expected to use them correctly (dumpsters left in the open position are subject to a summons). Staff have received concerns from some residents who store waste containers in alleys and experience unauthorized use of their waste containers. In these instances, residents claim unauthorized users are accessing the containers and leaving them unsecured. Examples include: trash carts unlatched by dog walkers to dispose of dog waste; people rummaging through trash, and illegal use of dumpsters. Some properties have unique challenges that need to be addressed in complying with the requirements. In these instances staff works with the community to better understand the obstacles to compliance with the ordinance. Solutions that have worked for some properties include: storing carts off the alley, locking dumpsters, reporting illegal dumping when it occurs, constructing a trash enclosure or structure on the property (requires exploring zoning requirements for construction), and communicating with the adjacent property and possibly sharing trash costs and responsibility if the placement of the dumpster benefits adjacent residents too.

2016 efforts will include:

- continued focused education in partnership with CU off campus housing, area property management companies, to ensure student move-in packets, and welcome bags, include information about secure trash requirements;

- continued educational efforts in partnership with CPW, and the Boulder Bear Coalition to provide information about secure trash options to residents within and outside the Secure Trash Regulation Zone if there is a pattern of bear activity east of Broadway or north of Sumac in 2016;
- enforcement of dumpsters in the Secure Trash Regulation Zone and residential carts in Zone 2 will begin on June 15, 2016; and
- an additional Code Enforcement officer is expected to be hired in May 2016 to enforce Ordinance No. 7962 in addition to enforcing other laws that pertain to quality of life issues.

Urban bear activity

Reported bear activity from 2009-2014 showed very little activity east of Broadway, but in 2015 there was a greater proportion of bear reports east of the Secure Trash Regulation Zone than in previous years particularly in the area east of 19th street west of 28th street. In 2015 the police dispatch records for bear calls was included in the database, greatly increasing the number of reports being plotted on the Reported Bear Sightings map for that year (***Attachment D***). For 2015, the additional bear report source creates the appearance of increased bear activity in 2015; however, it is important to note the actual number of reports in 2015 from our historic sources (reports to CPW, Open Space and Mountain Parks staff, and Urban Wildlife Coordinator) was 116 which is in keeping with the number of reports from previous years (57-167 reports).

The city will continue to monitor and evaluate activity beyond the Secure Trash Regulation Zone to determine whether 2014 and 2015 observations of bear activity beyond the Secure Trash Regulations Zone will continue and thus necessitate expansion of the regulation area in the future. It is important to note 2016 will be the first year of enforcement for the entire Secure Trash Regulation Zone (including dumpsters and single family resident carts). The environmental conditions, including a lack of natural food sources for bears in 2015 may have been more of a driving force for bear activity east of Broadway than an indicator that the area where trash is secured is not large enough. For these reasons, city and CPW staff are not recommending expansion of the Secure Trash Regulation Zone at this time. Staff's assessment is there is not enough information obtained from one season of bear activity in the midst of implementing a new waste storage program to identify changes in bear behavior as a result of the program.

<u>Partnership with Colorado Parks and Wildlife (CPW) to better understand how bears are using the urban areas of Boulder in 2016</u>

CPW has proposed working with the City of Boulder on a study of Black Bear use within city limits. The study would involve putting three to five Global Positioning System (GPS) Collars on bears that are using the urban area, for the next three years.

The study is not expected to produce statistically significant results but rather provide anecdotal information about how individual bears use the urban area. Having a better understanding of how bears use the urban area will allow for more informed policy development and help the community protect bears, community members and improve overall human-bear co-existence. Specific study objectives include:

- Determine bear locations and movement patterns.
  Much of the city policy development is based on resident reports of bear presence, however, much of the urban bear activity goes unreported and likely unnoticed.

- Determine temporal patterns (night/day) to better understand and inform the community on normal bear behavior.

- Determine locations where bears are in frequent close contact with humans to help us determine identify locations where human bear conflicts are more likely and where proactive education efforts would be effective at minimizing human conflicts.

- Determine what percentage of time collared bears spend in the city- to better understand how bears function across the landscape.

- Determine if there are den sites within the city to identify what types of physical features facilitate and/ compatible with bears denning.

- Verify the reliability and consistency of community reports compared to actual bear locations to determine how often bears are reported in town and to evaluate if that is a reliable way to measure bear activity.

- Help to determine if the coverage area of the trash storage ordinance is appropriate and over time if the pattern of usage is shifting from west of Broadway to east of Broadway.

- Identify movement corridors within the city and locations where bears immigrate/emigrate from the city.

Open Space Board of Trustees

On Nov.16, 2015, staff provided the Open Space Board of Trustees (OSBT) an update on preliminary aspects of the study. One board member expressed concern for the misconception in the community that reporting a bear would result in a “strike” meaning the bear would get moved or euthanized if reported. Staff clarified that the circumstance that has become known as a “strike” is when a bear’s activity or location triggers CPW to relocate an animal, and bears are generally not relocated a second time. Hundreds of reports of bear activity are received by the city and CPW, and euthanizations and relocations are relatively rare events. Another board member

expressed support for ensuring that animals involved in the study (collared animals) would not be more likely relocated or euthanized due to involvement in the study.

Environmental Advisory Board
On April 6, 2016 staff provided the Environmental Advisory Board (EAB) an update on the implementation of the ordinance. Staff received questions on bear activity, and the effectiveness of collaring bears to gain information to improve co-existence. Staff committed to making the study proposal available to the public after it is developed to better to allow for feedback on effectiveness and cost benefit analysis.

Waste cart monitoring (for additional information on monitoring route and methods see *Phase I ordinance implementation (June – Dec. 2014) section)*
The monitoring route in the Secure Trash Regulation Zone included 612 single family homes and was conducted for 12 days in 2015, and compared to12 days of monitoring data collected in the fall of 2012, 2013, and 2014. The monitoring route was established in 2012 and is being used to compare trash storage practices prior to and after the implementation of Ordinance No.7962.

The monitoring showed fewer trash carts knocked over and strewn in after implementation began 2014 (four carts) and 2015 (five carts), compared to 2013 (116 carts) and 2012 (142 carts) (see **Table I**).

All of the residences along the monitoring route had bear-resistant trash and compost carts, however, there were 96 observations of unlatched trash carts, and 161 observations of unlatched compost carts. In these cases the carts were not overflowing, the lid had just not been pushed down to engage the locking mechanism. In addition to the five trash containers that trash strewn by bears (shown in Table I) there was on compost cart and two recycling carts that had also been strewn by bears. In addition, there were 15 observations of carts that were visibly broken.

Table I. Number of observed trash violations* at 612 residences in the Bear Ordinance Secure Trash Regulation Zone during 12 monitoring days between Sept. 16, and Oct. 30, over the past four years.

Year	Total Trash Violations	Unique Addresses	Bear-Caused Violations (Trash Strewn)	Percent of Total Caused by Bears
2012	145	113	142	97.9%
2013	120	71	116	96.7%
2014	42	35	4	11.6%
2015	8	7	5	62.5%

**violations include B.R.C. 6-3-3, and B.R.C 6-3-5(a)(1) requiring trash to be stored in containers that are not overflowing, and their contents are not scattered by animals*

Phase III ordinance implementation

For Phase III, distribution of public waste containers is being coordinated with the implementation of the Universal Zero Waste Ordinance (Ordinance No. 8045 accepted by council on June 16, 2015).

The city is exploring design options for bear-resistant public compost and trash receptacles while assessing the city's needs for additional recycle and compost bins to comply with the Universal Zero Waste Ordinance. This assessment will take the form of a strategic assessment of new bin needs as well as an identification of areas where trash cans may no longer be needed. Findings of this strategic assessment will guide the timeline and prioritization for capital investments and final implementation to secure public waste containers from bears.

NEXT STEPS

- Develop timeline for "Phase III" of implementation which will include transitioning all city managed public waste containers in the entire Secure Trash Regulation Zone. This date is expected in 2017 but has not yet been determined

ATTACHMENTS

A: Supplemental Background Section
B: Educational Materials: Postcard and Door Hanger
C: Map of 2014 Reported Bear Sightings Compared to 2009-2013
D: Map of Reported Bear Sightings 2009-2015

BACKGROUND

Bear Protection Ordinance

On March 18, 2014 council adopted Ordinance No. 7962 requiring trash and curbside compost containers to be secure from bears at all times in most of the city west of Broadway (see March 18, 2014 City Council agenda item titled: Consideration of a motion to adopt on third reading Ordinance No. 7962 https://documents.bouldercolorado.gov/WebLink8/0/doc/125025/Electronic.aspx).

Implementation at the time of the ordinance adoption included the following elements:

- a phased approach beginning with alleys where waste containers are stored 24 hours a day, 7 days a week, and experience the most visible trash disturbances by bears;
- hiring two additional Code Enforcement staff to support the new ordinance in addition to enforcing existing quality of life ordinances; and
- monitoring the effectiveness of the ordinance, changes in enforcement, violations, and bear behavior.

Phased implementation

Due to the large area included in the ordinance and thousands of trash and compost containers that need to be changed or modified, the ordinance is being implemented and enforced in a phased approach. The phased approach identifies two sub-areas, or zones within the entire Secure Trash Regulation Zone. The first implementation area was the highest priority for securing waste from bears and includes properties with trash pick-up in alleys (Zone 1). The second implementation area includes the remainder of the properties in the Secure Trash Regulation Zone (Zone 2).

The phased approach includes the following locations, and timeline:

- **Phase I**- single family residences in Zone 1, effective Oct. 1, 2014.
- **Phase II**- commercial and multifamily units (dumpsters) in the entire Secure Trash Regulation Zone, and single family residences in Zone 2, effective June 15, 2016.
- **Phase III-** all public waste containers in the entire Secure Trash Regulation Zone, effective date to be determined.

Hiring additional Code Enforcement staff

In 2014, two additional Code Enforcement positions were created to execute the enforcement of Ordinance No. 7962 in addition to enforcing other laws that pertain to quality of life issues. The positions included one officer and one administrative assistant.

Monitoring ordinance effectiveness, violations, and bear behavior

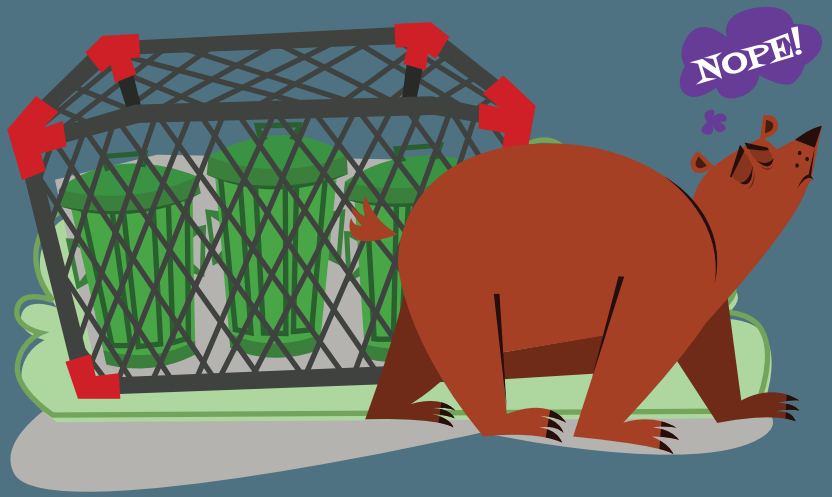
For the past seven years the city has been maintaining a database of reported bear sightings and the attractants associated with the bear activity. The number of reported bear sightings varies

from year to year and is not considered a representation of actual bear activity because much of the urban bear activity goes unreported. The bear report database is helpful in providing information about the pattern of urban bear activity over time and was used in establishing the Secure Trash Regulation Zone. In addition, in 2012 and 2013, the city, in partnership with Colorado Parks and Wildlife (CPW), monitored compliance with trash ordinances and bear activity in waste containers along an established monitoring route in western Boulder as part of the Black Bear Education and Enforcement Pilot. (For final report visit: www.boulderwildlifeplan.net "Background".) In 2014 and 2015, city staff continued monitoring trash violations and bear-resistant cart misuse along the same monitoring route established for the Pilot, to help evaluate the effectiveness of the ordinance.

Factors that cloud interpreting cause and effect change in bear behavior

Urban bear behavior in Boulder can be highly variable from year to year and is dependent on a variety of dynamic environmental factors. For example, in wet years with no late spring freeze, food production in natural areas is high, and pressure on bears to search for human-based food sources in town is lower. Similarly, prior to 2008 (and particularly in 2007) bear activity in south Boulder seemed to be greater than bear activity in north Boulder. That pattern of behavior seems to have shifted in recent years but not necessarily due to any programmatic or environmental change. Sometimes individual bears and their offspring have a preference for an area and these individual preferences change over time. For these reasons, the city cannot look at one season of bear activity after initiating a new waste storage program and identify changes in bear behavior resulting from the program.

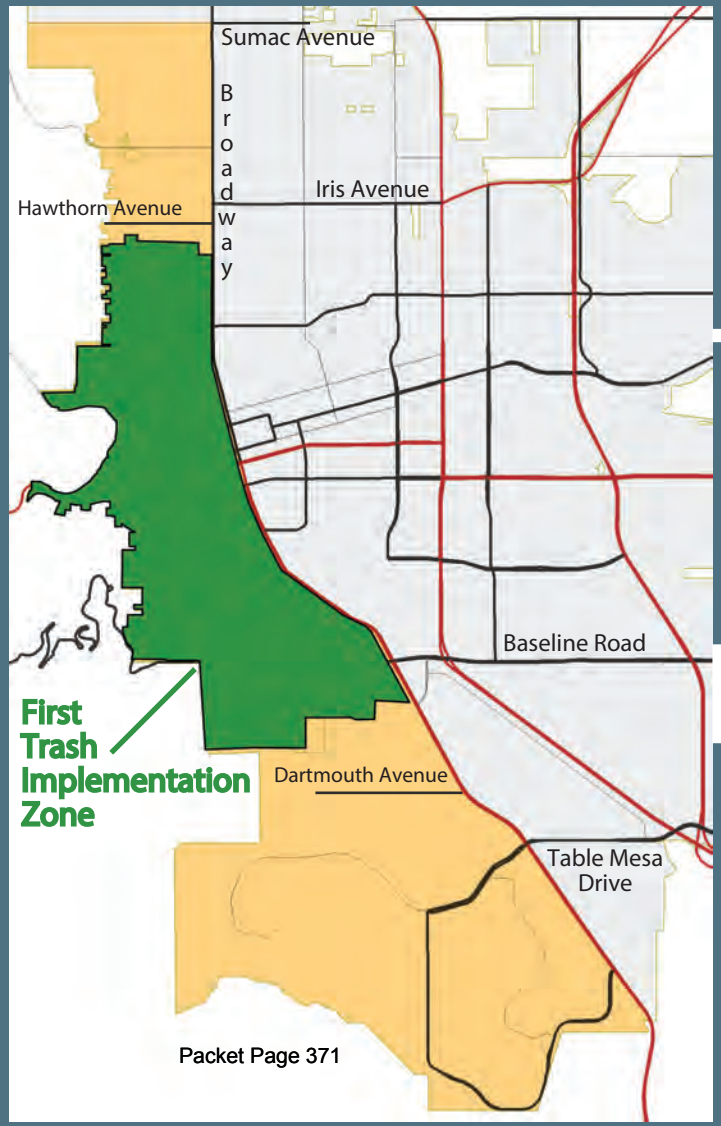
PROTECT BOULDER'S BEARS



NEW CITY OF BOULDER ORDINANCE

Your trash and compost must be secured at all times until it is collected by a trash hauler.

All containers, dumpsters or enclosures must be bear-resistant.



Storage requirements are available at www.boulderwildlifeplan.net.

Waste haulers will provide details about the options and services.

Secure Trash Regulation Zone (Gold)

The ordinance applies to all properties west of Broadway to the western city limits, south of Sumac Avenue to the southern city limits.

First Trash Implementation Zone (Green)

Implementation of the new storage requirements will begin in summer 2014.

The fine for a first offenses is $250.
Code enforcement officers may issue tickets in-person or give property owners citations via email, mail, or printed notification.

PROTECT BOULDER BEARS

Your trash and compost must be secured **at all times** until it is picked up by a waste hauler.

AVOID GETTING FINED

If your trash and compost carts or dumpsters are not bear-resistant, contact your waste hauler for options.

For details about the waste storage requirements, call 303-441-3004 or visit www.boulderwildlifeplan.net.

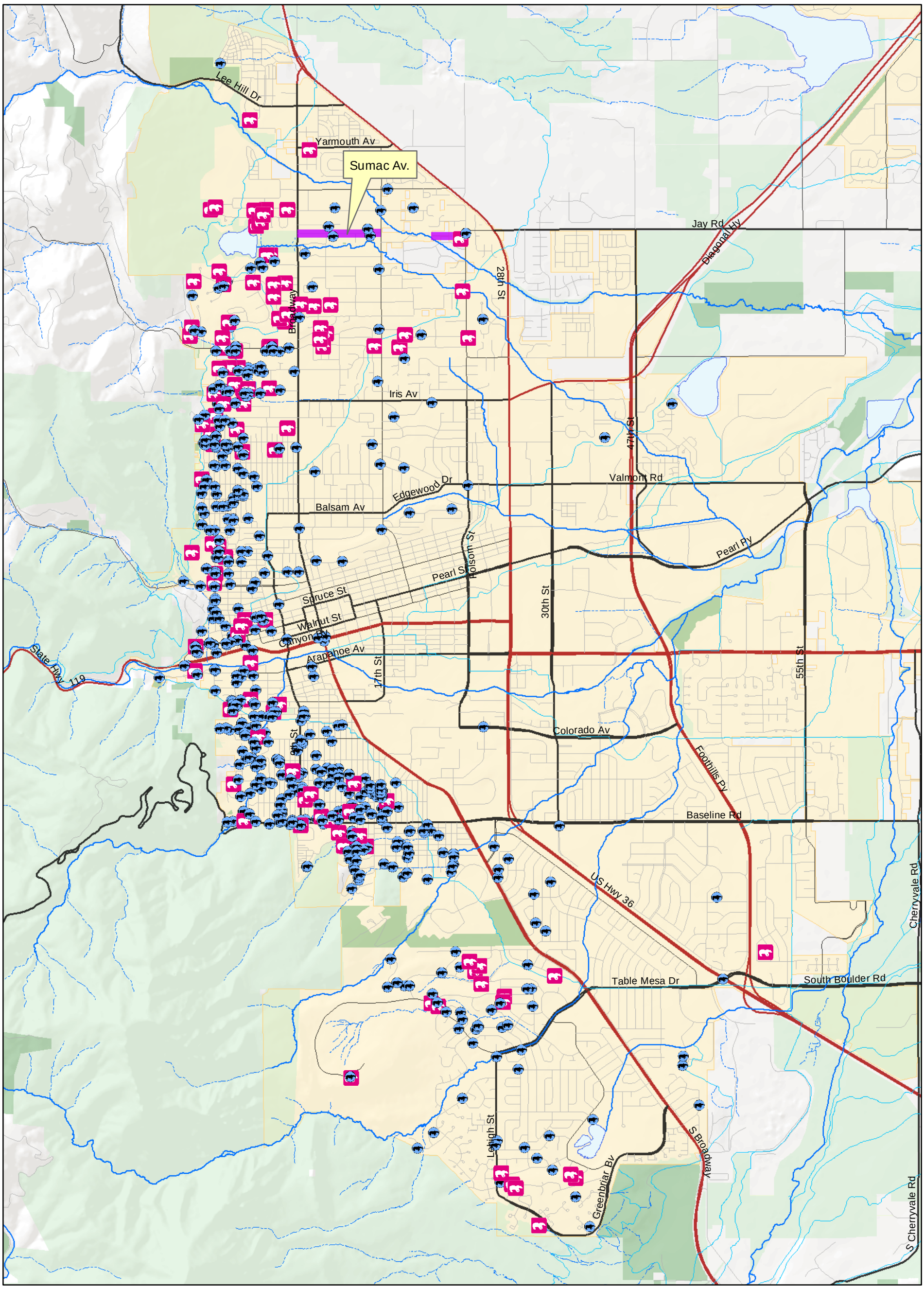
LATCH YOUR CONTAINERS

All trash and compost carts, containers, dumpsters, or enclosures must be bear-resistant, remain latched at all times, and not overflow.

Officers are now enforcing these requirements.

Reported Bear Sightings 2009 - 2014

Within City of Boulder Limits



Bear Sightings

Year

- 2014
- 2009-2013
- Sumac Avenue

- Major Lakes
- City Limits
- Open Space and Mountain Parks Property
- Conservation Easement
- Fee Property
- Miscellaneous Easement

- Alley
- Highway
- Local Street
- Major Road
- Minor Road

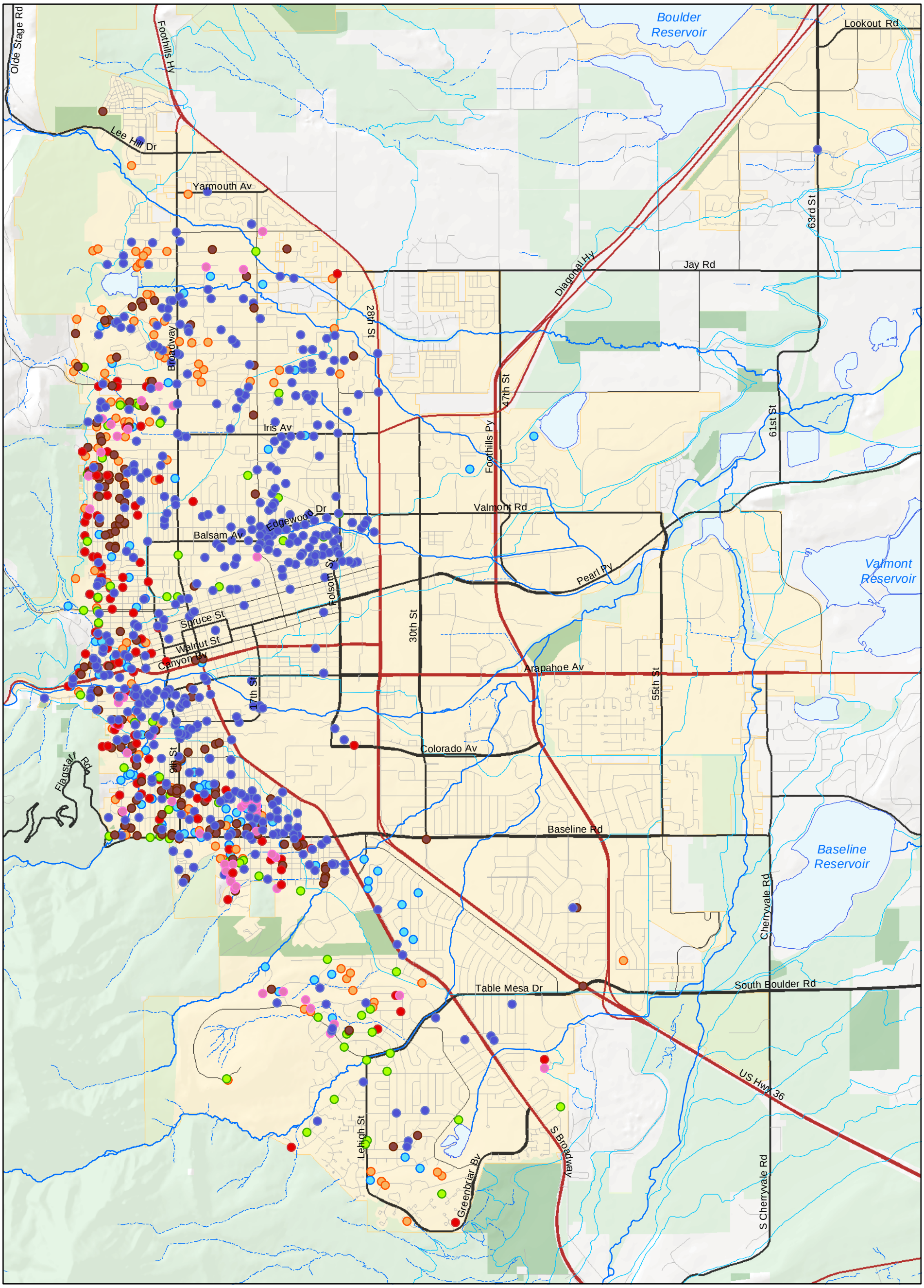
- Creek
- Creek, Intermittent
- Ditch

0 0.25 0.5 1 Miles

Urban Wildlife Management Plan

Reported Bear Sightings 2009 - 2015

Within City of Boulder Limits



Bear Sightings by Year
- 2009- 72 reports
- 2010- 101 reports
- 2011- 57 reports
- 2012- 167 reports
- 2013- 118 reports
- 2014- 127 reports
- 2015- 538 reports*

Major Lakes
City Limits
Open Space and Mountain Parks Property
Conservation Easement
Fee Property
Miscellaneous Easement

Alley
Highway
Local Street
Major Road
Minor Road

Creek
Creek, Intermittent
Ditch

0 0.25 0.5 1 Miles

*Includes 422 calls to Police Dispatch

Urban Wildlife Management Plan

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: May 3, 2016

AGENDA TITLE: Consideration of a motion to create a Middle Income Housing Strategy Working Group.

PRESENTERS
Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing + Sustainability
Susan Richstone, Deputy Director for Planning
Kurt Firnhaber, Deputy Director for Housing
Jeff Yegian, Housing Planning and Policy Manager
Jay Sugnet, Project Manager, Housing Boulder
Crystal Launder, Housing Planner

EXECUTIVE SUMMARY

The purpose of the motion is to provide a clear structure, process and scope for a working group comprised of City Council and Planning Board members to work with staff on developing a draft Middle Income Housing Strategy (MIHS) as a new component within Boulder's Comprehensive Housing Strategy. The strategy is expected to provide a housing policy framework, including community priorities for action and specific tools to help meet the adopted Housing Boulder goal to "Maintain the Middle."

At Council's Feb. 23 and Mar. 29, 2016 study sessions, staff and consultants presented the Middle Income Housing Study prepared by BBC Research and Consulting and proposed areas of focus and a range of potential interventions to address the loss of middle income households in Boulder. This memo proposes a process, structure and scope to move forward with a middle income housing working group comprised of members from City Council and Planning Board. The working group will work with staff to develop an overall Middle Income Housing Strategy, identifying short-, medium-, and long-term actions to address the loss of middle income households in Boulder.

This memo includes a discussion of other issues that were raised at the Feb. and Mar. study sessions, including the demolition of single family homes and accessory dwelling units. Finally,

the areas of focus for a middle income strategy proposed by staff were modified based on Council input at the study sessions, see **Attachment A**.

STAFF RECOMMENDATION

Suggested Motion Language:
Staff recommends Council consideration of this action in the form of the following motion:

Motion to create a working group comprised of three City Council members and two Planning Board members for the purpose of working with staff to develop a draft Middle Income Housing Strategy, as defined in the process and scope proposal in sections II. and III. of the staff memo.

I. PROGRESS ON HOUSING ISSUES

Progress is being made on the Housing Boulder Action Plan approved by Council in September 2015 and affirmed at the Council's annual retreat in January 2016. The following items are either completed or have achieved significant milestones:

- Short term rentals – Council adopted changes to the regulations and implementation via a new Short Term Rental License program is underway;
- Linkage Fee Study – Initial analyses have been completed; a working group has been meeting; Council held a study session in April 2016; study session scheduled in June to discuss options for fee changes; fees will be updated as part of 2017 budget process;
- Palo Park Family Housing – Successfully annexed, completed Concept Review, and currently in for Site Review;
- Cooperative Housing – Planning Board hearing was held April 21; Council second reading on May 3;
- One to One Replacement Ordinance – Staff is drafting a proposal for Council consideration this summer;
- Ponderosa Mobile Home Park – Staff continues to work with the owner and the city's partner organizations to explore options for accomplishing community goals;
- City-owned Site at 30th and Pearl – A consultant has been retained to conduct analysis of development alternatives for the site; results will be presented to Council in at a study session on August 31;
- Comprehensive Plan – A consultant team has been engaged and work is underway to develop and analyze alternative land use scenarios, including analysis of alternative residential mixes and housing prototypes; work will be closely coordinated with the Middle Income Housing Strategy process; housing prototypes will be tested against existing regulations to identify potential barriers.

II. WORKING GROUP PROCESS PROPOSAL

Problem Statement:

The share of middle income households in Boulder has declined 6 percent since 1989. The inventory of homes affordable to middle income households (earning between 80-150 percent area median income) has decreased over the past 15 years. Without intervention, middle income housing opportunities in Boulder will continue to erode.

Purpose:

The working group will work with staff to develop a draft Middle Income Housing Strategy as a new component within the city's Comprehensive Housing Strategy. The draft strategy will define metrics of success and identify short-, medium-, and long-term actions to address the loss of middle income households in Boulder.

Working Group Composition:

- 3 members of City Council
- 2 members of Planning Board

At a regular meeting, City Council and Planning Board will each vote to select representatives to the working group. Members from other city advisory boards may be invited to join the conversation depending on the topic discussed.

Meeting Frequency and Duration:

The group will meet 2 - 3 times per month at a time and day to be determined by a poll of members, starting in late May and ending in October. The meeting duration will be 1.5 - 2 hours.

Decision Making:

The working group is not a decision making body. The role of the group is to work with staff to understand the issues, identify potential interventions and evaluate those interventions for consideration by the full Planning Board and City Council. The working group's discussion will inform development of a draft Middle Income Housing Strategy for consideration and potential adoption by the full Planning Board and City Council.

III. WORKING GROUP SCOPE OF WORK

In an effort to create a manageable scope of work for the group, staff proposes the following three topics for discussion. Additional topics that were raised at the Middle Income study sessions are discussed in Section IV, along with a discussion of the implications of expanding the scope beyond this proposal.

1. Modify the Current Goal for Middle Income Housing
2. Identify Funding Options for Middle Income Housing
3. Define and Adopt Community Benefit Policies and Tools to Preserve and Create Middle Income Housing

1. Modify the Current Goal

What is the Problem? The current goal of 450 permanently affordable middle income housing units is not sufficient to address the loss of middle income households in Boulder.

Potential Interventions

A. Adopt a more ambitious goal for middle income housing. Options include tying the goal to a percentage of the overall housing stock or the percentage of middle income households in Boulder.
B. Define metrics of success for maintaining and expanding opportunities and choices for middle income households, including both permanently affordable options and market-rate options.

2. Identify Funding Options

What is the Problem? Currently, the only mechanism for acquiring permanently affordable middle income housing is through annexation. In addition, investing in middle income housing is currently not an eligible use of the city's affordable housing funds. Therefore, additional funding may be necessary to address the challenge while maintaining the current commitment to housing for low and moderate income households.

Potential Interventions

A. Explore investing public funds in creating and preserving middle income housing options.
B. Expand the current affordable housing linkage fee on nonresidential development to address middle income housing needs (currently being explored as part of the Development Fee Studies).
C. Create a new tax, or raise existing taxes, to fund middle income housing units (e.g., occupational tax, hotel/accommodations tax, general sales tax, and property tax).

One option for using additional funding sources is to create a down-payment assistance program for middle income households. In exchange for the subsidy, the homeowner would agree to 1) a deed restriction to maintain permanent affordability to middle income households, 2) share the home's appreciation through repaying a loan that would revolve, or 3) a combination of both.

3. Define and Adopt Community Benefit Policies and Tools

What is the Problem? There is a perception that new development is not providing sufficient community benefit. Many Council members have expressed concerns that the city's current policies and codes are driving larger and more expensive units that are not affordable to middle income households.

Potential Interventions

A. Adopt policies requiring a higher level of community benefit for annexations. For example, require specific housing types that would be affordable to middle income

households (attached, smaller in size, access to a yard, etc.) for both market and permanently affordable units.

B. Adopt policies providing guidance for community benefit for an increase in development potential through land use or zoning changes. Amend regulations to require additional affordable housing for any rezoning that increases development potential.
C. Explore options to amend the current Inclusionary Housing (IH) regulations including: requiring or incentivizing on-site units, increasing IH requirements, adding a potential middle income housing requirement.
D. Identify barriers to smaller units and/or incentives for larger units and consider related regulatory and other changes.

III. OTHER ISSUES RAISED

A. Single-Family Home Demolitions and Large Homes

Modest homes throughout Boulder are being demolished and replaced with significantly larger homes. Several City Council members described the issue as a crisis and characterized it as one factor causing Boulder to "lose its soul." Staff prepared an analysis (see **Attachment B**) of single-family demolition and new construction permits issued from 2005 to March 31, 2016. Below are some highlights:

- Scale of Issue. During the eleven-year period from 2005 to 2015, 270 demolition permits were issued for single-family homes that would be replaced by new single-family homes. This represents 1.4 percent of single-family detached homes in the city.
- Trend. Since 2005, it appears that single-family demolition permit issuance in Boulder may be leveling off around 30 permits annually.
- Size of New Homes. The average finished floor area of the demolished homes was 2,141 square feet. The new homes that replaced older homes averaged 4,132 square feet, with an average gain of 2,204 square feet.
- Affordability. Sixteen demolitions and rebuilds were matched with pre and post demolition sales data, a sample size too small for absolute conclusions. Of these, six were affordable to some segment of middle income households prior to demolition permit issuance and two were middle income affordable after the demolition permit was issued.
- Location. Nearly three quarters of demolition/rebuild activity was focused in Central Boulder and 15 percent in North Boulder. The zones with the greatest concentration of demolition/rebuilds are the RL-1 zone (71 percent) and the rural residential zones (RR-1, RR-2, and RE) with a combined 20 percent of the demolition/rebuilds.

Potential Interventions

A. Institute a temporary maximum square footage for all new homes and remodels.
B. Prohibit all demolitions.
C. Analyze drivers in current regulations that encourage new homes to be large (in progress through BVCP).
D. Identify and evaluate interventions/incentives to prevent the demolition of modest homes – allow subdivisions, allow ADUs/OAUs, prohibit scrapes permanently, permanently cap square footage.

Work Plan Implications
The last time Council addressed this issue was in 2009 as part of the Compatible Development Project. The effort took more than a year and a half and involved an extensive community discussion. Based on past experience, addressing this issue in the near-term would require significant tradeoffs such as postponing work on a Middle Income Housing Strategy.

B. Accessory Dwelling Units / Owner Accessory Units

Council members have repeatedly requested action on making ADUs and OAUs easier to permit and build. Staff proposes that once the Co-operative Housing project is complete, staff from Planning, Housing and Sustainability will work with the City Attorney to address ADUs and OAUs. If Council agrees with this approach, it would not entail a full overhaul of the regulations. The legislative approach is more appropriate for minor modifications to the requirements. If this approach is supported, staff will schedule a study session with Council focused on ADUs and OUAs following adoption of changes to the Co-op Housing Ordinance as a first step in the legislative process.

IV. NEXT STEPS

Assuming Council passes the motion to form the working group, the Housing Boulder Process Committee will suspend meetings while the Middle Income Housing Strategy working group deliberates. All community engagement efforts for Housing Boulder will be coordinated with the Boulder Valley Comprehensive Plan and guided by the BVCP Process Committee. Several of the Housing Boulder action items will continue to utilize separate public engagement processes (e.g., Palo Park, 30th and Pearl, Cooperative Housing). Upon completion of the BVCP process, staff will return to Council to discuss completion of the full Comprehensive Housing Strategy.

For more information, please contact Jay Sugnet at sugnetj@bouldercolorado.gov, (303) 441-4057, or www.HousingBoulder.net.

ATTACHMENTS
A. Refined Areas of Focus
B. Single-Family Demolitions and Large Homes

Refined areas of focus for a Middle Income Housing Strategy

1: Focus on homeownership opportunities for middle income households.
Because market-rate rentals are largely middle income affordable, the city should explore and adopt tools that support provision of for sale housing that is affordable to middle income homebuyers. It will be important to monitor this trend into the future and if rental affordability becomes an issue, as it has in other high housing cost communities, it will warrant a future update to the Middle Income Housing Strategy.

Although rentals are affordable, the 2013 Housing Choice Survey illustrates that many rentals do not meet people's preferences. In particular, seniors and families with children may be able to afford rentals in Boulder but are choosing to live in surrounding communities in housing that meets their preferences (e.g., outdoor space, larger units).

2: Focus on attached housing types for new development.
The *Middle Income Housing Study* found that only 17 percent of detached homes for sale in 2015 were affordable to middle income households. The median detached home sales price in 2015 was $750,000 while the median sales price for attached homes was $305,500. The total costs, driven by land costs, of building detached products, even very small units, make it unlikely that detached products could fill the middle income housing need without very high levels of per-unit subsidy. The study also found that attached homes retain affordability better than detached homes. This is due to several factors: attached homes tend to be smaller; they are more difficult to expand over time through additions; and the land value—which is the primary driver of price appreciation—is distributed over multiple units or restricted in size. This suggests that Boulder should support the provision of a greater variety of attached housing that appeals to middle income households (e.g., townhomes or courtyard cottages with access to a small yard).

3: Focus on the preservation of existing middle income housing where cost effective.
The *Middle Income Housing Study* shows that a significant percentage of the city's middle income households today live in single-family detached housing throughout the city. As these homes turn over at current market prices, they will be replaced with higher income households. To "maintain the middle," it is essential to look at ways to preserve the affordability of the existing housing stock.

Large Homes and Scrapes

During the Middle Income Housing Study City Council Study Session held on March 29, several council members identified the phenomenon of large single-family homes replacing older, smaller homes as an urgent concern. To better understand the scope and nature of the issue, city staff reviewed single-family demolition and related new construction permits issued since 2005.

Highlights

- Scale of Issue. During the eleven-year period from 2005 to 2015, 270 demolition permits were issued for single-family homes that would be replaced by new single-family homes. This represents 1.4 percent of single-family detached homes in the city.
- Trend. Since 2005, it appears that single-family demolition permit issuance in Boulder may be leveling off around 30 permits annually.
- Size of New Homes. The average finished floor area of the demolished homes was 2,141 square feet. The new homes that replaced older homes averaged 4,132 square feet, with an average gain of 2,204 square feet.
- Affordability. Sixteen demolitions and rebuilds were matched with pre and post demolition sales data, a sample size too small for absolute conclusions. Of these, six were affordable to some segment of middle income households prior to demolition permit issuance and two were middle income affordable after the demolition permit was issued.
- Location. Nearly three quarters of demolition/rebuild activity was focused in Central Boulder and 15 percent in North Boulder. The zones with the greatest concentration of demolition/rebuilds are the RL-1 zone (71 percent) and the rural residential zones (RR-1, RR-2, and RE) with a combined 20 percent of the demolition/rebuilds.

Methodology

On March 31, city staff provided Daily Camera reporter Erica Meltzer with requested demolition and new construction permit data from 2010 to present. These data informed the April 9, 2016 article *As 'monster' homes rise, should Boulder trade size for density?*

City staff began analysis related to this issue using this same data set. In order to focus on demolitions and new construction activity that represents scrape and rebuilds, city staff reviewed the list of residential demolition permits provided and eliminated the following from analysis:

- Demolition permits issued for accessory structures only (e.g., garage, sheds);
- Demolition permits issued for multifamily structures;
- Nonstructural interior demolition permits, which don't change the exterior of the building;
- Demolitions permits that resulted from the 2013 flood event and other disaster events (e.g., house fires);
- Demolition permits with "null and void", "denied" and "withdrawn" statuses;
- Demolition permits issued for properties owned by nonprofit housing developers such as the housing authority (Boulder Housing Partners); and

- Demolition permits issued for mobile homes.

The demolition permits that remained were then matched with new construction permits. The demolition permits were then further culled to exclude:

- Single-family demolition permits that led to multi-unit residential and nonresidential projects such as Northfield Village and the city-purchased Boulder Community Hospital land; and
- Any instances where the demolition of one single-family home led to the construction of more than one home, because the economics of such activity differs.

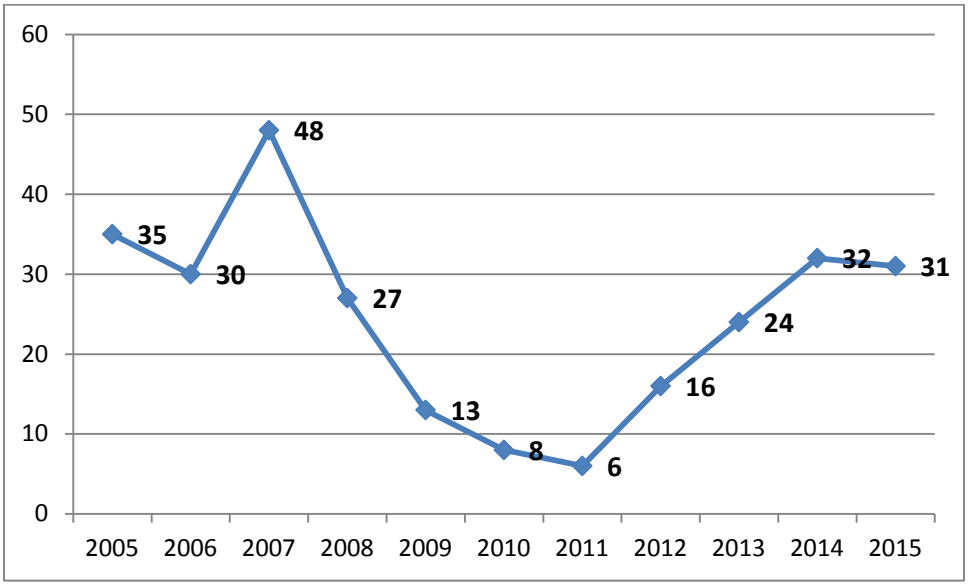
Using the data provided for use in the Daily Camera article, city staff initially found a trend of increasing permit activity between 2010 and 2016. Speculating that the economic recession could have influenced this trend, staff analyzed additional demolition permit data, going back to 2005. Below is the analysis for all years from 2005.

Analysis

Single-Family Full Structure Demolition Permits Pulled

To understand the scale of demolition of older single-family homes replaced by new single-family homes in Boulder, staff calculated annual single-family demolition and new construction permits issued beginning in 2005. The graph below represents the annual number of single-family homes demolished and replaced or slated to be replaced by new single-family homes.

Single-Family Detached Full Demolition Permits, 2005-2015



Findings:

- Between 2005 and 2015, 270 single-family homes in Boulder were demolished and replaced or slated to be replaced by new single-family homes. This represents .5 percent of the 52,000 housing units in Boulder and 1.4 percent of single-family homes in the city.
- Annually, an average of 25 single-family homes were demolished that were later replaced by new single-family homes.
- During the 11-year period examined, 2007, the last full year prior to the national recession, was the high point for issuance of these demolition permits with 48 issued. The fewest, six, were issued in 2011, during the recession.
- Based on 2014 and 2015 single-family demolition permit issuance, activity of this kind may be leveling off just above 30 permits annually.

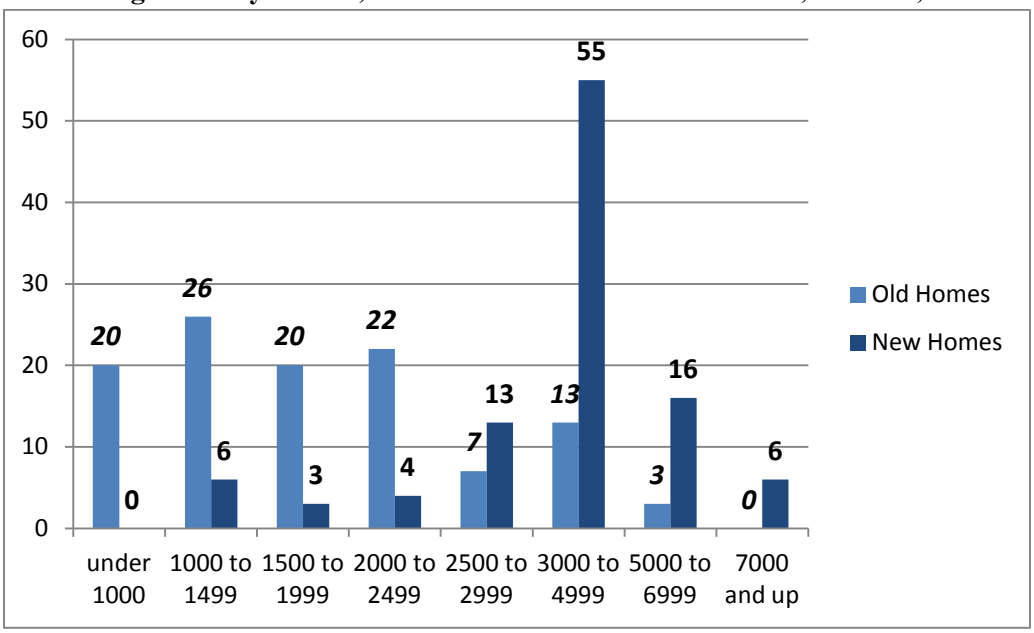
Size of Homes

One of the primary concerns raised by council members in the March 29 study session was the size of homes that have replaced older homes. Staff examined the finished floor area of single-family homes on lots for which demolition and new construction permits were issued between 2010 and 2016, the same time period examined in the April 9, 2016 Daily Camera article. (Due to time constraints, the full dataset extending back to 2005 was not used.)

Demolished and New Homes

This graph shows the size of the homes that were demolished and those that have replaced or will replace them.

Size of Single-Family Homes, Demolition and New Construction, Boulder, 2010 to 2016



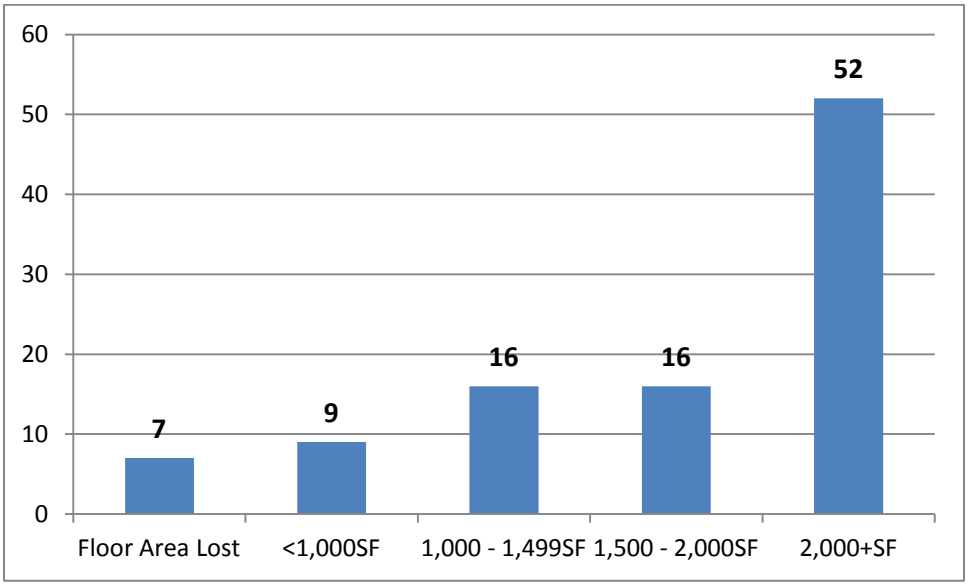
Findings:

- The average size of older homes for which demolition permits were issued was 2,141 square feet and the average size of homes that replaced them was 4,132 square feet.
- Older homes were generally smaller than newer homes, with older home sizes relatively evenly dispersed between the bottom four size categories shown in the graph and most newer homes falling into the 3,000 to 4,9999 size category.

Gain in Home Size

For demolition and new construction permits issued between 2010 and March 2016, change in finished floor area from demolition permit to new construction is shown below.

Change in Finished Floor Area from Old to New Home, 2010 to 2016



Findings:

Of the 100 homes for which demolished and new construction finished floor area was identified, most gained over 2,000 square feet of floor area relative to the homes they replaced, with a 2,204 square feet average gain in finished floor area.

Home Sales Value: Before and After Demolition and Replacement

The loss of affordability of homes that are demolished and replaced by new, often larger homes was cited by council members as a primary reason for concern. Staff worked with BBC Research and Consulting to prepare some analysis of price gains and affordability of demolition/new construction activity.

Using the list of demolished and rebuilt homes identified by city staff and the 2011 to 2015 Multiple Listing Service data used by BBC in the Middle Income Housing Study, BBC was able to identify 16 single-family homes sold before and after a demolition permit was issued, a sample too small to be

conclusive. With that said, six of the 16 homes were affordable to middle income households prior to the issuance of the demolition permit and two homes were affordable to middle income households after the demolition permit was issued.

Location of Single-Family Demolition and New Construction Activity

To better understand where single-family demolition and new construction activity is occurring, staff explored the location of matching single-family demolition and new construction permits first by subcommunity, then by zoning district.

Subcommunities

For planning purposes, Boulder is divided into nine subcommunities. This table shows the distribution of matched single-family demolition and new construction permits by subcommunity.

Single-family Demolition and New Construction Permits by Subcommunity, 2005 to 2016

Subcommunity	Permits Issued	
	Count	Share
Central Boulder	203	74%
Crossroads	1	0%
North Boulder	42	15%
South Boulder	20	7%
Southeast Boulder	7	3%
Total	**273**	

Findings:

- Since 2005, nearly three quarters of single-family demolition/rebuild activity occurred in Central Boulder.
- The only other subcommunity which has experienced significant single-family demolition/ rebuild activity was the North Boulder subcommunity.

Zoning Districts

This table shows single-family new construction permits by zoning district

Single-family Demolition and New Construction Permits by Zoning District, 2010 to 2016

Zoning District	New Construction Permits	
	Count	Share
Residential - Rural 1 (RR-1)	17	6.2%
Residential - Rural 2 (RR-2)	13	4.8%
Residential Estate (RE)	25	9.2%
Residential Low-1 (RL-1)	194	71.1%
Residential Low-2 (RL-2)	8	2.9%
Residential Medium - 1 (RM-1)	1	0.4%
Residential Medium - 2 (RM-2)	2	0.7%
Residential Mixed Use-1 (RMX-1)	11	4.0%
Residential High - 2 (RH-2)	1	0.4%
Residential High - 5 (RH-5)	1	0.4%
Total	**273**	

Findings:

- Demolitions and replacement of single-family homes is most heavily concentrated in the RL-1 zone, with 71 percent of all single-family scrape and rebuild activity having occurred in this zone.
- The more rural zoning districts – RR-1, RR-2, RE – account for about 20 percent demolitions and replacements.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: May 3, 2016

AGENDA TITLE
Update on Public Participation Initiative and motion to appoint one Council Member to a Citizen Participation Planning Committee.

PRESENTER/S
Jane S. Brautigam, City Manager
Mary Ann Weideman, Assistant City Manager
Patrick Von Keyserling, Director of Communications
Tammye Burnette, Assistant to the City Manager
Casey Earp, Assistant City Manager I
Jean Gatza, Senior Planner, Planning, Housing and Sustainability
Ben Irwin, Communications Manager, Public Works and Planning, Housing and Sustainability
Amanda Nagl, Neighborhood Liaison

EXECUTIVE SUMMARY
At the request of City Council during the January 2016 council retreat and based on community feedback, city staff is exploring ways to improve the City of Boulder's community engagement and public processes. In collaboration with community mediators and facilitators, staff will be developing recommendations to improve dialogue between the city and community members that would result in more thoughtful decision making and process development. The purpose of this agenda item is to request council approval to form a working group, comprised of community members, staff, and at least one council member, to develop a strategic framework for future outreach activities.

STAFF RECOMMENDATION
The City Manager, with support from community members, proposes that this small working group (committee) should conduct the following work:

- Analyze information and current city processes
- Identify best practice research and current successes

- Recommend improvements to city engagement processes and outreach that enriches civil dialogue and supports internal and external culture change around public process and engagement.

The City Manager would select members of the committee, including up to five community members with skills and experience in facilitation and community engagement; up to two neighborhood representatives; one council member; and up to four city staff. As a part of the first meeting, the core group will determine if additional representatives should be invited to enhance the knowledge, skills and abilities represented. The working group should not include more than 12 members.

The working group will be preceded by a period of project development to design the facilitated process. The council member would be a part of this design process as well. It is anticipated that the entire group process would begin in early summer.

Suggested Motion Language:
Motion to appoint one council member to serve on the citizen participation planning committee.

OTHER IMPACTS

- Fiscal – Professional facilitation will cost approximately $10,000
- Staff time – Staff participation on the committee will entail meeting preparation and production of summaries of the meetings. Staff participants will be asked to acquire information and share information/ideas with multiple work groups and departments throughout the process. While staff time will vary for this project, based on the frequency of meetings and scope of work, it is estimated that the committee will meet approximately six times requiring approximately 48 hours of staff time in meetings and an additional 40 hours of preparation and follow-up work related to meetings, for a minimum estimation of 88 staff hours.

BOARD AND COMMISSION FEEDBACK

None to date.

PUBLIC FEEDBACK

Staff has completed 13 meetings with individuals skilled in mediation, facilitation and public process. Each meeting included a discussion about community perceptions of the city's effectiveness at public engagement, and staff collected recommendations for improvements. Key themes and recommendations from these conversations are described below.

On public perception:

- Perceptions about engagement vary from generally positive to negative. People seem to be more satisfied with engagement when they feel a commitment from the city/staff to develop ongoing relationships with organizations and individuals.

Less successful engagement appears to create an adversarial relationship; it feels more like an "us vs. them" dialogue.

- A lack of two-way dialogue has led to "bad civic behavior," manifested in a more argumentative, frustrated tone to conversations about issues.
- The limited opportunity to express views in three–minute open comment and hearings before City Council also leads to negative perceptions. People do not feel engaged in dialogue early enough or often enough prior to these opportunities before council. This also creates an impression for some that council is not open to input contrary to their views or that staff not willing to explore other ideas than those presented.

On improving process and approach:

- Better outward-facing stated city goals and commitment to engagement; set clear parameters for the type and amount of empowerment given to the public regarding decision making in any given process. Reinforced messaging and clarity in meetings about purposes, outcomes, ground rules.
- A shift in the city's approach, from "decider" to "co-convener looking to co-create," as hosts of community dialogue.
- Consistency in the city's approach to engagement could be enhanced with a design template that could determine the type of outreach for a given project.
- An ombudsman-style program could improve understanding by designating someone to walk residents through complicated processes.
- More community dialogue and discussion is needed that includes feedback loops back to council.
- Increased use of technology and social media could help the city vet ideas and survey public opinion.
- A "Citizen Participation Committee," that includes community representation, staff and a member of City Council, could begin to organize recommendations into a strategic framework for the city.
- Additional engagement at initial stages of projects or issues that results in appropriate and meaningful engagement processes and tools would create more opportunities to inform and find understanding about issues.

On the need for improved education and training:

- Civic education programming could help all residents understand the value in civic participation and ensure that they are equipped to effectively engage in the process.
- Internal system improvements and staff training could help ensure the organization develops more consistent and effective public engagement plans, debrief experiences and future processes.
- Promoting staff training and certifications, such as International Association of Public Participation (IAP2) credentials, will create a common language and approach both internally and within the community dialogue.
- Emphasizing relationship building between staff and community and using professional facilitators wisely and purposefully will improve outcomes.

- Skill building around facilitation, active listening and deep understanding of community issues and input can make staff more effective participants in dialogue. Similarly, this type of training for neighborhood leaders may assist in more civil interaction and shared understanding.

BACKGROUND

During the Council Retreat in January, 2016, guidance was given to the City Manager to reach out to members of the community who are skilled in facilitation, mediation or design of engagement processes. Council Members provided names and contact information for community members with expertise in these areas. Staff has since completed thirteen scheduled meetings with these individuals to discuss community perception and experience related to engagement, recommendations for process improvement and ideas related to continued inclusion of community members in city processes.

In addition to activities that resulted from the council retreat, an internal team has actively evaluated the coordination of public engagement across the city organization. The team, which is participating in the Transforming Local Government's Innovation Academy, selected engagement coordination as a team project in 2015. The group's project was to evaluate and implement low-cost solutions to shared challenges around engagement coordination. This work has resulted in several internal tools: contact lists for engagement personnel, vendor lists for organizational references, and videos about engagement success stories to serve as models that will help staff successfully plan, coordinate and deliver engagement opportunities to our residents. As the Innovation Academy concludes, May 2016, several members of this team will transition to supporting the new public participation initiative.

Staff have also initiated a study into best practices relative to community engagement/public participation, which will be provided to this committee, if approved, for review and inclusion in final recommendations.

ANALYSIS

Staff has begun to incorporate feedback collected to date into current organizational efforts to improve community engagement and public process. These efforts range from new or improved use of social media to the development of a micro-business to prioritize the professionalism of public engagement design and practice within the organization.

However, the proposed committee could produce a more comprehensive strategy by allowing skilled community members to thoroughly examine the challenges and opportunities inherent in public process alongside staff and council. This approach will create an environment of trust and creativity in which the group problem solves, generates new ideas and provides recommendations for process change that are modeled on and studied through the group's own design and operating structure.

QUESTIONS FOR COUNCIL

- Does Council have any questions about this proposed committee and associated appointment?
- Does Council have any suggestions for feedback about the proposed committee and associated appointment?
- The recommendation of the community members is that the committee should use the services of a professional facilitator. These funds would be avaialbe in the city managers contingency. Does Council have any concerns with this approach?
- If the Committee is approved, does Council have any deliverables it would suggest as an outcome for this committee?
- Which council member should serve on this committee?

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 members 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 message, 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 should any message 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 members agree to email the city manager about issues 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.
- Council members will keep the full council informed on issues from committees, public groups, or other agencies they are following, through Hotline emails, 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 email 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 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 the Mayor and 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 position know to their fellow members as soon as possible;
    - focus their communication with other council members on the positive attributes the member brings to the position; and
    - refrain from making any negative remarks about any person seeking election as mayor or mayor pro tem.
- Nominated individuals may make presentations that 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 engender trust from the community and other council members.
- Council members should work to avoid divisiveness by being inclusive during the mayoral selection process.

Agreed this 29th day of February, 2016.

Matthew Appelbaum | Aaron Brockett | Jan Burton

Suzanne Jones | Lisa Morzel | Andrew Shoemaker

Sam Weaver | Bob Yates | Mary Young

City of Boulder
2015 Work Plan

(Tentative as of December 16, 2014)

	Project		1st Quarter	2nd Quarter	3rd Quarter	4th 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
			Budget update	Budget update	Budget update	Budget update
		Staff Activities	Municipalization Transition Plan	Municipalization Transition Plan	Municipalization Transition Plan	Municipalization Transition Plan
	Climate Commitment	Council		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		
				Next Corridor - 30th St or Colorado		
		Staff Activities	Develop East Arapahoe action plan			
	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		1st Quarter	2nd Quarter	3rd Quarter	4th 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 14th 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
				Integration of strategy recommendations from Moratorium	Research options for sustainable governance & funding	Develop options for sustainable governance & funding
			14th Street Lot public/private partnership redevelopment options re: work force affordable housing	14th Street Lot public/private partnership redevelopment options re: work force affordable housing		
			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		1st Quarter	2nd Quarter	3rd Quarter	4th 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

Suzanne Jones	Mayor
Mary Young	Mayor Pro Tem
Matthew Appelbaum	Council Member
Aaron Brockett	Council Member
Jan Burton	Council Member
Lisa Morzel	Council Member
Andrew Shoemaker	Council Member
Sam Weaver	Council Member
Bob Yates	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
Lynnette Beck	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Executive Director for the Department of Planning, Housing Sustainability
Molly Winter	Director of Community Vitality
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
David Farnan	Library and Arts Director
James Cho	Municipal Court Administrator
Tracy Winfree	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	Transportation Director
Jeff Arthur	Utilities Director

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2016 Study Session Calendar

Date	Status	Topic	Time	Location	Contacts	Materials Due
05/10/16		Potential Ballot Items and Budget and Long Range Financial Planning Update	6-7:30	Chambers	Peggy Bunzli/Elena Lazarevska	04/28/16
		Climate Commitment	7:30-9	Chambers	David Driskell/Lauren Reader	04/28/16
05/24/16		**Science Tuesday**	5:30-6:00	Chambers		05/12/16
		North TSA	6:00-7:30	Chambers		05/12/16
		Boulder Valley Comp Plan	7:30-9	Chambers		
5/31/2016		Canyon Complete Streets Study - Update on the Design Options	6:00-7:30	Chambers	Noreen Walsh/Meredith Schleske	05/19/16
		TMP Implementation Update - provide 6 mo update (Rutsch	7:30-9	Chambers	Randall Rusch/Meredith Schlesky	05/19/16
06/14/16		Mid Year Check in for Council Workplan	6:00-7:30	Chambers	Tammye Burnette/Dianne Marshall	06/02/16
		Session on the Development Related Impacts Fees and Excise Taxes	7:30-9:00	Chambers	Chris Meschuk/Lauren Reader	06/02/16
	Council Recess June 22-July 10					
07/12/16		Broadband Feasibility Study Results	6:00-7:30	Chambers	Don Ingle	06/30/16
		Residential and Commercial Energy Codes: Long Term Strate	7:30-9:00	Chambers	Kendra Tupper/Lauren Reader	06/30/16
07/26/16		**Briefing: Boulder Energy Future**	5:30-6:00	Chambers	Heather Bailey/Heidi Joyce	N/A
		Homelessness Strategy Draft and Homeless Action Plan Update	6:00:8:00	Chambers	Wendy Schwartz/Linda Gelhaar	07/14/16
		Check in for 100 Resilient Cities	8-9:00	Chambers	Casey Earp/Dianne Marshall	07/14/16
08/09/16		Draft 2017 to 2021 Capital Improvement Program	6:00-7:30	Chambers	Peggy Bunzli/Devin Billingsly	07/28/16
		HOLD for Dashboard (will submit request week of 5/2 if approved)	7:30-9:00	Chambers	Casey Earp	07/28/16
08/23/16		**Briefing**	5:30-6:00	Chambers		08/11/16
		Homelessness Strategy Draft and Homeless Action Plan Update	6:00-8	Chambers	Karen Rahn/Linda Gelhaar	
			7:30-9:00	Chambers		

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2016 Study Session Calendar

8/30/2016		30th and Pearl Redevelopment Options	6:00-7:30	Chambers	Eric Ameigh/Lauren Reader	08/18/16
			7:30-9:00	Chambers		
09/13/16		2017 COB Recommended Budget	6:00-8	Chambers	Peggy Bunzli/Devin Billingsly	09/01/16
			8-9:00	Chambers		09/01/16
9/27/2016		**Briefing**	5:30-6:00	Chambers		
		2017 Recommended Budget 2nd Study Session if needed	6:00-7:30	Chambers	Randall	09/15/16
		Renewed Vison for Transit Update- detailed info on activities	7:30-9:00	Chambers	Randall Rutsch, Rene Lopez	09/15/16
10/11/16			6:00-7:30			09/29/16
		Human Services Strategy Draft	7:30-9:00		Karen Rahn, Linda Gelhaar	09/29/16
10/25/15		**Briefing**: Boulder Energy Future	5:30-6:00	Chambers	Heather Bailey/Heidi Joyce	N/A
		Updating council on AMPS.	6:00-6:30	chambers	Jay Sugnet/Ruth Weiss	10/13/16
		Boulder Community Hospital; Broadway Projet	6:30-8	Chambers	Joanna Crean/Celia Seaton	10/13/16
11/08/15			6:00-7:30	Chambers		10/27/16
			7:30-9:00	Chambers		10/27/16
11/22/15	Thanksgiving Holiday Week - No Meeting					
11/29/15		**Briefing**	5:30-6			N/A
			6- 7:30			11/17/16
			7:30-9			11/17/16
12/13/16			6-7:30	Chambers		12/01/16
			7:30-9	Chambers		12/01/16
12/22/15	Christmas Holiday Week - No Meeting					
12/29/15	New Years Holiday Week - No Meeting					

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, May 17, 2016

5/5/2016		Preliminary Materials Due
5/11/2016		Final Materials Due

Gray cells will be calculated for you. You do not need to enter anything in them.

City Council Meeting DRAFT Calendar

Start	End	Min	Time	Item	PP	CAO	Contact
6:00 PM	6:05 PM	5 min	0:05	**CALL TO ORDER AND ROLL CALL**			
6:05 PM	6:50 PM	45 min	0:45	**OPEN COMMENT AND COUNCIL/STAFF RESPONSE**			
6:50 PM	7:05 PM	15 min	0:15	**CONSENT AGENDA**			
				First Reading Form Based Code for Boulder Junction Phase I	Y	N	Karl Guiler/Lauren Reader
				First Reading Emergency Ordinance to Adopt Supplement 127 of the BRC Quarterly Update	N	N	Mary Wallace
				Study Session Summary for April 12 Development Related Impact Fees and Excise Taxes	N	N	Chris Meschuk/Lauren Reader
				Second Reading amendments to Title 13, "Elections" [moved to consent 3/28 at CAC]			Kathy Haddock
				First reading of ordinance for budget carryover and first ATB			Peggy Bunzli/Devin Billingsley
				1st Reading Hogan Pancost Annexation and Initial Zoning request		Y	Karl Guiler/Lauren Reader
7:05 PM	7:10 PM	5 min	0:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
7:10 PM	10:10 PM	180 min	3:00	First Reading Co-op Housing Ordinance	Y	Y	Tom Carr
				MATTERS FROM CITY MANAGER			
				MATTERS FROM CITY ATTORNEY			
				MATTERS FROM MAYOR AND MEMBERS OF COUNCIL			
				CALL-UPS			
		Total	**4:10**	**If adding your item would bring the total estimated time to over 5 hours, please choose another meeting date. "The council's goal is that all meetings be adjourned by 10:30 p.m." - Title 2 Appendix, Council Procedure, B.R.C. 1981.**			**SCHEDULE NOTHING MORE**

Updated: 04/27/16

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, May 31, 2016

5/19/2016		Preliminary Materials Due
5/25/2016		Final Materials Due

Gray cells will be calculated for you. You do not need to enter anything in them.

City Council Meeting DRAFT Calendar

Start	End	Min	Time	Item	PP	CAO	Contact
6:00 PM	6:05 PM	5 min	0:05	**CALL TO ORDER AND ROLL CALL**			
6:05 PM	6:50 PM	45 min	0:45	**OPEN COMMENT AND COUNCIL/STAFF RESPONSE**			
6:50 PM	7:05 PM	15 min	0:15	**CONSENT AGENDA**			
7:05 PM	7:10 PM	5 min	0:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
				MATTERS FROM CITY MANAGER			
		30 min		Strategic Development Plan for 6400 Arapahoe	Y	N	Kara Mertz/Lauren Reader
		60 min		University Hill Public Improvements Related Agreements	Y	N	Sarah Wiebenson/Ruth Weiss
				MATTERS FROM CITY ATTORNEY			
				MATTERS FROM MAYOR AND MEMBERS OF COUNCIL			
				CALL-UPS			
		Total	**1:10**	**If adding your item would bring the total estimated time to over 5 hours, please choose another meeting date. "The council's goal is that all meetings be adjourned by 10:30 p.m." - Title 2 Appendix, Council Procedure, B.R.C. 1981.**			

Updated: 04/27/16

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, June 7, 2016

5/26/2016		Preliminary Materials Due
6/1/2016		Final Materials Due

Gray cells will be calculated for you. You do not need to enter anything in them.

City Council Meeting DRAFT Calendar

Start	End	Min	Time	Item	PP	CAO	Contact
6:00 PM	6:05 PM	5 min	0:05	**CALL TO ORDER AND ROLL CALL**			
6:05 PM	6:50 PM	45 min	0:45	**OPEN COMMENT AND COUNCIL/STAFF RESPONSE**			
6:50 PM	7:05 PM	15 min	0:15	**CONSENT AGENDA**			
				Second reading ordinance for annual budget carryover and first ATB 2016	N	N	Peggy Bunzli/Devin Billingsley
				1st Rdg Amendment BRC 12-2-4 Landlord Disclosures	N	Y	Janet Michels
7:05 PM	7:10 PM	5 min	0:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
7:25 PM	10:25 PM	180 min	3:00	North Trail Study Area Plan	Y	N	Steve Armstead/Cecil Fenio
				MATTERS FROM CITY MANAGER			
10:25 PM	11:05 PM	40 min	0:40	Boulder Convention and Visitors Bureau 2015 Report	Y	N	Molly Winter
				MATTERS FROM CITY ATTORNEY			
				MATTERS FROM MAYOR AND MEMBERS OF COUNCIL			
				CALL-UPS			
		Total	**4:50**	**If adding your item would bring the total estimated time to over 5 hours, please choose another meeting date. "The council's goal is that all meetings be adjourned by 10:30 p.m." - Title 2 Appendix, Council Procedure, B.R.C. 1981.**			**Schedule Nothing More**

Updated: 4/27/2016

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, June 21, 2016

6/9/2016		Preliminary Materials Due
6/15/2016		Final Materials Due

Gray cells will be calculated for you. You do not need to enter anything in them.

City Council Meeting DRAFT Calendar

Start	End	Min	Time	Item	PP	CAO	Contact
6:00 PM	6:05 PM	5 min	0:05	**CALL TO ORDER AND ROLL CALL**			
6:05 PM	6:50 PM	45 min	0:45	**OPEN COMMENT AND COUNCIL/STAFF RESPONSE**			
6:50 PM	7:05 PM	15 min	0:15	**CONSENT AGENDA**			
				2nd Rdg Amendment to BRC 12-2-4 Landlord Disclosures		Y	Janet Michels
				First Reading Ordinance on False Alarms	N	Y	Carey Weinheimer/Laurie Ogden
7:05 PM	7:10 PM	5 min	0:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
7:10 PM	8:10 PM	60 min	1:00	Second Reading Form Based Code for Boulder Junction Phase I	Y	Y	Karl Guiler/Lauren Reader
8:10 PM	11:10 PM	180 min+	3:00	Second Reading Hogan Pancost Annexation and Initial Zoning Request	Y	Y	Karl Guiler/Lauren Reader
8:10 PM	11:10 PM	180 min+	3:00	[Request to add] Second Reading Co-Op Housing Ordinance	Y	Y	Tom Carr
				MATTERS FROM CITY MANAGER			
				MATTERS FROM CITY ATTORNEY			
				MATTERS FROM MAYOR AND MEMBERS OF COUNCIL			
				CALL-UPS			
		Total	**8:10**	**If adding your item would bring the total estimated time to *over 5 hours, please choose another meeting date*. "The council's goal is that all meetings be adjourned by 10:30 p.m." - Title 2 Appendix, Council Procedure, B.R.C. 1981.**			**Schedule No More Items**

Updated: 4/27/2016

TO: Mayor and Members of City Council

FROM: Jordan Matthews, City Clerk's Office

DATE: May 3, 2016

SUBJECT: Information Packet

---

1. **CALL UPS**
   A. Vacation of a 3,726 square-foot easement to allow for building expansion at 4655 Hanover Avenue (ADR2016-00037).
   B. Concept Plan Review 350 Ponca Place (LUR2015-00108)

2. **INFORMATION ITEMS**
   A. Proposed Human Services Fund Changes for 2017
   B. Substance Education and Awareness (SEA) Funding for 2016

3. **BOARDS & COMMISSIONS**
   A. Board of Zoning Appeals – March 10, 2016
   B. Design Advisory Board – March 9, 2016
   C. Human Relations Commission – April 11, 2016
   D. Human Relations Commission – April 18, 2016
   E. Library Commission – March 3, 2016
   F. Open Space Board of Trustees – April 13, 2016
   G. Planning Board – April 7, 2016

4. **DECLARATIONS**
   A. Alpha Phi Omega – Gamma Theta Chapter – Seventy-Fifth Anniversary Celebration – April 30, 2016
   B. Rocci Chatfield Appreciation Day – April 30, 2016

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing and Sustainability
Susan Richstone, Deputy Director of Planning, Housing and Sustainability
Charles Ferro, Development Review Manager
Caeli Hill, Associate Planner

Date: May 3, 2016

Subject: Call-Up Item: Vacation of a 3,726 square-foot easement to allow for building expansion at 4655 Hanover Ave. (ADR2016-00037).

EXECUTIVE SUMMARY:

The applicant requests vacation of a 3,726 square foot easement at 4655 Hanover Ave. (refer to **Attachment D** for exact location) in order to develop the property consistent with the current zoning and the comprehensive plan. The original easement was recorded in the records of the Boulder county Clerk and Recorder on May 21, 1964 at Film No. 502, Reception No. (90)756482. Summit Middle School, located at this property, is currently undergoing an expansion to the building that would extend into this easement. A new easement was dedicated on February 4, 2016 (Reception No. 03499620) and utilities have been relocated. The proposed vacation was approved by staff on April 18, 2016. There are two scheduled City Council meetings within the 30-day call-up period on April 19, 2016 and May 3rd, 2016.

CODE REQUIREMENTS:

Pursuant to the procedures for easement vacations set forth in subsection 8-6-10(b), B.R.C. 1981, the city manager has approved the vacation of a 3,726 square foot easement. The date of staff approval of the easement vacation was April 18, 2016 (refer to **Attachment E**, *Notice of Disposition*). This vacation does not require approval through ordinance based on the following criteria:

- It has never been open to the public; and
- It has never carried regular vehicular or pedestrian traffic.

The vacation will be effective 30 days later on May 19, 2016 unless the approval is called up by City Council.

FISCAL IMPACTS:
None identified.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:
None identified.

BACKGROUND:

The subject property, owned by the Boulder Valley School District (BVSD), is approximately 231,921 square feet in area located in south Boulder (refer to Attachment A, *Vicinity Map)*. The site is located in a Residential- Low 1 (RL-1) zone district. On May 21, 1964 (Reception No. 90756482) an easement was dedicated as a separate instrument. However, in late 2015 new site plans were proposed that would expand the building into the dedicated easement. This easement inhibits the proposed site development.

Utilities were previously installed in this easement but have been removed. On February 4, 2016 a new utility easement was dedicated to accommodate the revised utilities location (Reception No. 03499620). The construction of new utilities has been completed in the newly dedicated easement. Approval of the easement vacation has been received from electric/gas, telephone and cable company representatives. There is no further public need for this easement.

Given that there is no public need for the easement for which it was intended, failure to vacate the requested easement would cause hardship to the property owner by limiting the development potential of the property.

ANALYSIS:
Staff finds the proposed vacation of a utility easement consistent with the standards set forth in subsection (b) of section 8-6-10, "*Vacation of Public Easements*", B.R.C. 1981. Specifically, staff has determined that no public need exists for the easement to be vacated because new easements will be dedicated to replace the function of the current easement.

No vacation of a public easement shall be approved unless the approving agency finds that:

✓ 1. Change is not contrary to the public interest.

✓ 2. All agencies having a conceivable interest have indicated that no need exists, either in the present or conceivable future, for its original purpose or other public purpose.

✓ 3. Consistent with the Comprehensive Plan and Land Use Regulations.

✓ a. Failure to vacate the easement would cause a substantial hardship to the use of the property consistent with the Comprehensive Plan and Land Use Regulations; or

This property is designated as Public land by the Boulder Valley Comprehensive Plan (B.V.C.P.) which is used generally by "a wide range of public and private nonprofit uses that provide a community service. (pg. 68, B.V.C.P., 2010)" In this case this public land is used by Summit Middle School for the provision of education. The Boulder Valley Comprehensive Plan also states that "the city and county will assist the Boulder Valley School District in its planning efforts to assure that the number, size and location of school lands

and facilities is adequate to serve the population for the foreseeable future (pg. 53, B.V.C.P., 2010)." In this case, Summit Middle school is proposing an expansion to accommodate a growing number of students. If this easement is not vacated the school will not be able to develop this property in a way that is consistent with the B.V.C.P..

✓ b. Would provide a greater public benefit than retaining the property in its present status.

By vacating this utility easement, this site will be allowed to develop to its full potential by its user, Summit Middle School, and will continue to further the purposes of the B.V.C.P.

PUBLIC COMMENT AND PROCESS:

Notice of the vacation will be advertised in the Daily Camera within the 30-day call up period. Staff has received no written or verbal comments adverse to the vacation.

NEXT STEPS:

If the requested vacation is not called up by City Council then the Deed of Vacation (**Attachment C**) will be recorded. If the requested vacation is called up, and subsequently denied, the applicant will be limited to development on the property outside of the easement area.

ATTACHMENTS:

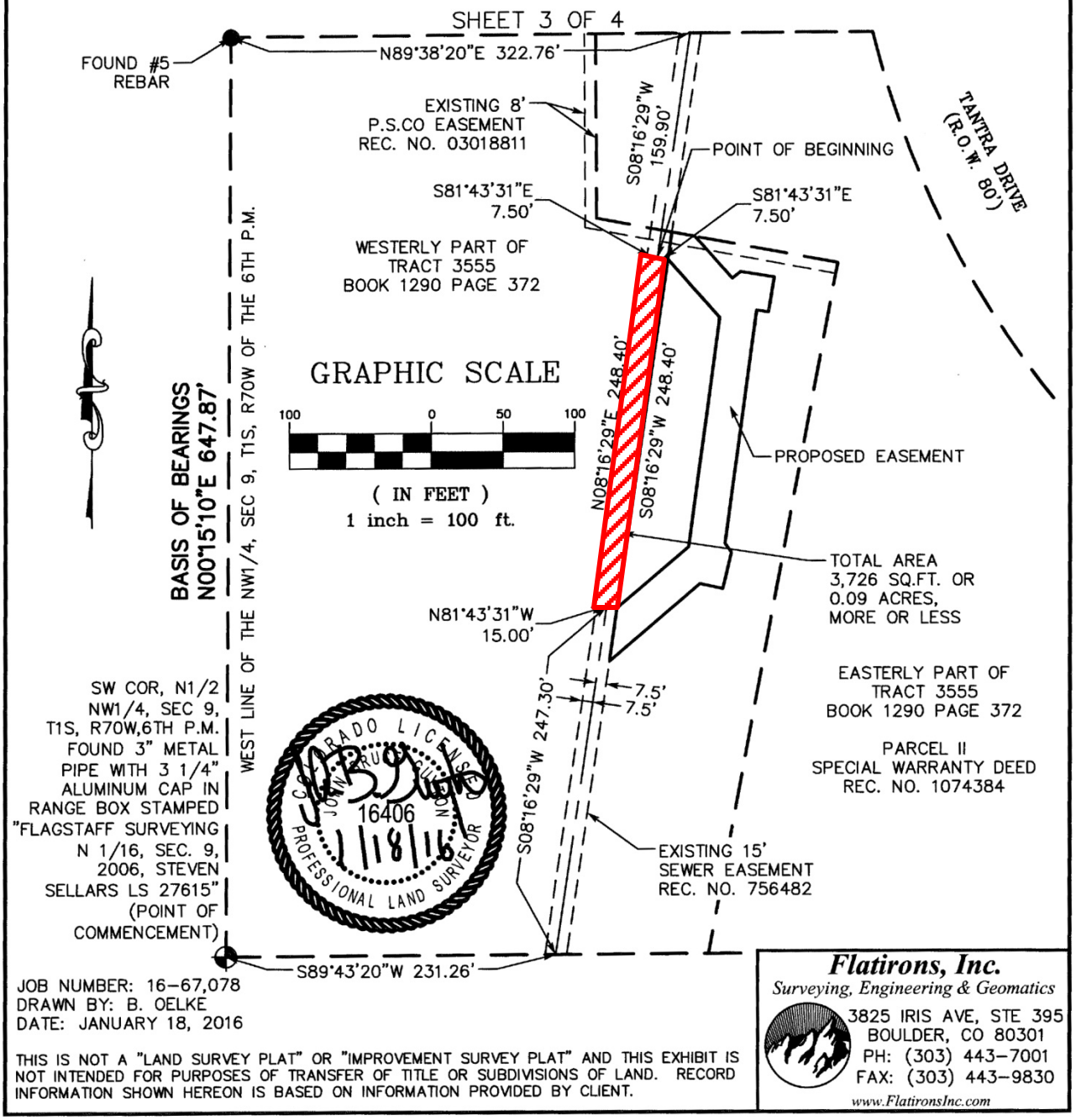
Attachment A: Vicinity Map
Attachment B: Site Plan
Attachment C: Deed of Vacation
Attachment D: Exhibit A
Attachment E: Notice of Disposition

TANTRA
DR
4655
Hanover
Ave.
Hanover Av
15TH ST
16TH ST
MOORTH
AVE

EXHIBIT "A"

LOCATED IN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 1 SOUTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 3 OF 4



JOB NUMBER: 16-67,078
DRAWN BY: B. OELKE
DATE: JANUARY 18, 2016

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

Flatirons, Inc.
Surveying, Engineering & Geomatics
3825 IRIS AVE, STE 395
BOULDER, CO 80301
PH: (303) 443-7001
FAX: (303) 443-9830
www.FlatironsInc.com

For Administrative Purposes Only
Address: 4655 Hanover Avenue
Case No. : ADR2016-00037

DEED OF VACATION

The City of Boulder, Colorado, does hereby vacate and release to the present owner of the subservient land, in a manner prescribed by Subsection 8-6-10(b), B.R.C. 1981, an easement previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder at Film No. 502, Reception No. (90)756482 on the 21st day of May, 1964 located at 4655 Hanover Avenue and as more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The above easement vacation and release of said easement at 4655 Hanover Avenue shall extend only to the portion and the type of easements specifically vacated. The within vacation is not to be construed as vacating any rights-of-way, easements or cross-easements lying within the description of the vacated portion of the easement.

Executed this _____ day of _____, 2016, by the City Manager after having received authorization from the City Council of the City of Boulder, Colorado.

CITY OF BOULDER, COLORADO

By:_____
Jane S. Brautigam, City Manager

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

4-26-2016
_____
Date

EXHIBIT "A"

LOCATED IN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 1 SOUTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 3

AN EASEMENT VACATION OVER AND ACROSS A PARCEL OF LAND, LOCATED IN THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE WEST LINE OF THE NORTHWEST QUARTER OF SECTION 9, TOWNSHIP 1 SOUTH, RANGE 70 WEST OF THE 6TH P.M. TO BEAR NORTH 00°15'10" EAST BETWEEN A FOUND 3" METAL PIPE WITH 3-1/4" ALUMINUM CAP IN RANGE BOX STAMPED "FLAGSTAFF SURVEYING N1/16, SEC 9, 2006, STEVEN SELLARS, LS 27615" BEING THE N1/16 CORNER OF SECTIONS 9 AND 8 AND A FOUND NO. 5 REBAR, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE N1/16 CORNER OF SAID SECTIONS 9 AND 8; THENCE ALONG THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 9 NORTH 00°15'10" EAST, A DISTANCE OF 647.87 FEET TO THE NORTHWEST CORNER OF TRACT 3555 AS DESCRIBED IN DOCUMENT RECORDED IN THE RECORDS OF BOULDER COUNTY IN BOOK 1290 PAGE 372; THENCE ALONG THE NORTH LINE OF SAID TRACT 3555 NORTH 89°38'20" EAST, A DISTANCE OF 322.76 FEET TO THE CENTERLINE OF AN EXISTING 15' SEWER EASEMENT RECORDED IN THE RECORDS OF BOULDER COUNTY AT RECEPTION NO. 756482; THENCE ALONG SAID CENTERLINE SOUTH 08°16'29" WEST, A DISTANCE OF 159.90 FEET TO THE POINT OF BEGINNING; THENCE DEPARTING SAID CENTERLINE SOUTH 81°43'31" EAST, A DISTANCE OF 7.50 FEET TO A POINT ON THE EASTERLY LINE OF SAID 15' SEWER EASEMENT; THENCE ALONG SAID EASTERLY LINE SOUTH 08°16'29" WEST, A DISTANCE OF 248.40 FEET; THENCE DEPARTING SAID EASTERLY LINE NORTH 81°43'31" WEST, A DISTANCE OF 15.00 FEET TO A POINT ON THE WESTERLY LINE

COLORADO LICENSED
16406
1/18/16
PROFESSIONAL LAND SURVEYOR

JOB NUMBER: 16-67,078
DRAWN BY: B. OELKE
DATE: JANUARY 18, 2016

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RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 3

OF SAID 15' EASEMENT; THENCE ALONG SAID WESTERLY LINE NORTH 08°16'29" EAST, A DISTANCE OF 248.40 FEET; THENCE DEPARTING SAID WESTERLY LINE SOUTH 81°43'31" EAST, A DISTANCE OF 7.50 FEET TO A POINT ON THE CENTERLINE OF SAID 15' EASEMENT, SAID POINT ALSO BEING THE POINT OF BEGINNING.

SAID EASEMENT VACATION CONTAINING 3,726 SQ.FT. OR 0.09 ACRES, MORE OR LESS.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS EASEMENT VACATION DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.

COLORADO LICENSED
JOHN B. GUYTON
16406
1/18/16
PROFESSIONAL LAND SURVEYOR

JOHN B. GUYTON
COLORADO P.L.S. #16406 FSI JOB NO. 16-67,078
CHAIRMAN/CEO, FLATIRONS, INC.

JOB NUMBER: 16-67,078
DRAWN BY: B. OELKE
DATE: JANUARY 18, 2016

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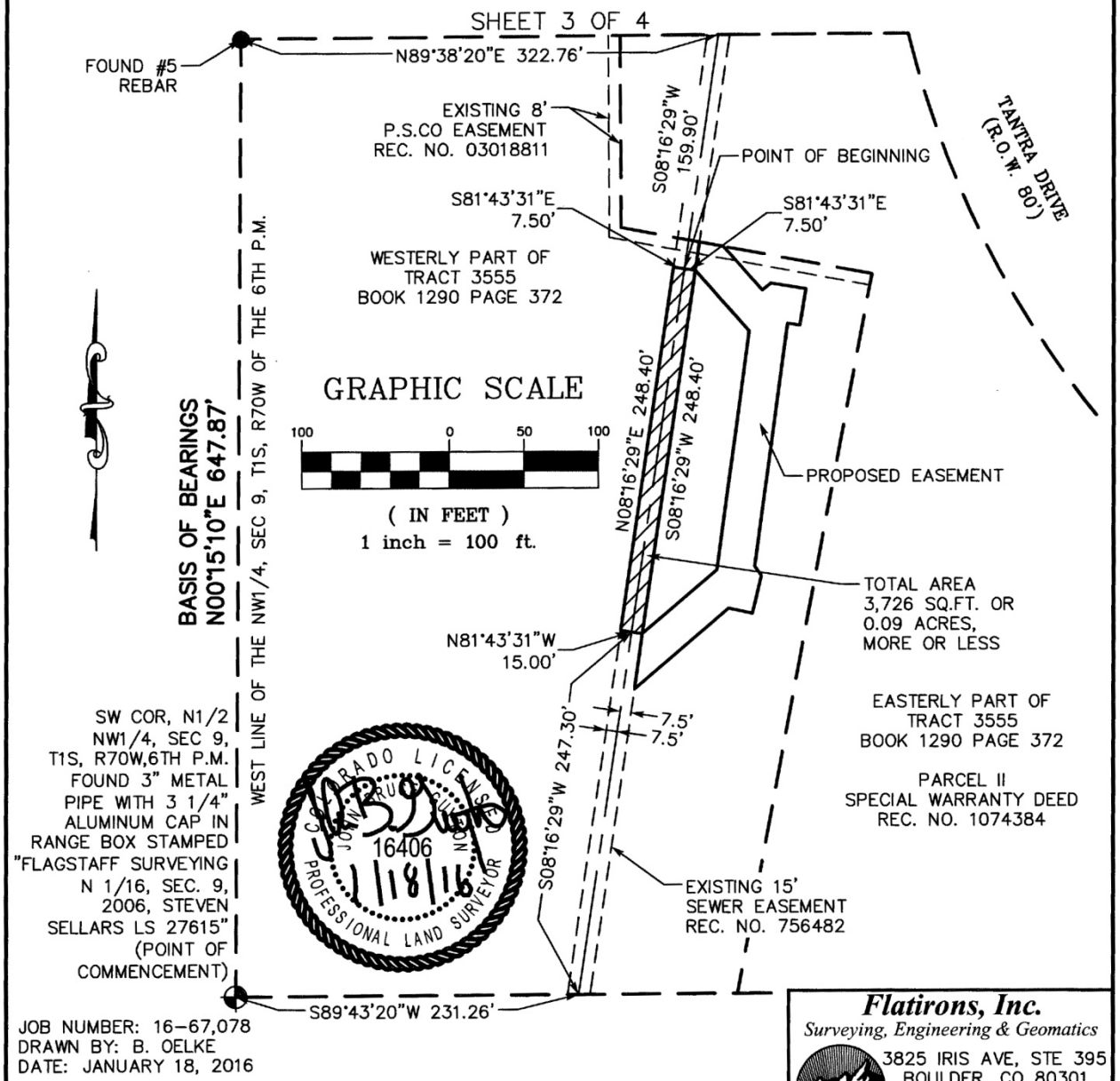
SHEET 3 OF 4



JOB NUMBER: 16-67,078
DRAWN BY: B. OELKE
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CITY OF BOULDER
Planning and Development Services

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • email plandevelop@bouldercolorado.gov
www.boulderplandevelop.net

ADMINISTRATIVE REVIEW
NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department:

DECISION:	Approved
DATE:	April 18, 2016
REQUEST TYPE:	Vacation/Easement
ADDRESS:	4655 Hanover Avenue
APPLICANT:	Darren Stewart
CASE #:	ADR2016-00037
LEGAL DESCRIPTION:	WLY PT TR 3555 9-1S-70 Majestic Elementary, City of Boulder, County of Boulder, Colorado
DESCRIPTION:	Administrative review for vacation of a 3,726 utility easement through the property of Summit Middle School.

FINAL DECISION STANDARDS:
Approved as submitted. This application is approved per the criteria for Vacation of Public Easements as set forth in section 8-6-10, B.R.C. 1981. This approval does not constitute building permit approval. This approval is limited to the vacation of a 3,726 square-foot reserved utiility easement, previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder at Reception Number 90756482 as an easement and right-of-way on May 21, 1964.

INFORMATIONAL COMMENTS:
Pursuant to section 8-6-10(b), B.R.C. 1981, approval of an easement vacation "is not effective until thirty days after the date of its approval. Promptly after approving the vacation, the manager will forward to the city council a written report, including a legal description of vacated portion of the easement and the reasons for approval. The manager will publish notice of the proposed vacation once in a newspaper of general circulation in the City within thirty days after the vacation is approved. Upon receiving such report and at any time before the effective date of the vacation, the council may rescind the manager's approval and call up the vacation request for its consideration at a public hearing, which constitutes a revocation of the vacation."

This decision is final and may not be appealed. A new request may be considered only as a new application.

By: Caeli El Hill
Caeli Hill, Planning Department

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Housing, Planning + Sustainability
Susan Richstone, Deputy Director of Housing, Planning + Sustainability
Charles Ferro, Development Review Manager
Chandler Van Schaack, Planner II

Date: May 3, 2016

Subject: Call-Up Item: Concept Plan Review 350 Ponca Place (LUR2015-00108)

EXECUTIVE SUMMARY

On April 7, 2016 the Planning Board reviewed and commented on the above-referenced application. City Council may vote to call-up the Concept Plan to review and discuss within 30 days of the Planning Board hearing. The call up period concludes on **May 9, 2016**. There is one City Council meeting within this time period for call-up consideration, on May 3, 2016. The staff memorandum to Planning Board, minutes, meeting audio, and other related background materials are on the city website for Planning Board, available here (Follow the links: *2016➔04 APR ➔04.07.2016).* The minutes from the Planning Board hearing are provided in **Attachment A** and the Concept Plan submittal package is provided in **Attachment B**.

Four Frasier Meadows residents spoke in support of the proposed project at the Planning Board hearing. Several of the residents spoke in support of adding additional affordable housing on-site, and two of the residents mentioned concerns regarding the proposed site design. Following staff's presentation of the Concept Plan submittal, the applicant gave a brief presentation on the proposed project. The discussion focused primarily on building height and design as well as flood and energy considerations. Overall, the board expressed support for the proposed 55' building height and felt that the project was consistent with a number of BVCP policies as well as flood recovery goals. There was some concern regarding potential flood impacts, and the board indicated that additional information would be required at time of Site Review. The board made some recommendations for site and building improvements, including bringing the project to the Design Advisory Board prior to Site Review submittal.

Consistent with recently amended land use code section 9-2-13(a)(2), B.R.C. 1981 City Council has the opportunity to call up the application to review and comment on the concept plan within a 30-day call up period which expires on **May 9, 2016.**

ATTACHMENTS

A. 04.07.2016 Planning Board Minutes

B. Concept Plan Submittal

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
April 7, 2016
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:
Bryan Bowen, Chair
John Putnam
John Gerstle
Liz Payton
Crystal Gray
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:
Leonard May

STAFF PRESENT:
Charles Ferro, Development Review Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Chandler Van Schaack, Planner II

1. CALL TO ORDER

Chair, **B. Bowen**, declared a quorum at 6:06 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **L. Payton** and seconded by **C. Gray** the Planning Board voted 6-0 (**L. May** absent) to approve the March 17, 2016 minutes as amended,

3. PUBLIC PARTICIPATION

- **Carole Driver** spoke in opposition to an upcoming project located at 1440 Pine Street which is proposed to be a large RH-2 zoning residential housing and office space with an above-ground parking garage within the neighborhood.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

A. Call Up Item: USE REVIEW (LUR2016-00016): Use Review for a proposed Business Support Services (property management offices) use within an existing office building located in the Industrial Manufacturing zoning district at 6000 Spine Road. The call-up period expires on April 11, 2016.

This item was not called up.

5. PUBLIC HEARING ITEMS

A. AGENDA TITLE: Public hearing and Planning Board consideration of the following items:

1) Consideration of a land use map change for a portion of the property at 2520 28th Street from Public to Mixed Use Business related to the proposed rezoning;
2) Recommendation to City Council on a request to rezone a portion of the property at 2560 28th Street from P (Public) to BC-2 (Business Community – 2) (application no. LUR2015-00072; and
3) Consideration of Site Review application LUR2015-00104 for redevelopment of a portion of property at 2560 28th St. with 10 attached residential units. No changes are proposed to the existing commercial building on site. The proposal includes a request for a 25% parking reduction.

Applicant: Carrie Bingham for Coburn Development
Property Owner: Blizzard LLC

Staff Presentation:
C. Ferro introduced the item.
C. Van Schaack presented the item to the board.

Board Questions:
C. Van Schaack and **C. Ferro** answered questions from the board.

Applicant Presentation:
John Koval and **Pete Weber**, with Coburn Development, representing the applicant, presented the item to the board.

Board Questions:
John Koval, Pete Weber and **Carrie Bingham**, representing the applicant, answered questions from the board.

Public Hearing:
No one spoke.

Board Comments:
KEY ISSUE #1: Is the request for a change to the BVCP Land Use Designation consistent with the criteria for land use map changes as found in Part II of the 2010 BVCP?

- **J. Putnam** stated that the proposal makes sense. And that the current land use designation is not consistent.
- All board members agreed that the request for a change to the BVCP Land Use Designation would be consistent with the criteria for land use map changes as found in Part II of the 2010 BVCP.

KEY ISSUE #2: Is the rezoning request consistent with review criteria for rezoning?

- All board members agreed that the rezoning request would be consistent with the review criteria.

Key Issue #3: Does the proposal meet Site Review Criteria, including Boulder Valley Comprehensive Plan (BVCP) policies?

- **J. Putnam** stated that the proposal meets site review criteria. The reorientation of the project to face Goose Creek makes sense. The proposed unit size is modest and affordable and that is what is needed in housing. He suggested a couple conditions to the site review such as to make the units solar ready and to provide the option to wire the units for EV. He added that he could not support parking reductions without providing for unbundled parking. Finally he recommended additional language to Condition 3.d. to provide practicable soak pits or other measures to improve storm water quality, due to the location proposed being paved and connecting to Goose Creek.
- **H. Zuckerman** approved of the relocation of the buildings' footprint to the southern end and the cut-through for public access. In terms of conditions, he suggested a requirement to work with engineering to coordinate a water quality project on the east end of the project.
- **B. Bowen** agreed with the previous comments. More projects like this need to be supported. The unit mix makes sense and having residential housing being inserted into this type of neighborhood. The unit size is modest and meets site criteria.
- **L. Payton** agreed with the previous comments. She stated that she had liked the original plan of the architecture with similar looking buildings rather than the revised plan. In her opinion, the revised plan lacks refinement and elegance and has too many changes in plane and roof form. She suggested adding a condition that the applicant work with the Design Advisory Board (DAB) and refine the architecture back to something simpler.
- **C. Gray** agreed with **J. Putnam** and **H. Zuckerman** regarding the units being solar ready, the storm water issue and EV charging stations. She agreed that the relocation of the building to the south side was fundamental. In regards to the architecture, she suggested designing the north windows in a manner to have more natural light coming in. She mentioned that she liked the covered balconies and treatments on the south side. She believes the project meets the site review criteria.
- **J. Gerstle** finds the architecture attractive. He asked the applicant to consider lowering the building by digging the garages down two or three feet. The benefit would be diminishing a crowding feeling on the bike path. He suggested that the unbundled parking include the carports as well as the uncovered surface parking.
- **L. Payton** asked if the units will be "for sale units". She asked that the inclusionary housing requirement be reviewed for this project.
- The board agreed to discuss the inclusionary housing requirements at a later meeting.
- **H. Zuckerman** suggested hanging garage doors on the carports as it would enhance the value and the privacy.
- **J. Gerstle** agreed with not having garage doors in the proposed structure, as he felt that this would help to improve the sense of community by increasing interaction among residents as they come and go.

Key Issue #4: Is the requested parking reduction consistent with the criteria for parking reductions set forth in section 9-9-6(f), B.R.C. 1981?

- All board members agreed that the parking reduction request would be consistent with the criteria for parking reductions set forth in the Boulder Revised Code.

Motion:
On a motion by **J. Putnam**, seconded by **L. Payton**, the Planning Board voted 6-0 (**L. May** absent) to approve the request for a land use map change for a portion of the property at 2560 28th Street from Public to Mixed Use Business related to the proposed rezoning and incorporating the staff memorandum as findings of fact.

On a motion by **J. Putnam**, seconded by **L. Payton**, the Planning Board voted 6-0 (**L. May** absent) to recommend approval of the rezoning request no. LUR2015-00072 to City Council incorporating the staff memorandum as findings of fact.

On a motion by **J. Putnam**, seconded by **B. Bowen**, the Planning Board voted 6-0 (**L. May** absent), to approve the Site Review application LUR2015-00104, adopting the staff memorandum as findings of fact and subject to the recommended conditions of approval in the staff memorandum with the following modifications:

1. Adding language to Condition 3.d. as follows: The Applicant shall provide additional practicable soak pits or other measures to the storm water swale to improve storm water quality and further to consult with the city regarding possible coordinated water quality projects on the city property to the east.
2. Add a condition to read: All of the proposed townhomes will be solar ready with flat roofs and conduit connecting the roof to the house panel of each unit for future solar voltaic systems.
3. Add a condition to read: All of the townhomes will be provided with the option to be wired with a 240V/30 Amp circuit to accommodate electric vehicle chargers and the unbundled parking shall provide at least one electric vehicle charging station.

B. AGENDA TITLE: Concept Plan (case no. LUR2015-00106) proposal for expansion of the Frasier Meadows congregate care facility at 350 Ponca Pl. and 4950 Thunderbird Dr. within the RH-5 zone district. The proposal includes renovations to existing buildings; expansion of existing assisted living and skilled nursing facilities, wellness center and arts and education facilities; and a new 5-story, 55' building containing 98 independent living units.

Applicant: Timothy Johnson for Frasier Meadows Retirement Community
Property Owner: Frasier Meadows Manor, Inc.

Staff Presentation:
C. Ferro introduced the item.
C. Van Schaack presented the item to the board.

Board Questions:
C. Van Schaack answered questions from the board.

Applicant Presentation:
Timothy Johnson, representing the Frasier Meadows Retirement Community and the applicant, and **Glen Tipton**, with Hord Coplan Macht, presented the item to the board.

Board Questions:
Timothy Johnson and **Glen Tipton**, the applicant, answered questions from the board.

Public Hearing:

1. **Carolyn Drews** spoke in support of affordable housing with this proposed project on-site.
2. **Alexander 'Sandy' Stewart** spoke in support of affordable housing with this proposed project on-site. He urged the board to insist on more affordable housing at this location.
3. **John 'Grif' Crawford** spoke concerning the design of the proposed building and that the lack of courtyard space would be diminished. He suggested that the design be discussed thoroughly, with the residents, before proceeding with the project.
4. **Karl Amuta** spoke in opposition to the proposed landscape strips along the streets of the project and would like to see more open space at the northeast corner of the project. In addition, he spoke in support of affordable housing at the proposed project on-site.

Board Comments:
Key Issues for Discussion: Is the proposed concept plan compatible with the goals, objectives and recommendations of the Boulder Valley Comprehensive Plan (BVCP)? Is the requested 55-foot building height compatible with the existing context and character of the surrounding area?

- **B. Bowen** made a statement in response to the sentiment of the public comments that the Planning Board cares about affordable housing; however, they lack the power to require on-site affordable housing or whether an applicant chooses cash-in-lieu.
- **C. Gray** stated that the plan is generally compatible with the community policies and goals as outlined in the BVCP including restoration after the 2013 flood. The building height is appropriate for the site. She mentioned that she would like the applicant to share with the board how they addressed the public comments and suggestions made regarding the location of the building. Finally, the proposed arts and education building as well as the proposed center for healthy living are wonderful additions.
  C. Gray left the meeting following her comments.
- **J. Gerstle** stated that the project would be compatible with the BVCP. The height would be compatible in this location. He suggested reconsidering the layout in order to retain the northeast courtyard.
- **L. Payton** stated that the project would be compatible with the BVCP and supports the height modification. In regards to affordable housing, she questioned how the applicant would be able to accomplish offsite affordable housing. She agreed with the public comments that it would need to be on-site. Her biggest concern is the hydrology of the location and that flood mitigation at the site might result in flooding Thunderbird Road, undercutting Foothills Parkway or flooding neighbors. The flood water would need to go somewhere. She asked the applicant to demonstrate at time of site review where flood water would go and that it would not have an adverse impact on other properties.
- **B. Bowen** mentioned that this project could benefit by going to DAB for review to discuss architecture and design. He informed the applicant to pay close attention to view corridors, the design of the open space and that it is permeable. The open spaces between the buildings should be carefully designed to allow people to migrate around and between them.

- **H. Zuckerman** agreed. He noted that most of the units are one or two bedrooms with an average unit size of more than 1,400 square feet. He suggested shrinking the average size of the units which would increase the affordability. He appreciated the solar access that was created.
- **J. Putnam** agreed. He emphasized open space and pedestrian circulation. He also noted that good 3-D visualizations from multiple perspectives, and possibly animated visualizations, will b useful for site review. Regarding on-site housing, it is worth thinking about providing housing for employees that provide the care for the senior residents. The board will need a better understanding of the parking and travel demand management. He stated that he would rather see more units and less parking and asked the applicant to find ways to assist employees and residents with that. He suggested that applicant consider: microgrid integrated with renewable energy sources to address both energy and resilience concerns; electric vehicle charging and EV car-sharing, possibly integrated with the microgrid. He noted that grants and partners might be available to make this project a model for addressing protection for critical infrastructure and making progress on City energy goals.
- **J. Gerstle** reiterated that the average size of the apartments seem large. He would value a trade off of more units but smaller.

Board Summary:
B. Bowen gave a summary of the board's recommendations. Since this is a Concept Review, no action is required on behalf of the Planning Board. Overall, the board is comfortable with the proposed 55 foot height. The architecture is a good first step. The applicant should bring the project to DAB for additional design feedback prior to site review. There is some concern with offsite impacts of the flood map and flood wall. When the applicant returns for the site review presentation, they will need to show what the impacts and modeling of the flood plain map revisions entail and what they would mean for people downstream.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Barriers to build projects in Boulder

Board Comments:

- **L. Payton** presented to the board the idea that occasionally members of the public will identify images or offer comments on projects they would like to see in Boulder. She suggested that board members bring these images/comments, which are often thought to not be possible in Boulder, to the meeting for discussion of what the barriers to their development in Boulder would be.
- **J. Putnam** suggested that the board members send any items for discussion to the other members via email prior to the meeting for discussion.
- **B. Bowen** and **H. Zuckerman** both support the idea.

- **L. Payton** encouraged the members that this could give them a collective understanding of what should change in the code by seeing the barriers and discussing them.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 9:21 p.m.

APPROVED BY

_____
Board Chair

4.21.16
_____
DATE

hord | coplan | macht

Concept Plan Review Application: Frasier Narrative

DATE: 4 January 2016
PROJECT: **2015 Frasier Renovations and Additions**
JOB NO.: 215097

SUBJECT: Concept Plan review Submittal - Narrative

Introduction: Overall Project Goals:

Frasier Meadows Retirement Community has been serving the needs of Boulder seniors at a very high level since its founding in the early 1960's. The devastating flood of September 2013 destroyed an entire building and damaged several portions of the main residential building. This has resulted in a reduced number of Assisted Living, Memory Care and Skilled Nursing residential units. Frasier is proposing ~~some~~ additions to the campus which is located in south east Boulder on Ponca Place. These improvements are planned to be carefully integrated into the existing facilities, within the existing property boundaries. All of these enhancements to Frasier are important to meet the needs of its current senior population and future residents too.

Frasier Existing Conditions:

Frasier has grown in several phases over the 50-year history of this retirement community. The primary building is a zig-zagging series of 2, 4 and 5-story wings of residences, with community services located in the central area. The most recent addition was a 2-story expansion on the west side of the campus. Currently there are 204 apartments (consolidated from an original 300 units) for Independent Living seniors, 19 units for Assisted Living residents, 19 units for residents needing memory care and 54 units for residents needing skilled nursing. This Concept Plan outlines the steps Frasier needs to take to restore full capabilities to its community and to better serve Boulder.

Proposed Additions:

The design includes renovations within the existing buildings, additions, and a new building. Some of the changes are for new residential units and others are for the support and amenities to serve the residents. The proposed improvements are as follows:

- 14 new Assisted Living units within the existing Frasier building.
- Also there will be renovations within the central area to increase the size and quality of the food service, the health care, the administration offices and the wellness facilities.
- There is an addition planned to the existing skilled nursing wing to add 14 more skilled beds.
- There is an addition planned to the Wellness Center to improve the facilities and expand on them.
- Another addition will bring the arts and education rooms, which are scattered throughout the existing building, to one central area on the ground level. This "Wing" will have rooms to serve the Frasier residents including a sub dividable, 300-seat, flat floor auditorium; two arts / crafts classrooms and a 28-seat, movie screening room.
- Finally there is a small addition proposed to increase the size of the main lobby and the existing bistro too.

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Proposed New Building:

The most significant addition, in terms of capacity for Frasier, is a new independent living (I.L.) apartment building. It will be located in place of the Assisted Living building, which was destroyed in the 2013 flood and which we be torn down. This new building will provide a net gain of 89 apartments for independent seniors. Based on an actual wait list, and population studies, there is a significant need in Boulder for senior housing like this. The I.L. building will have approximately 182,800 gross square feet of occupied space on four floors, with enclosed bridge connections to the north residential wing of Frasier and to the existing Health Care building. The concept plan illustrates a 220-space parking lot that is on grade, below the new I.L. building. The building form is designed to fit into the campus by closely matching, but not exceeding the 55-foot height of the existing main building, even though it is raised above the flood plain. In recent meetings with the City Council, Frasier was exempted from the automatic restrictions of the 35-foot height limit which has been imposed on new construction. The building shape is staggered along the side facing Foothills drive to modulate the scale in an engaging manner.

Exterior Building Materials:

The concept design for the additions and new building are in a very early phase but will respect and take clues from the existing architecture. The Frasier Meadows group of buildings has a cohesive appearance. The materials are combinations of brick, linear window glazing, sandstone and light-colored stucco. The building forms are linear, with an emphasis on horizontal patterns. Roofs are mostly flat. These design features are guiding the architecture of the new construction.

Community Benefits:

Frasier has been an anchor to the City of Boulder since it was founded. It continues to be the preferred retirement home to many leaders of the community and from CU, The Federal Labs, private businesses and the city government. In many ways it acts as a hub to the greater elder community in Boulder. Continuing education and cultural activities are hosted here which benefit the older population. Frasier needs to grow and progress in order to continue to serve at this high level.

The grounds of Frasier are beautifully landscaped and act almost as an extension to the nearby Burke Park. The new design will continue to emphasize the importance of open spaces. It should be noted that the campus is mostly open with no fences except at the critical care areas.

The concept plan envisions the Independent Living building to be an attractive landmark structure along Foothills Parkway as people enter into Boulder from the south. It should be noted that the building design has been studied to maximize the views of the Flatirons from the residential neighborhood to the east.

In terms of the affordable housing requirement in the City code, Frasier leaders have met with both Jeff Yegian and Michelle Allen regarding this. Frasier is committed to maintaining its history of providing residences for elders of all economic levels. The 20% ratio of affordable to new units would translate to 18 apartments. Frasier is exploring its options to meet this requirement and at the very least, will provide payment in lieu of actual construction to the City Affordable Housing program.

Environmental Considerations:

The design team for the new improvements includes, Noresco, a specialist in sustainable design that has consulted with the City of Boulder. The super-efficient energy code of Boulder will guide the design as it becomes more developed and refined. The Frasier leaders are committed to certify the project according to the LEED principles.

The scope of the proposed improvements includes flood remediation. Martin and Martin civil engineers have been commissioned to design a reinforced wall along Sioux and Thunderbird streets which will divert future flood waters out of the Frasier property. This is a significant engineering and cost effort. At the same time, Frasier has been acting as a key advocate for the extended residential neighborhood to get the flood problem solved at the source, south of Highway 36.

Compliance with Title 9, Land Use Regulations:

- ***Techniques and Strategies for environmental impact avoidance, minimization or mitigation***:
  All of the new construction will be done within the existing property. There will be no expansion beyond that. The west and central additions are low scale (1 to 1.5 stories in height. The new apartment building will be built within the bounds of the flood-damaged building. This abandoned building will be demolished because it was so heavily damaged in the 2013 flood. The first floor of the new Independent Living apartment building will be located at a minimum elevation 2' above flood Base Flood elevation.

- ***Techniques and Strategies for practical and economically feasible travel demand management techniques***:
  Frasier manages its transportation needs very well. Many of the elderly residents don't drive. The already existing parking garages have much greater capacity than actually needed. As a service to the residents, Frasier has an "Ego" car-share vehicle that can be signed out. Also there are shuttle vans to take residents on excursions in town. Employees are encouraged to take public transportation to the nearby park and ride and bus stop. Overall, the impacts on Boulder's road ways are very low for a community of this size. The Frasier leadership is evaluating other programs to minimize the car traffic to and from the community.

  The existing Frasier property is well connected to the Boulder network of pedestrian and vehicular circulation paths and roads. There is a bus stop right across from the main entrance on the west side of the campus. The Foothills Pedestrian overpass links Frasier to the neighborhood to the east, to the Manhattan school and to the East Boulder Rec center beyond.

- ***Proposed Land use***:
  The proposed design improvements all comply with the permitted land and building uses as defined in the existing PUD serving Frasier. The uses include residences for a continuum of care for seniors and the amenities needed to serve this demographic. More detail about the uses can be found in the earlier sections of this narrative.

No Variances from Zoning Standards are Requested:

Frasier does not anticipate requesting any variances from the City zoning standards. The project is being designed to comply with "by-right" requirements. (This assumes the moratorium on the 55-foot height regulation will be eliminated.)

Conclusion:

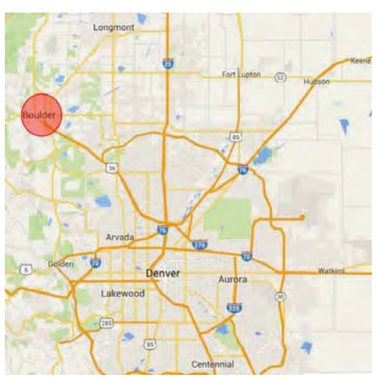
Frasier appreciates the City Planning office taking the time to evaluate this Concept Plan Review application. We look forward to working with City staff and the Planning Board to make these improvements a reality for the senior population served by Frasier.

FRASIER

FRASIER MEADOWS RETIREMENT COMMUNITY

CONCEPT PLAN REVIEW SUBMISSION

JANUARY 4, 2016



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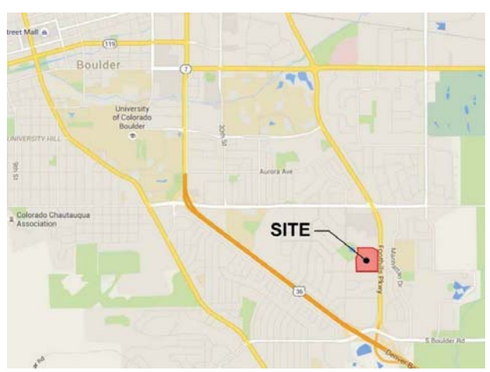

AREA

PROJECT TEAM:

OWNER:
FRASIER MEADOWS RETIREMENT COMMUNITY
350 PONCA PLACE
BOULDER, CO 80303

ARCHITECT:
HORD COPLAN MACHT
1331 NINETEENTH STREET
DENVER, CO 80202

CIVIL:
MARTIN / MARTIN, INC.
12499 WEST COLFAX AVE.
LAKEWOOD, CO 80215

TRAFFIC ENGINEER:
FOX TUTTLE HERNANDEZ
BOULDER, CO 80308

LAND USE AND ENTITLEMENT CONSULTANT
PORRECA & ASSOCIATES INC.
PO BOX 22 BOULDER, CO 80306-0022

SHEET INDEX:

- CONTEXT MAP

- SCHEMATIC SITE DEVELOPMENT PLAN

- TRIP GENERATION ANALYSIS (TWO COPIES ATTACHED TO ORIGINALS)

- ARCHITECTECTURAL CHARACTER SKETCHES
  - INDEPENDENT LIVING PERSPECTIVE & MATERIAL DESIGNATIONS
  - INDEPENDENT LIVING EAST AND WEST ELEVATIONS
  - INDEPENDENT LIVING NORTH AND SOUTH ELEVATIONS
  - ARTS & EDUCATION / WELLNESS CENTER PLAN DIAGRAM
  - ARTS & EDUCATION / WELLNESS CENTER PERSPECTIVE & MATERIAL DESIGNATIONS
  - PERFORMING ARTS CENTER ELEVATIONS
  - WELLNESS ELEVATIONS

- LAND USE STATEMENT (ATTACHED TO COVER)

FRASIER MEADOWS RETIREMENT COMMUNITY

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Cover Sheet

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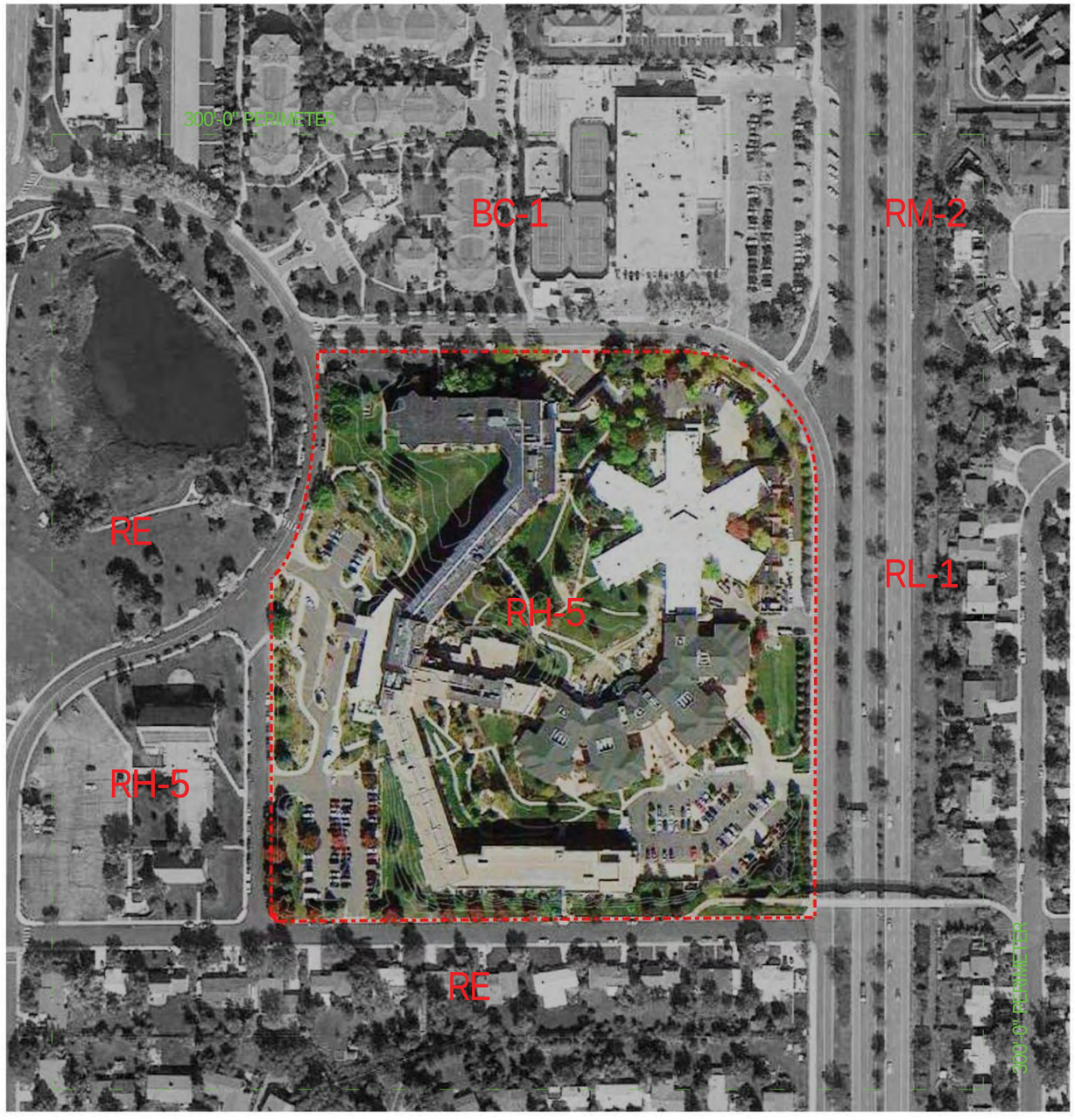

SITE CONTEXT SITE PLAN

CONTEXT ZONING KEY

RE	RESIDENTIAL ESTATE
RH-5	RESIDENTIAL - HIGH 5
BC-1	BUSINESS - COMMUNITY 1
RM-2	RESIDENTIAL - MEDIUM 2
RL-1	RESIDENTIAL - LOW 1

FRASIER

0 40 80 160

N

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CONTEXT SITE MAP

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SITE DEVELOPMENT CONCEPT PLAN

CONCEPT KEY

- BUS LINE
- PROPOSED FLOOD WALL EXTENTS
- BUS STOP
- PEDESTRIAN PATH
- EGO CAR SHARE
- B1 PROPOSED ARTS & EDUCATION ADDITION
- B2 PROPOSED CENTER FOR HEALTHY LIVING ADDITION
- B3 PROPOSED INDEPENDENT LIVING BUILDING
- B4 EXISTING INDEPENDENT LIVING BUILDING
- B5 EXISTING HEALTH CENTER BUILDING
- B6 HEALTH CENTER BUILDING ADDITION

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SITE DEVELOPMENT CONCEPT REVIEW PLAN

As indicated

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FRASIER INDEPENDENT LIVING TYP. FLOOR PLAN

1" = 40'-0"

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PROPOSED INDEPENDENT LIVING WEST PERSPECTIVE

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FRASIER INDEPENDENT LIVING
CONCEPTUAL PERSPECTIVES /
MATERIAL DESIGNATIONS
3/64" = 1'-0"

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IL EAST ELEVATION

SCALE: 1/16"=1'-0"

IL WEST ELEVATION

SCALE: 1/16"=1'-0"

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IL EAST AND WEST ELEVATIONS

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IL SOUTH ELEVATION

SCALE: 1/16"=1'-0"

IL NORTH ELEVATION

SCALE: 1/16"=1'-0"

FRASIER CCRC IL

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IL NORTH AND SOUTH ELEVATIONS

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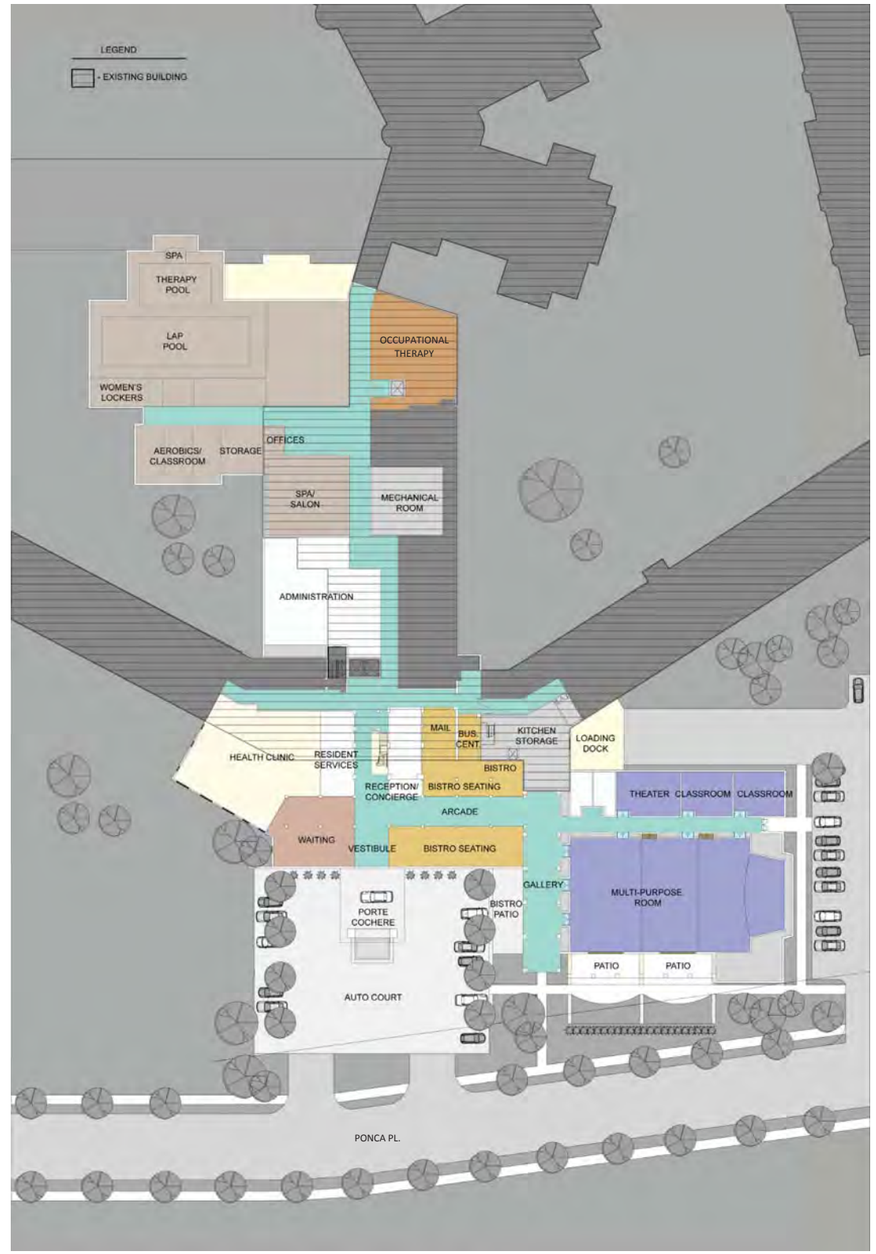

FRASIER MEADOWS RETIREMENT COMMUNITY

350 Ponca Pl, Boulder, CO 80303

FRASIER ARTS & EDUCATION / WELLNESS CENTER CONCEPTUAL FLOOR PLAN
1" = 40'-0"

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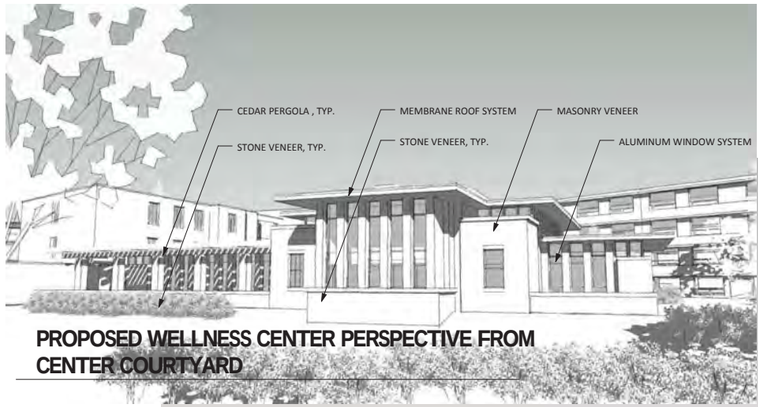
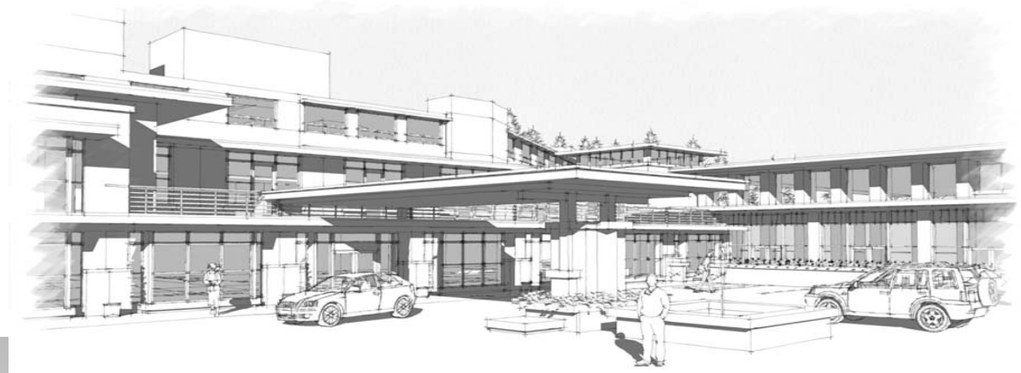
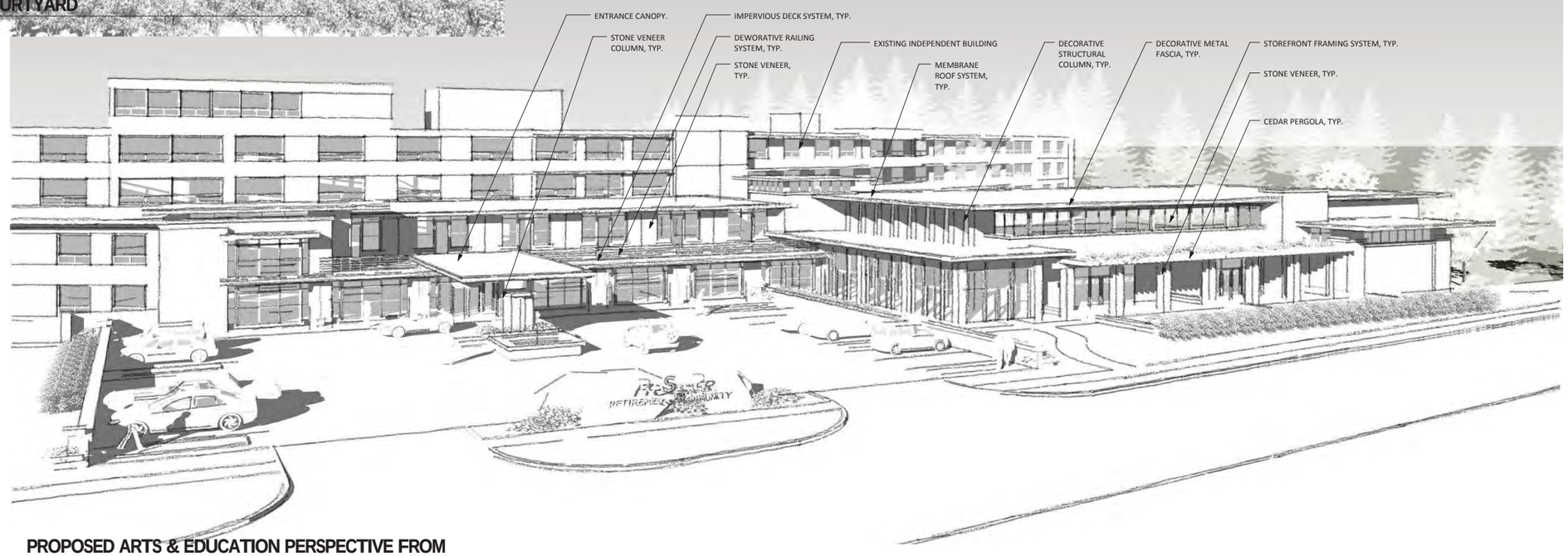


PROPOSED WELLNESS CENTER PERSPECTIVE FROM CENTER COURTYARD



PROPOSED ARTS & EDUCATION ENLARGED ENTRY PERSPECTIVE FROM WEST



PROPOSED ARTS & EDUCATION PERSPECTIVE FROM WEST

FRASIER MEADOWS RETIREMENT COMMUNITY

350 Ponca Pl, Boulder, CO 80303

FRASIER ARTS & EDUCATION / WELLNESS CENTER CONCEPTUAL PERSPECTIVE / MATERIAL DESIGNATIONS

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PERFORMING ARTS MAIN ENTRY SOUTH ELEVATION

SCALE: 1/16"=1'-0"

PERFORMING ARTS MAIN ENTRY WEST ELEVATION

SCALE: 1/16"=1'-0"

FRASIER CCRC IL

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PERFORMING ARTS CENTER MAIN ENTRY ELEVATIONS

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WELLNESS EAST ELEVATION

SCALE: 1/16"=1'-0"

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WELLNESS EAST ELEVATION

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Frasier Meadows

PONCA PLACE ENTRANCE

BIRDS EYE PERSPECTIVE AT ENTRANCE

FRASIER

350 Ponca Place Boulder, Co 80303

Call Up
350 Ponca Place

March 8th, 2016

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INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Karen Rahn, Human Services Director
Wendy Schwartz, Human Services Planning and Program Development Manager
Kammi Siemens, Human Services Community Funding Program Manager

Date: May 3, 2016

Subject: Information Item: Proposed Human Services Fund Changes for 2017

EXECUTIVE SUMMARY

The Human Services Fund (HSF) is an annual fund round providing funding to nonprofit service providers in the community. Each year approximately $2.1 million is allocated through a competitive Request for Proposals (RFP) process. The RFPs are usually released in early May with funding decisions made by late November. For this year's fund round, the Human Services Department is proposing two key changes for 2017:

- Renew all 2016 HSF contracts for 2017 with the same program and contract parameters, outcomes and funding levels as 2016. A renewal round would better utilize resources and time of city staff, community agencies, and the Human Services Fund Advisory Committee (HSFAC) to focus on continued development of community funding priorities for the 2017 fund round and beyond as part of the Human Services Strategy update.
- Open an Innovation Fund round, which would give community organizations and collaboratives the opportunity to apply for up to $100,000 in one-time total funding to support implementation of projects advancing three key funding principles, developed and supported as part of the Human Services Strategy update: system integration, upstream investment, and data-driven outcomes. An Innovation Fund round would advance implementation of the key principles of the Human Services Strategy update, which City Council has supported for this fund round.

FISCAL IMPACT

Funding for the 2017 HSF contracts is included in the proposed Human Services Budget for 2017. The 2017 requested HSF appropriation is $2,106,188. The Human Services Fund includes $50,000 annually for the Opportunity Fund, which is intended to address community funding needs or council priorities that arise outside of the regular fund round cycle. The current balance in the Opportunity Fund will be sufficient for the proposed one-time Innovation Fund RFP for 2017, contingent on the approval of the 2017 Budget.

BACKGROUND
During the 2016 fund round, 45 programs administered by 34 community agencies received HSF awards through a competitive RFP process. The HSFAC, a five-member resident committee appointed by the city manager, annually reviews proposals to the HSF and makes funding recommendations to the city manager. A complete list of programs funded for 2016 is included in **Attachment A**: 2016 Human Services Fund Allocations by Agency.

The 2016 funding cycle was the third year in which collaborative funding partners used e-CImpact - a regional, online Grant Management System (GMS). The four regional partners include the City of Boulder Department of Human Services, Boulder County, the City of Longmont and Foothills United Way. The shared online system includes common impact areas, community outcomes and indicators for all four funders. These impact areas are aligned with the five priority areas identified in the City of Boulder 2005 Housing and Human Services Master Plan (Master Plan).

The Human Services Master Plan is currently in the process of a major update renamed the Human Services Strategy. The current work of the Strategy is focused on community engagement to help shape priorities for the plan, including community funding. This process is anticipated to be completed mid-2016. The intent of renewing current HSF contracts is to allow the city, community agencies and the HSFAC to re-focus resources from fund round activities to the development of longer-term funding strategies as part of the Strategy, to be implemented in future fund rounds.

During Phase I of the Human Services Strategy update, three key principles for investment in human services programs were identified, based on national best practices, research and trend information:

- **System Integration** – A client-centric, no-wrong door approach to access services, rather than a focus on what services a program provides. This principle emphasizes a seamless system that is more efficient and effective for both service delivery agencies and clients.

- **Upstream Investment** - Investments that target factors that lead to entrenched social problems and intervene early. These are outcome-based programs and policies that lead to the reduction of problems before they become more critical and expensive to address.

  Funding for upstream and safety net services is not mutually exclusive. Both fit on a continuum with the end goal of achieving greater stability, resilience and self-sufficiency. Ideally over time, with additional upstream investment, fewer people fall into crisis and need repeated high-cost public assistance. Safety net services included in a continuum of upstream solutions should have clear system linkages (not just referrals) to preventive or sustainable solutions.

- **Data-driven Outcomes** – Meaningful data-driven outcomes evaluate programs based on the experience of clients, and ask how clients and the community are better off as a result of programs, rather than only reporting on outputs of the services provided.

In September 2015, Human Services staff held a stakeholder input meeting with community nonprofits funded by the HSF to get feedback on the key principles. Agencies provided feedback to staff and City Council requesting more information on how these principles are defined. They also suggested that the city provide resources and opportunities for innovation and implementation to advance the identified principles.

ANALYSIS

In analyzing potential 2016 HSF fund round changes, staff considered multiple factors which led to the recommendation to extend current HSF contracts for one year and implement the Innovation Fund:

- Nearly all currently funded agencies have been funded for several years for the same programs at approximately the same funding levels. Significant time and resources are devoted to managing and participating in the HSF fund round each year. Few changes were likely for this year's fund round, until the Human Services Strategy update is completed;
- More significant changes are likely in funding priorities for next year's fund round and beyond as a result of the Strategy completion. The time and resources – for the city, community agencies, and the HSFAC – that would be devoted to conducting an HSF fund round this year would be better spent on continued development of funding priorities, methodology and community engagement;
- There is precedent for multi-year HSF fund rounds, which were two-year rounds prior to 2014;
- It is anticipated after the Human Services Strategy is approved the city would be moving to a two- or three-year fund round process;
- In previous study sessions on the Human Services Strategy council has given feedback that the key principles are the right direction to pursue for community funding;
- The stakeholder input process with community agencies suggested the need for more resource support for defining, piloting and implementing key principles, and the challenge of exploring those principles when so much time is devoted to "chasing funding" for programming; and
- Regional GMS partners will continue to work collaboratively to strategize best options and goals for achieving community level outcomes.

Boulder County Housing and Human Services and Boulder County Community Services will also be renewing the majority of their human service contracts for 2017. The exception for the county will be the Worthy Cause Fund – these dollars will be awarded through a competitive funding process. The City of Longmont will be offering renewals to select agencies and a competitive fund round for 2017.

In summary, extending 2016 contracts for 2017 will provide the opportunity to focus city and stakeholder resources on continued development of long-term funding strategies and options, while continuing to support community programs at current funding levels.

Innovation Fund

In lieu of a 2016 fund round, the staff anticipates releasing an RFP by mid-2016 which advances the key principles of integrated systems, upstream investment, and data-driven outcomes. Proposals would still fit within impact areas and outcomes of HSF, but can cross impact areas and combine outcomes. Possibilities could include:

- Development of data systems or other improvements to better track client outcomes;
- Consulting or technical assistance to develop an evaluation system;
- System/infrastructure improvements to integrate services among multiple partners;
- Direct services programs that pilot implementation of integrated services and/or upstream investments; and
- "Seed" or "start-up" programs, or enhancements to existing programs that further the key principles.

Innovation Fund criteria would be consistent with other selected HSF criteria including:

- Does not duplicate existing programs in the community and leverages similar programs;
- Targets longer-term outcomes;

- Key program elements are grounded in best practices or evidence-based research;
- Identifies a solid evaluation plan;
- Benefits primarily City of Boulder residents that are low-income or at-risk; and
- Identifies strong collaboration and leveraging of resources.

Nonprofit 501(c)(3) organizations, government or educational institutions would be eligible to apply. Proposals can come from a single agency, or one agency can apply on behalf of a collaborative. Arts, cultural, sport and/or recreation programs would not be eligible to apply. Organizations receiving HSF in 2017 through contract extensions, as well as those without HSF contracts, would be able to apply to the Innovation Fund as long as they meet the fund round criteria.

The proposed changes were reviewed and approved by the city manager on April 14, 2016. Agencies were notified of proposed changes on April 22, 2016. Agency feedback has been positive overall to date.

NEXT STEPS
Notification to agencies and opportunity to comment on proposed changes – April 22 through May 5
Innovation Fund round opens – Mid-2016
HSF contract extensions executed for 2017 – Fall 2016

ATTACHMENT
Attachment A: 2016 Human Services Fund Allocations by Agency

Attachment A: Human Services Fund Allocations by Agency

Agency	Program	2016 Approved
Alternatives For Youth	iTHRIVE	$10,000
Attention Homes	Meeting Basic Needs for At-Risk Youth	$40,000
Blue Sky Bridge	Child and Family Advocacy Program	$25,000
Boulder County AIDS Project	HIV Care and Prevention Services	$25,000
Boulder County CareConnect	Safety Net and Community Outreach Services	$25,000
Boulder County Legal Services **(Total 2016 agency funding $37,000)**	Critical Legal Services for Low-Income COB Residents	$19,000
	Legal Services for Victims of Domestic Violence	$18,000
Boulder County Public Health **(Total 2016 agency funding $55,000)**	GENESIS	$40,000
	GENESISTER	$15,000
Boulder Day Nursery	Early Learning Programs	$65,000
Boulder Outreach for Homeless Overflow	Emergency Warming Centers	$20,000
Boulder Shelter for the Homeless	Boulder Shelter Programs	$120,000
Boulder Valley School District **(Total 2016 agency funding $45,000)**	Boulder High School Adelante! Program	$30,000
	Teen Parent Program	$15,000
Boulder Valley Women's Health Center	Subsidized Reproductive & Sexual Health Services and Education Program	$98,000
Bridge House **(Total 2016 agency funding $90,000)**	Day Shelter & Community Table Meal Resource Center & Case Management	$40,000
	Ready to Work and Employment Services	$50,000
Bridge to Justice	Post-Decree Services	$5,000
Center for People with Disabilities	Core Services	$35,000
Children First of the Rockies	SAFE Services	$5,000
Children's House Preschool	First Chance Scholarship	$25,000
Clinica Campesina Family Health Services	Health Care for Low-Income Residents	$290,000
Community Action Development Corporation	Circles	$10,000
Community Food Share	Food Procurement and Food Distribution Program	$5,000
Dental Aid	Safety Net Dental Services	$125,000

Attachment A: Human Services Fund Allocations by Agency

Emergency Family Assistance Association	Shelter and Basic Needs	$125,000
Family Learning Center, The **(Total 2016 agency funding $60,000)**	School Readiness	$50,000
	Youth Development	$10,000
Foothills United Way	Personal Investment Enterprise (PIE) Program	$35,000
I Have A Dream Foundation	Oak Dreamers and Pre-Collegiate Pathways to College and Career	$46,188
Immigrant Legal Center of Boulder County	Immigrant Legal Services	$23,000
InReach (formerly Boulder Institute for Psychotherapy and Research)	Early Childhood Program: Bright By Three + Zero to Five	$15,000
Intercambio de Comunidades	English Language and Life Skills Education for Adult Immigrants	$20,000
Mental Health Partners	Mental Health Wellness Services for Severely Mentally Ill Individuals	$350,000
Mother House	Mother House	$10,000
New Horizons Cooperative Preschool	Bilingual Early Childhood Education	$42,000
Safehouse Progressive Alliance for Nonviolence	Services for Victims of Domestic Violence and their Children	$95,000
YWCA **(Total 2016 agency funding $80,000)**	Children's Alley Child Care	$65,000
	Latina Achievement Support	$15,000
	Total HSF	$2,056,188

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To: Members of City Council

From: Jane S. Brautigam, City Manager
Karen Rahn, Human Services Director
Wendy Schwartz, Human Services Planning and Program Development Manager
Kammi Siemens, Human Services Community Funding Program Manager
Substance Education and Awareness Review Panel

Date: May 3, 2016

Subject: Information Item: 2016 Substance Education and Awareness (SEA) Funding

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EXECUTIVE SUMMARY

This memorandum outlines the background and funding recommendation for the Substance Education and Awareness (SEA) Request for Proposals (RFP). The SEA RFP review panel recommendation is to allocate $250,000 in funding to Boulder County Community Services Healthy Futures Coalition (HFC). Consistent with City Council direction on Nov. 17, 2015, the SEA contract with HFC will be designed for a term of five years, with funding contingent on annual budget approval by City Council and achievement of annual program benchmarks and outcomes. Modifications to the project may be made annually.

FISCAL IMPACT

$250,000 is budgeted in the Human Services Department for 2016. The proposed contract is within the Department's budgeted resources.

BACKGROUND

Recreational Marijuana Taxes and Intended Use

On Nov. 5, 2013, City of Boulder voters approved Ordinance 7916, which authorized the city to impose an excise tax of up to 10 percent and a sales and use tax of up to 10 percent on recreational marijuana sales to offset some of the indirect costs of recreational marijuana.

Boulder Revised Code Section 3-14-1 expresses the Legislative Intent of revenues generated by these taxes:

"…although the city council recognizes that it cannot bind future city councils, it nonetheless declares its intention that sufficient revenues generated by this tax be appropriated by future city councils for public safety, enforcement and administrative purposes and for comprehensive substance abuse programs including, without limitation, prevention, treatment, education, responsible use, intervention, and monitoring, with an emphasis on youth…"

In the 2014 budget, City Council appropriated $250,000 in recreational marijuana tax revenues to:

"develop and implement community-wide educational program(s) for children, youth and families, related to the impacts of recreational marijuana use on young people in concert with community partners, including Boulder County Public Health, Boulder Valley School District (BVSD), Mental Health Partners and non-profits. Scope, develop and implement messaging and support existing best practice community education and support programs."

On Nov. 17, 2015, City Council approved a motion to authorize the city manager to release an RFP for integrated substance abuse prevention education programs; including all commonly abused substances in addition to recreational marijuana, aimed at children, youth and families. The intent is to develop consistent and comprehensive substance abuse prevention education and messaging across the community and with key community stakeholders and organizations.

The city released the SEA RFP on Feb. 9, 2016, inviting community coalitions and organizations to submit proposals to develop and implement the program.

Desired SEA Program Outcomes

As identified in the RFP the goals and outcomes desired are:

Goals

- Widespread community distribution and awareness of information and programs developed;
- Shift community perceptions of risk associated with substance use, including the impact of drugs, alcohol, recreational marijuana, and abuse of prescription medications on children and youth;
- Prevent/reduce youth abuse of alcohol and recreational drugs including marijuana; and
- Reduce accidental ingestion of marijuana and other drugs.

Leveraging Existing Community Efforts, Consistent Community-wide Messaging

- Program should be integrated with, and complementary to, existing youth substance abuse education and prevention efforts in the community, including efforts by Boulder County Public Health (BCPH), BVSD, Mental Health Partners (MHP) and nonprofits.
- Preference for a partnership approach - multiple partners applying an integrated, collaborative model to achieve community goals, and/or leverage other sources of funding to achieve goals.

- Preference for innovation in partnerships and collective efforts, in contrast to a group of providers continuing existing services.
- Program should have broad community impact with consistent messaging.
- City SEA funding should not supplant funding for existing programs.

Target Populations and Program Focus

- The project scope may be broader than the City of Boulder, but SEA funding is intended for the benefit of city residents. The proportion of program funding requested from the City of Boulder should be appropriate to the percentage of City of Boulder program costs.
- Education program(s) should be community-wide, and include plans to reach higher risk youth subpopulations that typically report lower perceptions of marijuana or other substance abuse risk and higher rates of use.
- Focus of program activities should be education and prevention. Although funding is not intended for treatment, some treatment activities may be considered as part of a comprehensive education and prevention program.
- Program should operate within broader context of substance abuse, and include significant efforts in the area of children and youth.
- Program should reflect best practices in substance abuse prevention and education for youth.
- Proposed programs should demonstrate involvement of target population in program design.

ANALYSIS

A total of $250,000 was available for 2016 funding. Two proposals were received on or before the March 4, 2016 deadline with funding requests totaling $335,000. The two proposals submitted were:

- Boulder County Community Services, on behalf of the Healthy Futures Coalition (HFC); and
- The Family Learning Center.

An internal Human Services (HS) staff review found both proposals to meet the minimum eligibility criteria established in the RFP, and released the proposals to the SEA review panel. The review panel was comprised of representatives from each of the following resident or internal advisory groups:

- Human Services Fund Advisory Committee (one member);
- Boulder Police Department Community Services (one member);
- Youth Opportunity Advisory Board (two members); and
- Boulder Human Services Department (two staff).

For a complete list of review panel members see **Attachment A:** Substance Education and Awareness Review Panel Members.

The process for deliberations and developing recommendations included:

- Release of 2016 SEA RFP;
- Technical assistance for organizations interested in applying;
- Staff review and analysis of applications for minimum eligibility;
- SEA panel review and analysis;
- Question and answer period with applicants;
- SEA review panel deliberations and recommendations;
- Preliminary recommendations communicated to the city manager for approval; and
- Preliminary recommendations communicated to applicants.

The SEA review panel evaluated each proposal beginning with a quantitative points system to rank the criteria established in the RFP, the funding application and funding guidelines.

SEA PROPOSALS

Healthy Futures Coalition (HFC) Proposal

The SEA review panel recommended that $250,000 be awarded to HFC, as the proposed program which best matches the goals, purpose and criteria of the RFP.

The mission of HFC is to, "prevent and reduce youth substance use, adult substance abuse and harmful impacts on the community by collectively mobilizing resources and partnerships throughout Boulder County to create informed and healthy community attitudes towards drugs and alcohol." To create the community-wide focus and alignment envisioned in SEA, the coalition identified existing HFC efforts under Substance Abuse and Mental Health Services Administration (SAMHSA) strategies and designed additional efforts to build on current work and integrate SEA into a comprehensive community program leveraging other sources of funding.

Evaluation of HFC efforts to meet SEA desired outcomes includes both process and outcome measures. Coalition partners will report on the demographic and geographic reach of programs and campaigns, as well as annual metrics that demonstrate changes in knowledge, skills, attitudes or behavior of program participants. HFC will work with the BCPH to obtain data on accidental ingestion of substances through local health care systems or state data repositories. HFC will report on overall population data related to substance abuse through the Healthy Kids Colorado Survey and has also agreed to participate in an evaluation process with an independent evaluator that will be contracted by HS.

The messaging and programs of HFC are unified by a common framework of effective prevention strategies developed by SAMHSA. See **Attachment B:** Framework of Comprehensive Substance Abuse Services. This framework establishes complementary programming with consistent messaging through:

- Information Dissemination – Provides information about the nature and extent of alcohol and other drug use, abuse, addiction and their effects on individuals, families and communities. Provides knowledge and increases awareness of available prevention and treatment programs and services.

- Education – Builds skills through structure learning processes. Critical life and social skills include decision making, peer resistance, coping with stress, problem solving, interpersonal communication and systematic and judgmental capabilities.
- Alternatives – Provides opportunities for target populations to participate in activities that exclude alcohol and other drugs.
- Community-Based Process – Provides ongoing networking activities and technical assistance to community groups or agencies.

The HFC will implement these complementary and unified strategies through:

- A media campaign about safe storage of marijuana and other substances, implemented through various media and venues;
- Education/skill building for youth, parents and other influential adults implemented in multiple middle schools through evidence-based and promising programs identified by SAMHSA including: Sources of Strength, Teen Outreach Program (TOP) and Effekt;
- Break the Cycle, a peer-based group intervention to prevent initiation of injection drug use;
- Alternative pro-social activities and middle school service learning program; and
- Substance Abuse Prevention Skills Training (SAPST) for all program subcontractors to reinforce consistent messaging and methods, and technical assistance to subcontractors on coordination and effective service implementation.

The funds awarded through this proposal will be subcontracted to HFC member organizations in order to increase impact. The following programs will be funded in the first year:

Chart 1: Subcontractor Scope and Budget

SUBCONTRACTOR	SCOPE	PROPOSED FIRST YEAR BUDGETS
Boulder County Public Health – Communications and Marketing Unit	Design or procurement and implementation of a safe storage campaign for all substances, designed to reach adults and retailers	$36,111
Boulder County Public Health – Communicable Disease Program	Break the Cycle peer-based group intervention to prevent initiation of injection drug use	$23,845
Boulder County Public Health – Community Substance Abuse Program	Coordination of SAPST technical assistance to subcontractors, evaluation liaison, and grant management	$44,092
Alternatives for Youth	Implementation of Effekt program in two middle schools	$18,785

BVSD	Sources of Strength program implementation in five middle schools	$27,140
El Centro Amistad	Expansion of TOP curriculum and health promotion activities with Latino youth in one middle school	$25,000
YMCA of Boulder Valley	Training in substance abuse prevention and positive youth development for all YMCA staff, coaches and volunteers	$44,752
YMCA of Boulder Valley	First Friday social activities for youth, and service learning projects for middle school youth	$20,790
Phoenix Multisport	Physical activity for youth at risk of substance abuse	$9,485

HFC's program proposal is included as **Attachment C:** Healthy Futures Coalition Proposal**.**

Family Learning Center Proposal

The SEA review panel did not recommend funding for the Intervention to Prevent Abuse of Substances for Students (IPASS) proposal submitted by Family Learning Center (FLC). FLC requested $85,000 for the IPASS program, with a total direct program service target population in year one of 350 and an estimated 1,000 students reached with informational materials.

IPASS is an experiential family substance abuse prevention curriculum which follows guidelines from the Trust for America's Health 2015 report, "Reducing Teen Substance Misuse: What Really Works." FLC constructed the IPASS curriculum and training content locally, with the goal of providing parents and youth with the tools they need to prevent substance abuse, recognizing signs of substance abuse in themselves and their children, and providing access to community resources. The program focused on five topics related to substance abuse, with monthly two-hour sessions for parents and/or youth. It also included a messaging campaign created by youth in partnership with personnel from KGNU, Telemundo/Univision and the University of Colorado Boulder Communications Department. FLC proposed to primarily serve children and families living in the nine low-income housing sites and four mobile home sites in Boulder's northeast corridor.

Evaluation of the IPASS program would consist of quantitative and qualitative measures administered at baseline and year-end. The measures would include pre-and post-test Likert surveys to determine growth of knowledge, participant surveys on usefulness of training and how they will apply knowledge and skills, focus groups and interviews on program impact. In addition, FLC would track data for each participating family on participation, behavior change and referrals.

The FLC program proposal is included as **Attachment D:** Family Learning Center Proposal.

2016 SEA FUNDING RECOMMENDATIONS

Key elements that impacted the SEA review panel recommendation included:

- The HFC is unified around a consistent framework of strategies developed by SAMHSA with demonstrated effectiveness for youth, parents and other influential adults.
- The HFC coalition is four years old with over 20 active coalition members; best aligning with RFP criteria for multiple partners applying an integrated, collaborative model to achieve community goals. Subcontractors already have agreements in place and the coalition is also jointly working on related projects supported by other funders.
- The proposed HFC program most clearly meets the RFP criteria related to community-wide information and educational programming, with a total estimated target population of 25,873 youth and adults, many receiving multiple messages/interventions.
- Consistent with national literature and recommendations, the HFC curricula uses multiple evidence-based and evidence-informed SAMHSA "Best Practice" prevention strategies.
- The HFC program clearly describes multiple ways it will be evaluated specific to the SEA goals stated in the RFP.
- The alternate applicant, the Family Learning Center, recently joined the HFC as a member organization. As such, their participation and contribution to the development of the SEA program is still possible.

Following approval by the city manager of preliminary recommendations from the review panel, applicants were notified of preliminary funding recommendations during the first week of April 2016.

NEXT STEPS

Contract negotiated and executed – May/June 2016
Progress report – January 2017
First year-end progress report – June 2017

ATTACHMENTS

Attachment A: Substance Education and Awareness Review Panel Members
Attachment B: Framework of Comprehensive Substance Abuse Services
Attachment C: Healthy Futures Coalition Proposal
Attachment D: Family Learning Center Proposal

Substance Education and Awareness Review Panel Members	
Will Murray	Human Services Fund Advisory Committee
Doyle Thomas	Boulder Police Department Community Services
Adela Aguirre	Youth Opportunity Advisory Board member and student at Boulder High School
Nicolas Baer	Youth Opportunity Advisory Board member and student at Fairview High School
Kammi Siemens	Boulder Human Services Department
Wendy Schwartz	Boulder Human Services Department

Primary Prevention Strategies

The Substance Abuse and Mental Health Services Administration (SAMHSA) recommends developing a comprehensive primary prevention program that includes activities and services provided in a variety of settings. A comprehensive program includes strategies listed and defined on the table below. Prevention strategies can be classified using the Institute of Medicine Model of Universal, Selective, and Indicated, which classifies preventive interventions by targeted population. A comprehensive program targets both the general population and sub-groups that are at high risk for substance abuse. The definitions for these population classifications are:

- Universal: The general public or a whole population group that has not been identified on the basis of individual risk
- Selective: Individuals or a subgroup of the population whose risk of developing a disorder is significantly higher than average
- Indicated: Individuals in high-risk environments who have minimal but detectable signs or symptoms foreshadowing disorder or have biological markers indicating predispositions for disorder but do not yet meet diagnostic levels

The Healthy Futures Coalition uses the SAMHSA framework as a foundation for its work, including this proposal for Substance Education and Awareness program funds. The table below demonstrates how the coalition's proposed programming under each strategy complements existing efforts in the community, using leveraged funds (shaded in blue) to create a comprehensive approach. For this proposal focused on youth prevention, few activities are proposed at the 'indicated' level.

HEALTHY FUTURES COALITION—FRAMEWORK OF COMPREHENSIVE SUBSTANCE ABUSE PREVENTION SERVICES

INFORMATION DISSEMINATION Provides knowledge and increases awareness of the nature and extent of alcohol and other drug use, abuse, and addiction, as well as their effects on individuals, families, and communities. It also provides knowledge and increases awareness of available prevention and treatment programs and services. It is characterized by one-way communication from the information source to the audience, with limited contact between the two.					
Universal:	**Safe storage campaign** for all substances, implemented through various media and venues *(Subcontractor: Boulder County Public Health)*	***Keep Talking, They're Listening* prevention media campaign** for parents *(Funded through Office of Behavioral Health grant to Boulder County Community Services)*	**Youth social norming campaign**, in development *(Funded through Office of Behavioral Health grant and Drug-Free Communities grant to Boulder County Public Health)*	**Amplify existing state marijuana media campaigns** *(Funded through Office of Behavioral Health grant and Drug-Free Communities grant to Boulder County Public Health)*	Distribute **Latino marijuana influencer campaign** materials *(Funded through Colorado Department of Public Health and Environment grant to Boulder County Community Services)*
Selective:					
Indicated:					

EDUCATION Builds skills through structured learning processes. Critical life and social skills include decision making, peer resistance, coping with stress, problem solving, interpersonal communication, and systematic and judgmental capabilities. There is more interaction between facilitators and participants than there is for information dissemination.					
Universal:	***Effekt*,** designed to maintain parents' restrictive attitudes toward underage drinking, implemented through schools *(Subcontractor: Alternatives to Youth)*	**Sources of Strength**, a school-based program to reinforce protective factors among youth *(Subcontractor: Boulder Valley School District)*	**Training on substance abuse prevention and positive youth development** for all staff, coaches, and volunteers of YMCA of Boulder Valley *(Subcontractor: YMCA of Boulder Valley)*	Spanish language **skill-building sessions on youth substance use** (*Funded through Drug-Free Communities grant to Boulder County Public Health)*	**Pathways to Parenting** series (video and on-site) addressing key issues affecting youth, featuring mental health professionals *(Funded through Office of Behavioral Health grant to Boulder County Community Services)*
Selective:	Health promotion for Latino youth, including **Teen Outreach Program** and expansion to one BVSD middle school *(Subcontractor: El Centro Amistad)*	**Nurturing Parenting**, designed to empower individuals and families with new knowledge and beliefs to make good and healthy lifestyle choices. *(Funded through Office of Behavioral Health grant to Boulder County Community Services)*			
Indicated:	**Break the Cycle**, peer-based group intervention to prevent initiation of injection drug use *(Subcontractor: Boulder County Public Health)*				
ALTERNATIVES Provide opportunities for target populations to participate in activities that exclude alcohol and other drugs. The purpose is to discourage use of alcohol and other drugs by providing alternative, healthy activities.					
Universal:	First Fridays **pro-social activities** and middle school **service learning program** *(Subcontractor: YMCA of Boulder Valley)*	**Prosocial options for youth** through Natural Highs, City of Longmont, TEENS Inc., and Out Boulder *(Funded through Office of Behavioral Health grant and Drug-Free Communities grant to Boulder County Public*			

		Health)			
Selective:	**Physically active programming** for youth, with outreach to youth at risk for substance abuse *(Subcontractor: Phoenix Multisport)*				
Indicated:					

COMMUNITY-BASED PROCESS

Provides ongoing networking activities and technical assistance to community groups or agencies. It encompasses neighborhood-based, grassroots empowerment models using action planning and collaborative systems planning.

Universal:	**Substance Abuse Prevention Skills Training** (SAPST) for all subcontractors	**Influencer and policy-maker education on youth substance use** (*Funded through Drug-Free Communities grant to Boulder County Public Health)*	**Healthy Futures Coalition coordination** *(Funded through Office of Behavioral Health grant and Drug-Free Communities grant to Boulder County Public Health)*	Healthy Futures Coalition **Youth Leadership Team coordination** *(Funded through Office of Behavioral Health grant and Drug-Free Communities grant to Boulder County Public Health)*	Expansion of substance use data on online **Boulder County Health Compass** (*Funded through Drug-Free Communities grant to Boulder County Public Health)*
	Technical assistance in program implementation, fidelity, and coordination to all subcontractors	**Aligned messaging on alcohol, marijuana, prescription drugs** among Healthy Futures Coalition members *(Funded through Office of Behavioral Health grant and Drug-Free Communities grant to Boulder County Public Health)*	**Alignment between Healthy Futures Coalition and Addressing Alcohol Concerns Together** (CU-based coalition)		

ENVIRONMENTAL Establishes or changes written and unwritten community standards, codes, and attitudes. Its intent is to influence the general population's use of alcohol and other drugs.					
Universal:	**Marijuana policy advocacy** *(Through Boulder County Public Health)*	**Alcohol store environmental audits** *(Funded Drug-Free Communities grant to Boulder County Public Health)*			
Selective:					
Indicated:	Outreach to Boulder County courts on **effective model for Minor in Possession tickets** *(Funded through Drug-Free Communities grant to Boulder County Public Health)*				

Boulder County

Community Services Department

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Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • **www.bouldercountycommunityservices.org**

BOULDER COUNTY COMMUNITY SERVICES Generating a Lifetime of Opportunities

March 4, 2016

Kammi Siemens
City of Boulder
Department of Human Services
909 Arapahoe Avenue
Boulder, Colorado 80302

Dear Ms. Siemens,

Please find attached our response to the City of Boulder's Substance Abuse Education and Awareness Programming for Children, Youth and Families (SEA) Request for Proposals. Our application is based on a partnership approach, and incorporates an array of prevention service providers who will deliver a variety of complimentary evidence-based programs. This comprehensive strategy was purposefully designed so as to have both individual and collective impacts on substance abuse issues within the City of Boulder.

The proposal was developed by the Healthy Futures Coalition (HFC) in collaboration with its member organizations. HFC, assisted by the Community Services Department, will oversee all aspects of the project including service provision, evaluation and capacity building efforts. We believe this approach ensures that these critical resources will be well-managed and effectively utilized, and supports our ablity to implement quality improvement efforts over the life of the project.

We would be very excited to work with the City on this important project and greatly appreciate this opportunity. Please do not hesitate to contact me or Ms. Delgado, the grant contact, should you have any questions about our proposal.

Sincerely,

Robin Bohannan

Robin Bohannan, Director
Community Services Department

Cindy Domenico *County Commissioner* **Deb Gardner** *County Commissioner* **Elise Jones** *County Commissioner*

Part I: Proposal Abstract (Please use this form and do not exceed one page)

A. Applicant Information

Name and Title of the main contact for this RFP: Meca Delgado, Healthy Youth Alliance Program Manager E-Mail Address: mdelgado@bouldercounty.org
Mailing Address, City, State, Zip Boulder County Community Services 3482 Broadway Boulder, CO 80304

B. Project Information

Project Address(es), if different than above: NA
Project Title: Healthy Futures Coalition Substance Abuse Prevention Partnership
Brief Project Summary: Boulder County Community Services, as fiscal agent to the Healthy Futures Coalition (HFC, formerly the Reducing Substance Abuse Coalition), requests $250,000 from the City of Boulder Substance Education and Awareness Program for Children Youth and Families (SEA) to implement a comprehensive approach to substance abuse prevention. HFC is a coalition of community agencies, businesses and individuals focused on developing protective factors and reducing risk factors for all youth as the means for effective community-based substance abuse prevention. Boulder County Public Health and Boulder County Community Services work in partnership to manage and support the work of the coalition. The proposal is based upon a comprehensive framework of effective prevention strategies developed by the Substance Abuse and Mental Health Administration. The key strategies included in this grant are: information dissemination related to safe storage of marijuana and other substances; education for youth, parents and other influential adults; alternative activities to use of substances for youth; and community-based processes that strengthen the capacity of the community to engage in effective prevention activities. Efforts will be focused on the City of Boulder as much as possible. Boulder County Community Services will subcontract all funds to community agencies belonging to the coalition, to build the comprehensive set of services. First year partners include Alternative for Youth, Boulder Valley School District, *El Centro Amistad*, Phoenix Multisport, YMCA of Boulder Valley, and Boulder County Public Health.
Is the **project** contingent on this funding?: X Yes ☐No Explain, if yes: The implementation or expansion of programs included in this request will not be possible without this funding.
Is the **timeline** contingent on this funding?: X Yes ☐No Explain, if yes: The programs included in this request will not begin unless funding is awarded.

C. Financial Information and Target Population:

Total Project Cost: $634,389 *(This amount represents the SEA project request plus funding received by Boulder County Community Services and Boulder County Public Health to support community-based substance abuse prevention through the Heathy Futures Coalition.)*
Amount of SEA funding requested for the project: $250,000
Total Program Target Population: Estimated 25,873 youth and adults
Boulder Residents as Percentage of Total Target Population: 60 %

Part II—Proposal Narrative

A. Need for Project Services

1. Target Population

This collaborative funding request from the Healthy Futures Coalition (HFC) focuses on persons ages 10-25, their parents and other influential adults. The selected age range acknowledges that substance abuse begins at young ages, that brain development can continue through age 25, and that older youth and young adults role model behavior and, at times, initiate younger persons to substances. According to the US Census, there are approximately 74,000 persons ages 10-24 in Boulder County, of whom approximately 49% reside in the City of Boulder. About 8.8% of the city's population is of Hispanic origin. While most residents of both the city and county state they are of White race, 11% of the city's population identify as other races or mixed race. An estimated 46.5% of households within the City of Boulder have annual incomes below $50,000). Proposed programming within the Boulder Valley School District (BVSD) will be implemented only in schools within the City of Boulder. Subcontractors will specifically outreach to youth within the City of Boulder. However, many of these programs provide services county-wide and no youth will be turned away.

The comprehensive approach to prevention outlined in this proposal strives to reach individuals with more than one effective intervention in order to increase impact. Given this approach, it is not possible to estimate an unduplicated count of clients/participants. Broad communication strategies can potentially reach nearly the full population of youth and adults, while more focused interventions are each expected to reach between 80-2,800 youth, depending on the program, and 30-1,000 parents or other influential adults, depending on the program. The proposal also includes capacity-building training for subcontractors, which is estimated to reach 30 community professionals. Two subcontractors in the proposal focus on specific subpopulations given their role within their respective communities and the targeted nature of their services: *El Centro Amistad* for Latino youth and parents, and YMCA of Boulder Valley, which serves a large low-income population.

2. Problem Statement

The healthy lifestyle associated with Boulder exists side-by-side with a tolerance for drug and alcohol use. Parents who use substances themselves struggle with how to address the issue with their children and younger teens observe as older youth model the use of substances. Reducing the illegal availability of prescription opioids has contributed to an increase in heroin use, and the average age of persons seeking clean needles for injection drugs through Boulder County's Works Program is under 30 years old.

HFC understands that building protective factors and reducing risk factors for *all youth* is key to effective community substance abuse prevention. Data collected from BVSD through the 2013 Healthy Kids Colorado Survey (http://www.bouldercounty.org/family/youth/pages/yrbsoverview.aspx) show significant current alcohol use (35%) and slightly lower marijuana use (20%) among high school students. Ever use of other drugs includes: prescription drugs not prescribed for them (2%); ecstasy (7.2%); any form of cocaine (4.6%); meth-amphetamines (2.3%); heroin (1.7%). Among BVSD 7th and 8th graders, 5.0% at least one drink of alcohol during the past 30 days and about the same proportion (5.9%) used marijuana. The survey shows BVSD 7th-12th graders' perception of alcohol use and binge drinking among peers is considerably higher than actual use. More than half of high school students think it would be easy for them to get alcohol and marijuana. More than 80% of high school students believe that people who binge drink regularly have moderate/great risk of harming themselves, while the perceived risk from regular marijuana use is just over 50%. For both alcohol and marijuana, middle school students' perception of access is lower, and perception of health risks and parental disapproval are higher. The data also indicate that interventions targeted to youth who are Hispanic or lesbian, gay, bisexual, transgender, or questioning (LGBTQ) are needed to close disparities in some substance abuse behaviors and beliefs.

3. Services in Boulder

Numerous community organizations and public agencies serve Boulder youth and parents. Some are dedicated to substance abuse among youth, such as Natural Highs and iThrive, while others weave prevention messaging into a broader youth development or parenting focus, such as *El Centro Amistad*, Parent Engagement Network, Healthy Youth Alliance, and OASOS (for LGBTQ youth). HFC is unique in bringing a wide range of organizations and businesses to the table to collectively plan and implement community-wide youth substance abuse prevention efforts. Now in its fourth year, the coalition has more than 20 active members among nearly 40

organizations on the full member list. Coalition leaders conduct ongoing outreach to new community organizations to increase the coalition's depth, capacity and effectiveness in reaching key groups of youth.

B. Proposed Project Services and Evaluation

1. Project Services Description

The mission of HFC is to "Prevent and reduce youth substance use, adult substance abuse and harmful impacts of the community by collectively mobilizing resources and partnerships throughout Boulder County to create informed and healthy community attitudes towards drugs and alcohol." The coalition effort creates the community-wide focus and alignment envisioned in the SEA goal. HFC bases its work on the Substance Abuse and Mental Health Administration (SAMHSA) framework of primary prevention strategies. To develop this proposal, the coalition identified existing HFC efforts under each SAMHSA strategy and submitted additional efforts under each strategy to enhance the comprehensiveness and reach of the work. SEA funding is requested for programming under each SAMHSA strategy as follows:

- Information Dissemination: Safe storage media and education campaign for adults and retailers, designed to reduce accidental ingestion or unintended access for all substances.
- Education: *Effekt* (evidence-based) in two BVSD middle schools, to maintain parents' restrictive attitudes toward underage drinking; Sources of Strength (evidence-based) in five additional BVSD middle schools, to enhance youth protective factors; Teen Outreach Program (evidence-based) in one additional BVSD middle school, to promote health behaviors and protective factors among Latino youth; training on substance abuse prevention and positive youth development for all staff, coaches and volunteers of the YMCA of Boulder Valley; Break the Cycle (promising practice), to prevent initiation of injection drug use among peers.
- Alternative Activities: Physically active programming for youth, with outreach to youth at risk for substance abuse; social activities for a broad range of youth; service learning projects for middle school youth.
- Community-Based Process: Substance Abuse Prevention Skills Training (SAPST) for all subcontractors in this proposal; technical assistance to subcontractors on coordination and effective service implementation. HFC's goal is to build capacity and a foundation of sound prevention science in our community.

This brief narrative does not allow for fully explaining the framework and its contents. Attachment D is a matrix that defines each SAMHSA strategy and lists the existing and proposed HFC interventions that together constitute a comprehensive approach to substance abuse prevention. Conforming to a comprehensive prevention framework benefits the overall community and target populations by combining multiple, reinforcing strategies.

2. Project Collaboration

Boulder County Community Services (BCCS) is the fiscal and administrative agent for this proposal, which will be implemented through the HFC. Boulder County Public Health (BCPH) convenes and staffs the coalition and will be the liaison to the contracted evaluator. The following experienced organizations will provide services under the indicated strategies (see also Attachment D):

- Information Dissemination: BCPH Communications & Marketing (expertise reaching diverse populations).
- Education: Alternatives for Youth (experience reaching youth at risk), BVSD (nearly universal access to youth and parents), *El Centro Amistad (*demonstrated experience with Latino populations), YMCA of Boulder Valley (extensive experience reaching youth and families, especially low income), BCPH Communicable Disease Program (access to persons who use injection drugs).
- Alternative Activities: Phoenix Multisport (experience reaching populations in recovery, including youth), YMCA of Boulder Valley.
- Community-Based Process: BCPH Community Substance Abuse Prevention Program (experience with coalition coordination and technical assistance), BCCS Healthy Youth Alliance (experience with population-based substance abuse prevention).

3. Best/Evidence-Based Practices

HFC's commitment to a comprehensive approach to prevention meets the criteria for best practices laid out in the RFP: parent involvement; interactive techniques; combining information on harms with skill-building and protective factors; attention to both risk and protective factors; addressing local substance abuse issues; and combining two or more effective programs to increase effectiveness. The coalition agreed to use the typology for classifying interventions by level of scientific evidence adapted from Brownson

(http://www.astho.org/Programs/Evidence-Based-Public-Health/Evidence-Based-Public-Health--A-Fundamental-Concept-for-Public-Health-Practice/)
to identify proposed programming as promising, effective or evidenced-based. Among specific programs, Sources of Strength is included in SAMHSA's National Registry of Evidence-Based Programs and Practices, two programs are in the Blueprints for Healthy Youth Development list (TOP (model program) and *Effekt* (promising program)) and evidence for Break the Cycle has been published in peer- reviewed journals.

4. Evaluation

Evaluation of coalition efforts to meet SEA desired outcomes includes both process and outcome measures:

- Subcontractors will report data on demographic and geographic reach of services annually, demonstrating widespread community distribution and awareness of programs and campaigns.
- Changing youth perception of risk associated with substance abuse and preventing youth substance use are key outcomes for other coalition grants and will be measured for the overall population through the Healthy Kids Colorado Survey, administered in odd years. Subcontractors also will be asked to develop and report annually on measures that demonstrate changes in knowledge, skills, attitudes or behavior of participants.
- HFC will work with the BCPH Health Planning and Evaluation Unit on obtaining data on accidental ingestion of marijuana and other drugs through local health care systems or state data repositories.
- Once a year, subcontractors will record program successes and challenges and participant satisfaction. This learning will be shared with HFC, used to improve implementation, and reported with the annual evaluation. Subcontractors agree to participate in an evaluation process with the SEA-contracted evaluator.

5. Funding Specifics

The $250,000 requested through this proposal will subcontracted to HFC member organizations. Each subcontractor prepared a detailed budget to support its work, which is on file with HFC. The organizations' size, infrastructure, pay scales and other factors determine the funding needed to implement proposed activities. Expenses across the full range of subcontractor budgets can be categorized as follows:

- Staffing: Hired or contracted personnel, fringe benefits, extra duty pay for teachers
- Support for hired staff: Local travel, training, laptops, cell phone charges
- Implementation costs: Participant incentives, participant transportation, meeting/event costs (refreshments, facility rental), sub pay (schools), activity fees, video, printing/print materials, program licensing, supplies
- Media campaign: Campaign design or procurement, material production, media placement
- Evaluation costs
- Indirect costs or admin fees (Note: BCCS is not charging for indirect costs on the overall budget.)

Subcontractors and subcontract amounts are listed on the required Detailed Project Budget.

6. Cost-Per-Client/Cost-Per-Contact

The coalition's comprehensive approach to prevention is intended to reach individuals with more than one effective intervention, in order to increase impact. Without an unduplicated count of persons receiving services through this proposal, we cannot accurately estimate cost-per-client. A substitute calculation might assume that all BVSD middle and high school students and half of their parents are reached through community-wide youth substance abuse prevention efforts (defined on attached Sources of Income table). This calculation ($591,000/25,873) yields an approximation of $22.84 per person reached. HFC would welcome discussion of calculating cost-per-client or cost-per-contact with the SEA independent evaluator.

7. Sustainability

The SEA funding opportunity recognizes that reducing youth substance abuse is a long-term effort. Our community's best prospect for sustaining this effort is in the nature of the coalition itself. In its first four years, HFC has built vision, alignment and commitment among key organizations addressing substance abuse and youth, and continues to deepen its membership to reach all populations through multiple venues. Financial sustainability of prevention efforts is more achievable when resources are conserved by organizations engaging in mutually reinforcing activities toward shared goals. Public entities (BCPH and BCCS) serving as backbone agencies ensures stable and trusted stewardship of funds for HFC's efforts. Systems and structures established through the coalition will support initiatives into the future. HFC's positive reputation, built on its mission and accomplishments, will increase public support for substance abuse prevention and generate confidence among funders and community leaders, improving the prospects for long-term investments in prevention.

C: FINANCIAL STATEMENTS

One page maximum for Tables 1 and 2B plus attached or inserted budget. Fill out the following tables and either insert or attach a project budget. Make sure to label any attachments.

1. Sources of Income

Complete the table below indicating potential or already known funding sources for the project. Add rows to fit the project's funding categories. Indicate 0% for categories that do not apply.

Percentage	Funding Source
54%	Government grants or contracts (federal or state)
40%	Local government grants or contracts (county or city)
0%	Boulder and/or St. Vrain Valley School Districts
0%	Foundations
0%	Business sponsorships
0%	Events (includes event sponsorships)
0%	Individual contributions
0%	Fees/earned income
0%	Workplace giving campaigns
6%	In-kind contributions
0%	Other (please specify)
100%	**TOTAL (should equal 100%)**

This table refers to this SEA funding request as well as funding used to support community-based substance abuse prevention through the Healthy Futures Coalition.

2. Specific Fundraising to Date

Complete the table below indicating potential or already known funding sources for the project. Add rows as needed. Leave blank if there is no fundraising to date for the project.

Only include in-kind donations if they correspond to and reduce project costs.		
Funding Source	**Funding Amount**	**Committed (Yes, No, Pending)**

There are no current fundraising or donated resources to the project beyond the in-kind contracts and grants in the table above.

C. FINANCIAL ATTACHMENTS

3. Detailed Project Budget

ITEM		REQUESTED AMOUNT
Subcontracts	**Reach and Target**	
Boulder County Public Health (Communications & Marketing Unit) Design or procurement and implementation of safe storage campaign for all substances, designed to reach adults and retailers	Potential to reach all adults in Boulder County	36,111
Alternatives for Youth Implementation of *Effekt* in two BVSD middle schools, designed to maintain parents' restrictive attitudes toward underage drinking. http://www.blueprintsprograms.com/factsheet/effekt	Training of 30 people to reach an estimated 1,000 parents/ guardians of BVSD students in City of Boulder middle schools	18,785
BVSD Sources of Strength implementation to five middle schools, to promote protective factors among youth https://sourcesofstrength.org/	2,862 students in Casey, Centennial, Manhattan, Platt and Southern Hills middle schools	27,140
El Centro Amistad Expansion of TOP curriculum and health promotion activities with Latino youth in one BVSD middle school http://wymancenter.org/top/	80 Latino middle school youth	25,000
YMCA of Boulder Valley Training in substance abuse prevention and positive youth development for all YMCA staff, coaches and volunteers	Training 500 adults who will work with 5,000 youth	44,752
Boulder County Public Health (Communicable Disease Program) Break the Cycle group-based intervention to prevent initiation of injection drug use among peers http://www.ncbi.nlm.nih.gov/pubmed/24529687	150 individuals who use injection drugs	23,845
Phoenix Multisport Physical activity programs for youth (e.g., hikes, yoga, strength training, biking, climbing, runs)	520 youth ages 16-17, with outreach to youth at risk of substance abuse	9,485
YMCA of Boulder Valley - First Friday social activities for youth - Service learning projects for middle school youth	First Fridays: 1,600 youth Service learning: 200 middle school-age youth	20,790
Boulder County Public Health (Community Substance Abuse Program) Coordination of Substance Abuse Prevention Skills (SAPST) training, technical assistance to subcontractors, evaluation liaison, grant management.	SEA subcontractors	44,092
TOTAL		**250,000**

PROPOSAL FORMAT

Part I: Proposal Abstract *(Please use this form and do not exceed one page)*

A. Applicant Information

Name and Title of the main contact for this RFP: Brenda Lyle, Executive Director

E-Mail Address: blyle@flcboulder.org Phone: 303-442-8979

Mailing Address, City, State, Zip:
3164 34th Street, Boulder, Colorado 80301

B. Project Information

Project Address(es), if different than above:
Same

Project Title:
IPASS (Intervention to Prevent Abuse of Substance for Students)

Brief Project Summary:

The FLC project IPASS is unique in that it is 100 percent prevention based, building upon community and school-wide efforts partnerships. The culturally-based training components and services are provided within the communities and neighborhoods where youth and their families live. We know that underserved populations have problems with accessible and reliable transportations, and will not access prevention programs unless they trust and can relate to those providing the services. The FLC will provide the prevention programs, literally, in the families' "own back yard". The FLC IPASS Project is designed as an experiential family (parents and youth together) substance-abuse prevention program that addresses: 1) risk factors inside and outside the family, 2) protective factors, i.e., building strong bonds between children, their families, communities, schools, other adults and peers, and
3) greater parent engagement.

Is the **project** contingent on this funding?: XYes ☐No
Explain, if yes: We have part of the funding secured, but in order to fully implement the project we require the additional revenue

Is the **timeline** contingent on this funding?: XYes ☐No
Explain, if yes: In order for full implementation we need to finish planning & give our partners time to get their resources together in order to have activities planned for the June start time.

C. Financial Information and Target Population:

Total Project Cost: $140,000.00

Amount of SEA funding requested for the project: $85,000.00

Total Program Target Population: 588

Boulder Residents as Percentage of Total Target Population: ___80__%

Part II. Project Narrative: IPASS (Intervention to Prevent Abuse of Substances for Students)

A. Need for Project Services

1. Target Population: The Family Learning Center (FLC) will serve culturally and economically diverse youth and their families. The FLC is located in the heart of Boulder's northeast corridor, surrounded by nine low-income housing sites, including San Juan del Centro and four mobile home sites. The families at the FLC are Latino (Mexico, South and Central America), Black, Nepalese, Eritrisian, Moroccan, and Anglo. With direct services, ~150 unduplicated youth from ages eight years old to 18 years will be served. FLC will serve 250 parents with children birth through 18 years in the FLC parent engagement programs. Eighty percent of the children and families served live in poverty, 15 percent are low-to-moderate low income, and five percent are middle income and beyond. Eighty percent of the children and families served are within the city of Boulder. Over five years, FLC projects that over 1000 youth and their families will be served directly through this substance abuse prevention campaign, and many hundreds will be served with the youth-designed prevention messaging.

2. Problem Statement: Research has shown that the key risk periods for drug abuse occur during major transitions in children's lives. These transitions include significant changes in physical development (for example, puberty) or social situations (moving, parents divorcing) when children experience heightened vulnerability for problem behaviors. The first transition for children is when they enter school. Later, when they advance from elementary school to middle school, they often experience new academic and social situations, such as learning to get along with a wider group of peers and having greater expectations for academic performance. In early adolescence, children are likely to encounter drug abuse for the first time. In high school, young people face additional social, psychological, and educational challenges, and may be exposed to greater availability of drugs, drug abusers, and social engagements involving drugs. These challenges can increase the risk that they will abuse alcohol, tobacco, and other drugs. Risk factors include academic failure beginning in late elementary school, inadequate school climate, cultural/racial tensions, truancy, and economic deprivation. Nationally, adolescents aged 12 – 17 increased the use of marijuana nearly 10% between 2009 and 2013 (Report: Reducing Teen Substance Misuse: *WHAT REALLY WORKS 2015*). It is implicit that providing services to at risk students improves the possibility of better long-term outcomes, including future employability. Graduation rates in Colorado increased in recent years, but the rates continue to differ significantly and adversely across racial/ethnic groups.

The 2013 Boulder Valley School District (BVSD) High School Youth Risk Behavior Survey (YRBS) found that(,) of the ~18,000 high school students in BVSD, a higher percent of males experienced alcohol (15.9), tobacco (5.4), and marijuana (8.50) than females (alcohol, 11.7; tobacco 4.70; and marijuana, 3.50) before the age of 13 years. It is interesting to note that the common perception among adolescents is that their peers' engagement with drugs is significantly higher than what is actually reported. This may be a reflection of the impact of 'peer pressure' reported by many students. Boulder County high school students have access to and use substances at school. Data show that 5.1% of students drank on school property during the past 30 days; 3.7% used marijuana on school property during the past 30 days, and 15.1% were offered drugs at school during the past 12 months. Finally, a review of 2012 statistics of juvenile arrests in Colorado indicated that 3,236 adolescents were arrested in drug related incidents, 2,809 were arrested for liquor-related incidents, and 360 were arrested for DUI. The total number of arrests, 6,405, for substance abuse and related incidents is higher than any other adjudicated criminal activity. The arrests of students of color are disproportionately higher than white students.

3. Services in Boulder: There are many organizations that have elements of research based prevention strategies. Few have a focus that addresses comprehensive prevention and assesses building programs at an early age. Programs that are addressing this issue are: 1) Boulder Public Health Youth Coalition, 2) Boulder Mental Health Partners, BVSD, Youth Intervention programs, and the FLC with IPASS Project.

B. Proposed Project Services and Evaluation

1. Project Services Description, Timeline, and Duration: The FLC project IPASS is unique in that it is 100 percent prevention based, building upon community and school-wide efforts partnerships. The culturally-based training components and services are provided within the communities and neighborhoods where youth and their families live. We know that underserved populations have problems with accessible and reliable transportations, and will not access prevention programs unless they trust and can relate to those providing the services. The FLC will provide the prevention programs, literally, in the families' "own back yard". The FLC IPASS Project is designed as an experiential family (parents and youth together) substance-abuse prevention program that addresses: 1) risk factors inside and outside the family, 2) protective factors, i.e., building strong bonds between children, their families, communities, schools, other adults and peers, and 3) greater parent engagement. ***The overall IPASS GOAL is to provide parents and youth with the tools (knowledge and actions) they need to prevent substance abuse, to recognize the signs of substance abuse in themselves and their children, and to provide access to the community resources needed to adequately address these issues.***

The topics included in the IPASS training are:

(a) ***Resiliency: Health, Education, Prevention*** – **Objective #1:** To support parents to learn and practice the skills needed to support the positive youth development and supportive familial relationships with their children. Conducted by EL Centro AMISTAD de Boulder and FLC. Monthly, 7/16 – 5/17, 2 hrs./session x 8 sessions.

(b) ***Protecting Our Kids*** – **Objective #2:** To have parents and youth become informed about the dangers of substance abuse, developmentally, socially, and educationally by providing parents and youth with effective tools to prevent bullying, by providing referrals for mental health, and by providing substance abuse treatment programs. Conducted by BVSD interventionists, medical and health department personnel who are experts in the area, and Boulder Safehouse. When: 7/16 - 5/17, 2 hrs sessions.

(c) ***Reducing Juvenile Delinquency/No Jail Time for This Kid*** – **Objective #3:** To have parents and youth become informed about statistics, legal aspects, and adjudication for substance abuse and to provide youth development activities that helped students form strong attachments to family, community, and school. Conducted by Boulder City and County Police Departments, Boulder High School, FLC, and Boulder Public Health. When: 7/16- 5/17, 2hrs./sessions.

(d) Increase Academic Achievement: ***Schools Help Too*** – **Objective #4:** To have parents and youth understand the roles schools and academic achievement play in substance abuse prevention. This will provide students with one-on-one, small group academic support, comprehensive educational case management services between parents/students/schools. Conducted by BVSD, Boulder high School staff (Carolyn Carrol Dean of students and James Hill, BHS principal), FLC, and CARE. When: 07/16 - 5/17, 4 hrs. and ongoing

(e) ***Parent Advocacy for Prevention*** – **Objective #5:** To inform parents about strategies they can use to work with their children, with schools, and with the community in advocating for prevention because schools are the targets of the pushers. Conducted by the Center for Alternative and Responsible Education (CARE). When: 08/16 & 04/17, 5 hrs.

(f) ***Tell It to the World*** – **Objective #6:** How to create effective messages. Conducted by personnel from KGNU, Telemundo/ Univision, and University of Colorado, Boulder - Communications Department. When: 06/16 - 12/16, 2 hrs.

The IPASS Project will start in June 2016 with parent and youth training and will begin summer of 2016 continuing through the school year. The training will be delivered in English and in Spanish, as needed. Following training throughout the school year, during the FLC Six- Week Summer Sessions in 2016-2017 , youth will create the messages to be aired via KGNU, Telemundo/ Univision, and at school assemblies and social media and will share their messages in other venues in the community. We believe that the strongest anti-substance abuse awareness marketing campaigns are those developed by the youth themselves

2. Project Collaboration: Collaborators with FLC IPASS are: AMISTAD, CARE, BVSD Boulder High School, Centennial and Casey Middle Schools, City and County Police Departments, Public Health training staff for Substance Abuse Prevention Certification, and referral services to Medical/health personnel. KGNU, Telemundo, Univision, and Communications Dept., UCB will provide expert support in student messaging. Boulder Safehouse, anti-bullying activities at San Juan del Centro and the FLC. BOMCA, art classes, the Corner Gym, boxing, self-discipline activities.

3. Best/Evidence-Based Practices: When communities adapt programs to match their needs, the community norms, and differing cultural requirements, they should retain core elements of the original research-based intervention which include: • Structure • Content • Delivery. High quality substance abuse prevention programs:

(a) should start with younger children and sustain support throughout youth with long-term repeated interventions to reinforce the original prevention goals since the benefits from middle school prevention programs diminish without follow-up;

(b) are most effective when they employ interactive techniques, such as peer discussion groups and parent role-playing, and that allow for active involvement in learning about drug abuse and reinforcing skills;

(c) can strengthen protective factors among young children by teaching parents better family communication skills, developmentally appropriate discipline styles, firm and consistent rule enforcement, and increasing parental emotional, social, cognitive, and material support;

(d) that are implemented by the schools, focus on children's social and academic skills, including enhancing peer relationships, self-control, coping skills, social behaviors, and drug offer refusal skills. School-based prevention programs should be integrated within the school's own goal of enhanced academic performance.

(e) that combine two or more effective programs, such as family and school programs, can be even more effective than a single program alone – multi-sector collaboration.

(f) prioritize the collection, analysis, and integration of teen health, well-being, and services data to better assess trends and target services and programs.

Research has shown that extra effort in providing incentives, maximal schedule flexibility, minimal time demands, free meals, transportation, baby-sitting, personal contact, families' home language, and endorsement from important community leaders all help to attract and retain program participants. In short, how a program is delivered to specific audiences is critical to its success.

4. Evaluation: The FLC's overall approach to evaluation consists of a variety of quantitative descriptive statistical measures and methods, as well as qualitative measures to determine the types and extent of impact upon the FLC families' understanding and practice in the prevention of substance abuse. The program evaluation has a dual focus: 1) to describe the intended outcomes for the FLC families (parents and youth), as defined by the objectives for each of the training topics, and 2) to assess the actual *impact (behavioral changes)* that the program has had. The program evaluation will be conducted by an external evaluation team, in conjunction and collaboration with the FLC Executive Director, the IPASS Coordinator, program collaborators, and the City of Boulder independent evaluator. The FLC evaluation design will measure impact at two data points, baseline and year-end, in the following ways:

Pre and Post Likert Surveys to determine growth of knowledge	
Parents' and youth's knowledge of IPASS Project Objectives: 1) health dangers of substance abuse, 2) healthy family dynamics, 3) legal consequences, 4) drug prevention education in the schools, 5) need for intervention, 6) parent advocacy in school, and 7) creating messages and practicing prevention.	
Usefulness/Application Survey	
At the conclusion of each training class, the participants are asked to rate the ***usefulness*** of the training on a 0 – 10 Likert scale and to describe ***how*** they will apply the knowledge/skills/strategies they have learned.	
Data Record Keeping on Each Participating Family	
✓ Number of families and youth participating ✓ Attendance of classes offered ✓ Number of families (adults and youth) that have altered or decreased their substance use ✓ Number of parents who have altered and increased their involvement with their youth	✓ Number of referrals to Public Health for treatment of substance abuse ✓ Number of parents advocating for prevention in the schools ✓ Reported and/or observed changes in family dynamics and student achievement
Interviews:	
Randomly selected participants are interviewed about the effectiveness of the program and the classes, e.g., 1) What was positive? 2) How were you impacted?	
Focus Groups	
Two representative groups (6 – 8 people) of IPASS families, adults and youth, will be identified and will describe factors that have had an impact on their behavioral changes related to their overall substance use and prevention activities.	

5. Funding Specifics: Budget: a) Youth would get stipends, b) staffing cost and professional services, c) materials/food/field trips, d) training, SAP staff development, e) Center for Alternative Responsive Education (CARE) (training and evaluation), f) Spanish speaking parent engagement, and g) childcare.

6. Cost-Per-Client/Cost-Per-Contact: $280.00

Research has shown that prevention programs can be cost-effective -- for each dollar invested in substance abuse prevention, a savings of up to $10 in treatment for alcohol or other substance abuse can be accrued.

7. Sustainability: After considering risk and protective factors within the community and selecting and adapting prevention programs that work in addressing those risks, the community-at-large must begin to create and implement perpetual funding sources to maintain programs. Long-range resources and sustainability for substance abuse prevention should be a community-wide responsibility, not an agency-by-agency obligation. The service agencies already have their hands full implementing and maintaining quality programs – they cannot solely bear the risk of program cessation because of the whims of funding organizations that change priorities continually.

6. **Cost-Per-Client/Cost-Per-Contact:** Provide an estimate of the cost-per-client and/or contact for services provided by the proposed project. Discuss how estimates were determined. Base these on the total cost of the project/services, not just the funds requested from the SEA RFP.

7. **Sustainability:** Please explain how the project will be sustained if city recreational marijuana revenue is reduced or eliminated in future years.

C: FINANCIAL ATTACHMENTS

One page maximum for Tables 1 and2B plus attached or inserted budget. Fill out the following tables and either insert or attach a project budget. Make sure to label any attachments.

1. Sources of Income

Complete the table below indicating potential or already known funding sources for the project. Add rows to fit the project's funding categories. Indicate 0% for categories that do not apply.

Percentage	Funding Source
%	Government grants or contracts (federal or state)
60 %	Local government grants or contracts (county or city)
%	Boulder and/or St. Vrain Valley School District(s)
40 %	Foundations
%	Business sponsorships
%	Events (include event sponsorships)
%	Individual contributions
%	Fees/earned income
%	Workplace giving campaigns
%	In-kind contributions (optional)
%	Other (please specify)
100 %	**TOTAL (should equal 100%)**

2. Specific Fundraising to Date

Complete the table below indicating potential or already known funding sources for the project. Add rows as needed. Leave blank if there is no fundraising to date for the project.

Only include in-kind donations if they correspond to and reduce project costs.		
Funding Source	**Funding Amount**	**Committed (Yes, No, Pending)**
Boedecker Foundation	50,000.00	Committed
Reese Institute	5,000.00	Committed
City of Boulder	85,000.00	Pending

3. **Detailed Project Budget:** Either insert or attach a current budget for the project on the following page.

Project Budget and Detail Page

The Family Learning Center
2016 IPASS- Substance Abuse Preventation Budget

Exepnses	
Early Identification of Risk and Protective Factors	4,000.00
Design& Implementation	10,000.00
Family-Based Prevention	10,000.00
School/Academic Failure to Thrive Prevention Program	35,000.00
Prevention Programs -Middle/High School Students	40,000.00
Community Programs	5,000.00
Student Driven Public Awareness Campaign	15,000.00
Evaluation/Data Collection	20,900.00
Total Budget	**$ 140,000.00**
Revenues	
Committed	
Boedecker Foundation	50,000.00
Reese Institute	5,000.00
	55,000.00
Pending	
City of Boulder	85,000.00
Total Revenues	**$ 140,000.00**

The Family Learning Center

2016 IPASS – Substance Abuse Prevention

Budget Narrative

Early Identification of Risk and Protective Factors: $4,000.00
Identifying preschool children that are at risk for research based risk factors such as aggressive behavior and substance abuse within the family, etc. 68 preschool children will be screened for both early risk and protective factors. This component includes staff time, screenings, data collection and referral services for parents if needed.

Design& Implementation: $10,000.00
Drug abuse informational program for 150 parents and 100 school-age children. Program will share with parents the most prevalent drug/substance abuse problems in Boulder County. Designing of a community resource guide for all participants working with local coalitions and the Boulder Police and County Sheriff's departments addressing both risk and protective factors. Resource guides for substance abuse and cultural competent community resources will be available in English and Spanish for 500 Boulder County residents.

Family-Based Prevention: $10,000.00
Programs and activities designed to enhance family bonding/relationships and parenting skills. Parents will learn to enforce family policies on substance abuse and how to be supportive of children. Program will implement increasing child/parent bonds through parent/child learning together monthly meetings, one-on-one parent mentoring programs that meet bi-weekly and referral services for parents to Boulder Public Health, Mental Health and private practitioners.

School/Academic Failure to Thrive Prevention Program: $35,000.00
Working with Boulder valley Council on Early Education and BVSD to identify research based risk factors and provide on-site protective factor strategies and referral services to BVSD's Child Find Developmental Delayed early childhood program. Program will work with 70 elementary school-age students with after school programs that focus on building: self-control, emotional awareness, communication skills, social problem solving and academic support. Continued support for at-risk elementary age students who cannot afford summer learning and youth development programs by providing them with a six week summer learning youth development all day camp.

Prevention Programs -Middle/High School Students: $40,000.00
Program will provide a 6 week full day summer camp and 9 months of after school 5 days per week academic and support services that address study habits, communication skills, positive peer and adult relationships, self-efficacy, assertiveness training, drug resistance skills, "How to say No to drugs", reinforcement of anti-drug attitudes and strengthening of personal commitments against drug use. Program will work with Boulder High School's Dean of Students and staff during the 8th period class at Boulder High. This class is detention for students with truancy and who are experiencing other at-risk factors. Program will work with building a community liaison to develop case management to strengthen the bonds for students and parents and community. Services are provided for 200 middle and high school students.

Community Programs: $5,000.00
Development and Implementation of programs that are aimed at providing additional support to identify high risk families and children at each transition point: elementary to middle school, middle school to high school. We will coordinate with other youth and family serving organizations, YWCA, YMCA, Family Resource Schools, Parks & Recreation, Boulder Police Department, Centro Amsted, CARE and Safehouse. The program will combine multiple programs that are both school and community based.

Program activities will take place in multiple community and school based settings to help especially minority, Spanish speaking children and families with opportunities to bond with the community at large.

Student Driven Public Awareness Campaign: $15.000.00
Middle and high school students will work with professional adult mentors who will help them design a professional anti-drug multi-media marketing campaign. Sterling/Rice marketing and Brand development Company and Burks Communications will assist students. This project will include a print ad campaign, radio PSA's, Blog and live streaming media aimed at all youth in our community.

Evaluation/Data Collection: $20,900.00
The overall approach to evaluation consists of a variety of quantitative descriptive statistical measurers and methods, as well as qualitative measurers to determine the types and extent of impact upon the Family Learning centers families and youth understanding and practice in the prevention of substance abuse. The program evaluation has a dual focus:1) to describe the intended outcomes for the FLC families (parents and youth), as defined by the objectives for each of the training topics, and 2) to assess the actual impact (behavioral changes) that the program has had. The program evaluation will be conducted by an external evaluation team, in conjunction and collaboration with the FLC Executive Director, the IPASS Coordinator, and the City of Boulder independent evaluator.

Total Budget: $140,000.00

CITY OF BOULDER
BOARD OF ZONING ADJUSTMENT
ACTION MINUTES
March 10, 2016, 5 p.m.
1777 Broadway, Council Chambers

Board Members Present:	Michael Hirsch (Chair), David Schafer (V. Chair), Jill Grano
Board Members Absent:	Ellen McCready
City Attorney Representing Board:	Erin Poe
Staff Members Present:	Robbie Wyler, Cindy Spence

1. CALL TO ORDER:

M. Hirsch called the meeting to order at 5:04 p.m.

2. BOARD HEARINGS:

A. Docket No.: BOZ2016-01
Address: 403 Cleveland Place
Applicant: Katherine Pattersen
Setback Variance: As part of a proposal to construct a new single-car detached garage, the applicant is requesting a variance to the side adjacent to street (south) setback. The resulting setback will be approximately 2 feet where 25 feet is required and where no structure exists today. Section of the Land Use Code to be modified: Section 9-7-1, BRC 1981.

Staff Presentation
R. Wyler presented the item to the board.

Board Questions:
R. Wyler answered questions from the Board.

Public Hearing
No one from the public addressed the board.

Board Discussion
- The board agreed that no other possible locations to construct a new single-car detached garage existed on the property due in part to the typography of the lot.

Motion
On a motion by **J. Grano**, seconded by **D. Schafer**, the Board of Zoning Adjustment approved 3-0, (**E. McCready** absent) the application (**Docket 2016-01**) as submitted.

B. Docket No.: BOZ2016-02
Address: 3111 3rd Street
Applicant: Jack & Marilyn Turken
Setback Variance: As part of a proposal to modify an existing non-standard A-frame house, the applicant is requesting a variance to the front (east) yard setback. The resulting setback will be approximately 5.5 feet where 25 feet is required and where 6 feet exists today. Section of the Land Use Code to be modified: Section 9-7-1, BRC 1981.

Staff Presentation
R. Wyler presented the item to the board.

Applicant's Presentation
Nicholas Fiore and **Jane Snyder,** with Mosaic Architects, representing the owners, presented the item to the board.

Public Hearing
1. **Bob Parker** spoke in support of the project.
2. **Pete Burris** spoke in opposition of the project.

Board Questions:
R. Wyler, Nicholas Fiore and **Jane Snyder** answered questions from the Board.

Board Discussion
- **D. Schafer** stated that he did not see how an additional six inches into the setback would negatively impact the neighborhood and line of sight. He added that the requested setback variance would help the existing homeowners and offer minimal relief.
- **M. Hirsch** agreed and stated that the variance would offer more functionality and that the site triangle would be improved for the Burris' home. He stated that he did not have any issue with the window wells and that the overall plan would be a good improvement for the livability of the space.
- **J. Grano** made an observation that other homes on 3rd Street were built up to the property lines. She appreciated that the owners wanted to keep the "A" frame and age in-place. She agreed with the other board members' comments.
- **M. Hirsch** stated that the board is taking the neighbors' comments under consideration.

Motion
On a motion by **D. Schafer**, seconded by **M. Hirsch**, the Board of Zoning Adjustment approved 3-0, (**E. McCready** absent) the application (**Docket 2016-01**) as submitted.

C. **Docket No.:** BOZ2016-03
Address: 2303 Bluff Street
Applicant: Madeline Vogenthaler & Pete Hoglund
Setback Variance: As part of a proposal to construct a new portico on the north side of the existing non-standard landmarked house as well as modify an existing non-standard wall on the west side of the house as part of a garage conversion to living space, the applicant is requesting a variance to both the rear (north) yard setback and side adjacent to street (west) yard setback. The resulting rear yard setback will be approximately 18.83 feet where 25 feet is required and where approximately 20 feet exists today. The resulting side adjacent to street setback will be approximately 9 feet where 25 feet is required and where 9 feet exists today. Section of the Lane Use Code to be modified: Section 9-7-1, BRC 1981.

- **J. Grano** disclosed that she owns property within 300 feet of 2303 Bluff Street and received official notice of the BOZA meeting.
- **E. Poe** informed the board that **J. Grano** would need to recuse herself as the proximity of her property creates a conflict. Since the current members present are only three, the voting members would be reduced to two members which would not be a full quorum. It was determined that this docket item would need to be continued to the April 14, 2016 BOZA meeting when a full quorum could be possible.
- **R. Wyler** informed the applicant that until the item was formally heard by BOZA, only internal work could be performed through the issuance of a permit. All outside new construction would need a variance before it could be approved; therefore outside work could not be permitted. He stated that he could assist with coordination of a permit, but he could not approve a permit. He suggested doing a phased permit.

Motion
On a motion by **D. Schafer**, seconded by **J. Grano**, the Board of Zoning Adjustment moved to continue 3-0 (**E. McCready** absent) the application (**Docket 2016-01**) as submitted.

3. GENERAL DISCUSSION:

A. Approval of Minutes:
On a motion by **D. Schafer**, seconded by **M. Hirsch**, the Board of Zoning Adjustments voted 3-0 (**E. McCready** absent) to approve the November 12, 2015 minutes.

B. Matters from the Board
- **D. Schafer** informed the board that he may have a conflict with the May 12, 2016 BOZA meeting.

C. Matters from the City Attorney
- There were no matters from the City Attorney.

D. Matters from Planning and Development Services

- **R. Wyler** informed the board that Board & Commissions is actively interviewing potential board members for the vacant BOZA seats. In order to become a full board of five, two vacant seats would need to be filled.

4. ADJOURNMENT:

There being no further business to come before the board at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 6:30 P.M

APPROVED BY

Board Chair

4/14/16

DATE

CITY OF BOULDER
DESIGN ADVISORY BOARD MINUTES
March 9, 2016
1777 Broadway, 1777 West Conference Room

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/

DAB MEMBERS PRESENT:
Jamison Brown, Chair
Michelle Lee
David McInerney
Jeff Dawson
Jim Baily
Bryan Bowen, Planning Board Ex-Officio Member

DAB MEMBERS ABSENT:

STAFF PRESENT:
Kalani Pahoa, Urban Designer
Cindy Spence, Administrative Assistant III
Karl Guiler, Planner II, Code Amendment Specialist
Chandler Van Schaack, Planner II

BOARD DISCUSSION:

1. **Call to Order**
   Chair, **J. Brown**, declared a quorum at 4:04 p.m. and the following business was conducted.

2. **Approval of Minutes**
   The board approved the January 27, 2016 Design Advisory Board minutes.

3. **Form-Based Code Pilot**
   K. Guiler provided a brief summary of the Form-Based Code Pilot (FBC) as applies to the Phase I Boulder Junction area. He gave a brief update regarding what is currently being worked on and to hear any comments or questions from DAB. Currently he is working to change the language to be more regulatory and to match the numbering in the Boulder Revised Code, what should be kept in the public realm section and perhaps changing the TVAP section altogether for example by refining and updating the mapping in regards to paseos. Streetscape standards and what occurs on private land will stay in FBC. He mentioned that city staff would prefer to have a list of enhancements that appeared in the FBC (but were removed) as work group item for DCS upgrades to apply citywide. He added that a change in the section regarding building types may include a three-story limitation west of Junction Place and north of Goose Creek due to the context of the Steelyards site. He explained that they would not be going through the traditional site review process and implementing a new process called "design review". It would be similar to site review but have more prescriptive solutions. He stated that there would not be a height modification process where the FBC would be specific about allowable heights. However, buildings would not be allowed to go over 55 feet set by the city charter. If the building does go over 35 feet, a height modification would not apply. It would simply state that the project would be entitled to build the number of stories allowed in that area and a floor to floor measurement

would determine how tall buildings could be. As far as discretion, any design project of any size, would be subject to Planning Board call-up. The ordinance currently is being written that all projects would be subject to design review and Planning Board call-up, but not all projects will be sent to Planning Board. It could be called-up by a single Planning Board member at this time. In addition, there will be an "exception process" to allow flexibility. Projects will still go before DAB as well. DAB will see all projects, able to comment on projects and see how it may be meeting the FBC and determine whether projects are consistent with adopted area plans of guidelines. As Planning Board and City Council become comfortable with FBC, then discretion/all-up could be eliminated. The FBC will be presented to Planning Board at their April 14, 2016 meeting.

BOARD COMMENTS:

- **J. Brown** stated that he likes the idea of the Planning Board call-up. The plan at this time is a good start.
- **J. Dawson** expressed concern that the FBC is becoming a subcommunity plan rather than a FBC.
- **J. Brown** found the document to be logical. Compared to the Boulder Revised Code, it reads better.
- **D. McInerney** finds the diagrams remarkably useful.
- **J. Baily** stated that the photos of the existing buildings are very well chosen.
- **D. McInerney** suggested numerous edits to the draft of the FBC in DAB's packet:
  - *M.1.3. Special Design Area Goals - Subsection A "Boulder's Unique Sense of Place":* ADD "conserving water" to list of objectives in recognition of Boulder's arid region location.
  - *M.1.3. Special Design Area Goals - Subsection D "Efficient Adaptable Sustainable Buildings":* This does mention "reasonably mitigate or minimize water use". DELETE "reasonably" because it does not apply to the other objectives. It should not be mentioned for water quality.
  - *M.1.3. Special Design Area Goals - Subsection F "Support of Multi-Modal Mobility":* ADD "transit stops" to the existing list of connections.
  - *Figure M.1.2. Regulating Plan* – The street terminus indicated by an "*", is it the same as a terminated vista?
  - *Figure M.1.3.* – Areas labeled as "no limitation" might be better labeled as "charter limitation" or "55 foot limitation".
  - *M.1.9. Definitions – Subsection D "Façade"*: This should be rewritten. Might want to say "returns are considered part of the façades perpendicular to them".
  - *M.1.12 Street and Public Way Types – Subsection F "Shared Streets"*: This should be rewritten. **K. Guiler** informed the board this section would be removed.
  - *M.1.9. Definitions – Subsection U "Parking Yard"*: terminology needs to be realigned with current definition.
  - *M.1.14 Streetscape Design Requirements - Subsection C "Standard Specification" and Subsection B "Streetscape Area"*: He was concerned that Subsection B indicates that shared streets and paseos have a streetscape that occupies the entire right-of-way or easement. Although streetscapes have been removed, it would still apply to paseos and Subsection C. He stated this may cause contradictions.
  - Regarding the "towers", he expressed concern on their regulation and the wording regarding the number allowed on a building. **K. Guiler** assured the board that this had been edited to be clearer.
- **J. Baily** clarified the goal to have the ground floor of a building to be transparent, however he suggested that he would like to see masonry elements move toward the

ground to avoid a top-heavy appearance.

4. **North Boulder Armory**

C. Van Schaack provided a brief summary of the North Boulder Armory project. He informed the board that the scope of project has changed. The project is now is intended to conform to the existing zoning. There will be no setback modifications, 200 dwelling units (182 apartment units/18 townhome units), restaurant and convenience stores located at corners of Broadway and Lee Hill and Broadway and Zamia, and a total of 22 buildings. The existing Mess Hall Building is proposed to be maintained. All buildings will be at or below 15,000 square feet and at or below 35 feet in height. A design characteristic would exist with each block. The applicants would appreciate feedback from the board to see if they are going in right direction. He stated that staff feels that they are implementing high quality architecture and but have concerns regarding the architectural cohesiveness.

APPLICANT PRESENTATION:

Bruce Dierking the owner, and **Mike Mulhern** and **Liz Peterson** with the Mulhern Group, Ltd, presented the item to the board.

BOARD COMMENTS:

- **J. Dawson** stated that Buildings A, C and G, while he approves of the scale of the buildings, they appear to be too similar regarding massing. Perhaps the corners could come down. The material and direction make sense, but he encouraged to be simpler than repetitive and that it would add more interest along Broadway.
- **J. Brown** suggested creating a cohesiveness public realm rather than block by block, creating a relationship and compatibility between the buildings. In fact, it is in the guidelines to create a symmetrical streetscape.
- **B. Bowen** agreed to not have distinction by blocks but rather look at the adjacencies across the street.
- **J. Dawson** noticed that there seems to be a difference in materials and colors on the 14th Street elevation compared to Lee Hill and Broadway elevations.
- **J. Baily** stated that the most recent submittal is evolving nicely from the original submittal in regards to the Broadway elevations. The commercial buildings appear stronger and simplified.
- **J. Brown,** in regards to Building B's awnings on the second story decks, expressed concern with using the awning as a device relative to the composition of the architecture. Perhaps a horizontal shade structure could be used, rather than canvas.
- **M. Lee** noted that with the buildings along Broadway (A, C and G), the lower levels seem "squatty" and heavy on top. Having Building A the same as Buildings C and G is almost too repetitive. She stated that having Buildings C and G similar make sense, but Building A could perhaps be something that feels more like Building D.
- **J. Dawson** added that the proposed buildings will be small so they should be simple and not over articulated. Could eliminate one corner element and just have a taller corner element on Zamia for more variety and simplification.
- **B. Bowen** suggested not emphasizing the corners too much to draw people in. Using smooth textures without a lot of big gestures would be appropriate.
- **J. Brown** agreed that different uses call for different treatments, but not to necessarily announce the entrances into the neighborhood.
- **B. Bowen** asked if the townhomes on 14th Street could be required, on the corners, to have wrapped around porches. In addition, it would be useful to have the alleys line up as well.

- **J. Dawson** added that it would be nice to have a material on every building that ties all the buildings together on 14th Street. At this time, the proposal appears stark. The pallet along Broadway and Lee Hill is warm but it disappears once you arrive at 14th Street. It may be an elegant way to incorporate similar colors and materials.
- **B. Bowen** stated that including masonry would be beneficial.
- **J. Brown** mentioned that since Buildings L, F, B, and H have similar uses, and then perhaps the treatments for those buildings could be similar and more simplified.
- **B. Bowen** commented that the edges of the development work well.
- **J. Brown** approved of Buildings J, S and I. They read as carriage houses. Building I struggles more. He suggested creating a carriage house enclave in that space.
- **B. Bowen**, in regards to the corridor along the southern end, suggested making it a space where people will want to occupy with landscaping and perhaps an art interest. He asked the applicants to consider the ditch that runs along the project and if it would be expressed in that area. He said that the applicant could make an argument to create a woonerf to calm traffic down.
- **J. Dawson** encouraged taking on more character of a contemporary townhome similar to Building M given the proximity to the Holiday neighborhood.
- **B. Bowen** recommended keeping the materials simple. In addition, deferred parking stalls could be implemented.
- **J. Brown**, in regards to the pool on the north elevation of the Mess Hall, offered his opinion that it may not be useful. He stated that it could be more useful and suggested that the applicants keep working with it and to design that space as more four-seasonality.
- **J. Baily** expressed concern regarding big trees in the landscaping. The plan has some good opportunities for some large trees. The southeast corner of the project must be attractive and functional as an open space.
- **D. McInerney** mentioned that the stucco squares and stucco rectangles on the ends of Building K, north elevation, the scales appear to be different from the rest of the building.

5. Board Matters

There were no matters for the board to discuss.

6. ADJOURNMENT

The Design Advisory Board adjourned the meeting at 6:38 p.m.

APPROVED BY:

Board Chair

4.20.16

DATE

City of Boulder
BOARDS AND COMMISSIONS MEETING SUMMARY FORM

NAME OF BOARD/COMMISSION: Human Relations Commission
DATE OF MEETING: April 11, 2016
NAME/TELEPHONE OF PERSON PREPARING SUMMARY: Linda Gelhaar 303-441-4003
NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT: **Commissioners –** José Beteta, Shirly White, Nikhil Mankekar, Emilia Pollauf, Lauren Gifford. **Staff –** Karen Rahn, Carmen Atilano, Janet Michels, Clay Fong, Linda Gelhaar **Commissioners absent** – None
WHAT TYPE OF MEETING (CIRCLE ONE) [REGULAR] **[SPECIAL]** [QUASI-JUDICIAL]
AGENDA ITEM 1 – CALL TO ORDER – The April 11, 2016 HRC meeting was called to order at 1:02 p.m. by **S. White.**
AGENDA ITEM 2 – HRC Annual Retreat **A. Retreat Overview** **B. HRC Roles and Responsibilities, City Attorney Office** **C. HRC Handbook Review** **D. Expectations of Each Other** **E. 2016 HRC Work Plan**
AGENDA ITEM 3 – Adjournment – J. Beteta moved to adjourn the April 11, 2016 meeting. **N. Mankekar seconded**. **Motion carries 5-0.** The meeting was adjourned at 5 p.m.
TIME AND LOCATION OF ANY FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS: The next regular meeting of the HRC will be held on April 18, 2016 at the City of Boulder City Council Chambers, 1777 Broadway.

City of Boulder
BOARDS AND COMMISSIONS MEETING SUMMARY FORM

NAME OF BOARD/COMMISSION: Human Relations Commission

DATE OF MEETING: April 18, 2016

NAME/TELEPHONE OF PERSON PREPARING SUMMARY: Linda Gelhaar 303-441-4003

NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:
Commissioners – José Beteta, Shirly White, Nikhil Mankekar, Emilia Pollauf, Lauren Gifford.
Staff –Carmen Atilano, Linda Gelhaar
Commissioners absent – None

WHAT TYPE OF MEETING (CIRCLE ONE) [REGULAR] [SPECIAL] [QUASI-JUDICIAL]

AGENDA ITEM 1 – CALL TO ORDER – The April 18, 2016 HRC meeting was called to order at 6:04 p.m. by **S. White.**

AGENDA ITEM 2 – AGENDA ADJUSTMENTS
None.

AGENDA ITEM 3 – APPROVAL OF MINUTES
A. **March 28, 2016 – E. Pollauf moved to approve March 28, 2016 minutes. N. Mankekar seconded. Motion carries 5-0.**

AGENDA ITEM 4 – COMMUNITY PARTICIPATION (non-agenda action items)

A. **Darren O'Connor –** Boulder Rights Watch
B. **Mike Homner –** Boulder Rights Watch
C. **Morey Bean –** Boulder Rights Watch

AGENDA ITEM 5 – ACTION ITEMS

A. **Proclamation for Aya Medrud –** Representatives gave an oral presentation on A. Medrud's life's work. N**. Mankekar moved** to approve proclamation to forward to the Mayor. **J. Beteta seconded. Motion carries 5-0.**
B. **Nomination and Election of Officers**
   1. **Chairperson – J. Beteta moved to nominate S. White as Chairperson. E. Pollauf seconded. Motion carries 5-0.**
   2. **Deputy Chairperson – N. Mankekar moved to nominate E. Pollauf as Deputy Chairperson. L Gifford seconded. Motion carries 5-0.**
C. **Community Impact Fund Proposal: Barrio E –** Representative presented an overview of World Dance Jam. **E. Pollauf moved** to approve **$1,830. N. Mankekar seconded. Motion carries 4-0-1. J. Beteta recused himself.**
D. **2016 Work Plan – E. Pollauf moved to approve 2016 Work Plan. L. Gifford seconded. Motion carries 5-0.**

AGENDA ITEM 6 – DISCUSSION/INFORMATIONAL ITEMS

A. **HRC Handbook –** Moving item to next month's agenda**.**
B. **Indigenous Peoples Day Resolution – HRC** will consider at its May 16 meeting.
C. **Living Wage Recommendations Update – C. Atilano** gave update.
D. **Inclusive and Welcoming Community Work Plan – C. Atilano** gave update**.**
E. **Human Services Strategy Update – C. Atilano** gave update.
F. **Homeless Issue and City Council – C. Atilano** gave update.
G. **Event Reports – J. Beteta** had a good farewell dinner in appreciation for **A. Zuckerman.**
H. **Follow Up Items – C. Atilano**
   1. Continue to work with community members developing the proclamation in recognition of Aya Madrud and get submitted to CAC for Mayor's review and signature.
   2. Contractual agreements: Barrio E $1,830.

3. Update work plan with comments expressed in meeting. Bring back proposal for new funding structure for 2017. Also, post on website nor longer accepting applications for 2016 CIF.
4. Continue to work with Indigenous People's Day committee to finalize resolution and review inaugural celebration in October 2016.
5. Develop list of places commissioners can go to obtain more information and insight regarding homelessness.

AGENDA ITEM 7 – IMMEDIATE ACTION ITEMS – None.

AGENDA ITEM 8 – Adjournment – **N. Mankekar moved** to adjourn the April 18, 2016 meeting. **L. Gifford seconded**. **Motion carries 5-0.** The meeting was adjourned at 7:44 p.m.

TIME AND LOCATION OF ANY FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS: The next regular meeting of the HRC will be held on May 16, 2016 at the City of Boulder City Council Chambers, 1777 Broadway.

CITY OF BOULDER
BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING
MINUTES

Name of Board/ Commission: Library Commission

Date of Meeting: March 2, 2016, Main Library , 1001 Arapahoe Ave.

Contact Information Preparing Summary: Jennifer Phares, 303-441-4394

Commission Members Present: Alicia Gibb, Tim O'Shea, Paul Sutter, and Joni Teter

Library Staff Present:
David Farnan, Director of Library & Arts
Jennifer Phares, Deputy Library Director
Suzi Lane, Administrative Specialist II

City Staff Present:
Jennifer Bray, Communication Specialist III
Laura Hankins, Collection Development Manager

Public Present:
Nikki Rashada McCord
Dick Shahan
Claire Mulholland
Arthur Figel

Type of Meeting: Regular

Agenda Item 1: Call to Order and Approval of Agenda **[6:00 p.m., Audio 00:19]**

The meeting was called to order at 6:00 p.m.

- Added approval of the Library Commission by-laws

Agenda approved.

Agenda Item 2: Public Comment **[6:01pm., Audio 00:44]**

Mulholland - Read a statement regarding the issue of openly carried guns by security guards in the public library. A copy was not provided.
McCord read a statement. See handouts.

Agenda Item 3: Consent Agenda **[6:06 p.m., Audio 5:41]**

Approval of Feb 10, 2016 meeting minutes
Teter emailed her edits prior to the meeting. See handouts.

Sutter: The bottom of packet page 4, bullet point "Sutter said…" cut "very fairly."
On packet page 7, under Boulder Book Store, Sutter's last bullet point, change "it'll be" to "there could also be."
On packet page 7, under Farmer's Market, Sutter's comment "he suggested that the library consider…" and "the library and the farmers market."

O'Shea: On minutes page 2, change "contact her" to "contact O'Shea."
On packet page 6, under End of Year Report third to last paragraph stating O'Shea: "Pacific Area Project," should be "Civic Area Project."

Gibb motioned to approve the minutes with edits, Teter seconded. Approved 4-0.

Agenda Item 4: Presentation; Boulder Small Business Development Center (SBDC) **[6:11 p.m., Audio 10:18]**

Sharon King, executive director gave an update of the SBDC's programs and its partnership with the library. See handouts.

- Sutter: Is there a distinction between what programs are free and what you charge for? King replied the budget is partially made up of program revenue. Fees cover cost of programs and consulting. If SBDC receives sponsorships, those programs are free. New programs, like the small business start up, was free the first year to generate interest and demonstrate value, now they charge for it. All of the bilingual programs are free.
- Sutter: Is someone else underwriting scholarships for some of these classes? Farnan said no requests for

scholarships have been received. Farnan shared that the SBDC has found a way to provide more free programs than was originally agreed to.

- Teter: Encouraged King to participate in the master planning process.
- Gibb: It is nice to have the SBDC so close to the BLDG 61 Makerspace. King shared that there has been discussion about having some seats in SBDC classes available for patrons using the makerspace.
- Gibb: Asked for clarification about King's comment regarding the patent office being hard to get a hold of. King said that the SBDC wants to give businesses access to resources that they cannot reach.

Agenda Item 5: Presentation: Library Materials Selection and Collection Development [6:25p.m., Audio 24:05]

Laura Hankins, collection development manager, presented information about the collection development staff and the selection of library materials. She thanked the commission for supporting the library by requesting that the acquisitions budget be increased last year. The additional funds were used to purchase more downloadable audio and e-books. See handouts.

- Gibb: Does Hoopla (downloaded media) come out of the materials acquisition budget? Hankins confirmed that all of the books, media, and electronic resources are paid for by the materials acquisition budget.
- Teter: What's happening with the research databases? How are they trending? Hankins shared information about the types of research databases offered and that they are organized by subject areas. Farnan added that overall usage was down about 5% in 2015 and that he is not sure if it is an anomaly or a trend.
- Gibb: What would be your dream budget as a percentage increase?
- Sutter: added…or your sense of priorities? Hankins replied that library data shows that as more money is invested in library materials, circulation goes up. Farnan said that BPL's current collection spending per capita is approximately $10, and said the goal is to get it to $14 per capita.
- Sutter: asked about the goal as a percentage of overall budget. Farnan said the percentage may be skewed for BPL because of the increase in staffing cost with recent introduction of the livable wage. We have to do our best to be good stewards of the public's money and keep staffing costs to a manageable level so that we have money to spend on materials.
- Sutter: said the commission would continue to push for more robust collections. Farnan said we would continue to focus purchasing to get patrons the materials they want (i.e. items that circulate well or have several holds.)
- O'Shea: With the foundation beginning a new friends of the library program, is it possible to develop programs around patrons' consumption habits and circulation or use the momentum around library use and patrons' interests that the foundation might cultivate? Hankins said there could be ways to grow or cultivate patron interest.
- Teter: The foundation has focused on programs, there may be an opportunity to blend this with the collection.

Agenda Item 6: Continued discussion on contract armed security officers at the Main Library [7:00 p.m., Audio 59:07]

- Sutter: The commission suspended the recommendation it made in January for the library to transition to unarmed security officers. Considering the new information presented in the packet, he requested the commission take action at the meeting, and reopen the issue for discussion.
- Teter: In January, the issue seemed straightforward but after the discussion, she talked with other patrons and staff and realized there was another perspective. There is a divide. There are persons who would feel safer with unarmed security officers and there are others who feel the opposite. This mirrors the divide in our culture and isn't a divide that can be bridged. It isn't a great rationale to make a decision. Looking at the incidents at BPL was important. There is a pattern primarily of disruptive behavior, mostly verbal. Occasionally, there are incidents that are physical. When incidents are physical, the police are called. The types of incidents aren't such that deadly force is needed to address them. In the shooter scenario, one armed security officer is not going to be effective in stopping this type of incident. What is important in that scenario, is to get patrons and staff to safety, and get law enforcement on the scene. The primary enforcement mechanism the library is using to address disruptive behavior is suspensions and they are effective and appropriate. What is critical is training: personal and de-escalation skills, dealing with mental health issues, and building relationships and treating everyone with respect. She hoped that the current security officers continue to work for the library contract unarmed because they are doing a really good job dealing with issues and building relationships with patrons, staff and the police. Given all the new information, she circled back to her recommendation in January but with a broader understanding of what is going on in our library. She still doesn't think it is

appropriate to have security officers with weapons of deadly force here.

- Gibb: Agreed with Teter's points. She didn't think that it is within the policies or norms for public libraries to have armed officers. She did not change her stance or recommendation from January. She said in response to persons who had subsequently submitted emails on this issues, that it is one thing to say you feel safe or unsafe with a gun, but it is another thing to look at the data out there and what is happening in our country such as the Black Lives Matter movement and that the CDC [Center for Disease Control] has listed guns to be an epidemic. This is data; it is not a feeling that a person feels, unsafe with or without guns.
- O'Shea: Agreed with Teter's points. There were a number of issues brought to light and aspects of the situation that were inherited. With additional data, he is more secure in his original recommendation. The incident reports show that we are not dealing with a significant number of violent behavioral issues. When altercations occur, appropriate steps have been taken to bring in the police. The current security officers have done an excellent job. His initial concern stands in that staff and patrons, and the security officers continue to build relationships, and that staff and the officers continue to receive appropriate training. With receiving the additional information from staff and the community, opening this conversation through different avenues, we continue to come to the same general awareness. He looked into the security services package, and said that qualifications and training (e.g. sensitivity) are important. He looked at other Colorado libraries and libraries across the country and found that having armed security officers is an anomaly. He doesn't want to see guns drawn in the library for any reason. This is a balance point for our community. He did not change his initial recommendation.
- Sutter: Added a few comments that he has shared previously. We want to make this library as comfortable for everyone as we are able – this is really critical. He was also struck by the fact that the library was an anomaly in having armed security officers. This is a strong argument to move towards unarmed security officers. He takes seriously the perception that guns are a deterrent but it is a very difficult thing to measure. There is a real risk in having an armed security officer in the library. A security officer cited that he has never had to draw his gun in 7 years of service at the library, and that is absolutely what you want to have happen, but then the question is: why do we have guns in the library to begin with? He worries about a gun getting out of the security officer's hands into someone else's hands. As a commissioner, his greatest concern is the well-being of the public and he can't see how the deterrent effect outweighs his concerns with a gun getting drawn in this library by a security officer or by someone else getting a hold of the officer's gun. He held to his original recommendation.
- O'Shea: Asked how is the opening of the Boulder Art Cinema and the security requirements for serving alcohol impacted. Farnan responded that staff can act upon the commission's recommendation within two months for the daily security service, but the requirements of the current security company to provide services in an environment where alcohol is being served presents complications. The current company will provide one armed officer or two unarmed officers in this case. Employing two unarmed officers doubles the cost of security service for the cinema program. Since the program has not yet realized returns having run for only one weekend, he is reluctant to incur the additional cost. Staff will investigate other options (e.g. other security firms that may not have this requirement) to provide security during the cinema program but he was uncertain about the amount of time this investigation will take. Farnan said that staff would inform the current security company the next day of the decision to transition to unarmed security officers for the daily service, and of the desire to keep the current officers but unarmed.
- Gibb: Asked about the difference in cost between armed vs. unarmed security officers and if the difference would offset the cost of having two unarmed security officers for the cinema program. Farnan replied the difference in cost is minimal and would not offset the cost of a second officer. Farnan added that it is the security contractor's policy, not the city's policy, that requires one armed or two unarmed officers in an environment in which alcohol is being served. There may be a city ordinance that requires armed officers at events in which alcohol is served with an audience of a certain size. Farnan said the size of the cinema program audience would not meet that requirement and he thought that an exception could be requested for unarmed or no security if an event had no history of incidents.
- Teter: Asked staff to find out what is city code concerning having armed officers at events in which alcohol is being served.
- O'Shea: Asked is there currently a security response policy in place for incidents that are more pronounced. Gibb clarified that the policy states police are called immediately when an incident escalates. O'Shea asked about procedures being in place for lock downs, evacuations, etc. Farnan replied that there are fire evacuation and other protocols in place and asked if O'Shea was referring to a shooter incident. O'Shea confirmed. Farnan

said staff has been directed to review online resources that address Run, Hide, Fight, and we have not done a concentrated training program on it yet. It is something that staff will look into. We have brought in training for staff on dealing with and de-escalating incidents, addressing patrons who bring animals into the library, serving persons with mental illness, etc. O'Shea recommended that training for staff on dealing with shooter incidents given that some staff and community members may view that an aspect of security is being taken away regarding the transition from armed to unarmed officers.

- Teter: Several years ago, the library had to change the policy prohibiting guns of any kind due to law. More recently, several other libraries have prohibited guns in defiance of the law. She asked that commission consider asking council to consider putting some legislative energy in 2017 into asking for an exception to the "conceal and open carry" laws for libraries similar to K-12 schools. Unlike schools, libraries cannot close the campus. Gibb, O'Shea, and Sutter agreed.
- Sutter: Said this cannot be an isolated decision. We have to keep talking to staff and the public to make sure we are providing as effective security as we can in terms of unarmed officers. That may mean we need to bring in the Boulder Police Department more frequently, provide staff with more training. We absolutely want the staff to feel safe in this library.
- O'Shea: Asked if the Boulder Police Department would be notified of this change. Farnan replied that he spoke to the City Attorney's Office and the police chief after receiving the commission's recommendation in January.
- Gibb: Asked to clarify the logistics and timeline and that Ms. McCord be notified once the change is in place. Farnan said the security contractor would be notified the next day and that he would speak to the security officers. If the current officers choose not to stay with the library, Farnan estimated that the hiring and training of new officers could take up to two months. Gibb asked about the officers providing security during the cinema program. Farnan said he understood the commission's intent not to have armed officers in the library at all but security coverage for the cinema program was something he would have to investigate further and that he doesn't currently have the budget to hire two unarmed security officers. If we did have to hire two officers now, we would buy fewer books this year.
- Sutter: Asked staff to report back to commission with an update on the transition, training for staff, information about city code during the April meeting.

The commission agreed to uphold its recommendation made at the January meeting for the staff to transition away from employing armed contract security officers to unarmed officers.

Agenda Item 7: Library Master Plan update **[7:26 p.m., Audio 1:25:52]**

Farnan informed the commission that a shortened RFP (Request for Proposal) focused on conducting a community needs assessment was issued, that he had spoken to a prospective consultant, had a meeting with another consultant on Friday, and that he anticipated receiving some proposals.

- Teter: Asked if it was intentional that the staff members on the staff Technical Advisory Group were mostly of a short tenure with Boulder Public Library. Phares replied the members were selected based upon their ability to meet the time commitment, their service area expertise, and to be leaders and spearhead project activities to gather broader staff input. Farnan said that buy-in of the staff is imperative to be successful. All staff will be invited to participate and it will be useful to know where the staff thinks the library is going compared to what the community thinks and to understand the disparities between the two.

Added Agenda Item: Approval of Library Commission By-laws [7:29 p.m., Audio 1:28:42]

Final version of the by-laws was provided as a handout. Gibb motioned to approve the by-laws, O'Shea seconded. The motion passed unanimously, 4-0.

Agenda Item 8: Library Commission update (memo) **[7:30p.m., Audio 1:29:41]**

a. **Finalize Library Commission Handbook**
Updates were discussed. Teter asked for clarification on the arts information on the library operations document. Gibb requested that the makerspace be added to the eServices description. Sutter suggested adding information in the budget basics document under the library fund section that states, "As per the city charter expenditures from #2 and 3 above shall be made only upon the favorable recommendation of the library commission" and that "city charter" be a link to the charter section about the Library Commission. Sutter reviewed the changes he and Gibb made to the communications guidelines document. Gibb stated that both the communications guidelines and the guiding principles documents would be included in the handbook. Sutter recommended folding commission meetings into the

communications section in the table of contents. Gibb recommended moving the Boulder Library Foundation overview to section three. Teter submitted alternative language for the Boulder Library Foundation overview. Gibb and Sutter will review the final version of the handbook when it is posted.

b. Library Foundation update

O'Shea: There was discussion on financial forecast and budget, and improvement of bookkeeping, fund managements, and systems by hiring a financial manager. Two positions were included in the approved budget: the community partnership manager and the financial manager. An RFP was issued for the financial manager. Two strategies were discussed for the management of foundation funds: an investment strategy and a more aggressive fundraising, program-focused strategy. The board discussed funding library programs based upon a percentage of the budget and the types of programs it can fund directly from a legal perspective (e.g. Jaipur Literature Festival). The cooperative agreement discussion was deferred to a future meeting. A fundraising membership campaign, the "Library League" was proposed and enthusiastically supported. Governance and new board members will be discussed at a future meeting as well as the proposal to award the library with a lump sum grant to fund library programs.

c. Discussion of Civic Area Program Plan

Teter and O'Shea provided a handout outlining some concerns and questions about the rapid development of the Civic Area in the plans, and what is coming this summer.

- O'Shea: We've had some presentations on parking but not much involvement with what the Civic Area process really is undertaking, and once the process begins, it feels like there are some gaps in knowledge as to what is going to be at the library's doorstep. There are some conflicts with the effort put into the library renovations and new programs and establishing the library as a sense of place and how the civic area process unfolding. He wants to know what the funding stream is for the different phases. The emphasis on the bookend approach may result in changes to the library building, its footprint, and interest in bringing in an outside performing arts center. Information about flood mitigation and the impact to the library was summarized in the handout. Growing the library's presence as a theater and arts space are blind corners on the plan. He would like clarification on details concerning the event planning for the civic area and what might be advantageous to incorporate into the library's programs and budget over the next several years.
- Teter: We've been asking for some time about the impact of the park design in terms of having events going forward. There is a disconnect between what the park planning staff and interested community agencies think is needed in a park design that will accommodate large events. Most of the planning that has been done is about making it a park, not really taking into consideration the programming. We've been told there is no plan yet for the bookends, yet there is a design underway the for the east end for the farmer's market. She asked how the design of event space on the east end connects to the other side. There are questions about the process and an opportunity to look at this in terms of the big picture with the downtown, the hospital, and the university.
- O'Shea: There has been a lot of sizzle with regard to the process, but that he is not sure where the meat is. This is a rare opportunity to think about the vision of the Civic Area and the downtown and a missed opportunity for engagement. The library is a central and significant part of what is going to happen in the Civic Area. He would be wary of any plan that doesn't consider the investments that have already been made in the library.
- Farnan: The city was on pace to present and have public discussion about the plan nearly a year ago. The conceptual plans for the bookends were beginning to take shape in terms of mass and density. The question still is: Is it the right thing to do given what we know about climate change and flood information? Farnan addressed the question in the handout. There is funding for phase 1 for park development from the Community, Culture, and Safety tax and there is some safety money that will improve the underpass at 13th Street and improve the lighting along the creek path. The goal is to make the creek corridor more visible and bring more people to the park. There isn't yet a plan in place for governance of, or funding for, programming of the area. Funding for phase 1 does not impact the bookends and council has not approved any concept plan for the bookends. The library buildings are now in the floodplain given climate change. Both library buildings are in play in terms of the plan. On April 5, 2016, council will look at a plan for massing at the west end and potentially one for the east end. A small

portion of the north building is in the high hazard zone and the equipment investments made in the building recently in the theater and the makerspace are all mobile. The library is not planning to increase its budget to fund programs in the park area; instead it will work in partnership with the Parks and Recreation Department and other partners such as the Jaipur Literature Festival and the Fringe Festival. The library currently does some programs outside and will continue to do programs in the Civic Area. Impacts of a major flood on the north building are not improving. This doesn't answer the question if developing the north side of the library is the right thing to do. They way he interprets the flood report, is that something might be possible in terms of development. The Community Cultural Plan recommended a need for performance space. The north building could serve a function that way but its feasibility needs to be investigated. The drawings in the Civic Area Master Plan are conceptual, not final plans. There is a small amount of public art money for the civic area. Farnan serves on the governance committee and has encouraged his colleagues to reach out to all stakeholders. They are trying to make the presentation of events in the Civic Area more feasible.

- O'Shea: Didn't expect answers to the questions presented in the handout but that the reality is there is going to ground broken in the Civic Area sometime this summer which is going to start redefining the space and with that comes expectation or curiosity about what comes next. The fact that the very location of the library is a question is a concern when he has been touting the values of the renovation and new space and there isn't a clear plan for if this space is maintainable. There is an opportunity to think with vision about the downtown landscape. He thought there was a very clear vision years ago but now it seems we are moving ahead with something that is undefined and there is not a lot of room for discussion.
- Teter: This is great to hear and where did this information come from. She strongly objects to staff going to council with recommendations on what to do with the north building without input from the Library Commission. Farnan said the discussion has been about whether this building is safe – can the site be developed or left as empty park land. Teter said if you don't know the functions and uses the conversation about the plan is meaningless. Events were also part of the vision and it doesn't seem to be part of the conversation. It was suggested by a council member that Teter spoke to that the Library Commission send a letter to Council reiterating what was in the year end letter along with other concerns about the process. Farnan asked the commission to consider if all library services and space is accommodated and possibly expanded within the development of the site, are they concerned with whether it is on the north or south side of the creek?
- Teter: did not know how to answer that in the abstract.
- O'Shea: looks at it like fixing it to sell it. If that is the plan afoot, he would have a different perspective of his role with commission and the foundation. A lot of what we're doing is window dressing on what might be a greater consideration in three years' time. If there are great opportunities, that is awesome. He was talking about the successful redefinition of space and it is nebulous to understand what is going on. The people that championed 2A have questions; there is a missed opportunity to create dialogues. Farnan said there would be opportunity for dialogue and that the groundbreaking has been postponed until later in 2016.
- O'Shea: the plan shows a lot happening in Q1 and Q2 2016.
- Teter: asked about the timing on the opportunity for public comment. It is clear there is no opportunity for public participation at the upcoming council meeting. If you want to participate, you have to do so at open public comment at the beginning of the meeting – there is no public hearing on this matter.
- Sutter: asked the commission how they would like to proceed. There are a series of issues – concerns about process and about the future of the north library building. He asked if the commission would like to draft something formal to council to share these concerns.
- O'Shea: has unanswered questions and would like some better answers. Asked "what are we getting and what are the hang ups in this process?" Asked "Is this going to be successful, and how can we make it so?" Asked Sutter and Gibb if they had a sense of what was happening right outside the door.
- Gibb: It was going to be new sod and tiered paths. She understood that the bridge over Canyon were sketches. We shouldn't use the commission to express our own personal wishes for the park. She has trust in the experts making the decisions on the design and said the library is always going to be here.
- Farnan: strongly encouraged the commission to write a letter and refer back to past meeting packets in which the plans for phase 1 were shared.
- Teter: agreed that the plan for phase 1 was shared with the commission and at the time the commission

raised questions that never received a response. There are concerns about that plan. There was no narrative explaining the uses. Specific questions for how event tents would be accommodated don't get answered.

- O'Shea: It is a good opportunity to do some pretty awesome stuff. It seems like there is and extension of where phase 1 leaves off, there are a lot of surrounding areas that come up. When I think of bookends, his first thought is what happens to the library. While it will exist, it is going to require some involvement in what it is going to look like. He is celebrating the change and improvements that have been made, and is a big fan of working with what you have. The goal mentioned of a 500-seat performing arts space, raised his concern and he asked how that is going to fit. He would like to know where the vision comes from and who to address to get clarification. As an active citizen, he is going to use his role as a commissioner to ask what is happening to the library and do we have a better process. The library is a great space to engage people around the civic area.
- Sutter: asked again about a letter to council. Gibb added that it should include the part from the commission's annual letter to council about the Civic Area and some bulleted questions.

  Timing of the letter was discussed. O'Shea and Teter agreed to draft the letter.

- Teter: raised the discussion of the historic designation of the north building of the library and said the commission wants to have input.
- Farnan: asked for the commission's feedback on three possible proposals: leave the building as is, develop the site, or let it go to park land. Sutter said he would need to think about it. Gibb would leave it up to more qualified persons as long as the library would not lose anything. Teter said a park would not help with connectivity to downtown.
- Farnan: said the Canyon complete street, while not part of phase 1, impacts the park, parking and the band shell. That is where more expansive events could be accommodated.
- O'Shea: It was disappointing that the city couldn't come to an outcome on the civic use pad. It is a missed opportunity when the community cannot come up with a plan or vision for something that is rare in a town like this. He sees benefit in creating a cultural tie with downtown. It is important to have conversation and explore the issues. He leans toward visionary development of the Civic Area involving different viewpoints.
- Teter: One of the fundamental questions in 1992 during the bond issue for the south building of the library, was should the library be moved out of the floodplain. The community voted to have the library stay here in the central corridor. The community has a stake in this.

d. Discussion of potential implications on the library regarding the right to rest legislation and the Human Relations Commission's recommendation to City Council to lift the camping ban

This item was added regarding the legislation introduced the past two years on the legal right to rest on public property.

- Teter: In 2016, it included a specific provision that people can rest in any public building during open hours. This would have impacts on the library. Sleeping might become a higher use than any library use. The bill was killed in committee but may be reintroduced in 2017. Asked commission to consider writing to council to please oppose it due to the huge impact it would have on the library.
- Sutter: the other issue is the Human Relations Commission's recommendation to council to lift the camping ban which would impact the library a little less directly. Asked the commission if they wanted to make a formal statement to council on either issue.

  There was discussion about timing of a letter. Sutter and Gibb offered to draft a letter focusing on library impact.

- Teter: regarding the camping ban, suggested a joint conversion between the Library Commission, the Human Relations Commission, and the Parks and Recreation Advisory Board. It might be useful to discuss how recommendations from each impact one another.
- O'Shea: regarding the right to rest noted that the most frequently broken library rule is lying down, dozing or sleeping in any library facility. This puts into question one of the enforcement needs. This might roll back a lot of the progress made making the library a welcoming place.

There was discussion of inviting Karen Rahn, Director of Human Services to a future meeting to discuss the camping ban.

e. Responses to patron email from the Library Commission
No discussion on this item.

Agenda Item 9: Library and Arts Director's Report **[8:50 p.m., Audio 2:55:03]**

Farnan asked the commission for any questions on the items in the report and provided a brief report on the opening weekend of the Boulder Art Cinema. Sell out crowds on Friday and Saturday night. Approximately, 700 persons in attendance for the weekend. Sutter asked about the sales for the author event with Jennifer Egan. Farnan reported that ticket sales were lively.

a. Facility Sustainability Study update from studiotrope Design Consultants
No discussion on this item.

b. Discontinuing notary service
No discussion on this item.

c. BLDG 61 Makerspace grand opening
No discussion on this item.

There was discussion of establishing a subcommittee and scheduling the commission's work with the foundation on the community presentation. There was discussion on commissioners attending the new commissioner interviews on March 15, 2016.

Agenda Item 10: Adjournment
The meeting was adjourned at 9:01 p.m.

Date, Time, and Location of Next Meeting: The next Library Commission meeting will be held at 6 p.m. on Wed., April 6, 2016, at the Library Canyon Meeting room.

Commissioner Sutter approved these minutes on April 21, 2016; and Jennifer Phares attested to it.

An audio recording of the full meeting for which these minutes are a summary, is available on the Library Commission web page at http://boulderlibrary.org/about/commission.html

CITY OF BOULDER
Boards and Commissions Minutes

NAME OF COMMISSION: Open Space Board of Trustees
DATE OF MEETING: April 13, 2016
NAME/EXTENSION OF PERSON PREPARING SUMMARY: Alycia Alexander x2047
NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT: MEMBERS: Frances Hartogh, Molly Davis, Kevin Bracy Knight, Tom Isaacson, Curt Brown STAFF: Tracy Winfree, Jim Reeder, John Potter, Mark Davison, Abbie Poniatowski, Jennelle Freeston, Joe Reale, Phil Yates, Annie McFarland, Alycia Alexander, Lisa Dierauf, Leah Case, Gabe Wilson, Kelly Wasserbach, Brian Anacker, Heather Swanson, Mark Gershman, Dan Burke, Deryn Wagner, Kristin Weinberger GUESTS: Dave Zader, Fire Department Wildland Division, City of Boulder
TYPE OF MEETING: **REGULAR** CONTINUATION SPECIAL
SUMMATION: AGENDA ITEM 1 **– Call to Order** The newest Open Space Board of Trustees (OSBT) member, Curt Brown, read and signed the Oath of Office. Tom Isaacson move to appoint Frances Hartogh as the chairperson for the Open Space Board of Trustees. Curt Brown moved to appoint Molly Davis as the Vice Chair Frances Hartogh moved to elect Leah Case as the Board Secretary. All motions passed unanimously by acclamation. AGENDA ITEM 2 **- Approval of the Minutes** Tom Isaacson moved that the Open Space Board of Trustees approve the minutes from Mar. 9, 2016 as amended. Molly Davis seconded. This motion passed 4 to 0; Curt Brown abstained. AGENDA ITEM 3 **- Public Participation** None. AGENDA ITEM 4 **- Matters from Staff** Jim Reeder, Trails and Facilities Division Manager, highlighted several staff projects. Tracy Winfree, Director, gave an update on the North Trail Study Area (TSA) time line.

John Potter, Resource and Stewardship Division Manager, gave an update on various staff projects.

Joe Reale, Ranger Services Supervisor, and Dave Zader, City of Boulder Wildland Fire Administrator, gave an update on a wildfire response simulation event in May.

Gabe Wilson, Maintenance Person III, Trails, and Heather Swanson, Senior Wildlife Ecologist, gave an update on the Flood repair on Mesa Trail/Skunk Creek Crossing.

Abbie Poniatowski, Central Services Division Manager, gave an update on Draft 2017 Work Plan and Budget.

Mark Davison, Community Connection and Partnership Division Manager, gave a staff update on exploratory talks for a Conservancy to provide private funding to support Open Space and Mountain Parks (OSMP) priority programs and projects.

AGENDA ITEM 5 **- Matters from the Board**
The Board discussed dates for upcoming Board meetings as well as a Board Retreat. Molly proposed a programmable phone app for OSMP to look into connecting nature and people. The Board discussed the upcoming city climate meeting in relation to OSMP.

AGENDA ITEM 6 – **Summary of 2015 Open Space and Mountain Parks (OSMP) Volunteer Services and Declaration to Honor OSMP Volunteers during National Volunteer Week, April 10-16, 2016.**
Jennelle Freeston, Volunteer Program Supervisor, and Kristin Weinberger, Coordinator of Group Volunteer Projects, presented to the Board recognizing National Volunteer Week.

Frances Hartogh read the following proclamation:
The Open Space Board of Trustees joins the staff of the City of Boulder Open Space and Mountain Parks Department in recognizing all of our volunteers during National Volunteer Week 2016. We salute the more than 1,760 Open Space and Mountain Parks volunteers who contributed their talents and efforts in helping the department carry out its mission. These individuals are an inspiration as they help to protect the resources that make Boulder's Open Space and Mountain Parks so special.

ADJOURNMENT: The meeting adjourned at 8:53 p.m.

ATTACH BRIEF DETAILS OF ANY PUBLIC COMMENTS:
None.

TIME AND LOCATION OF ANY FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS:
The next OSBT meeting will be Mon. May 9 at 6 p.m. at 1777 Broadway in the Council Chambers

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
April 7, 2016
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:
Bryan Bowen, Chair
John Putnam
John Gerstle
Liz Payton
Crystal Gray
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:
Leonard May

STAFF PRESENT:
Charles Ferro, Development Review Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Chandler Van Schaack, Planner II

1. CALL TO ORDER

Chair, **B. Bowen**, declared a quorum at 6:06 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **L. Payton** and seconded by **C. Gray** the Planning Board voted 6-0 (**L. May** absent) to approve the March 17, 2016 minutes as amended,

3. PUBLIC PARTICIPATION

- **Carole Driver** spoke in opposition to an upcoming project located at 1440 Pine Street which is proposed to be a large RH-2 zoning residential housing and office space with an above-ground parking garage within the neighborhood.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

A. Call Up Item: USE REVIEW (LUR2016-00016): Use Review for a proposed Business Support Services (property management offices) use within an existing office building located in the Industrial Manufacturing zoning district at 6000 Spine Road. The call-up period expires on April 11, 2016.

This item was not called up.

5. PUBLIC HEARING ITEMS

A. AGENDA TITLE: Public hearing and Planning Board consideration of the following items:

1) Consideration of a land use map change for a portion of the property at 2520 28th Street from Public to Mixed Use Business related to the proposed rezoning;
2) Recommendation to City Council on a request to rezone a portion of the property at 2560 28th Street from P (Public) to BC-2 (Business Community – 2) (application no. LUR2015-00072; and
3) Consideration of Site Review application LUR2015-00104 for redevelopment of a portion of property at 2560 28th St. with 10 attached residential units. No changes are proposed to the existing commercial building on site. The proposal includes a request for a 25% parking reduction.

Applicant: Carrie Bingham for Coburn Development
Property Owner: Blizzard LLC

Staff Presentation:
C. Ferro introduced the item.
C. Van Schaack presented the item to the board.

Board Questions:
C. Van Schaack and **C. Ferro** answered questions from the board.

Applicant Presentation:
John Koval and **Pete Weber**, with Coburn Development, representing the applicant, presented the item to the board.

Board Questions:
John Koval, Pete Weber and **Carrie Bingham**, representing the applicant, answered questions from the board.

Public Hearing:
No one spoke.

Board Comments:
KEY ISSUE #1: Is the request for a change to the BVCP Land Use Designation consistent with the criteria for land use map changes as found in Part II of the 2010 BVCP?

- **J. Putnam** stated that the proposal makes sense. And that the current land use designation is not consistent.
- All board members agreed that the request for a change to the BVCP Land Use Designation would be consistent with the criteria for land use map changes as found in Part II of the 2010 BVCP.

KEY ISSUE #2: Is the rezoning request consistent with review criteria for rezoning?

- All board members agreed that the rezoning request would be consistent with the review criteria.

Key Issue #3: Does the proposal meet Site Review Criteria, including Boulder Valley Comprehensive Plan (BVCP) policies?

- **J. Putnam** stated that the proposal meets site review criteria. The reorientation of the project to face Goose Creek makes sense. The proposed unit size is modest and affordable and that is what is needed in housing. He suggested a couple conditions to the site review such as to make the units solar ready and to provide the option to wire the units for EV. He added that he could not support parking reductions without providing for unbundled parking. Finally he recommended additional language to Condition 3.d. to provide practicable soak pits or other measures to improve storm water quality, due to the location proposed being paved and connecting to Goose Creek.
- **H. Zuckerman** approved of the relocation of the buildings' footprint to the southern end and the cut-through for public access. In terms of conditions, he suggested a requirement to work with engineering to coordinate a water quality project on the east end of the project.
- **B. Bowen** agreed with the previous comments. More projects like this need to be supported. The unit mix makes sense and having residential housing being inserted into this type of neighborhood. The unit size is modest and meets site criteria.
- **L. Payton** agreed with the previous comments. She stated that she had liked the original plan of the architecture with similar looking buildings rather than the revised plan. In her opinion, the revised plan lacks refinement and elegance and has too many changes in plane and roof form. She suggested adding a condition that the applicant work with the Design Advisory Board (DAB) and refine the architecture back to something simpler.
- **C. Gray** agreed with **J. Putnam** and **H. Zuckerman** regarding the units being solar ready, the storm water issue and EV charging stations. She agreed that the relocation of the building to the south side was fundamental. In regards to the architecture, she suggested designing the north windows in a manner to have more natural light coming in. She mentioned that she liked the covered balconies and treatments on the south side. She believes the project meets the site review criteria.
- **J. Gerstle** finds the architecture attractive. He asked the applicant to consider lowering the building by digging the garages down two or three feet. The benefit would be diminishing a crowding feeling on the bike path. He suggested that the unbundled parking include the carports as well as the uncovered surface parking.
- **L. Payton** asked if the units will be "for sale units". She asked that the inclusionary housing requirement be reviewed for this project.
- The board agreed to discuss the inclusionary housing requirements at a later meeting.
- **H. Zuckerman** suggested hanging garage doors on the carports as it would enhance the value and the privacy.
- **J. Gerstle** agreed with not having garage doors in the proposed structure, as he felt that this would help to improve the sense of community by increasing interaction among residents as they come and go.

Key Issue #4: Is the requested parking reduction consistent with the criteria for parking reductions set forth in section 9-9-6(f), B.R.C. 1981?

- All board members agreed that the parking reduction request would be consistent with the criteria for parking reductions set forth in the Boulder Revised Code.

Motion:
On a motion by **J. Putnam**, seconded by **L. Payton**, the Planning Board voted 6-0 (**L. May** absent) to approve the request for a land use map change for a portion of the property at 2560 28th Street from Public to Mixed Use Business related to the proposed rezoning and incorporating the staff memorandum as findings of fact.

On a motion by **J. Putnam**, seconded by **L. Payton**, the Planning Board voted 6-0 (**L. May** absent) to recommend approval of the rezoning request no. LUR2015-00072 to City Council incorporating the staff memorandum as findings of fact.

On a motion by **J. Putnam**, seconded by **B. Bowen**, the Planning Board voted 6-0 (**L. May** absent), to approve the Site Review application LUR2015-00104, adopting the staff memorandum as findings of fact and subject to the recommended conditions of approval in the staff memorandum with the following modifications:

1. Adding language to Condition 3.d. as follows: The Applicant shall provide additional practicable soak pits or other measures to the storm water swale to improve storm water quality and further to consult with the city regarding possible coordinated water quality projects on the city property to the east.
2. Add a condition to read: All of the proposed townhomes will be solar ready with flat roofs and conduit connecting the roof to the house panel of each unit for future solar voltaic systems.
3. Add a condition to read: All of the townhomes will be provided with the option to be wired with a 240V/30 Amp circuit to accommodate electric vehicle chargers and the unbundled parking shall provide at least one electric vehicle charging station.

B. AGENDA TITLE: Concept Plan (case no. LUR2015-00106) proposal for expansion of the Frasier Meadows congregate care facility at 350 Ponca Pl. and 4950 Thunderbird Dr. within the RH-5 zone district. The proposal includes renovations to existing buildings; expansion of existing assisted living and skilled nursing facilities, wellness center and arts and education facilities; and a new 5-story, 55' building containing 98 independent living units.

Applicant: Timothy Johnson for Frasier Meadows Retirement Community
Property Owner: Frasier Meadows Manor, Inc.

Staff Presentation:
C. Ferro introduced the item.
C. Van Schaack presented the item to the board.

Board Questions:
C. Van Schaack answered questions from the board.

Applicant Presentation:
Timothy Johnson, representing the Frasier Meadows Retirement Community and the applicant, and **Glen Tipton**, with Hord Coplan Macht, presented the item to the board.

Board Questions:
Timothy Johnson and **Glen Tipton**, the applicant, answered questions from the board.

Public Hearing:

1. **Carolyn Drews** spoke in support of affordable housing with this proposed project on-site.
2. **Alexander 'Sandy' Stewart** spoke in support of affordable housing with this proposed project on-site. He urged the board to insist on more affordable housing at this location.
3. **John 'Grif' Crawford** spoke concerning the design of the proposed building and that the lack of courtyard space would be diminished. He suggested that the design be discussed thoroughly, with the residents, before proceeding with the project.
4. **Karl Amuta** spoke in opposition to the proposed landscape strips along the streets of the project and would like to see more open space at the northeast corner of the project. In addition, he spoke in support of affordable housing at the proposed project on-site.

Board Comments:
Key Issues for Discussion: Is the proposed concept plan compatible with the goals, objectives and recommendations of the Boulder Valley Comprehensive Plan (BVCP)? Is the requested 55-foot building height compatible with the existing context and character of the surrounding area?

- **B. Bowen** made a statement in response to the sentiment of the public comments that the Planning Board cares about affordable housing; however, they lack the power to require on-site affordable housing or whether an applicant chooses cash-in-lieu.
- **C. Gray** stated that the plan is generally compatible with the community policies and goals as outlined in the BVCP including restoration after the 2013 flood. The building height is appropriate for the site. She mentioned that she would like the applicant to share with the board how they addressed the public comments and suggestions made regarding the location of the building. Finally, the proposed arts and education building as well as the proposed center for healthy living are wonderful additions.
  C. Gray left the meeting following her comments.
- **J. Gerstle** stated that the project would be compatible with the BVCP. The height would be compatible in this location. He suggested reconsidering the layout in order to retain the northeast courtyard.
- **L. Payton** stated that the project would be compatible with the BVCP and supports the height modification. In regards to affordable housing, she questioned how the applicant would be able to accomplish offsite affordable housing. She agreed with the public comments that it would need to be on-site. Her biggest concern is the hydrology of the location and that flood mitigation at the site might result in flooding Thunderbird Road, undercutting Foothills Parkway or flooding neighbors. The flood water would need to go somewhere. She asked the applicant to demonstrate at time of site review where flood water would go and that it would not have an adverse impact on other properties.
- **B. Bowen** mentioned that this project could benefit by going to DAB for review to discuss architecture and design. He informed the applicant to pay close attention to view corridors, the design of the open space and that it is permeable. The open spaces between the buildings should be carefully designed to allow people to migrate around and between them.

- **H. Zuckerman** agreed. He noted that most of the units are one or two bedrooms with an average unit size of more than 1,400 square feet. He suggested shrinking the average size of the units which would increase the affordability. He appreciated the solar access that was created.
- **J. Putnam** agreed. He emphasized open space and pedestrian circulation. He also noted that good 3-D visualizations from multiple perspectives, and possibly animated visualizations, will b useful for site review. Regarding on-site housing, it is worth thinking about providing housing for employees that provide the care for the senior residents. The board will need a better understanding of the parking and travel demand management. He stated that he would rather see more units and less parking and asked the applicant to find ways to assist employees and residents with that. He suggested that applicant consider: microgrid integrated with renewable energy sources to address both energy and resilience concerns; electric vehicle charging and EV car-sharing, possibly integrated with the microgrid. He noted that grants and partners might be available to make this project a model for addressing protection for critical infrastructure and making progress on City energy goals.
- **J. Gerstle** reiterated that the average size of the apartments seem large. He would value a trade off of more units but smaller.

Board Summary:
B. Bowen gave a summary of the board's recommendations. Since this is a Concept Review, no action is required on behalf of the Planning Board. Overall, the board is comfortable with the proposed 55 foot height. The architecture is a good first step. The applicant should bring the project to DAB for additional design feedback prior to site review. There is some concern with offsite impacts of the flood map and flood wall. When the applicant returns for the site review presentation, they will need to show what the impacts and modeling of the flood plain map revisions entail and what they would mean for people downstream.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Barriers to build projects in Boulder

Board Comments:

- **L. Payton** presented to the board the idea that occasionally members of the public will identify images or offer comments on projects they would like to see in Boulder. She suggested that board members bring these images/comments, which are often thought to not be possible in Boulder, to the meeting for discussion of what the barriers to their development in Boulder would be.
- **J. Putnam** suggested that the board members send any items for discussion to the other members via email prior to the meeting for discussion.
- **B. Bowen** and **H. Zuckerman** both support the idea.

- **L. Payton** encouraged the members that this could give them a collective understanding of what should change in the code by seeing the barriers and discussing them.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 9:21 p.m.

APPROVED BY

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Board Chair

4.21.16

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DATE

Alpha Phi Omega - Gamma Theta Chapter
Seventy-Fifth Anniversary Celebration
April 30, 2016

WHEREAS, on May 11, 1941 the Gamma Theta Chapter of Alpha Phi Omega, National Service Fraternity was chartered at the University of Colorado Boulder; and

WHEREAS, since 1941 the chapter has provided hundreds of thousands of hours of community service to the Boulder community; and

WHEREAS, the members of the Gamma Theta Chapter of Alpha Phi Omega have served the City of Boulder in numerous ways; and

WHEREAS, this service has included conducting traffic counts in the 1950s to inform traffic signal installations; and

WHEREAS, members have participated in the Parks & Recreation Department's EXPAND program chaperoning activities and dances; and

WHEREAS, members helped the city and community in growing the newly established Icebusters program to assist elderly and disabled residents with snow shoveling; and

WHEREAS, in 1988 members of the chapter assisted the city in informing residents about upcoming changes to Boulder's Eco Cycle program and in exchange the city helped contribute to the 1988 APO National Convention hosted in Denver; and

WHEREAS, members supported flood safety and awareness outreach to at-risk residents in the community following the devastating 2013 flood; and

WHEREAS, members have dedicated hundreds of hours to the Open Space and Mountain parks department for trail restoration, fencing, and seeding and weed control; and

WHEREAS, on May 11, 2016 will mark seventy-five years of continuous service to the Boulder community, beginning on the shores of Kossler Lake.

NOW, THEREFORE, BE IT DECLARED by the City Council of the City of Boulder, Colorado, that April 30, 2016 is

Alpha Phi Omega – Gamma Theta Chapter
75th Anniversary Celebration Day

Suzanne Jones, Mayor

Rocci Chatfield Appreciation Day
April 30, 2016

WHEREAS, Rocci Chatfield, born as Roccina Moschetti in Boulder on April 30, 1926, grew up here, but left her beloved city for Endicott College in Massachusetts; and

WHEREAS, Roccina Moschetti married Blake Chatfield and settled in Los Angeles, Boulder remained in her heart; and

WHEREAS, Roccina Moschetti Chatfield raised two sons, David and Kim, while launching a successful career as a television writer, she became known as Rocci Chatfield; and

WHEREAS, Rocci Chatfield gave us her talents on Knots Landing, Falcon Crest, Romance Theater, and other sultry television shows, she displayed her humanity and humor in Little House on the Prairie, My Three Sons, Family Affair; and

WHEREAS, Rocci Chatfield, as writer of Days of Our Lives, entered the fray of the 1988 Writers Guild Negotiations to represent and champion the rights of other daytime writers; and

WHEREAS, Rocci Chatfield served six terms as governor of the Writers Peer Group of the Academy of Television Arts & Sciences, two terms on the Academy's Executive Committee; and

WHEREAS, Rocci Chatfield, as chair of the Academy's Activities Committee, reinvigorated entertainment education for a generation of industry members with the "Inside" series she originated and produced; and

WHEREAS, Rocci Chatfield created annual Family Day, wrote and produced the **Academy's** 60th Anniversary gala, and special evenings with Liza Minnelli and Tony Bennett; and

WHEREAS, Rocci Chatfield, made a lasting impression in our lives as member of these committees; Hall of Fame, Daytime Awards, Governors Award, Governors Ball, **Primetime Awards**, By-Laws, Primetime Awards Show, Membership, Hyphenate; and

WHEREAS, Rocci Chatfield, honored with the Writers Guild of America Service Award, two nominations for the Guild's Writing Award, twice nominated for an Emmy Award, her greatest award is the one she shares with each of us: her sense of purpose, courage, and genuine caring.

NOW, THEREFORE, BE IT DECLARED by the City Council of the city of Boulder, Colorado, that APRIL 30, 2016 is declared

Rocci Chatfield Appreciation Day

Suzanne Jones, Mayor