CITY OF BOULDER
CITY COUNCIL MEETING
MUNICIPAL BUILDING, 1777 BROADWAY
Boulder, Colorado 80302
Tuesday, June 21, 2016
6 p.m.

AMENDED AGENDA

1. **CALL TO ORDER AND ROLL CALL**
   A. Declaration for General Aviation Appreciation Month

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 May 16, 2016 Special Meeting Minutes**

   B. Consideration of a motion to **approve the May 17, 2016 Regular Meeting Minutes**

   C. Consideration of a motion to **approve the June 6, 2016 Special Meeting Minutes**

   D. Consideration of a motion to **accept the May 24, 2016 Study Session Summary** regarding the **North Trail Study Area (TSA) Draft Plan**

   E. Consideration of a motion to **accept the May 24, 2016 Study Session Summary** regarding the **Update on Boulder Valley Comprehensive Plan - Phase III Shaping Choices**

   F. Consideration of a motion **authorizing the City Manager to dispose of property at 156 Shady Hollow,** Nederland, CO 80466

   G. **Introduction, first reading** and consideration of a motion to order published by title only **Ordinance No. 8123 repealing** Chapter 4-16, **"Police Alarm Systems,"** B.R.C. 1981, and **replacing it with a new** Chapter 4-16, **"Police Alarm Systems," to require alarm verification before initiating police response** and setting forth related details

   H. **Consideration of a motion to adopt Resolution No. 1186** to determine that the petition to **annex approximately 1.37 acres of land generally located at 96**

Arapahoe Avenue is substantially in compliance with section 31-12-107(1), C.R.S. and to establish **August 2, 2016 as the date for a public hearing to determine compliance** of the proposed annexation with annexation requirements under state law and Boulder Valley Comprehensive Plan policies

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.

4. 8A. Potential Call-Ups

1. **Upland Avenue to West of Broadway -**Community and Environmental Assessment Process (CEAP) Report: Fourmile Canyon Creek Greenways Improvement Project
2. **3107 Iris Avenue –** Emergency Access Vacations
3. **215 30th Street –** Public Utility Easement Vacation
4. **3200 Bluff-** Concept Plan
5. **904 College Avenue –**Nonconforming Use Review
6. **2949 Broadway –** Site Review

ORDER OF BUSINESS

5. PUBLIC HEARINGS

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

A. **Continued Introduction,** first reading and consideration of a motion to order published by title only **Ordinance No. 8119 intended to expand the availability of cooperative housing units** by amending Title 4, **"Licenses and Permits,"** by adding a new section 4- 20-69, **"Cooperative Housing License Fee,"** amending Title 9, **"Land Use Code,"** by amending table 9-6-1 to make cooperative housing an allowed use in certain zone districts, by amending section 9-6-3, eliminating the requirement of a special use permit for cooperative housing, amending Title 10, **"Structures,"** by adding a new Chapter 11, **"Cooperative Housing," establishing requirements for licensing housing cooperatives** and setting forth related details

(The Public hearing was held and closed on May 17, 2016. No new testimony will be received.)

B. **1.** **Second Reading** and consideration of a motion to **adopt Ordinance No. 8113** amending Chapter 13-1, **"Elections," B.R.C. 1981, adopting the Municipal Election Code in place of the Uniform Election Code to streamline the process for Municipal Non-Partisan Elections,** and setting forth related details

2. **Second Reading** and consideration of a motion to **adopt Ordinance No. 8114** amending Chapter 13-2, **"Campaign Financing Disclosure,"** B.R.C. 1981; Chapter 13-3, **"Campaign Activities,"** B.R.C. 1981; and Chapter 13-4, **"Complaints Related to Election Procedures and Regulations,"** B.R.C. 1981, to make changes to **conform to recent**

Supreme Court Cases and changes to State Law, change the campaign limits for matching funds from formulas to dollars, clarify issues; and setting forth related details.

C. Consideration of the following two items:

1. **Second Reading** and consideration of a motion to adopt **Ordinance No. 8121 amending Title 9, "Land Use Code**," B.R.C. 1981, to adopt a **Form-Based Code (FBC) for the Boulder Junction Phase I** through two appendices to Title 9: Appendix L designating **"Form-Based Code Areas,"** and Appendix M as the FBC regulations, and adopting **a Form Based Code Review process**, and

2. **Notice of action on proposed amendments to the Transit Village Area Plan** (TVAP) connections plan to be consistent with and to implement the FBC project

6. MATTERS FROM THE CITY MANAGER

7. MATTERS FROM THE CITY ATTORNEY

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

A. Potential Call-Ups

1. **Upland Avenue to West of Broadway -** Community and Environmental Assessment Process (CEAP) Report: Fourmile Canyon Creek Greenways Improvement Project
2. **3107 Iris Avenue –** Emergency Access Vacations
3. **215 30th Street –** Public Utility Easement Vacation
4. **3200 Bluff-** Concept Plan
5. **904 College Avenue –**Nonconforming Use Review
6. **2949 Broadway –** Site Review

B. Board and Commission Appointments for **Downtown Management Commission (DMC)** and **University Hill Commercial Area Management Commission (UHCAMC)**

C. Consideration of a motion to **support proposed response to concerns on University Hill regarding (beer pong) tables in front yards**

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 website and are re-cablecast at 6 p.m. Wednesdays and 11 a.m. Fridays in the two weeks following a regular council meeting.

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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.

Send electronic presentations to this email address:
CityClerkStaff@bouldercolorado.gov no later than 2 p.m. the day of the meeting.

CITY COUNCIL PROCEEDINGS
MUNICIPAL BUILDING, 1777 BROADWAY
SPECIAL MEETING
Monday, May 16, 2016

1. CALL TO ORDER AND ROLL CALL

Mayor Jones called the meeting to order at 6:01 p.m.

Roll was called and Mayor Jones, Council Members Appelbaum, Burton, Morzel, Shoemaker, Weaver and Yates were present. Council Members Brockett and Young were absent at roll call but arrived shortly thereafter.

2. MATTERS FROM CITY ATTORNEY

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

City Attorney Tom Carr added the following language regarding the motion for the record.

"Consideration of a motion to go into executive session to obtain and discuss legal advice, including negotiation strategy, with respect to Boulder's electric utility."

Council Member Morzel moved to go into executive session to obtain and discuss legal advice, including negotiation strategy, with respect to Boulder's electric utility. Council Member Burton seconded the motion. The motion passed 8:0 with Council Member Brockett absent at 6:02 p.m.

The Boulder City Council adjourned into executive session to the first floor Conference Room 401 in the New Britain Building.

At 8:20 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 May 16, 2016 at 8:20 p.m.

Approved this 21st day of JUNE, 2016.

APPROVED BY:

_____

Suzanne Jones, Mayor

ATTEST:

_____

Lynnette Beck, City Clerk

CITY OF BOULDER
CITY COUNCIL PROCEEDINGS
MUNICIPAL BUILDING, 1777 BROADWAY
Tuesday, May 17, 2016

1. CALL TO ORDER AND ROLL CALL

Mayor Jones called the meeting to order at 6:01 p.m.

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

Mayor Pro Tem Young moved to approve the Amended Agenda. Council Member Morzel seconded the motion. The motion passed 9:0 at 6:04 p.m.

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 at 6:05 p.m. and the following members of the public spoke:

1. Anne Tapp spoke about the advocacy programs in Boulder.
2. Molly Davis pooled with Alan Cass and Ken Bettenhausen and spoke in opposition to the North Trail Study Area (NTSA).
3. Gary Sprung spoke in support of the North Sky Trail.
4. Elise Edson spoke in support of the NTSA.
5. Patricia Billig pooled with Jackie Ramaley and BethAnne Bane and spoke regarding the NTSA.
6. Raymond Bridge spoke in support of the NTSA with amendments.
7. Rob Smoke spoke in support of helping the homeless.
8. Sue Cass spoke in opposition to the NTSA.
9. David Bartos spoke in support of tiny homes.
10. Andy Schultheiss spoke regarding the NTSA and the circulating petition.
11. Laurel Herndon, Executive Director of Immigrant Legal Service, spoke regarding housing the homeless and providing services.
12. Jean-Pierre Bressieux spoke in support of tiny homes as an option for affordable housing.
13. Shawn Coleman spoke in opposition of business marketing violations.
14. Byron Fears spoke in support of tiny homes.
15. Jessica Van Antwerp spoke in support of tiny homes.
16. Greg Wilkerson was concerned about over-crowding.
17. Patrick Murphy spoke in opposition to the costs of municipalization.
18. Susan Ross commented on the Vista Village Mobile Home Park management issue.
19. Sean Collins supported diversity on Council by increasing compensation with a charter amendment.
20. Dinah McKay was concerned about the density issue in Gunbarrel and spoke about the sub community plan.

21. David Adamson spoke on open community events offered through the AHA Program around the Goose Creek neighborhood.
With no further speakers, Open Comment was closed at 6:55 p.m.

3. CONSENT AGENDA

A. Consideration of a motion to **approve the Feb 16, 2016 Regular Meeting Minutes**

B. Consideration of a motion to **approve the May 3, 2016 Regular Meeting Minutes**

C. Consideration of a motion to **accept the April 12, 2016 Study Session Summary on Development-Related Impact Fees and Excise Taxes**

D. **Introduction, first reading** and consideration of a motion to **adopt as an Emergency Measure Ordinance No. 8118 adopting Supplement No. 127,** which codifies previously adopted Ordinance Nos. 8101, 8106, and 8108, and other miscellaneous corrections and amendments, as an amendment to the Boulder Revised Code, 1981, and setting forth related details

E. **Introduction, first reading** and consideration of a motion to order published by title only, **Ordinance No. 8120 approving annual carryover and supplemental appropriations to the 2016 Budget**

F. Consideration of a motion to call a **Special Council meeting on May 31, 2016, at 6 p.m., prior to the Study Session, in the Council Chambers** located at 1777 Broadway, Boulder

G. Consideration of a motion to **call a Special Council meeting June 6, 2016**, at 6:30 p.m. in the Council Chambers located at 1777 Broadway for the purpose of holding an **Executive Session, receiving legal advice and discussion regarding Municipalization Strategy**

Councilor Weaver moved to approve the consent agenda. Council Member Yates seconded the motion. The motion passed 9:0 at 6:57p.m.

4. POTENTIAL CALL-UP CHECK IN

8A. Potential Call-Ups

1. 2790 Dartmouth Avenue- Utility Easement Vacation

2. 3365 Diagonal Highway- Concept Plan Review

Council expressed no interest in calling up these properties.

5. PUBLIC HEARINGS

A. **Second reading** and consideration of a motion to **adopt as an emergency measure Ordinance No. 8112** amending Chapter 10-7.7, "**Commercial and Industrial Energy Efficiency," to clarify regulation of large indus**trial campuses related to reporting energy usage, and setting forth related details

Energy Services Program Manager Kendra Tupper introduced this item to Council at 6:59 p.m.

The public hearing was opened at 7:05 p.m. and with no speakers, the public hearing was closed at 7:05 p.m.

Council Member Weaver moved to adopt as an emergency measure Ordinance No. 8112 amending Chapter 10-7.7, "Commercial and Industrial Energy Efficiency," to clarify regulation of large industrial campuses related to reporting energy usage, and setting forth related details. Council Member Appelbaum seconded the motion. The motion passed 9:0 at 7:10 p.m.

B. **Introduction, first reading** and consideration of a motion to publish by title **only Ordinance No. 8119 intended to expand the availability of cooperative housing units by amending Title 4 "Licenses and Permits by adding a new section 4-20-69 "Cooperative Housing License Fee," amending Title 9 "Land Use Code," by** amending table 9-6-1 to make cooperative housing an allowed use in certain zone districts, by amending section 9-6-3, eliminating the requirement of a special use permit for cooperative housing, amending title **10 "Structures**," by adding a new chapter 11 "**Cooperative Housing,"** establishing requirements for licensing housing cooperatives

City Attorney Tom Carr introduced this item to Council at 7:11 p.m.

The public hearing was opened at 8:09 p.m. and the following persons spoke:

1. Susan Jennings spoke in opposition to the ordinance.
2. Lisa Harris spoke in opposition to the ordinance.
3. Kimman Harmon spoke in opposition to the ordinance.
4. Rolf Kjolseth spoke in opposition to the ordinance.
5. Laura Osborn spoke in opposition to the ordinance.
6. Mary Eberle spoke in opposition to the ordinance.
7. Jeffrey Flyn spoke in opposition to the ordinance and offered suggestions of having neighborhood notices sent out or a community survey.
8. Sue Ellen Harrison spoke in opposition to the ordinance, but supported exploring the equity cooperative housing.
9. Michelle Estrella spoke in support of cooperative housing.
10. Jan Trussell spoke in opposition to the ordinance and was concerned about big development investors moving into Boulder.
11. Dorothy Cohen spoke in opposition to the ordinance, specifically addressing parking problems and enforcement.
12. Jill Marce spoke in opposition to the ordinance and was concerned about large density in low density areas.
13. SarahDawn Haynes spoke in support of cooperative housing.
14. Francoise Poinsatte spoke in support of cooperative housing.
15. Sue Prant spoke in support of cooperative housing and Better Boulder.

16. Donald K. Reichert spoke in opposition to the ordinance in its current form and was concerned about his rights as a property owner/landlord.
17. John Driver spoke in opposition to the ordinance due to the difficulty of enforcement.
18. Sara Toole spoke in opposition to the ordinance in its current form.
19. Judy Langberg spoke in opposition to the ordinance.
20. Lisa Reichert spoke in opposition to the ordinance in its current form.
21. Geneva E. Reichert spoke in opposition to the ordinance.
22. Deborah Cantrell spoke in support of the ordinance.
23. Lisa Spalding spoke in opposition to the ordinance.
24. Josh Rosenfield spoke in support to the ordinance and was in favor of engaging neighbors and finding ways to make it work.
25. Rishi Raj spoke in opposition to the ordinance.
26. Jyotsna Raj spoke in opposition to the ordinance.
27. Joy Rohde spoke in opposition to the ordinance.
28. Tim Rohde spoke in opposition to the ordinance and discussed urban blight.
29. Mike Marsh pooled with Silvia S. Kjolseth and Carol Anderson and spoke in opposition to the ordinance and suggested that certain areas of the city might work.
30. Steven Meier spoke in opposition to the ordinance.
31. Nan Judson spoke in opposition to the ordinance.
32. Jack Sukow spoke in opposition to the ordinance.
33. Carolanne McKirnan spoke in opposition to the ordinance in its current form and suggested it come to the voters as a ballot issue.
34. Susan Ross spoke in support of the ordinance.
35. Angelique Espinosa spoke in support of the ordinance.
36. Karen S Hollweg spoke in opposition to the ordinance and suggested creating license regulations that are enforceable and that cover associated costs.
37. Marcelo Mawzen spoke in support of the ordinance.
38. Bennett Scharf spoke in opposition to the ordinance.
39. Candice Kasai spoke in opposition to the ordinance.
40. Hannah Davis spoke in support to the ordinance.
41. Ken Farmer spoke in opposition to the ordinance. He asked for more community engagement.
42. Ray Reichert spoke in opposition to the ordinance in its current form.
43. Thomas Wells spoke in support of the ordinance.
44. Lincoln Miller spoke in support of the ordinance and possibly using a Management Agreement to enforce regulations.
45. Steven McHugh spoke in support of the ordinance as it helps provide affordable living.
46. Neshama Abraham pooled with Sam Schramski and Phillip Horner and spoke in support of the ordinance.
47. Stephen Haydel spoke in opposition to the ordinance in its current form.
48. Margaret Carson spoke in opposition to the ordinance in its current form.
49. Dr. Reynold Feldman spoke in support of the ordinance.

50. Cedar Barstow spoke in support of the ordinance especially smaller cooperative housing units.
51. Katherine Millersdaughter spoke in support of the ordinance.
52. Beth Helgans spoke in opposition to the ordinance and was concerned about the density impact to low-density areas.
53. Noah Moltoch spoke in opposition to the ordinance.
54. Mimi Ward spoke in opposition of the ordinance.
55. Erika Blum spoke in support to the ordinance.
56. Mark Stangl spoke in opposition to the ordinance.
57. Nicole Nurenberg spoke in opposition to the ordinance.
58. Emily Sigman spoke in support of the ordinance.
59. Steven Winter pooled with Gretchen Lang and Tristan Hobson and spoke in support of the ordinance.
60. Shane Mehitzer spoke in support of the ordinance.
61. Colby Mortensen spoke in support of the ordinance.
62. Damian Leathold spoke in support of the ordinance.
63. Elene Mooney spoke in opposition to the ordinance.
64. Eric Budd spoke in support of the ordinance.
65. Leslie Scharf spoke in opposition to the ordinance.
66. Emily Wingeier spoke in support of the ordinance.
67. Dorie Glover spoke in support of the ordinance.
68. David Raduziner spoke in opposition to the ordinance in its current form and suggested finding an area of Boulder for cooperative housing.
69. Jordan Mann spoke in support of cooperative housing.
70. Megan Gross spoke in support of the ordinance.
71. Corwin Mandel spoke in support of cooperative housing.
72. Somer Stapleton spoke in support of the ordinance.
73. Judy Renfroe spoke in opposition to the ordinance in its current form.
74. Lynn Segal spoke in opposition to the ordinance.
75. Will Toor spoke in support of cooperative housing.
76. Rosemary Hegarty spoke in opposition to the ordinance in its current form.
77. Blake Stone spoke in support of the ordinance.

With no further speakers, the public hearing was closed at 10:51 p.m.

Council Member Brockett moved to suspend the rules and continue the meeting. Council Member Weaver seconded the motion. The motion passed 8:1 at 10:59 p.m. with Council Member Morzel opposed.

Council asked questions regarding parking and enforcement, rent caps comparison market rate and value for certain places in the community, concentration, exemptions and practical implications for the number of units to be considered for certain neighborhoods, and questions regarding "pilot" co-ops with compliance regulations and inspections in an effort to study the effects of cooperative housing on the community. City Attorney Tom Carr answered questions for Council.

Council Member Morzel moved to continue this item. Council Member Weaver seconded the motion. The motion passed 9:0 at 11:41 p.m.

6. MATTERS FROM THE CITY MANAGER

7. MATTERS FROM THE CITY ATTORNEY

8. MATTERS FROM MAYOR AND MEMBERS OF COUNCIL

A. Potential Call-Ups

1. 2790 Dartmouth Avenue- Utility Easement Vacation
2. 3365 Diagonal Highway-Concept Plan Review

B. Update on Council Evaluation Process

Council Member Morzel introduced this item to Council at 11:40 p.m.

Council Member Morzel will email the specific important dates to the Council Members.

C. Middle Income Housing Strategy Committee Membership discussion

Mayor Jones introduced this item to Council at 11:46 p.m.
Council approved the appointment of four (4) Council Members to the Middle Income Housing Strategy Committee with one (1) spot shared between Council Members Young and Morzel.

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 May 17, 2016 at 11:49 p.m.

Approved this 21st day of June, 2016.

APPROVED BY:

_____
Suzanne Jones, Mayor

ATTEST:

_____
Lynnette Beck, City Clerk

CITY COUNCIL PROCEEDINGS
MUNICIPAL BUILDING, 1777 BROADWAY
SPECIAL MEETING
Monday, June 6, 2016

1. CALL TO ORDER AND ROLL CALL

Mayor Jones called the meeting to order at 6:31 p.m.

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

2. MATTERS FROM CITY ATTORNEY

A. Consideration of a motion to enter into Executive Session for legal advice and discussion regarding municipalization strategy and negotiation strategy.

The corrected language for this action should be:

"Consideration of a motion to go into executive session to obtain and discuss legal advice, including negotiation strategy, with respect to Boulder's electric utility."

Council Member Yates moved to go into executive session to obtain and discuss legal advice, including negotiation strategy, with respect to Boulder's electric utility. Council Member Weaver seconded the motion. The motion passed 9-0 at 6:33 p.m.

The Boulder City Council adjourned into executive session to the first floor Conference Room 401 in the New Britain Building.

At 9:44 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 June 6, 2016 at 9:44 p.m.

Approved this 21st day of JUNE, 2016.

APPROVED BY:

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Suzanne Jones, Mayor

ATTEST:

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Lynnette Beck, City Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: June 21, 2016

TITLE Consideration of a motion to accept the May 24, 2016 Study Session Summary regarding the North Trail Study Area (TSA) Draft Plan.

PRESENTER/S
Jane S. Brautigam, City Manager
Tracy Winfree, Director, Open Space and Mountain Parks
Mark Davison, Community Connections and Partnerships Manager
Mark Gershman, Environmental Planning Supervisor
Steve Armstead, Environmental Planner

EXECUTIVE SUMMARY

This agenda item provides a summary of the May 24, 2016 City Council Study Session on the North TSA Draft Plan **(Attachment A)**.

The purpose of the study session was for City Council to discuss the North TSA Draft Plan and the process used to develop the 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 May 24, 2016 City Council Study Session Summary on the North TSA Draft Plan.

BOARD AND COMMISSION FEEDBACK

On March 9, 2016, the Open Space Board of Trustees (OSBT) approved the Draft Plan and recommended acceptance of the plan by City Council. The motion passed by a 3-2

vote. The Draft Plan includes staff's revisions reflecting OSBT-approved amendments. The OSBT vote was split primarily because of a difference in preference for the location of a trail connecting the existing Open Space and Mountain Parks (OSMP) trail system at the Foothills Trail with the Joder Ranch property. The board agreed on making this trail connection; however, the majority supported a trail on the west side of US 36, while the minority preferred an alternative on the east side of the highway with a new underpass beneath US 36 north of Neva Road. The board members' preferences were based upon a number of considerations with the degree to which each alternative appropriately balanced the visitor experience and the conservation of natural resources as the most often discussed factor. The board unanimously voted to acknowledge to the council that: *three OSBT members voted for the scenario while two voted against. The main point of contention was whether a north-south connector trail should be constructed through the North Foothills Habitat Conservation Area.*

PUBLIC FEEDBACK

Participation in the planning process has represented a diversity of perspectives in the community including people visiting trails in the North TSA, neighbors, stakeholder organizations, youth and families. Currently, 649 people have signed up to receive email updates about the plan. OSMP staff, OSBT members and members of City Council have received public feedback via email from community members on the Draft Plan and its recommendations. A complete compendium of comments received (through June 6, 2016) is available on the North TSA Website.

BACKGROUND

The North TSA includes OSMP lands north of the Diagonal Highway and Linden Avenue. The North TSA Plan includes management recommendations for 7,701 acres that OSMP owns and manages in this area. The goal of the North TSA Plan is to improve visitor experiences and increase the sustainability of trails and trailheads while conserving the area's natural, cultural and agricultural resources. Additional background on the plan and the process to develop it is available in Attachment B of the May 24, 2016 Study Session memorandum.

NEXT STEPS

Collectively, the recommendations in the North TSA Plan will improve trail connectivity, accomplish improvements for natural resource protection, trail sustainability, allow for the revegetation of undesignated trails and improve the experience for many visitors who enjoy a variety of activities. When fully implemented, the Draft Plan adds eight new trails and reroutes nine trails. Approximately 23 miles of undesignated trails will be revegetated and five miles of undesignated trails will be integrated into the city's system of designated trails.

With council acceptance of the plan, staff would:

1. Review project phasing and costing to affirm project priorities, and include high-priority projects in CIP budgets and department annual budgets. Projects aligned to budgets and annual work plans will include a combination of trail and trailhead

improvements, visitor experience enhancements (recreation activity, volunteer opportunity, regulation changes, education projects, etc.) and natural and cultural resource management projects (restoration, conservation, weed management, etc).

2. Return to council recommending an approach for establishing the North Foothills Habitat Conservation Area by ordinance which would include the approved visitor off-trail travel restrictions.

ATTACHMENTS

Attachment A: May 24, 2016 Study Session Summary on the North TSA Draft Plan.

May 24, 2016 Study Session Summary
North TSA Draft Plan

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

Staff Members: Jane Brautigam, City Manager; Tracy Winfree, Director of Open Space and Mountain Parks; Mark Davison, Community Connections and Partnerships Manager; Mark Gershman, Environmental Planning Supervisor; Steve Armstead, Environmental Planner; John Potter, Resource and Stewardship Manager; Annie McFarland, Trails & Visitor Access Supervisor; Lynn Riedel, Plant Ecologist; Gabe Wilson, Trails Specialist; Heather Swanson, Senior Wildlife Ecologist; Don Damico, Ecological Systems Supervisor; Eric Fairlee, IPM Specialist; Emily Garding, GIS Analyst; Juliet Bonnell, Associate Planner; Heather Bergman, Peak Facilitation.

STUDY SESSION SUMMARY
Steve Armstead, Project Lead, presented the purpose of Trail Study Area (TSA) plans and the four step public process which was used to gather information about the North TSA, create and refine scenarios to achieve and balance community interests for the North TSA, and seek the Open Space Board of Trustees' (OSBT) recommendation for which scenario to use as the basis for the North TSA Draft Plan (Draft Plan). The process was hosted by the OSBT and involved extensive opportunity for community feedback through workshops, on-line, youth outreach and more.

The study session presentation highlighted key Draft Plan recommendations to improve visitor experience in the North TSA, plan recommendations specific to the North Sky Trail, a comparison between the North Sky Trail and alternative scenario east side connector, implementation costs and phasing and next steps.

The highlighted recommendations to improve visitor experience in the North TSA included:

- A new loop trail on the Joder property (Mahogany Loop)
- New trailheads and visitor amenities (in Joder, Boulder Valley Ranch and Wonderland Lake)
- Improvement of resource conservation (by restoring and consolidating social trails; and directing trails and access away from sensitive natural resources)
- Collaboration with partner agencies to create more regional trail connectivity (e.g., the proposed Boulder Reservoir trail and new trail (Talon Trail) to Niwot Road and beyond to the County's Lagerman system, the Boulder to Joder (North Sky Trail) connection, and the Rocky Mountain Greenway in connection with the North TSA.)

Plan recommendations specific to the North Sky Trail presented included:

- Integration of the existing railroad grade social trail into the designated North Sky Trail
- Conservation-design of the trail to minimize impacts to the resources in the area
- No opportunity for visitors to get off-trail permits to travel off-trail in the adjacent North Foothills Habitat Conservation Area (HCA)

A comparison between the Draft Plan's North Sky Trail and the alternative scenario's east-side trail connection, respectively, included:

- Difference in length of trail (3 miles or 4 miles)
- Number of road crossings that would need to be made (no crossings or five road crossings (one existing) and the need for an underpass)
- Number of bridges and wetland permits that would be required (several bridges and a wetland permit or one new bridge and a wetland permit)
- Costs ($805,000 or $2.25 million, with $250,000 for the trail and $2 million for the proposed underpass)
- Visitor experience (remote, rugged trail with sweeping views or views of the Boulder foothills)
- Differences in resources (Habitat Conservation Area and Best Opportunity Area for Conservation in Grassland Plan or Natural Area and Best Opportunity Area for Restoration in Grassland Plan)
- Number of drainage crossings (11 or five existing drainage crossings and one new crossing)
- Proximity to grassland communities and shale barrens (globally rare xeric tallgrass communities, New Mexico feathergrass communities and shale barrens near the railroad grade or globally rare needle and thread grass community and shale barrens near Lefthand Trail)

A comparison between the actions linked with the Joder Connection via the North Sky Trail or the alternative scenario east side connector, respectively, included:

- Off-trail permits not allowed or off-trail permits allowed in the North Foothills HCA
- Dogs required to be on leash on the North Sky Trail with a seasonal dog closure for nesting birds from May 1 through July 31 or dogs prohibited on the proposed diagonal link trail section between Longhorn Road and Lefthand Trail
- Passenger vehicle parking at the Dagle/Wright property or passenger vehicle parking at the Schooley property
- Integrate part of the railroad grade social trail into the North Sky Trail or designate part of the railroad grade social trail as an out and back trail
- The east side connector option would include a bypass trail to a steep section of the Joder Ranch Trail

The presentation outlined the restoration opportunities that are being considered as part of North TSA implementation including:

- Restoration of the hydrology and riparian vegetation near Schneider Draw

- Improvement of native grasslands in the area by having a prescribed fire plan and designing trails strategically

Plan Implementation Costs were estimated to be $4.3 million, not including personnel expenses of standard employees. Construction of the North Sky Trail and paving of Longhorn Road are two of the most costly plan recommendations and would be included in the Capital Improvement Program. Staff referred Council to the memo for more details about the estimated scheduling and phasing of projects and noted that some projects may take several years to complete.

After plan approval by City Council, staff will follow up with a recommended approach to establish the North Foothills HCA by ordinance. This will allow more time for staff to analyze available information to determine the best way and timing for implementation of the North Foothills HCA.

QUESTIONS FOR CITY COUNCIL AND RESPONSES:

Following the presentation, City Council members responded to the following questions:

1. Do City Council members have clarifying questions for staff about the process used to develop the North TSA Draft Plan?
2. Do City Council members have questions for staff to clarify the recommended actions in the Draft Plan?

Summary from City Council Questions and Discussion

The following are key elements from the discussion:

Process Questions/Discussion

Habitat Conservation Area process related clarifications in response to council questions

- The West Beech property became part of the North Foothills HCA as part of the establishment of management area designations with City Council's acceptance of the Visitor Master Plan (VMP) in 2005. When the Joder property was acquired in 2013 both the Open Space Board of Trustees (OSBT) and City Council determined that this property would also be appropriate as an HCA.
- The TSA process is the appropriate time to determine trail use and how the railroad grade social trail within the North Foothills HCA would be handled. Initially the Visitor Master Plan identified 11 trail study areas of varying size. The level of staff and community involvement for TSAs led OSMP to return to council to change the configuration of the HCAs to four (north, south, east and west) larger areas.
- The VMP includes criteria that are used to guide the designation of management areas including HCAs. TSA plans provide the opportunity to determine what trail access and regulations are appropriate for the HCAs in the planning area. Most of the HCAs do have trails. One exception is the Cottonwood Grove. Both the Draft Plan and alternative scenario support the HCA designation for the Joder property.
- HCAs typically include a lower density of trails than other management designations, though there is not a specified volume/level of visitation criteria for

inclusion as an HCA. Some HCAs include a fairly high level of trail visitation, others relatively low levels of visitation. The intent of the VMP is for HCAs to have lower trail density trails and for trails to be kept on the periphery of the HCA to minimize fragmentation. The conceptual alignment of the North Sky Trail is proposed to incorporate parts of the existing railroad grade social trail which was determined to be the least impactful to the resources in the area, then move as closely as possible to the periphery of the OSMP fee property before linking into existing trails near the Joder property.

- Designing a trail with "conservation-first" principles can also help minimize impacts to resources. For example, the conservation-first trail design of the North Sky Trail means that there may be sections where cyclists will need to dismount and push or carry bikes because of stairs or other trail structures put in place to minimize resource impacts.
- If the North Sky Trail is approved, the Draft Plan recommends that no off-trail permits be allowed in the North Foothills HCA where the trail is located. Typically, permits are allowed in HCAs. Permits are used by visitors interested in accessing climbing areas and other sites of interest within HCAs that are not served by trails. Off-trail permits are not available for dogs or bikes. Staff is not aware of cases where off-trail permits have been denied and will return to City Council with the number of permits typically issued per year prior to or at the June 7 council meeting. OSMP uses off-trail permits as a way to track the numbers of people travelling off-trail in HCAs and generally where within the HCAs permittees are going. Off-trail permits include the relevant rules and regulations including information about the activities allowed with off-trail permits.

Northern Properties process related clarifications in response to council questions

- Neighbors and lessees of Northern Properties have been notified via letters about the Draft Plan and provided with numerous opportunities to participate in the process. OSMP has actively reached out to these stakeholders and received feedback from them at workshops and on-line as well as meeting directly with lessees repeatedly.

Recommended Actions Questions/Discussion
Sideboard related clarifications in response to council questions

- Sideboards are existing commitments in the form of plans and policies such as the City Charter and City Council approved plans. Guidance from different plans and policies (e.g. the VMP, Grassland Plan, etc) are generally compatible, but there may be situations where guidance from different plans conflicts. The TSA planning process is the correct process to reconcile any differences or conflicts. The sideboards provide the policy guidance that staff strives to integrate while developing TSA Plans. During this process staff considers how desired connectivity can be achieved as well as how grasslands and other natural resources can be conserved. The recommendations in the Draft Plan are consistent with the scope of the sideboards.

- Conflicting objectives from different plans are reconciled through consideration of public feedback, OSBT input and staff deliberation. For example, certain types of grassland have been identified within the Grassland Plan as those most needing protection. There are valuable types of grassland on both sides of US 36 and the Draft Plan provides recommendations that seek to minimize impacts to them.

Wetland permitting related clarifications in response to council questions

- City wetland permits are administered through the city's planning department. Open Space and Mountain Parks (OSMP) has a good track record of applying for and being granted wetland permits. Sometimes, staff needs to revise an application based on feedback from the program administrator, but ultimately OSMP has always been successful in submitting acceptable applications and receiving permits. Almost every project OSMP undertakes near water requires a wetland permit. The drainage crossings required by the North Sky Trail will probably require not only a city wetland permit, but authorization or permitting through the federal regulatory program as well.
- When considering factors for wetland permits, the first goal is to try to avoid impacts, then work to minimize impacts (with the use of bridges, etc), then compensate for the effects that cannot be avoided (often through restoration or creation projects). City wetland permits have fees that are tiered. A "standard" permit application review, which is mostly administrative, costs about $400. The fee for the review of a more detailed wetland permit application could be thousands of dollars. There are no costs for the review of federal wetland permit applications. The city's wetland permitting process is more stringent than the federal process. Processing of a federal permit application can take from six to 12 months.
- Wetland permitting is based on the size of the impact/square footage and whether a soft or hard surface trail is being proposed. Bridge requirements for multi-use trails are bigger and more solid than those for hiker-only trails. The use of larger bridges may minimize impacts to resources more effectively than smaller bridges.
- For the east side connector, the alternative scenario recommends moving an existing bridge to help minimize resource impacts to a greater extent.

Underpass related clarifications in response to council questions

- Construction of an underpass to cross US 36 is proposed in the alternative scenario. Staff has had only preliminary discussions with the Colorado Department of Transportation (CDOT) about this potential underpass which would be expensive. Community members have expressed interest in this underpass for safety and connectivity reasons. The city could potentially share the cost of the underpass with others or pursue grant funding. If the east side connector is chosen, OSMP would likely provide more funding than if this underpass was created as part of a broader regional connection effort. The underpass is called for only in the alternative scenario, and not the Draft Plan. It is not included in the Draft Plan since the plan does not include the trails needed for connectivity with the OSMP trail system. The underpass could be considered as part of a future regional trails planning.

- Council inquired about how cost sharing worked for the Highway 93 underpass and whether this would be a relevant comparison. Staff believed that the city contributed $1 million to the Highway 93 underpass and that a CDOT and Boulder County project that went along with it helped fund it. Staff will provide more information about how much was contributed by the involved agencies in the June 7 council memo and presentation.

Regional connectivity related clarifications in response to council questions

- If future regional connections involving the Northern Properties were to be considered, it would be part of a regional planning process or an amendment to the North TSA, either of which would be brought back to council.
- The planning and feasibility study for the section of the Rocky Mountain Greenway (RMG) from Jefferson County to Lyons has purposely been on-hold pending the outcome of the North TSA planning project. The RMG planning team will consider what, if any, options the North TSA Plan provides to meet the RMG goals. One concept being discussed is the possibility of the RMG having multiple routes, some that provide a "family-friendly" experience and incorporate mostly grade-separated low-gradient and/or hard surface bikeways. This would be consistent with the Draft Plan-proposed connection to Boulder Reservoir and north to Niwot Road. The other experience for the RMG may be more challenging with steeper and narrower trails. One idea that has been discussed is the inclusion of the trail connection to Joder approved in the North TSA Plan possibly being part of the RMG's "rugged experience route." Some community members have expressed support for the RMG designation because they believe that participation would increase the city's chances of receiving state or federal funding to support design and construction. The OSBT and council recently supported participation in grant application for federal funding to connect a portion of the city's trail system with the Rocky Flats National Wildlife Refuge—an effort framed around and potentially strengthened by inclusion of the Coalton Trail as part of the RMG.
- Council can facilitate the city/county making faster progress on regional connectivity by discussing this issue with the County Commissioners and reiterating the importance of regional connectivity when looking at other plans like the Boulder Valley Comprehensive Plan. It is important to keep in mind that certain items, such as flood recovery, need to be completed before new, larger goals can be set.
- Staff will provide City Council with information about creating an access point on OSMP property independent of Parks and Recreation land near the Area III Planning Reserve prior to or at the June 7 council meeting.

Trail design and visitor experience and visitor access and management related clarifications in response to council questions

- The proposed width for the trail tread of the North Sky Trail as well as the alternative scenario east side connector is 36 inches, which is standard for multi-use trails used by OSMP and Boulder County. The clearing width for trails such as these that would allow equestrians is six feet (above ground). Maintaining this

clearance is an on-going commitment. There are areas where OSMP has built wider trails due to the interest or need for an alternative design (e.g., Chautauqua Meadow where visitors walk side-by-side), so there is flexibility in trail design. For multi-use trails OSMP designs for two-way travel, regional connectivity, and to decrease the need for visitors to leave the trail when passing. Even if equestrians are not allowed, trail design requires passing room for hikers and bikers. Trails in more "wild" places across the system tend to be narrower. When bikers or equestrians are allowed, our design standards call for wider trails. Sometimes visitors create narrower single-tracks parallel to wider trails. For example, Lefthand Trail is open to equestrians, bikers and hikers, but is narrow due to the level of use. In areas of lush vegetation growth and low to moderate levels of use the active trail tread narrows naturally, even if it is originally constructed to 36 inches. There is also the potential that trails will widen through use, though staff tries to avoid designs that result in widening.

- Because of the soil types in the areas where the North Sky Trail and the east side connector trail are being proposed, they would both retain water and be closed when conditions dictate per OSMP's muddy trail closure program. It's difficult to know how frequently or long they could be closed.
- Trailhead parking is prohibited from 11 p.m. to 5 a.m. and night-time use is discouraged in HCAs. The plan proposes addition of educational signs about the important resources in the North Foothills HCA and Joder property. Council can prohibit night-time access to the North Foothills HCA.

Natural resource related clarifications in response to council questions

- The construction of new trails creates disturbance that tends to provide an opportunity for the establishment and spread of invasive species. In order to prevent and manage invasive species, OSMP uses best management practices during trail construction, provides on-going monitoring of trail sites, applies treatments to sites that show evidence of invasive species and enacts restoration efforts, as necessary. Treatments include the introduction of native plants that compete with the invasive species.
- Impacts of a trail go beyond the tread, but there are no simple answers as to how far these impacts reach. Effects vary greatly depending on the species. The average width for trail effects on nesting birds is about 75 meters. For grassland birds, the effects to highly suitable habitat would be generally the same on the east or west side of US 36.
- Prairie dog burrows are sometimes abundant on the OSMP system and there are many places where prairie dog colonies are near trails. Prairie dogs seem to habituate well to human use; larger impact tends to be to associated species such as burrowing owls and raptors. The OSMP Grassland Plan identifies prairie dog conservation areas (which are smaller areas) and grassland preserves (which are larger systems of prairie dog colonies). These Grassland Plan designations are distinct from HCAs and other VMP management area designations.
- The scientific community is continuing to research whether the amount of trail use and times of day a trail is in use make a difference for wildlife. Some details

about impacts to specific species may be available, but it is not known if these can all be extrapolated to allow for broad generalizations.

- OSMP staff has some ability to look at the data that has been collected through monitoring the North Foothills area in order to gain limited understanding of potential impacts of the trail on local species and ecological systems. Staff won't have robust data, but staff will continue to monitor system-wide, and if something is observed, staff can explore ways to mitigate impacts.
- In regard to the West TSA, it has been difficult to establish baselines, controls and treatments and therefore, staff has not been able to reach firm conclusions. Establishing baselines in the West TSA was difficult because so many of the trails had been in existence for decades—or longer.

Joder Connector comparison related clarifications in response to council questions

- The Draft Plan and alternative scenario are two distinct approaches to achieving and balancing community interests in different ways. There are similarities between them, but also key differences and actions that are specific to one or the other. For example, an underpass is included in the alternative scenario because it is needed to provide a safe connection from the east side of US 36 to the Joder property. The Draft Plan includes the North Sky Trail which would not cross US 36—therefore requiring no underpass near the Joder property.
- No matter which side of US 36 the connector trail is built, Schneider Draw is an extremely important drainage area. If trail construction related disturbances occur on the west side it makes sense to mitigate those effects with appropriate restoration efforts.
- The most important resources likely to be affected by the North Sky Trail are:
    - Schneider Draw, where careful consideration will need to be paid to the location and design of a crossing.
    - The area just south of the conservation easement where the trail must gain elevation over a short distance to skirt the adjacent conservation easement.
    - Numerous locations (some near the railroad grade) where Bell's twinpod grows.
- Generally speaking, the closer to the conservation easement fence the North Sky Trail alignment is placed, the less severe the impact on ecological resources.
- There are tradeoffs and different anticipated ecological impacts from the proposed North Sky Trail and the east-side connector trail. The North Sky Trail would traverse grassland communities to a larger extent. The east-side connector would involve less new trail construction and therefore have fewer environmental impacts. The environmental costs differ between east- and west-side options. There are greater numbers of sensitive resources on the west side, but the exact impacts of each of the proposed trails are not known because the exact locations have not yet been determined. Some impacts can and will be avoided, and others will be mitigated through site restoration.
- If the trail alignment were located on the east side, it would be possible to maintain a larger habitat block unfragmented by a designated trail. Impacts to various species differ. Staff recommends a focus and consideration of the key resources that are included in the North TSA Inventory and Assessment Report.

Some species will experience little to no effects, and there will be more extensive impacts to other species. Potential effects on nesting birds are being addressed by proposed seasonal closure/temporal restrictions.

Costs and implementation related clarifications in response to council questions

- Bridges are included in estimated costs of the Joder connector trails. Staff confirmed that for $250,000 OSMP could implement the east side connector (alternative scenario) to Neva Road. This does not include the underpass or land acquisition costs for a connector trail between Neva Road and US 36.
- Council inquired about the stability of slopes and composition of soils on the west vs. east side of US 36 and the estimated cost to maintain the west vs. east connectors. Staff noted that it is more costly to maintain a trail on flat ground (that is, much of the east side connector) because it requires regular surfacing. When possible, staff builds trails on cross slopes to improve drainage. It was noted by staff that Dowdy Draw didn't have slumps prior to the flood, that it sustained damage in the flood, but that within a week staff was able to clear the trail tread and repair the damage. Staff will provide City Council with a cost-estimate for maintenance on the west vs. east connector trails prior to or at the June 7 City Council meeting.
- Staff informed council that the proposed implementation phasing of projects is based on an analysis of all recommended actions considering existing departmental priorities such as flood recovery. It is possible to change the order and prioritization of recommended actions; however, there will be implications for projects outside the scope of the plan and related community expectations that should be considered.

City Council members will provide additional questions through the Hotline so they can be answered prior to or at the June 7 City Council business meeting during which acceptance of the North TSA Plan will be considered.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: June 21, 2016

AGENDA TITLE
Consideration of a motion to accept the May 24, 2016 Study Session Summary regarding the Update on Boulder Valley Comprehensive Plan - Phase III Shaping Choices

PRESENTERS
Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing & Sustainability (PH&S)
Susan Richstone, Deputy Director for Planning
Lesli Ellis, Comprehensive Planning Division Manager, PH&S
Jean Gatza, Senior Planner, PH&S

EXECUTIVE SUMMARY
This agenda item provides a summary of the May 24, 2016 Study Session for the update to the Boulder Valley Comprehensive Plan (BVCP). The purpose of the study session was to request council feedback on the following:

1. **Draft core values**
2. **Draft choices for scenarios and potential tradeoffs:**
    a. **design, housing, jobs/housing balance and evaluation measures**
    b. **Climate, energy and resilience policies**
3. **Draft plan organization and policy integration**

STAFF RECOMMENDATION
Staff recommends City Council consideration of this summary and action in the form of the following motion:

Suggested Motion Language:
Motion to accept the May 24, 2016 City Council Study Session Summary regarding the Update on the Boulder Valley Comprehensive Plan - Phase III Shaping Choices.

ATTACHMENTS

Attachment A: May 24, 2016 City Council Study Session Summary

May 24th, 2016 City Council Study Session Summary: Update on the Boulder Valley Comprehensive Plan (BVCP) Major Update – Phase 3 Shaping Choices

PRESENT

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

Staff members: Jane S. Brautigam, City Manager; David Driskell, Director of Planning, Housing & Sustainability (PH&S); Lesli Ellis, Comprehensive Planning Manager; Jean Gatza, Senior Planner

1. BOULDER VALLEY COMPREHENSIVE PLAN OVERVIEW

Staff presented an update on the Boulder Valley Comprehensive Plan (BVCP) Major Update – Phase 3 (i.e., key choices, scenarios, analysis, policy integration, and updates to land uses). Staff requested council input to refine the development of scenarios, policies, and core values.

Discussion Summary

A summary of council's discussion is provided below.

General Comments

- The process is on the right track. Nice job on outlining issues, framing choices and summarizing tradeoffs. Some of these choices and tradeoffs are things we should get back out to the community.
- Visualization of scenarios and land use options would be most helpful with a street-level view to convey the general "look and feel" as opposed to a tilted aerial with massing boxes of building. Will scenarios be visual and available to the public on an interactive, computer-based format as opposed to static only? *(Staff is following up with the consultant team to confirm that scenarios will be online and as visual and interactive as possible.)*
- Staff clarified that the various types of land use changes will include: corrections in inaccuracies, changes resulting from the public land use requests, and changes resulting from the exploration and outcomes of scenarios.
- October seems late to review conclusions regarding choices and tradeoffs; consider coming back earlier. *(Note: The community will have opportunities to review materials earlier, and other drafted chapters of the plan will be ready sooner.)*

Core Values

Council members discussed feedback on Core Values:

- **Consider adding an introduction or preamble.** The core values are all-encompassing and also inherently conflict with one another. Note that we cannot attain the core values all at once as a community (they are not goals), and clarify that the values are not listed in order of priority. A community can have all these values. The tradeoffs may occur during project implementation. The comp plan itself is general enough that people use it as a reference back up points they are making. Perhaps we need to prioritize and be more intentional within the plan.
- **Specific suggestions included:**
    - Under "Livable Community," add reference to housing affordability or homelessness, which were high priority topics per the 2014 Community Survey.
- Address land use and transportation together.
    - Clarify that "Maintain a connected infrastructure network" (under "Accessible and Connected") regards communications.
    - Safe community is an important core value.

- **Consider shortening or fine tuning.** Ensure there are no redundancies and to be careful about phrasing in complete sentences.

Jobs/Housing Balance
Council members discussed draft choices for scenarios and potential tradeoffs regarding design, housing, jobs/housing balance, and evaluation measures, and provided the following feedback:

- **General input.** Frame questions regarding jobs/housing balance to address consequences, not in isolation. A few members noted that we have more need to address housing versus jobs.
- **Pace of non-residential growth.** A few council members agreed that addressing pace of non-residential growth is important to consider as part of the scenarios, and asked what the mechanism would be. Staff explained that no growth management tool has been proposed or defined and could be analyzed further as part of scenarios for balancing jobs/housing.
- **Jobs/Types of Jobs.** Major job generators have provided a solid platform to the city, however we also don't want to add Googles every year. What types of jobs we want to support? What types of demographic needs does the community have? It's important to support those land uses. Be aware of the importance of protecting service industrial land uses. Low-paying jobs, often in retail or service, come along with the addition of mixed use, and this could exacerbate the housing issue. The addition of mixed use does not subtract jobs; it is a redevelopment tool.
- At the 2016 Boulder Economic Summit, Boulder was described as a startup incubator. Is that a strategy? What is our niche? How do we get more at and manage the steady state of "in flow" and "outflow"? Discuss the downsides (e.g., whether there might be a reduction in spaces for startups, or whether Class A office, high-end residential might replace low-end office space. The implications aren't just growth-related).
- Shopping centers with retail on the ground floor could go up a floor or two for the addition of residential uses. Additional opportunities exist on transportation corridors.
- **Consider regional implications.** Need to look at net impact for the region for quantitative measures such as VMT, emissions levels, and others. If it does not happen in Boulder, it happens somewhere else. It is important to have a dialogue for sharing job opportunities with surrounding communities.
- **15-Minute Neighborhood Concept needs Definition.** Clarify 15-minute walkable neighborhoods: definition, goals, and measures of success are needed. Explore whether their impact is significant enough to make a difference.
- **Activity Centers/Opportunities Diagram**. Two neighborhood activity centers should be added to the diagram: (1) 2525 Arapahoe and across the street (Village Shopping Center) and (2) Quince & Broadway (Hillside Shops). Staff clarified that an activity center can be neighborhood and regional.

Choices for Housing Affordability and Diversity
Council members discussed draft choices for scenarios and potential tradeoffs regarding design, housing, jobs/housing balance and evaluation measures:

- **Small lot single family:** Better define "small lot single family" in the choices and options for incentivizing smaller houses (e.g., more than one house per lot).
- **Add Estate Residential and Rural Residential** to the discussion. There are significant changes happening on large lots in the community.
- **Clarify Inclusionary Housing Requirements.** There is a lot of interest and concern regarding inclusionary housing requirements and key choices. It would be important and useful to clarify what alternative compliance is (in the handout materials). On-site requirements are not for rental because of state restrictions. We could have on-site requirements for ownership, but we do not do that as much as we should.
- **Affordable Housing goals.** For affordable housing, a priority is to have it integrated and dispersed. .

Climate, Energy and Resilience
Council members discussed draft choices for scenarios and potential tradeoffs regarding climate, energy, and resilience and provided the following feedback:

- Mention already-adopted codes (e.g., the building code and commercial energy code).
- Package these and the transportation goals (e.g., involving Vehicle Miles Traveled (VMT)) with the Climate Commitment goals.
- Incorporate interim goals from the Climate Commitment.
- Evaluate emissions from development in two ways: net per capita and regionally.
- Staff confirmed that Zero Waste is part of our climate goal and is written in Climate Commitment plan.
- County staff suggested language related to oil and gas drilling on open space, etc.

CU South

- The timeline for the site suitability analysis, which will assess which portions of the site are suitable for development versus conservation, will occur over the next 60 days. Discussion and community outreach will occur later this summer with a later stage of analysis and annexation agreements following that.
- Council clarified the involvement of CU in the process. CU will assist with analysis related to utilities and infrastructure. The city's role is site suitability analysis because a significant portion of the site is designated as Open Space Other.

Alpine-Balsam

- Consider moving forward with an eye on a Central Boulder Subcommunity plan. This is an area of change; surrounding properties will also change.

Subcommunity Planning

- Consider breaking up Central Boulder into smaller subcommunities.
- Recognize that subcommunities may be too large and diverse to be meaningful in the planning realm. Planning focus should be on areas likely to change in the planning period.

Policy Integration
Council members provided feedback on the policies and provided specific ideas via Hotline including:

- The next iteration of edits should include strikeout versions of the policies to allow for a before and after comparison. *(Staff confirmed this will occur.)*
- Council members also stated a few specific ideas for Policy 5.13, infrastructure improvements, and groundwater and provided comments on policies via the Hotline.

Public Land Use Requests

- **Council asked for clarification on the Valmont Butte, staff initiated land use change request (formerly #26)**. *(Note: The land use map change is progressing as part of the annexation (per allowed BVCP procedures) to consolidate the decision making for the annexation, initial zoning and land use map changes together and allow for greater community outreach and specifically with Native American groups.)*

Proposed Plan Reorganization

- **Tighten language and remove redundancy if possible**. Consider taking policies out of comp plan that are already in master plans: retain the high-level goals and values that align with plans, but point to master plans for more specifics. If we have missing master plans, a goal for the next update could be to develop a master plan. Master plans have the advantage of being more specific.

- **Plan Serves as High Level Guidance and Land Use Tool.** Retain its land use and social policy issue framing.

Next Steps:

June 15	County Planning Commission (PC) check in on these same materials
June 15	Process Subcommittee discussion of schedule and community engagement strategy
June 30	Board of County Commissioners (BOCC) check in on these same materials
July 28	Planning Board discussion regarding initial policy edits, land use descriptions, amendments chapter, etc.
Jul-Sept	Community Engagement events for Phase 3
Aug/Sept	Board and Commission check-ins regarding initial policy edits, land use descriptions, amendment chapter, scenarios (possible Joint Board meeting(s))
Late Aug	County PC and BOCC Hearings being scheduled for the public land use change requests
Oct/Nov	Planning Board and City Council hearings being scheduled for public land use change requests and study session regarding scenario outcomes and preferred directions (confirming schedule and approach with Process Subcommittee)

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: June 21, 2016

AGENDA TITLE: Consideration of a motion authorizing the City Manager to dispose of property at 156 Shady Hollow, Nederland, CO 80466.

PRESENTER/S
Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works
Jeff Arthur, Director of Public Works for Utilities
Joe Taddeucci, Water Resources Manager

EXECUTIVE SUMMARY

City Council consideration is requested concerning disposal of residential property at 156 Shady Hollow, Nederland, CO. The property, which previously housed city staff responsible for overseeing Barker Dam facilities, is no longer needed due to implementation of a 2009 Source Water Master Plan recommendation to relocate operations staff directly adjacent to the dam.

STAFF RECOMMENDATION

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

Motion to authorize the City Manager to dispose of property at 156 Shady Hollow, Nederland, CO 80466.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Selling the property will allow the Utilities Division to eliminate an asset that is no longer needed and generate revenue from the sale.

- Environmental – No environmental impacts are associated with selling the existing property. Other than minor interior upkeep, the property will be sold as is.

- Social – Selling the property will make it available to members of the community.

OTHER IMPACTS

- Fiscal – Proceeds from the sale will offset the costs of constructing new office and living quarters for operations staff on a city owned property adjacent to Barker Dam.

- Staff time - Staff time required for this item is included in the normal work plan.

BOARD AND COMMISSION FEEDBACK

Selling the existing property is consistent with 2009 Source Water Master Plan recommendations, which were reviewed and accepted by City Council.

BACKGROUND

The city purchased the Boulder Canyon Hydroelectric Project, which includes Barker Dam and other water supply facilities, in 2001. Barker facilities had previously been owned and operated by Public Service Company of Colorado. At the time of the Barker system purchase, the closest available property for staff office and living quarters was at 156 Shady Hollow in the St. Anton Highlands neighborhood, about 3.5 miles from Barker Dam. The city purchased the property at 156 Shady Hollow in 2002. In 2009, City Council approved the Source Water Master Plan, which included a recommendation for operations staff to be relocated within sight of the dam as is standard practice for large dam owners. This relocation was completed in 2016, and the property at 156 Shady Hollow is therefore no longer needed.

ANALYSIS

Sale of the property at 156 Shady Hollow is a planned action consistent with previous council-adopted master plan recommendations. City Council's options are to either authorize the City Manager to dispose of the property or withhold such authorization, in which case staff could attempt to lease it. Because real estate market conditions are currently favorable and staff does not foresee a future city need for this residential property, staff recommends that City Council authorize the City Manager to dispose of the property.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: June 21, 2016

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8123 repealing Chapter 4-16, "Police Alarm Systems," B.R.C. 1981, and replacing it with a new Chapter 4-16, "Police Alarm Systems," to require alarm verification before initiating police response and setting forth related details.

PRESENTER/S
Jane S. Brautigam, City Manager
Greg Testa, Police Chief
Carey Weinheimer, Deputy Chief

EXECUTIVE SUMMARY

One of the recommendations in the Police Department's Master Plan, approved by Council in 2013, was to implement changes to the department's policy, to reduce the amount of time spent responding to false alarms. For the two-year period from 2014 through 2015, 99.79% of the intrusion alarms the police department responded to were false. The police department supports the for-profit alarm industry by responding to these alarms, yet it receives no funding for providing this service. A response to an alarm usually requires two officers. Given that the vast majority of alarms are false, a large amount of officer time, in addition to dispatch time, could be spent on other duties and responsibilities.

The police department has worked in collaboration with the alarm industry, and the non-profit Security Industry Alarm Coalition, to modify the city's alarm ordinance in order to implement alarm permit fees and fines to offset the costs associated with responding to alarms, with the ultimate goal of reducing false alarms. The alarm industry is in favor of annual alarm permit fees and fines for repeated false alarms.

STAFF RECOMMENDATION

Suggested Motion Language: Staff requests council consideration of this matter: Motion to order published by title only Ordinance No. 8123 repealing Chapter 4-16, "Police Alarm Systems," B.R.C. 1981, and replacing it with a new Chapter 4-16, "Police Alarm Systems," to require alarm verification before initiating police response and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: The proposed changes will not negatively impact city revenues. Reducing false alarms will free up officer time to respond more effectively to other crime and community matters.
- Environmental: A 50% reduction in false alarms results in over 1,000 fewer calls that officers respond to, which will result in a small decrease in the number of miles driven annually.
- Social: Reducing calls for service due to false alarms frees officers to focus on crime and disorder issues within the community and allows officers more time to devote to community policing initiatives.

OTHER IMPACTS

- Fiscal: The proposed changes to the ordinance will not impact the current budget. Alarm permit fees and fines may produce net revenue. Income from permit fees and fines, will be used to off-set the costs of a third party administrator that will handle the administrative tasks associated with processing permits and collecting fines.
- Staff time: Reducing false alarms will free up officer time to respond more effectively to other crime and community matters.

BACKGROUND

During the two-year period from 2014 through 2015, the police department responded to 4,915 alarms. Only 10 alarms were determined to be legitimate, resulting in a false alarm rate of 99.79%. The police department's master plan identified the need to address the large amount of personnel time and resources wasted responding to false alarms. The police department worked with the local alarm business community, as well as the national non-profit Security Industry Alarm Coalition (SIAC) to address the problem. The alarm companies recommended instituting annual alarm permit fees, as a method of insuring alarms are installed and maintained properly. They also recommended implementing fines for repeated false alarms and eventual suspension of police response to chronic alarms.

The police department collaborated with SIAC to draft changes to the current city ordinance to include requirements for permit fees and fines. Police department representatives have consulted with Downtown Boulder Incorporated (DBI) and the

Boulder Chamber of Commerce, as a large percentage of false alarms are generated by commercial alarm users.

The goal of the ordinance change, is to reduce false alarms through education, progressive fines, and suspension of response. The police department will not suspend response to panic or robbery alarms. The ordinance does not affect fire, carbon monoxide or medical alarms.

ANALYSIS

Cities that have implemented fines for repeated false alarms, and suspension of response to chronic false alarms, have experienced 20-70% reductions in false alarms over time. Cheyenne, Wyoming instituted fines in 2013 and experienced a 40% reduction in false alarms within the first year. Marietta, Georgia observed a 70% reduction in false alarms within four years of instituting a progressive fine schedule.

A major challenge to implementing a fee and fine approach is the administrative burden of issuing permits and collecting fines. The police department does not have staff to administer such a program. Therefore, the department will use the revenue from fees and fines to hire a third party administrator to handle the administrative functions. This is a common approach and best practice in cities throughout the country.

ATTACHMENTS

Attachment A – Proposed Revised Ordinance.
Attachment B – Current Ordinance.

ORDINANCE NO. 8123

AN ORDINANCE REPEALING CHAPTER 4-16 B.R.C. 1981, "POLICE ALARM SYSTEMS" AND REPLACING IT WITH A NEW CHAPTER 4-16 B.R.C. 1981 "POLICE ALARM SYSTEMS" TO REQUIRE ALARM VERIFICATION BEFORE INITIATING POLICE RESPONSE AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 4-16, B.R.C. 1981, is repealed and replaced by a new Chapter 4-16, to read: Police Alarm Systems.

4-16-1. - Legislative Intent.

The purpose of this chapter is to reduce the frequency of false alarms, their associated costs to the city, and to establish reasonable expectations of alarm users and alarm businesses.

4-16-2. - Definitions.

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

"Alarm Administrator" means a person and/or entity designated by the city manager to administer, control and review false alarm reduction efforts and administer the provisions of this ordinance.

"Alarm Company" means a person engaged in selling, leasing, installing, servicing or monitoring alarm systems.

"Alarm Location" means the property which is monitored by an alarm system.

"Alarm Permit" means a permit issued by the city, allowing the operation of an alarm system within the city.

"Alarm Signal" means any activation generated by an alarm system, to which the police are requested to respond.

"Alarm System" means any single device or assembly of equipment designed to signal the occurrence of an illegal or unauthorized entry or other illegal activity requiring immediate attention and to which the police are requested to respond, but does not include motor vehicle or

boat alarms, fire alarms, carbon monoxide alarms, domestic violence alarms, or alarms designed to elicit a medical response.

"Alarm User" means any person any other entity owning, leasing or operating an alarm system, or on whose property an alarm system is maintained for the protection of such property.

"Cancel, Cancelled or Cancellation" means the process where police response is terminated to an alarm site before police personnel arrive at the alarm location.

"Conversion" means the transaction or process by which one alarm company begins the servicing or monitoring of a previously unmonitored alarm system or an alarm system that was previously serviced or monitored by another alarm company.

"Dual-Activation Device" means a device which requires that two buttons be depressed together to activate an alarm signal for a robbery in progress.

"False Alarm" means the activation of an alarm system through mechanical or electronic failure, malfunction, improper installation, or the negligence of the alarm user, his/her employees or agents, and signals activated to summon police personnel, unless the police response is cancelled by the user's alarm company before police personnel arrive at the alarm location. An alarm is false within the meaning of this article when, upon inspection by the city, evidence indicates that no unauthorized entry, robbery, or other such crime was committed or attempted in or at the alarm location which would have activated a properly functioning alarm system. Notwithstanding the foregoing, a false alarm shall neither include an alarm activated by unusually violent conditions of nature nor an alarm which is cancelled before police personnel respond to the alarm location. Multiple alarms caused by a single technical malfunction in single alarm system for a period up to 12 hours shall constitute only one false alarm. Each 12-hour period shall constitute a new violation.

"Panic Alarm" means an audible alarm signal generated by the manual activation of a device intended to signal a life-threatening or emergency situation, requiring an officer's response.

"Permit Year" means a 12-month period beginning on the day and month on which an alarm permit is issued.

"Responsible Party" means a person accountable for appearing at the alarm location upon request, who has access to the alarm location and the code to the alarm system.

"Robbery Alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

"Runaway Alarm" means an alarm system that produces repeated alarm signals that do not appear to be caused by separate human action.

"Verify" means an attempt by the alarm company to contact the alarm location or alarm user by telephone or other electronic means, whether or not actual contact with a person is made, to attempt to determine whether an alarm signal is valid, before requesting police dispatch.

4-16-3. - Alarm Permit Required.

(a) No alarm user shall use an alarm system, whether the system is monitored or not, without first obtaining a permit for such alarm system from the city manager. Each alarm permit shall be assigned a unique permit number and shall be specific to the alarm location. No alarm user shall use the alarm system in a manner that violates an approved alarm permit.

(b) Upon transfer of ownership of the property at which an alarm system is maintained, the new owner shall either file an application for an alarm permit within thirty (30) days of obtaining possession of the property or cease operating the alarm system.

(c) Any alarm system which was installed before the effective date of this ordinance must be registered by the alarm user within ninety (90) days after that date.

4-16-4. - Duties of the Alarm User.

No alarm user shall fail to:

(a) Maintain the alarm system and the premises protected by the alarm in a manner that will not generate false alarms; and

(b) Provide a responsible party to respond to the alarm location within 30 minutes when notified by the city.

(c) Use reasonable care to ensure that an alarm is only activated for the occurrence of an event needing police response.

(d) Inform the alarm administrator of changes in contact information for responsible parties or changes in ownership of the business or residence where the alarm system is located.

(e) Use reasonable care to prevent runaway alarms.

4-16-5. - Duties of the Alarm Company.

(a) No alarm company shall fail to provide a list of existing names and addresses of alarm users in the city to the alarm administrator within thirty (30) days after being notified in writing from the alarm administrator.

(b) No alarm company that installs an alarm system on premises located within the city shall fail to notify the alarm administrator within ten (10) days after the date of installation that an alarm system has been installed and provide the name and address of the alarm user.

(c) No alarm company that purchases any alarm system account from another person shall fail to notify the alarm administrator of such purchase and shall provide the alarm administrator a complete list of the acquired customers within thirty (30) days

of purchase. This information shall include the alarm user name; alarm site address; and alarm permit number.

(d) No alarm company shall fail to provide the alarm administrator with a complete list of active customer names; the alarm locations; and the alarm permit numbers on or before the first of January of each year.

(e) No alarm company shall fail to:

(1) Upon request by the city, provide the name, address, and telephone number of an alarm user or a designee; and

(2) Upon the activation of an alarm, contact a responsible party to respond to the alarm premises.

(f) No alarm company shall fail to provide instructions explaining the proper operation of the alarm system, including prevention of false alarms, to the alarm user prior to activation of an alarm system.

(g) No alarm company shall fail to provide the alarm user with information on how to obtain an alarm permit prior to the installation of the alarm system.

(h) Upon an activation of an alarm, no alarm company performing alarm monitoring services shall fail to:

(1) Utilize enhanced call verification to verify the need for police response by making at least two attempts to reach a responsible party by calling at least two different telephone numbers to determine whether an alarm signal is valid before requesting police response. Call verification is not required for a panic alarm; robbery alarm; or a crime-in-progress alarm which has been verified by video or audible means.

(2) Provide alarm permit number, responsible party name and phone number to the city manager or designee.

(3) Communicate any and all available information about the location and nature of the alarm.

(4) Communicate a cancellation to the police department as soon as possible following a determination that police response is unnecessary.

(5) Keep a record of the date and time of each notification and activation of an alarm system is received and the date, time and method by which the responsible party was notified. Such records shall be retained for 12 months and be released to the city manager upon request. If released to the city manager, the record shall be considered a trade secret of the alarm company and not a public record.

(i) No alarm salesperson, alarm service person or alarm installer shall activate an alarm signal that results in a false alarm.

(j) No alarm installation companies shall fail to install only dual-activation devices for robbery alarm devices on all new and upgraded alarms.

4-16-6. - Enforcement Provisions.

If the city manager finds a violation of any provision of this chapter, the manager, after notice and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, the city manager may impose a civil penalty according to the following schedule:

(a) Activation of a false alarm within a twelve month period:

For the second violation, $100;
For the third violation, $200;
For the fourth violation, $300; and
For the fifth and subsequent violation $450.

(b) Other violations of this Chapter, $100.

(c) The city manager may offer an alarm user awareness class. If offered, the class will provide information to alarm users about the problems created by false alarms and provide instruction on how to help reduce false alarms. In the city's discretion, an alarm user may be provided the option of attending a class in lieu of paying one assessed fine, not to exceed $100.00 in one twelve (12) month period.

(d) The city manager's authority under this section is in addition to any other authority the city has to enforce this chapter, including but not limited to Section 5-2-4, "General Penalties," B.R.C. 1981, and election of one remedy by the manager shall not preclude any other remedy.

4-16-7. - Suspension of Alarm Permit and Police Response.

(a) An alarm permit and police response to alarms, excluding robbery and panic alarms, may be suspended after a notice of suspension is sent by either first class mail or email to the alarm user's and alarm company's addresses located on the permit stating the amount due and the opportunity for a hearing if:

(1) The alarm user fails to make payment of any civil penalty assessed under this ordinance within 30 (thirty) days from the date of the invoice; or

(2) The alarm user fails to have a current permit; or

(3) An alarm site has accumulated five (5) false alarm responses in a twelve (12) month period.

(b) Police response to an alarm site will be reinstated as soon as practical, after receiving notice of reinstatement from the alarm administrator.

(c) If an alarm permit is reinstated after suspension, the city may again suspend the alarm permit if two false alarms occur within 60 (sixty) days after the reinstatement date.

(d) Police response will be reinstated upon submittal of the following to the alarm administrator:

(1) Payment of reinstatement fee;

(2) A written statement describing how false alarms will be prevented; and

(3) A written statement from an alarm company that the alarm has been inspected or repaired.

Section 2. 4-20-16, B.R.C. 1981, is amended to read:

4-20-8. - Police Alarm Permit Fees.

(a) An applicant for an alarm permit shall pay an annual fee to be determined by the city manager.

(b) An alarm user shall pay a $25 reinstatement fee to reinstate a suspended alarm permit.

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 21st day of June, 2016.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, 20__.

_____
Mayor

Attest:

_____
City Clerk

K:\POAD\o - 1st Reading - False Alarms-2462.docx

Chapter 16 - Police Alarm Systems[30]

Footnotes:

--- (**30**) ---

Adopted by Ordinance No. 4760. Amended by Ordinance No. 7312.

4-16-1. - Legislative Intent.

The purpose of this chapter is to reduce the frequency of false alarms and to provide the police department with alarm company contact information by establishing standards and controls for various types of alarm devices.

4-16-2. - Definitions.

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

Alarm means any activation of a police alarm device.

Alarm business or *burglar alarm business* means a person in the business of installing, servicing, or monitoring police alarm devices at remote alarm sites owned by other persons.

Audible alarm means any police alarm device designed to produce an audible signal at the property where it is installed.

Police alarm device means any device that is designed or used to signal the occurrence of a burglary, robbery or other criminal offense. This term does not include an alarm affixed to an automobile.

4-16-3. - Alarm Business Registration Required.

(a) No person shall conduct an alarm business within the city without first registering the business with the city manager on forms provided by the manager. These forms may require the name and address of the alarm business, together with the telephone numbers which the manager may use to contact the business to notify it of an alarm malfunction, and to contact responsible parties if response to the location of the alarm is required.

(b) No fee shall be charged for a registration issued under this chapter.

4-16-4. - Length of Audible Signal.

Every audible alarm shall incorporate a mechanism that will cause the audible signal to terminate automatically within ten minutes of the time it is activated.

4-16-5. - Intentional False Alarms Unlawful.

No person shall intentionally cause the transmission or report the activation of an alarm such person knows to be false.

4-16-6. - Responsibilities of a Police Alarm Owner.

No police alarm owner or user shall fail to:

(a) Inspect, maintain and repair a police alarm device to insure its proper operation.

(b) Educate and train all employees and other persons who may in the course of their activities be in a position to accidentally activate a police alarm device.

(c) Assure that a responsible person responds to every activation of a police alarm device within twenty minutes of being requested to respond by the city's police communications center.

4-16-7. - Right of Inspection.

The city manager may inspect any police alarm device at any time to determine whether it is being used in conformity with the provisions of this chapter.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM
MEETING DATE: June 21, 2016

AGENDA TITLE
Consideration of a motion to adopt Resolution No. 1186 to determine that the petition to annex approximately 1.37 acres of land generally located at 96 Arapahoe Avenue is substantially in compliance with section 31-12-107(1), C.R.S. and to establish August 2, 2016 as the date for a public hearing to determine compliance of the proposed annexation with annexation requirements under state law and Boulder Valley Comprehensive Plan policies.

PRESENTER/S
Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing and Sustainability
Susan Richstone, Deputy Director
Charles Ferro, Development Review Manager
Elaine McLaughlin, Senior Planner

EXECUTIVE SUMMARY

Per the state's annexation statutes, City Council is asked to consider the annexation resolution provided in **Attachment A**, setting Aug. 2, 2016 as the date for a hearing and city council action on another resolution to determine if the proposed annexation complies with section 30 of article II of the state constitution and sections 31-12-104 and 31-12-105, C.R.S. and Boulder Valley Comprehensive Plan policies related to annexation. As identified in the petition the 100 percent owner of the property is 96 Arapahoe LLC and the petition was signed by the Manager for the LLC, Matthew Johnke. The petition was filed with the City Clerk on May 3, 2016 and the applicant for the annexation is Jonathon Warner. The annexation map is provided in **Attachment B.**

On May 5, 2016, Planning Board voted unanimously to recommend denial to City Council of the Annexation and Initial Zoning requested by the applicant citing the staff memorandum and the board conversations as findings of fact. Refer to Board and Commission Feedback in the following pages for a summary of the boards' findings. The staff memorandum to Planning Board and the audio of the proceedings related to the Planning Board's review are available on the city website at the following web links:

Staff Memorandum: https://documents.bouldercolorado.gov/weblink8/0/doc/133021/Electronic.aspx
Planning Board Minutes: https://documents.bouldercolorado.gov/weblink8/0/doc/133698/Electronic.aspx

In the past when City Council was asked to consider a petition for annexation, the council adopted a resolution setting the public hearing required by state law at the same meeting as the first reading of an annexation ordinance. The City Council would typically hold the public hearing required by state law on the same night as the second reading of the annexation ordinance. Prior to first reading of the annexation ordinance, as required by the Boulder Revised Code, the owner petitioning the city for annexation of property enters into an annexation agreement with the city stating the terms and conditions imposed on said property. Staff and the applicant have discussed terms and conditions of the annexation multiple times over the past several months but an agreement on such terms was not reached and the applicant instead requested a public hearing. Since the owner of the property has not signed an annexation agreement, first and second reading of a proposed annexation ordinance could not, in this case, be scheduled concurrently with the resolution and hearing required under state law.

Given that adoption of a resolution and establishment of a hearing date in the resolution are required under state law, staff has provided the resolution in **Attachment C** with a public hearing date set for Aug. 2, 2016. If at the public hearing, City Council finds that the annexation is in compliance with state annexation requirements and BVCP policies, a new annexation agreement could be drafted and a first and second reading of a new annexation ordinance could be scheduled, but only if the applicant signs the annexation agreement with the city.

BACKGROUND

The City Council reviewed a Concept Plan for the site on May 19, 2015. The council provided feedback to the applicant for the subsequent Site Review. The following are links to the Concept Plan staff memo and minutes from City Council's discussion of the Concept Plan.

Staff Memorandum: https://documents.bouldercolorado.gov/weblink8/0/doc/128924/Electronic.aspx
City Council Minutes: https://documents.bouldercolorado.gov/WebLink8/0/doc/130330/Electronic.aspx

Among the key issues discussed at both the Planning Board and City Council Concept Plan hearings was the need for a greater percentage of affordable housing on the site. A number of council members and Planning Board members indicated that the Concept Plan proposal for three of the nine planned residential units as permanently affordable units would not meet the Boulder Valley Comprehensive Plan (BVCP) policies for annexation (BVCP Policy 1.24, Annexation). While staff and the applicant discussed options for greater affordability, ultimately, the applicant opted to move forward with the annexation petition to Planning Board and City Council with less than the recommended percentage of affordable housing, which
was 50 percent or five units.

In addition, several other key issues including landmarking of the existing house, barn and retaining walls were discussed at both Planning Board and City Council hearings of the Concept Plan as being a critical community benefit to the city through annexation. The most recent terms presented by the applicant are to "preserve" the existing house and barn through

private covenants rather than pursue landmarking of the house, barn and retaining walls. Staff has recommended landmarking these features such that they would be placed into an established historic preservation process with city standards and review.
Further, the area above the Blue Line, coincident with the BVCP Planning Area III Rural Preserve designation, is identified in the BVCP and city charter as an area where no density or development is anticipated. Staff recommended the area above the Blue Line be dedicated to the city as Open Space, contiguous with other Open Space lands to the east and south, to ensure continuity and avoid fragmentation of Open Space above the Blue Line. For the Planning Board hearing, the applicant proposed preserving approximately half the area above the Blue Line as
a "Scenic Easement" which would restrict construction or development but would not be part of the Open Space and Mountain Parks owned property. Since that time, the applicant has proposed that the area formerly proposed as a Scenic Easement (the upper, southern-most half of the area above the Blue Line) could instead be dedicated as Open Space. However, the applicant would still like to use half the area above the Blue Line as a landscaped area for use by the residents as shown in Figure 1 below. The applicant has indicated that the area to be used by residents above the Blue Line has been altered by terracing over the years, and that the area to be dedicated to Open Space and Mountain Parks would be steep slopes that are unusable by residents.

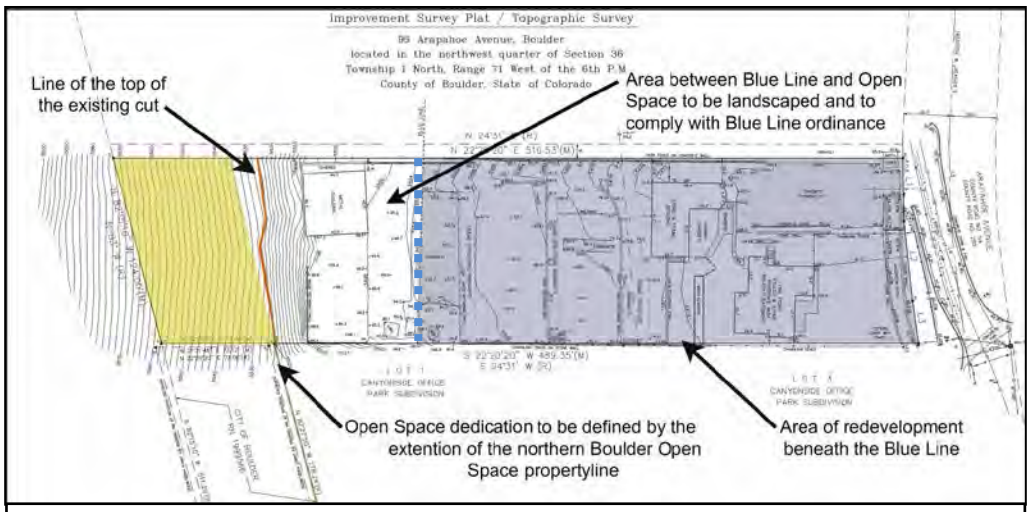

Figure 1:
Applicant's new proposal to dedicate upper half of land above Blue Line as Open Space

During the course of discussions with the applicant, staff recommended that the applicant file an application for Site Review for simultaneous review of the plans for redevelopment with the petition for annexation. However, the applicant opted to not apply for Site Review until after annexation. At the Planning Board hearing on the proposed annexation, the board also voted unanimously to recommend to council that the applicant return with a Site Review that to be reviewed simultaneous with a new petition for annexation.

Without a Site Review application to review redevelopment on the site and without mutually acceptable terms for community benefits that would be consistent with BVCP Policies, the applicant has requested to move forward with annexation without a staff recommendation of approval. The description of the community benefit, the background on the annexation and property are all found in the link to the Planning Board memo, on page 1.
Despite the lack of an agreement between the applicant and staff on the terms for annexation, the applicant is entitled to a hearing before the City Council upon request to consider the annexation. Therefore, a resolution is provided in **Attachment A** to establish the date for the public hearing as specified in the following suggested motion language. The Land Use Code establishes criteria for annexation and compliance with statutory annexation requirements include consistency with State Statues as well as the Boulder Valley Comprehensive Plan and other ordinances of the city.

STAFF RECOMMENDATION

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

Suggested Motion Language:
Motion to adopt Resolution No. 1186 finding the petition to annex approximately 1.37 acres of land generally located at 96 Arapahoe Avenue is substantially in compliance with section 31-12-107(1), C.R.S. and to establish August 2, 2016 as the date for a hearing to determine compliance of the proposed annexation with annexation requirements under state law.

BOARD AND COMMISSION FEEDBACK

Annexations are subject to county referral and city Planning Board recommendation prior to City Council action. The Planning Board hearing was held on May 5, 2016; there was no public comment. Planning Board found the annexation was not consistent with state statutes and city policies and the board unanimously recommended that the City Council deny the Annexation incorporating the staff memorandum and board conversation as findings of fact. In addition, the board voted unanimously to recommend that the applicant provide a Site Review application simultaneous to application for annexation. The board indicated that without a Site Review application for the site, the terms and merits of the annexation could not be fully analyzed or understood. While the applicant did provide preliminary plans in the Concept Plan review, those plans weren't subject to an approval and therefore, there was no means of determining consistency with the BVCP policies.

PUBLIC FEEDBACK

All notice requirements of section 9-4-3, "Public Notice Requirements," B.R.C. 1981 have been met. Compliance with these requirements included public notice in the form of written notification mailed to all property owners within 600 feet of the subject property, and a sign posted on the property for at least 10 days prior to the public hearing as required.

ANALYSIS

Compliance of the Petition with the Requirements of Section 31-12-107(1) C.R.S.
Staff finds that the petition to annex at the property generally located at 96 Arapahoe Avenue to be substantially in compliance with the requirements for annexations petitions listed in Section 31.12.107(1) C.R.S. More detailed findings can be found in the recommended resolution, **Attachment A**.

State Statute Requirementsfor Annexation
Following is an analysis of the requirements for annexation with State Annexation Law (31-12-101 et seq., C.R.S.).

(1) Minimum Required Contiguity: At least one-sixth of the perimeter of the area to be annexed shall be contiguous to the city limits.

The property has one-sixth contiguity.

(2) Annexation by Petition: A petition must be presented by more than half of the landowners owning more than fifty percent of the area to be annexed. For enclaves and municipally owned property, the City may take the initiative without petition.

The petition was signed by the owner owns 100% of the property proposed to be annexed.

(3) Annexation by Election: Under certain conditions, an election may be held by the property owners and registered electors within the area to be annexed.

Not applicable.

(4) Additional terms and conditions on the annexation. Additional terms or conditions may be imposed by the governing body in accordance with section 31-12-112.

Additional terms and conditions can be imposed only pursuant to a voluntary agreement with the owner of the property proposed to be annexed. Terms of the annexation recommended by staff are enumerated in the Draft Annexation Agreement, found in Attachment D, which could constitute memorandum of agreement voluntarily made between the City and the applicants consistent with section 31-12-112, C.R.S. if agreed upon by both parties. The applicant has not signed the attached proposed annexation agreement.

ATTACHMENTS:
Attachment A: Annexation Petition
Attachment B: Annexation Map
Attachment C: Resolution No. 1186
Attachment D: Draft Annexation Agreement

CITY CLERK'S OFFICE
CENTRAL RECORDS
2016 MAY -3 PM 4:45

ANNEXATION PETITION
Submit with your application.

Annexation Information

Location of property to be annexed: 96 Arapahoe Ave.

Legal Description: See Attached Exhibit A

Size of property: 1.3728 acres Requested Zoning: RM-3

Impact Report

If the area proposed for annexation is more than ten acres in size, an annexation impact report as required by state law (31-12-105.5, C.R.S.) must be submitted to the Planning Department prior to the first reading of the ordinance annexing the subject property by City Council. The Board of County Commissioners may waive this requirement. If so, a letter from the Board must be submitted to the Planning Department.

Districts

Please check those districts in which the property proposed for annexation is included:

x Boulder Valley School District

_____ St. Vrain School District

_____ Boulder Rural fire District

_____ Cherryvale Fire District

_____ Left Hand Water District

_____ Other (list)

Property Owners

List below all owners or lienholders of the property proposed for annexation (please print):

1. 96 Arapahoe Avenue, LLC (100% Land Owner)
2.
3.
4.

Please Note:

No person shall petition to the city of Boulder for annexation of any real property until he has first read and thereafter follows these instructions in the execution of the within petition:

1. Every person signing the within annexation petition must personally insert the information required on the signature page(s) attached to the petition.

2. The person or persons who circulate the within petition must witness the signatures of every person signing this petition and so certify by executing the affidavit attached on the last page of this petition.

3. The following definitions of terms shall be applicable throughout this petition and every subsequent step of the annexation proceeding commenced pursuant to this petition:

   a. Landowner: means the owner in fee of any undivided interest in a given parcel of land. If the mineral estate has been severed, the landowner is the owner in fee of an individual interest in the surface estate and not the owner in fee of an individual interest in the mineral estate. In the case of multiple landowners, such as tenants in common or joint tenants, only one such landowner need petition for annexation, and the signature of one such landowner shall be sufficient, provided however, that said signing landowner had become liable for taxes in the last preceding calendar year or is exempt by law from payment of taxes, and provide further, that no other owner in fee of an individual interest of the same property objects to the annexation of the said property within 14 days after the filing of the annexation petition by submitting a written statement of his objections to the City Council.

      A purchaser of real property shall be deemed a landowner for the purpose of an annexation petition if:

      (1) The said purchaser is purchasing the land pursuant to a written contract duly recorded, and

      (2) The said purchaser has paid the taxes thereon for the next preceding tax year.

      A corporation, non-profit, owning land shall be deemed a landowner, and the same persons authorized to convey land for the corporation shall sign the within petition on behalf of such corporation.

   b. Nonresident Landowner: means any person owning property in the area proposed to be annexed, who is not a qualified elector as herein below defined, and who is at least eighteen (18) years of age as attested to by a sworn affidavit.

   c. Identical Ownership: means a situation where each owner has exactly the same degree of interest in a separate parcel of two or more parcels of land.

   d. Contiguous: means that one-sixth of the boundary of the territory proposed for annexation and the city limits must coincide. Contiguity as referred to in this petition or subsequent annexation proceedings is not affected by the existence of a platted street or alley, public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway between the city limits of the city of Boulder and the territory to be annexed.

4. This petition must be filed with the City Clerk of the city of Boulder.

5. This petition should be filed in the following manner:

   a. All blanks herein contained should be filled out and completed.

   b. Each signer shall, before signing said petition, carefully read the contents hereof.

   c. The signatures attached to this petition must have been signed within 180 days immediately preceding the filing of the said petition with the City Clerk.

   d. After filing of the petition, no person having signed said petition shall thereafter be permitted to withdraw his/her signature from said petition.

   e. This petition shall be accompanied by at least four copies of an annexation map containing the following information:

      1. A written legal description of the boundaries of the area proposed to be annexed.

      2. A map showing the boundaries of the area proposed to be annexed.

      3. Within the boundaries of the area proposed to be annexed, the location of each ownership tract in unplatted land and, if part or all of the area has been platted, the boundaries and the plat numbers of the plots or of the lots and blocks shall be shown.

      4. The portion of the boundaries of the area proposed to be annexed which is contiguous to the city limits of the city of Boulder, as the same exist at the time this annexation petition is to be filed, must be shown and the dimensions thereof indicated.

Submit with your application.

TO THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, GREETINGS:

The undersigned hereby petition(s) the city of Boulder to annex to the city of Boulder the territory shown on the map(s) attached hereto and described on the attachment hereto:

This Petition is signed by landowners qualified to sign. It is intended that this Petition be a one hundred percent (100%) petition for annexation as described in C.R.S. 1973, Section 31-12-107(I)(g), (as amended).

In support of this petition, the undersigned state(s) and allege(s) as follows, to wit:

1. That it is desirable and necessary that the above described territory be annexed to the city of Boulder.

2. That petitioners are landowners of one hundred percent (100%) of the territory, excluding streets and alleys, herein proposed for annexation to the city of Boulder.

3. That no less than one-sixth of the aggregate external boundaries of the above described territory hereby petitioned to the city of Boulder is contiguous to the city limits of the city of Boulder.

4. That a community of interest exists between the above described territory and the city of Boulder. And that the same is urban, or will be urbanized in the near future, and further that the said territory is integrated or is capable of being integrated in the city of Boulder.

5. That in establishing the boundaries of the above described territory, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowner or landowners thereof, except and unless such tracts or parcels are already separated by a dedicated street, road or other public way.

6. That in establishing the boundaries of the above described territory, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate comprising twenty acres or more which, together with the buildings and improvements situate thereon, have an assessed valuation in excess of $200,000 for ad valorem tax purposes for the year next preceding the filing of the within petition for annexation, has been included within the above.

7. That the above described territory does not include any area which is the same or substantially the same area in which an election for an annexation to the city of Boulder was held within the twelve months preceding the filing of this petition.

8. That the above described territory does not include any area included in another annexation proceeding involving a city other than the city of Boulder.

9. That at least four copies of an annexation map setting forth with reasonable certainty a written legal description of the boundaries of the area proposed to be annexed, a delineation of the outer boundaries of the above described territory, and the location of each ownership, tract and/or the boundaries and the plat numbers of plats and lots and blocks, the portion of the boundary contiguous with the existing city limits of the city of Boulder, and the dimensions of said contiguous boundary, all upon a material and of a size suitable for recording or filing with the City Clerk of the city of Boulder, and the dimensions of said contiguous boundary, all upon a material and of a size suitable for recording or filing with the City Clerk of the city of Boulder, accompany, have been attached hereto and hereby constitute a part of this petition.

10. That the above described territory is not presently a part of any incorporated city, city and county, or town.

11. That the above area described will (not) result in the detachment of area from any school district and the attachment of the same to another school district (and the resolution of school board of the district to which the area will be attached approving this annexation request).

ANNEXATION PETITION

Signature of petitioners requesting annexation of property to the city of Boulder, Colorado	Date of signature of each petitioner	Mailing address of each petitioner	Description of property included within the area proposed for annexation owned by each person signing this petition. (Attach separate sheet, if necessary).
(Matthew Junke, Manager of 96 Arapahoe Avenue, LLC)	4/7/2016	734 Maxwell Ave. Boulder, CO 80304	SEE ATTACHED EXHIBIT 'A' FOR LEGAL

CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

JONATHON WARNER,
being first duly sworn, upon oath deposes and says that she/he was the circulator of the above and foregoing petition and that the signatures on said petition are the signatures of the persons whose names they purport to be.

JONATHON WARNER
4400 OSAGE DR, BOULDER CO
Circulator

Subscribed and sworn to before me this 7TH day of APRIL, A.D. 20 16.

Witness my hand and official seal. My commission expires: SEP 1ST 2019.

ISRAEL WIESNER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20154034625
MY COMMISSION EXPIRES SEPTEMBER 01, 2019

Notary Public

CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

JONATHON WARNER,
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STATE OF COLORADO
NOTARY ID 20154034625
MY COMMISSION EXPIRES SEPTEMBER 01, 2019

Notary Public

EXHIBIT A

Commitment No.: 515-F0480910-170-BL7, Amendment No. 3 Com

Attached Legal Description

That part of the Northwest ¼ of Section 36, Township 1 North, Rage 71 West of the 6th P.M., County of Boulder, State of Colorado, and being more particularly described as follows:

Beginning South 65°29' East 9 feet from the Northeast corner of tract conveyed by deed recorded in Book 745 at Page 409 of the records of the office of the Clerk and Recorder of said County of Boulder; running thence South 65°29' East along the South line of County Road No. 255, 120 feet; thence South 24°31' West to the South line of a tract conveyed by deed recorded in Book 677 at Page 16 of said records; thence North 83° West to a point 9 feet distant from the Southeast corner of said Tract conveyed by deed recorded in Book 745 at Page 409 of said records; thence North 24°31' East to the place of beginning.

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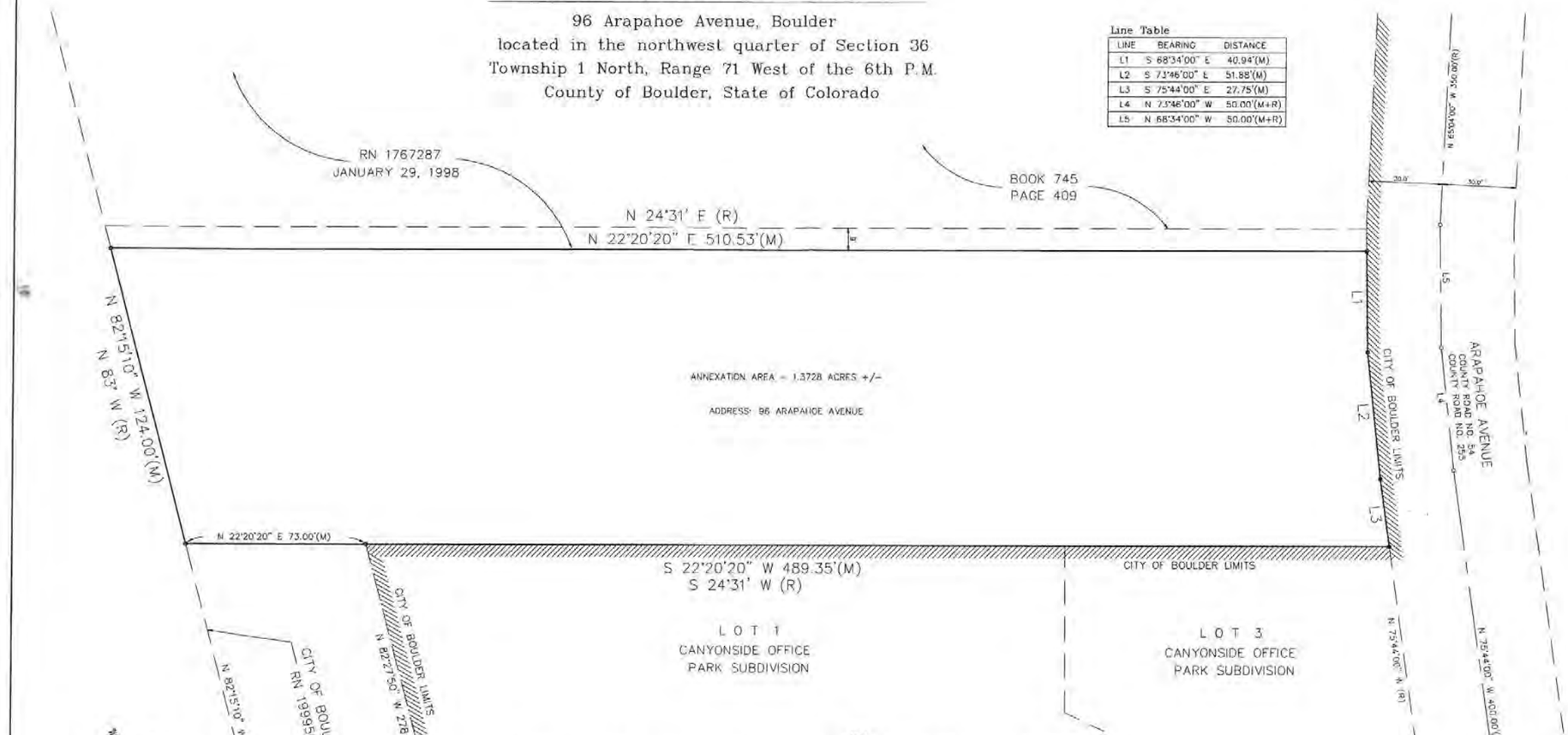
Nuzum Gardens Annexation to the City of Boulder, Colorado

96 Arapahoe Avenue, Boulder
located in the northwest quarter of Section 36
Township 1 North, Range 71 West of the 6th P.M.
County of Boulder, State of Colorado

Line Table

LINE	BEARING	DISTANCE
L1	S 68°34'00" E	40.94'(M)
L2	S 73°46'00" E	51.88'(M)
L3	S 75°44'00" E	27.75'(M)
L4	N 73°46'00" W	50.00'(M+R)
L5	N 68°34'00" W	50.00'(M+R)



Scale: 1" = 20'
0 10 20 40
U.S. SURVEY FEET

Flagstaff Surveying, Inc.
TABLE MESA SHOPPING CENTER
637 SOUTH BROADWAY, SUITE C
BOULDER, COLORADO 80305
303-499-9737

Property Description

(PROVIDED BY FIDELITY NATIONAL TITLE INSURANCE COMPANY)

THAT PART OF THE NORTHWEST 1/4 OF SECTION 36, TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING SOUTH 65°29' EAST 9 FEET FROM THE NORTHEAST CORNER OF TRACT CONVEYED BY DEED RECORDED IN BOOK 745 AT PAGE 409 OF THE RECORDS OF THE OFFICE OF THE CLERK AND RECORDER OF SAID COUNTY OF BOULDER;

RUNNING THENCE SOUTH 65°29' EAST ALONG THE SOUTH LINE OF COUNTY ROAD NO. 225, 120 FEET;

THENCE SOUTH 24°31' WEST TO THE SOUTH LINE OF A TRACT CONVEYED BY DEED RECORDED IN BOOK 677 AT PAGE 16 OF SAID RECORDS;

THENCE NORTH 83° WEST TO A POINT 9 FEET DISTANT FROM THE SOUTHEAST CORNER OF SAID TRACT CONVEYED BY DEED RECORDED IN BOOK 745 AT PAGE 409 OF SAID RECORDS;

THENCE NORTH 24°31' EAST TO THE PLACE OF BEGINNING

Notes

1) FIDELITY NATIONAL TITLE INSURANCE COMMITMENT NO. 515-F0480910-170-BL7 WAS ENTIRELY RELIED UPON FOR PROVIDING THE PROPERTY DESCRIPTION AS SHOWN HEREON. THE MEASURED BEARINGS AND DISTANCE SHOWN HEREON HAVE BEEN SHOWN PER A SURVEY OF THE SUBJECT PROPERTY CONDUCTED DURING MAY OF 2014. THE MEASURED BEARINGS AND DISTANCES HAVE BEEN USED FOR PERFORMING CONTIGUITY CALCULATIONS.

2) ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS MAP WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS MAP BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.

3) THE SUBJECT PARCEL CONTAINS A GROSS AREA OF 59,801 SQUARE FEET, OR 1.3728 ACRES, MORE OR LESS.

Perimeter Summary:

TOTAL PERIMETER: 1244.48 LINEAR FEET

PERIMETER CONTIGUOUS TO EXISTING CITY LIMITS: 536.93 LINEAR FEET

REQUIRED CONTIGUITY (1/6 TOTAL PERIMETER): 207.41 LINEAR FEET

CONTIGUITY CALCULATION: 536.93 LINEAR FEET > 207.41 LINEAR FEET

Surveyor's Statement

I, STEVEN J. SELLARS, DO HEREBY STATE THAT THE PROPERTY DESCRIPTION SHOWN HEREON ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS GRAPHICALLY DEPICTED ON THIS ANNEXATION MAP TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

STEVEN J. SELLARS — DATE
COLORADO P.L.S. #27615 — FSI JOB NO. 14-17063

— Legend —

(M) MEASURED
(R) RECORD
RN RECEPTION NUMBER BOULDER COUNTY RECORDS
℄ CENTERLINE

NUZUM GARDENS ANNEXATION
TO THE CITY OF BOULDER, COLORADO
ANNEXATION AREA = 1.3728 ACRES +/-

172634-2.DWG JULY 25, 2014

RESOLUTION NO. 1186

A RESOLUTION TO DETERMINE THAT THE PETITION TO ANNEX APPROXIMATELY 1.37 ACRES OF LAND GENERALLY LOCATED AT 96 ARAPAHOE AVENUE IS IN COMPLIANCE WITH SECTION 31-12-107(1), C.R.S. AND TO SET A HEARING TO DETERMINE COMPLIANCE WITH OTHER STATUTORY ANNEXATION REQUIREMENTS.

A. The City Council of the City of Boulder, Colorado, hereby finds that the Petition to Annex the property more particularly described in Exhibit A, attached hereto and incorporated herein by reference, is in compliance with Section 31-12-107(1), C.R.S., as amended;

B. The City Council of the City of Boulder, Colorado, finds that the following requirements have been met:

i. Landowners of more than fifty percent of the area, excluding public streets and alleys, meeting the requirements of Sections 31-12-104 and 31-12-105, C.R.S., as amended, have petitioned the City of Boulder for annexation of such territory;

ii. The Petition has been filed with the City Clerk;

iii. The Petition alleges it is desirable and necessary that such area be annexed to the City of Boulder;

iv. The Petition alleges that the requirements of Sections 31-12-104 and 31-12-105, C.R.S., as amended, exist or have been met;

v. The Petition contains a request that the City of Boulder approve the annexation of the area proposed to be annexed;

vi. The Petition alleges that signers of the Petition comprise more than fifty percent of the landowners in the area and own more than fifty percent of the area proposed to be annexed exclusive of streets and alleys;

vii. The Petition contains signatures of such landowners;

viii. The Petition contains the mailing address of each signer;

ix. The Petition contains the legal description of the land owned by each signer;

x. The Petition contains the date of signing of each signature; and

xi. The Petition contains the affidavit of each circulator of such Petition, that each signature therein is the signature of the person whose name it purports to be.

C. Four copies of an annexation map accompanied the Petition and contained the following information:

C:\Users\McLaEl\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\KWE8IQZF\Resolution setting hearing date of Aug 2 2016-2206.doc

i. A written legal description of the boundaries of the area proposed to be annexed;

ii. A map showing the boundary of the area proposed to be annexed;

iii. Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks; and

iv. A drawing of the contiguous boundary of the City of Boulder next to the boundary of the area proposed to be annexed and the contiguous boundary of any other municipality abutting the area proposed to be annexed.

D. All signatures on the Petition have been dated no more than one hundred eighty days prior to the date of filing the Petition with the City Clerk;

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

A hearing will be held to determine whether the requirements delineated in Sections 31-12-104 and 31-12-105, C.R.S., as amended, have been met and whether an election is required under Section 31-12-107(2), C.R.S. The hearing will be held at 6 p.m. on August 2, 2016, at 1777 Broadway, Boulder, Colorado.

INTRODUCED, READ, PASSED, AND ADOPTED this 21st day of June, 2016.

_____
Mayor

Attest:

_____
City Clerk

C:\Users\McLaE1\AppData\Local\Microsoft\Windows\Temporary Internet Files\Content.Outlook\KWES1QZF\Resolution setting hearing date of Aug 2 2016-2206.doc

For Administrative Use Only
Address: 96 Arapahoe Avenue
Applicant: 96 Arapahoe Avenue LLC
Approval No. LUR2014-00068

ANNEXATION AGREEMENT

THIS AGREEMENT, made this _____ day of _____, 20___, by and between the City of Boulder, a Colorado home rule city, hereinafter referred to as "City," and 96 Arapahoe Avenue, LLC, a Colorado limited liability company, hereinafter referred to as "Applicant:"

WITNESSETH:

RECITALS

WHEREAS, the Applicant is the owner of the real property generally described as 96 Arapahoe Avenue and more particularly described on Exhibit A, included by reference and hereby made a part of this Agreement (the "Property"); and

WHEREAS, the Applicant is interested in obtaining approval from the City of a request for the annexation of the Property with an initial zoning designation of Residential - Medium 3 (RM-3); and

WHEREAS, the City is interested in insuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

NOW, THEREFORE, in consideration of the recitals, promises and covenants herein set forth and other good and valuable consideration herein receipted for, the parties agree as follows:

1. Requirements. The Applicant shall be required to do the following:

   A. Prior to first reading of the annexation ordinance before City Council, the Applicant shall:

      i. Provide an updated title commitment current within 30 days.

ii. Pay a Storm Water and Flood Management Utility Plant Investment Fee of $29,318.00, in accordance with Section 11-5-7, B.R.C. 1981, based upon an impervious area of 13,700 square feet.

iii. Pay the Housing Excise Tax of $617.32, in accordance with Section 3-9-2, B.R.C. 1981, based upon a square footage of 2,684 square feet.

iv. Convey to the City, at no cost to the City, all of the shares of the Anderson Ditch associated with the Property by quitclaim deed and stock assignment.

v. Sign and file petitions for inclusion in the Northern Colorado Water Conservancy District – Boulder Municipal Sub-District and pay all applicable fees on land and improvements for inclusion in such districts.

vi. Convey to the City, at no cost to the City, by deed, the southern portion of the Property that is located above the Blue Line, substantially in the form attached as Exhibit B and subject to approval of the City Manager.

vii. At the time of applying for building permits including an addition or redevelopment of the existing residence, an automatic fire sprinkler system shall be installed within the residence.

B. Prior to issuance of a certificate of occupancy for a new dwelling unit or new building on the Property, the Applicant shall construct or reconstruct and complete the following public improvements, meeting the City of Boulder Design and Construction Standards, and subject to review and acceptance by the City Manager:

i. Construction of a five-foot wide detached sidewalk and landscape strip along the south side of Arapahoe Avenue and adjacent to the Property, and

ii. Reconstruction of the entire width of Arapahoe Avenue adjacent to the Property which shall include the following improvements:

a. Removal and replacement of the existing concrete curb-and-gutter on the north and the south side of Arapahoe Avenue.
b. Removal and replacement of the existing concrete cross-pan on Arapahoe Avenue.
c. Removal and replacement of six-inches of the existing pavement section of Arapahoe Avenue with six-inches of asphalt concrete.

C. Prior to issuance of a building permit for a new dwelling unit on the Property, the Applicant shall dedicate to the City, at no cost to the City, the following easements, meeting the City of Boulder Design and Construction Standards, as part of Technical Document Review applications, the form and final location of which shall be subject to the approval of the City Manager:

i. A public access easement along the south side of Arapahoe Avenue to accommodate a detached five-foot wide sidewalk and a minimum eight-foot wide landscape strip between the back of the roadway curb to one-foot beyond the back of the sidewalk.

ii. An at least twenty-foot wide public access easement through the site to provide public and emergency access from Arapahoe Avenue through the site and to the property west of the site.

D. Prior to an application for a building permit on the Property, the Applicant shall submit an application to the City for and pursue in good faith a landmark designation for all or part of the Property which shall include the existing house, barn, retaining walls, and Anderson Ditch head gate and walls.

E. Prior to an application for a subdivision or a building permit for addition of floor area or construction of a new building on the Property, the Applicant shall submit an application for Site Review pursuant to the standards of Section 9-2-14, "Site Review," B.R.C. 1981, for the development of the Property. No proposal to modify a site plan approved for the Property under Section 9-2-14, B.R.C. 1981, shall be approved except consistent with the standards for modifications and amendments of approved site plans in Section 9-2-14, B.R.C. 1981.

F. Prior to issuance of a building permit, the Applicant shall provide plans as a part of the building permit application that demonstrate that the existing oak tree on the Property, identified within a tree inventory to be provided by the applicant, will be preserved both during and after construction and maintained for its natural life.

G. Prior to issuance of a building permit, the Applicant shall submit plans, subject to review and approval by the city manager, that demonstrate that the total amount of energy used by each principal building, excluding any electric vehicle use in the buildings, on an annual basis, based on the anticipated users of each building, is roughly equal to the amount of renewable energy created on site (Net Zero Energy Efficiency).

2. Affordable Housing. The parties agree that this Agreement is a voluntary agreement between the City and the Applicant that may limit prices on dwelling units on the Property to ensure that they are constructed and maintained as permanently affordable

for-sale housing. The Applicant agrees that fifty percent (50%) of any dwelling units on the Property, either new or rehabilitated, shall be permanently affordable and shall meet the requirements provided below as units that are owned by individual home owners. The permanently affordable units may not be provided as rentals. If any of the percent calculation results in a fraction the total number of required permanently affordable units shall be rounded up to the nearest whole number. Permanently affordable deed restricting covenants are required to secure the affordability of dwelling units. The covenant(s) shall be signed and recorded with the Boulder County Clerk and Recorder prior to application for any residential building permit. The City Manager shall have the authority to modify the requirements set forth in this Paragraph 2 provided that the specifically proposed development would provide an affordable housing benefit that is equivalent to the benefit described herein.

A. Permanently Affordable For-sale Units. All permanent affordable units on the Property shall be for-sale units. Fifty percent (50%) of the affordable units shall be priced to be affordable to low or moderate income households and fifty percent (50%) shall be priced to be affordable to middle income households consistent with the following:

i. Permanently Affordable - Low/moderate Income. The Applicant agrees to provide fifty percent (50%) of any permanently affordable units to be affordable for low/moderate income households. Low/moderate income prices shall be set consistent with the requirements of Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, as amended and applicable at the time of the deed restricting covenant is signed. Currently low moderate prices are set at the federal Housing and Urban Development (HUD) low income limit for Boulder and qualifying household incomes are set at HUD plus ten percent (HUD + 10%).

ii. Permanently Affordable – Middle Income. The Applicant agrees to provide fifty percent (50%) of any permanently affordable units to be affordable for middle income households. Middle income prices shall be set to be affordable to households earning the federal Housing and Urban Development ("HUD") low income limit plus twenty-five percent (HUD +25%) and qualifying household incomes shall be set at HUD plus thirty-five percent (HUD + 35%).

iii. Final Unit Pricing. In addition to the income limits described above, affordable for-sale unit pricing shall be adjusted based on the unit's size and number of bedrooms and bathrooms. Final unit pricing shall be determined and established when either an interim affordable covenant or a final affordable covenant is executed, whichever is first.

iv. Rounding Rule. If the percent calculations in this section result in a fraction, the total number of units affordable to middle income households shall be rounded up to the nearest whole number and the total number of units affordable to low/moderate income households shall be rounded down to the nearest whole number.

B. Consistency with Chapter 9-13, "Inclusionary Housing," B.R.C. 1981 and related Administrative Regulations. The Applicant agrees that except as specifically modified by this Agreement, implementation of the affordable housing requirements under this Agreement will be consistent with Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, and related Inclusionary Housing Administrative Regulations of the City of Boulder.

C. Affordable Unit Characteristics.
All affordable units shall be designed consistent with the following standards:

i. All affordable units shall have no fewer than two bedrooms;

ii. Each affordable unit shall include a usable yard or deck no smaller than 200 square feet;

iii. The floor area of each affordable unit excluding garages shall be no smaller than 900 with an average size of 1,200 square feet.

D. Parking and Garage. The permanently affordable units shall have parking accommodations and garages of similar size and design as the market units on the Property.

E. Concurrency. The permanently affordable units must be provided concurrently with the market units such that for each building permit issued for one market rate unit one building permit must have been issued for an affordable unit.

F. Distribution. The affordable units may be provided on the north portion of the site however, no more than two affordable units shall be provided in the existing and rehabilitated house and shed.

G. Site and Floor Plan Approval. Prior to signing the affordable covenant and no later than a building permit submittal for any permanently affordable units, the Applicant shall submit and obtain approval from the City Manager for documentation, including, but not limited to, a site plan showing the location of the affordable units, floor plans and finish specifications, demonstrating that the permanently affordable units meet the requirements of this Agreement and of Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, and are consistent with the City's Livability Standards for Permanently Affordable Housing. No building

permit or affordable covenant for a permanently affordable unit shall be accepted until the location, size, type, fixtures, finishes and building design are accepted by the City Manager.

H. Floor Area. The floor area requirements for permanently affordable units in this Section 2 shall be determined based on the definition of "floor area attached" or "floor area detached," as applicable, of Section 9-16-1, "General Definitions, B.R.C. 1981, except that the calculation shall exclude 100% of the floor area in attached garages that are primarily used for personal storage or for the parking of automobiles for the occupants of the dwelling unit.

I. Agreement to Abide by Restrictions. The Applicant agrees to construct, restrict, and sell permanently affordable units as described and required by this Agreement. The Applicant agrees that no dwelling units shall be established unless the requirements of this paragraph have been met. The Applicant further agrees that the City may withhold any approval affecting the Property, including, without limitation, a building permit, administrative review, use review, site review, and subdivision, until the requirements of this paragraph have been satisfied.

J. Market Rate Unit Size. The Applicant agrees that no market rate unit on the Property shall have a floor area that exceeds 2,200 square feet including floor area in attached garages that are primarily used for personal storage or for the parking of automobiles for the occupants of the dwelling unit.

K. New Construction. All new construction commenced on the Property after annexation shall comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

3. Zoning. The Property shall be annexed to the City with a "Medium Density Residential - 3" (RM-3) zoning classification, and except as set forth herein, shall be subject to all of the rights and restrictions associated with that zoning.

4. Null and Void. This Agreement and any document executed pursuant hereto shall be null and void and of no consequence in the event that the Subject Property is not annexed to the City.

5. Conveyance of Drainage. The Applicant shall convey drainage from the Property in a historic manner that does not materially and adversely affect abutting property owners.

6. Waiver of Vested Rights. The Applicant waives any vested property rights that may have arisen under Boulder County jurisdiction. This Agreement shall replace any such rights that may have arisen under Boulder County jurisdiction. The Applicant acknowledges that nothing contained herein may be construed as a waiver of the City's police powers or

the power to zone and regulate land uses for the benefit of the general public.

7. Breach. If the Applicant breaches this Agreement in any respect, the City may withhold approval of all building permits and other development applications required for the Property until the breaches have been cured. This remedy is in addition to all other remedies available to the City at law or equity or under this Agreement.

8. Dedications. The Applicants acknowledge that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

9. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicants shall provide an original of this Agreement signed by Applicants, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicants. The Applicants agree that they will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

10. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

11. Breach of Agreement. In the event the Applicant breaches or fails to perform any required action, or fails to pay any fee specified, under this Agreement or under any document that may also be required to be executed pursuant to this Agreement, the Applicant acknowledges that the City may take all reasonable actions to cure the breach, including but not limited to the filing of an action for specific performance of the obligations herein described. In the event the Applicant fails to pay any monies due under this Agreement or under any document that may also be required to be executed pursuant to this Agreement or fails to perform any affirmative obligation hereunder or under any document that may also be required to be executed pursuant to this Agreement, the Applicant agrees that the City may collect the monies due in the manner provided for in Section 2-2-12, B.R.C. 1981, as amended, as if the said monies were due and owing pursuant to a duly adopted ordinance of the City or may perform the obligation on behalf of the Applicant and collect its costs in the manner herein provided. The Applicant agrees to waive any rights they may have under Section 31-20-105, C.R.S., based on the

City's lack of an enabling ordinance authorizing collection of this specific debt, or acknowledges that the adoption of the annexation ordinance is such enabling ordinance.

12. Future Interests. This Agreement and the covenants set forth herein shall run with the land and be binding upon the Applicant, the Applicant's heirs, successors, and assigns and all persons who may hereafter acquire an interest in the Property, or any part thereof. If it shall be determined that this Agreement contains an interest in land, that interest shall vest, if at all, within the lives of the undersigned plus 20 years and 364 days.

13. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City of Boulder. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and will have no effect.

14. Developable Area of the Property. A large part of the Property lies currently within Area III of the Boulder Valley Comprehensive Plan. No development shall occur in such areas and no such land area shall be considered to determine the development potential of the Property under Title 9, "Land Use Code," B.R.C. 1981. The Applicant agrees that construction of any new building or other structure shall occur on the portion of the Property located within Area II.

15. Blue Line. A large southern portion of the Property lies above the blue line as defined in Section 1-2-1, "Definitions," B.R.C. 1981 as "the line above which the City of Boulder shall not supply water for domestic, commercial or industrial uses, as described in section 128A of the charter of the City of Boulder." The Applicant agrees to abide by all City laws, including not supplying water for domestic, commercial or industrial uses above the blue line.

EXECUTED on the day and year first above written.

96 Arapahoe Avenue LLC,
a Colorado limited liability company

By:_____
Name:_____
Title:_____

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 20___, by _____ as _____ of 96 Arapahoe Avenue LLC.

Witness my hand and official seal.
My commission expires:_____

[Seal]

_____
Notary Public

CITY OF BOULDER, COLORADO

By: _____
Jane S. Brautigam, City Manager

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBIT

Exhibit A Legal Description for Property

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: June 21, 2016

AGENDA TITLE: Continued introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8119 intended to expand the availability of cooperative housing units by amending Title 4, "Licenses and Permits," by adding a new section 4- 20-69, "Cooperative Housing License Fee," amending Title 9, "Land Use Code," by amending table 9-6-1 to make cooperative housing an allowed use in certain zone districts, by amending section 9-6-3, eliminating the requirement of a special use permit for cooperative housing, amending Title 10, "Structures," by adding a new Chapter 11, "Cooperative Housing," establishing requirements for licensing housing cooperatives and setting forth related details.

PRESENTERS
Jane S. Brautigam, City Manager
Tom Carr, City Attorney
David Gehr, Deputy City Attorney
David Driskell, Executive Director, Planning, Housing and Sustainability
Susan Richstone, Deputy Director, Planning, Housing and Sustainability
Charles Ferro, Development Land Use Review Manager, Planning, Housing and Sustainability

EXECUTIVE SUMMARY

This is a continued first reading of ordinance number 8119. The city council held a public hearing on May 17, 2016. Public testimony concluded at approximately 11:00 p.m. Council members began a brief discussion, which concluded at 11:41 p.m. Council asked staff questions and directed staff to draft a series of amendments for consideration at a continued first reading on June 21, 2016. This memorandum provides answers to the questions and the proposed amendments. Staff now requests that council consider the

proposed ordinance on first reading. A copy of the first reading memorandum can be found here. The proposed first reading ordinance is attachment A.[1]

Suggested Motion Language:

Continued introduction, first reading and motion to order published by title only Ordinance No. 8119 intended to expand the availability of cooperative housing units by amending Title 4, "Licenses and Permits," by adding a new section 4-20-69 "Cooperative Housing License Fee," amending Title 9, "Land Use Code," by amending table 9-6-1 to make cooperative housing an allowed use in certain zone districts, by amending section 9-6-3, eliminating the requirement of a special use permit for cooperative housing, amending Title 10, "Structures," by adding a new Chapter 11, "Cooperative Housing," establishing requirements for licensing housing cooperatives and setting forth related details.

The purpose of this agenda memorandum is to supplement the original first reading agenda memorandum by answering questions and proposing amendments to address concerns raised by council members at the May 17, 2016 council meeting. Each of these issues set forth below was raised by a council member and then assigned for staff work with the affirmative support of at least five council members. Council members made it clear that support for drafting language for consideration did not necessarily mean support for the concept. The following responds to the questions and provides potential amendments.

At the June 21, 2016 council meeting, council members can introduce and adopt the proposed ordinance on first reading. Under the city's charter, no ordinance can be adopted at the meeting at which it is introduced. Accordingly, except in the case of emergency legislation, all ordinances are considered at least twice at two separate meetings. If an ordinance is amended at a meeting, the amended ordinance must be considered at another meeting with notice published at least ten days in advance. Any amendments that council adopts on June 21 can only be considered for final adoption at subsequent meeting. Council members have expressed their intent that there will be a public hearing at the next reading of the ordinance. Staff will seek council direction regarding scheduling once the nature and extent of the amendments becomes clear.

Questions from Council

1. Why is it hard to enforce a limitation on the number of cars that can be associated with a property?

City staff has no straightforward means to determine whether a particular car parked in the right of way is associated with a property. Zoning enforcement staff does not have access to automobile registration databases, although, of course, the police

[1] To simplify things staff is attaching the version of ordinance 8119 that was revised after discussions with the community. This was attachment B to the May 17, 2016 agenda memorandum.

department does have such access. Even with access to registration materials, enforcement would be problematic, because a vehicle can always be registered at an address other than where it is parked. .

2. How would we find comparable rental units for the rental limitations?

Finding comparable rental prices is challenging. Staff's original proposal was to base the limitation upon median income, which is a metric used in the city's affordable housing program. Community members suggested that rental prices in Boulder did not necessarily correlate to income levels and suggested that the city rely upon rental rates rather than income levels. The Colorado Department of Local Affairs publishes a quarterly report on rental and vacancy rates for the Denver Metropolitan Area. The report includes data for both the City of Boulder and Boulder County outside of the city. The variable nature of rent in Boulder would require a higher level of granularity. It might be possible to use the available data combined with actual offers to rent to develop metrics for various areas around the city. Such an effort would require ongoing staff support to keep pace with the ever-changing Boulder rental market.

3. Can staff produce a GIS map showing examples of separation requirements using different levels of intensity in different neighborhoods of the city?

Yes. The maps requested are in attachment B.

4. What does it take to enforce the International Property Maintenance Code?

The city currently enforces the IPMC on all structures in the city. One means of enforcement is the rental housing checklist, which requires compliance with particular sections of the IPMC. The rental housing inspection checklist was developed to focus on life safety issues, with the intent to protect occupants' safety. The checklist is used by licensed rental housing inspectors, who inspect every rental property every four years.

Some of the implementation is proactive and enforced during routine inspections or when violations are discovered by staff. City inspectors implement the IPMC throughout the inspection process, which occurs before closure of any building permit. Every time an inspector enters a structure for an inspection he or she is looking to ensure minimum life safety standards are met, as defined by the IPMC. Those inspections can range from remodels and renovations to additions and rebuilds. Although the entire structure may not be affected, the inspectors check that even areas untouched by the permitted construction still meet minimum standards. Other implementation is complaint-based and enforcement comes after staff have been informed of a concern by a complainant.

5. What is the state designation referenced by Neshama Abraham?

Ms. Abraham provided the following response:

"As to the state filing I mentioned during my public testimony, we suggest that citizen groups wanting to live in a co-op create a legal entity, such as a LLC. We don't want to require a co-op group to be Title 56 co-ops, in part because of unknowns about the kind of access to financing such an entity would have, and if a group can't get financing, then they would not be able to buy a house, even if it's legal.

The LLC or a regular corporation will enable the group entity to secure financing. The LLC entity also provides the flexibility to work from a blank slate and create house bylaws (articles of incorporation) to guide governance and ownership/rental policies and form agreements amongst house members that will help ensure that the co-op members follow City rules and are good neighbors on the block."

6. Can the concerns raised by the group Voices for Invisible Populations be addressed through the Group Homes code provisions?

Group homes can certainly provide a valuable housing alternative for the less able in the city. The comments by VIP were, however, specifically directed to the cooperative housing ordinance. Staff has met with a representative of the group. Many of the group's comments support or oppose particular provisions in the ordinance. Staff recommends that council consider the recommendations that take into account the needs of disabled adults. A copy of the VIP recommendations, and responses to questions raised in a meeting with staff are in attachment C.

7. Would cooperatives that are not for profit organizations be subject to property taxes?

It is unlikely that many housing cooperatives could qualify for a property tax exemption.[2] For an organization to be eligible for tax exemption, it must be organized and operated exclusively for an exempt purpose, without any of the net earnings providing a benefit to any private shareholder or individual. 26 U.S.C. § 501(c)(3). An exempt purpose can be a charitable purpose, defined, in part, as "relief of the poor and distressed or of the underprivileged." 26 C.F.R. § 1.501(c)(3)-1. Therefore, if the housing cooperative serves a charitable purpose in its use of the land, such as providing housing for low-income applicants, then it could be considered an exempt organization. It is very unlikely that most housing cooperatives would be able to meet this standard. .

In general, a housing cooperative provides its members and/or stockholders a "right to occupy, for dwelling purposes, a house or an apartment in a building owned or leased by [the cooperative]." C.R.S. § 38-33.5-101. The cooperative must satisfy the requirements of the Colorado Revised Nonprofit Corporation Act, as well as

[2] Staff is providing this information for council background only. It should not be relied upon by any third-party. The question whether a particular property is tax exempt is complex and should be addressed by competent tax counsel.

requirements that no stockholder or member is entitled to receive any distribution not out of earnings or profits of the corporation. C.R.S. § 38-33.5-102.

If the housing cooperative does qualify as a tax-exempt nonprofit by satisfying the organizational and operational tests, it will still only be tax exempt if it also has a charitable purpose. Thus, for a housing cooperative to be tax exempt, it would most likely be required to serve low income, disable or low income elderly residents. Providing market rate housing would not be considered a charitable purpose. If the cooperative operates for the private benefit of its members who are also in control of its operations, then it also would not be tax exempt. Moreover, even if a cooperative provided a form of low-income housing, if it gave a preference to a certain group of individuals it would not be tax exempt, because it would be serving a private interest and not a public interest.

If the nonprofit owns only a portion of the property, then it also would not be tax exempt. Because a nonprofit's tax exemption status depends on the organization's operations in furtherance of its exempt purpose, co-ownership of property must still be in pursuit of the exempt purpose. The nonprofit must be in control of the property and its operations, and any benefits to other partners must be incidental only. Thus, unless the co-owner shared the charitable purpose, the nonprofit would not be tax exempt.

Potential Amendments

1. Certification as a Legitimate Cooperative.

Council members requested that staff include a process for determining whether a particular licensee qualifies as a real cooperative. The proposed ordinance submitted for first reading included a provision for certification by a third-party organization. The third-party organization was intended to draft and make public criteria to establish the legitimacy of a cooperative organization. Council members expressed an interest in considering language in the ordinance specifying the criteria by which an organization would be evaluated. Council members also expressed an interest in considering a model under which a third-party organization would make the determination and an alternative under which the city manager would make the decision. Attachment D includes the two alternative potential amendments. Both options include a new definition of a "Legitimate Cooperative Organization," which include specific criteria. Option A would require a third-party organization to certify the cooperative. Option B would have the city manager making the determination.

2. Providing a Property Right for Equity Cooperatives.

Council members requested that staff include an alternative that would provide a property right for equity cooperatives. A potential amendment is included in Attachment E. This proposal raises serious concerns. Owners of an equity cooperative would have a property right in the real property itself. The proposed amendment would extend this right to the right to operate as a cooperative. Not only would this create significant

obstacles to enforcement, it would increase the value of the property, because the right would extend to the permission to operate as a cooperative with a higher occupancy.

3. Occupancy Limits.

Council members asked staff to draft a proposed amendment that would allow for higher occupancy in higher density zone districts and lower occupancies in lower density zone districts. A draft amendment is included as attachment F.

4. License Not Tied to Ownership.

Council members expressed an interest in licensing the cooperative organization and not the property owner. Attachment G, includes a proposed amendment.

5. More Explicit Parking Requirements.

Council members asked that staff provide more details in the requirements for a parking plan. The additional language is included in attachment H.

6. Neighborhood Notification.

There was a request that the ordinance include a requirement that a cooperative provide proof of providing contact information to all other residents of the block. The new proposed language is included in attachment I.

ORDINANCE NO. 8119

AN ORDINANCE AMENDING TITLE 4 "LICENSES AND PERMITS BY ADDING A NEW SECTION 4-20-69 "COOPERATIVE HOUSING LICENSE FEE," AMENDING TITLE 9 "LAND USE CODE" BY AMENDING TABLE 9-6-1 TO MAKE COOPERATIVE HOUSING AN ALLOWED USE IN CERTAIN ZONE DISTRICTS, BY AMENDING SECTION 9-6-3, ELIMINATING THE REQUIREMENT OF A SPECIAL USE PERMIT FOR COOPERATIVE HOUSING, AMENDING TITLE 10 "STRUCTURES" BY ADDING A NEW CHAPTER 11 "COOPERATIVE HOUSING" ESTABLISHING REQUIREMENTS FOR LICENSING HOUSING COOPERATIVES AND SETTING FORTH RELATED DETAILS.

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

Section 1. A new section 4-20-69 is added as follows:

4-20-18. – Cooperative Housing License Fee.

The following fees shall be paid before the city manager may issue a rental license or renew a rental license:

(a) $105 per license or renewal.

(b) To cover the cost of investigative inspections, the city manager will assess to licensees a $250 fee per inspection, where the city manager has performed an investigative inspection to ascertain compliance with or violations of chapter 10-11 "Cooperative Housing," B.R.C. 1981.

Section 2. Table 9-6-1 is amended as set forth in an attachment A.

Section 3. Section 9-6-3(b) is repealed and subsequent sections are renumbered.

Section 4. Section 9-8-5 is amended as follows:

9-8-5. - Occupancy of Dwelling Units.

(a) General Occupancy Restrictions: Subject to the provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, no persons except the following persons shall occupy a dwelling unit:

(1) Members of a family plus one or two roomers. The quarters that the roomers use shall not exceed one-third of the total floor area of the dwelling unit and shall not be a separate dwelling unit;

(2) Up to three persons in P, A, RR, RE, and RL zones;

(3) Up to four persons in MU, RM, RMX, RH, BT, BC, BMS, BR, DT, IS, IG, IM, and IMS zones; or

(4) Two persons and any of their children by blood, marriage, guardianship, including foster children, or adoption.

(b) Accessory Dwelling Unit, Owner's Accessory Unit, or Limited Accessory Dwelling Unit: The occupancy of an accessory dwelling unit, owner's accessory unit, or limited accessory dwelling unit must meet the requirements of Subsection 9-6-3(a), B.R.C. 1981.

(c) Nonconformity: A dwelling unit that has a legally established occupancy higher than the occupancy level allowed by Subsection (a) of this section may maintain such occupancy of the dwelling unit as a nonconforming use, subject to the following:

(1) The higher occupancy level was established because of a rezoning of the property, an ordinance change affecting the property, or other city approval;

(2) The rules for continuation, restoration, and change of a nonconforming use set forth in Chapter 9-10, "Nonconformance Standards," B.R.C. 1981, and Section 9-2-15, "Use Review," B.R.C. 1981;

(3) Units with an occupancy greater than four unrelated persons shall not exceed a total occupancy of the dwelling unit of one person per bedroom;

(4) The provisions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981; and

(5) If a property owner intends to sell a dwelling unit with a non-conforming occupancy that exceeds the occupancy limits in Subsection 9-8-5(a), B.R.C. 1981, every such contract for the purchase and sale of a dwelling unit shall contain a disclosure statement that indicates the allowable occupancy of the dwelling unit.

(d) A dwelling unit licensed as a Cooperative Housing Unit pursuant to section 10-11-3 "Cooperative Housing Licenses," B.R.C. 1981, shall not be subject to the occupancy limits set forth in this section.

(e~~d~~) Prohibition: No person shall occupy a dwelling unit in violation of this section or intentionally or negligently misrepresent the permitted occupancy of a dwelling unit in violation of this section.

Section 5. Section 9-16-1 is amended by amending the definition of "Cooperative Housing Unit" as follows:

Cooperative housing unit has the same meaning as set forth in Section 10-1-1, "Definitions," B.R.C. 1981 ~~means an individual building for cooperative living that meets the criteria for such units set forth in Subsection 9-6-3(b), B.R.C. 1981.~~

Section 6. The following new definitions are added to Section 10-1-1:

Cooperative means a housing arrangement in which residents share expenses, ownership or labor.

Cooperative housing unit means a dwelling unit in a Private Equity, Limited Equity or Rental Cooperative.

Limited equity cooperative means a cooperative operating on a property owned in part by its occupants. A not-for-profit corporation may own an interest in the property.

Private equity cooperative means a cooperative operating on a property owned jointly by the residents of the cooperative.

Rental cooperative means a cooperative in which the some or all of the residents do not have an ownership interest in the property in which the cooperative operates.

Section 7. A new Chapter 10-11 is added as follows:

Chapter 11 Cooperative Housing

10-11-1. Legislative Intent

The City Council intends to facilitate cooperative living arrangements. The Council finds that cooperative living arrangements can provide an affordable alternative for living in Boulder. In addition, cooperative arrangements can provide supportive and fulfilling community for their residents. The City Council seeks to balance the benefits of cooperative living against the impacts from the increased density that comes along with cooperative living. The City Council also is concerned about cooperatives competing in a tight housing market with families seeking single family homes.

10-11-2. - Cooperative License Required Before Occupancy.

No person shall occupy, allow, or offer to allow through advertisement or otherwise, any person to occupy any cooperative housing unit unless the cooperative housing unit has been issued a valid cooperative housing license by the city manager.

10-11-3. – Cooperative Housing Licenses.

(a) License terms shall be as follows:

(1) Licenses shall expire four years from issuance or when ownership of the licensed property is transferred.

(A) In addition to any other applicable requirements, new licenses and renewals shall require that the licensee submit to the city manager a completed current baseline (for a new license) or renewal inspection report, on forms provided by the City. The report shall satisfy the following requirements:

(i) The section of the report concerning fuel burning appliances must be executed by a qualified heating maintenance person certifying compliance with those portions of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, for which the report form requires inspection and certification.

(ii) The section of the report concerning smoke and carbon monoxide alarms must be executed by the operator certifying that the operator inspected the smoke and carbon monoxide alarms in the licensed property and that they complied with the requirements of Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.

(iii) The section of the report concerning trash removal must be executed by the operator certifying that the operator has a current valid contract with a commercial trash hauler for removal of accumulated trash from the licensed property in accordance with Subsection 6-3-3(b), B.R.C. 1981.

(b) Whenever an existing license is renewed, the renewal license shall be effective from the date of expiration of the last license if the applicant submits a complete renewal application by or within ninety days from the expiration date. Licenses not renewed within ninety days will be considered expired, requiring a new baseline inspection report.

(c) The city manager shall issue no more than fifteen new cooperative housing licenses in any calendar year. Such licenses shall be allocated as follows:

(1) No more than five licenses for limited equity cooperatives;

(2) No more than five licenses for private equity cooperatives;

(3) No more than five licenses for rental cooperatives; and

(4) If an application for a cooperative housing unit exceeds the limits set forth in this subparagraph (c), the city manager will place the applicant on a waiting list. Applicants on the waiting list shall be given priority for consideration of applications in the next calendar year.

(d) Cooperative housing licenses shall be limited to the following concentrations:

(1) Neighborhood Area: In the RL-1, RL-2, RE, RR-1, RR-2, A or P zoning districts, no more than ten percent of the single-family lots or parcels in a neighborhood area contain a cooperative housing unit. For the purpose of this subparagraph:

(i) The "neighborhood area" in RL-1, RL-2 and P zoning districts is the area circumscribed by a line three hundred feet from the perimeter of the lot line within which any cooperative housing unit will be located.

(ii) The "neighborhood area" in RE, RR-1, RR-2 and A zoning districts is the area circumscribed by a line six hundred feet from the perimeter of the lot line within which any cooperative housing unit will be located.

(iii) If an application for a cooperative housing unit exceeds the ten percent requirement set forth in this subparagraph (a)(2)(A), the city manager will place the applicant on a waiting list for the neighborhood area. At such time as there is room for an additional cooperative housing unit within a neighborhood area, the city manager will notify the first eligible person on the waiting list. Such person on the waiting list shall be required to provide

notice of intent to file an application within thirty days and file an application within sixty days of such notice.

10-11-4. - License Application Procedure for Cooperative Housing Licenses.

(a) Only the fee simple owners of the property on which the cooperative is to be located may be an applicant for a cooperative housing license. If there are multiple fee simple owners, all owners must apply.

(b) Every applicant for cooperative housing license shall submit the following:

(1) A written application for a license to the City, on official city forms provided for that purpose, at least thirty days before occupancy of the property including:

(A) A housing inspector's certification of baseline inspection dated within twelve months before the application. The applicant shall make a copy of the inspection form available to city staff and tenants of inspected units within fourteen days of a request; and

(B) A report on the condition and location of all smoke and carbon monoxide alarms required by chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the applicant; and

(C) A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C. 1981, made and verified by the applicant.

(D) A parking management plan meeting the requirements of subsection 10-11-11, B.R.C. 1981, made and verified by the applicant.

(c) Pay all license fees prescribed by section 4-20-69, "Cooperative Housing Fee," B.R.C. 1981, at the time of submitting the license application.

(d) Take all reasonable steps to notify any occupants of the property in advance of the date and time of the inspection. The applicant shall be present and accompany the inspector throughout the inspection, unlocking and opening doors as required.

10-11-5. - License Renewal Procedure for Cooperative Housing Units

Every licensee of a cooperative housing unit shall follow the procedures in this section when renewing an unexpired license:

(a) Pay all license fees prescribed by section 4-20-69, "Cooperative Housing Fee," B.R.C. 1981, before the expiration of the existing license.

(b) Submit to the city manager, on forms provided by the manager:

(1) A housing inspector's certification of renewal inspection within twelve months before application. The applicant shall make a copy of the inspection form available to city staff and residents of inspected units within fourteen days of a request;

(2) A report on the condition and location of all smoke and carbon monoxide alarms required by chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the operator; and

(3) A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C. 1981, made and verified by the operator.

(4) A parking management plan meeting the requirements of subsection 10-11-11, B.R.C. 1981, made and verified by the applicant.

(c) Take all reasonable steps to notify in advance all residents of the property of the date and time of the inspection. The operator shall be present and accompany the inspector throughout the inspection, unlocking and opening doors as required.

10-11-6. - Temporary License.

If the inspection shows that there are violations of chapter 10-2, "Property Maintenance Code," B.R.C. 1981, in the building, and the applicant cannot correct the deficiencies before the housing is to be occupied (in the case of a new cooperative housing unit) or the existing license expires (in the case of a renewal), the applicant may apply, on forms specified by the city manager, for a temporary license. If the manager finds, based on the number and severity of violations, that such a temporary license would not create or continue an imminent health or safety hazard to the public or the occupants, the manager may issue a temporary license. The manager shall specify the duration of the temporary license, for a period reasonably necessary to make the needed repairs and changes. Upon receipt of an additional certificate of inspection showing correction of the deficiencies, and an additional housing license fee, the manager shall issue the cooperative housing license.

10-11-7. - License Appeals.

Any applicant denied a temporary license, or aggrieved by the period of time allowed for correction, may appeal the denial or the time for correction, or both, as provided in section 10-2-2, section 111 "Means of Appeal," B.R.C. 1981. As to an appeal of the time reasonably required to correct a violation, the board shall either affirm the city manager's originally prescribed time or grant a longer time to correct the alleged violation.

10-11-8. - Time of License Expiration.

Every rental license expires upon the earliest of the following dates:

(a) The expiration date on the license unless temporary authority is allowed under section 10-11-6, "Temporary License," B.R.C. 1981, of this chapter;

(b) The effective date of any order or notice to vacate the property issued under any provision of law;

(c) The expiration of the temporary certificate of occupancy for the property if a permanent certificate of occupancy has not been issued; or

(d) The revocation of the certificate of occupancy for the property.

10-11-9. - License Fees.

Applicants for any cooperative housing license, and applicants renewing an existing cooperative housing license, shall pay the license fees prescribed by section 4-20-69, "Cooperative Housing Fee," B.R.C. 1981, upon submission of any license application.

10-11-10. - Availability of License.

No person who holds a cooperative housing license shall fail to make the rental license available to anyone within seventy-two hours of receiving a request. Posting of a cooperative housing license at the property is not required.

10-11-11. – Parking Management Plan Required.

Each applicant for a cooperative housing license shall prepare a parking management plan. Approval of any such plan shall be a condition of issuance of any cooperative housing license. The plan shall be designed to limit the number of automobiles parked in the public right of way to no than three vehicles per license. An agreement by the licensee to require that all residents have a local bus pass with the Regional Transit District may be included in such a plan, but is not required.

10-11-12. – Compatibility with Neighborhoods.

Each cooperative shall at all times maintain compatibility with the neighborhood in which the cooperative is located. The licensee shall take all reasonable steps to reduce excessive parking on the public right of way and noise, trash and weeds on the property.

10-11-13. – Limitation on rent.

As a condition of issuance of any cooperative housing license for a rental cooperative, the applicant shall agree to limit each cumulative rent for the entire property to no more than that which is affordable to households earning no more than the average median income for families in the city of Boulder. The city manager shall, by rule, establish such maximum rents based on the number of bedrooms using the Colorado Housing and Finance Authority Income and Rent Tables or another substantially similar resource.

10-11-14. - City Manager May Order Premises Vacated.

(a) Whenever the city manager determines that any cooperative housing unit is in violation of this chapter or of chapter 10-2, "Property Maintenance Code," B.R.C. 1981, and has caused a summons and complaint requiring the licensee to appear in municipal court to answer the charge of violation to issue, and the summons cannot be served upon the licensee despite reasonable efforts to do so, or, having been served, the licensee has failed to appear in the municipal court to answer the charges or at any other stage in the proceedings, or, having been convicted or entered a plea of guilty or no contest, the licensee has failed to satisfy the judgment of the court or any condition of a deferred judgment, then the city manager may, after thirty days' notice and an opportunity for a hearing to the residents and the licensee, require that the premises be vacated and not be reoccupied until all of the requirements of the Property Maintenance Code and the cooperative housing code have been satisfied and a cooperative housing license is in effect. No person shall occupy any cooperative housing unit after receiving actual or constructive notice that the premises have been vacated under this section.

(b) Any notice required by this section to be given to a licensee is sufficient if sent by first class or certified mail to the address of the last known owner of the property as shown on the records of the Boulder County Assessor as of the date of mailing. Any notice to a resident

required by this section is sufficient if sent by first class or certified mail to or delivered to any occupant at the address of the premises and directed to "All Residents."

(c) The remedy provided in this section is cumulative and is in addition to any other action the city manager is authorized to take.

10-11-15. - Administrative Remedy.

(a) If the city manager finds that a violation of any provision of this chapter or Chapter 10-2, "Property Maintenance Code," B.R.C. 1981, exists, the manager, after notice to the operator and an opportunity for hearing under the procedures prescribed by Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, may take any one or more of the following actions to remedy the violation:

(1) Impose a civil penalty according to the following schedule:

(A) For any violation in the following areas: the area south of Arapahoe Avenue, north of Baseline Road, east of 6th Street and west of Broadway; the area south of Baseline Road, north of Table Mesa Drive, east of Broadway and west of U.S. Route 36 and the area south of Canyon Boulevard, north of Arapahoe Avenue, west of Folsom Street and east of 15th Street:

(i) For the first violation of the provision, $500.00;

(ii) For the second violation of the same provision, $750.00; and

(iii) For the third violation of the same provision, $1,000.00;

(B) For a violation in any other area:

(i) For the first violation of the provision, $150.00

(ii) For the second violation of the same provision, $300.00; and

(iii) For the third violation of the same provision, $1,000.00;

(2) Revoke the cooperative housing license; and

(3) Issue any order reasonably calculated to ensure compliance with this chapter and Chapter 10-2, "Property Maintenance Code," B.R.C. 1981.

(b) If notice is given to the city manager by the licensee at least forty-eight hours before the time and date set forth in the notice of hearing on any violation, other than a violation of section 10-11-12 “Compatibility with Neighborhoods,” B.R.C. 1981, that the violation has been corrected, the manager will re-inspect the cooperative housing unit. If the manager finds that the violation has been corrected, the manager may cancel the hearing.

(c) If notice is given to the city manager by the licensee at least forty-eight hours before the time and date set forth in the notice of hearing on any violation of section 10-11-12 “Compatibility with Neighborhoods,” B.R.C. 1981, that the licensee has scheduled a community mediation with concerned neighbors, the manager may continue the hearing until the manager receives a report regarding the conclusion of the mediation. If after reviewing a community mediation report, if the city manager is satisfied that the cooperative housing unit meets the requirements of section 10-11-12 “Compatibility with Neighborhoods,” B.R.C. 1981, the city manager may dismiss any pending complaint.

(d) The city manager's authority under this section is in addition to any other authority the manager has to enforce this chapter, and election of one remedy by the manager shall not preclude resorting to any other remedy as well.

(e) The city manager may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by Section 2-2-12, "City Manager May Certify Taxes, Charges and Assessments to County Treasurer for Collection," B.R.C. 1981.

(f) To cover the costs of investigative inspections, the city manager will assess operators a $250.00 fee per inspection, where the city manager performs an investigative inspection to ascertain compliance with or violations of this chapter.

10-11-16. – Criminal Penalty.

(a) The penalty for violation of any provision of this chapter is a fine of at least $500.00 and not more than $2,000.00 per violation, or incarceration for not more than ninety days in jail, or both such fine and incarceration. In addition, upon conviction of any person for violation of this chapter, the court may issue a cease and desist order and any other orders reasonably calculated to remedy the violation. Violation of any order of the court issued under this section is a violation of this section and is punishable by a fine of not more than $4,0000.00 per violation, or incarceration for not more than ninety days in jail, or both such fine and incarceration.

(b) It shall be a condition of any deferred prosecution or deferred or suspended sentence under this chapter that the defendant commit no violations of this chapter for at least one year from the date of such deferred prosecution or deferred or suspended sentence.

(c) Notwithstanding subsection (a) of this section, the following specific sentencing considerations shall apply to fines imposed for violations:

(1) The court shall consider any evidence presented by the defendant that a potential fine would be confiscatory. A confiscatory fine is a fine that would deprive a normally capitalized owner of the ability to continue operating a rental housing business of the sort involved in the case before the court. No fine that is confiscatory shall be enforced by the court.

(2) In imposing a fine in any single case or in any consolidated cases, the court may weigh all factors normally and properly considered in connection with the imposition of fines,

including the seriousness of the violation, the past record of the defendant, the economic circumstances of the defendant and all mitigating or aggravating factors relevant to the violation or to the defendant. In addition, in determining the amount of any fine, the court may consider:

(A) The imposition of a fine that would deprive the defendant of any illegal profit collected because of the occurrence of the violation or violations on the rental housing property;

(B) The imposition of a reasonable penalty in addition to any level of fine that is attributable to illegally obtained profit; and

(C) The imposition of such additional fine as is determined by the court to constitute a reasonable amount to be suspended in order to ensure compliance with any terms of probation imposed by the court.

(d) No fine imposed in a single case alleging multiple dates of violation, nor any fine in consolidated cases alleging multiple days of violation, shall exceed the maximum fine that might be imposed for fifteen separate violations unless the court finds special aggravating circumstances. Where special aggravating factors are at issue, the following procedures shall apply:

(1) The defendant shall be entitled to ten days' notice of any special aggravating factors upon which the prosecution intends to rely at the sentencing hearing or about which, based upon evidence previously presented, the court is concerned. If necessary in order to provide such notice, a defendant shall be entitled to a continuance of the sentencing hearing.

(2) A judicial finding of the existence of special aggravating factors shall not mandate that the court impose any particular level of fine but will, rather, provide the sentencing court with discretion to determine a fine based upon all the criteria set forth in this subsection.

(3) Special aggravating factors, for the purpose of this subsection, shall require a judicial finding of one or more of the following:

(A) The violations at issue were flagrant and intentional on the part of the defendant;

(B) The defendant, after learning of the violation, failed to attempt corrective action over a sustained period of time; or

(C) A fine equivalent to the maximum fine permitted for fifteen separate violations would be inadequate to disgorge the defendant of illegal profits obtained as a consequence of the violations or would be inadequate to ensure that the violation is neither profitable nor revenue neutral for the offender.

10-11-17. - Authority to Issue Rules.

The city manager may adopt reasonable rules to implement this chapter.

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

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

READ ON FIRST READING, PASSED AND ORDERED PUBLISHED BY TITLE ONLY this __ day of April 2016.

_____
Suzanne Jones
Mayor

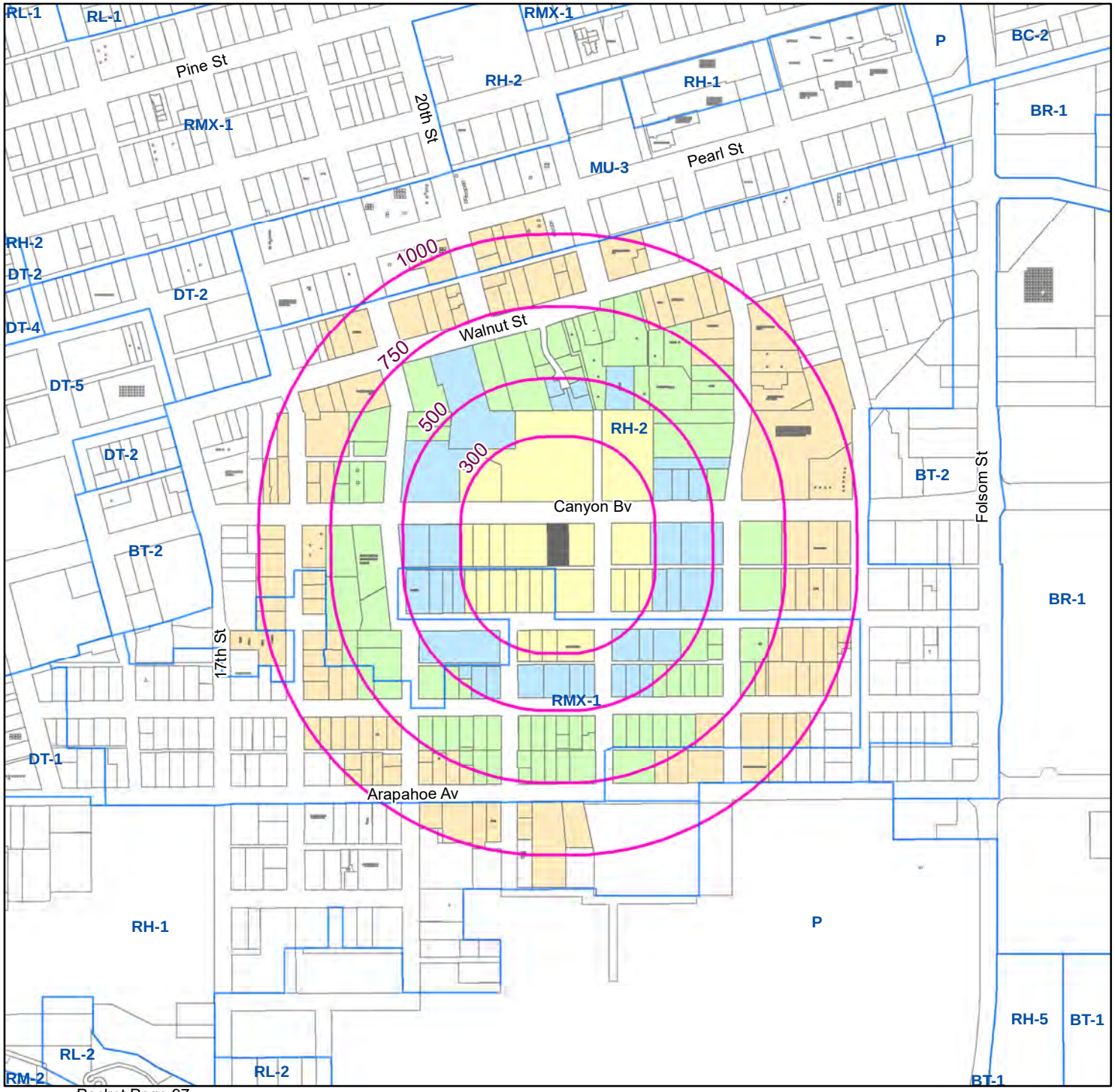
Attest:

_____
Lynnette Beck
City Clerk

K:\CCAD\o-Cooperative Housing Ordinance-2518.docx

Zoning District	**RR-1, RR-2, RE, RL-1**	**RL-2, RM-2**	**RM-1, RM-3**	**RMX-1**	**RMX-2**	**RH-1, RH-2, RH-4, RH-5**	**RH-3, RH-7**	**RH-6**	**MH**	**MU-3**	**MU-1**	**MU-2**	**MU-4**	**BT-1, BT-2**	**BMS**	**BC-1, BC-2**	**BCS**	**BR-1, BR-2**	**DT-4**	**DT-5**	**DT-1, DT-2, DT-3**	**IS-1, IS-2**	**IG**	**IM**	**IMS**	**P**	**A**	
Use Modules	**R1**	**R2**	**R3**	**R4**	**R5**	**R6**	**R7**	**R8**	**MH**	**M1**	**M2**	**M3**	**M4**	**B1**	**B2**	**B3**	**B4**	**B5**	**D1**	**D2**	**D3**	**I1**	**I2**	**I3**	**I4**	**P**	**A**	Specific Use Standard
Cooperative housing units	~~C~~ A	~~C~~ A	~~C~~ A	~~C~~ A	~~C~~ A	~~C~~ A	~~C~~ A	*	*	~~C~~ A	~~C~~ A	~~C~~ A	*	*	*	*	*	*	*	*	*	*	U	U	*	*	*	~~9-6-3(b)~~

Goss Grove Example (RH-2 and RMX-1 Zoning)



300' neighborhood area results in 33 properties allowing 3 Coops.

500' neighborhood area results in 76 properties allowing 7 Coops.

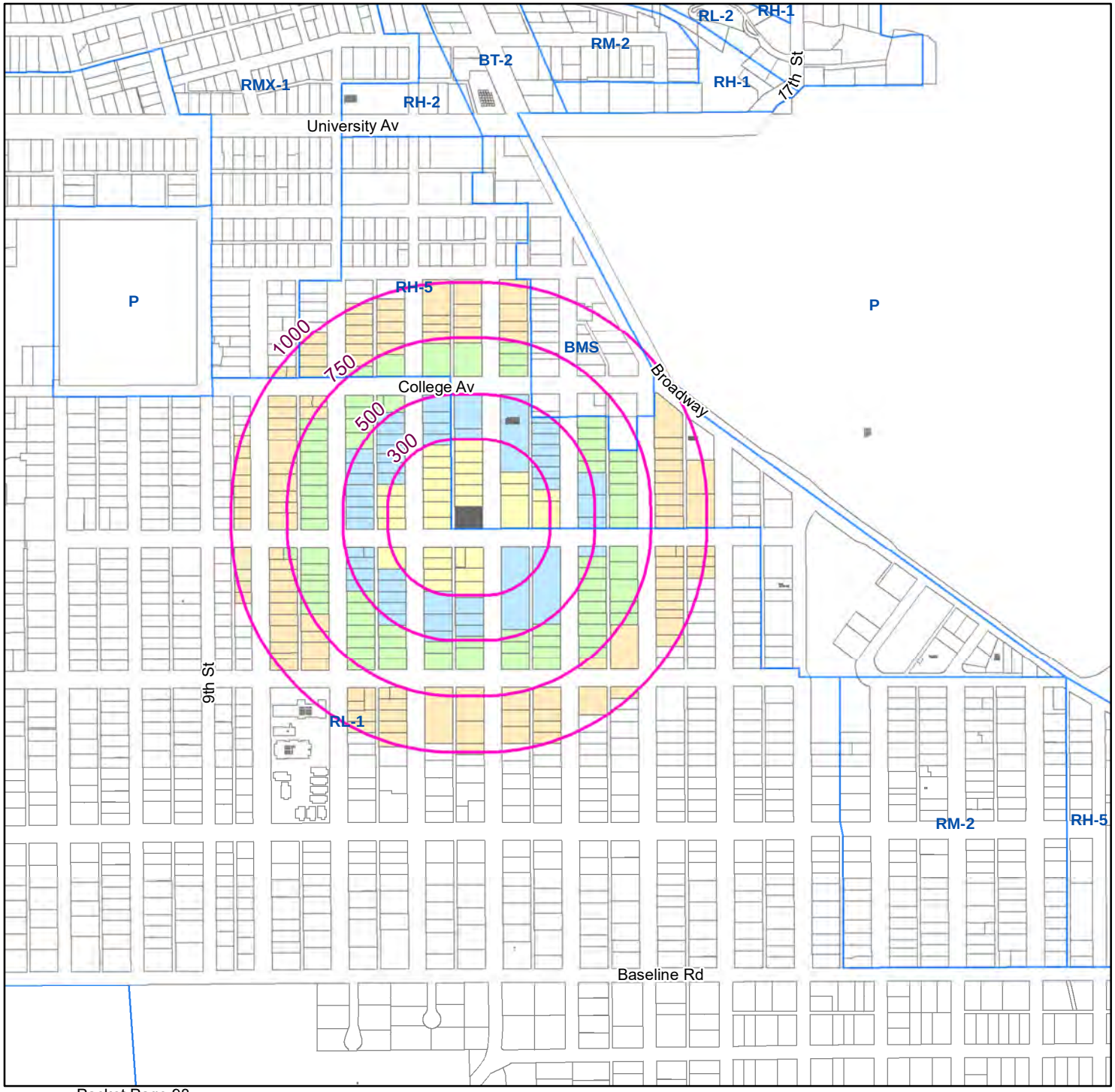
750' neighborhood area results in 221 properties allwing 22 Coops.

1000' neighborhood area results in 591 properties allowing 59 Coops.

Legend

- Buffers
- Theoretical Applicant Property
- Parcels Inside 1000' Neighborhood Area
- Parcels Inside 750' Neighborhood Area
- Parcels Inside 500' Neighborhood Area
- Parcels Inside 300' Neighborhood Area
- Zoning Districts

University Hill Example (RH-5 and RL-1 Zoning)



300' neighborhood area results in 32 properties allowing 3 Coops.

500' neighborhood area results in 131 properties allowing 13 Coops.

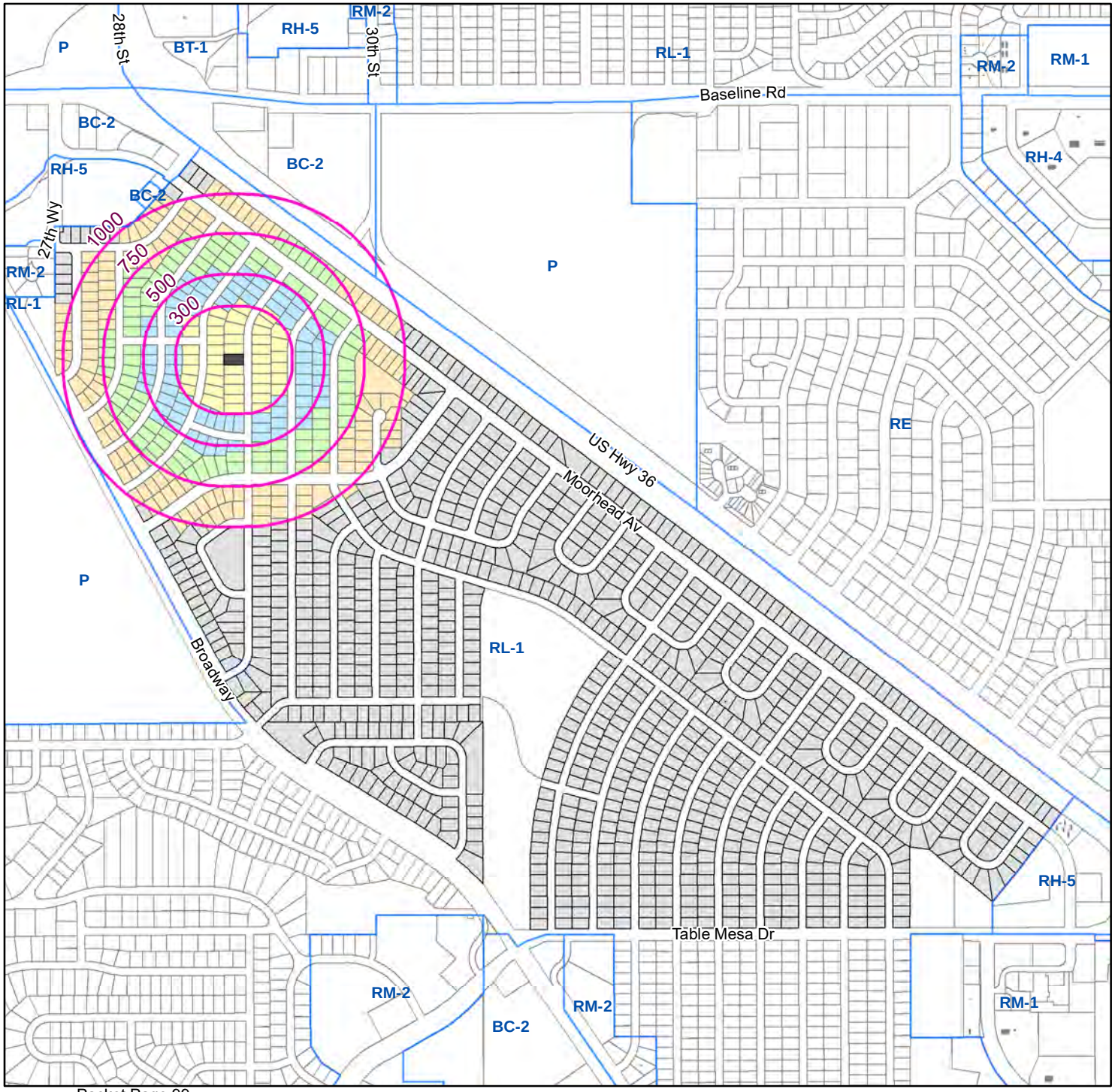
750' neighborhood area results in 208 properties allwing 20 Coops.

1000' neighborhood area results in 344 properties allowing 34 Coops.

Legend

- Buffers
- Theoretical Applicant Property
- Parcels Inside 1000' Neighborhood Area
- Parcels Inside 750' Neighborhood Area
- Parcels Inside 500' Neighborhood Area
- Parcels Inside 300' Neighborhood Area
- Zoning Districts

Martin Acres Example (RL-1 Zoning)



300' neighborhood area results in 45 properties allowing 4 Coops.

500' neighborhood area results in 125 properties allowing 12 Coops.

750' neighborhood area results in 223 properties allwing 22 Coops.

1000' neighborhood area results in 363 properties allowing 36 Coops.

Legend

- Buffers
- Theoretical Applicant Property
- Parcels Inside 1000' Neighborhood Area
- Parcels Inside 750' Neighborhood Area
- Parcels Inside 500' Neighborhood Area
- Parcels Inside 300' Neighborhood Area
- Martin Acres
- Zoning Districts

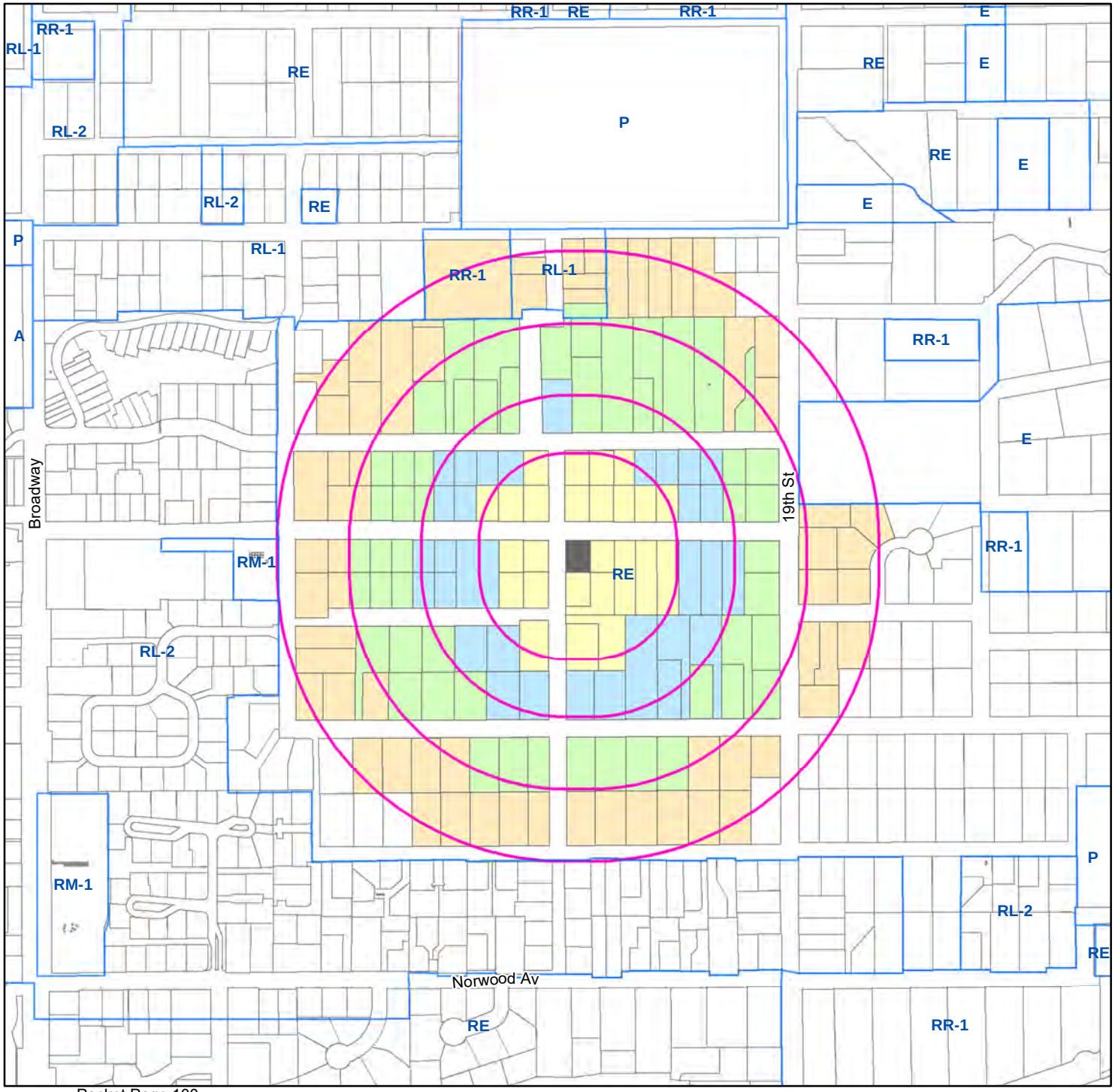
17th and Quince Example (RE Zoning)

300' neighborhood area results in 26 properties allowing 2 Coops.

500' neighborhood area results in 57 properties allowing 5 Coops.

750' neighborhood area results in 109 properties allwing 10 Coops.

1000' neighborhood area results in 172 properties allowing 17 Coops.



Legend

- Buffers
- Theoretical Applicant Property
- Parcels Inside 1000' Neighborhood Area
- Parcels Inside 750' Neighborhood Area
- Parcels Inside 500' Neighborhood Area
- Parcels Inside 300' Neighborhood Area
- Zoning Districts

Comments regarding Co-Op Housing Ordinance
May 17, 2016

The Voices for Invisible Populations (VIP) partners with members of our community's invisible populations, advocating together for policies that improve the lives of those living in invisible populations. Invisible populations are defined as isolated individuals in our community who experience challenges advocating for themselves. Generally, this population is described as the frail, elderly, and those with disabilities who are living with low incomes.

Below please find a description of each section as well as the VIP comments.

Section 4 - Occupancy of Dwelling Units
Amends section 9-8-5 to exempt cooperative housing units from the city's occupancy limits. The only limit would be the International Property Maintenance Code, which is incorporated into the Boulder Revised Code by section 10-2-2. The IPMC includes the following occupancy limitation: "Every living room shall contain at least 120 square feet and every bedroom shall contain a minimum of 70 square feet and every bedroom occupied by more than one person shall contain a minimum of 50 square feet of floor area for each occupant thereof."

VIP Comments
VIPs are interested in current co-ops to be grandfathered into this section.

Section 5
Amends the definition of "Cooperative housing unit" in section 9-16-1 to conform to the new definition in section 10-1-1

VIP Comments
VIPs would like the definition to use "competent adult" as opposed to "adult member" as "adult member" does not take into account an adult member who may have an impairment like alzheimer's.

Section 6
Adds to section 10-1-1, definitions of "Cooperative," "Cooperative Housing Unit," "Limited Equity Cooperative," "Private Equity Cooperative," and "Rental Cooperative."

BoCHA Comments
Private Equity Cooperative means a housing cooperative in which a majority of the adult residents own an interest in the property, a majority of the individuals who own an interest in the property are also residents of the property, and the owner-residents hold a controlling ownership interest in the property. A 501(c)3 non-profit with a housing focused mission may own a minority interest in the property.

Group Equity Cooperative means a housing cooperative in which a majority ownership interest is held by either a 501(c)3 non-profit organization with an affordable housing focused mission, or a public housing authority.

Rental Housing Cooperative means any housing cooperative which does not satisfy the requirements for either a private or group equity housing cooperative.

VIP Comments

1) The definition of Cooperative housing in the ordinance says “ownership and labor”. VIPs would like “labor” to be defined.
2) VIPs have no comment on the BoCHA’s definition of Private Equity Cooperative
3) VIPs do not agree with the definition of Group Equity Cooperative. Particularly, the VIPs would like to see any 501(c)(3) participate in the Group Equity Cooperative, not just those with an affordable housing focus.
4) VIPs supports the definition of Rental Housing Cooperatives to include language that they must follow ADA guidelines, such as a certain amount of rooms need to be accessible to the ADA community. We are only asking this distinction be applied to rental units.

Section 10-11-3

Imposes terms for licenses. This section is adapted from section 10-3-3, which regulates rental licenses. It includes a four year renewal period and an inspection requirement. The section also includes dispersion requirements. These are similar to the existing requirements, although references to group homes and accessory units have been eliminated. The section also includes a limit of five licenses per year for each of the three types of cooperatives.

VIP Comments

VIPs do not agree with the language provided in the ordinance or the suggestion recommended by the BoCHA. VIPs do not support any limitation of the amount of licenses that can be issued in a year. The overall ordinance language is already self-limiting. Further, the VIPs do not agree with the BoCHA’s comments that all co-ops need to affordable. The VIPs want co-ops to be both affordable and for-profit. VIPs are willing to concede this position if the limitation sunsets after five years.

Section 10-11-5

Establishes renewal procedures.

VIP Comments

VIPs support a rental license renewal every four years. VIPs also support an amendment to establish Private and Group Equity Cooperatives in the land use code in order to ensure the permit remains valid for as long as they comply with agreements set forth in the initial application.

Section 10-11-11
Makes a parking management plan a condition of issuing a license. The plan must limit the number of cars from the cooperative parked in the right of way to three. The plan can include a requirement that all residents have a bus pass.

VIP Comments
VIPs do not agree with the ordinance language or the comments provided by BoCHA. The VIPs support language that gives an exception for the number of cars with handicap placards. The VIPs also opposes language that makes an EcoPass mandatory in any situation as many of our constituents can not use the bus system in its current state because of the distance between stops and destinations. The VIPs recommend the following language to address the parking management:

The parking management plan must provide adequate parking for residents. This can be a mix of off and on street parking that is acceptable to the neighborhood feel.

Section 10-11-12
Requires the licensee to take reasonable steps to reduce the cooperative's impact on parking, noise, trash and weeds.

VIP Comments
VIPs do not agree with the ordinance language or the comments from BoCHA. VIPs believe the planning and zoning departments can make better recommendations/assessment of the proposed parking plan, especially if only 15 permits will be issued per year.

Section 10-11-13
Limits the rent that can be charged in an entire rental cooperative to no more than that which would be affordable to a family earning the median family income in Boulder. The city manager is required to adopt a maximum rent based upon the Colorado Housing and Finance Income and Rent Tables or similar resource. For 2015 those rents would be as follows:

Studio	1 Bedroom	2 Bedroom	3 Bedroom	4 Bedroom
$1,740	$1,865	$2,237	$2,585	$2,885

VIP Comments
The VIPs do not agree with the ordinance language or the comments from BoCHA. The VIPs would like this language applied only to affordable cooperatives. VIPs support rental and private equity cooperatives as market rate properties.

Comments regarding Co-Op Housing Ordinance
June 21, 2016

The Voices for Invisible Populations (VIP) partners with members of our community's invisible populations, advocating together for policies that improve the lives of those living in invisible populations. Invisible populations are defined as isolated individuals in our community who experience challenges advocating for themselves. Generally, this population is described as the frail, elderly, and those with disabilities who are living with low incomes.

After meeting with the City Attorney's office on May 24, 2016, the VIPs have answered the questions posed by the City Attorney's office. Those revisions are below.

Section 6
Adds to section 10-1-1, definitions of "Cooperative," "Cooperative Housing Unit," "Limited Equity Cooperative," "Private Equity Cooperative," and "Rental Cooperative."

Section 6 - Question from the City Attorney:
Would the VIPs support a private equity cooperative that does not allow rental? The way the language is currently crafted, a person who is not able to sell their share in the equity cooperative would be able to rent their share instead. What is our position on this?

VIPs Response:
The VIPs would support a term limited time to rent the share until you find a person to buy the share. The VIPs would also support language stating that No co-op is to exceed over 20% rental occupancy that is not a rental co-op. The VIPs strongly want the shares to be owned and not rented.

Section 6 - Question from the City Attorney:
Would the VIPs support language that provided an incentive for properties that were ADA compliant? Do we have any ideas for potential incentives?

VIPs Response:
The VIPs would support incentives. While we did not have any specific examples of incentives, the following were suggested: Tax incentives, lower application fee, preference points for ADA Compliant.

Section 10-11-5
Establishes renewal procedures.

Section 10-11-5 - Question from the City Attorney:
The City attorney did not agree with the previous position of the VIPs. The City attorney believes that there needs to be greater oversight over private equity licenses because they are allowed to over occupy, potentially causing a safety hazard. There needs to be a safety inspection component that gives individuals about 120 days to remedy the problem. After hearing this explanation, do the VIPs change their position?

VIPs Response:
VIPs agree with the language as it is currently written in the draft ordinance and appreciates the explanation from the City Attorney.

Amendment to Specify Criteria for a Legitimate Cooperative Housing Organization

(Option A – Certification by Third-Party Organization)

Add a new definition to section 10-1-1 as follows:

Legitimate Cooperative Housing Organization means an organization formed under Colorado law that has the following:

(1) a documented governance structure;

(2) a list of members; and

(3) bylaws that provide for the following:

(a) provisions prohibiting discrimination or harassment;

(b) a provision requiring regular meetings of all members;

(c) a democratic decision-making structure;

(d) provisions for sharing of resources.

Amend Section 10-11-4

10-11-4. - License Application Procedure for Cooperative Housing Licenses.

(a) Only the owners of the property on which the cooperative is to be located may be an applicant for a cooperative housing license. If there are multiple owners, all owners must apply. A prospective tenant may, with the written authorization of all fee simple owners, apply for conversion of a valid rental license to a cooperative housing license.

(b) Every applicant for cooperative housing license shall submit the following:

(1) A written application for a license to the City, on official city forms provided for that purpose, at least thirty days before occupancy of the property including:

(A) A housing inspector's certification of baseline inspection dated within twelve months before the application. The applicant shall make a copy of the inspection form available to city staff and tenants of inspected units within fourteen days of a request; and

(B) A report on the condition and location of all smoke and carbon monoxide alarms required by chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the applicant; and

(C) A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C. 1981, made and verified by the applicant.

(D) A parking management plan meeting the requirements of subsection 10-11-11, B.R.C. 1981, made and verified by the applicant.

(E) A certificate from a Cooperative Housing Organization certifying that the applicant is a Legitimate Cooperative Housing Organization.~~valid housing cooperative~~. S~~uch certificate shall be issued if the applicant meets specified pre-established criteria~~. ~~The Cooperative Housing Organization shall make available publically the criteria before considering any applications.~~

(c) Pay all license fees prescribed by section 4-20-69, "Cooperative Housing Fee," B.R.C. 1981, at the time of submitting the license application.

(d) Take all reasonable steps to notify any occupants of the property in advance of the date and time of the inspection. The applicant shall be present and accompany the inspector throughout the inspection, unlocking and opening doors as required.

Amendment to Specify Criteria for a Legitimate Cooperative Housing Organization

(Option B – Certification by the City Manager)

Add a new definition to section 10-1-1 as follows:

Legitimate Cooperative Housing Organization means an organization formed under Colorado law that has the following:

(1) a documented governance structure;

(2) a list of members; and

(3) bylaws that provide for the following:

(a) provisions prohibiting discrimination or harassment;

(b) a provision requiring regular meetings of all members;

(c) a democratic decision-making structure;

(d) provisions for discipline or discharge of members; and

(d) provisions for sharing of resources.

Amend Section 10-11-4

10-11-4. - License Application Procedure for Cooperative Housing Licenses.

(a) Only the owners of the property on which the cooperative is to be located may be an applicant for a cooperative housing license. If there are multiple owners, all owners must apply. A prospective tenant may, with the written authorization of all fee simple owners, apply for conversion of a valid rental license to a cooperative housing license.

(b) Every applicant for cooperative housing license shall submit the following:

(1) A written application for a license to the City, on official city forms provided for that purpose, at least thirty days before occupancy of the property including:

(A) A housing inspector's certification of baseline inspection dated within twelve months before the application. The applicant shall make a copy of the inspection form available to city staff and tenants of inspected units within fourteen days of a request; and

(B) A report on the condition and location of all smoke and carbon monoxide alarms required by chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the applicant; and

(C) A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C. 1981, made and verified by the applicant.

(D) A parking management plan meeting the requirements of subsection 10-11-11, B.R.C. 1981, made and verified by the applicant.

(E) Evidence that ~~A certificate from a Cooperative Housing Organization certifying that the applicant is a valid housing cooperative. Such certificate shall be issued if~~ the applicant is a Legitimate Cooperative Housing Organization~~meets specified pre-established criteria~~. ~~The Cooperative Housing Organization shall make available publically the criteria before considering any applications.~~

(c) Pay all license fees prescribed by section 4-20-69, "Cooperative Housing Fee," B.R.C. 1981, at the time of submitting the license application.

(d) Take all reasonable steps to notify any occupants of the property in advance of the date and time of the inspection. The applicant shall be present and accompany the inspector throughout the inspection, unlocking and opening doors as required.

Providing a Property Right for Equity Cooperatives

Add a new section 10-11-12a

Property Rights for Equity Cooperatives

Cooperatives that are licensed pursuant to this chapter will have the following status under Title 9, "Land Use Code," B.R.C. 1981:

(a) Equity Cooperatives. Any licensed limited equity cooperative or private equity cooperative is considered a use of land for the purposes of Chapter 9-6, "Uses of Land," B.R.C. 1981. If the city changes its land use regulations, such cooperatives shall have the privilege to continue as non-conforming uses under the requirements in Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, provided that all of the requirement of the Boulder Revised code continue to be met.

(b) Rental Cooperatives. Any licensed rental cooperative is considered a dwelling unit purposes of Chapter 9-6, "Uses of Land," B.R.C. 1981. Upon the abandonment, expiration, or revocation of such license, the property will be considered to be dwelling unit.

Occupancy Limits

Amend new subsection 9-8-5(d) as follows:

(d) A dwelling unit licensed as a Cooperative Housing Unit pursuant to section 10-11-3 "Cooperative Housing Licenses," B.R.C. 1981, shall not be subject to the occupancy limits set forth in this section. All such dwelling units shall be limited as follows:

(1) in the Rural Residential and Residential Low Density zone districts to no more than one occupant per 4~~2~~00 square feet of ~~habitable~~ ~~living~~ space, exclusive of any uninhabitable space~~, which is total square foot less garages, attics and basements~~.

(2) in the Residential Medium Density zone districts to no more than one occupant per 300 square feet of space, exclusive of any uninhabitable space; or

(3) in all other zone districts to no more than one occupant per 200 square feet of space, exclusive of any uninhabitable space.

[Note Section 9-16-1 provides as follows: "*Uninhabitable space* means a room or portion thereof that is six feet or less in floor to ceiling height, or a room solely used to house mechanical or electrical equipment that serves the building, including, without limitation, heating, cooling, electrical, ventilation and filtration systems, or any parking facility located completely below grade on all sides of the structure regardless of the topography of the site."]

License Not Tied to Property Ownership

Add a new definition to section 10-1-1 as follows:

Legitimate Cooperative Housing Organization means a group of people living together in a single dwelling who have the following:

(1) a documented governance structure;

(2) a list of members; and

(3) bylaws that provide for the following:

(a) provisions prohibiting discrimination or harassment;

(b) a provision requiring regular meetings of all members;

(c) a democratic decision-making structure;

(d) provisions for sharing of resources.

Amend section 10-11-4 as follows:

10-11-4. - License Application Procedure for Cooperative Housing Licenses.

(a) Only a Legitimate Cooperative Organization ~~Only t~~T~~he owners of the property on which the cooperative is to be located~~ may be an applicant for a cooperative housing license. I~~f there are multiple owners, all owners must apply. A prospective tenant may, with the written authorization of all fee simple owners, apply for conversion of a valid rental license to a cooperative housing license.~~ A licensed Legitimate Cooperative Organization may operate a cooperative only with the written consent of the property owner and only in a premises licensed pursuant to Chapter 10-3, "Rental Licenses," B.R.C. 1981.

More Detailed Parking Management Plan Requirements

10-11-11. – Parking Management Plan Required.

Each applicant for a cooperative housing license shall prepare a parking management plan. Approval of any such plan shall be a condition of issuance of any cooperative housing license. The plan shall include the following:

(a) A minimum of one off-street parking space per two occupants shall be provided for each cooperative housing unit. The approving authority may grant a parking reduction or parking deferral of up to fifty percent of the required parking if the applicant can demonstrate that the criteria set forth in sections 9-9-6(e) and (f), B.R.C. 1981, have been met. A cooperative housing unit shall have a minimum of two off-street parking spaces; or

(b) In lieu of off-street parking in excess of that required in the zone district, all occupants over sixteen years of age shall obtain and continue to maintain a local access bus pass with the Regional Transportation District.

~~limit the number of automobiles associated with the property to no than four vehicles per license. An agreement by the licensee to require that all residents have a local bus pass with the Regional Transit District may be included in such a plan, but is not required.~~

Neighborhood Notification Requirement

A new subsection 10-11-5(b)(5) is added as follows:

(b) Submit to the city manager, on forms provided by the manager:

(1) A housing inspector's certification of renewal inspection within twelve months before application. The applicant shall make a copy of the inspection form available to city staff and residents of inspected units within fourteen days of a request;

(2) A report on the condition and location of all smoke and carbon monoxide alarms required by chapter 10-2, "Property Maintenance Code," B.R.C. 1981, made and verified by the operator; and

(3) A trash removal plan meeting the requirements of subsection 6-3-3(b), B.R.C. 1981, made and verified by the operator.

(4) A parking management plan meeting the requirements of subsection 10-11-11, B.R.C. 1981, made and verified by the applicant.

(5) A certification that the applicant has provided to a resident of each dwelling on the street face contact information for the applicant and the organization responsible for certifying the applicant.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: June 21, 2016

AGENDA TITLE: Second Reading and Consideration of a motion to adopt Ordinance No. 8113 amending Chapter 13-1, "Elections," B.R.C. 1981, adopting the Municipal Election Code in place of the Uniform Election Code to streamline the process for Municipal Non-Partisan Elections, and setting forth related details.

PRESENTERS
Jane S. Brautigam, City Manager
Tom Carr, City Attorney
Kathy Haddock, Senior Assistant City Attorney
Lynnette Beck, City Clerk

EXECUTIVE SUMMARY
This agenda item is intended to seek council approval of a proposed ordinance amending the city's code regarding elections to replace the current Uniform Election Code with the simpler and easier to use Municipal Election Code. This change will not affect any election held as part of a coordinated election. The only elections affected will be city-only elections. City-only elections are elections held for general improvement districts, such as the Boulder Junction Parking District. Special elections are also city-only elections. General improvement district elections, because they are limited by the scope of the district, have very few voters. For example the Boulder Junction Access General Improvement District had only five voters. It is wasteful to comply with a complex election law when running such a small election. The Municipal Election Code is a simplified process much more appropriate for such elections.

Another benefit of this change will be to avoid frequent updates to the city's code. Because much of the Uniform Election Code is inapplicable to the city, the council made many changes as part of the adopting ordinance. Whenever the legislature changes the Uniform Election Code, the council needs to update the city's code. The legislature amends the Uniform Election code on a regular basis. The Municipal Election Code is

changed only when necessary for municipal elections. Thus, the proposed ordinance will reduce or eliminate the need for regular election code changes by council.

STAFF RECOMMENDATION

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

Second Reading and Consideration of Motion to Adopt Ordinance No. 8113 to amend Chapter 13-1, "Elections," B.R.C. 1981, to Change from the Uniform Election Code to the Municipal Election Code to Streamline the Process for Municipal Non-Partisan Elections, and Setting Forth Related Details.

BACKGROUND

Colorado has two separate election codes: the Uniform Election Code and the Municipal Election Code. In 1994, the city chose to adopt the more complex Uniform Election Code with numerous amendments to delete references to partisan elections and other non-applicable provisions. This was done to comply with the new statewide election requirements adopted by the state legislature in 1993 in response to the adoption of TABOR in 1992. This also required the city to update the chapter each year as the legislature adopted amendments, and prepared a master copy for staff use that included both codes. The city has not kept up with the annual amendments for several years. Staff recommends simplifying the process by adopting the Municipal Election Code which will not require regular updates and will allow the city to conduct special elections and elections for general improvement districts.

As a practical matter, there will be no change for the vast majority of voters or for general elections. Coordinated elections, that is the statewide elections run in even-numbered years and council elections in odd-numbered years, are run by the county under the Uniform Election Code and will not be affected by this change. While the City Clerk is a designated election officer for those elections, they are run by the County Clerk and Recorder under the Uniform Code. The city does not run those elections. The city does, however, run special elections and general improvement district elections. The proposed change would affect only those elections. The city of Boulder very rarely conducts citywide special elections. The city does conduct elections for the city's general improvement districts. The proposed change will allow the staff to run those elections with less staff time and cost, and eliminate the need for routine changes to the city's code as the state makes changes. The Municipal Election Code allows the city to adopt the Uniform Election Code by ordinance for any particular election, so if ever appropriate, the council could decide to use the state code.

The changes in the proposed ordinance are to implement the changes from the Uniform Election Code to the Municipal Election Code. The deletion of former section 13-1-6 regarding Submission of Citizen Petitions for Comment is because it conflicts with the

charter. Charter Section 38B governs this procedure and makes it mandatory that the form be submitted for comment prior to circulation.

FIRST READING QUESTIONS AND QUESTIONS FROM THE PUBLIC

Q: Why are we switching from the Uniform Election Code to the Municipal Election Code?

A: To give the city flexibility in its conduct of elections that are not coordinated with the county, such as special elections or general improvement district elections. The change will also allow the city, rather than the county, to determine precincts, polling places, and the manner of voting for non-coordinated elections. This flexibility will allow the city the opportunity to evaluate the options for particular elections to better serve the residents and reduce costs for elections.

Q: What are the differences between the Uniform Election Code and the Municipal Election Code?

The Uniform Election Code is at CRS Chapter 1, Parts 1-41, and consists of 542 pages and the Municipal Election Code is at CRS 31-10-101, *et seq.* and consists of 79 pages in the official codification of the statutes. The state election code was adopted to govern statewide elections conducted through the Colorado Secretary of State's office by 67 different counties. The state code must address partisan elections and primaries, and specify the means for the constant back and forth between the Secretary of State's office and the county clerks for each election.

Because of these differences, when adopting the state election code, the city had to eliminate several sections and revise others for city elections.[1] For instance, the city adoption had to include language changing definitions; sections of the statute were revised directing the secretary of state and county election official to take certain action (which the city does not have the power to do); and adding portions of the municipal code into the city code for local issues such as cancelling elections, specific charter requirements, and initiative, referendum and recall. The city code should have been updated every year that the legislature makes changes in the state code. By adopting the Uniform Election Code, the city had to defer to the intent of the state legislature when construing its election laws, rather than the intent of the city council.

The Municipal Election Code only would apply to municipal elections run by the city clerk. The Colorado Municipal League and staff monitor any efforts to change the Municipal Election Code very carefully to make sure it does not negatively affect municipal elections, and proposes changes when helpful to cities. The municipal code allows a city to adopt the state code by ordinance or resolution for any particular election if that is more appropriate for a specific election, but does not require code changes for council to authorize the use of the Uniform Election Code for a particular election. The

[1] See current BRC 13-1-2 that is being eliminated for how these issues were addressed by adopting the Uniform Election Code.

Municipal Code does not require the city to coordinate elections with the county, but allows it to do so when appropriate. The case law interpreting the Municipal Code is applicable to cities, while the case law interpreting the Uniform Code interprets requirements for statewide and partisan elections which can increase the cost of a local election.

Q: What differences will voters experience in adopting the Municipal Election Code?

A: For November elections coordinated with the county, the voters will not experience any differences. For those elections that are required to be coordinated with the county, the procedures will be the same. The differences would become apparent in case of a special city election or an election for a district that does not include the whole city. For instance, the precincts may be different than those established by the county, the voting may be by paper ballot or through the use of different machines than Boulder County uses. The difference will be more prominent in the flexibility allowed by the city council and staff to make adjustments to the conduct of those elections that better suit the smaller area participating in the election and to reduce the costs of the election.

Q; Why did the City adopt the Uniform Election Code and why was it not changed to the Municipal Election Code earlier?

A: The city amended Chapter 13 regarding elections in 1994, to comply with the amendments to the Uniform Election Code made by the legislature in 1993 to respond to the adoption of TABOR in 1992. At the time, it was thought that all elections may have to be conducted according to state law to comply with TABOR. However, since the original adoption of TABOR, necessary election process have become more clear, and the Municipal Election Code has been revised as necessary for municipal elections to comply with TABOR. The change has not been made sooner as this is one of the work plan items that has been delayed to address other priorities.

Q: Can there be poll watchers at an election held under the Municipal Election Code?

A: Yes, CRS 31-10-602 specifically provides for poll watchers at municipal elections. They are not selected by a political party but by each candidate or the issue committee in the event of a ballot measure.

Q: The Municipal Election Code does not require the city to acquire voting machines capable of producing a voter-verified paper record; how is the city protected?

A: Generally municipalities that do not conduct annual elections do not buy their own voting machines, but borrow them from another entity, usually the county clerk. Those machines are governed by the state law regarding acquisition of new voting systems, which requires them to produce verified paper records or the entity cannot purchase them.

Most elections are done by mail ballot. That combined with early voting, make it unlikely Boulder would ever acquire its own voting machines, and the machines it would borrow would necessarily meet the state's requirements.

Q: The Municipal Election Code does not require risk-limiting audits as does the Uniform Election Code.

A: The risk-limiting audit is a requirement that was adopted by the state legislature in 2009 to be implemented for the November, 2017, elections. A risk-limiting audit is a protocol established by statistical methods that have involved a large investment of time and money and is being done on a trial basis. In the event that the trial is successful, it may be adopted for the Municipal Election Code. The city could require use of the protocol for any particular election that was not coordinated with the county if the protocols are adaptable to a particular election. For elections that have only a small number of voters, the risk-limiting audit would not be appropriate. Statistical analysis is not helpful if there only five voters. The risk-limiting audit requirements will apply to all November elections of the city as they are coordinated elections.

RECOMMENDED ACTION
Staff recommends adoption of the ordinance to simplify the city's law regarding elections.

ATTACHMENT: Ordinance No. 8113

ORDINANCE NO. 8113

AN ORDINANCE AMENDING CHAPTER 13-1, "ELECTIONS," B.R.C. 1981; TO CHANGE FROM THE UNIFORM ELECTION CODE TO THE MUNICIPAL ELECTION CODE TO STREAMLINE THE PROCESS FOR MUNICIPAL NON-PARTISAN ELECTIONS; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 13-1, "Elections'" B.R.C. 1981, is amended to read:

Chapter 13-1: Elections

13-1-1. Legislative Intent.

(a) The purpose of this chapter is to establish procedures for regular and special elections of the home rule City of Boulder. Such procedures are intended to be consistent with the Municipal ~~Uniform~~ Election Code of 1965~~92~~ as adopted by the state of Colorado, except as necessary to comply with provisions of the charter or to meet a specific need of the City as determined by the city council.

(b) ~~The purpose of this chapter in adopting by reference sections 1-2-228, 1-4-913, part 2 of article 1-11, and article 13 of title 1, C.R.S., which form a part of the Uniform Election Code, is to make it clear that such provisions apply to city elections. Adoption does not create a separate municipal offense or municipal court proceeding. Proceedings under such statutes, including, without limitation, contests of municipal elections and criminal prosecutions, shall be brought and heard in the district court or county court as specified by state law, and control of the criminal prosecution of the enumerated election offenses shall remain with the district attorney or the attorney general of the state.~~

~~(c)~~ The purpose of this chapter is to set the date upon which a proposed ballot measure is final for its submission to the voters for purposes of complying with the intent and spirit of § 1-45-117, C.R.S. Such date is the final vote by city council on the final reading of the ordinance submitting the ballot measure to the voters. That date is set in order to allow for the distribution of information by the city and input by the public without limitation until the finalization and submission of the ballot measure for the ballot.

13-1-2. Adoption ~~Incorporation~~ of Municipal~~Uniform~~ Election Code of 1965~~92, as Amended, With Modifications~~.

~~(a)~~ The Municipal ~~Uniform~~ Election Code of 1965~~92~~, 31-10-101, *et seq*~~1-1-101 through 1-13-803, C.R.S., as amended through June 6, 2006,~~as it may be amended, is adopted by reference and incorporated so as to have the same force and effect as if printed in full in this code, except as specifically amended by the charter or provisions of this chapter. Unless the context or ordinance requires otherwise general municipal elections as defined in Sec 22 of the charter shall be held as specified for regular municipal elections in the Municipal Election Code.

~~(b) The council finds that certain modifications to the Uniform Election Code of 1992, as amended, are in the best interest of the residents of the City and therefore adopts the following modifications:~~

~~(1) Section 1-1-102, C.R.S., is repealed and reenacted to read:~~

~~1-1-102. Applicability.~~

~~(1) This election code applies to all municipal general and special elections of the City, including without limitation recall elections. Except as otherwise provided in the Boulder Revised Code, 1981, or any uncodified ordinance specific to the situation, this election code also applies to general improvement district elections, and to any elections required by the Constitution of the State of Colorado for which no specific provision is made by any law of the City.~~

~~(2) The Uniform Election Code of 1992 was adopted by the General Assembly of the State of Colorado to cover many elections other than municipal elections. Accordingly, many provisions of the Uniform Election Code are inapplicable to municipal elections. The sections and parts of sections which appeared most clearly to be inapplicable to municipal elections have been specifically not adopted, either by calling them not adopted, repealed, or repealed and reenacted to read, in adopting by reference the Uniform Election Code of 1992. However, other provisions of the Uniform Election Code of 1992 which are also inapplicable to municipal elections have not been specifically called out as being inapplicable. Adoption by reference of such provisions does not mean that the city council was of the opinion that such provisions are applicable to municipal elections, and in such cases their applicability shall be determined by the intent of the Colorado General Assembly.~~

~~(3) This election code is applicable both to coordinated elections involving the participation of the county clerk and elections of other political jurisdictions, and to municipal elections which the City may choose to conduct on its own, as the city council may from time to time specify in any ordinance calling a special election or otherwise.~~

~~(4) To the extent that any provision of this election code conflicts with the charter, such provision is inapplicable.~~

~~(2) Section 1-1-104(2.6) Definitions.~~

~~"Ballot measure" means a ballot issue or a ballot question that has been approved by the city council for submittal to the voters at an election.~~

~~(3) Section 1-1-104(8), C.R.S., is repealed and reenacted to read:~~

~~"Designated election official" means the city clerk.~~

~~(4) Section 1-1-104(17), C.R.S., is repealed and reenacted to read:~~

~~"General election" means the election specified in Charter Section 22 to be held on the first Tuesday in November of every odd-numbered year.~~

~~(5) Section 1-1-104(18), C.R.S., is repealed and reenacted to read:~~

~~"Governing body" means the city council, including without limitation the city council sitting as the board of directors of a general improvement district.~~

~~(6) Section 1-1-104(34.5), C.R.S., is repealed and reenacted to read:~~

~~"Referred measure" includes any ballot question or ballot issue submitted by the city council to the qualified electors of the city pursuant to Charter Sections 37 through 54 or Section 1-41-103, C.R.S.~~

~~(7) Section 1-1-104(46), C.R.S., is repealed and reenacted to read:~~

~~"Special election" means an election other than a general election as specified in the charter, including without limitation Sections 22, 41, 47, and 58.~~

~~(8) Sections 1-1-104(1), (5), (6), (9), (9.5), (19), (20), (22), (23), (24), (25), (26), (31), (32), (39), (40), (41), (42), and (45), C.R.S., are repealed.~~

~~(9) Sections 1-1-109(1) and 1-1-110(3), C.R.S., are repealed and reenacted to read:~~

~~(1) Except as otherwise provided by this election code, by some other specific provision of the Boulder Revised Code, 1981, or by the ordinance calling a particular election, the secretary of state shall approve all the forms required by this election code, which forms shall be followed by county clerk and recorders, election judges, and other election officials. Forms concerning~~

~~nominations for city council, initiative, referendum, and recall petitions, and any other forms governed by the charter are included among the forms which are "otherwise provided" by this election code.~~

~~(2) As the chief election official for the county, the county clerk and recorder shall be the chief designated election official for all coordinated elections. If the City or its general improvement districts request that its election be coordinated with any other election, it shall certify the ballot content to the county clerk and recorder prior to the fifty-fifth day before the election. Nothing in this section shall authorize the city clerk or the county clerk and recorder to take any action at variance with the requirements of the charter.~~

~~(10) Section 1-1-202, C.R.S., is repealed and reenacted to read:~~

~~1-1-202. Commencement of Terms.~~

~~The terms of city councilmembers shall commence as specified in charter section 5.~~

~~(11) Section 1-2-104, C.R.S., is repealed and reenacted to read:~~

~~1-2-104. Additional Qualifications.~~

~~Qualifications for voting in elections concerning general improvement districts of the City shall be as specified in Chapter 8-4, "General Improvement Districts," B.R.C. 1981, and in the ordinance establishing the specific district.~~

~~(12) Section 1-4-501, C.R.S., is repealed and reenacted to read:~~

~~1-4-501. Electors Eligible to Hold Municipal Office.~~

~~Qualifications of electors eligible to hold municipal office are those set forth in charter section 4.~~

~~(13) Section 1-4-805, C.R.S., is repealed and reenacted to read:~~

~~1-4-805. Nomination of Municipal Officers.~~

~~Nomination of municipal officers is governed by charter sections 23 through 28 and 30.~~

~~(14) Section 1-4-901, C.R.S., is repealed and reenacted to read:~~

~~1-4-901. Recall.~~

~~Recall elections shall be conducted when required and under the procedures specified in charter sections 55 through 62. The conduct of such elections shall be in accordance with those provisions of this election code not inconsistent with the charter.~~

~~(15) Repealed.~~

~~(16) Section 1-4-1001, C.R.S., is repealed and reenacted to read:~~

~~1-4-1001. Withdrawal from candidacy.~~

~~Withdrawal from nomination shall be governed by charter section 29.~~

~~(17) Section 1-5-203, C.R.S., is amended to add a new subsection (4) to read:~~

~~(4) Certification of Ballot for Elections Which are Not Coordinated.~~

~~To the extent not inconsistent with the charter, the city clerk shall certify the ballot at least fifty days before any election which is not a coordinated election. The ballot certified shall comply with Charter Section 31, and shall also include any ballot issues or ballot questions to be submitted to the eligible voters.~~

~~(18) Section 1-5-205, C.R.S., is amended by the addition of a sentence to read:~~

~~With respect to the election of a member or members of the city council, the city clerk shall also publish the notice required by and containing the information contained in charter section 31.~~

~~(19) Repealed.~~

~~(20) Section 1-5-208, C.R.S., is repealed and reenacted to read:~~

~~1-5-208. Election May be Canceled or Ballot Questions Withdrawn.~~

~~(1) Except for initiative, initiated referendum, and recall elections, if the only matter before the electors is the consideration of ballot issues or ballot questions, no later than twenty-five days before an election conducted as a coordinated election in November, and at any time prior to any other election, the city council may by resolution cancel the election or withdraw one or more such issues or questions from the ballot. The ballot issues and ballot questions shall be deemed to have not been submitted and votes cast on the ballot issues and ballot questions shall either not be counted or shall be deemed invalid by action of the city council.~~

~~(2) If the electors are to consider the election of persons to the city council and ballot issues or ballot questions, the city council may remove any or all of the ballot issues or questions by following the procedures set forth in subsection (1) of this section.~~

~~(3) Unless otherwise provided by an intergovernmental agreement pursuant to 1-7-116, C.R.S., upon receipt of an invoice, the City shall within thirty days pay all costs accrued by the county clerk and recorder and any coordinating political subdivision attributable to the canceled election and any removed ballot questions or issues.~~

~~(4) The designated election official shall provide notice by publication of the cancellation of an election and a copy of the notice shall be posted at each polling place of the City, in the city clerk's office, and in the office of the county clerk and recorder.~~

~~(21) Section 1-5-406, C.R.S., is repealed and reenacted to read:~~

~~1-5-406. Content of Ballots.~~

~~The designated election official shall provide printed ballots for every election. The official ballots shall be printed and in the possession of the designated election official at least thirty days before the election. Every ballot shall contain the names of all duly nominated candidates for city council, except those who have died or withdrawn, and the ballot shall contain no other names. The names of the candidates shall be printed upon the ballot in alphabetical order by surname as provided in charter section 34.~~

~~(22) Section 1-5-407, C.R.S., "Form of Ballots" is amended and reenacted to include a new subsection (10) to read as follows: Mail ballots shall be considered ballots on demand for purposes of subsection (1.6) so that ballot stubs shall not be required.~~

~~(23) Sections 1-6-105 and 106, C.R.S., are repealed and reenacted to read:~~

~~1-6-105. Appointment of Election Judges for Non-partisan Elections.~~

~~(1) For coordinated elections, election judges shall be appointed by the county clerk as provided by state law. For other elections, no later than fifteen days before the election, the city clerk shall appoint election judges for the City or the district for which the election is to be held. The term of office for such judges shall end with the end of the judge's duties with respect to the election for which appointed.~~

~~(2) For coordinated elections, any person who has been appointed by a county clerk and recorder, who has filed an acceptance, and who has attended a class of instruction may be appointed as an election judge for non-partisan elections. For other elections, any person who has~~

~~been appointed by the city clerk, who has filed an acceptance, and who has attended a class of instruction may be appointed as an election judge for such election.~~

~~1-6-106. Certification of Appointment~~

~~For coordinated elections, thirty days before the election the county clerk and recorder shall certify the list appointing the election judges and shall mail one acceptance form to each person appointed. For other elections, fifteen days before the election the city clerk shall certify the list appointing the election judges and shall mail one acceptance form to each person appointed.~~

~~(24) Section 1-7-902, C.R.S., is repealed and reenacted to read:~~

~~1-7-902. Preparation of Fiscal Information.~~

~~The city manager shall be responsible for providing to the designated election official the fiscal information which must be included in the ballot issue notice for a referred measure.~~

~~(25) Section 1-7.5-104, C.R.S., is repealed and reenacted to read:~~

~~1-7.5-104. Mail Ballot Elections.~~

~~If the city council determines that an election shall be by mail ballot, the designated election official shall conduct the election by mail ballot in accordance with this article. The designated election official shall give appropriate weight to the comments of the secretary of state concerning the City's mail ballot plan, but may conduct the election despite disapproval of all or a part of such plan by the secretary of state.~~

~~(26) Section 1-7.5-107, C.R.S., is amended by the addition of a sentence to read:~~

~~With respect to the election of a member or members of the city council, the city clerk shall also publish the notice required by and containing the information contained in charter section 31.~~

~~(27) Sections 1-10-201, 202, and 203, C.R.S., are repealed and reenacted to read:~~

~~1-10-201. Canvassing.~~

~~The general canvassing and election board shall be appointed and conduct its business as provided in charter section 32. The city clerk shall forward all election returns to the city council for canvassing pursuant to charter section 32. This canvassing board shall also act as the canvassing board for the City portion of a coordinated election.~~

~~(28) Repealed.~~

~~(29) Section 1-11-103, C.R.S., is repealed and reenacted to read:~~

~~1-11-103. Certificates of Election.~~

~~Certificates of election shall be issued as provided by charter section 32.~~

~~(30) Article 1-12, C.R.S., is repealed and reenacted to read:~~

~~1-12-101. Recalls and Vacancies.~~

~~Recalls shall be initiated and conducted as provided in Charter Sections 55 through 62. Vacancies shall be filled as provided in Charter Section 8.~~

~~(31) Section 1-13-107, C.R.S., is amended to add a subsection (b) to read:~~

~~(b) The secretary of state is not authorized by this section to take any action or enforce any regulation which is inconsistent with this election code as adopted by the home rule City of Boulder or with the charter.~~

~~(32) The following sections, parts, and articles of the Colorado Revised Statutes are not adopted by reference, and are not applicable to City elections: Sections 1-1-112, 201 and 203, 1-2-203, 209, 210, 218.5, 219, 222, 701, 702 and 703; Article 1-3; Article 1-4 except parts 9, 10, and 11; Sections 1-4-902 through 908, 910, and 912, 1-4-1002 and 1003, 1-4-1103; 1-5-101, 103, 207, 301, 402, 403, 404, 601.5, 605.7 and 608.2; 1-6-102, 103, 103.5, 103.7, 104, 109, 110, 111; 1-7-105 and 106; Part 2 of Article 1-7, Sections 1-7-407; Section 1-8-114.5; Part 1 of Article 1-10; 1-10.5-102; 1-11-101 through 108, 1-11-203, 1-11-204 through 211, and Part 3 of Article 1-13.~~

13-1-3. Responsibility of the City Manager.

The city manager shall administer the requirements of this chapter and comply with all laws regulating the conduct of elections.

~~13-1-4 Absentee Ballot Cards.~~

~~Whenever an electronic voting system is used in a municipal election and official ballots are in the form of ballot cards to be read by electronic vote counting equipment, official absentee ballots may also be in the form of ballot cards.~~

~~13-1-5 Duplication of Absentee Ballots for Counting.~~

~~(a) Whenever an electronic voting system is used in a municipal election and whenever an absentee ballot is not suitable for counting on the electronic vote counting equipment because~~

~~such ballot was cast in pencil or ink or is in the form of a paper ballot, a true duplicate copy of the ballot may be made and counted in the manner provided in this section.~~

~~(b) By means of a vote recorder or punching device, the judges of election of the precinct selected by the city manager to receive the absentee ballots shall make such duplicate copy by punching an unused ballot card provided to the judges for that purpose. One such judge shall read aloud the vote on the original handwritten ballot and another judge shall punch the duplicate. A third judge shall watch the duplication process and shall check its accuracy.~~

~~(c) An election judge shall label any duplicate ballot so made as a duplicate ballot and shall record the serial number of the duplicate ballot on the original handwritten absentee ballot.~~

~~(d) If a judge makes an inaccurate duplicate ballot, the judge shall label such ballot "void" and place it in a separate envelope provided by the city manager for that purpose. The judges shall make a new duplicate ballot and label it in the same manner as provided in this section and shall record the serial number of any new duplicate ballot on the original handwritten absentee ballot.~~

~~(e) The election judges shall retain all original handwritten absentee ballots and place them in a separate envelope provided by the city manager for that purpose.~~

~~(f) The election judges shall substitute any duplicate ballot made under this section for the original ballot and shall present such duplicate for counting on the electronic vote counting equipment at the counting center after 7:00 p.m. on election day in the same manner as other ballots from city election precincts are counted.~~

~~(g) No election judge shall make any duplicate ballot under this section before the time otherwise allowed by law for the counting of absentee ballots.~~

~~(h) Whenever election judges of the absentee voter precinct use the duplicate ballot process authorized by this section, such judges shall make a written statement, in addition to any other statements or certificates otherwise required by law to be made, showing the number of duplicate ballots made and not marked "void" together with the serial numbers thereof and the number of duplicate ballots made and marked "void" together with the serial numbers thereof and shall return such statement to the city manager with other election papers and supplies.~~

~~(i) When absentee ballots are duplicated and counted as authorized by this section, the absentee precinct judges shall not be required to make or post an abstract of the count of votes.~~

~~(j) All provisions of the election laws of the city that are not inconsistent or in conflict with this section continue to apply to all elections where the duplicate ballot process authorized by this section is used. Any provisions of the election laws of the city that are inconsistent or in conflict with the provisions of this section do not apply to elections where the duplicate ballot process~~

~~provided in this section is used. Nothing in this section shall be construed to prohibit the use of a manual system of counting absentee ballots.~~

~~(k) The city manager is authorized to institute other procedures not inconsistent with the provisions of this section that are designed to promote efficiency and accuracy in the duplication process authorized by this section.~~

~~13-1-6 Submission of Citizen Petitions for Comment Prior to Circulation.~~

~~The proponents of an initiative, referendum, or charter amendment petition may submit a draft thereof to the city manager before circulating the petition. No later than fifteen days after the date of receiving such petition draft, and after consulting with the city attorney, the manager shall provide written comments to the proponents concerning any problems encountered in the format or contents of the draft. The proponents may either disregard the comments or alter the petition draft in response thereto.~~

13-1-4~~7~~. Initiative and Referendum.

All aspects of the exercise of the initiative and referendum power reserved to the people by the charter of the city of Boulder shall be governed exclusively by the provisions of the charter, this code, and any other applicable ordinance of the city, and no statute of the state purporting to regulate in any way the exercise of the initiative or referendum shall govern the exercise of the initiative or referendum, except for those criminal provisions of state law not in conflict with any provision of the charter or this code which prohibit fraud or deception in the circulation or signing of initiative or referendum petitions, or respecting affidavits concerning said petitions. This section does not apply to initiatives concerning the amendment or abolition of the charter.

13-1-5~~8~~. Special Provisions Concerning Filling Council Vacancies by Special Election.

The electors of the city approved an amendment to charter section 8 in November 1996. That amendment changed the method of filling vacancies on the city council from an appointment system to an election system. This section establishes the term of a person elected by special election to fill a council vacancy~~, and makes such adjustments to the provisions of the Uniform Election Code of 1992, as adopted with amendments by this title, as are useful in adapting that code to the exigencies of special elections to fill vacancies, which must be conducted on a compressed time frame~~.

(a) The term of a council member elected in a special election held pursuant to charter section 8 to fill a council vacancy shall expire at 10:00 a.m. on the third Tuesday in November following the next general municipal election.

(b) The city council may, in the resolution calling for a special election to fill a council vacancy, specify a number of days before the election that the early voters' polling place shall be open ~~which is less than that specified in section 1-8-202, C.R.S., as adopted by reference~~, and may also specify additional hours during which such early voters' polling place shall be open. But such a provision is only effective for a special election which is not conducted as a coordinated election.

13-1-6~~79~~. Fixing of Ballot Title for Purposes of § 1-45-117, C.R.S.

For purposes of § 1-45-117, C.R.S., ballot titles for city ballot measures shall be considered fixed upon the final vote of the council after final reading of a motion, resolution, or ordinance which officially submits a specific ballot measure in the form it is to appear on the ballot for a vote of the electors at the next election. The date the election is called for consideration of city ballot measures shall not change the date upon which the ballot title is fixed as provided in this section.

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

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

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 5th day of April, 2016.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 21st day of June, 2016.

_____
Mayor

Attest:

_____
City Clerk

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: JUNE 21, 2016

AGENDA TITLE: Second Reading and consideration of a motion to adopt Ordinance No. 8114 amending Chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981; Chapter 13-3, "Campaign Activities," B.R.C. 1981; and Chapter 13-4, "Complaints Related To Election Procedures And Regulations," B.R.C. 1981, to make changes to conform to recent Supreme Court Cases and changes to State Law, change the campaign limits for matching funds from formulas to dollars, clarify issues; and setting forth related details.

PRESENTERS
Jane S. Brautigam, City Manager
Kathy Haddock, Senior Assistant City Attorney
Lynnette Beck, City Clerk

EXECUTIVE SUMMARY

In the 1990s, the voters approved an initiative regarding campaign finance in city elections. Since that time, the United States Supreme Court has adopted limitations on campaign finance laws, particularly with respect to issue campaigns, and the state of Colorado has eliminated registration of political committees. The Boulder initiative was to require disclosure of campaign activities that involve the expenditure of funds, but is written to include campaigning using technology that does not involve the expenditure of funds. This ordinance is to change these chapters of the code without changing the intent of the voters. This memo is to answer first reading questions.

The attached ordinance also includes several highlighted changes since first reading. They are added to comply with a recent decision of the Court of Appeals for the Tenth Circuit interpreting Colorado's constitutional, statutory and regulatory campaign finance laws regarding issue committees.

STAFF RECOMMENDATION

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

Second Reading and Consideration of a Motion to Adopt Ordinance No. 8114 Amending Chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981; Chapter 13-3, "Campaign Activities," B.R.C. 1981; And Chapter 13-4, "Complaints Related To Election Procedures And Regulations," B.R.C. 1981, to Make Changes to Conform to Recent Supreme Court Cases and Changes to State Law, Change the Campaign Limits for Matching Funds from Formulas to Dollars, Clarify Issues; and Setting Forth Related Details.

DESCRIPTION OF SPECIFIC AMENDMENTS

The proposed ordinance adds definitions for those terms that have raised questions in the past. The reference to "clerk" has been changed to "manager" except where clerk is specified in the charter. Following are more detailed explanations of the changes that may not be self-explanatory.

- Eliminates any implication that any campaigning done without cost (such as text, Facebook, tweets, etc.) is required to be disclosed under this section of the code.
- Clarifies the requirements that do not apply to non-candidate issues because decisions of the United States and Colorado Supreme Court have limited the amount that governments can put requirements or restrictions on campaigning for or against issues.
- The definition of "political committee" and Section 13-2-12 are eliminated since the state no longer maintains the records upon which these sections relied. The only way for transparency of expenditures by organizations is to require that they establish unofficial candidate committees or issue committees.
- "Financial" has been eliminated for the description of the disclosures required by candidates and incumbents in Section 13-2-3 and 13-2-4 because the disclosures required do not include dollar amounts, only the employers and other sources of funds that may affect a candidate's or incumbent's opinion on an issue.
- Sections 13-2-6 and 13-2-7 regarding unofficial candidate committees and issue committees have been amended by adding a new subsection to each explicitly stating that these types of committees cannot be combined. While the existing language seems to make that clear, there has been some confusion. Because there are different contribution limits for issues and candidates, combining committees allows for intermingling of contributions and expenditures that circumvents the purpose of the initiative and prevents transparency.
- Subsection (c) was added to Section 13-2-7 because some issue committees were changing their purposes after they had received donations. Without a limitation

on those changes, donations could be used for purposes not intended by the donors.

- Subsection (f) was added to Sections 13-2-8, 13-2-9 and 13-2-11 to require committees to provide the city clerk's office with back-up support documents for what they entered on the city's website as total contributions and expenditures. The city clerk's office performs audits of the committees, and the back-up information is necessary for those audits.
- Subsection (d) of Section 13-2-13 was eliminated because it is not practical to include the statement on tweets or other communications with limited characters.
- For eligibility for matching funds, the initiative had included a formula which was in the Code and based on the number of registered voters of the city as of the day after the date set by state law for the purging of registration records of the election year. The state law does not require purging of registration records any longer. The formula has been replaced with "$20,000" to reflect the amount the formula allows. That replacement is in Sections 13-2-19 and 13-2-20(b)(1).
- Section 13-2-20 was amended so that the number of contributors does not have to be manually calculated.
- Subsection (b)(4) was eliminated from 13-2-21 because carryover funds are not permitted.

The highlighted sections were added to comply with *Coalition for Secular Government v. Williams,* 815 F.3d 1267 (2016). In that case, the court ruled that any limitation on, or requirements of, issue committees affected the First Amendment free speech and right of association clauses. Therefore, any law restricting those rights, including disclosure and reporting requirements of issue committees were constitutional only if the public's "information interest" in the source and amount of funding for an issue committee could pass an "exacting scrutiny" test. That requires a substantial relationship between the disclosure requirement and a sufficiently important governmental interest. Further the requirements must be the minimum required to support the public information interest. The court discussed the level of difficulty for an average citizen to be able to interpret and comply with the reporting requirements.

In response to the court ruling, the legislature adopted an amendment to the state Fair Campaign Practices Act that minimized the disclosure and reporting requirements for a new class of issue committees. The "small-scale issue committees" are issue committees that have accepted or made contributions or expenditures of less than $5,000 for a ballot measure during one election cycle. If the small-scale issue committee accepts or makes contributions or expenditures of less than $200, there is no filing requirement. Between $200 and $5,000, the committee must register and provide information on the committee and its financial institution, but is not required to make any disclosure about contributions or expenditures. Issue committees whose contributions or expenditures exceed $5,000 must follow the reporting and disclosure requirements that previously existed.

In trying to follow the ruling of the Tenth Circuit and scale the amounts determined by the state legislature to the city, the attached ordinances has the following changes from the first reading version:

- Added new subsections (i) to 13-2-1 on the second page of the ordinance clearly stating the purpose for the city requiring disclosure and reporting by issue committees

- Added new subsections (j) to 13-2-1 on the third page of the ordinance of proposed findings of the council describing the reasons that disclosure and reporting are important for city elections, and the efforts the city has made to make the reporting as simple as possible for issue committees while still providing information to the public.

- In section 13-2-11(a) on the thirteenth page of the ordinance one of the reporting dates was eliminated so that the reporting periods are no more often than once every 2 weeks, except for the report required immediately before the election; that report is required five days before the election

- In subsection (b) of 13-2-11, added some of the detail that must be included in the statement of contributions and expenditures.

In Boulder for issues in elections over the past five years, one corporation has contributed between 6% and 70% to an issue committee supporting or opposing a ballot measure. For 2013 on the municipalization question, the issue committees received a total of $2,439,195 with 70% from one corporation (divided between 2 different committees) and 6% from another. In 2011, the total contributed to issue committees on the municipalization measure was $1,109,696 with 42% contributed by one corporation.

We believe that the proposed changes meet the requirements of the Tenth Circuit. We also believe that the additional purpose and finding statements are appropriate from previous discussions with council and the research showing the cost of issue campaigns in Boulder and to meet the requirements of the Tenth Circuit. However, it is important that the additional purposes and findings are accurate and complete in your judgment. You may make revisions and additions as you see fit to fully express the reasons that reporting and disclosure of contributions and expenditures by issue committees is important in Boulder.

FIRST READING QUESTIONS

Q: What was the per-registered-voter amount and the minimum number of supporters needed in 2015?

A:
To determine each year's formula, we request from Boulder County the number of registered voters. This number is then multiplied by the annual adjusted $0.150 per-voter base ($0.150 was approved in the 1999 initiative) as indicated for inflation in the Denver-Boulder-Greeley CPI.

For the 2015 candidate election, there were 90,267 registered voters, and the adjusted per voter base was $0.221, resulting in an expenditure limit of $19,909. The matching fund amount is 50% and requires the candidate to raise 10% of the expenditure limit from different contributors. Ten percent is $1,991, and must be reached with contributions not to exceed $25 per person (or 80 contributions of $25 to reach $1,991).

Q: Why are the amount per campaign and minimum number of people changed to numbers rather than formulas in the proposed ordinance?

A: The formulas were not easy to calculate and most people were surprised at how high the dollar amount and number of voters are when they do the calculations. It seemed more transparent to put in the numbers, and council can adjust the dollar amount and contributor numbers when appropriate. In addition, the state no longer purges voter registration records, so the formula artificially inflates because it was devised to be based on registration records that were purged regularly.

Q: What do the added subsections in 13-2-9 and 13-2-11 mean? Do they require audited financial statements?

A: Audited financial statements are not necessary. The addition is for the supporting documents to be provided to the city clerk so that spot audits can be done. As the campaign reporting is all done on a computer program and visible to the public, only totals are provided. In order to audit the total amounts provided, without this language, the city clerk has to call each candidate for the more detailed information. The additions standardize the process for all committees and prevents unnecessary work by the staff and the committee treasurer.

Q: Didn't we adopt a floor dollar amount below which neither incumbents nor candidates had to disclose interests?

Yes. The floor is $1000 and it is in Section 13-2-3(b)(2). This section was amended substantially and this clarification added to the code in the amendments made by Ordinance No. 7968 adopted in 2014.

ATTACHMENTS
Ordinance No. 8114

ORDINANCE NO. 8114

AN ORDINANCE AMENDING CHAPTER 13-2, "CAMPAIGN FINANCING DISCLOSURE," B.R.C. 1981; CHAPTER 13-3, "CAMPAIGN ACTIVITIES," B.R.C. 1981; AND CHAPTER 13-4, "COMPLAINTS RELATED TO ELECTION PROCEDURES AND REGULATIONS," B.R.C. 1981, TO MAKE CHANGES TO CONFORM TO RECENT SUPREME COURT CASES AND CHANGES TO STATE LAW, CHANGE THE CAMPAIGN LIMITS FOR MATCHING FUNDS FROM FORMULAS TO DOLLARS, CLARIFY ISSUES; AND SETTING FORTH RELATED DETAILS.

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

Section 1. Chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981, is amended to read:

Chapter 13-2: Campaign Financing Disclosure

13-2-1. Legislative Intent.

(a) The purposes of this chapter include assisting electors in the city in making informed election decisions by requiring ~~financial~~ disclosure of information from candidates for city office and committees supporting or opposing such candidates and city ballot issues.

(b) The limitations on contributions are intended to assure the public that:

(1) Excessive campaign costs and large contributions do not cause corruption or the appearance of corruption in the election process; and

(2) Large campaign contributions will not be used to buy political access or to influence governmental actions.

(c) Public campaign financing is intended to assure the public that access to large amounts of money will not be a prime requirement for participation in the political process.

(d) The provisions of this chapter concerning financial disclosure are exclusive and supersede any state statute on the subject, whether in conflict herewith or not, including, without

limitation, article 1-45, C.R.S., unless the provisions of such statute are expressly made applicable by reference in this chapter.

(e) The reporting requirements are necessary to gather the data to detect violations.

(f) The provisions of this chapter have been modeled on the Federal Election Campaign Act and the Colorado Fair Campaign Practices Act, and in accordance with an initiative passed by the people of the city in 1999. Modifications have been made where necessary to meet specific needs of the city, to clarify and make more specific various requirements, and to comply with the evolving law in this area.

(g) The city council finds that at this time it is not necessary to require candidates and their candidate committees to report expenditures over $200.00 as frequently as such reporting is necessary for unofficial candidate committees and independent expenditures in order to serve the purposes of this chapter. Candidates are necessarily subject to intense scrutiny throughout the campaign, and are required to file financial disclosures shortly after becoming candidates. They become candidates no later than seventy-one days before the election under the charter. Candidate committees file their statement of organization at the beginning of the campaign, and thus are a formed ongoing entity which is well known. Unofficial candidate committees can be formed at any time, and individuals can make independent expenditures at any time, so within twenty-one days of the election more frequent reporting of larger expenditures is required of them. Council, like the United States Congress, finds that a twenty-four-hour reporting period is not unreasonable in that immediate pre-election time, especially where mail ballots are used.

(h) The purpose of this chapter is to provide for transparency in the expenditure of monies spent on campaigns and not to regulate speech. Making an endorsement supporting or opposing a candidate or ballot ~~proposition~~measure, or solicitation of such an endorsement by a candidate, committee, or other person, is not regulated by this title. However, the expenditures for publishing endorsements, and any contributions for support or opposition to a candidate or ballot ~~proposition~~measure other than the endorsement itself, are regulated by this title in the same way as other contributions and expenditures.

(i) The purpose of the disclosure and reporting requirements for issue committees is to provide the standard in Boulder for addressing the public's informational interest to know the person(s) that are paying to support or oppose ballot measures so that the voter is better equipped to discern potential purposes or motivations for the committee's interest in the particular ballot measure.

(j) The city council finds that:

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(i) During several issue campaigns in recent years, there has been a disproportionate amount provided from large corporations to influence voters on ballot measures;

(ii) ~~City issue committees report between $___ and $___ for a city election, but large corporations have contributed up to ten? times that amount in some campaigns.~~Total contributions to city issue committees on one ballot measure for the past 5 years are from $16,750 to $2,439,195. One large corporation has contributed 6% to 70% of the total contributions on one ballot issue.

(iii) The interest of the voters in~~to~~ knowing the source of funding for campaigns on particular ballot issues is an important factor for~~in~~ the voter to evaluate~~ing~~ the campaign material;

(iii) There is not a reliable alternative for a voter to discover the source of campaign funding other than by the issue committing making certain disclosures to the city and the city making such reports easily accessible by the public.

(iv) The disclosure and reporting requirements set forth in this ordinance can be understood and complied with by an average citizen;

(v) The city manager has developed computer programs accessible to issue committee treasurers for simple disclosure and reporting of expenditures and revenues, and an employee to assist committees in complying with the reporting requirements.

13-2-2. Definitions.

The following terms used in this chapter and Chapter 13-3, "Campaign Activities," B.R.C. 1981, have the following meanings unless the context clearly indicates otherwise:

"*Ballot measure~~proposition~~*" means any amendment to the city charter, and any initiative, referendum, or recall for which ~~a petition committee has submitted the proposed petition form to the city or for which~~ petitions have been properly certified by the city ~~clerk~~manager for submission to the city council, or any ordinance or issue put to a vote of the electors of the City of Boulder under the provisions of the city charter. For purposes of this chapter only, "ballot measure" also includes any initiative, referendum, or recall for which a petition committee has submitted a proposed petition to the city manager. Such term does not include any ballot issue placed on the ballot by the United States, the State of Colorado, or any political subdivision thereof other than the city.

"*Candidate*" means any person whose petition of nomination for city council, whether at a regular, special, or recall election, has been certified as sufficient by the city clerk pursuant to charter section 26.

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"*Candidate committee*" means a person, including the candidate, or persons with the common purpose of receiving contributions or making expenditures under the authority of a candidate. The term "official candidate committee" is synonymous with "candidate committee."

"*Committee*" means a candidate committee, an unofficial candidate committee, and an issue committee, unless the context indicates that it can mean only one or two of these types of committees.

"*Contribution*" means:

(a) Any payment, loan, pledge, or advance of money, including, without limitation, checks received but not deposited or payments made by credit card, or guarantee of a loan, made to or for the benefit of any candidate or committee;

(b) Any payment made to a third party for the benefit of any candidate or committee, including, without limitation, the use of a credit card to secure such benefit;

(c) Anything of value given, directly or indirectly, to a candidate for the purpose of promoting the candidate's election, including, without limitation, commercial services such as banking, printing, and mailing services; or

(d) With regard to a contribution for which the contributor receives compensation or consideration of less than equivalent value to such contribution, including, without limitation, items of perishable or non-permanent value, goods, supplies, services, or participation in a campaign-related event, an amount equal to the value in excess of such compensation or consideration<u>; or</u>

<u>(e) A contribution in kind</u>.

"*Contribution*" does not include services provided without compensation by individuals volunteering their time on behalf of a candidate or committee.

"*Contribution in kind*" means the fair market value of a gift or loan of any item of real or personal property, other than money, made to or for any candidate or committee for the purpose of influencing the passage or defeat of any issue or the election or defeat of any candidate. Personal services are a contribution in kind by the person paying compensation therefor. In determining the value to be placed on contributions in kind, a reasonable estimate of fair market value shall be used by the candidate or committee. "Contribution in kind" does not include an endorsement of a candidate or an issue by any person, nor does it include the payment of compensation for legal or accounting services rendered to a candidate if the person paying for the services is the regular employer of the individual rendering the services and the services are solely for the purpose of ensuring compliance with the provisions of this title.

"*Expenditure*" means the payment, distribution, loan, or advance of any money by any candidate or committee, whether in cash, by check, as a credit card charge, or otherwise. "Expenditure" also includes the payment, distribution, loan, or advance of any money by a person for the benefit of a candidate or committee that is made with the prior knowledge and consent of an agent of the candidate or committee. An expenditure occurs when the actual payment is made or when a contract is agreed upon, whichever comes first. Consent may be implied from collaboration and need not be express.

"*Fair market value*" means the amount a willing buyer and a willing seller would pay for the product or service when neither was under any obligation to do so.

"*Independent expenditure*" means an expenditure by any person for the purpose of expressly advocating the election or defeat of a candidate or candidates, which expenditure is not controlled by, coordinated with, or made upon consultation with any candidate or candidate committee or any agent of such candidate or committee. "Independent expenditure" does not include expenditures made by persons, ~~other than political parties and political committees,~~ in the regular course and scope of their business, including political messages sent solely to members.

"*Issue*" is synonymous with "ballot measure~~proposition~~."

"*Issue committee*" means any two or more natural persons who collaborate together, or any corporation, partnership, commission, association, or any other organization or group of persons, that accepts contributions or makes expenditures for the purpose of opposing or supporting a ballot ~~proposition~~measure at a city election, regardless of whether or not it has obtained the consent of the sponsors of the ballot ~~proposition~~measure.

"*Loan*" means providing something of value, including money, to another, with a promise, express or implied, that money will be paid in the future for the item of value.

"*Official candidate committee*" - see definition of "candidate committee."

~~"*Political committee*" means any two or more natural persons who collaborate together, or any corporation, partnership, commission, association, or any other organization or group of persons, that accepts contributions or makes expenditures for the purpose of opposing or supporting a candidate for city council or a city ballot proposition, and which, because of campaign activities concerning other candidates, other ballot measures, or both, is required under the Fair Campaign Practices Act found in state law to file statements and reports with the secretary of state or the county clerk and recorder. It is the intention of this chapter to reduce the burden on such committees of following two separate sets of filing and reporting requirements, while still protecting the public purposes served by filing and reporting. However, no candidate~~

~~committee or other committee, the expenditures of which are in any way, directly or indirectly, controlled by, coordinated with, or made upon consultation with any candidate or candidate committee or agent thereof shall be deemed a political committee eligible for these different requirements.~~

"*Published*" means a writing presented for distribution in exchange for money or other item of value.

"*Solicitation*" means a written or oral or other endeavor to obtain, seek or plead for money or other item of value.

"*Unofficial candidate committee*" means any two or more natural persons who collaborate together, or any corporation, partnership, commission, association, or any other organization or group of persons, that accepts contributions or makes expenditures for the purpose of expressly advocating the election or defeat of a clearly identified candidate for city council. An unofficial candidate committee ceases to be independent if its expenditures are in any way, directly or indirectly, controlled by, coordinated with, or made upon consultation with any candidate or candidate committee or agent thereof.

13-2-3. Candidate's Interest~~Financial~~ Disclosure Statement.

(a) The purpose of this section is to provide members of the public and other council members with information regarding financial dealings of candidates and council members that might affect their ability to make impartial decisions. When reporting information regarding the activities of a third party, a reporting person is required to report only information about which he or she has actual knowledge.

(b) Any person required to file a financial disclosure statement required by this chapter shall file a statement on a form provided by the city clerk, as follows:

(1) The reporting person's employer and occupation;

(2) The source of any income in excess of $1,000 per year, including, without limitation, other household income, capital gains, whether or not taxable, dividends, interest, wages, salaries, rents, profits, and retirement accounts;

(3) The name, location, and nature of activity of any business entities or enterprises, with holdings of real or personal property or with business dealings in the area encompassed by the Boulder Valley Comprehensive Plan, in which the reporting person or other household member has any financial interest or is actively engaged as an officer, director, or partner, and the nature of the reporting person's or other household member's interest or activity. A reporting person or other household member is not required to report any financial interest in any business entity in which the reporting person's or other household member's only interest is through an investment in an excepted investment. A charitable donation is not a financial interest;

(4) The location of any real property within Boulder County in which the reporting person or other household member has an interest or, if the reporting person or other household member has a reportable interest in an entity or enterprise disclosed pursuant to Paragraph (b)(3) above, in which the entity or enterprise has any interest and the nature of such interest;

(5) Any other information that the reporting person feels would be helpful or should be disclosed; and

(6) Notwithstanding any other provision of this chapter, no reporting person or other household member is required to disclose any confidential relationship protected by law.

13-2-4. - Filing Dates and Disclosure Periods – Candidates and Incumbents.

(a) On or before September 10, any candidate having filed a petition of nomination shall file a statement of financial disclosure as set forth in Section 13-2-3, "Financial Disclosure Statement," B.R.C. 1981. The candidate shall file a supplemental report if there is any material change in the information reported after the date of filing within fifteen days after the material change.

(b) On or before April 15 of each year, every member of the city council shall file a statement of financial disclosure as set forth in Section 13-2-3, "Financial Disclosure Statement," B.R.C. 1981. Council members shall report any material changes to the information reported, except information reported pursuant to Paragraph 13-2-3(b)(2) of this chapter, within fifteen days of the end of the calendar quarter in which the material change occurred.

(c) Each financial disclosure statement shall include all information current on the date of filing, except information required by Paragraph 13-2-3(b)(2) of this chapter shall be reported as of the end of the previous calendar year.

13-2-5. Statement of Organization of Official Candidate Committee.

(a) No more than three days after a candidate's petition of nomination for city council has been certified as sufficient by the city ~~clerk~~manager pursuant to charter section 26, the candidate shall file a statement of organization of the committee formed to assist the candidate in being elected to city council. This statement shall be filed even if the candidate has not formed a committee, and shall be amended later if a committee is formed or the information required changes. The statement of organization shall include:

(1) The name and address of the candidate;

(2) The name and address of the committee;

(3) The names and addresses of all persons acting as officers of the candidate's campaign or of the committee, including committee chairpersons; and

(4) The name and address of the committee's campaign treasurer.

(b) A candidate may be the treasurer and hold any position in the candidate's own campaign committee. A candidate is deemed to have a committee even if there is none, but this does not increase the reporting requirements. No candidate shall be deemed to have more than one candidate committee, and if more than one committee acts under the authority of or in coordination with a candidate, all shall be deemed the candidate's committee and shall file combined reports as required by this title and all shall jointly be subject to the limitations of this title.

(c) The committee treasurer shall file a statement of any changes in the information required by Subsection (a) of this section no more than three days after such change.

(d) Expenditures by any person on behalf of a candidate that are, in any way, directly or indirectly, controlled by, coordinated with, or made upon consultation with any candidate or the candidate's official committee or agent thereof shall be considered a contribution to the candidate and are subject to the contribution limitations contained in this chapter. If such an expenditure is made by an unofficial candidate committee, all contributions to that committee shall be deemed contributions to the candidate for purposes of contribution limitations. Such expenditures also count toward the expenditure limit of any candidate receiving public funding under this chapter.

13-2-6. Statement of Organization of Unofficial Candidate Committee.

(a) No more than three days after an unofficial candidate committee accepts a contribution or makes or obligates itself to make an expenditure, the treasurer of the committee shall file a statement of organization that includes:

(1) The name and address of the committee;

(2) The candidate or candidates the committee is supporting or opposing, or both if that is the case;

(3) The names and addresses of all persons acting as officers of the committee, including committee chairpersons; and

(4) The name and address of the committee's campaign treasurer.

(b) The committee treasurer shall file a statement of any changes in the information required by this section no more than three days after such change.

(c) Expenditures by any unofficial candidate committee on behalf of a candidate that are, in any way, directly or indirectly, controlled by, coordinated with, or made upon consultation with any candidate or the candidate's committee or agent thereof shall be considered a contribution to the candidate and subject the candidate and the contributor to any applicable penalties contained in this chapter. Such expenditures also count toward the expenditure limit of any candidate who has received public funding under this chapter.

(d) Unofficial candidate committees which make expenditures on behalf of any candidate who has received public funding under this chapter shall keep records of the time, place, and general subject matter of all consultation with any person, other than a member of the committee who is not affiliated with any other candidate or official or unofficial candidate committee, concerning the substance, venue, and timing of the expenditure, which records shall be given to the city manager by the committee treasurer if the manager makes a demand for same. The manager is authorized to make such a demand any time the manager has a reasonable suspicion that the expenditures were controlled by, or coordinated with, or made upon consultation with any candidate or candidate's committee or other unofficial candidate committee or agent thereof.

(e) Unofficial candidate committees cannot be combined with an issue committee.

13-2-7. Statement of Organization of Issue Committee.

(a) No more than three days after an issue committee accepts a contribution or makes an expenditure, or three days after ballot certification if the committee has accepted contributions or made expenditures in anticipation of ballot ~~proposition~~measure certification, the treasurer of the committee shall file a statement of organization that includes:

(1) The name and address of the committee;

(2) The ballot ~~proposition~~measure or measures~~propositions~~ being supported or opposed by the committee;

(3) The names and addresses of all persons acting as officers of the committee, including committee chairpersons; and

(4) The name and address of the committee's treasurer.

(b) The committee treasurer shall file a statement of any changes in the information required by this section no more than three days after such change.

(c) Once an issue committee files a statement of organization, it cannot add or change the ballot measure(s) supported or opposed.

(e) Issue committees cannot be combined with an unofficial candidate committee.

13-2-8. Statement of Contributions and Expenditures of Official Candidate Committee.

(a) The candidate, or the treasurer of each official candidate committee, shall file statements of contributions and expenditures according to the following schedule:

(1) Three days after the candidate's petition of nomination for city council has been certified as sufficient by the city clerk pursuant to charter section 26, which statement shall cover all contributions and expenditures made in anticipation of candidacy;

(2) On the forty-second day prior to the election.

(3) On the twenty-eighth day prior to the election;

(4) One the twenty-first day prior to the election; and

(5) On the fourteenth day prior to the election.

(b) The statement shall contain:

(1) The names and addresses of each person making contributions ~~to the filer's knowledge~~, and the amount, dates, and nature of such contributions since the last report required to be filed by this chapter, unless the statement is the first one required;

(2) The cumulative total value of the contributions received;

(3) The names and addresses of each person to whom an expenditure has been made and the amount, date, and purpose of such expenditure since the last statement required by this chapter, unless the statement is the first one required;

(4) The cumulative total value of all expenditures made; and

(5) A statement of all anonymous contributions received, together with their disposition, from the last statement required by this chapter, unless this statement is the first one required.

(c) By 5:00 p.m. on the Thursday before the election, the candidate or the treasurer of each official candidate committee shall file a statement of contributions and expenditures, providing the information required by Subsection (b) of this section, together with anticipated contributions and expenditures for the remainder of the campaign, if any, before or after the election.

(d) On or before the thirtieth day after the election, the candidate or the treasurer of each official candidate committee shall file a final statement of contributions and expenditures, stating the information required by Subsection (b) of this section and, if a balance remains on the candidate's or committee's books, the intended disposition of that balance. If such a balance remains, the candidate and treasurer shall file a final statement sixty days after the election showing the actual disposition of that balance.

(e) The candidate and the candidate's committee shall comply with the disclosure requirements of Section 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name," B.R.C. 1981.

(f) Copies of documents supporting the contributions and expenditures included in any statements required by this section shall be provided to the city manager at the time of submitting the statement.

13-2-9. Statement of Contributions and Expenditures of Unofficial Candidate Committee.

(a) The treasurer of each unofficial candidate committee shall file statements of contributions and expenditures according to the following schedule:

(1) Three days after the committee accepts a contribution or makes or obligates itself to make an expenditure, which statement shall cover all contributions and expenditures made;

(2) On the forty-second day prior to the election;

(3) On the twenty-eighth day prior to the election;

(4) On the twenty-first day prior to the election; and

(5) On the fourteenth day prior to the election.

(b) The statement shall contain:

(1) The names and addresses of each person making contributions to the treasurer's knowledge, and the amount, dates, and nature of such contributions since the last report required to be filed by this section, unless the statement is the first one required;

(2) The cumulative total value of the contributions received;

(3) The names and addresses of each person to whom an expenditure has been made and the amount, date, and purpose of such expenditure since the last statement required by this section, unless the statement is the first one required;

(4) The cumulative total value of all expenditures made; and

(5) A statement of all anonymous contributions received, together with their disposition, from the last statement required by this section, unless this statement is the first one required.

(c) By 5:00 p.m. on the Thursday before the election, the treasurer of each unofficial candidate committee shall file a statement of contributions and expenditures, providing the information required by Subsection (b) of this section, together with anticipated contributions and expenditures for the remainder of the campaign, if any, before or after the election.

(d) In addition, if an unofficial candidate committee makes an expenditure in excess of $200.00, the treasurer of the committee shall file a statement of independent expenditure giving the names and addresses of each person to whom such an expenditure has been made, and the amount, date, and purpose of such expenditure, on the following schedule:

(1) On or before the twenty-first day before the election: Within three business days after obligating funds for the first such expenditure.

(2) On or after the twenty-first day but more than twenty-four hours before the election, and including any reportable expenditure not previously reported: Within twenty-four hours after obligating funds for such expenditure.

(3) On or before the thirtieth day after the election: Notice of any independent expenditure in excess of $200.00 made on the day before or the day of the election.

(4) A statement due on a weekend or holiday shall be filed on the next business day.

(e) On the thirtieth day after the election, the treasurer of each unofficial candidate committee shall file a final statement of contributions and expenditures, stating the information required by Subsection (b) of this section and, if a balance remains on the committee's books, the intended disposition of that balance. If such a balance remains, the candidate and treasurer shall file a final statement sixty days after the election showing the actual disposition of that balance.

(f) Unofficial candidate committees shall comply with the disclosure requirements of Section 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name," B.R.C. 1981.

<u>(f) Copies of documents supporting the contributions and expenditures included in any statements required by this section shall be provided to the city manager at the time of submitting the statement.</u>

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13-2-10. Independent Expenditures – Applies to Natural Persons and Unofficial Candidate Committees.

(a) Any natural person making an independent candidate expenditure in excess of $200.00 shall deliver notice in writing to the city ~~clerk~~manager of such independent expenditure, as well as the amount of such expenditure, and a detailed description of the use of such independent expenditure, within three business days after obligating funds for such expenditure. Thereafter, notice of additional expenditure obligations in excess of $200.00 shall be delivered to the ~~clerk~~manager on the twenty-first day before the election. Notice of each subsequent independent expenditures in excess of $200.00 up to twenty-four hours before the election but not previously reported shall be delivered to the ~~clerk~~manager within twenty-four hours after obligating funds for the independent expenditure. On or before the thirtieth day after the election, notice of any independent expenditure in excess of $200.00 made on the day before or the day of the election shall be delivered to the ~~clerk~~manager. The notice shall specifically state the name of the candidate or candidates whom the independent expenditure is intended to support or oppose. Each independent expenditure shall be reported as a separate item in each notice.

(b) Any natural person making an independent expenditure in excess of $200.00 shall comply with the disclosure requirements of Section 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name," B.R.C. 1981.

(c) Expenditures by any natural person on behalf of a candidate that are, in any way, directly or indirectly, controlled by, coordinated with, or made upon consultation with any candidate or the candidate's committee or agent thereof shall be considered a contribution to the candidate and subject the candidate and the contributor to any applicable penalties contained in this chapter. Such expenditures also count toward the expenditure limit of any candidate who has received public funding under this chapter.

(d) Individuals who make an independent expenditure on behalf of any candidate who has received public funding under this chapter shall keep records of the time, place, and general subject matter of all consultation with any person about the substance, venue, and timing of the expenditure, which records shall be given to the city manager if the manager makes a demand for same. The manager is authorized to make such a demand any time the manager has a reasonable suspicion that the expenditures were controlled by or coordinated with or made upon consultation with any candidate or candidate's committee or agent thereof.

13-2-11. Statement of Contributions and Expenditures of Issue Committee.

(a) The treasurer of each issue committee shall file a statement of contributions and expenditures according to the following schedule:

(1) Three days after the committee accepts a contribution or makes or obligates itself to make an expenditure, and three days after ballot certification if the committee has accepted contributions or made expenditures in anticipation of ballot ~~proposition~~measure certification;

(2) On the forty-second day prior to the election;

(3) On the twenty-eighth day prior to the election;

~~(4) On the twenty-first day prior to the election~~; and

(5) On the fourteenth day prior to the election.

(b) The statement shall contain:

(1) The names and addresses of each person making contributions to the treasurer's knowledge, and the amount, dates, and nature of such contributions since the last report required to be filed by this section, unless the statement is the first one required;

(2) The cumulative total value of the contributions received;

(3) The names and addresses of each person to whom an expenditure has been made and the amount, date, and purpose of such expenditure since the last statement required by this section, unless the statement is the first one required;

(4) The cumulative total value of all expenditures made; and

(5) A listing of the amount of each individual anonymous contribution, together with the total of all anonymous contributions received from the last statement required by this section, unless this statement is the first one required.

(c) By 5:00 p.m. on the Thursday before the election, the treasurer of each issue committee shall file a statement of contributions and expenditures, providing the information required by Subsection (b) of this section, together with anticipated contributions and expenditures for the remainder of the campaign, if any, before or after the election.

(d) On the thirtieth day after the election, the treasurer of each issue committee shall file with the city manager a final statement of contributions and expenditures, stating the information required by Subsection (b) of this section and, if a balance remains on the committee's books, the intended disposition of that balance. If such a balance remains, the candidate and treasurer shall file a final statement sixty days after the election showing the actual disposition of that balance.

(f) Copies of documents supporting the contributions and expenditures included in any statements required by this section shall be provided to the city manager at the time of submitting the statement.

~~13-2-12 Political Committee Filing and Reporting Requirements.~~

~~A political committee which is, by virtue of its support for or opposition to a candidate for a political office other than that of city council of the city, or for a ballot proposition appearing on the ballot of an entity other than the city, required to file, and does file with the secretary of state or the county clerk and recorder, or both, the disclosures required by § 1-45-108, C.R.S., and complies with the reporting and filing requirements of § 1-45-109, C.R.S., and disposes of unexpended campaign contributions pursuant to § 1-45-106, C.R.S., is exempt from the separate filing and reporting and unexpended campaign contribution requirements of this chapter. But such a committee shall file with the city manager, within three days of its first acceptance of a contribution or expenditure in support of or opposition to a candidate for city council or a city ballot proposition, a full and correct copy of its registration statement as filed with the secretary of state pursuant to § 1-45-108(3), C.R.S., and the most recent other report or disclosure which it has filed with the secretary of state or any county clerk and recorder, and shall thereafter file with the manager full and correct copies of every disclosure or report on the same day it files such a document with either state official, plus an expenditure report conforming with Section 13-2-9, "Statement of Contributions and Expenditures of Unofficial Candidate Committee," or 13-2-11, "Statement of Contributions and Expenditures of Issue Committee," B.R.C. 1981, as applicable, segregating, insofar as possible, expenditures made on the city election.~~

13-2-12~~3~~. Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name.

All persons composing, presenting, using, or distributing information which expressly opposes or supports any candidate or candidates shall include therein the name of the person who is responsible for ~~sponsored~~ the composition, presentation, use, or distribution of such information. This requirement includes all electronic, social media, paper, audio, or visual forms of distribution.

13-2-13~~4~~. Solicitation for Candidate Campaign Funds.

Whenever any person makes an expenditure for the purpose of soliciting any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, such communication:

(a) If authorized by a candidate or committee or any agent thereof, shall clearly state that the communication has been so authorized;

(b) If paid for by other persons but authorized by a candidate or committee, or its agents, shall clearly state that the communication is paid for by such other persons and authorized by such candidate or committee, or its agents; or

(c) If not authorized by a candidate or committee, or its agents, shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or committee.

~~(d) Each candidate and committee shall include on the face or front page of all electronic or paper materials soliciting contributions the following notice:~~
~~"A copy of our report is filed with the City Clerk of the City of Boulder, Colorado."~~

13-2-14~~5~~. Filing, Preservation, and Public Inspection of Statements.

(a) Persons required by this chapter to prepare and file statements shall do so on the basis of information that is complete and current at least as of 5:00 p.m. on the second calendar day before the filing date.

(b) Persons required by this chapter to file statements or deliver notices shall file such statements or notices with the city manager on forms that the manager provides and preserve such records for a period of six months from the date of the election~~,~~.

(c) The city manager shall preserve all statements filed under this chapter for a period of six months from the date of the election or, in the case of a successful candidate, until six months after the person finally leaves office, or as specified in the City's Records Retention Schedule, whichever is longer. Such statements constitute a part of the public records of the city and shall be available for public inspection during normal business hours.

13-2-15~~6~~. Notice of Disclosure Requirements and Enforcement.

The city manager shall administer the provisions of this article and shall:

(a) Publish a summary of the filing and reporting required of candidates and committees and independent expenditures in a newspaper of general circulation in the city on the forty-fifth

day before each regular municipal election, or as soon thereafter as practicable after the calling of a special election, and again two weeks after each municipal election;

(b) Prepare and make available the forms to be used in filing the statements required by this chapter;

(c) Prepare and provide to each candidate or organization, upon its first filing with the manager, a checklist of the statements required and the specific calendar date each is due;

(d) Keep a record of persons or organizations to whom the forms and checklists were given and a record of the date such filings were received;

(e) Upon concluding on the basis of such records, complaints, or other information that a candidate or organization has not filed the required statements or has filed incomplete or incorrect statements, immediately notify, either verbally or in writing, the person required to file that such person must file the missing statement or provide the information within seventy-two hours of the manager's notice; and

(f) As soon as practical after any candidate signs a contract with the city for matching funds, the manager shall publish notice of that fact electronically on the election page of the city's website.

13-2-16~~7~~. Contribution Limitation – Applies to Natural Persons and Unofficial Candidate Committees~~Candidates Only~~.

No candidate for city council, or candidate committee, or unofficial candidate committee, shall solicit or accept any contribution, including any "in-kind" contribution, that will cause the total contributions from any person to exceed $100.00 to that candidate with respect to any single election. The recipient of any contribution which would cause the total amount of contributions to a candidate from a single person to exceed $100.00 shall promptly return any such excess to the donor. The candidate and the candidate's committee shall be treated as one, and a contribution to one is counted as a contribution to the other. Contributions to unofficial candidate committees are separately subject to the $100.00 limitation.

13-2-17~~8~~. Anonymous Contributions.

(a) Anonymous contributions to any candidate or candidate committee, or unofficial candidate committee, may not be retained or expended by the candidate or committee. Anonymous contributions also may not be retained or expended by a political committee insofar as it is reasonably possible to discern from the contribution that it was intended to support that committee's efforts to elect or defeat a candidate. If anonymous contributions are received by a candidate or committee, they shall be disposed of as follows:

(1) If the candidate has accepted public financing under this chapter, all anonymous contributions to the candidate or the candidate's committee shall be forwarded to the city ~~clerk~~manager with the next required report, noted in the report, and deposited in the general fund of the city.

(2) Unofficial candidate committees, ~~political committees,~~ and candidates and candidate committees of candidates who have not accepted public financing under this chapter shall donate anonymous contributions to any charitable organization recognized by the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code or to the city, and the distribution of such funds shall be indicated on the next report required to be filed pursuant to Section 13-2-8, "Statement of Contributions and Expenditures of Official Candidate Committee," or 13-2-9, "Statement of Contributions and Expenditures of Unofficial Candidate Committee," B.R.C. 1981.

(3) If an anonymous contribution is donated to a charitable organization recognized by the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code, the candidate or committee shall retain the envelope or other container in which it arrived, together with any other material which arrived with it, and a photocopy of the contribution itself (showing only the amount and serial number of any bills), shall retain such information as candidate or committee records for at least six months after the election, and shall make such records available to the city manager upon request.

(b) If an anonymous contribution is received by an issue committee, the treasurer shall retain the envelope or other container in which it arrived, together with any other material which arrived with it, and a photocopy of the contribution itself (showing only the amount and serial number of any bills), shall retain such information as committee records for at least six months after the election, and shall make such records available to the city manager upon request.

13-2-18~~9~~. Unexpended Campaign Contributions.

Unexpended contributions to candidates or committees (including issue committees) may be donated to any charitable organization recognized by the Internal Revenue Service pursuant to section 501(c)(3) of the Internal Revenue Code or returned to the contributor, and the distribution of such funds shall be indicated on the final report of the committee required to be filed pursuant to Section 13-2-8, "Statement of Contributions and Expenditures of Official Candidate Committee," or 13-2-9, "Statement of Contributions and Expenditures of Unofficial Candidate Committee," B.R.C. 1981.

13-2-19~~20~~. Public Matching Funds.

(a) The city will allocate and provide matching funds, up to fifty percent of the expenditure limit as herein defined, to any city council candidate who meets the eligibility requirements set out in Section 13-2-20, "Eligibility for Matching Funds," B.R.C. 1981. The expenditure limit shall be set at $20,000~~$0.15 per registered city voter as of the day after the date set by state law for the purging of registration records of the election year. This limit shall be adjusted based on changes in the Consumer Price Index (all items) of the U.S. Department of Labor, Bureau of Labor Statistics, for the statistical area which includes the city, in an amount equal to the percentage change for the preceding two years~~. Only actual currency or its equivalent shall be matched with public funds. Neither loans nor in-kind contributions nor amounts exceeding $100.00 from the candidate's personal wealth shall be eligible for matching funds.

(b) After meeting the eligibility requirements, any candidate may request matching funds from the city no more frequently than once per week in amounts no less than $500.00. The final request for matching funds must be submitted to the city no later than fourteen days before the election, but may be for less than $500.00.

13-2-20~~1~~. Eligibility for Matching Funds.

A candidate who meets the following requirements shall be eligible to receive matching funds:

(a) The candidate raises at least ten percent of the expenditure limit from a minimum of 80 individual contributors. No more than $25.00 of each contribution may be counted toward the ten percent; and

(b) The candidate signs a contract with the city committing to the following:

(1) Agrees to limit his or her expenditures to $20,000~~0.15 per registered voter of the city as of the day after the date set by state law for the purging of registration records of the election year. This limit shall be adjusted based on changes in the Consumer Price Index (all items) of the U.S. Department of Labor, Bureau of Labor Statistics, for the statistical area which includes the city, in an amount equal to the percentage change for the preceding two years~~;

(2) Agrees to contribute to his or her campaign no more than twenty percent of the expenditure limit from his or her own personal wealth; and

(3) Agrees to return at least fifty percent of any unexpended funds to the city, but not more than the matching funds received~~; and~~

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~~(4) Agrees to treat any carryover funds from a previous campaign as funds from the candidate's personal wealth, subject to the limits of such funds~~.

13-2-21~~2~~. Violations and Penalty.

(a) Criminal Acts and Penalties: No person shall:

(1) File any statement required by this chapter that the person knows contains false information;

(2) Fail to file a required statement within seventy-two hours of having been notified by the city manager pursuant to Subsection 13-2-16(e), B.R.C. 1981;

(3) Fail to provide required information necessary to complete a required statement within seventy-two hours of having been notified by the city manager pursuant to subsection 13-2-16(e), B.R.C. 1981;

(4) Knowingly misstate or misrepresent the name of the person who financed the composition, presentation or distribution of information as required by section 13-2-13, "Election Materials and Advertising Supporting or Opposing Candidate to Contain Sponsor's Name," B.R.C. 1981; or

(5) Fail to comply with any of the other requirements of this chapter;

(6) Any person convicted of a violation of this subsection is subject to a fine not to exceed $1,000.00.

(b) Civil Remedies:

(1) For the purposes of this subsection, "this ordinance" means those provisions adopted by the people in the 1999 regular municipal election as placed on the ballot in Ordinance No. 6097, including, without limitation, any contract entered into pursuant to subsection 13-2-21(b), B.R.C. 1981.

(2) Any registered elector of the city may bring a civil action including, without limitation, an action for injury, and may sue for injunctive relief to enjoin violations or to compel compliance with this ordinance consistent with paragraph (b)(3) of this section, provided such person first files with the city attorney a written request for the city attorney to commence action. The request shall include a statement of grounds for believing a cause of action exists. The city attorney shall respond within ten days after receipt of the request indicating whether the city attorney intends to file a civil action. If the city attorney indicates in the affirmative and files suit within thirty days thereafter, no other

civil action for the same violation may be brought unless the action brought by the city attorney is dismissed without prejudice.

(3) Any candidate or candidate committee who knowingly accepts a contribution in excess of $100.00 or exceeds the expenditure limit in violation of the contract with the city and this ordinance is liable in a civil action initiated by the city attorney or by a registered elector of the city for an amount up to $500.00 or three times the amount by which the contribution or expenditure limit is exceeded, whichever is greater.

(4) In determining the amount of civil liability, the court may take into account the seriousness of the violation and culpability of the defendant.

(5) The city attorney shall enforce all provisions of this ordinance.

(6) The city council is empowered to create an advisory committee and other enforcement procedures as it deems appropriate to implement this ordinance.

Section 2. Chapter 13-3, "Campaign Activities," B.R.C. 1981, is amended to read:

Chapter 13-3: Campaign Activities

13-3-1. Legislative Intent.

The purpose of this chapter is to regulate election campaign activities in municipal elections. The provisions of this chapter have been modeled on portions of the Federal Election Campaign Act, 2 U.S.C. sections 435 and 441. Modifications have been made where necessary to meet specific needs of the city. The provisions of this chapter concerning municipal election campaign activities are exclusive, and supersede any state statute on the subject, whether in conflict herewith or not, including, without limitation, article 1-45, C.R.S.

13-3-2. Campaign Advertising Requirements.

No person who sells space in a newspaper or magazine to a candidate or committee to use in connection with a municipal election may charge an amount for such space which exceeds the amount charged for comparable use of such space for other purposes.

~~**13-3-3 Contributions by City Contractors.**~~

~~It shall be unlawful for any person who enters into any contract with the city or any department or agency thereof either for the rendition of personal services or furnishing any material, supplies, or equipment to the city or any department or agency thereof, or for selling any land or building to the city or any department or agency thereof, if payment for the performance of such contract or payment for such material, supplies, equipment, land, or building is to be made in whole or in part from funds appropriated by the city council, at any time between the commencement of negotiations for and the later of completion of performance under or the termination of negotiations for such contract or furnishing of material, supplies, equipment, land, or buildings, directly or indirectly to make any contribution of money or other things of value, or to promise expressly or impliedly to make any such contribution to any candidate or committee or to any person for any political purpose or use in any city election; or knowingly to solicit any such contribution from any such person for any such purpose during any such period.~~

13-3-~~4~~ 3. Contributions in Name of Another Prohibited.

No person shall make a contribution in the name of another person or knowingly permit such person's name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.

13-3-4~~5~~. Limitation on Contribution of Currency.

No person shall make contributions of coin or paper currency of the United States or of any foreign country to or for the benefit of any candidate or committee, which, in the aggregate, exceed $100.00 with respect to any campaign in which such candidate or committee is participating for a municipal election.

13-3-~~6~~ 5. Misrepresentation of Campaign Authority.

No candidate or political committee or any agent thereof shall make any fraudulent misrepresentation as speaking or writing or otherwise acting for or on behalf of any other candidate or committee on a matter which is damaging to such other candidate or committee; or willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to do so.

Section 3. Chapter 13-4, "Complaints Related to Election Procedures and Regulations," B.R.C. 1981, is amended to read:

Chapter 13-4: Complaints Related to Election Procedures and Regulations

13-4-1. Legislative Intent.

The provisions of this chapter are intended to assist with the enforcement of the regulatory provisions of chapters 13-2, "Campaign Financing Disclosure," and 13-3, "Campaign Activities," B.R.C. 1981. The procedures set forth in this chapter are not exclusive and shall supplement other applicable enforcement provisions.

13-4-2. Allegation of Election Code Violation.

(a) A request for action stating that any provision of chapter 13-2, "Campaign Financing Disclosure" or chapter 13-3, "Campaign Activities," B.R.C. 1981, of this title has been violated may be submitted to the city ~~clerk~~manager. The request for action shall be in writing and must be submitted no later than forty-five days following any election in which it is alleged that the misconduct occurred. The request for action shall:

(1) Request that the city attorney file a civil action;

(2) Identify the particular provisions of chapter 13-2, "Campaign Financing Disclosure," or 13-3, "Campaign Activities," B.R.C. 1981, that allegedly were violated;

(3) State the factual basis for that allegation;

(4) Identify any relevant documents or other evidence; and

(5) Identify any witnesses or persons with relevant knowledge.

(b) The city ~~clerk~~manager will notify the party named in the request for action (the "respondent") and may provide the respondent an opportunity to provide information or otherwise respond to the allegations of the request for action.

13-4-3. Initial Review of Request for Action.

The city ~~clerk~~manager will evaluate the request for action and all information in the ~~clerk~~manager's possession related to the request for action to determine whether there is probable cause to believe that further investigation would disclose a violation by the respondent. The city ~~clerk~~manager may, at the ~~clerk~~manager's discretion, consult with the city attorney or delegated legal counsel regarding this review. Such determination shall be made based upon the request for action, any information provided by the person who filed the request for action or the party named in the request for action, and upon such additional information as the ~~clerk~~manager may determine to be pertinent.

13-4-4. Denial of Request for Action by City ~~Clerk~~Manager.

If the city ~~clerk~~manager determines that no probable cause exists that further investigation would disclose a violation by the respondent, the city ~~clerk~~manager shall close the file with regard to the matter. In that event, the city ~~clerk~~manager shall so notify both the complainant and the respondent. Such notice shall be sufficient if it is accomplished by depositing it with the United States Postal Service addressed to the last known address of the complainant and the respondent. The city ~~clerk~~manager may also determine that the violation, if any, can be cured after exercise of the city ~~manager~~manager's powers under chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981, and, if the violation is cured, may deny the request for action on that basis without further review.

13-4-5. Determination by City ~~Clerk~~Manager Final.

(a) A determination by the city ~~clerk~~manager that there is no probable cause that further investigation would disclose a violation by the respondent shall be final. Cure of a violation through exercise of the city ~~manager~~manager's powers under chapter 13-2, "Campaign Financing Disclosure," B.R.C. 1981, also shall be final. No appeal or review from such determinations shall be permitted, and the city attorney will not bring any civil or criminal enforcement action against a party in either circumstance.

(b) A determination by the city ~~clerk~~manager that there is probable cause that investigation will disclose a violation by the respondent shall also be final. No defect in the city ~~clerk~~manager's determination shall constitute a defense at any hearing held by a city ~~clerk~~manager or at any judicial enforcement proceeding.

13-4-6. Power of City ~~Clerk~~Manager to Hold Hearings.

The city ~~clerk~~manager is empowered to receive evidence and make recommendations with regard to any request for action. The purpose of such hearings will be to determine whether sufficient evidence of a violation by the respondent exists to warrant bringing a civil or criminal action. The city ~~clerk~~manager may schedule hearings, mandate the appearance of witnesses through the issuance of subpoenas and mandate the provision of documents through the issuance of subpoenas for documents. Subpoenas for documents may be directed to any custodian of records or to any other person possessing or controlling such records.

13-4-7. Hearing Procedures.

The following procedures shall be used by the city ~~clerk~~manager in any hearing:

(a) The city ~~clerk~~manager shall fix the date, time, duration, and place of each hearing;

(b) The complainant and the respondent may each be represented by counsel or other authorized representative;

(c) The city ~~clerk~~manager may receive and consider testimony under oath, as well as evidence of witnesses by affidavit, giving such evidence only such weight as seems proper after consideration of any objection made to its admission;

(d) The legal rules of evidence need not be strictly applied by the city ~~clerk~~manager. The city ~~clerk~~manager shall accept or reject evidence based upon the city ~~clerk~~manager's evaluation of the reliability of that evidence; and

(e) The city ~~clerk~~manager may refer to the provisions in chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, relating to quasi-judicial hearings, for guidance with respect to procedures that may be utilized at any hearing held pursuant to this section. However, final decisions regarding such procedures shall be determined by the city ~~clerk~~manager in conformity with the intent of these provisions and in a manner consistent with general principles of due process.

13-4-8. Negative Determination by City ~~Clerk~~Manager.

If, upon completion of the city ~~clerk~~manager's evaluation of evidence, the city ~~clerk~~manager determines that there is insufficient evidence of a violation by the respondent to warrant bringing a civil or criminal action, the investigation shall be terminated concerning that respondent. In that event, the city ~~clerk~~manager shall notify both the complainant and the respondent of this determination. Such notice shall be sufficient if it is deposited with the United States Postal Service addressed to the last known address of the complainant and the respondent.

13-4-9. Power of City ~~Clerk~~Manager to Issue Remedial Order or Warning Letter.

If, upon completion of the hearing process, the city ~~clerk~~manager determines that sufficient evidence exists to bring a civil or criminal action, the city ~~clerk~~manager may direct the respondent to take remedial actions including, without limitation, the following:

(a) Filing a corrected disclosure form;

(b) Publishing corrective advertising;

(c) Refunding any private contributions obtained under false pretenses; and

(d) Refunding to the city any public monies inappropriately obtained for the financing of election activities.

The city ~~clerk~~manager may also issue the respondent a warning letter. The city attorney may bring a civil action following compliance with a remedial order as described in subsections (a) through (d) of this section for the purpose of incorporating the terms of the order into a consent

decree. Otherwise, a warning letter or compliance by the respondent with a remedial order will end the process, and no civil or criminal action will be filed.

13-4-10. Referral to City Attorney for Criminal or Civil Prosecution.

If upon completion of the formal hearing process, the city ~~clerk~~manager determines that sufficient evidence exists to bring a civil or criminal action and if the matter is not resolved through a warning letter or compliance with a remedial order issued by the city ~~clerk~~manager, the matter shall be referred to the city attorney and delegated legal counsel. In such an instance, the city attorney or delegated legal counsel will evaluate the case to determine whether or not criminal prosecution or the bringing of a civil enforcement action is in the public interest.

13-4-11. Remedies Not Exclusive.

The procedures set forth by these provisions shall not impair the right of any interested party, including the city ~~clerk~~manager, the city attorney, or a complainant, to notify the district attorney or the police of crimes that might be investigated or potentially prosecuted by those agencies. Nor shall these provisions preclude the city attorney from bringing criminal charges without first exhausting the administrative hearing process set forth in these provisions if the city attorney feels that there is sufficient basis for a criminal prosecution and that the interests of justice require prosecution prior to exhaustion of the administrative process described in these provisions.

13-4-12. No Appeal to City Council.

No decision by the city ~~clerk~~manager made pursuant to this chapter shall be reviewed or reversed by the city council. The city council shall not become involved in the handling of any matter brought or investigated pursuant to these provisions. Nothing in this chapter shall be deemed to create a right of appeal to the city council by a person named in a request for action.

13-4-13. Confidentiality of Investigation.

The contents of files relating to pending inquiries or investigations into possible violations of the provisions of chapter 13-2, "Campaign Financing Disclosure," or 13-3, "Campaign Activities," B.R.C. 1981, shall not be made public by the city ~~clerk~~manager, the city attorney, or by any other person or agency that is conducting an official investigation on the part of the city into alleged or possible violations of this type. Nor will any preliminary reports or drafts relating to the results of such investigations be made public. Nor shall the results of such inquiry or investigation be made public unless a hearing is held pursuant to this chapter. The city council finds that such disclosures could compromise criminal justice investigations. Further, the city council finds that such disclosures would be contrary to the public interest because such disclosures might have the effect of politically damaging a person or interest in a case in which

the final disposition of an investigation would not sustain a finding of misconduct. The release of interim findings or draft reports might in that manner interfere with the appropriate workings of the democratic process.

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

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

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this ____ day of _____, 2016.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this _____ day of _____, 2016.

_____
Mayor

Attest:

_____
City Clerk

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: June 21, 2016

AGENDA TITLE: Consideration of the following two items:

1. Second reading and consideration of a motion to adopt Ordinance No. 8121 amending Title 9, "Land Use Code," B.R.C. 1981, to implement a Form-Based Code (FBC) for the Boulder Junction Phase I area through two appendices to Title 9: Appendix L designating "Form-Based Code Areas," and Appendix M as the FBC regulations, and adopting a FBC Review process, and

2. Notice of Action on proposed amendments to the Transit Village Area Plan (TVAP) connections plan to be consistent with and to implement the FBC project.

PRESENTER/S
Jane S. Brautigam, City Manager
Tom Carr, City Attorney
David Driskell, Executive Director of Planning, Housing and Sustainability
Susan Richstone, Deputy Director for Planning
Charles Ferro, Development Review Manager
Karl Guiler, Senior Planner/Code Amendment Specialist

EXECUTIVE SUMMARY

The purpose of this memorandum is to consider an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to adopt a Form-Based Code (FBC) applied to the Boulder Junction Phase I area. The FBC is proposed to be added to the land use code as a new Appendix M (a new Appendix L would include a map showing "Form-Based Code Areas" in Boulder). Further, a new code section, 9-2-16, "Form Based Code Review," B.R.C. 1981 would be added referring to the Appendix M regulations and creating a review process for the FBC.

Some elements of the FBC involve changes to connections in the TVAP and therefore, amendments to the TVAP transportation connections plan are proposed simultaneous with consideration of the FBC.

This memorandum goes into detail on the proposed ordinance to adopt the FBC, descriptions of the required changes to the land use code, an overview of the content of the FBC, staff analysis of the FBC, public comments received on the FBC and a staff recommendation. The proposed ordinance is found in **Attachment A** and includes the proposed FBC as Exhibit B to the ordinance. **Attachment B** to the memorandum contains the proposed changes to the TVAP transportation connections plan.

On June 7th, there were no first reading questions. However, at the June 6th Council Agenda Committee (CAC), council members inquired about the Planning Board's recommendation that public notice requirements be changed for all applications to include not just property owners, but also tenants and renters within the notification area for each land use review application. Council members requested that staff look into the proposal and present information at time of second reading about the cost and timing for such a code change.

Planning and Development Services – Information Resources staff conducts the public notice mailings and following discussions with the group, planning staff has learned the following:

- The number of mailings (particularly in areas where there are multiple residential units or multiple business tenants) would increase significantly. In some cases the increases are at least three to four times more than the current number of mailings.
- The increase in mailings would at least double the staff time necessary to prepare notices and increase the cost at the same rate.
- The methodology for adding all addresses is not necessarily intuitive and not always accurate. Current practice involves using reliable county assessor data to get property owner addresses; however, information about unit or separate lease spaces is not always as readily available or consistent, which can lead to a significant increase mailing errors or omissions.

Based on the increase in staff time, cost and potential for errors, staff finds that it would be premature to move forward on a code change requiring all addresses at this time. Staff recommends that further analysis and test cases be done prior to moving forward with this change to the land use code. Staff will anticipate reporting back to Planning Board and City Council on this issue at a later date. For more information on current noticing practice versus the new methodology, staff has attached correspondence from Planning and Development Services – Information Resources staff on this matter in **Attachment E**.

STAFF RECOMMENDATION

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

Suggested Motion Language:

1. *Adopt Ordinance No. 8121 amending Title 9, "Land Use Code," B.R.C. 1981, to implement a Form-Based Code (FBC) for the Boulder Junction Phase I area through two appendices to Title 9: Appendix L designating "Form-Based Code Areas" and Appendix M as the FBC regulations, and adopting a Form Based Code Review process.*

2. *Approve the proposed amendments to the Transit Village Area Plan (TVAP) connections plan to be consistent with and to implement the FBC project.*

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Adoption of the FBC will apply new regulations related to view protection to the city-owned Pollard site. These regulations do not exist today and are meant to protect important views of the Flatirons from the public space at Depot Square. Under current zoning, up to five-stories and 55 feet would be possible on the site with Site Review approval. The FBC would limit some areas to three-stories and four-stories in order to preserve views that would otherwise be lost. This may impact the amount of floor area possible on the site; however, staff was mindful not to significantly reduce the development potential on the site through the process. It should be noted that where floor area may be impacted in view corridor locations, floor area could be relocated to other locations outside view corridors without being impacted by the current site by site floor area ratio (FAR) and open space site restrictions that currently exist.
- Environmental: No anticipated impacts.
- Social: No anticipated impacts.

OTHER IMPACTS

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

BOARD AND COMMISSION FEEDBACK

Planning Board

Planning Board unanimously approved (7-0) the FBC at its April 14, 2016 public hearing. Minutes from the meeting can be found in **Attachment E**. Much of the discussion involved the proposed review process for FBC and while there were concerns about the reviews involving too much process (FBC are typically intended to be entirely prescriptive without public hearings or call ups), the board felt the ordinance strikes an appropriate balance by streamlining reviews and removing automatic public hearings, while also maintaining a call up mechanism for the city to monitor the efficacy and administration of the FBC. Several board members suggested having a special public notice provision that would require mailings to go to all addresses located within 600 feet

of a development site, including renters, as opposed to the current process of only sending mailings to property owners of properties within such area. This requested change is reflected in the attached ordinance. The board also expressed its recommendation to City Council that this notice change apply to all land use reviews in the future.

Relative to the FBC's content, the board supported the provisions and recommended no changes. The board discussed the standards on towers and the "golden ratio" requirement. The board concluded that, as a pilot project, the proposed standards should remain a part of the FBC and be tested through FBC reviews. The board also discussed a rendering prepared by Leonard May, which was formulated as a preliminary test of the FBC.

Lastly, the board briefly discussed the TVAP connection changes and indicated support of the changes. The Planning Board motions are provided below:

> **Motion:**
> On a motion by **C. Gray** seconded by **J. Putnam** the Planning Board voted 7-0 to recommend to City Council adoption of an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to adopt a Form-Based Code (FBC) for the Boulder Junction Phase I area and a FBC review process, and setting forth related details.
>
> Friendly amendment by **J. Putnam**, that Planning Board recommend to amend the notice provision in the ordinance to provide notice in the TVAP Area Phase I to all addresses and property owners and to revise Figure M-1(21) to show yard areas. Friendly amendment was accepted by **C. Gray**.
>
> On a motion by **L. Payton** seconded by **C. Gray** the Planning Board voted 7-0 to approve amendments to the Transit Village Area Plan (TVAP) connections plan to be consistent with and implement the FBC project.

Transportation Advisory Board and Boulder Junction Access District

Staff has presented to both TAB and BJAD throughout the progress of the FBC pilot project. TAB and BJAD were also involved in the joint board workshop with CodaMetrics. Staff updated BJAD in March of this year. Most of the BJAD discussion entailed changes to the TVAP connections plan. One member of BJAD expressed the concern that with the FBC, the Boulder Junction area was becoming "over-programmed."

Design Advisory Board

In March 2016, staff met with the Design Advisory Board (DAB) to discuss the latest draft of the FBC. Overall, DAB was complementary of the FBC and generally supported the idea that projects would be staff level, but could be called-up by Planning Board. DAB also appreciated that it would continue to have a say in projects in their compliance with the Transit Village Area Plan (TVAP) policies and the FBC. DAB generally liked the format, graphics and text of the FBC, but also raised points about requiring masonry elements to come down to the ground to make projects more grounded and requested clarification on other elements of the code.

FBC Working Group
The FBC was informed by a number of discussions of the FBC Working Group. A summary of the input can be found in **Attachment C**.

BACKGROUND & PUBLIC INPUT
The FBC pilot project has undergone an extensive outreach process with the FBC 101 held by Victor Dover, community workshops including the image preference survey and discussion on potential content, development of guiding principles, an open house and ongoing communication with stakeholders. See **Attachment C** for an in depth summary of the process and input received.

ANALYSIS
Ordinance No. 8121
The Ordinance No. 8121 is found in **Attachment A** and includes a new Land Use Code section, Section 9-2-16, "Form Based Code Review," B.R.C. 1981, and specifies the review process, including call-up options for the public and Planning Board, submittal requirements, review and exception criteria for projects that are subject to form-based code regulations. The structure of the code section is similar to how the code sections for Use Review and Site Review are outlined. In the past, city staff and Planning Board have expressed the desire to consider a new "Site Review Light" type process and therefore, staff has prepared the new From Based Code Review process with this goal in mind.

The new code section links to two new appendices, Appendix L and Appendix M. Appendix L is a map that shows the "Form Based Code Areas", which staff anticipates would include possible new form-based code areas in the future or other similar areas with special regulations, and would be updated in the future should the city adopt such regulations. Appendix M includes the specific regulations that would apply to all areas where form-based code would apply (see Exhibit B to the ordinance in **Attachment A**).

While much of the proposed ordinance sets up the new review process, most of the ordinance includes necessary reference updates in the Land Use Code to refer to the new regulations as well as making it clear what sections of the Land Use Code would be superseded by the new regulations and which would continue to apply. Some key examples of the differences are:

- ***Use Standards:*** The use standards of the Land Use Code would continue to apply with the exception that storefront uses along identified locations along the streetscape (e.g., Main Street building types and key intersections) would require retail, dining and personal service uses to provide for active uses as opposed to banks or residential uses that would have less activity in key nodes. Also, a requirement that developments within certain areas of Boulder Junction would have to be at least 50 percent residential has been added to the FBC.
- ***Form and Bulk Standards:*** The form and bulk standards would be superseded by the special form and design requirements within the FBC with the exception that the height of buildings would still need to be measured from low points 25 feet away from buildings as done in the current code and would still need to show

minimum compliance with appurtenances standards despite being held to higher standards in the FBC. Building height in the FBC would be permitted based on the allowable number of floors (with each floor with specific floor to floor heights) and under no condition could go over the 55-foot height limit as measured per the Land Use Code and City Charter.

- ***Intensity Standards:*** The intensity standards, including the open space amount requirements and floor area limitations, would be superseded. Building massing and intensity and required outdoor space requirements would be specifically prescribed in the FBC. While most of the intensity standards would be superseded, the applicable occupancy requirements in the Land Use Code would <u>not</u> be superseded.

Below are some key points about the review process and exceptions set up by the draft ordinance (some points relative to scope are also specified in the FBC):

- ***Scope:*** Any property redeveloping within the areas specified in Appendix L would be subject to the FBC and FBC Review process, with the exception of projects previously approved under Site Review, which would continue to subject to the specific approval standards for the project. The FBC would only fully apply if a project were to be substantially redeveloped (i.e., redevelopment). However, a stipulation has been added that any modifications to such projects should be generally consistent with and not conflict, as practicable, with the intent of the FBC areas. Existing buildings that do not conform to the FBC could continue to be subject to the provisions of the Land Use Code until they substantially redevelop (i.e., 60 percent additional floor area), although new construction would be subject to specific façade design standards in the FBC.
- ***Review Process:*** Projects would be reviewed under the new FBC Review process outlined in section 9-2-16, "Form Based Code Review," B.R.C. 1981. Prior to submittal of an application, a Pre-Application submittal is required for staff and the applicant to discuss the direction of the project and allows the applicant to get key advice on designing to the standards of the FBC. After submission of a Form Based Code Review application, approval would be based on meeting the specific standards within the FBC (Appendix M). Reviews would be staff level (no automatic Planning Board hearings) and would be referred to DAB for comment like other Site Review applications in area plan areas. With the exception of small projects (i.e., under 500 square feet of floor area, one-story and no exception requests) and minor modifications limited per the criteria in section 9-2-16(j), B.R.C. 1981, all Form Based Code Review projects would be subject to Planning Board or citizen call up. Staff could also refer applications to Planning Board like the current Site Review process.
- ***Exceptions:*** FBCs are typically written to be prescriptive and non-discretionary. However, to allow flexibility to the standards, exceptions to FBC standards can be requested and would be subject to the proposed exception criteria in section 9-2-16(i), B.R.C. 1981, which require the following:

    - Consistency with the goals and intents of the applicable adopted area plan;

- Consistency with the "purpose" of FBC Reviews as stated in section 9-2-16(a), B.R.C. 1981 and
- Avoidance of adverse impacts above what would normally be expected by meeting the FBC standards.

Staff has drafted the exception process to allow flexibility in scenarios where it may be desirable to deviate somewhat from the FBC. Similar to Site Review, exceptions would be treated like modifications and would be specifically called out in any correspondence with the Planning Board or City Council and on Notice of Dispositions. If the board or council disagreed about granting an exception the project could be called up. Call ups are not limited to whether exceptions are requested or not, but are possible for any project. Usually a decision to call a project up is based on whether the reviewer (e.g., interested party, board member or city council) believes the requirements of the FBC are met.

Draft Form-Based Code (FBC)

The draft FBC is found in **Attachment A** (as an Exhibit B to the ordinance). The regulations are written in the same numbering format as the current Land Use Code and include broad regulations that would apply to all form-based code areas (if adopted in the future) as well as enabling options for adding new specific regulations for specific areas. The regulations have been prepared as an appendix, because as part of a pilot process, the appendix would stand separate for the city and community to evaluate whether form-based code is effective for use in achieving better design outcomes. If in the future the city found that the Form Based Code Review process and FBC regulations were effective or even preferable to the current Site Review process, the option of incorporating the appendix as a new chapter in the Land Use Code would exist. Conversely, if it is found that the regulations are not effective, the appendix could be more easily removed from the Land Use Code. Also, if review boards and the community felt that projects did not necessitate discretionary review, call up provisions in the future could be eliminated.

The Planning Board staff memorandum from Oct. 29th, which covers the general content and structure of the FBC, can be found here. The October memorandum is similar to that sent to City Council as part of its September 2015 study session. A brief overview of the composition of the FBC is below followed by descriptions of what updates have been made to the FBC since the last review.

Content of the FBC:

- General Provisions: The general provisions include the general purpose statement, design goals and organization of the code. The section also outlines what sections of the FBC supersede requirements within the Boulder Revised Code (BRC) and what BRC rules continue to apply to the Form Based Code area. There is a section in the General Provisions that addresses existing structures and what requirements would be triggered from minor alterations. Lastly, the provisions include the Regulating Plan that specifies where different building types are permitted, what view corridors are to be protected as well as laying out the required Transit Village Area Plan (TVAP) connections. Given the TVAP goals of concentrating

residential housing in the Boulder Junction area, the General Building type areas would also permit Row Building types to encourage residential. As stated above, projects over 15,000 square feet would also have to provide at least 50 percent of their floor area as residential uses in these areas.

- Site Design: The site design section focuses primarily on the streetscape around projects sites, the paseos that cut through properties and the outdoor space features that are required on sites. It includes specific standards for different types of outdoor spaces, where at least one outdoor space meeting the standards must be provided 1/8 of a mile from every building entry. There are provisions to allow reductions to space sizes on small sites as well to enable flexibility.

  Based on the discussions with the FBC Working Group, the consultant and staff developed design requirements and specifications for paseos for the FBC with the goal of creating attractive, pedestrian friendly pathways that would create more permeability through city blocks. As specified in the TVAP connections section on page 9 of this memo, connections have been updated to be subject to the design standards (i.e., narrow, wide and enhanced paseos) that have been developed. The new paseo standards would include a variety of technical requirements including the following:

  - Surface treatment requirements for permeable pavers and bricks;
  - Constructions and maintenance requirements
  - Special landscape and lighting requirements

- Building Types: The Building Types section includes descriptions of the applicable building types – Main Street, General Building, Row Building and Commercial Storefront – and outlines the specific dimensional, form and design requirements for each building type. Buildings are required to correspond to the locations specified on the Regulating Plan within the General Provision section. Some examples of the form and design standards included in this section are:

  - Build-to zones; how much of the street frontage must be occupied by buildings;
  - Setbacks (side and rear)
  - Maximum building lengths
  - Maximum number of stories
  - Maximum floor to floor heights
  - Maximum lot coverage
  - Parking locations
  - Building entry requirements
  - Permitted cap (roof) types
  - Required transparency per floor
  - Special storefront use requirements (i.e., restaurant and dining uses, personal service uses, and retail in specific locations to ensure desired pedestrian activity)

These requirements are supplemented with diagrams and are described in detail in a section following the tables so it is understood by the user how to calculate and verify compliance. The section concludes with requirements for cap (roof) types.

- Building Design: Where the prior section focuses on the basic parameters of building form, use and window locations etc., the building design section focuses on the "skins" of building by specifying allowable "major" materials like stone, brick, wood etc. and minor materials like fiber board, stucco etc. and the allowable percentage on the face of the buildings and where and how they should be applied. There are also "limited use" materials that are permitted under certain conditions. The section also includes standards for material transitions, window installation requirements, qualitative standards, and requirements for awnings and balconies that must be followed.

  More stringent mechanical appurtenance standards have been required as part of the FBC. The Building Design section concludes with standards that inform the massing and articulation of buildings to break down mass and monotony without creating buildings that look too "busy" or out of proportion. For instance, there are requirements to vary the facades of buildings in 90 foot increments for buildings more than 120 feet in length and incentives for pitched roofs and building height variation. New articulation requirements have been added that would avoid indentation of ground level facades to avoid buildings that appear top heavy. While there has been disagreement by the Planning Board about requiring demonstration that the golden ratio can be found in the exterior design of the building, staff believes that the requirement may help create buildings with pleasing symmetry and has thus, included it in the FBC. At its review on April 14th, some board members expressed concern about the requirement, but opted to try it out. If the requirement were too rigid it could be waived with an exception as part of a Form-Based Code Review.

TVAP transportation connection amendments

The FBC process identified some changes to transportation connections that would need to be made within TVAP simultaneous to adoption of the FBC. The identified changes are shown below and described following the graphic.

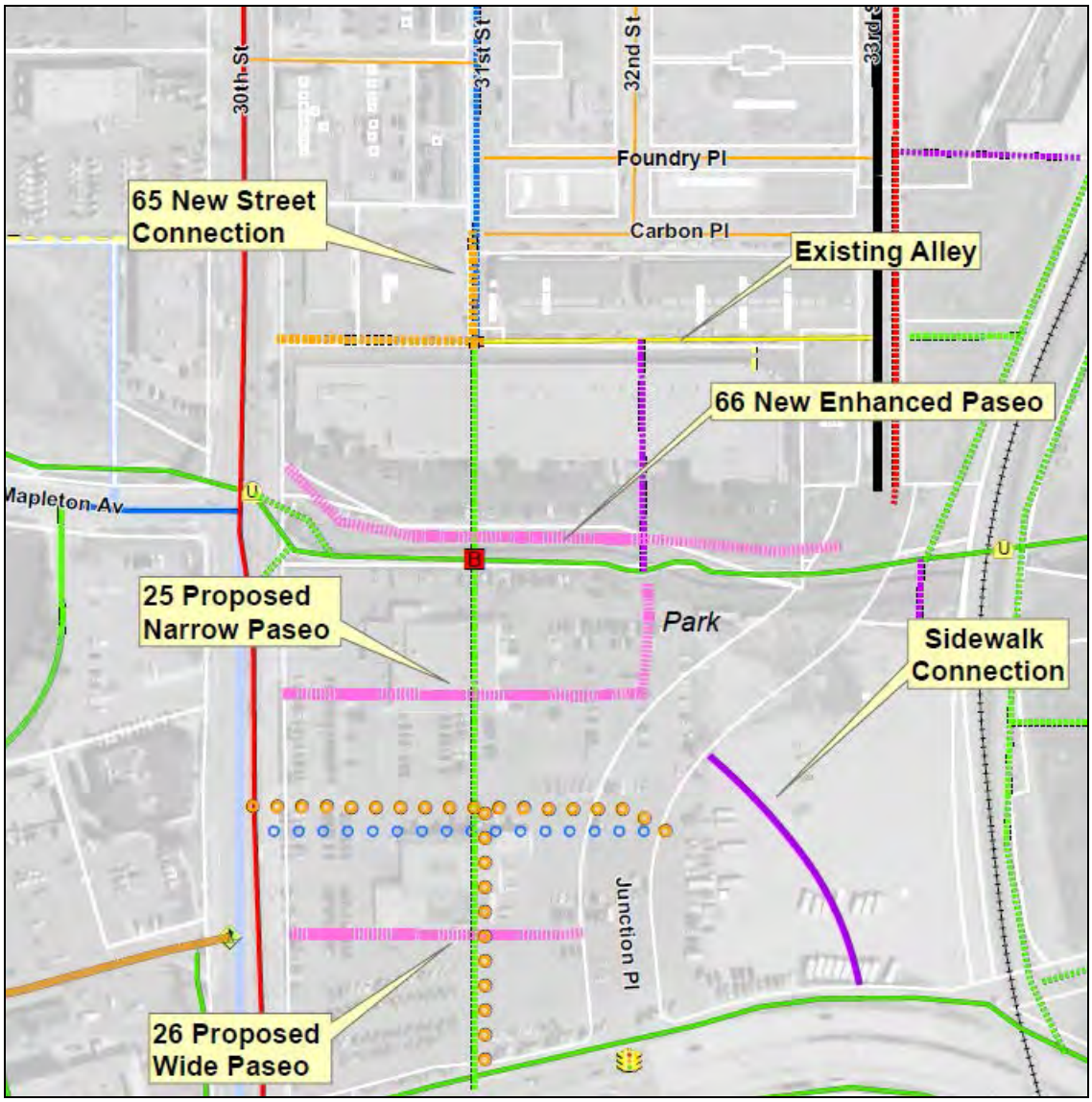

Figure 1- Proposed TVAP connection changes

- **Change 'Local Street' between 31st Street and Junction Place north of Goose Creek to an 'Existing alley'.** This change would recognize that development around the existing circulation functions more like an alley with head-in parking and the backs of buildings fronting upon it. It also recognizes that the connection will likely not redevelop for some time as the Steel Yards development is not expected to redevelop and the connection is needed to serve that development. It also makes more sense as an alley given that there are currently two additional local streets in parallel alignment in Steel Yards to the north with no alleys in between. Future redevelopment on the property to the south of the alley is expected to load from the north (not necessarily the existing alley) and have buildings facing the south.

- **Add a new sidewalk connection between Junction Place to Pearl Parkway through the Depot Square development.** This change acknowledges an existing

paseo-like connection constructed in Depot Square that effectively breaks up the block consistent with the intent of TVAP.

- **New connections or changes to existing connection descriptions** (the numbers shown are those currently within TVAP Appendix 3 with the addition of 65 and 66; new language is shown in underline)**:**

  25. Pedestrian connection: This connection is located approximately mid-way between Goose Creek and the proposed road in the center of the city-owned parcel. The location of this connection is flexible but is meant to meet the objective of providing a pedestrian connection at least every 200-300 feet in a mid-block location. This connection can be accomplished through a narrow paseo per the Form Based Code Area Regulations of Appendix M considering the close proximity to wider connections to the north (i.e., Goose Creek multi-use path and the enhanced paseo described in connection # 66).

  26. Pedestrian connection: This connection is located approximately mid-way between the proposed road in the center of the city-owned parcel and Pearl Parkway. The location of this connection is flexible but is meant to meet the objective of providing a pedestrian connection at least every 200-300 feet in a mid-block location and to provide a protected pedestrian crossing of 30th Street to Crossroad Commons. This connection can be accomplished through a wide paseo per the Form Based Code Area Regulations of Appendix M to continue the connection from Crossroad Commons development into the Boulder Junction neighborhood.

  65. Local Street: This connection is north-south and connects the existing 31st Street and Carbon Place intersection in the Steel Yards development to the proposed connection described in #17 connecting to 30th Street.

  66. Pedestrian Connection: This connection is primarily a pedestrian connection between 30th Street to Junction Place just north of the Goose Creek multi-use path. This connection would be required to meet the "enhanced paseo" requirements of the Form Based Code Area Requirements of Appendix M with the intent of providing a more pedestrian-friendly, linear park-like promenade connecting the perimeter 30th Street corridor to the Depot Square plaza within Boulder Junction. Buildings would front on the space as if it was a street and the pathway would be wide and well-landscaped.

ATTACHMENTS

A. Ordinance No. 8121 including the proposed Form-Based Code (Exhibit B to the Ordinance)
B. Proposed changes to TVAP transportation connections
C. Background & Public Input
D. Planning Board minutes dated April 14, 2016
E. Addressing methodology for public notices

ORDINANCE NO. 8121

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO ADD A FORM-BASED CODE REVIEW PROCESS AND TO ADD REVIEW STANDARDS IN AN APPENDIX TO THE LAND USE CODE APPLICABLE TO DESIGNATED FORM-BASED CODE AREAS AND ADMINISTERED THROUGH THE FORM-BASED CODE REVIEW PROCESS, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Subsection (b) of Section 4-20-43, "Development Application Fees," B.R.C. 1981, is amended by adding a new paragraph (32) and renumbering subsequent paragraphs, to read:

….

(32) An applicant for approval of a form-based code review or an amendment to a form-based code review shall pay the following fees:

Form-Based Code Review: ……...$8,885

Form-Based Code Review Amendment…….....$2,100

Administrative Form-Based Code Review …….$757

Minor Modification to a Form-Based Code Review (standard)……..$757

Minor Modification to a Form-Based Code Review (simple) ……....$168

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

….

9-1-2. - How to Use This Code.

A general description of these land use regulations follows. This description is intended to provide the reader with some guidance using this code. This section is not intended to be a substitute for the standards, criteria and procedures contained in this code.

(a) Organization: This title is divided into sixteen chapters. Each chapter is further subdivided into sections, subsections, paragraphs and subparagraphs. A consistent numbering and formatting convention is used throughout the title to identify these

divisions and to help orient the user to the organization of information. The example below illustrates the formatting and numbering convention:

_____

EXAMPLE

9-1-1. Section Heading.

(a) Subsection Heading: with text in the paragraph appearing as hanging indent for the entire Title as shown in this paragraph.

(1) Paragraph Heading, with text in the paragraph appearing as hanging indent for the entire Title as shown in this paragraph.

(A) Subparagraph Heading, with text in the paragraph appearing as hanging indent for the entire Title as shown in this paragraph.

_____

When necessary, the numbering system continues beyond the subparagraph heading following a similar pattern of numbering and indentation. Each section includes all material between two section headings. For example, ~~s~~Section 9-1-1 includes all material beginning with the number 9-1-1 up to number 9-1-2. References to any division of this title include all material located within the referenced section, subsection, paragraph, subparagraph, etc.

(b) Zoning Map: Zoning districts are the primary tool for regulating land in Boulder. Prior to considering developing land, an applicant should refer to the official zoning map to determine which zoning district his/her property is located within. The official zoning map is available at the planning department.

(c) Modular Zone System: Zoning districts in Boulder are comprised of standards from three modules: use, form and intensity. Combining elements of the three modules creates a zoning district. The zoning districts are identified in ~~s~~Section 9-5-2, "Zoning Districts," B.R.C. 1981.

(1) Use Module: The use module establishes the uses that are permitted, conditionally permitted pursuant to ~~s~~Section 9-2-2, "Administrative Review Procedures," B.R.C. 1981, prohibited, or that may be permitted through use review pursuant to ~~s~~Section 9-2-15, "Use Review," B.R.C. 1981. Conditional uses are reviewed through an administrative (staff) review process to ensure conformance with specific use standards. If the use requires a use review, then the project will be required to complete a discretionary review to ensure that any impacts of the use on the surrounding area are minimized. Finally, if the use is an existing legal use that is no longer allowed in the zoning district, and there is a proposal to change or modify the use, it may also be required to complete a use review.

(2) Form Module: The form module establishes the physical parameters for development such as setbacks, building coverage, height and special building design characteristics. Solar access standards, located in ~~s~~Section 9-9-17, "Solar Access," B.R.C. 1981, may also impact building form and should be reviewed in conjunction with the form standards. On parcels and lots designated in Appendix

L, "Form-Based Code Areas," the regulations of Appendix M, "~~Form Based~~Form-based Code," apply.

(3) Intensity Module: The intensity module establishes the density at which development may occur and includes: minimum lot sizes, minimum open space per dwelling unit, number of dwelling units per acre, minimum open space per lot or parcel, and floor area ratios when applicable. On parcels and lots designated in Appendix L, "Form-Based Code Areas," the regulations of Appendix M, "From Based Code," apply.

(d) Overlay Districts and Development Standards: In addition to the zoning district standards, there are additional sets of standards that may be applicable to a property, depending on its location. The applicant should check with the planning department to find out if the property is subject to such regulations, based on the official maps available from the department. First, the applicant should determine if the property is located within a floodplain. Standards regulating lands in the floodplain are found in ~~s~~Sections 9-3-2 through 9-3-8, B.R.C. 1981. If the property is located near the airport, the applicant should determine if the property is located within the airport influence overlay zone. Those standards are located in ~~s~~Section 9-3-10, "Airport Influence Zone," B.R.C. 1981. The applicant should also determine if the property contains any significant wetlands. These regulations are found in ~~s~~Section 9-3-9, "Stream, Wetlands and Water Body Protection," B.R.C. 1981. Finally, the applicant should determine if the property is a designated landmark or located in a designated historic district. Standards regulating historic preservation are located in ~~c~~Chapter 9-11, "Historic Preservation," B.R.C. 1981. In all cases, these overlay district standards apply in addition to any standards of the underlying zoning district. For example, the floodplain overlay regulations may limit or prohibit expansion of existing structures on portions of lots located in the floodplain, even though the basic zone standards would allow it. Other types of overlays may supplement the basic zone standards. For example, a property within the airport influence zone may limit uses or building heights beyond what the base zone standards allow.

(e) Development Standards: Chapter 9-9, "Development Standards," B.R.C. 1981, includes development standards that apply in addition to the zoning and overlay district standards. These include standards for parking, landscaping, signs, open space, site access, lighting, solar access and other elements of development.

(f) Variances of Standards/Site Review Process/Form-Based Code Review Process:

(1) If the applicant cannot meet the standards described in ~~s~~Subsections (b), (c) and (d) of this section, the applicant should determine whether there are alternative development options or any exceptions to the general rules in the code that may accommodate the project. If the project does not meet standards and other development alternatives are not possible, then there are two basic methods available to attempt to vary the standards: the variance process and the site review process.

(2) The variance process is generally used for existing development. Bulk and form requirements may be varied if the applicant can demonstrate an unusual physical

circumstance or other hardship. The variance requirements are found in ~~s~~Section 9-2-3, "Variances and Interpretations," B.R.C. 1981.

(3) The requirements for the site review process are found in ~~s~~Section 9-2-14, "Site Review," B.R.C. 1981. If the project is large enough to meet the minimum thresholds set forth in the code, then the bulk and form requirements and other specified development standards may be ~~varied~~ modified as part of a unified development proposal through a site review. If the project is smaller than the minimum thresholds standards, it is not eligible for site review. All projects that exceed the maximum site review threshold will be required to complete a site review.

(4) The requirements for the ~~form based~~form-based code review process are found in Section 9-2-16, "Form-Based Code Review," B.R.C. 1981. Parcels and lots designated in Appendix L, "Form-Based Code Areas," are subject to the requirements of Appendix M, "Form-Based Code," and will be required to complete a form-based code review. Projects required to complete a form-based code review, are not eligible for the variance process and site review process.

(g) Nonconformance Standards: Adoption of land use controls and changes in zoning have created nonconforming uses, nonstandard buildings and nonstandard lots. Chapter 9-10, "Nonconformance Standards," B.R.C. 1981, describes the treatment of these nonconformities. In general, the policy of the City is to allow these nonconforming uses and nonstandard buildings to be changed and upgraded without requiring their elimination if the change would not substantially adversely affect the surrounding area and if the change would not increase the degree of nonconformity of the use.

(h) Subdivision of Land: If the applicant would like to subdivide a piece of property or merge a number of different parcels into one parcel, the applicant may need to go through the subdivision process. The purpose of the subdivision process is to ensure that proposed building sites are appropriate for development; to obtain an accurate and permanent record of the separate interests of land that are created by subdivision of land; to apportion the costs of public services and facilities serving the subdivision; to provide assurances to future buyers of land that the subdivider owns the land to be sold; to provide legal and physical access to each lot; and to provide for maintenance of improvements, utilities and amenities. There are a number of divisions of land to which the subdivision regulations do not apply. The applicant should review these exceptions to determine if the project will be required to complete the subdivision process. There is also an abbreviated process for projects that only require elimination of a lot line between two lots within an existing subdivision. The subdivision process is found in ~~c~~Chapter 9-12, "Subdivision," B.R.C. 1981. The exceptions are found in ~~s~~Section 9-12-2, "Application of Chapter," B.R.C. 1981. The minor subdivision process is found in ~~s~~Section 9-12-5, "Minor Subdivision," B.R.C. 1981. The abbreviated process for lot line eliminations, lot line adjustments and minor subdivisions is found in ~~s~~Section 9-12-4, "Elimination of Lot Lines," B.R.C. 1981.

(i) Inclusionary Housing: The City has adopted regulations to assist in providing a diverse housing stock affordable to people of varying incomes. Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, sets forth the standards for the City's inclusionary housing and

moderate income housing programs. Inclusionary housing requires that most new residential development contribute toward permanent affordable housing in the City. Generally speaking, twenty percent of the total number of units are required to be permanently affordable to low income households.

(j) Growth Management: The growth management system sets the maximum rate of residential growth at approximately one percent per year. This is achieved by allocating the number of dwelling units for which a building permit can be granted in any given year. Provided that there are enough allocations, each development is entitled to up to forty allocations per year. The allocations are distributed on a quarterly basis. During the last quarter of the year, the applicant may receive up to thirty-five more allocations (to a total of seventy-five) if there are enough allocations available in the system. If the applicant has a project that requires more allocations than are allowed because of the size of the building, building configuration or infrastructure phasing, the applicant may bank allocations over time to build out the project. New residential development that meets the requirements of the City's affordable housing programs and residential development located in commercial, industrial and mixed-use zoning districts are not required to meet the allocation requirements of the growth management system regulations. Those regulations are found in ~~c~~Chapter 9-14, "Residential Growth Management System," B.R.C. 1981.

(k) Enforcement of The Land Use Regulations: Violations of the land use regulation are investigated by the Development and Inspection Services division of the Public Works Department and are prosecuted in municipal court, by district court actions or through administrative hearings. A hearing also is available before the Planning Board to protest a violation of a development review approval. The enforcement provisions are found in ~~c~~Chapter 9-15, "Enforcement," B.R.C. 1981.

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9-1-4. - Transitional Regulations.

This section addresses the applicability of new substantive standards enacted by this title to activities, actions and other matters that are pending or occurring as of the effective date of this title.

(a) Building Permits: This title will be amended from time to time. Any building permit in effect prior to the effective date of a specific amendment to this title will not be subject to the requirements of the subsequent amendment.

(b) Expiration of Development Approvals:

(1) Any approval previously granted, including, without limitation, site reviews, use reviews, form-based code reviews, planned unit developments, special reviews, height reviews, nonconforming reviews and variances, becomes subject to the provisions of any amendment to this title, unless application for a building permit has been made, or a certificate of completion has been issued pursuant to such approval by the date falling one year after the effective date of such respective amendment.

(2) If a building permit has been issued on any such development approval by September 15, 2006, it may be continued under the conditions of its approval, but it may only be amended or modified in accordance with the minor modification and amendment provisions of ~~s~~Sections 9-2-14, "Site Review," and 9-2-15, "Use Review," B.R.C. 1981.

(c) Expiration of Exceptions, Planned Developments and Planned Residential Developments: Any exception, PD (planned development) or PRD (planned residential development) is subject to the provisions of this title, unless construction of such exception, PD or PRD commenced by February 8, 1984. If, by February 8, 1984, a building permit had been issued for any use or occupation of land previously approved as an exception, a PD or a PRD, such use or occupation may be continued under the conditions of its approval. Any change in the use or occupation of such land shall be made in accordance with the amendment provisions of ~~s~~Section 9-2-14, "Site Review," B.R.C. 1981.

(d) Additional Development Regulations: Notwithstanding the provisions of ~~s~~Subsections (b) and (c) above, additional development regulations may be imposed as part of a building permit approval upon properties in a previously granted and otherwise valid development approval, including, without limitation, site reviews, use reviews, planned unit developments, planned developments, planned residential developments, exceptions, special reviews, height reviews, nonconforming reviews and variances, that are inconsistent with the terms and conditions of the development approval, if:

(1) The standard is expressly stated in the land use regulations as applicable to such development request; and

(2) The standard will not violate the terms of an annexation agreement or a vested right that was granted pursuant to ~~s~~Section 9-2-19, "Vested Rights," B.R.C. 1981.

(e) Existing Uses That Require a Use Review or Conditional Use Approval: Any previously approved use that was established prior to the adoption of new regulations that make such use permitted only pursuant to a conditional use or a use review shall be allowed to continue in operation. Any change or expansion of a use that was established prior to the adoption of new regulations that make such use permitted pursuant to a conditional use or a use review shall be made in conformance with the applicable standards for use review, conditional uses or for changes or expansions to nonconforming uses. If active and continuous operations of such a use are not carried on for a period of one year, it shall thereafter be occupied and used by a use meeting the requirements of this title, as required by ~~s~~Subsection 9-10-2(a), B.R.C. 1981.

(f) Violations Continue: Any violation of the previous land development regulations of the city shall continue to be a violation under this title and shall be subject to the penalties and enforcement set forth in ~~c~~Chapter 9-15, "Enforcement," B.R.C. 1981, unless the use, development, construction or other activity is clearly consistent with the express terms of this title.

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Section 3. Chapter 9-2, B.R.C. 1981, is amended to read:

9-2-1. - Types of Reviews.

(a) Purpose: This section identifies the numerous types of administrative and development review processes and procedures. The review process for each of the major review types is summarized in Table 2-1 of this section.

(b) Summary Chart:

TABLE 2-1: REVIEW PROCESSES SUMMARY CHART

I. ADMINISTRATIVE REVIEWS	II. ADMINISTRATIVE REVIEWS - CONDITIONAL USES	III. DEVELOPMENT REVIEW AND BOARD ACTION
Administrative form-based code review Building permits Change of address Change of street name Demolition, moving, and removal of buildings with no historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981 Easement vacation Extension of development approval/staff level Landmark alteration certificates (staff review per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981)	Accessory Units (Dwelling, Owners, Limited) Antennas for Wireless Telecommunications Services Attached Dwelling Units and Efficiency Living Units in the University Hill General Improvement District Bed and Breakfasts Cooperative Housing Units Daycare Centers Detached Dwelling Units with Two Kitchens Drive-Thru Uses Group Home Facilities Home Occupations Manufacturing Uses with Off-Site Impacts Medical or Dental Clinics or	Annexation/initial zoning BOZA variances Concept plans Demolition, moving, and removal of buildings with potential historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981 Form-based code review Landmark alteration certificates other than those that may be approved by staff per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981 Lot line adjustments Lot line elimination

Landscape standards variance Minor modification to approved site plan Minor modification to approved form-based code review Nonconforming use (extension, change of use (inc. parking)) Parking deferral per Subsection 9-9-6(e), B.R.C. 1981 Parking reduction of up to fifty percent per Subsection 9-9-6(f), B.R.C. 1981 Parking reductions and modifications for bicycle parking per Paragraph 9-9-6(g)(6), B.R.C. 1981 Parking stall variances Public utility Rescission of development approval Revocable permit Right of way lease Setback variance Site access variance Solar exception Zoning verification	Offices or Addiction Recovery Facilities in the Industrial General Zoning District near the Boulder Community Health Foothills Campus Neighborhood Service Centers Offices, Computer Design and Development, Data Processing, Telecommunications, Medical or Dental Clinics and Offices, or Addiction Recovery Facilities in the Service Commercial Zoning Districts Recycling Facilities Religious Assemblies Residential Care, Custodial Care, and Congregate Care Facilities Residential Development in Industrial Zoning Districts Restaurants, Brewpubs, and Taverns Sales or Rental of Vehicles on Lots Located 500 Feet or Less from a Residential Zoning District Service Stations Shelters (Day, Emergency, Overnight, temporary) Temporary Sales Transitional Housing	Minor Subdivisions Out of city utility permit Rezoning Site review Subdivisions Use review Vacations of street, alley, or access easement

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9-2-5. - Development Review Process.

(a) Purpose: The development review process is established in order to provide a uniform and consistent method for evaluating and reviewing all proposals for discretionary and ~~review~~form-based code review.

(b) Compliance Required: No person shall commence or complete construction of any structure or part thereof which requires a development review under this title without first complying with all applicable requirements of this title, receiving approval under this title, and complying with any condition of approval given under this title. No person shall use, occupy, or maintain any structures or part thereof for which a discretionary or ~~review~~form-based code review approval under this title is required if no such approval was given, or in violation of any condition of approval.

9-2-6. - Development Review Application.

(a) Application Requirements for Use Review, ~~and~~ Site Review, and Form-Based Code Review: A person having a demonstrable property interest in land to be included in a development review may file an application for approval on a form provided by the city manager that shall include the following:

(1) The written consent of the owners of all property to be included in the development;

(2) An improvement survey of the land;

(3) Development plans including site, landscaping, building plans, and building elevations as applicable;

(4) A written statement addressing the criteria for approval;

(5) All information required in Sections 9-2-14, "Site Review," ~~and~~ 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, for the type of review requested;

(6) Any other information that the applicant wishes to submit; and

(7) The fee prescribed by Section 4-20-43, "Development Application Fees," B.R.C. 1981, for the type of review requested.

(b) Combined Reviews: If a development proposal, by its nature, requires more than one type of approval under Sections 9-2-14, "Site Review," ~~and~~ 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, the following will apply in addition to other requirements of this chapter:

(1) All applicable fees will be collected as prescribed in Section 4-20-43, "Development Application Fees," B.R.C. 1981.

(2) The notice requirements of Subsection (c) of this section shall be met for each individual type of approval required, although such notices may be combined in one document, one posting, and one publication.

(3) The approving agency will apply the criteria for each type of approval required under Sections 9-2-14, "Site Review," ~~and~~ 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981.

(c) Public Notice of Application: The city manager shall provide the public notice for a development review application as specified in Section 9-4-3, "Public Notice Requirements," B.R.C. 1981.

(d) Notice - Mineral Estate: The applicant shall notify all owners of a mineral estate as specified in Subsection 9-4-3(e), B.R.C. 1981.

(e) Inactive Applications:

(1) If, at any point in a development review process, the city manager has notified the applicant that additional or corrected materials are required, and the applicant has not submitted those materials within sixty days after the date of such notification, the application will be considered withdrawn. The city manager may extend the sixty-day period if requested by the applicant prior to its expiration and upon the applicant's demonstrating good cause for the additional delay.

(2) Any re-submittal of the application after the sixty day deadline will be treated as a new application for purposes of review, scheduling, public notice, and payment of application fees.

9-2-7. - Development Review Action.

No development review application will be accepted unless and until it is determined to be complete. Such determination will be made within five days after the submission of the application. The city manager will review the application and provide the applicant with a list of any deficiencies.

(a) City Manager Review and Recommendation:

(1) The city manager shall, after acceptance of the application, review the application for compliance with the review criteria. The city manager shall provide the applicant with a written evaluation of the application and whether it meets or does not meet applicable criteria, and what modifications the applicant may wish to consider in order to meet applicable criteria and obtain the city manager's support.

(2) The applicant shall be afforded a maximum of sixty days to make any corrections or changes recommended by the city manager. If corrections or changes are not submitted in the prescribed time period, the application shall be considered withdrawn.

(3) The city manager shall approve the application in whole or in part, with or without modifications and conditions, deny the application or may refer the application to the planning board for review or decision, as provided in Sections 9-2-14, "Site Review," ~~and~~ 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, for the type of review requested.

(4) The manager will mail a written disposition of approval or denial with the reasons for denial to the applicant, appeal body and to any person that requested notification of the final decision. A decision not referred to, appealed to or called-up by the

planning board is final fourteen days after the date of approval indicated on the disposition.

(b) Planning Board Review and Recommendation: Development review applications requiring a decision by the planning board shall be reviewed as follows:

(1) Referral: The city manager shall refer to the planning board any application for a development review which requires a board decision as required by ~~s~~Sections 9-2-14, "Site Review," ~~and~~ 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, and any other application which the manager deems appropriate.

(2) Decision: Within thirty days of the public hearing provided for in ~~s~~Section 9-2-8, "Public Hearing Requirement," B.R.C. 1981, or within such other time as the agency and the applicant mutually agree, the board will either grant the application in whole or in part, with or without modifications and conditions, or deny it. The board will review the application in accordance with the standards and guidelines established in Sections 9-2-14, "Site Review," ~~and~~ 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, for the type of review requested. The decision will specifically set forth in what respects the application meets or fails to meet the standards and criteria set forth in Sections 9-2-14, "Site Review," ~~and~~ 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, for the type of review requested. A planning board decision not called up by the city council is final thirty days after the date of the decision.

(3) Appeal and Call-Ups:

(A) The applicant or any interested person may appeal the city manager's decision pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

(B) A member of the planning board may call-up an application for review pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

(c) City Council Call-Up: The city council may call-up any planning board decision pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

(d) Building Permit Pending Appeal: A building permit may be applied for after the initial approval of a development review application, but no building permit will be issued until after any and all applicable call-up or appeal periods have expired. An applicant for such a permit bears all risks of subsequent disapproval and waives any claims arising from the permit application.

(e) Judicial Review: Any person aggrieved by the final decision of the city manager may seek judicial review pursuant to Subsection 9-4-4(g), B.R.C. 1981.

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9-2-9. - Final Approval Requirements.

(a) Development Agreement: After the approving agency has finally approved an application for use review, ~~or~~ site review, or form-based code review, the owner and the city manager will execute a development agreement that incorporates all conditions

of the approval, including, without limitation, time limits for completion of the development, and, if applicable, requirements for appropriate easements or deed restrictions if unique conditions of approval apply. The development agreement shall be binding on all parties thereto, shall run with the land and will be recorded upon execution by the city clerk in the office of the County Clerk and Recorder of Boulder County. Any violation of a development agreement is a violation of this title. If there are no public improvements associated with a form-based code review application, the city manager can waive the requirements for a development agreement.

(b) Final Approved Plans: The applicant shall file a paper or electronic copy containing the approved site plan, any applicable restrictions or modifications to the underlying zoning district, and any conditions approved by the approving agency. The paper or electronic copy shall be filed with the city manager, who will endorse and date the approved site plan. The location of the approved development will be included on an official map showing development in the City. The paper or electronic copy will remain on file in the planning department.

(c) Expiration: Unless expressly waived by the city manager for good cause, pursuant to a request made prior to expiration of the approval, if the applicant fails to file the final approved plans according to the specifications in ~~s~~Subsection (b) above or sign the development agreement within ninety days of final approval, the approval expires.

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9-2-11. - Compliance With Development Agreement.

(a) Issuance of the Certificate of Occupancy or Certificate of Completion: Prior to issuance of a certificate of occupancy pursuant to a building permit or a certificate of completion for a use undertaken pursuant to a development agreement, the city manager will determine whether the provisions of the development agreement have been met. If the manager so finds, the manager will sign the certificate of occupancy or the certificate of completion. If not, the manager will provide to the developer or its successors an opportunity for a hearing before the planning board under ~~c~~Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, which will determine whether the development complies with the agreement and may:

(1) Revoke the site review, ~~or~~ use review, or form-based code review approval;

(2) Impose additional conditions or modifications to carry out the purposes of the original approval; or

(3) Seek enforcement remedies as provided in ~~c~~Chapter 9-15, "Enforcement," B.R.C. 1981.

(b) Request for Planning Board Hearing for Failure to Comply With the Development Agreement: At any time after the execution of a development agreement, any person aggrieved by an alleged failure of the developer or its successors to comply with the development agreement may request a hearing, conducted pursuant to the provisions of ~~c~~Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, before the planning board. The planning board will determine whether the conditions of the agreement have been met and may:

(1) Revoke the site plan, ~~or~~ use review, or form-based code review approval;

(2) Impose additional conditions or modifications to carry out the purposes of the original approval; and

(3) Seek enforcement remedies as provided in ~~c~~Chapter 9-15, "Enforcement," B.R.C. 1981.

9-2-12. - Development Progress Required.

(a) Three-Year Rule: The applicant must begin and substantially complete the approved site review, ~~or~~ use review, or form-based code review as specified in the development agreement within three years from the time of the final approval of the site, ~~or~~ use, or ~~review~~form-based code review or as modified by a development schedule incorporated in the development agreement. For the purposes of this section, substantially complete means the time when the construction is sufficiently complete so the owner can occupy the work or portion thereof for the use for which it is intended. If the project is to be developed in stages, the applicant must begin and substantially complete the development of each stage within three years of the time provided for the start of construction of each stage in the development agreement. Failure to substantially complete the development or any development stage within three years of the approved development schedule shall cause the unbuilt portion of the development approval to expire. Nothing in this section is deemed to create a vested property right in any applicant; such vested property right may only be created pursuant to the provisions of Section 9-2-19, "Creation of Vested Rights," B.R.C. 1981.

(b) Extension: Prior to the expiration of a form-based code review, use review, or site review approval, the applicant may request an extension of the time allowed for the completion of the development.

(1) City Manager Level Extension: The city manager may grant up to two six-month extensions for each phase of the development if such extension will enable the applicant to substantially complete the phase of development or is necessary to allow the applicant to request an extension from the planning board.

(2) Planning Board Level Extension: The planning board may grant an extension of a development approval, pursuant to a hearing conducted under the provisions of ~~c~~Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, after the applicant has exhausted any extension granted pursuant to Paragraph (b)(1) of this section. The applicant shall be required to demonstrate that it exercised reasonable diligence in completing the project according to the approved development schedule and good cause as to why the extension should be granted.

(A) Criteria for Demonstrating Reasonable Diligence: An applicant may show that it has exercised reasonable diligence by providing evidence that it has done substantial work towards completing the project. Such evidence may include, without limitation, drafting plans for building permit or technical document review, applications for building permits or other permits that are required prior to the issuance of building permits, site preparation and grading, or commencement of the construction of a portion of the project.

(B) Criteria for Demonstrating Good Cause: An applicant may show good cause as to why an extension should be granted by providing evidence that includes, without limitation, the following: a demonstration of the applicant's ability to complete the project within the extension; the extension is needed because of the size of the project or phasing of the development; or economic cycles and market conditions prevented the construction of the project during the original approval period.

(C) Additional Conditions: As part of a hearing to consider an extension, the planning board may impose additional conditions on the applicant in order to ensure compliance with any amendments to this title enacted after the date of the original approval.

(c) Building Permits: Upon issuance of a building permit pursuant to a development review approval, the applicant must adhere to the schedule for construction and inspection as defined in the city building code, ~~c~~Chapter 10-5, "Building Code," B.R.C. 1981. In addition to the provisions of this title, all provisions of the building code regarding expiration and termination of building permits shall apply.

(d) Annexations/Six-Month Rule: If an owner of property not located within the city, for which a development review application is approved, fails to annex the property to the city within six months of the date of approval, the approval shall expire unless the approving agency extends the time period, upon a finding of good cause predicated upon a written request of the applicant delivered to the city manager before the expiration of the six-month period.

(e) Rescission of Development Approval: If, after use review, site review, Planned Development (PD), Planned Residential Development (PRD), or Planned Unit Development (PUD) approval is granted pursuant to this chapter, the owner of property desires to develop, instead, under the provisions of Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," and 9-8, "Intensity Standards," B.R.C. 1981, the owner may request rescission of such use review, site review, PD, PRD or PUD approval by filing a written request for rescission with the city manager. The manager will grant a rescission of such use review, site review, PD, PRD, or PUD approval if no building permit has been issued for the development and neither the city nor the developer has taken any actions in detrimental reliance on the terms of the development agreement. The manager may also rescind a site review, PD, PRD, or PUD approval if the existing or proposed development complies with all the use, form, and intensity requirements of Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," and 9-8, "Intensity Standards," B.R.C. 1981, and there is no substantial public benefit in maintaining the original approval. An owner may also request a rescission of a use review or special review approval in order to return the property to a use that is permitted as a matter of right, or as a conditional use if it is able to meet all applicable standards for such use under this title.

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9-2-14. - Site Review.

(a) Purpose: The purpose of site review is to allow flexibility and encourage innovation in land use development. Review criteria are established to promote the most appropriate use of land, improve the character and quality of new development, to facilitate the adequate and economical provision of streets and utilities, to preserve the natural and scenic features of open space, to assure consistency with the purposes and policies of the Boulder Valley Comprehensive Plan and other adopted plans of the community, to ensure compatibility with existing structures and established districts, to assure that the height of new buildings is in general proportion to the height of existing, approved, and known to be planned or projected buildings in the immediate area, to assure that the project incorporates, through site design, elements which provide for the safety and convenience of the pedestrian, to assure that the project is designed in an environmentally sensitive manner, and to assure that the building is of a bulk appropriate to the area and the amenities provided and of a scale appropriate to pedestrians.

(b) Scope: The following development review thresholds apply to any development that is eligible or that otherwise may be required to complete the site review process:

(1) Development Review Thresholds:

(A) Minimum Thresholds for Voluntary Site Review: No person may apply for a site review application unless the project exceeds the thresholds for the "minimum size for site review" category set forth in Table 2-2 of this section or a height modification pursuant to Subsection (e) below on any lot is requested.

(B) Minimum Thresholds for Required Site Review: No person may apply for a subdivision or a building permit for a project that exceeds the thresholds for the "concept plan and site review required" category set forth in table 2-2 of this section until a site review has been completed.

(C) Common Ownership: All contiguous lots or parcels under common ownership or control, not subject to a planned development, planned residential development, planned unit development, or site review approval, shall be considered as one property for the purposes of determining whether the maximum site review thresholds below apply. If such lots or parcels cross zoning district boundaries, the lesser threshold of the zoning districts shall apply to all of the lots or parcels.

(D) Previously Approved Developments: Previously approved valid planned unit developments that do not otherwise meet the minimum site review thresholds may be modified or amended consistent with the provisions of this title pursuant to Subsections (k) and (l) of this section.

(E) Height Modifications: A development which exceeds the permitted height requirements of Section 9-7-5, "Building Height," or 9-7-6, "Building Height, Conditional," B.R.C. 1981, is required to complete a site review and is not subject to the minimum threshold requirements. No standard other than height may be modified under the site review unless the project is also eligible for site review.

TABLE 2-2: SITE REVIEW THRESHOLD TABLE

Zoning District Abbreviation	Use	Form	Intensity	Minimum Size for Site Review	Concept Plan and Site Review Required	Former Zoning District Abbreviation
A	A	a	1	2 acres	-	(A-E)
BC-1	B3	f	15	1 acre	3 acres or 50,000 square feet of floor area	(CB-D)
BC-2	B3	f	19	1 acre	2 acres or 25,000 square feet of floor area or any site in BVRC	(CB-E)
BCS	B4	m	28	1 acre	3 acres or 50,000 square feet of floor area	(CS-E)
BMS	B2	o	17	0	3 acres or 50,000 square feet of floor area	(BMS-X)
BR-1	B5	f	23	0	3 acres or 50,000 square feet of floor area	(RB-E)
BR-2	B5	f	16	0	3 acres or 50,000 square feet of floor area	(RB-D)
BT-1	B1	f	15	1 acre	2 acres or 30,000 square feet of floor area	(TB-D)
BT-2	B1	e	21	0	2 acres or 30,000 square feet of floor area	(TB-E)

DT-1	D3	p	25	0	1 acre or 50,000 square feet of floor area	(RB3-X/E)
DT-2	D3	p	26	0	1 acre or 50,000 square feet of floor area	(RB2-X)
DT-3	D3	p	27	0	1 acre or 50,000 square feet of floor area	(RB2-E)
DT-4	D1	q	27	0	1 acre or 50,000 square feet of floor area	(RB1-E)
DT-5	D2	p	27	0	1 acre or 50,000 square feet of floor area	(RB1-X)
IG	I2	f	22	2 acres	5 acres or 100,000 square feet of floor area	(IG-E/D)
IM	I3	f	20	2 acres	5 acres or 100,000 square feet of floor area	(IM-E/D)
IMS	I4	r	18	0	3 acres or 50,000 square feet of floor area	(IMS-X)
IS-1	I1	f	11	2 acres	5 acres or 100,000 square feet of floor area	(IS-E)
IS-2	I1	f	10	2 acres	5 acres or 100,000 square feet of floor area	(IS-D)
MH	MH	s	-	5 or more units are	-	(MH-E)

				permitted on the property		
MU-1	M2	i	18	0	1 acre or 20 dwelling units	(MU-D)
MU-2	M3	r	18	0	3 acres or 50,000 square feet of floor area	(RMS-X)
MU-3	M1	n	24	5 or more units are permitted on the property	1 acre or 20 dwelling units or 20,000 square feet of nonresidential floor area	(MU-X)
MU-4	M4	o	24.5	0	3 acres or 50,000 square feet of floor area	-
P	P	c	5	2 acres	5 acres or 100,000 square feet of floor area	(P-E)
RE	R1	b	3	5 or more units are permitted on the property	-	(ER-E)
RH-1	R6	j	12	0	2 acres or 20 dwelling units	(HR-X)
RH-2	R6	c	12.5	0	2 acres or 20 dwelling units	(HZ-E)
RH-3	R7	l	14	5 or more units are permitted on the property	2 acres or 20 dwelling units	(HR1-X)
RH-4	R6	h	15	5 or more units are	2 acres or 20 dwelling units	(HR-D)

				permitted on the property		
RH-5	R6	c	19	5 or more units are permitted on the property	2 acres or 20 dwelling units	(HR-E)
RH-6	R8	j	17.5	5 or more units are permitted on the property	3 acres or 20 dwelling units	-
RH-7	R7	i	14	5 or more units are permitted on the property	2 acres or 20 dwelling units	-
RL-1	R1	d	4	5 or more units are permitted on the property	3 acres or 18 dwelling units	(LR-E)
RL-2	R2	g	6	5 or more units are permitted on the property	3 acres or 18 dwelling units	(LR-D)
RM-1	R3	g	9	5 or more units are permitted on the property	2 acres or 20 dwelling units	(MR-D)
RM-2	R2	d	13	5 or more units are permitted on the property	2 acres or 20 dwelling units	(MR-E)
RM-3	R3	j	13	5 or more units are permitted on the property	2 acres or 20 dwelling units	(MR-X)

RMX-1	R4	d	7	5 or more units are permitted on the property	2 acres or 20 dwelling units	(MXR-E)
RMX-2	R5	k	8	0	2 acres or 20 dwelling units	(MXR-D)
RR-1	R1	a	2	5 or more units are permitted on the property	-	(RR-E)
RR-2	R1	b	2	5 or more units are permitted on the property	-	(RR1-E)

(2) Poles Above the Permitted Height: The city manager will follow the following procedures for the review, recommendation, call-up and effective date for the approval of poles above the permitted height.

(A) Light Poles at Government-Owned Facilities: The city manager will determine whether or not to approve an application for light poles at government-owned recreation facilities between thirty-five and fifty-five feet in height, subject to call-up by the planning board pursuant to the procedures set forth in Subsection 9-2-7(b), B.R.C. 1981.

(B) Poles Over Fifty-Five Feet in Height: The city manager will determine whether or not to approve all applications for poles over fifty-five feet in height, subject to call-up by the city council pursuant to the procedures set forth in Subsection 9-2-7(c), B.R.C. 1981.

(3) Exceptions: The following developments that exceed the ~~maximum~~ minimum site review thresholds set forth in this section shall not be required to complete a site review:

(A) Minor modifications and amendments under this section to approved development review applications;

(B) Building permits for additions to existing structures that do not exceed a cumulative total, over the life of the building, of twenty-five percent of the size of the building on which the addition is proposed and that do not alter the basic intent of an approved development;

(C) Subdivisions solely for the purpose of amalgamating lots or parcels of land;

(D) Subdivisions solely for the purpose of conveying property to the City; ~~and~~

(E) City of Boulder public projects that are otherwise required to complete a public review process~~.~~; and

(F) Projects located in areas defined by Appendix L, "Form-Based Code Areas," that are required to complete form-based code review pursuant to Section 9-2-16, "Form-Based Code Review," B.R.C 1981.

….

9-2-16. – Form-Based Code Review.

(a) Purpose: The purpose of form-based code review, is to improve the character and quality of new development to promote the health, safety and welfare of the public and the users of the development. The form-based code review regulations are established to create a sense of place in the area being developed or redeveloped and ensure a site and building design that:

(1) Is consistent with the purposes and policies of the Boulder Valley Comprehensive Plan and other adopted plans of the community;

(2) Creates a fine-grained transportation network that provides safe, convenient, and attractive multi-modal connections;

(3) Includes transportation connections and outdoor spaces that create attractive, usable amenities around which buildings and site features are organized in a manner that promotes pedestrian activity, a sense of security and community;

(4) Is compatible with the existing character of the area or the character established in the city's adopted plans and regulations for the area in terms of height, massing, scale, bulk, orientation, configuration, and architecture;

(5) Results in aesthetically pleasing buildings in that designs are simple and varied, use durable, high quality and natural building materials that create a sense of permanence, and provide human scale through the use of building elements and design details, such as contrast, form, window and door placement, color, and materials; and

(6) Is environmentally sensitive, considers the physical setting, and respects and preserves historic, natural and scenic features.

(b) Scope and Application:

(1) The requirements of this section apply to all development on parcels and lots designated in Appendix L, "Form-Based Code Areas." No person shall develop or apply for a building permit for a project on, or for, subdivision of a parcel or lot designated in Appendix L, "Form-Based Code Areas," until a form-based code review has been completed.

(2) Projects required to complete a form-based code review are neither required nor eligible to complete the processes under Sections 9-2-13, "Concept Plan," and 9-2-14, "Site Review," B.R.C. 1981.

(3) Administrative Form-Based Code Review for Minor Floor Area Expansions: Projects to expand floor area by no more than 500 square feet that are limited to

one story and do not entail changes to existing form-based code review approvals may be reviewed as an administrative form-based code review pursuant to the process of Section 9-2-2, "Administrative Review Procedures," B.R.C, 1981, and applicants for such projects shall not be required to complete a pre-application review under Subsection (c) of this section; otherwise, such projects shall meet all of the requirements of this section and the requirements of Appendix M, "Form-Based Code."

(4) Exceptions to Form-Based Code Review Process: The following developments shall not be required to complete a form-based code review:

(A) Administrative form-based code reviews pursuant to Paragraph 9-2-16(b)(3), B.R.C. 1981;

(B) Minor modifications to approved form-based code review applications;

(C) Previously Approved Developments: Any development on a lot or parcel designated in Appendix L, "Form-Based Code Areas," for which an application for site review was made prior to the adoption of an ordinance including said lot or parcel in the designation of said appendix and that is approved or for which valid planned unit development (PUD) approval exists shall not be subject to these requirements and may be amended or modified in accordance with the minor modification and amendment provisions of Section 9-2-4, "Site Review," B.R.C. 1981; such minor modification or amendment shall not be approved unless the proposed changes are, to the extent practicable, compatible in terms of building height, mass, scale, orientation, architecture, and project configuration with the regulations applicable to the area pursuant to Appendix L, "Form-Based Code Areas," and Appendix M, "Form-Based Code," and consistent with the standards established in Subsection M-1-5(c) of Appendix M, "Form-Based Code";

(D) Interior building remodels or modifications that do not include an expansion of floor area, do not change the exterior appearance of the building, and otherwise conform to this section and Appendix M, "Form-Based Code," B.R.C. 1981;

(E) Subdivisions solely for the purpose of amalgamating lots or parcels of land; and

(F) Subdivisions solely for the purpose of conveying property to the City.

(c) Pre-Application Review: No person shall file an application for a form-based code review until a pre-application review has been completed with the city manager.

(1) Purpose: The purpose of the pre-application review is to give the applicant an opportunity to solicit comments from the city manager prior to submittal of an application related to the review process and whether the conceptual design addresses the requirements of the city as set forth in adopted ordinances, plans, and policies. Comments provided during a pre-application review are not binding, but are meant to inform any subsequent form-based code review application. A pre-application review and comments shall not relieve the applicant of the burden to seek approvals for elements of the project that require review and approval under the Boulder Revised Code.

(2) Pre-Application Requirements: The applicant for a form-based code review shall submit an application for pre-application review on a form provided by the city manager, and the application shall include, without limitation, the following:

(A) A conceptual site plan of sufficient accuracy for discussing the plan's conformance with adopted ordinance, plans, and policies of the city;

(B) Sketch building elevations or renderings illustrating conceptual designs;

~~(A)~~(C) A description of proposed land uses and the following, if the development includes new dwelling units: sizes, number of bedrooms, anticipated sale prices, and the percentage of affordable units to be included;

(D) A trip generation analysis and trip distribution analysis in accordance with sections 2.03(J) and 2.03(K) of the City of Boulder Design and Construction Standards; and

(E) Any other material and information the city manager finds relevant to provide comments on the applicant's questions and whether the conceptual design addresses the requirements of the city as set forth in adopted ordinances, plans, and policies.

(3) Pre-Application Meeting: Following the filing of the application for pre-application review, the applicant shall attend a pre-application meeting with the city manager. The meeting shall occur a minimum of thirty days prior to submitting an application for form-based code review.

(d) Application Requirements: An application for approval of a form-based code review, may be filed by any person having a demonstrable property interest in land to be included in a form-based code review on a form provided by the city manager that includes, without limitation:

(1) All materials and information required by Subsection 9-2-6(a), B.R.C. 1981;

(2) Written Statement: A written statement containing the following information:

(A) A statement of current ownership and a legal description of all of the land included in the project;

(B) An explanation of the objectives to be achieved by the project, including, without limitation, building descriptions, sketches or elevations that may be required to describe the objectives;

(C) A development schedule indicating the approximate date when construction of the project, or phases of the project, can be expected to begin and be completed; and

(D) Copies of any special agreements, conveyances, restrictions or covenants that will govern the use, maintenance and continued protection of the goals of the project and any related parks, recreation areas, playgrounds, outlots or open space;

(3) Context Map: A context map, drawn to scale, showing the site and an area of not less than a 300-foot radius around the site, including streets, zoning, general location of buildings, sidewalks, and parking areas of abutting properties;

(4) Site Plan: A site plan with a north arrow showing the major details of the proposed development, prepared on a scale of not less than one inch equals one hundred feet, providing sufficient detail to evaluate the features of the development required by this section. The site plan shall contain, insofar as applicable, the information set forth as follows:

(A) Topography. The existing topographic character of the land, showing contours at two-foot intervals;

(B) Flood Areas. If applicable, the areas subject to the one hundred-year flood as defined in Chapter 9-16, "Definitions," B.R.C. 1981, and any area of the site that is within a designated space conveyance zone or high hazard zone;

(C) Building Footprints. The location and size of all existing and proposed buildings, structures and improvements with dimensions indicating the distance from lot lines, structure low point elevations pursuant to the definition of "height," and the general location of adjacent streets, structures and properties;

(D) Uses. Site and location of existing and proposed uses, including density and type of uses;

(E) Outdoor Spaces. The following shall be illustrated on a site plan:

(i) The areas intended to function as outdoor space as specified within Appendix M, "Form-Based Code";

(ii) Detailed design for outdoor space, illustrating hardscape and site furnishings; and

(iii) Any other areas that qualify as useable open space per Section 9-9-11, B.R.C. 1981;

(F) Public Spaces. The following shall be illustrated on a site plan:

(i) The areas that are to be conveyed, dedicated or reserved as parks, recreation areas, playgrounds, outlots or open space and as sites for schools and other public buildings; and

(ii) The areas that are to be conveyed, dedicated or reserved for streets, alleys, paths, sidewalks, and utility easements.

(5) Signs and Lighting. A separate signs and lighting plan, at a scale of not less than one inch equals one hundred feet, with the location, height and size of proposed signs, lighting and advertising devices. The signs and lighting plan shall illustrate compliance with Sections 9-9-16, "Outdoor, Lighting," and 9-9-21, "Signs," B.R.C. 1981.

(6) Landscaping Plan. A detailed landscaping plan, consistent with Section 9-9-12, B.R.C. 1981, showing the spacing, sizes, specific types of landscaping materials, quantities of all plants and whether the plant is coniferous or deciduous. All trees

with a diameter of six inches and over, measured fifty-four inches above the ground on the property, or in the landscape setback of any property adjacent to the development shall be shown on the streetscape and landscaping plan.

(7) Paseo Design Plan. A detailed plan showing the following:

(A) The location of any paseos on the site and the location of adjacent buildings and number of stories of those buildings adjacent to a paseo;

(B) The widths of the paseo, the pedestrian travel way impressed with a public access easement, and distance between the travel path and adjacent buildings;

(C) The location, dimension, and design of outdoor seating areas adjacent to a paseo;

(D) The design and materials, including section drawings, showing the patterns and materials of all sections of the paseo; and

(E) The location and design of landscaping, lighting, and art.

(8) Streetscape Plan. A detailed streetscape plan, consistent with Section 9-9-13, B.R.C. 1981, and Section M-1-10 of Appendix M to this title, shall include the following:

(A) The location of street trees;

(B) Designation of ground plane vegetation for any landscape bed areas, planter areas, and open tree wells;

(C) The location and quantities of all pedestrian and vehicular lighting. Cut sheets and samples shall also be submitted;

(D) Specification of materials and patterns for street and sidewalk pavement design;

(E) The location and quantities of furnishings, such as benches, seat walls, planters, planter fences, tree grates, tree guards, and trash receptacles on each street and for other public way where furnishings are required or proposed; and

(F) The location and quantities of any other elements designed to establish the identity of the street, such as pavement markers or artwork.

(9) Traffic Circulation and Parking Plan. A separate site plan, at a scale of not less than one inch equals one hundred feet, illustrating the internal vehicular, pedestrian, and bicycle circulation systems, transit station locations within 300 feet of the site, on-site transit amenities, off-street vehicular and bicycle parking areas, service areas, loading areas and major points of access to public rights-of- way, and how the project connects to its surrounding context.

(10) Travel Demand Management Techniques. A description of travel demand management techniques with an implementation plan, including, without limitation, site design, land use, covenants, transit passes, parking restrictions, information or education materials, or programs to reduce single-occupant vehicle trip generation to and from the site.

(11) Design and Construction Standards Materials. Materials required by the City of Boulder Design and Construction Standards, including, without limitation, a traffic

study, master utility plan, utility report, and storm water report and plan for any application that proposes to construct or have an impact on public improvements;

(12) Natural Feature Plan. Plans for preservation of natural features existing on the site or plans for mitigation of adverse impacts to natural features existing on the site from the proposed development and anticipated uses. Natural features include, without limitation, healthy long-lived trees, significant plant communities, ground and surface water, wetlands, riparian areas, drainage areas and habitat for species on the federal Endangered Species List, "Species of Special Concern in Boulder County" designated by Boulder County, or prairie dogs (*Cynomys ludiovicianus*) which is a species of local concern.

(13) Tree Inventory. A tree inventory prepared by a certified arborist that has a valid contractor license pursuant to Chapter 4-28, "Tree Contractor License," B.R.C. 1981, shall include the following:

(A) The location, size, species and general health of all trees with a diameter of six inches and over, measured fifty-four inches above the ground, on the property or in the landscape setback of any property adjacent to the development;

(B) Existing and proposed topography;

(C) Existing and proposed paving and structures; and

(D) An indication of which trees will be adversely affected and what, if any, steps will be taken to mitigate the impact on the trees.

(14) Architectural Plans. Detailed architectural plans that include the following:

(A) Building Schematic Floor plans. Building floor plans shall be included for each floor, illustrating the location of uses, common spaces, doors, and windows;

(B) Building Details. Plans, sections, and elevations illustrating compliance with Sections M-1-13 through M-1-28 of Appendix M, "Form-Based Code," to this title;

(C) Building Elevations. Building elevations, at a scale of one sixteenth inch equals one foot or larger, illustrating the following:

(i) The height of all building roofs;

(ii) The grade elevations of all ground floors and visible basements;

(iii) Indication of how elevations and heights are calculated consistent with the definition of "height" in Section 9-16-1, "General Definitions," B.R.C. 1981;

(iv) Elevations and dimensions of all floor-to-floor heights;

(v) Materials and colors for every plane of the building;

(vi) Roof designs;

(vii) Building design elements to meet building type and site and building design;

(viii) Color and material samples; and

(ix) A three-dimensional, digital model illustrating the surrounding context for view and scale analysis, unless exempted by the city manager for smaller projects;

(D) Golden Rectangle Use. Diagram or series of diagrams demonstrating the use of the golden rectangle in the design of each building, to demonstrate compliance with Section M-1-29, of Appendix M, "Form-Based Code," to this title.

(15) View Corridor Analysis. A view corridor analysis, including the following:

(A) A plan illustrating location of mountain range and notation of Flatirons 1 through 5, location of other features subject to view corridor protection, location of building footprints with heights noted, location of streets, and location of outdoor spaces;

(B) A three-dimensional, geographically accurate digital site and proposed building model illustrating views required to be preserved through the site and photographically depicting the mountains in their accurate geographic locations. Refer to Figure M-1(4), "Example Documentation of Preserved Views from Junction Place Bridge," in Appendix M, "Form-Based Code";

(C) Additional Submittal Requirements by Request. The city manager may request additional information to illustrate compliance with the requirements of this section; and

(D) Waiver. The city manager may waive submittal requirements if the city manager finds that the requirement is not applicable to a project and would not illustrate compliance with the requirements of this section.

(e) Public Notification: After receiving a form-based code review application, the city manager shall provide public notification pursuant to Section 9-4-3, "Public Notice Requirements," B.R.C. 1981.

(f) Review and Recommendation:

(1) The city manager shall review and make decisions on form-based code review applications pursuant to Section 9-2-7, "Development Review Action," B.R.C. 1981. The manager may refer to the planning board for a decision by the board any application which the manager deems appropriate.

(2) Reviews by either the city manager or the planning board shall be pursuant to Section 9-2-7, "Development Review Action," B.R.C. 1981.

(g) Criteria for Review: No form-based code review application shall be approved unless the approving agency finds that:

(1) Consistency with Appendix M, "Form-Based Code." The proposed plans and building designs are consistent with the requirements of Appendix M, 'Form-Based Code."

(h) Parking Reductions. As part of the form-based code review process, the approving authority may grant a parking reduction pursuant to the criteria in Subsection 9-9-6(f), "Motor Vehicle Parking Reductions," B.R.C. 1981, for commercial developments,

residential developments, industrial developments, and mixed use developments if the approving authority finds that the criteria of Subsection 9-9-6(f), B.R.C. 1981, are met. As part of the form-based code review process, the approving authority may grant reductions and modifications to the bicycle parking standards of Subsection 9-9-6(g), B.R.C. 1981, if the reviewing authority finds that the standards of Paragraph 9-9-6(g)(6), B.R.C. 1981, are met.

(i) Exceptions: Exceptions to the requirements of Appendix M, "Form-Based Code," may be approved under the form-based code review process pursuant to the following standards:

(1) Application Requirements: If an application includes a request for an exception to the requirements of Appendix M, "Form-Based Code," the requested exceptions shall be noted on the plans and the application shall include a written statement describing how the standards applicable to the exception are being met.

(2) Exceptions: Exceptions may be granted by the approving authority if the following criteria are met:

(A) The proposed exception is consistent with the goals and intents of the adopted area plan applied to the area;

(B) The proposed exception will not create any adverse impacts on residents of the development or surrounding properties beyond what is ordinarily expected through implementation of the standards within Appendix M, "Form-Based Code";

(C) An exception may be granted by the approving authority if the approving authority finds that individual conditions of the property that were not created by the applicant make compliance with a provision of Appendix M, "Form-Based Code ," impractical and the proposed alternative design is the minimum modification of the requirements of Appendix M that provides relief and is consistent with the intent and purpose of the section being modified and the form-based code review process described in Subsection (a) of this section;

(D) An exception may be granted by the approving authority if otherwise the requirements of Appendix M, "Form-Based Code," would result in a violation of federal legislation, including but not limited to the Americans with Disabilities Act, and the exception would be the minimum modification of the requirements of Appendix M that provides relief; and

(E) An exception may be granted by the approving authority if the building or property has been designated as an individual landmark or recognized as a contributing building to a designated historic district and as part of the review of an alternation certificate pursuant to Chapter 9-11, "Historic Preservation," B.R.C. 1981, the approving authority has found that the development in conforming locations on the lot or parcel or conforming with other requirements of Appendix M, "Form-Based Code," would have an adverse impact upon the historic character of the individual landmark or the contributing building and the historic district, if a historic district is involved. The exception may be

approved only if the modification to the requirements of Appendix M is the minimum modification that provides relief.

(j) Minor Modifications to Approved Form-Based Code Reviews: Up to a total of five cumulative modifications to the site plan, buildings plans, landscaping and parking plans previously approved through a form-based code review application may be approved by the city manager without requiring an amendment to the approved form-based code review if such changes are minor. All minor modifications shall be noted, signed, and dated on the approved form-based code review plans. For proposed minor modification of form-based code review projects that are partially or totally developed, the applicant shall provide notice to any owners of property within the development that might be affected, as determined by the manager. In determining whether a proposed is a minor modification, the following standards shall apply:

(1) The modification does not include any change in window sizes, types, and dimensions, building materials, façade configurations or cap types on any street facing façade;

(2) The modification does not result in an expansion or shifting of floor area by more than ten percent; and

(3) The modification is consistent with the requirements of Appendix M, "Form-Based Code," and does not include a request for an exception.

(k) Amendments to Approved Form-Based Code Reviews:

(1) No proposal to expand or otherwise modify any approved form-based code review, other than a minor modification, shall be approved unless the form-based code review is amended and approved in accordance with the procedures prescribed by this section for approval of a form-based code review, except for the notice and consent provision of this subsection.

(2) If an applicant requests approval of an amendment to an approved form-based code review, the city manager shall provide public notice pursuant to Section 9-4-3, "Public Notice Requirements," B.R.C. 1981.

(3) The owners of all property for which an amendment is requested shall sign the application.

(l) Existing Buildings: Existing buildings may be modified and expanded pursuant to the standards established in Appendix M, "Form-Based Code."

(m) Rescission of Site Review. If, after a site review approval is granted, the owner of the property desires to develop, instead, under the provisions of this section, the owner may request rescission of such site review approval if no building permit has been issued for the development and neither the city nor the developer has taken any actions in detrimental reliance on the terms of the development agreement. The city manager may also rescind a site review or PUD approval if the existing or proposed development complies with all the requirements of this section and other applicable requirements of this title and there is no substantial public benefit in maintaining the original approval.

(n) Subdivisions: An approved form-based code review may be subdivided under Chapter 9-12, "Subdivision," B.R.C. 1981. The approved form-based code review site plan

may substitute for a preliminary plat if it meets the requirements of Section 9-12-6, "Application Requirements for a Preliminary Plat," B.R.C. 1981. As part of subdivision review, the city manager will consider any conditions of the form-based code review approval and assure that they will be met within the future subdivision.

(o) Appeals and Call-Ups:

(1) The applicant or any interested person may appeal the city manager's decision pursuant to Section 9-4-4, "Appeal, Call-Ups and Public Hearings," B.R.C. 1981.

(2) A member of the planning board may call up the manager's decision pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

(3) The city council may call up any planning board decision pursuant to Section 9-4-4, "Appeal, Call-Ups and Public Hearings," B.R.C. 1981.

….

Section 4. Chapter 9-4, B.R.C. 1981, shall be amended to read:

….

9-4-2. - Development Review Procedures.

(a) Development Review Authority: Table 4-1 of this section summarizes the review and decision-making responsibilities for the administration of the administrative and development review procedures described in this chapter. The table is a summary tool and does not describe all types of decisions made under this code. Refer to sections referenced for specific requirements. Form and bulk standards may also be varied by site review. Additional procedures that are required by this code but located in other chapters are:

(1) "Historic Preservation," ~~c~~Chapter 9-11;

(2) "Inclusionary Housing," ~~c~~Chapter 9-13; and

(3) "Residential Growth Management System," ~~c~~Chapter 9-14.

TABLE 4-1: SUMMARY OF DECISION AUTHORITY BY PROCESS TYPE

Standard or Application Type	Staff/City Manager	BOZA	Planning Board	City Council
Code Interpretation SECTION 9-2-3	D	CA(14)	CA(30)	CA
Setback variance ≤20% SECTION 9-2-3	D	D	—	—
Setback variance >20% SECTION 9-2-3		D	—	—

Parking access dimensions SECTION 9-2-2	D	—	—	—
Parking deferral SECTION 9-2-2	D	—	—	—
Parking reduction ≤25% SECTION 9-2-2	D	—	—	—
Parking reduction >25% but ≤50% SECTION 9-2-2	D(14)	—	CA, D(30)	CA
Parking reduction >50% SUBSECTION 9-9-6(f)		—	D(30)	CA
Parking height, conditional SECTION 9-7-6	D	—	—	—
Building height, less than principal or nonstandard building height max SECTION 9-2-14	D(14)	—	CD, D(30)	CA
Building height, greater than principal building height max SECTION 9-2-14	—	—	D(30)	CA
Building height SECTION 9-7-5	—	—	D(30)	CA
Conditional Use SECTION 9-2-1	D	—	—	—
Site Review SECTION 9-2-14	D(14)	—	CA, D(30)	CA
Use Review SECTION 9-2-15	D(14)	—	D(30)	CA
Form-Based Code Review Section 9-2-16	D(14)	---	CA, D(30)	CA
Annexation SECTION 9-2-~~16~~17	—	—	R	D

Rezoning SECTION 9-2-~~18~~19	—	—	R	D
Wetland Permit -Simple SECTION 9-3-9	D	—	—	—
Wetland Permit-Standard SECTION 9-3-9	D(14)	—	D(30)	CA
Extension of Dev't Approval ≤1 yr PARAGRAPH 9-2-12(b)(1)	D	—	—	—
Extension of Dev't Approval >1 yr PARAGRAPH 9-2-12(b)(2)	—	—	D(30)	CA
Rescission of Dev't Approval SUBSECTION 9-2-12(e)	D	—	—	—
Creation of Vested Rights >3 yrs SECTION 9-2-~~19~~20	—	—	R	D
Floodplain Dev't Permit SECTION 9-3-6	D(14)	—	CA(30)	CA
Wetland Boundary change-Standard SUBSECTION 9-3-9(e)	—	—	R	D
Substitution of Nonconforming Use SECTION 9-10-3	D	—	—	—
Expansion of Nonconforming Use SECTION 9-10-3	D(14)	—	CA(30)	CA
Subdivision, prelim plat SECTION 9-12-7	D	—	D(30)	CA
Subdivision, final plat SECTION 9-12-8	D(14)	—	CA(30)	CA
Subdivision, minor SECTION 9-12-5	D(14)	—	CA(30)	CA
Subdivision, LLA or LLE SECTIONS 9-12-3 and9-12-4	D	—	—	—

Solar Exception SUBSECTION 9-9-17(f)	D	D	—	—
Solar Access Permit SUBSECTION 9-9-17(h)	D	D	—	—
Growth Mgmt. Allocations, Std. SECTION 9-14-5	D	—	—	—
Growth Mgmt. Allocations, ≤40 per year SUBSECTION 9-14-3(f)	D(14)	—	CA(30)	CA
Accessory Bldg Coverage SUBSECTION 9-7-8(a)	—	D	—	—
Minor Modification of Discretionary Approval SUBSECTION 9-2-14(k)	D	—	—	—
Minor Amendment of Discretionary Approval SUBSECTION 9-2-14(l)	D(14)	—	CA(30)	CA
Amendment of Discretionary Approval not involving height SUBSECTION 9-2-14(m)	D(14)	—	CA, D(30)	CA
Amendment of Discretionary Approval involving height SECTION 9-2-14	—	—	D(30)	CA
KEY: D = Decision Authority CA = Call-Up and Appeal Authority R = Recommendation only (n) = Maximum number of days for call-up or appeal				

9-4-3.-Public Notice Requirements.

(a) Process and Options: When a process or procedure identified in this title requires public notice, the city manager shall provide such notice according to ~~t~~Table 4-2 of this section. If a code section does not reference a specific method, the city manager shall determine the most appropriate notification method to be used.

TABLE 4-2: PUBLIC NOTICE OPTIONS

Public Notice Type	Type of Application, Meeting or Hearing	Mailed Notice	Posted Notice
1	Administrative Reviews (except those identified below)	none	none
2	Subdivisions and Minor Subdivisions	To adjacent property owners and mineral rights owners a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
3	Good neighbor meetings	To property owners within 600 feet of subject property a minimum of 10 days before meeting	none
4	Solar exceptions, solar access permits, accessory units, cooperative housing	To adjacent property owners a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
5	Applications requiring BOZA action, wetland permit and boundary determination	To property owners within 300 feet of subject property a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
6	Development Review Applications (site review, use review, , annexation, rezoning, concept plans)	To property owners within 600 feet of subject property and any mineral rights owners a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
7	Form-based code review	To property owners and all addresses within 600 feet of the subject property and any mineral rights owners a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing

(b) Mailed Notice: When mailed notice is required, the manager will notify by first class mail the owners of all property and, where required, addresses located within a radius specified in ~~s~~Subsection (a) of this section from all points on the perimeter of the land included in the application. The notice will indicate:

(1) That a review application has been filed,

(2) The type of review requested,

(3) That the application may be reviewed during the planning department's regular business hours,

(4) A copy of the city manager's recommendation or decision on the application may be requested,

(5) How comments or objections may be submitted, and

(6) That public hearings may be held before the BOZA, the planning board, landmarks advisory board and/or the city council for which only published, rather than personal mailing will be provided.

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9-4-4. - Appeals, Call-Ups and Public Hearings.

When a section of the land use regulations indicates that a decision is subject to appeal or call-up, the following standards shall apply:

(a) Appeal: If noted in ~~t~~Table 4-1, ~~s~~Section 9-4-2, "Development Review Procedures," B.R.C. 1981, in a specific section, an applicant or any interested person may appeal the city manager's decision to grant or deny an application to the planning board by delivering a written notice of appeal to the city manager within fourteen days of the decision.

(b) Board Call-Up: If noted in ~~t~~Table 4-1, ~~s~~Section 9-4-2, "Development Review Procedures," B.R.C. 1981, a member of the planning board may call up a city manager's decision upon written notification to staff or by making a verbal request, on the record, at a regularly scheduled board meeting within fourteen days of the manager's decision. A member of the BOZA may call up a city manager's decision regarding an interpretation upon written notification to staff or by making a verbal request, on the record, at a regularly scheduled board meeting within fourteen days of the manager's decision. On any application that it calls up, the board will hold a public hearing under the procedures prescribed by ~~c~~Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, after publishing notice as provided in ~~s~~Subsection 9-4-3(d), B.R.C. 1981. Within thirty days of the public hearing or within such other time as the board and the applicant mutually agree, the board will either grant the application in whole or in part, with or without modifications and conditions, or deny it. The decision will specifically set forth in what respects the development review application meets or fails to meet the standards and criteria required by ~~s~~Sections 9-2-14, "Site Review," ~~and~~ 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, for the type of review requested.

(c) City Council Call-Up: The city council may call up any board decision within thirty days of the board's action. The city manager may extend the call-up period until the council's next regular meeting, if the manager finds in writing within the original call-up period that the council will not receive notice of a decision of the board in time to enable it to call up the decision for review. On any application that it calls up, the council will hold a public hearing under the procedures prescribed by ~~c~~Chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981, after publishing notice as specified by ~~s~~Subsection 9-4-3(d), B.R.C. 1981, summarized in ~~s~~Subsection (b) of this section. Together with the evidence presented at such public hearing, the council may consider the record, or any portion thereof, of the hearing before the board. Within thirty days of the public hearing or within such other time as the council and the applicant mutually

agree, the council will either grant the application in whole or in part, with or without modifications and conditions, or deny it. The decision will specifically set forth in what respects the development review application meets or fails to meet the standards and criteria required by ~~s~~Sections 9-2-14, "Site Review," ~~and~~ 9-2-15, "Use Review," and 9-2-16, "Form-Based Code Review," B.R.C. 1981, for the type of review requested.

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Section 5. Chapter 9-6, B.R.C. 1981, shall be amended to read:

9-6-1. - Schedule of Permitted Land Uses.

The schedule shows the uses which are permitted, conditionally permitted, prohibited, or which may be permitted through use review pursuant to Section 9-2-15, "Use Review," B.R.C. 1981.

(a) Explanation of Table Abbreviations: The abbreviations used in Table 6-1 of this section have the following meanings:

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(8) Additional Regulations: There may be additional regulations that are applicable to a specific use type. The existence of these specific use regulations is noted through a reference in the last column of the use table entitled "Specific Use." References refer to subsections of Sections 9-6-2 through 9-6-9, B.R.C. 1981, for "Specific Use Standards," or other sections of this title. Such standards apply to all districts unless otherwise specified. Uses located on a lot or parcel designated in Appendix L, "Form-Based Code Areas," are subject to the requirements of this chapter, but may also be subject to additional use regulations pursuant Appendix M, "Form-Based Code ."

(9) n/a: Not applicable; more specific use applications apply.

….

(d) Use Table:

Zoning District	RR-1, RR-2, RE, RL-1	RL-2, RM-2	RM-1, RM-3	RMX-1	RMX-2	RH-1, RH-2, RH-4, RH-5	RH-3, RH-7	RH-6	MH	MU-3	MU-1	MU-2	MU-4	BT-1, BT-2	BMS	BC-1, BC-2	BCS	BR-1, BR-2	DT-4	DT-5	DT-1, DT-2, DT-3	IS-1, IS-2	IG	IM	IMS	P	A	
Use Modules	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	M4	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A	Specific Use Standard

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Form-Based Code Areas Uses																												Appendix M
Residential Uses																												

Section 6. Chapter 9-7, B.R.C. 1981, shall be amended to read:

9-7-1. - Schedule of Form and Bulk Standards.

The purpose of this chapter is to indicate the requirements for lot dimensions and building form, bulk, location and height for all types of development. All primary and accessory structures are subject to the dimensional standards set forth in ~~t~~Table 7-1 of this section with the exception of structures located in an area designated in Appendix L, "Form-Based Code Areas," subject to the standards of Appendix M, "Form-Based Code." No person shall use any land within the City authorized by ~~c~~Chapter 9-6, "Use Standards," B.R.C. 1981, except according to the following form and bulk requirements unless modified through a use review under ~~s~~Section 9-2-15, "Use Review," B.R.C. 1981, or a site review under ~~s~~Section 9-2-14, "Site Review," B.R.C. 1981, or granted a variance under ~~s~~Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or as approved under the provisions of Section 9-2-16, "Form-based code review," B.R.C. 1981.

TABLE 7-1: FORM AND BULK STANDARDS

Zoning District	A RR-1	RR-2 RE	RH-2 RH-5 P	RL-1 RM-2 RMX-1	BT-2	BT-1 BC BR IS-1 IS-2 IG IM	RL-2 RM-1	RH-4	MU-1	RM-3 RH-1 RH-6	RMX-2	RH-3 RH-7	BCS	MU-3	BMS MU-4	DT-1 DT-2 DT-3 DT-5	DT-4	MU-2 IMS	MH
Form module	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s
SETBACK AND SEPARATION REQUIREMENTS[m]																			
Principal Buildings and Uses [m]																			
Minimum front yard landscaped setback (e), (h)	25' (k)				20'				15'			10'		0' (k)					See section 9-7-13
Minimum front yard setback for all covered and uncovered parking areas	25' (k)				20'				20'			20'	10'	20' (k)					See section 9-7-13
Maximum front yard landscaped setback for corner	n/a				n/a				n/a			10'	n/a	n/a	10'	15' (k)	n/a	10'	n/a

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lots and side yards adjacent a street																		
Maximum front yard landscaped setback for an interior lot	n/a			n/a				n/a			15'	n/a	n/a	15'	15'	n/a	15'	n/a
Minimum side yard landscaped setback from a street (a)	25'		12.5' (k)	15'		10'	1' per 2' of bldg. height, 10' min.	0' or 5' (b)	1' per 2' of bldg. height, 10' min.	0' (attached DUs); 1' per 2' of bldg. height, 5' min. (detached DUs)	1' per 2' of bldg. height, 10' min.	10'	0' for first and second stories 12' for third story and above		0' (k)	0'	0'	n/a
Minimum side yard setback from an interior lot line	15'	10'	5'	10'	0' or 12'	1' per 2' of bldg. height, 5' min.		0' or 5' (b)	0' or 3'	0' (attached DUs); 1' per 2' of bldg. height, 5' min. (detached DUs)	1' per 3' of bldg. height, 5' min	0' or 12'	0' or 5'	0' or 5'	0' or 12'	0' or 12'	0' or 5'	See section 9-7-13
Minimum total for both side yard setbacks	40'	25'	20' 15'	20'	n/a			n/a			n/a		n/a					n/a
Minimum rear yard setback (f)	25'			25'	20'			10'	15'	20'	15'	20'	15'	0'	15'	15'	10'	See section 9-7-13
Minimum side yard bulk plane	See Section 9-7-9			n/a														
Minimum front yard setback from a street for all principal buildings and uses for third story and above	n/a			n/a				n/a			n/a		20'		15'	15'	20'	20'
Accessory Buildings and Uses (n)																		
Minimum front yard setback uses (e)	55'			55'				Behind rear wall of principal structure	55'	Behind rear wall of principal structure	Behind rear wall of principal structure	55'	55'	Behind rear wall of principal structure	55'	55'	Behind rear wall of principal structure	See Section 9-7-13
Minimum side yard landscaped setback from a street (a)	25'		12.5' (k)	15'		10'	1' per 2' of bldg. height, 10' min.	0' or 5'(b)	1' per 2' of bldg. height, 10' min.	0' (attached DUs); 1' per 2' of bldg. height, 5' min. (detached DUs)	1' per 2' of bldg. height, 10' min.	10'	0'		0' (k)	0'	0'	n/a
Minimum side yard	15'	10'	0' or 3' (b)	0' or 3' (b)				0' or 3' (b)			0' or 3' (b)		0' or 3' (b)					See Sectio

setback from an interior lot line													n 9-7-13
Minimum rear yard setback (f)	0' or 3' (b)			0' or 3' (b)			0' or 3' (b)			0' or 3' (b)		0' or 3' (b)		See Section 9-7-13
Minimum separation between accessory buildings and any other building	6'			6'			6'			6'		6'		6'
BUILDING SIZE AND COVERAGE LIMITATION (Accessory and Principal Buildings) (m)														
Maximum floor area of any principal building permitted by Chapter 9-8	See Section 9-8-2 (FAR Requirements)						15,000 sq. ft.	See Section 9-8-2 (FAR Requirements)			15,000 sq. ft.	See Section 9-8-2 (FAR Requirements)	15,000 sq. ft.	n/a
Maximum accessory building coverage within principal building rear yard setback (9-7-8)	500 sq. ft.	n/a	500 sq. ft.	n/a	500 sq. ft.	n/a	n/a			n/a		n/a		n/a
Maximum cumulative coverage of all accessory buildings regardless of location (m)	For residential uses - no greater than coverage of the principal building													
Maximum total building coverage	See Section 9-7-11	n/a	See Section 9-7-11	n/a	See Section 9-7-11		n/a							
PRINCIPAL AND ACCESSORY BUILDING HEIGHT (m)														
Maximum height for principal buildings and uses (c), (d), (l)	35'			35'; 40' (in I-zones)	35'		35'		40'	35'	38'	38'	35'	35'
Conditional height for principal buildings and uses	See Section 9-7-6 for conditional height standards													
Maximum number of stories for a building	3			3	n/a	n/a	2	3	3	2	3	2 (3 on DT-5 corner lots)	2	3
Maximum wall	12'			12'			12'		12'		12'			n/a

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height for detached dwelling units at zero lot line setback (9-7-2(b)(3))										
Maximum height for all accessory buildings, structures and uses (g)	20' (30' in agricultural zone)	20' (25' in industrial zones)	20'			20'		20'		20'
FENCES, HEDGES and WALLS (for additional standards see Section 9-9-15)										
Maximum height of fences, hedges, or walls	7'	7'	7'			7'		7'		7'
Minimum height of fence on top of retaining wall	42"	42"	42"			42"		42"		42"
Maximum combined height of fence/ retaining wall in side yard within 3' of lot line with neighbor approval	12'	12'	12'			12'		12'		12'
BUILDING DESIGN REQUIREMENTS (m)										
Minimum ground floor window area facing a public street (9-9-3)	n/a	n/a	n/a			n/a		n/a	60%	n/a	n/a
Primary building entrance location facing street	n/a	n/a	yes	yes	yes	yes	n/a	n/a	yes	yes	n/a
Minimum percent of lot frontage that must contain a building or buildings	n/a	n/a	n/a			n/a		n/a	70%	50%	n/a
Maximum % of 3rd story floor area that can be in a 4th story	n/a	n/a	n/a			70% (j)	n/a	n/a	n/a	n/a	n/a

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Wall length articulation standards for side walls over 14' in height within 20' of side property line	See Section 9-7-10	n/a	See Section 9-7-10	n/a	See Section 9-7-10	n/a

Footnotes to Table 7-1, Form and Bulk Standards:

In addition to the foregoing, the following miscellaneous form and bulk requirements apply to all development in the city:

(a) On corner lots, use principal building front yard setback where adjacent lot fronts upon the street.

(b) For zero lot line development, see Subsection 9-7-2(b), B.R.C. 1981.

(c) The permitted height limit may be modified only in certain areas and only under the standards and procedures provided in Sections 9-2-14, "Site Review," and 9-7-6, "Building Height, Conditional," B.R.C. 1981.

(d) For buildings over 25 feet in height, see Subsection 9-9-11(c), B.R.C. 1981.

(e) For other setback standards regarding garages, open parking areas, and flagpoles, see Paragraph 9-7-2(b)(8), B.R.C. 1981.

(f) Where a rear yard backs on a street, see Paragraph 9-7-2(b)(7), B.R.C. 1981.

(g) Not including light poles at government-owned facilities. For additional height standards regarding light poles at government facilities, see Section 9-2-14, "Site Review," B.R.C. 1981.

(h) For front yard setback reductions, see Subsection 9-7-2(a), B.R.C. 1981.

(i) For side yard setback requirements based on building height, see Appendix B, "Setback Relative to Building Height," of this title.

(j) The maximum percentage of the third floor area that can be in a fourth story standard may not be modified as part of a site review.

(k) For properties located in the DT-5 and P zoning districts and shown in Appendix I, the minimum setback shall be as required by Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, Table 7-1, Form and Bulk Standards or ~~65~~ sixty-five feet measured from the centerline of Canyon Boulevard right of way.

(l) For buildings on nonstandard lots within the RMX-1, RL-1, RE, RR-1, and RR-2 zoning districts, refer to Table 10-1, Maximum Height Formulas, within Section 9-10-3, "Changes to Nonstandard Buildings, Structures and Lots and Nonconforming Uses."

(m) For nonstandard buildings or structures, refer to Subparagraph 9-10-3(a)(1)(B), B.R.C. 1981.

(n) For principal and accessory buildings or structures located on a lot or parcel designated in Appendix L, "Form-Based Code Areas," and subject to the standards of Appendix M, "Form-Based Code," refer to Appendix M, "Form-Based Code," for design standards applicable to such lot or parcel. With the exception of Charter ~~s~~Section 84, "Height limit," and Sections 9-7-3, "Setback Encroachments," and 9-7-5, "Building Heights," 9-7-7, "Building Height, Appurtenances," B.R.C. 1981, the form and bulk standards of this chapter are superseded by the requirements of Appendix M, "Form-Based Code." Building heights in areas designated in Appendix L are not subject to the height limits of Table 9-7, Form and Bulk Standards.

Section 7. Chapter 9-8, B.R.C. 1981, shall be amended to read:

9-8-1. - Schedule of Intensity Standards.

The purpose of this chapter is to indicate the requirements for the allowed intensity of all types of development, including maximum density for residential developments based on allowed number of units and occupancy. All primary and accessory structures are subject to the standards set forth in ~~t~~Table 8-1 of this section except that developments within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards or Appendix M, "Form-Based Code ," are exempt from Table 8-1 and Sections 9-8-1 through 9-8-4, B.R.C. 1981. Developments within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards or Appendix M, "Form-Based Code ," are subject to the standards of Sections 9-8-5, "Occupancy of Dwelling Units," 9-8-6, "Occupancy Equivalencies for Group Residences," and 9-8-7, "Density and Occupancy of Efficiency Living Units," B.R.C. 1981. No person shall use any land within the city authorized by Chapter 9-6, "Use Standards," B.R.C. 1981, except according to the following requirements unless modified through a use review under Section 9-2-15, "Use Review," B.R.C. 1981, or a site review under Section 9-2-14, "Site Review," B.R.C. 1981, or granted a variance under Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or approved through a form-based code review under Section 9-2-16, "Form-Based Code Review," B.R.C. 1981.

TABLE 8-1: INTENSITY STANDARDS

Zoning District	Intensity Module	Minimum Lot Area (in square feet unless otherwise noted)	Minimum Lot Area Per Dwelling Unit (square feet) (c)	Number of Dwelling Units Per Acre (c)	Minimum Open Space Per Dwelling Unit (square feet) (c)	Minimum Open Space on Lots (Residential Uses) (c)	Minimum Open Space on Lots (Nonresidential Uses) (a), (c)	Minimum Private Open Space (Residential Uses) (square feet) (c)	Maximum Floor Area Ratio (c)
					See Section 9-9-11 for additional open space requirements. For mixed use developments, use the requirements of either the residential or nonresidential standards that result in the greatest amount of open space				
A	1	5 acres	5 acres	0.2	0	-	10 - 20%	0	0
RR-1, RR-2	2	30,000	30,000	1.4	0	-	10 - 20%	0	See Table 8-3
RE	3	15,000	15,000	2.9	0	-	10 - 20%	0	See Table 8-3
RL-1	4	7,000	7,000	6.2	0	-	10 - 20%	0	See Table 8-3

P	5	7,000	7,000	6.2	0	-	10 - 20%	0	0
RL-2	6	0	0	-	6,000	-	10 - 20%	0	See Table 8-3
RMX-1	7	6,000	6,000	7.3	600	-	10 - 20%	0	See Table 8-3
RMX-2	8	0	0	10 (up to 20 by review)	0	15%	15%	60	0
RM-1	9	0	0	-	3,000	-	10 - 20%	0	0
IS-2	10	0	0	-	600	-	10 - 20%	60	0.5:1
IS-1	11	7,000	0	-	0	-	10 - 20%	60	0.5:1
RH-1	12	0	0	-	1,600	-	10 - 20%	0	0
RH-2	12.5	6,000	3,000	14 (up to 27.2 by review)	600	-	10 - 20%	0	0
RM-2, RM-3	13	6,000	3,500	12.4	-	-	10 - 20%	0	0
RH-3, RH-7	14	0	0	-	0	60% [(b)]	60% [(b)]	60	0
RH-4, BT-1, BC-1	15	0	0	-	1,200	-	10 - 20%	0	0
BR-2	16	0	0	-	0	40%	10 - 20%	60	0
BMS	17	0	0	-	0	15%	15%	60	0.67 (1.85 if within CAGID or UHGID)
RH-6	17.5	-	1,800	-	600	-	-	-	
MU-1, MU-2, IMS	18	0	0	-	0	15%	15%	60	0.6:1
RH-5, BC-2	19	6,000	1,600	27.2	600 (400 by site review if in a mixed use development)	-	10—20%	0	0
IM	20	7,000	1,600	27.2	600	40% (20% if within a park service area)	10—20%	60	0.4:1
BT-2	21	6,000	1,600	27.2	600	-	10—20%	0	0.5:1
IG	22	7,000	1,600	27.2	600	40% (20% if within a park service area)	10—20%	60	0.5:1
BR-1	23	6,000	1,600	27.2	0	-	10—20%	0	2.0:1
MU-3	24	0	0	-	0	15%	15%	60	1.0:1
MU-4	24.5	0	0	-	0	15%	15%	60	2.0
DT-1	25	0	0	-	0	-	10—20%	60	1.0:1
DT-2	26	0	0	-	0	-	10—20%	60	1.5:1
DT-3, DT-4, DT-5	27	0	0	-	0	-	10—20%	60	1.7:1
BCS	28	-	-	-	-	-	10—20%	-	-

Footnotes:

(a) This requirement may increase based on building height pursuant to Subsection 9-9-11(c), B.R.C. 1981.

(b) Open space may be reduced using the standards in Sections 9-8-3, "Density in the RH-1, RH-2, RH-3 and RH-7 Districts," and 9-9-11, "Useable Open Space," B.R.C. 1981.

(c) For properties within an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards of Appendix M, "Form-Based Code," the footnoted requirement is not applicable. Refer to Appendix M, "Form-Based Code," for specific form, bulk, intensity, and outdoor space requirements.

9-8-2. - Floor Area Ratio Requirements.

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TABLE 8-2: FLOOR AREA RATIO ADDITIONS

	DT-1	DT-2	DT-3	DT-4	DT-5	MU-1	MU-2	MU-3	BT-2	BMS	IS-1/2	IG	IM	IMS	BR-1 (c)
Base FAR	1.0	1.5	1.7	1.7	1.7	0.6	0.6	1.0	0.5	0.67 (a)	0.5	0.5	0.4	0.6	n/a
Maximum total FAR additions (FAR)(c)	1.0	0.5	1.0	0.5	1.0	0.07	n/a	n/a	n/a	0.33	n/a	n/a	n/a	n/a	n/a
FAR additional components:															
1) Residential floor area (FAR)	0.5	0.5	0.5	0.5	1.0 (b)	n/a	n/a	n/a	n/a	n/a	n/a	Not counted	Not counted	n/a	n/a
2) Residential floor area if at least 35% of units are permanently affordable and at least 50% of total floor area is residential (FAR)	n/a	n/a	n/a	n/a	n/a	0.07	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
3) Residential floor area for a project NOT located in a general improvement district that provides off-street parking	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.33	n/a	n/a	n/a	n/a	n/a
4) On-site parking provided entirely within the	0.5	0.5	0.5	n/a	0.5	Not counted	Not counted	Not counted	n/a	Not counted	Not counted	Not counted	Not counted	Not counted	n/a

principal structure, or above grade parking structure															
5) Below grade area used for occupancy	Not counted	Not counted	Not counted	Not counted	Not counted	n/a	n/a	n/a	Not counted	Not counted	n/a	n/a	n/a	n/a	n/a
6) Nonresidential floor area (FAR) (see Paragraph 9-8-2(e)(3) and Section 4-20-62, Table 4)	n/a	n/a	n/a	n/a	1.0 (b)	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Maximum allowable FAR (sum of base plus all available additions)	2.0 + row 5	2.0 + row 5	2.7 + row 5	2.2 + row 5	2.7 + row 5	0.67 + row 4 above	0.6 + row 4 above	1.0 + row 4 above	0.5 + row 5 above	1.0 + rows 4 and 5 above	0.5 + row 4 above	0.5 + rows 1 and 4 above	0.4 + rows 1 and 4 above	0.6 + row 4 above	4.0 (c)

Footnotes:

(a) FAR up to 1.85:1 if property is located in a general improvement district providing off-street parking.

(b) The maximum additional FAR component is 1.0. FAR additional components may be combined, but shall not exceed the 1.0 maximum total floor area ratio limit.

(c) See Subparagraph 9-2-14(h)(2)(J), B.R.C. 1981.

(d) -n/a: not applicable.

(e) For properties located in an area designated in Appendix L, "Form-Based Code Areas," and subject to the standards of Appendix M, "Form-Based Code," the floor area and floor area ratio (FAR) requirements do not apply. Refer to Appendix M, "Form-Based Code," for specific form, bulk, intensity, and outdoor space requirements.

….

Section 9. The council adopts Exhibit 1, titled "Appendix L: Form-Based Code Areas," as an amendment to Title 9, "Land Use Code," B.R.C. 1981.

Section 10. The city council adopts Exhibit 2, titled "Appendix M: Form-Based Code," as an amendment to Title 9, "Land Use Code," B.R.C. 1981.

Section 11. The city council orders and directs the city manager to make any additional citation, renumbering, and reference changes not included in this ordinance that are necessary to

properly implement this ordinance and its attachments. The city council authorizes the city manager to change the formatting and layout of Exhibit 2, titled "Appendix M: Form-Based Code."

Section 12. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 13. 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 14. 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 7th day of June, 2016.

_____
Mayor

Attest:

_____
City Clerk

K:\PLCU\o-8121-2nd Reading.docx

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 21st day of June, 2016.

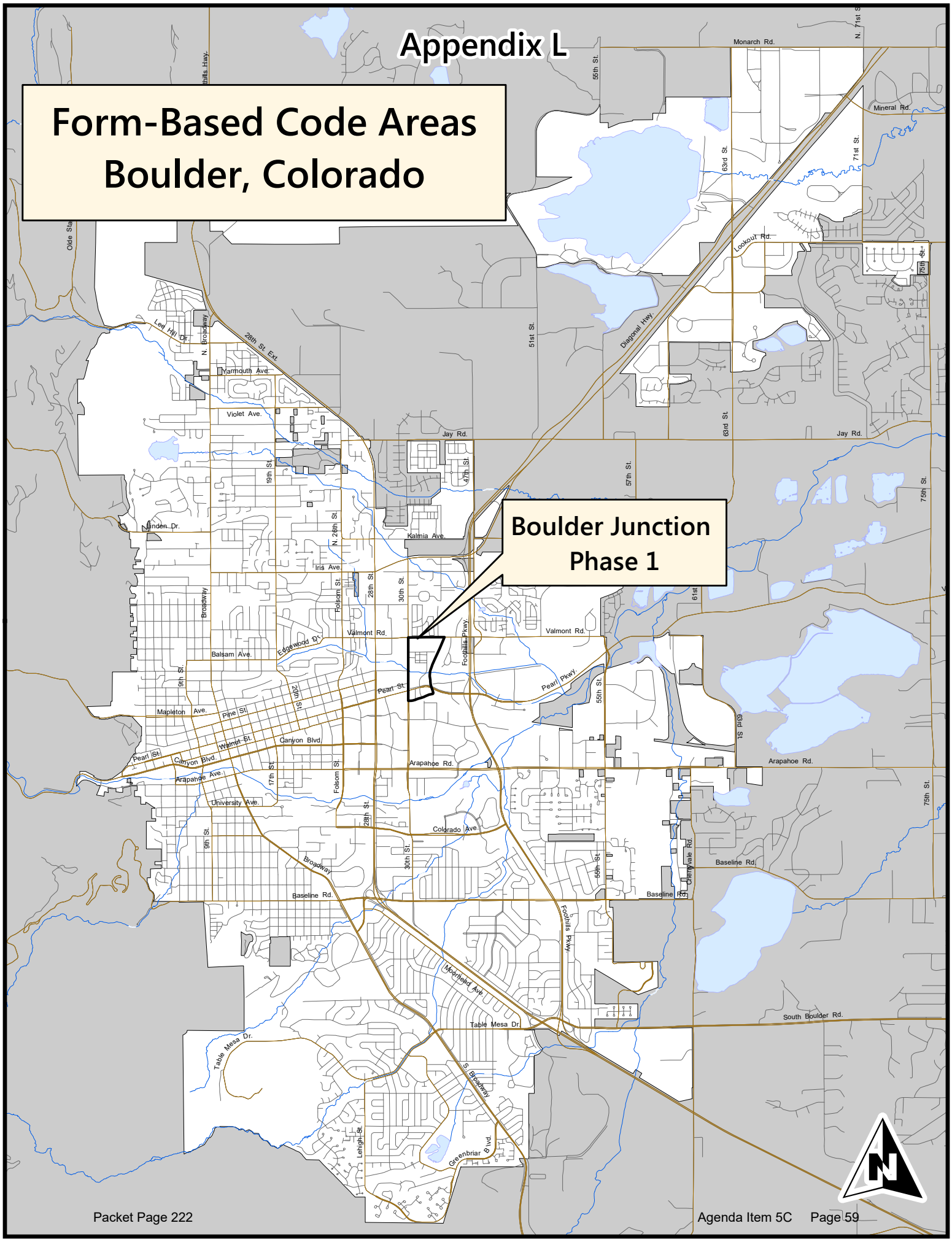
_____
Mayor

Attest:

_____
City Clerk

Appendix L

Form-Based Code Areas
Boulder, Colorado



Title 9: Land Use Regulation
APPENDIX M:

Form-Based Code

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DRAFT

General Provisions

General Provisions

M-1-1. PURPOSE OF FORM-BASED CODE

The purpose of this appendix is to establish building form and design requirements for development within the areas designated in Appendix L to Title 9, "Form-Based Code Areas." The requirements for these areas implement the desired development, including functional characteristics, form, design character and quality, as guided by the plans for each designated area and the Boulder Valley Comprehensive Plan.

M-1-2. FORM-BASED CODE REQUIREMENTS

No person shall occupy, use, change the use of, alter or develop any building, structure or land within the areas shown in Appendix L, "Form-Based Code Areas," B.R.C. 1981, and subject to form-based code review pursuant to Section 9-2-16, "Form-Based Code Review," B.R.C. 1981, except in conformance with the requirements of this appendix unless modified through an exception under Subsection 9-2-16(i), B.R.C. 1981.

(a) **Specific Locations.** The locations where form-based code standards apply are shown in Appendix L, "Form-Based Code Areas," B.R.C. 1981, and include: Boulder Junction Phase I.

M-1-3. DESIGN GOALS FOR THE FORM-BASED CODE AREAS

The requirements of this appendix are intended to accomplish the following objectives:

(a) **Character, Context, and Scale.** Preserve or enhance the character, context, and scale planned for the area while supporting a more sustainable future by accommodating future residents, reducing dependence on single occupant vehicles, increasing energy efficiency, and promoting safe transportation options for pedestrians and bicycles.

(b) **Human-Scaled Building Design.** Design to a human scale and create a safe and vibrant pedestrian experience.

(c) **Building Design Quality and Aesthetics.** Design high-quality buildings that are compatible with the character of the area or the character established by adopted plans for the area through simple, proportional, and varied design, high quality and natural building materials that create a sense of permanence, and building detailing, materials and proportions.

(d) **A Variety of Housing Types.** Produce a variety of housing types, such as multifamily, townhouses, and detached single family units, as well as a variety of lot sizes, number of bedrooms per unit, and sizes of units within the form-based code area.

(e) **Adaptable Buildings.** Build adaptable buildings with flexible designs that allow changes in uses over time.

(f) **Provision of Outdoor Space.** Provide outdoor space that is accessible and close to buildings. Active and passive recreation areas will be designed to meet the needs of anticipated residents, occupants, employees, and visitors to the property.

(g) **Support of Multi-Modal Mobility.** Provide safe and convenient multi-modal connections and promote alternatives to the single occupant vehicle. Connections shall be accessible to the public within the project and between the project and the existing and proposed transportation systems, including, without limitation, streets, bikeways, paseos, and multi-use paths.

M-1-4. ORGANIZATION AND SCOPE

This section describes how this appendix is organized to provide the user with some guidance using this appendix and it addresses the scope of its application.

(a) **Organization.** This appendix is organized into the following sections:

(1) **Sections M-1-1 through M-1-8: General Provisions.** The general provisions include a purpose statement for the form-based code, a description of where the requirements for the form-based code apply, a description of this appendix's organization and scope, the regulating plans for each form-based code area, and definitions that apply to the terms of this appendix.

(2) **Sections M-1-9 through M-1-12: Site Design.** These sections establish general site design and minimum outdoor space requirements, applicable to all form-based code areas, unless otherwise specified. Outdoor space types are established to guide the design of common outdoor spaces.

(3) **Sections M-1-13 through M-1-21: Building Types.** These sections establish a variety of building types and building form, design, location, and use requirements applicable to each building type. The regulating plans determine which building type may be used on a particular site.

(4) **Sections M-1-22 through M-1-29: Building Design.** These sections establish general building design requirements that are applicable

to all of the building types, unless otherwise stated.

(b) Scope. The requirements of this appendix supplement those imposed on the same lands by underlying zoning provisions and generally applicable development standards of this title and other ordinances of the city. If there is a conflict between the requirements of this appendix and Title 9, "Land Use Code," B.R.C. 1981, the standards of this section control. The following describes how specific requirements of this title relate to requirements of this appendix:

(1) **Chapter 9-6: Use Standards.** Chapter 9-6, "Use Standards," B.R.C. 1981, regulates uses which are permitted, conditionally permitted, prohibited, or which may be permitted through use review. Additional use standards may be established for the different building types in sections M-1-15 through M-1-19 of this appendix.

(2) **Chapter 9-7: Form and Bulk Standards.** This appendix supersedes the standards in Chapter 9-7, "Form and Bulk Standards," B.R.C. 1981, with the exception of Sections 9-7-3, "Setback Encroachments," 9-7-5, "Building Heights," and 9-7-7, "Building Heights, Appurtenances," B.R.C. 1981. Building height shall be measured in accordance with the requirements of Section 9-7-5, B.R.C. 1981.

(3) **Chapter 9-8: Intensity Standards.** This appendix supersedes the standards in Chapter 9-8, "Intensity Standards," B.R.C. 1981, with the exception of Sections 9-8-5, "Occupancy of Dwelling Units," 9-8-6, "Occupancy Equivalencies for Group Residences," and 9-8-7, "Density and Occupancy of Efficiency Living Units," B.R.C. 1981.

(4) **Chapter 9-9: Development Standards.** Chapter 9-9, "Development Standards," B.R.C. 1981, applies to developments that are regulated by this appendix as follows:

(5) **Applicable Sections.** The following sections of Chapter 9-9, "Development Standards, " B.R.C. 1981, are applicable:

(A) **9-9-1.** Intent.

(B) **9-9-2.** General Provisions.

(C) **9-9-4.** Public Improvements.

(D) **9-9-5.** Site Access Control, in addition to the access location requirements in Section M-1-11(a) "Driveways," B.R.C. 1981.

(E) **9-9-6.** Parking Standards.

(F) **9-9-7.** Sight Triangles.

(G) **9-9-8.** Reservations, Dedication, and Improvement of Right of Way.

(H) **9-9-9.** Loading.

(I) **9-9-10.** Easements.

(J) **9-9-12.** Landscape and Screening Standards.

(K) **9-9-13.** Streetscape Design Standards, in addition to the requirements established in M-1-10, Streetscape Design Requirements.

(L) **9-9-14.** Parking Lot Landscape Standards.

(M) **9-9-15.** Fences and Walls.

(N) **9-9-16.** Lighting, Outdoor.

(O) **9-9-17.** Solar Access.

(P) **9-9-18.** Trash Storage and Recycling Areas.

(Q) **9-9-19.** Swimming Pools, Spas, and Hot Tubs.

(R) **9-9-20.** Addressing.

(S) **9-9-21.** Signs.

(T) **9-9-22.** Trip Generation Requirements for the MU-4, RH-6, and RH-7 Zoning Districts.

(6) **Superceded Sections.** The following sections of Chapter 9-9, "Development Standards," B.R.C. 1981, are superseded by this appendix:

(A) 9-9-3, Building Design, is superceded by this appendix.

(B) 9-9-11, Useable Open Space, is superceded by the requirements of this appendix.

(c) Other Sections and Ordinances. The Boulder Revised Code and other ordinances of the city are applicable unless expressly waived or modified in this appendix. If there is a conflict between the requirements of this appendix and other portions of the Boulder Revised Code other than Title 9, "Land Use Code," B.R.C. 1981, the most restrictive standards shall control.

M-1-5. EXISTING STRUCTURES AND USES NOT CONFORMING WITH THIS APPENDIX

(a) **Purpose.** Adoption of the requirements of this appendix will create buildings, structures, and uses that were legally established but do not conform to the requirements of this appendix. The purpose of this section is to allow these preexisting buildings, structure and uses to be changed and upgraded without requiring their elimination if the change would not substantially adversely affect the surrounding area and would not increase the degree of nonconformity of uses.

(b) **Scope.** The provisions of this section apply to buildings and uses that were legally established prior to the adoption of this appendix. This section does not apply to sites that are subject to a valid site review or planned unit development. The buildings and uses can be continued, restored, modified or changed in compliance with Chapter 9-10, " Nonconformance Standards," B.R.C. 1981. The following modifications are not permitted to buildings as provided in Chapter 9-10, B.R.C. 1981: Subsection 9-10-2 (c), "Replacement of Nonstandard Architectural Building Features" and Subsection 9-10-3 (a) ,"Nonstandard Buildings and Structures," B.R.C. 1981. For the purpose of applying the applicable standards of Chapter 9-10, B.R.C. 1981, the standards for nonstandard structures shall be applied to legally established buildings and structures that do not meet the requirements of this appendix and the standards for nonconforming uses shall be applied to legally established uses that do not meet the requirements of this appendix.

(c) **Expansions and Modifications to Existing Structures That Do Not Meet the Standards of This Appendix.**

(1) **Expansions of 60 Percent of Floor Area.** Any modification to a legally established building or structure that does not meet the standards of this appendix and was not approved as part of a site review or planned unit development that adds more than sixty percent to the floor area existing at the time of adoption of this appendix shall meet the requirements of this appendix. For the purposes of calculating the amount of floor area being added, all floor area added in the five years preceding the building permit application shall be included.

(2) **Facade Additions or Replacement.** Any facade being added or replaced shall meet the applicable site and building design requirements of sections M-1-15 through M-1-29 of this appendix under any of the following circumstances:

(A) New exterior facades added as a result of the addition of any floor area;

(B) Replacement of thirty percent or more of the exterior facade material;

(C) Replacement or addition of thirty percent or more of the windows on any exterior facade;

(D) Replacement of or addition to any door or balcony located on any exterior facade.

(3) **Facade Requirements.** If the facade exists or will be constructed within the build-to zone, the facade requirements, not including the cap types, of the applicable building type shall be met if any one of the following is included in the building modification or expansion:

(A) New exterior facades added as a result of the addition of any floor area.

(B) Installation or change of location of two or more additional doors.

(C) Expansion or change in location of thirty percent of window area.

(D) Replacement of thirty percent or more of facade materials with a different facade material.

(4) **Roof Renovation.** The cap type requirements of the applicable building type shall be met when the shape or style of more than sixty percent of the roof is changed and thirty percent of the façade is within the build-to zone of the applicable building type.

(5) **Other Expansions and Modifications.** All expansions and modifications to existing structures that do not meet the standards of this appendix and do not meet the thresholds of this subsection (c) shall be subject to the underlying zoning and standards of Title 9, "Land Use Code," B.R.C. 1981.

M-1-6. REGULATING PLANS

No person shall construct, develop, use or occupy a property located in the area designated in Appendix L, "Form-Based Code Areas," except in conformance with Title 9, "Land Use Code," B.R.C. 1981, this appendix, and the regulating plan that applies to such property, except as otherwise specified in this appendix.

(a) Boulder Junction Phase I Regulating Plan. Within the Regulating Plan: Boulder Junction Phase I, as shown on Figure M-1 (1), the following standards apply:

(1) **Transportation Connections.** The arrangement, type, character, extent, and location of streets, alleys, paseos, paths, and other transportation connections shall conform to the regulating plans shown in Figure M-1 (1) and the Transit Village Area Plan.

(2) **Required Building Types.** The building shall be of the building type shown for the property in Figure M-1 (1) or the civic building type meeting the requirements of Section M-1-19, "Civic Building Type," B.R.C. 1981.

(3) **Location Based Height Limits.** No building shall exceed the maximum height and number of stories established for specific locations by Figure M-1 (1) and Figure M-1 (2). These location-based maximum height and story limitations supercede the maximum height and number of stories established in this appendix for the applicable building type.

(4) **Required Residential.** Developments that include general, main street, or row type buildings with a total combined floor area exceeding 15,000 square feet shall include a minimum of fifty percent of residential floor area.

(5) **Required Storefront.** Buildings shall have storefronts in the locations shown on Figure M-1 (1) and Figure M-1 (2).

(6) **Type A and Type B Streets.** Type A and B street designations establish design standards for how a building must address the street and regulate access to the property; all buildings shall meet the standards applicable to the types of street frontages shown for the property in Figure M-1 (1) and Figure M-1 (2). (See building type regulations and Section M-1-13, "General Requirements of Building Types," B.R.C. 1981.)

(7) **Required Outdoor Space Locations.** Outdoor space shall be provided in the locations shown in Figure M-1 (1). The required outdoor space shall meet the standards of Section M-1-12 "Outdoor Space Requirements," B.R.C. 1981.

(8) **Terminated Vistas.** When a street terminates or curves on a property as designated on Figure M-1 (1) or Figure M-1 (2), the site design or building shall include a feature to terminate the view from the street. The project shall meet the following standards:

(A) If the property where the vista is required to be terminated is open space, one of the outdoor space types established in Section M-1-12, "Outdoor Space Types," B.R.C. 1981, shall be utilized, and a vertical feature shall terminate the view. Acceptable vertical features include, but are not limited to, a stand or grid of at least three large maturing trees, as defined by Chapter 3 of the City of Boulder Design and Construction Standards, a sculpture, a gazebo, or a fountain.

(B) If the property where the vista is required to be terminated is not utilized as open space, the facade of a building shall terminate the view. The building facade shall meet the standards applicable to a Type A frontage, whether or not fronting on a Type A street, with the exception of the entrance requirements. The building shall include a feature that terminates the view, such as, a tower, cupola, bay, or courtyard.

(C) A parking structure, surface parking lot, or side or rear facade shall not terminate a vista.

General Provisions

Regulating Plans

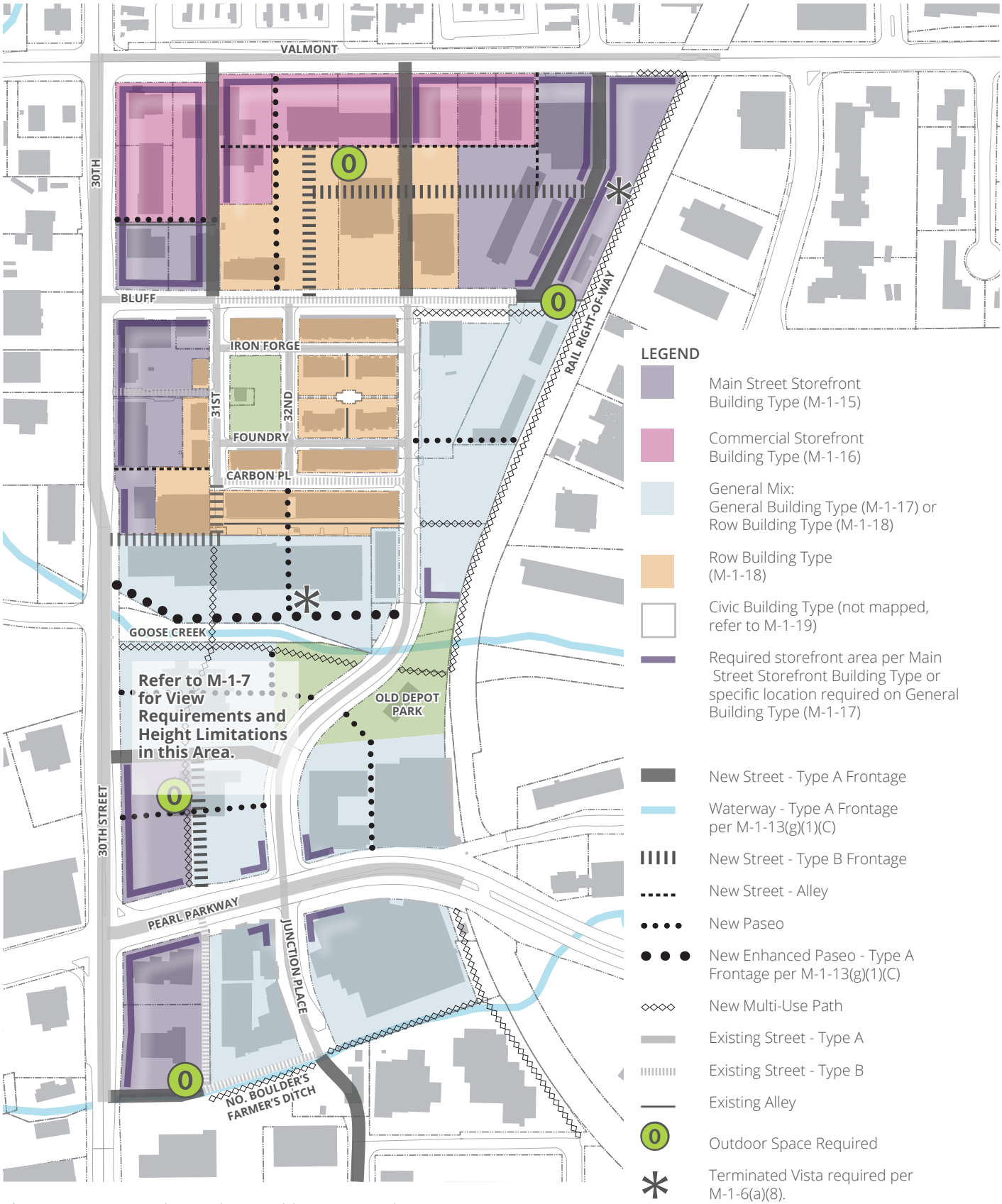
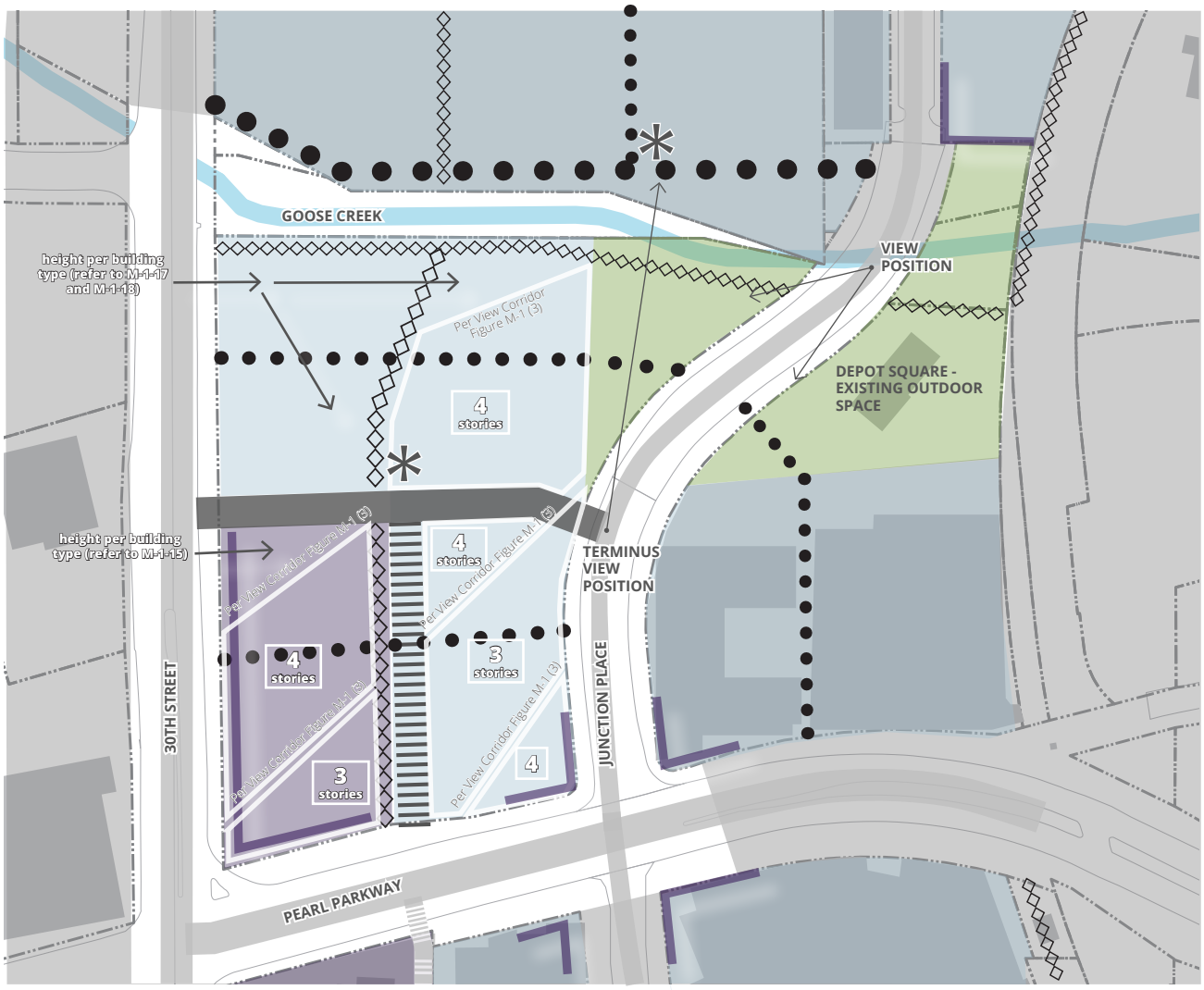


Figure M-1 (1). Regulating Plan: Boulder Junction Phase I

General Provisions

Regulating Plans



LEGEND

- Main Street Storefront Building Type (M-1-15)
- General Mix: General Building Type (M-1-17) or Row Building Type (M-1-18))
- Civic Building Type (not mapped, refer to M-1-19)
- Required storefront area per Main Street Storefront Building Type or specific location required on General Building Type (M-1-17)
- 3 stories — Maximum Height permitted in locations
- * Street Terminus required per M-1-6(a)(8).
- New Street - Type A Frontage
- Waterway - Type A Frontage
- New Street - Type B Frontage
- New Street - Alley
- New Paseo
- New Enhanced Paseo
- New Multi-Use Path
- Existing Street - Type A
- Existing Street - Type B

Figure M-1 (2). Regulating Plan Inset: SE Corner of Boulder Junction Phase I

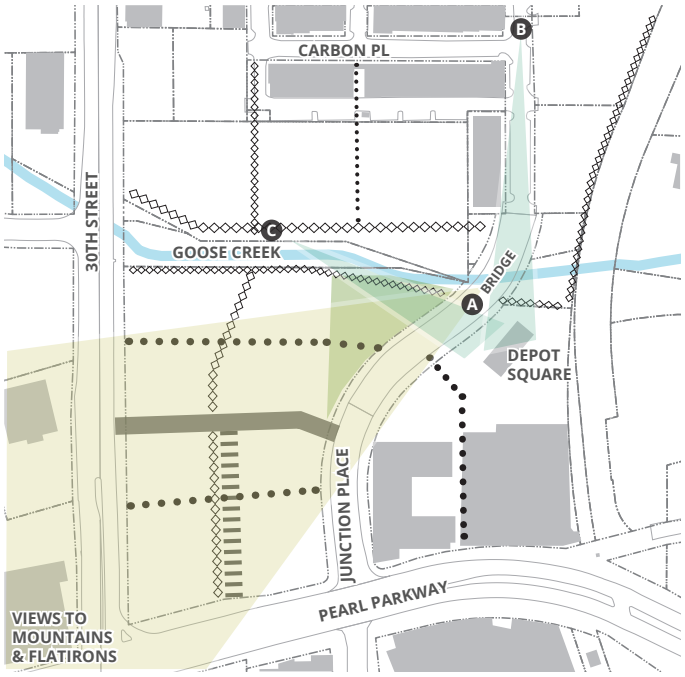


Figure M-1 (3). View Corridors to Retain

M-1-7. VIEW CORRIDORS

(a) **Purpose.** Projects should be designed to protect important public view corridors. The purpose of this section is to identify and preserve within the built environment view corridors of identified features when viewed from the public locations described in this section.

(b) **Boulder Junction Phase I.** The view corridors identified in Figure M-1 (3) and Figure M-1 (2) shall be preserved consistent with the requirements of this section.

(1) **View Corridors.** The following views are intended to be preserved:

(A) From the southernmost point of the Depot Square bridge through the site to the Flatirons and west to tops of mountains as shown in yellow in Figure M-1 (3).The view corridor shall preserve the complete view of all five Flatirons when viewed from the identified location.

(B) From Junction Place north of the Depot Square bridge, south to the old Depot Building in Depot Square as shown in light blue in Figure M-1 (3). The view corridor shall preserve the view of the entire Depot Building when viewed from the identified location.

(C) From the north side of Goose Creek at approximately the intersection between the north-south multi-use path and the east-west enhanced paseo, to the old Depot Building in Depot Square as shown in light blue in Figure M-1 (3). The view corridor shall preserve the view of the entire Depot Building when viewed from the identified location.

(2) **Height Limitations.** Building heights shall be limited on the sites affected by the view corridors pursuant to the following standards:

(A) The maximum number of stories shall not exceed the number of stories shown for a particular location in Figure M-1 (2). (Refer to the building types regulations for floor-to-floor heights requirements for stories.)

(B) Roof top mechanical equipment, utilities, and appurtenances shall not be located within the view corridors.

(C) Roof decks are permitted on all roofs provided they do not exceed any overall building height limitations and do not inhibit the views established by the view corridors.

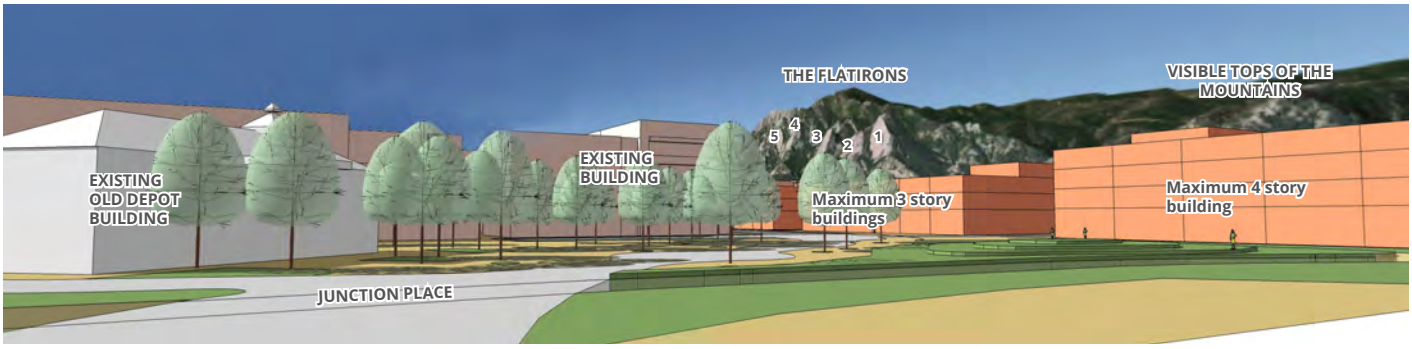


Figure M-1 (4). Example Documentation of Preserved Views from Junction Place Bridge

Roof deck structures are to be included in building modeling.

(3) **Specific Location.** The specific location of the horizontal limits of the view corridors established in paragraph (1) of this subsection shall be established by the reviewing authority based on a view corridor analysis so as to preserve the views described in paragraph (b)(1) of this section.

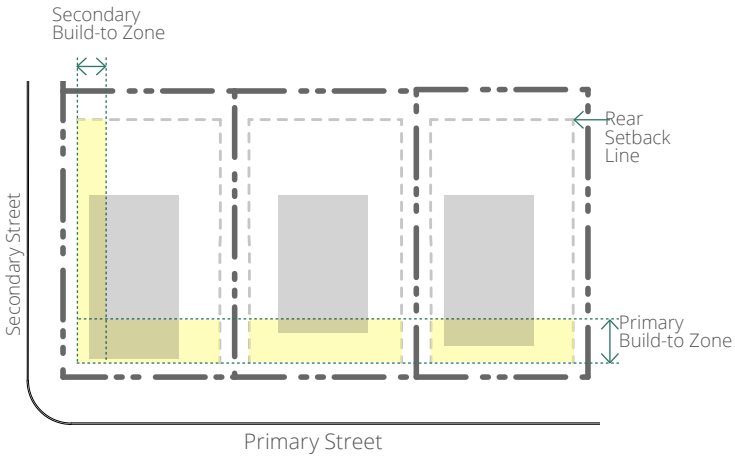
M-1-8. DEFINITIONS

The definitions in Chapter 1-2, "Definitions," and Chapter 9-16, "Definitions, B.R.C. 1981, apply to this appendix unless a term is defined different in this appendix or the context clearly indicates otherwise. For the purposes of this appendix, the following terms shall have the following meanings:

(a) Balcony. Balcony means a platform that projects from a facade of a building above grade and is enclosed by a parapet or railing. This does not include false balconies that consist of a railing across a door with no outdoor platform.

(b) Build-to Zone. Build-to zone means an area in which the facade of a building shall be placed; it may or may not be located directly adjacent to a lot line. The zone dictates the minimum and maximum distance a structure may be placed from a lot line. Refer to Figure M-1 (5). Build-to Zone and Setback Lines, and Figure M-1 (6). Facade Definition.

(c) Expression Line. Expression line means an architectural feature consisting of a decorative, three-dimensional, linear element, horizontal or vertical, protruding or indented at least two inches from the exterior facade of a building. Vertical elements may include a column, pilaster, or other continuous vertical ornamentation. Horizontal elements may include a cornice, belt course, molding, string courses, canopy, balcony, or other continuous horizontal ornamentation and projections. Expression lines are typically utilized to



BUILD-TO ZONES ALONG FRONTAGE LINE
A build-to zone indicates a zone or area in which the facade of a building must be located. The use of a build-to zone allows control over building placement, while the range provides some flexibility. This method provides more predictability in building placement.

SETBACK LINES ALONG FRONTAGE LINE
A setback line indicates the closest a building may be placed to a property line, but is silent on where behind that line a building may be placed.

Figure M-1 (5). Build-to Zone and Setback Lines

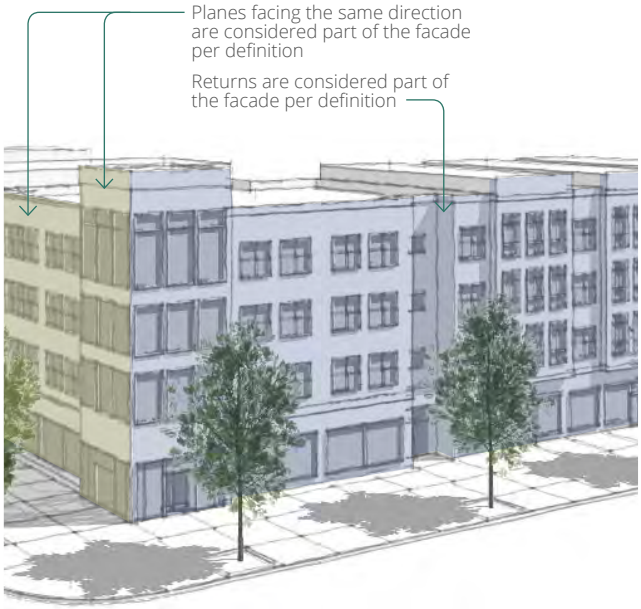


Figure M-1 (6). Facade Definition.

delineate the top or bottom of floors or stories of a building or divide a facade into smaller sections.

(d) **Facade.** Facade means the exterior walls of a building exposed to public view and includes walls as shown in Figure M-1 (6). Facade Definition.

(e) **Ground Story Transparency.** Ground story transparency means the measurement of the percentage of the ground story facade that has highly transparent, low reflectance windows with a minimum sixty percent transmittance factor and a reflectance factor of not greater than 0.25.

(f) **Impervious Site Coverage.** Impervious site coverage means the percentage of a lot or parcel developed with principal or accessory structures and other surfaces that prevent the absorption of stormwater into the ground, including without limitation, driveways, sidewalks, and patios.

(g) **Major Material.** Major material means a façade material meeting the standards for major materials established in Section M-1-24, "Façade Materials," B.R.C. 1981.

(h) **Minor Material.** Minor material means a façade material meeting the standards for minor materials established in Section M-1-24, "Façade Materials," B.R.C. 1981.

(i) **Occupied Building Space.** Occupied building space means interior building spaces regularly occupied by the building users. It does not include storage areas, utility space, vehicle service areas, or parking, or other uninhabitable spaces.

(j) **Parking Yard.** Parking yard means an area extending from the rear building facade to the rear property line between the side yards or, on a corner property, between the street adjacent side and side yards. Parking yards are fully screened from Type A streets by the building and do not extend to any side lot line or street lot line.

(k) **Paseo.** Paseo means a pathway designed for use by pedestrians, located mid-block, allowing pedestrian movement through the block from one street to another without traveling along the block's perimeter.

(l) **Porch.** Porch means a roofed, raised structure at the entrance to the building, and a transition between the interior of the building and the exterior yard or adjacent sidewalk. Refer to Figure M-1 (7). Example of a Porch.

(m) **Public Way.** Public way means streets, paseos, and multi-use paths, but not alleys.

(n) **Semi-Pervious Surface or Material.** Semi-pervious surface or material means a material such as pervious pavers, permeable asphalt and

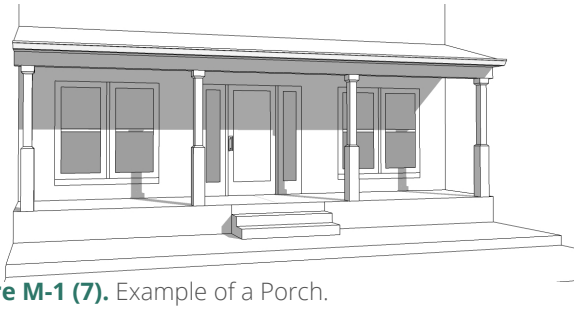


Figure M-1 (7). Example of a Porch.

Figure M-1 (8). Example of a Stoop

concrete, or a green roof that allows for absorption of water into the ground or roof.

(o) **Stoop.** Stoop means an elevated or at grade platform entranceway at the door to a building, providing a transition between the interior of the building and the sidewalk outside the building. The stoop may be covered by a canopy or awning. Refer to Figure M-1 (8). Example of a Stoop.

(p) **Storefront.** Storefront means a use limitation in specified areas that permits only dining and entertainment uses, personal service uses, and retail sales uses. Such uses must also meet the standards of Chapter 9-6, "Use Standards," B.R.C. 1981.

(q) **Story, Ground.** Ground story means the first floor of a building that is level to or elevated above the finished grade on the front and corner facades. The ground story excludes basements or cellars. Refer to Section 9-16-1, "General Definitions," B.R.C. 1981, for a definition for basement.

(r) **Story, Half.** Half story means either a story in the base of the building, partially below grade and partially above grade, or a story fully within the roof structure with windows or doors facing the street.

(s) **Story, Upper.** Upper story means a story located one story or more above the ground story of a building.

(t) **Transparency.** Transparency means the measurement of the percentage of a facade that has highly transparent, low reflectance windows with a minimum fifty percent transmittance factor and a reflectance factor of not greater than 0.25.

(u) **Type A Frontage.**.Type A frontage means a frontage along a Type A street that receives priority over other frontages in terms of locating principal entrances, prioritizing facade design elements, and incorporating design requirements associated with pedestrian orientation.

(v) **Type A Street.** Type A street means a street designated on the regulating plan that receives priority over other streets in terms of setting front lot lines and locating building entrances.

(w) **Type B Frontage.** Type B frontage means a frontage along a Type B street that allows for a lower level of facade treatment as well as permits locations for garage and parking lot driveway entrances.

(x) **Type B Street.** Type B street means a street designated on the regulating plan that receives lower priority than Type A street in terms of building frontage and facade requirements ; it allows for a lower level of facade treatment as well as permits locations for garage and parking lot driveways entrances.

(y) **Visible Basement.** Visible basement means a half story partially below grade and partially exposed above.

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Site Design

M-1-9. RIGHTS-OF-WAY

The arrangement, type, character, extent, and location of all rights-of-way shall conform to the requirements of Section M-1-6, "Regulating Plans," and Section 9-9-8, "Reservations, Dedication, and Improvement of Rights-of-Way," B.R.C. 1981, unless modified in accordance with this section.

(a) Amendments. Amendments to the location of rights-of-ways and addition to or deletion of rights-of-ways shown in the Transit Village Connections Plan or the regulating plan may be approved pursuant to the process and criteria established in the Transit Village Area Plan for amendments to the Transit Village Connections Plan. A request for such an amendment may be processed in conjunction with a form-based code review under Section 9-2-16, "Form-Based Code Review," B.R.C. 1981

M-1-10. STREETSCAPE AND PASEO DESIGN REQUIREMENTS

(a) Streetscape. In addition to the requirements of the Boulder Revised Code and the City of Boulder Design and Construction Standards, the streetscape of all new and existing streets, paseos, and enhanced paseos shall meet the standards of this section unless modified through approval of an exception under Section 9-2-16, "Form-Based Code Review," B.R.C. 1981.

(1) **Conformance to Plans.** The streetscape shall be designed and completed consistent with the streetscape guidelines of the Transit Village Connections Plan.

(2) **Streetscape Area.** The streetscape of any existing or new street shall occupy the full pedestrian realm, including the pedestrian facilities area and any street buffer required for the street type or similar area of an existing street. For enhanced paseos and paseos, the streetscape occupies the entire right-of-way or easement.

(3) **Compatible Design.** The streetscape design, including but not limited to paving patterns, seating areas, and bulb-outs, of all street frontages within the development shall be designed to be compatible in character.

(4) **Additional Design Requirements.** The streetscape design shall meet the following standards:

(A) **Bulb-outs.** To shorten pedestrian crossings, pedestrian bulb-outs shall be installed at each end of any pedestrian crossing located at an intersection except in locations where the city manager determines that the street design would not adequately accommodate the turning movements of emergency vehicles.

(B) **Sight Triangle Area.** The requirements of Section 9-9-7, "Sight Triangle," B.R.C. 1981, shall be complied with.

(1) **Alternative Method of Compliance.** The approving authority may approve an alternative design to the sight triangle requirements of Section 9-9-7, "Sight Triangle," B.R.C. 1981, if the applicant demonstrates that accepted engineering practice would indicate that a modified visibility distance, either greater or lesser, would be acceptable or necessary for the safety of pedestrians, motorists, and bicyclists.

(C) **Street Furnishings.** At least two benches and one trash receptacle shall be installed in each block of a street.

(b) Paseos. Paseos shall be designed consistent with the following:

(1) **General Paseo Design Requirements.** Paseos shall be designed to meet the standards of Figure M-1 (9). Table of Paseo Design Requirements.

(2) **Paseo Surface Design.** The same paving pattern and materials shall be utilized for the entire length of the paseo.

(3) **Maintenance.** Paseos shall be maintained by the property owner in good repair and safe and unobstructed condition. Any repairs or replacements to the paseo must be consistent with the form-based code review approval.

(A) If the city manager finds that any portion of a paseo does not meet this standard, the manager may require that the owner of the paseo or underlying property repair or replace the non-complying portion to bring it into conformity with city standards.

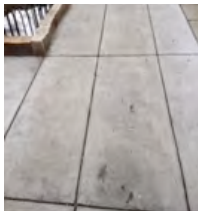
(B) If the city manager determines to proceed under paragraph (A) of this section, the manager shall notify the property owner of the duty to repair or replace, that such owner has thirty days from the date of the notice to commence such repair or replacement and has sixty days from the date of the notice to

DESIGN STANDARDS	NARROW PASEO	WIDE PASEO	ENHANCED PASEO
Minimum Width of Paseo	9 feet	20 feet	25 feet
Minimum Width of Easement and Pedestrian Travel Way	6 feet	6 feet	25 feet minimum width of easement; 10 feet minimum width of pedestrian travel way
Elements within public access easement	All elements in the public access easement must be approved as part of a revocable permit or lease as applicable. Doors must be recessed and shall not open into the public access easement.		
Surface Treatment of Pedestrian Travel Way	Permeable interlocking concrete pavers or brick. See Figure M-1 (10). Images of Paseo Surface Treatment	Gray concrete with decorative scoring pattern and a border on each side that is composed of brick or pavers	Combination of gray concrete in a decorative scoring pattern, patterned brick and permeable pavers. Brick and pavers shall constitute at least 30% of the surface treatment of the pedestrian travel way and 100% of adjacent seating areas.
Minimum distance between Pedestrian Travel Way and Adjacent Buildings	18 inches	18 inches	18 inches
Minimum Slope between Pedestrian Travel Way and Adjacent Buildings	2%	2%	2%
Minimum dimensions for adjacent outdoor seating areas	6 feet by 6 feet	6 feet by 6 feet	5 feet by 10 feet
Outdoor Lighting	Pedestrian scaled wall mounted lighting at intervals of no less than 15 feet on center; catenary lighting, in the paseo between buildings or above outdoor seating areas and building entries.	Catenary lighting, in the paseo between buildings or above outdoor seating areas and building entries	Pedestrian scaled pole mounted lighting
Special Design Requirements	See paragraph M-1-10(b)(5) for special design requirements for each paseo.		

Figure M-1 (9). Table of Paseo Design Requirements

Permeable Interlocking Concrete Pavers

Brick Pavers


Decoratively Scored Concrete

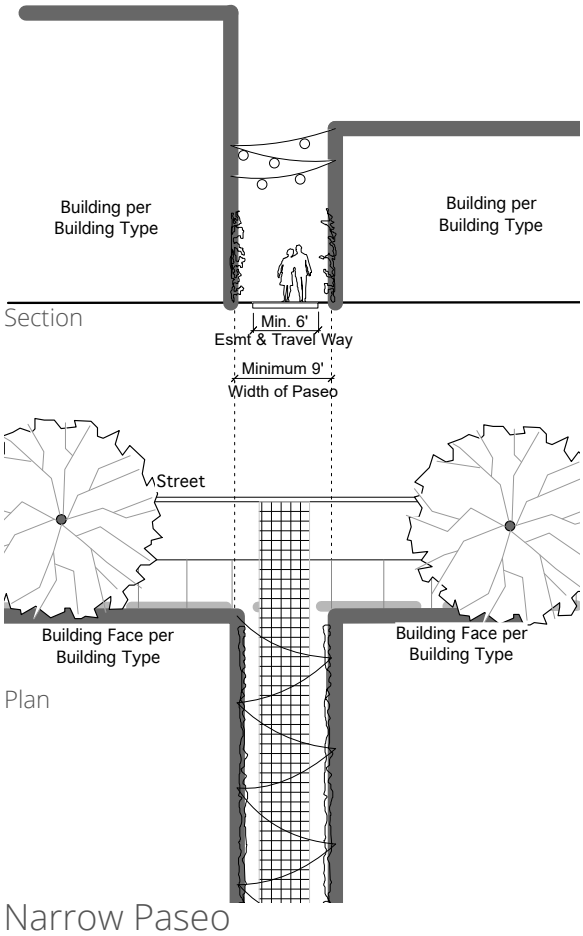
Brick Pavers in Seating Area

Figure M-1 (10). Images of Paseo Surface Treatment

Site Design

Rights-of-Way

Illustrative Examples of Paseos



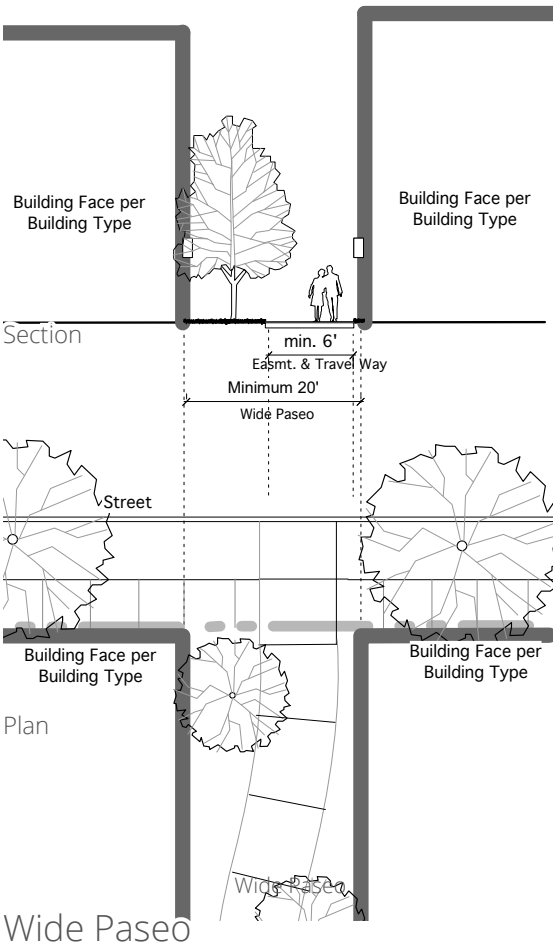
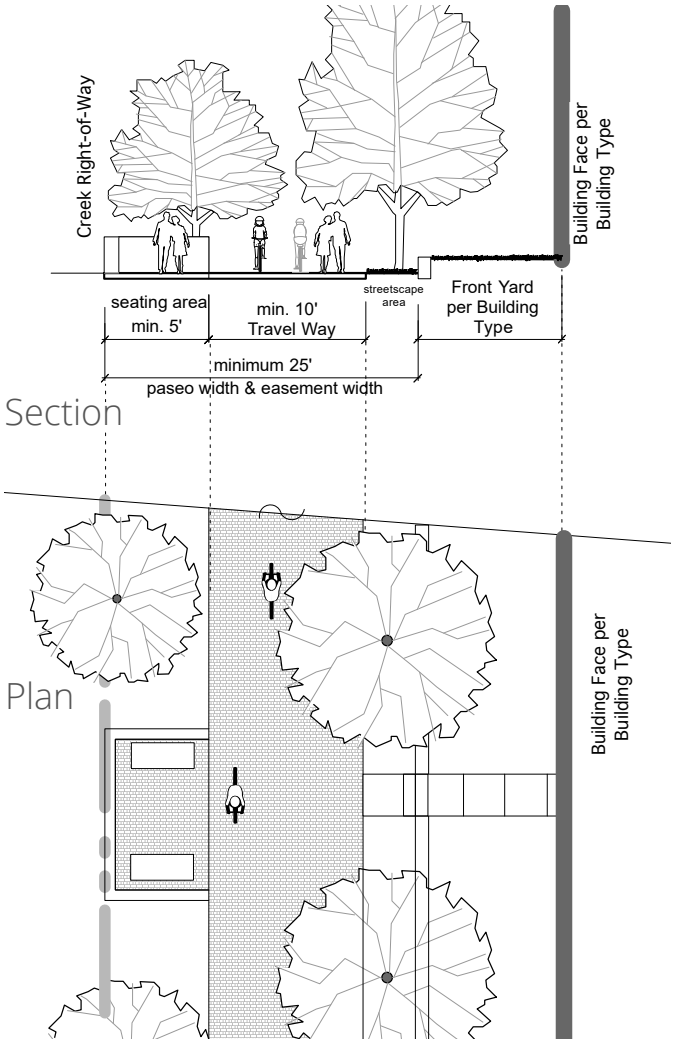


Figure M-1 (11). Paseo Illustrations

complete such repair or replacement. The manager may extend the time limit if weather would impede the work. Notice under this section is sufficient if it is mailed first class to the address of the last known owner of property on the records of the Boulder County Assessor, or hand delivered to an owner.

(C) If the property owner fails to commence or complete repair or replacement as required by the notice prescribed by paragraph (B) of this section, the manager may perform the repair or replacement and charge the costs thereof, plus up to fifteen percent for administrative costs, to the property owner.



Enhanced Paseo

(D) If any person fails or refuses to pay when due any charge imposed under this section, including any agreed charge, the city manager may, in addition to taking other collection remedies, certify due and unpaid charges to the Boulder County Treasurer for collection as provided by Section 2-2-12, "City Manager May Certify Taxes, Charges and Assessments to County Treasurer for Collection," B.R.C. 1981.

(4) **Outdoor Lighting.** The city manager may waive lighting standards under Subsection 9-9-16(g), "Outdoor Lighting," B.R.C. 1981, to allow catenary lighting between buildings and over paseos for bulbs greater than seven watts and no greater than eleven watts

(5) **Special Design Requirements.**

(A) **Narrow Paseo.**

(1) Narrow paseos shall be open to the sky. At least one of the buildings along a paseo shall be two stories or less along the paseo or the third and higher stories shall be set back a minimum of fifteen feet from the paseo.

(2) Narrow paseos shall be designed to include landscaping in decorative pots and planters where sufficient space exists between the pedestrian travel path and the buildings.

(B) **Wide Paseo.**

(1) Wide paseos shall be open to the sky with the exception of canopies and trellises.

(2) Wide Paseos shall be designed to include art, such as a sculpture or mural.

(3) Wide paseos shall include a mix of hardscaping and landscaping; no less than twenty-five percent of the paseo shall be landscaped, evenly distributed for the length of the paseo. Planters shall be at least six feet and no more than eleven feet wide and at least six feet, but no more than twenty feet long. Planters may be longer than twenty feet where not adjacent to a patio. Planting over underground parking structures shall be accommodated in recessed, extensive green roof planters and or full depth vaults and shall not project above the grade of the adjacent paseo. Ornamental or columnar trees adapted to the low

light conditions of the paseo shall be planted where possible, at a distribution of no less than one per every fifty linear feet.

(C) **Enhanced Paseo.**

(1) Where a transitioning of grades occurs in an enhanced paseo, the grades shall transition with terraced retaining walls of a height not to exceed thirty-six inches; if the walls are intended for seating, their height shall not exceed twenty-four inches

M-1-11. SITE DESIGN REQUIREMENTS

(a) Driveways. Driveway locations are permitted consistent with Section 9-9-5, "Site Access Control," B.R.C. 1981. For the purposes of this appendix and determining site access, Type B frontages are lower category streets than Type A frontages.

(b) Treatment of Build-to Zones, Yards, and Setbacks. All build-to zones, where not occupied by a building, all setbacks, and all yards shall be designed consistent with the following standards:

(1) **Site Open Space.** Build-to zones, setbacks, and yards, with the exception of parking areas, driveways, loading zones, mechanical equipment, and refuse and recycling areas, shall meet the design standards for useable open space established in Subsection 9-9-11(e), "Types of Useable Open Space," B.R.C. 1981.

(2) **Prohibited Uses.** Surface parking spaces, mechanical equipment, refuse and recycling areas, and loading areas shall not be located within any build-to zone or minimum setback.

(3) **Driveways.** Driveways may not be located in any build-to zone and setbacks unless consistent with Section 9-9-5, "Site Access Control," B.R.C. 1981, or with paragraph (b)(2) of this section to connect to an adjacent parking lot. When allowed, driveways shall may cross perpendicularly through build-to zones and setbacks.

(c) Inter-Lot Drives. Adjacent parking lots in a development shall be connected with a shared drive that perpendicularly crosses any side and /or rear setback.

M-1-12. OUTDOOR SPACE REQUIREMENTS

(a) **Intent.** The intent of the outdoor space requirements is the provision of common outdoor spaces for gathering and socializing between neighbors as well as to provide breaks in the urban fabric of the area buildings.

(b) **Applicability.** Outdoor space shall be designed and constructed or improved consistent with the requirements of this section.

(c) **Outdoor Space Required by Location.** Outdoor space shall be provided in the following locations:

(1) **Specific Locations.** Outdoor space shall be provided within 150 feet of the locations shown in Figure M-1 (13). Boulder Junction: Required Locations for Outdoor Space.

(2) **Underpass Outdoor Space.** Outdoor space shall be provided in any location where Figure M-1 (13) shows a future underpass. The minimum size of such outdoor space shall be determined by the city manager. The space shall be not less than 200 feet in length and 35 feet in width and must be long enough to provide for transition grades and wide enough to allow for landscaping and paving area.

(d) **Outdoor Space on Site or within 1/8 Mile.** One outdoor space shall be provided on the project site unless one outdoor space that is a public outdoor space or to which the anticipated residents, tenants, employees, customers, and visitors to the development have a right of access and use is located within no more than 1/8 of a mile of all public entrances to the buildings of the development.

(e) **Outdoor Space Types.** All required outdoor space shall comply with one of the outdoor space types defined in subsections M-1-10(p) through (t) of this section and the specifications applicable to the type used.

(1) **Specified Type.** If a type of outdoor space is specified in Figure M-1 (13) for the project site, such type must be utilized.

(2) **No Specified Type.** If no type is specified in Figure M-1 (13) or the type is designated as flexible, any one of the outdoor space types defined in subsections M-1-10(p) through (t) of this section shall be utilized provided that the type utilized will result in a mix of outdoor spaces in the vicinity of the development.

(f) **General Design Standards.** All outdoor space shall be designed and maintained to meet the

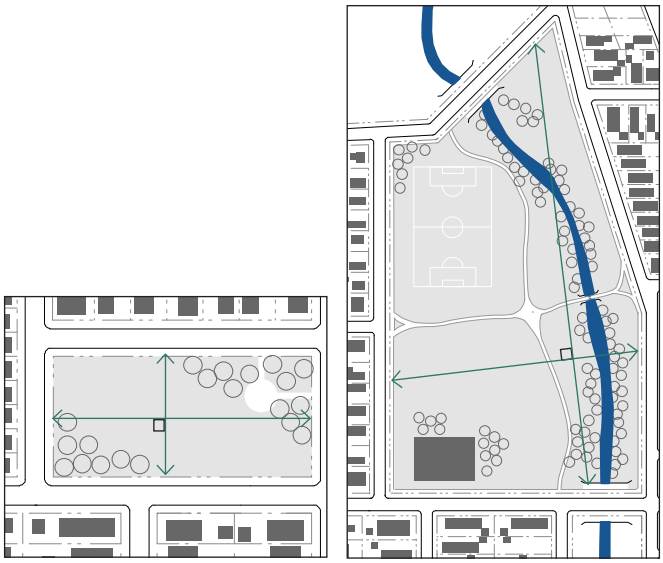


Figure M-1 (12). Outdoor Space: Measuring Minimum Dimensions.

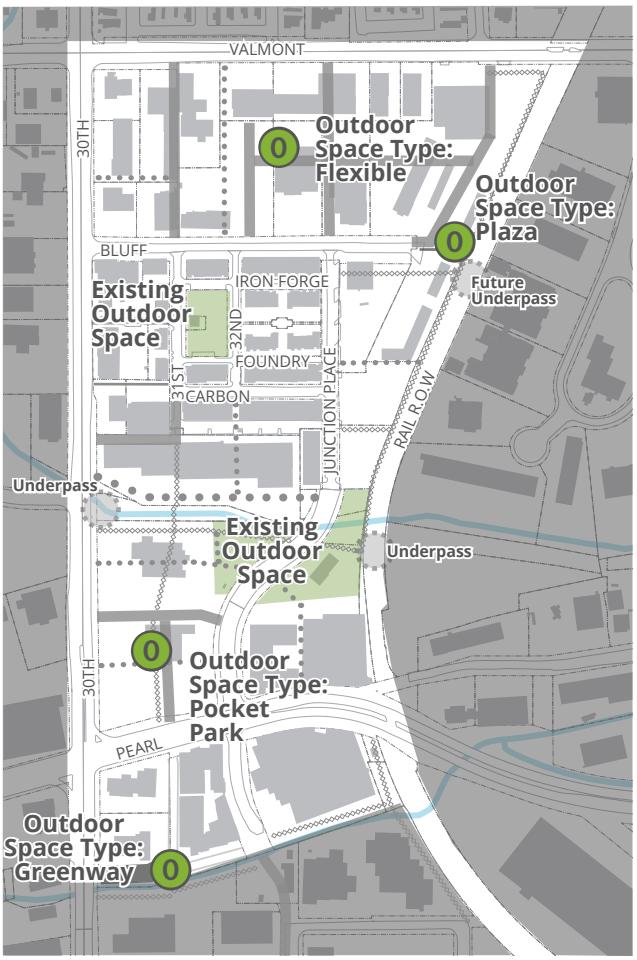


Figure M-1 (13). Boulder Junction: Required Locations for Outdoor Space

following standards:

(1) **Landscaped Areas.** Landscaped areas must meet the requirements of Section 9-9-12, "Landscaping and Screening Standards, " B.R.C. 1981;

(2) **Exterior Paved Areas.** Exterior paved areas shall meet the standards of Subparagraphs 9-9-11 (e)(5)(A) and (B), B.R.C. 1981; and

(3) **Recreational Amenities.** Seating and other elements encouraging use and occupation of the space and spatially defining the space shall be included in the design so as to make the space attractive and an integral part of the circulation pattern of the development. Such elements may include benches, tables, ornamental lighting, sculptures, landscape planters or movable containers, trees, tree grates, water features, or other recreational amenities.

(g) **Access.** All required outdoor spaces shall be accessible from a pedestrian route associated with a vehicular right-of-way and/or adjacent building entrances or exits.

(h) **Fencing.** Outdoor space types may incorporate fencing provided that the following requirements are met:

(1) **Height.** No fence shall exceed forty-eight inches in height. This maximum fence height may be modified by the approving authority to ensure functionality and safety of the users of the outdoor space, for example, in proximity to railroad right-of-way and around swimming pools, ball fields, and ballcourts.

(2) **Level of Opacity.** Fence opacity shall not exceed sixty percent.

(3) **Type.** Chain-link fencing is prohibited along any street frontage. The approving authority may modify this standard around sports field or courts to ensure the safety of the users and visitors to the property and functionality of the outdoor space use.

(4) **Openings.** Openings or operable, unlocked gates shall be provided on every street frontage at a minimum of one per every 100 feet of frontage.

(i) **Open Water Body.** All open water bodies, such as lakes, ponds, pools, creeks, and streams, within an outdoor space type shall be located at least twenty feet from a property line to allow for pedestrian and bicycle access as well as a landscape area surrounding the water body.

(j) **Parking Requirements.** Parking shall not be required for any outdoor space type, unless a use other than open space is determined by the city manager.

(k) **Continuity.** New outdoor space shall connect to abutting or proximate existing or planned public way or open space.

(l) **Measuring Size.** When determining whether dimensions requirements of this section are met, the following standards apply:

(1) **Size.** The size of the outdoor space is measured to include all landscape and hardscape areas associated directly with the outdoor space.

(2) **Minimum Dimension.** The minimum length or width of the outdoor space type shall be measured along the longest two straight lines intersecting at a right angle defining the maximum length and width of the lot consistent with Figure M-1 (12). Outdoor Space: Measuring Minimum Dimensions. B.R.C. 1981.

(3) **Minimum Percentage of Street Frontage Required.** A minimum percentage of the outdoor space perimeter, as measured along the outer edge of the space, shall be located directly adjacent to a street.

(m) **Improvements.** When determining the specific improvement standards applicable to each outdoor space type, the following shall apply:

(1) **Designated Sports Fields.** Designated sports field shall mean sports fields or ball courts designated for one or more particular sports, including but not limited to baseball fields, softball fields, soccer fields, basketball courts, football fields, and tennis courts.

(2) **Playgrounds.** Playgrounds shall mean a defined area with play structures and equipment typically designed for children under twelve years of age, such as slides, swings, climbing structures, and skate parks. Where a playground is required, it shall include soft surfacing and structures and shall be a minimum of 1800 square feet in total area.

(3) **Fully Enclosed Structures.** Where permitted, fully enclosed structures may include such uses as small cafes, kiosks, community centers, and restrooms. For some outdoor space types, fully enclosed structures are subject to a maximum building coverage limitation, limiting the building

coverage to a percentage of the outdoor space area.

(4) **Semi-Enclosed Structures.** Semi-enclosed structure shall mean open-air structure, such as a gazebo. Semi-enclosed structures are permitted in all outdoor space types.

(5) **Maximum Impervious and Semi-Pervious Surface.** Limitations on impervious and semi-pervious surfaces are provided separately for each open space type to allow an additional amount of semi-pervious surface, such as permeable paving, above the impervious surfaces permitted, including, but not limited to, sidewalks, paths, and structures as permitted.

(6) **Maximum Percentage of Open Water Body.** Maximum percentage of open water body shall mean the maximum amount of area within the outdoor space that may be covered by an open water body, including but not limited to ponds, lakes, and pools.

(n) Stormwater in Outdoor Space Types. Stormwater management practices, such as storage and retention facilities, may be integrated into any of the outdoor space types and utilized to meet stormwater requirements for surrounding parcels subject to the following standards:

(1) **Stormwater Features.** Stormwater features in outdoor space may be designed as formal or natural amenities with additional uses other than stormwater management, such as an amphitheater, sports field, pond, or pool, as part of the landscape design.

(2) **Fencing.** Stormwater features shall not be fenced and shall not impede public use of the space.

(3) **Walls.** Retaining walls over 2.5 feet in height are not permitted in any outdoor space accommodating stormwater. Exposed concrete is prohibited; all concrete shall be faced with stone or brick.

(4) **Structures.** All inlets, pipes, overflows, outfalls, and other structures required for the stormwater facility shall be incorporated into a landscape design and designed as unobtrusively as feasible. Exposed concrete is prohibited; all concrete shall be faced with stone or brick.

(5) **Qualified Professional.** A qualified landscape architect shall be utilized to design the space for use by people, incorporating the stormwater features into the design.

(o) Small Projects. The approving authority shall reduce the minimum size requirement of an outdoor space type to a size of fifteen percent of the project size if the applicant demonstrates the following:

(1) The outdoor space requirements cannot be met through an off-site outdoor space within 1/8 of a mile of all public entrances to the buildings of the development that is a public outdoor space or a space to which the anticipated residents, tenants, employees, customers, and visitors to the development have a right of access and use; and

(2) The project site is smaller than 0.7 acres in size. All contiguous lots or parcels under common ownership or control shall be considered the project site for purposes of determining the project size under this subparagraph. Contiguity shall not be affected by the existence of a platted street or alley or any other public or private right-of-way.

Site Design

Outdoor Space Requirements

(p) Plaza.

The intent of the plaza is to provide a formal outdoor space of medium scale that may serve as a gathering place for civic, social, and commercial purposes. The plaza may contain a greater amount of impervious coverage than any other type of outdoor space regulated in this section. Special features, such as fountains and public art installations, are encouraged.

PLAZA REQUIREMENTS

Dimensions	
Minimum Size	0.10 acres
Maximum Size	1 acres
Minimum Dimension	80 feet
Minimum Percentage of Street or Public Way Frontage Required	25%
Improvements	
Designated Sports Fields	Not permitted
Playgrounds	Not permitted
Fully Enclosed Structures	Permitted; may cover maximum 5% of plaza area
Maximum Impervious Surface + Semi-Pervious Surface	60%+ 20%
Maximum Percentage of Open Water	30%

(q) Green.

The intent of the green is to provide an informal outdoor space of medium scale for active or passive recreation located within walking distance for building occupants and visitors. The green is intended to be fronted mainly by streets.

GREEN REQUIREMENTS

Dimensions	
Minimum Size	0.25 acres
Maximum Size	2 acres
Minimum Dimension	45 feet
Minimum Percentage of Street or Public Way Frontage Required	100% for greens less than 1.25 acres; 50% for greens 1.25 or more acres in size
Improvements	
Designated Sports Fields	Not permitted
Playgrounds	Permitted
Fully Enclosed Structures	Not permitted
Maximum Impervious Surface + Semi-Pervious Surface	20% + 15%
Maximum Percentage of Open Water	30%

(r) Commons.

The intent of the commons is to provide an informal, small to medium scale outdoor space for active or passive recreation. Commons are typically internal to a block and tend to serve adjacent building occupants.

(s) Pocket Park.

The intent of the pocket park is to provide a small scale, primarily landscaped active or passive recreation and gathering space for neighborhood residents within walking distance.

COMMONS REQUIREMENTS

Dimensions	
Minimum Size	0.25 acres
Maximum Size	1.5 acres
Minimum Dimension	45 feet
Minimum Percentage of Street or Public Way Frontage Required	0%; requires a minimum of two access points (minimum 20 feet wide)
Improvements	
Designated Sports Fields	Not permitted
Playgrounds	Permitted
Fully Enclosed Structures	Not permitted
Maximum Impervious Surface + Semi-Pervious Surface	30% + 10%
Maximum Percentage of Open Water	30%

POCKET PARK REQUIREMENTS

Dimensions	
Minimum Size	0.10 acres
Maximum Size	1
Minimum Dimension	None
Minimum Percentage of Street Frontage Required	30%
Improvements	
Designated Sports Fields	Not permitted
Playgrounds	Required
Fully Enclosed Structures	Not permitted
Maximum Impervious Surface + Semi-Pervious Surface	30% + 10%
Maximum Percentage of Open Water	30%

Site Design

Outdoor Space Requirements

(t) Park/Greenway.

The intent of the park/greenway is to provide informal active and passive large-scale recreational amenities to local residents and the greater region. Parks have primarily natural plantings and are frequently created around an existing natural feature such as a water body or stands of trees.

PARK/GREENWAY REQUIREMENTS

Dimensions	
Minimum Size	2 acres
Maximum Size	None
Minimum Dimension	30 feet; minimum average width of 80 feet
Minimum Percentage of Street Frontage Required	30% for parks less than 5 acres; 20% for parks 5 or more acres in size
Improvements	
Designated Sports Fields	Permitted
Playgrounds	Permitted
Fully Enclosed Structures	Permitted in parks 5 acres or larger in size
Maximum Impervious Surface + Semi-Pervious Surface	20% + 10%
Maximum Percentage of Open Water	30%

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Building Types

Building Types

M-1-13. GENERAL REQUIREMENTS OF BUILDING TYPES

(a) **Purpose.** The purpose of the building types requirements is to establish standards for building design, building form, siting of buildings, and specific uses based on the building type that may be utilized on a property pursuant to the applicable regulating plan or as otherwise authorized.

(b) **Building Types Requirements.** No person shall develop, use, or occupy any building or other property located within the area designated in Appendix L, "Form-Based Code Areas," B.R.C. 1981, except in conformance with the building type standards of sections M-1-15 through M-1-19 of this appendix unless modified through an exception under Subsection 9-1-16(i), B.R.C. 1981.

(c) **Uses in Building Types.** All uses of a property shall meet the requirements of Chapter 9-6, "Use Standards," B.R.C. 1981. Where use regulations are imposed by this appendix based on the building type, the use of the property shall also be consistent with those standards.

(d) **General Building Design Requirements.** All buildings shall comply with the building design requirements of sections M-1-21 through M-1-29 of this appendix.

(e) **Multiple Principal Structures.** Multiple structures may be constructed on a lot or parcel. All structures shall meet the applicable building type requirements, including the build-to zone requirements.

(f) **Build to the Corner.** On corners, a building or structure shall be located at the intersection of the two build-to zones as shown in Figure M-1 (14). The standards of Subparagraph M-1-10(a)(4)(B), "Sight Triangle Area," B.R.C. 1981. must also be met.

(g) **Type A & B Frontages.** A hierarchy of frontages is established for properties located within the area shown on Appendix L, "Form-Based Code Areas." Frontages include streets, paths, waterways, and other public ways.

(1) **Type A Frontage Description.** A Type A frontage designation establishes the fronts of lots and buildings and where to locate the principal entrance to the building. A Type A frontage designation requires the highest level of facade treatment and restricts locations for parking, driveways, and garage entrances. Type A frontages must be provided as follows:

(A) **Type A Street Frontages.** Type A frontage requirements have to be met along those locations where a Type A frontage is designated on the regulating plan.

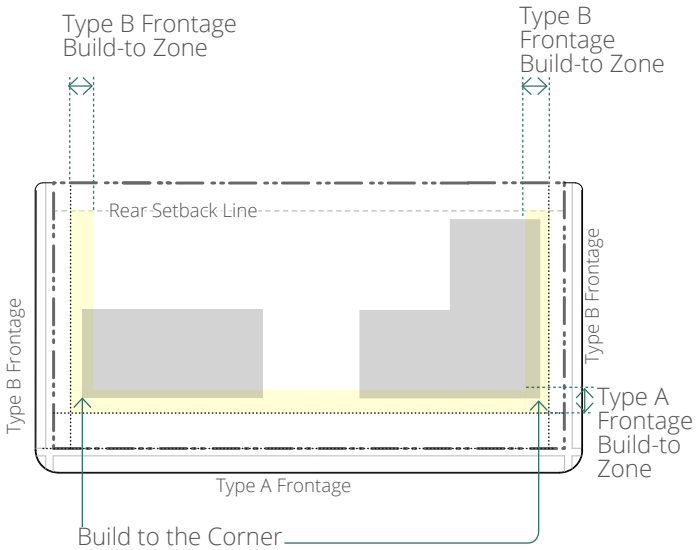


Figure M-1 (14). Build-to Corner and Build-to Zones

(B) **Outdoor Space Types.** Where a lot or parcel contains or abuts a required outdoor space, the frontage of a building abutting the outdoor space shall meet Type A frontage requirements.

(C) **Specific Type A Frontages.** Type A frontage requirements also have to be met along the following ways:

(i) **Boulder Junction Phase I.** Goose Creek, the North Boulder Farmer's Ditch, and all enhanced paseos.

(D) **Corners.** At corners of buildings on public ways, Type A frontage treatments shall be continued around the corner along the public way for a minimum of thirty feet.

(E) **Multiple Type A Frontages and No Type B Frontage.** If multiple Type A frontages and no Type B frontages are required on a building, one Type A frontage may be treated as a Type B frontage for the building type requirements if the approving authority finds that one of the following standards is met with regard to such frontage:

(i) Configuration of other parcels along the street, including fronts of buildings and locations of vehicular access, are more consistent with Type B requirements.

(ii) The classification of the street is more focused on traffic movement than pedestrian orientation.

(iii) The area plan prioritizes the street lower than other Type A frontages.

(2) **Type B Frontages Description.** A Type B frontage designation allows for a lower level of facade treatment and allows garage and parking lot driveway entrances on the frontage. Type B frontages have to be provided as follows:

(A) **Type B Street Frontages.** Type B frontage requirements shall be met along those locations where a Type B frontage is designated on the regulating plan.

(B) **Other Ways.** All ways other than streets or alleys, including but not limited to paseos, multi-use paths, waterways, busways, and rail lines, shall be treated as Type B frontages unless otherwise required in this appendix; however, vehicular access and recycling, refuse, and loading access is not permitted off these ways.

(C) **Yard Definition.** Yard is defined in Section 9-16-1, "General Definitions," B.R.C. 1981. For the purposes of this Appendix M, the following standards shall supplement and, where inconsistent, supercede the definition of Section 9-16-1, B.R.C. 1981:

(i) **Side and Rear Yards Abutting Other Lots, an Alley, or a Rail Right-of-Way.** On a property located in an area designated in Appendix L, "Form-Based Code Areas," only yards abutting a lot, an alley, or a rail right-of-way at the lot line, and not a street, waterway or other Type A or B frontage, are considered side or rear yards.

(ii) **Front Yards, Side Adjacent Street Yards, and Side Equals Front Yards.** Front yards, side adjacent street yards, and side equals front yards are regulated through the designation of Type A and Type B frontages.

(iii) **Parking Yard.** Parking yard shall have the meaning defined in Section M-1-8, "Definitions," B.R.C. 1981.

(h) Modifications.. The approving authority may approve the following modifications if the approving authority finds the proposed design substantially meets the intent of the requirement being modified:

(1) **Building Location.** The location of the building within up to one foot from any minimum setback or build-to zone width or location requirement.

(2) **Impervious Coverage.** Up to a ten percent increase in total impervious coverage, not to exceed the total amount of allowed impervious plus semi-pervious coverage.

(3) **Type A Frontage Lot Line Coverage.** For the commercial storefront building only, up to ten percent decrease in Type A frontage lot line coverage requirements.

(4) **Story Height.** An additional height of any floor-to-floor story height up to two feet, provided the overall building height does not exceed the maximum permitted height.

(5) **Transparency.** Up to two percent reduction of the required transparency on a non-Type A frontage facade; and up to four square feet increase of the blank wall area limitation of paragraph subsection M-1-20(f)(2) on a non-Type A frontage facade.

M-1-14. DESCRIPTIONS OF BUILDING TYPES

This section generally describes the building types established for development on land designated in Appendix L, "Form-Based Code Areas." Sections M-1-15 through M-1-19 establish standards applicable to a building type. Sections M-1-20 and M-1-21 regulate the application of the requirements specific to a building type. No person shall use land designated in Appendix L except in conformance with the building type requirements of those sections, unless modified through an exception under Subsection 9-2-16(i), B.R.C. 1981.

(a) **Main Street Storefront Description.** The main street storefront building type is a highly pedestrian-oriented, mixed-use building. Ground story storefront is required along all Type A streets with only personal service, retail, dining, and entertainment uses to provide activity. Upper story uses are flexible. Parking is in the rear or off-site. Refer to Section M-1-15, B.R.C. 1981, for requirements.

(b) **Commercial Storefront Description.** The commercial storefront building type permits single use buildings and more parking locations, but still addresses pedestrian orientation with buildings built up to the sidewalk and storefront glass requirements. This building type allows a broader variety of commercial, retail, and industrial uses on the ground story, including vehicle-related uses. Refer to Section M-1-16, B.R.C. 1981, for requirements.

(c) **General Building Description.** The general building type is a basic building that serves as urban fabric, built along the sidewalk connecting the more commercial spaces with open spaces. This building can accommodate a wide range of uses. It differs from the storefront by its lower requirement for ground story glass and allowance for an above-sidewalk level ground story elevation. Refer to Section M-1-17, B.R.C. 1981, for requirements.

(d) **Row Building Description.** The row building type is similar to the general building, but is smaller in scale. The ground story is required to be divided into different units, each with separate entrances. Townhouses, rowhouses, live-work units, incubator space, or small width industrial or craftsman spaces fit well into this building type. Refer to Section M-1-18, B.R.C. 1981, for requirements.

(e) **Civic Building Description.** The civic building type is the most flexible building, meant to allow for more iconic designs within the urban fabric of the area. This building type is limited to specific public and institutional uses, such as governmental facilities, religious assemblies, schools, colleges, and universities, as well as parks and recreation uses, museums, and live theaters. Refer to Section M-1-19, B.R.C. 1981, for requirements.

Building Types

Main Street Storefront Building Type

M-1-15. MAIN STREET STOREFRONT BUILDING TYPE

Refer to M-1-6 Regulating Plans for the locations of buildings in the form-based code areas.

		BOULDER JUNCTION PHASE I	REFERENCES/ADDITIONAL REQUIREMENTS
BUILDING SITING Refer to Figure M-1 (15).			
1	**Minimum Type A Frontage Build-to Zone Coverage**	90% required	One courtyard, maximum of 30% of facade width or 30 feet wide, whichever is less, may count towards Type A frontage build-to zone coverage.
2	**Type A Frontage Build-to Zone**	0′ to 5′ from minimum streetscape, see note right	Build-to zones are measured from the outside edge of any public access easement for sidewalk or the right-of-way, if no public access easement is required or exists. Refer to M-1-20(b) for additional information.
3	**Type B Frontage Build-to Zone**	0′ to 5′ from minimum streetscape, see note right	
4	**Minimum Side Setback**	5′; 0′ required at paseo or multi-use path	For paseos and multi-use paths, refer to the regulating plans and the Transit Village Connections Plan for locations and details.
5	**Minimum Rear Setback**	10′; minimum 25′ if no alley; 0′ required at paseo or multi-use path	
6	**Maximum Building Length along any Public Way**	150′	Refer to section M-1-28 for building massing requirements.
7	**Maximum Site Impervious Coverage** **Additional Semi-Pervious Coverage**	70% 25%	Refer to Section M-1-8, "Definitions, B.R.C. 1981, for semi-pervious coverage.
8	**Surface or Accessory Parking, Refuse & Recycling, Utilities, & Loading Location**	Parking yard only	Refer to Sections 9-9-9 and 9-9-12, B.R.C. 1981, for loading and screening requirements.
9	**Permitted Driveway Access Locations** **Permitted Garage Entrance Location**	Alley Rear facade only; if no rear facade, Type B frontage street is permitted	If no alley exists or is planned, driveway access off a Type B street is permitted.
HEIGHT Refer to Figure M-1 (16).			
10	**Overall:** **Minimum Height** **Maximum Height**	2 stories minimum 3 stories maximum and up to 40′ in height north of Goose Creek and west of Junction Place; 5 stories maximum elsewhere up to 55′, unless otherwise required by Sections M-1-6, "Regulating Plans," and/or M-1-8, "View Corridors, B.R.C. 1981.	Refer to subsection M-1-20(d) for height measuring requirements and section M-1-28 for building massing requirements. Subsection M-1-21(d), "Towers," B.R.C. 1981, allows additional height in a limited footprint.
11	**Ground Story:** **Minimum Height** **Maximum Height**	14′ 22′	Stories are measured floor to floor. Refer to subsection M-1-20(e) for explanation of measurement.
12	**Upper Stories:** **Minimum Height** **Maximum Height**	9′ 12′	Stories are measured floor to floor. Refer to subsection M-1-20(e) for explanation of measurement.

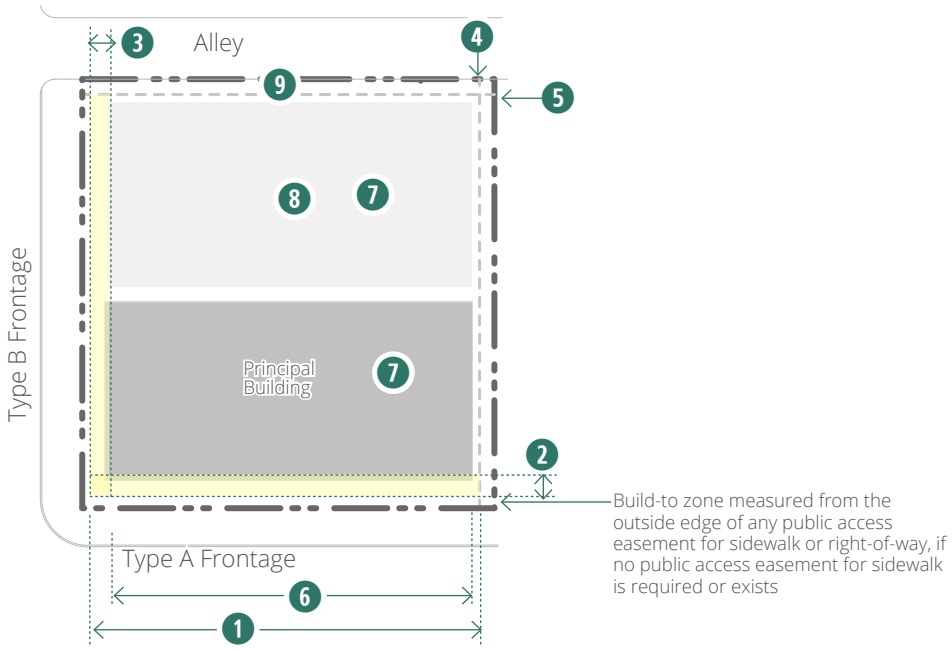


Figure M-1 (15). Storefront Building: Building Siting

Building Types

Main Street Storefront Building Type

	BOULDER JUNCTION PHASE I	REFERENCES/ADDITIONAL REQUIREMENTS
USES Refer to Figure M-1 (16).		
13 Type A Frontage Ground Story	Only dining & entertainment uses, personal service uses, retail sales uses consistent with chapter 9-6	Refer to Chapter 9-6, B.R.C. 1981, for permitted uses per zoning district and definition of uses.
14 Type B Frontage & All Upper Stories	All uses consistent with chapter 9-6	
15 Required Occupied Building Space	Minimum 20' deep on all full height floors, not including basement, from any street facade.	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for occupied building space.
16 Parking within Building	Permitted fully in any basement and in rear of all other stories. Prohibited where occupied space is required.	Refer to occupied building space requirement above.
FACADE & CAP REQUIREMENTS Refer to Figure M-1 (17).		
17 Type A Frontage Ground Story Transparency	Minimum 75% measured between 2' and 10' vertically from average grade of adjacent sidewalk	Note that subsection M-1-13(g) requires this treatment to turn corners. Refer to subsection M-1-20(f) for information on measuring transparency.
18 Required Transparency on All Street, Courtyard, & Public Way Facades	Minimum 20%, measured per story of all stories, including blank wall limitations defined in M-1-20(f).	Refer to subsection M-1-20(f) for information on measuring transparency.
19 Entrance Location & Number	Principal entrance required on Type A frontage facade; entrances required a minimum of one per every 60' of building facade	Refer to section M-1-20(g) for information on measuring entrance location.
20 Entryway Configuration	Recessed between 3' and 8', maximum 8' wide, from the portion of the Type A frontage facade closest to the street	Refer to subsection M-1-25(e) for principal entryway requirements.
21 Entrance/Ground Story Elevation Grade	80% of entrances and the ground story shall be within 1.5' (vertically) of adjacent sidewalk elevation	
22 Ground Story Vertical Facade Divisions	One minimum 2" deep expression line per every 30' of facade width	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for expression line.
23 Horizontal Facade Divisions	One minimum 2" deep expression line within 3' of the top of the ground story and the bottom of any 5th story	
24 Permitted Cap Types	Parapet, pitched, flat	Refer to section M-1-21 for cap types, and other cap requirements.

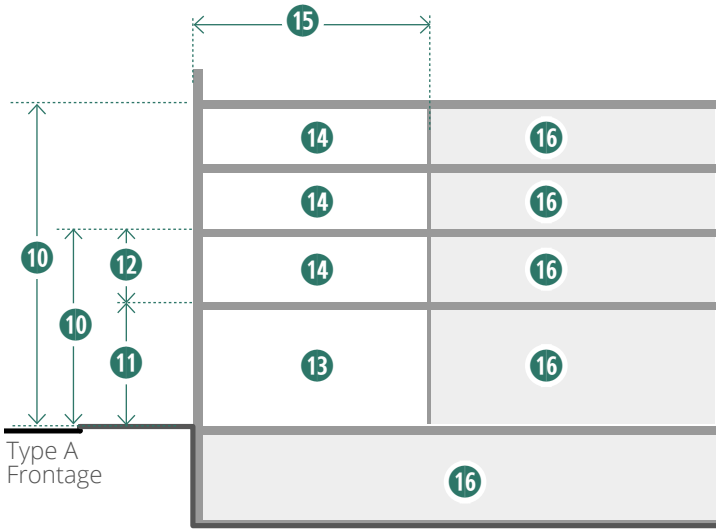


Figure M-1 (16). Storefront Building Section: Height & Use Requirements

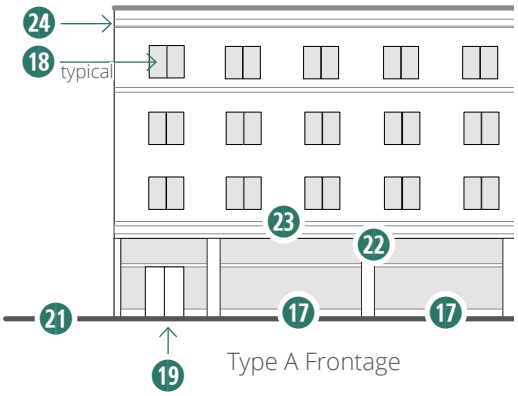


Figure M-1 (17). Storefront Building Elevation: Facade Design Requirements

Building Types

Commercial Storefront Building Type

M-1-16. COMMERCIAL STOREFRONT BUILDING TYPE

Refer to M-1-6 Regulating Plans for the locations of buildings in the form-based code areas.

			BOULDER JUNCTION PHASE I	REFERENCES/ ADDITIONAL REQUIREMENTS
BUILDING SITING Refer to Figure M-1 (18).				
1	Minimum Type A Frontage Build-to Zone Coverage		60% required	.
2	Type A Frontage Build-to Zone		12′ to 20′ along Valmont and 30th Street; 0′ to 10′ along new streets	Build-to zones are measured from the outside edge of any public access easement for sidewalk or the right-of-way, if no public access easement for sidewalk is required or exists. Refer to subsection M-1-20(b) for additional information.
3	Type B Frontage Build-to Zone		0′ to 10′	
4	Minimum Side Setback		5′; 0′ required at paseo or multi-use path	For paseos and multi-use paths, refer to the regulating plans and the Transit Village Connections Plan for locations and details.
5	Minimum Rear Setback		15′; 25′ required if no alley; 0′ required at paseo or multi-use path	
6	Maximum Building Length along any Public Way		90′	Refer to section M-1-28 for building massing requirements.
7	Maximum Site Impervious Coverage Additional Semi-Pervious Coverage		70% 25%	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for semi-pervious coverage.
8	Surface or Accessory Parking & Loading Location Refuse & Recycling, Utilities Location		Parking yard & interior side yard Parking yard only	Refer to Sections 9-9-9 and 9-9-12, B.R.C. 1981, for loading and screening requirements.
9	Permitted Driveway Access Locations Permitted Garage Entrance Location		Alley Rear facade preferred, Interior side facade permitted, one permitted on Type B Frontage facade	If no alley exists or is planned, driveway access off a Type B street is permitted.
HEIGHT Refer to Figure M-1 (19).				
10	Overall:	Minimum Height Maximum Height	1 story minimum 3 stories maximum, up to 35′	Refer to subsection M-1-20(d) for height measuring requirements and section M-1-28 for building massing requirements. Subsection M-1-21(d), "Towers," B.R.C. 1981, allows additional height in a limited footprint.
11	Ground Story:	Minimum Height Maximum Height	12′ 18′	Stories are measured floor to floor. Refer to subsection M-1-20(e) for explanation of measurement.
12	Upper Stories:	Minimum Height Maximum Height	9′ 14′	Stories are measured floor to floor. Refer to subsection M-1-20(e) for explanation of measurement.

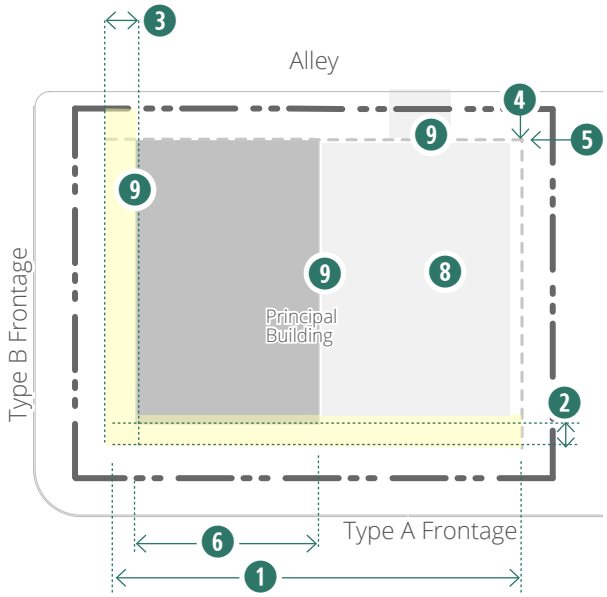


Figure M-1 (18). Commercial Storefront Building Plan: Building Siting Requirements

Building Types

Commercial Storefront Building Type

	BOULDER JUNCTION PHASE I	REFERENCES/ ADDITIONAL REQUIREMENTS
USES Refer to Figure M-1 (19).		
13 All Frontages & Stories	All uses consistent with chapter 9-6;	Refer to Chapter 9-6, B.R.C. 1981, for permitted uses per zoning district and definition of uses..
15 Required Occupied Building Space	Minimum 20' deep on all full height floors from any street facade	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for occupied building space.
16 Parking within Building	Permitted fully in any basement and in rear of all other stories. Prohibited where occupied space is required.	Refer to occupied building space requirement above.
FACADE & CAP REQUIREMENTS Refer to Figure M-1 (20).		
17 Type A Frontage Ground Story Transparency	Minimum 55% measured between 2' and 8' vertically from average grade of adjacent sidewalk.	Note that subsection M-1-13(g) requires this treatment to turn corners. Refer to subsection M-1-20(f) for information on measuring transparency.
18 Required Transparency on All Street, Courtyards, & Public Way Facades	Minimum 15%, measured per story of all stories, including blank wall limitations defined in subsection M-1-20(f).	Refer to subsection M-1-20(f) for information on measuring transparency.
19 Entrance Location & Number	Principal entrance required on Type A frontage facade; entrances required a minimum of one per every 50' of building facade	Refer to section M-1-20(g) for information on measuring entrance location.
20 Entrance Configuration	Recessed between 3' and 8', maximum 8' wide, from the portion of the Type A frontage facade closest to the street	Refer to subsection M-1-25(e) for principal entryway requirements.
21 Entrance/Ground Story Elevation Grade	80% of entrances and the ground story shall be within 1.5' (vertically) of adjacent sidewalk elevation	
22 Ground Story Vertical Facade Divisions	One minimum 2" deep expression line per every 30' of facade width	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for expression line.
23 Horizontal Facade Divisions	One minimum 2" deep expression line within 3' of the top of the ground story	
24 Permitted Cap Types	Parapet, pitched, flat; one tower permitted per building.	Refer to section M-1-21 for cap types; and other cap requirements.

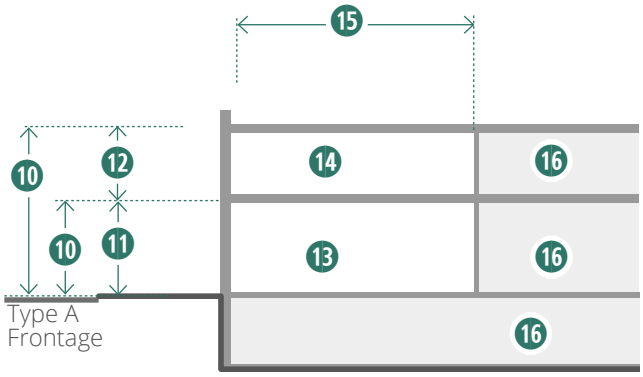


Figure M-1 (19). Commercial Storefront Building Section: Height & Use Requirements

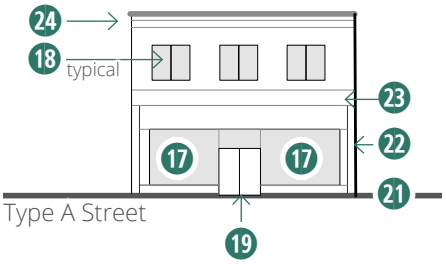


Figure M-1 (20). Storefront Building Elevation: Facade Design Requirements

Building Types

General Building Type

M-1-17. GENERAL BUILDING TYPE

Refer to M-1-6 Regulating Plans for the locations of buildings in the form-based code areas.

		BOULDER JUNCTION PHASE I	REFERENCES/ ADDITIONAL REQUIREMENTS
BUILDING SITING Refer to FIGURE M-1 (21).			
1	Minimum Type A Frontage Build-to Zone Coverage	90% required	One courtyard, maximum of 30% of facade width or 30 feet wide, whichever is less, may count towards Type A frontage build-to zone coverage.
2	Type A Frontage Build-to Zone	5′ to 10′ from minimum streetscape, see note right	Build-to zones are measured from the outside edge of any public access easement for sidewalk or the right-of-way, if no public access easement for sidewalk is required or exists. Refer to M-1-20(b) for additional information.
3	Type B Frontage Build-to Zone	5′ to 10′ from minimum streetscape, see note right	
4	Minimum Side Setback	5′; 0′ required at paseo or multi-use path	For paseos and multi-use paths, refer to the regulating plans and the Transit Village Connections Plan for locations and details.
5	Minimum Rear Setback	10′; 25′ required if no alley; 0′ required at paseo or multi-use path	
6	Maximum Building Length along any Public Way	150′	Refer to section M-1-28 for building massing requirements.
7	Maximum Site Impervious Coverage Additional Semi-Pervious Coverage	65% 25%	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for semi-pervious coverage.
8	Surface or Accessory Parking, Refuse & Recycling, Utilities, & Loading Location	Parking yard only	Refer to Sections 9-9-9 and 9-9-12, B.R.C. 1981, for loading and screening requirements.
9	Permitted Driveway Access Locations Permitted Garage Entrance Location	Alley Rear facade only; if no rear facade, Type B Frontage street is permitted	If no alley exists or is planned, driveway access off a Type B street is permitted.
HEIGHT Refer to FIGURE M-1 (22).			
10	Overall: Minimum Height Maximum Height	2 stores minimum 3 stories maximum, up to 40′ in height north of Goose Creek and west of Junction Place; 5 stories maximum, up to 55′ unless otherwise required by sections M-1-6, Regulating Plans, and/or M-1-8, View Corridors.	Refer to subsection M-1-20(d) for height measuring requirements and section M-1-28 for building massing requirements. Subsection M-1-21(d), "Towers," B.R.C. 1981, allows additional height in a limited footprint.
11	All Stories: Minimum Height Maximum Height	9′ 18′	Stories are measured floor to floor. Refer to subsection M-1-20(e) for explanation of measurement.

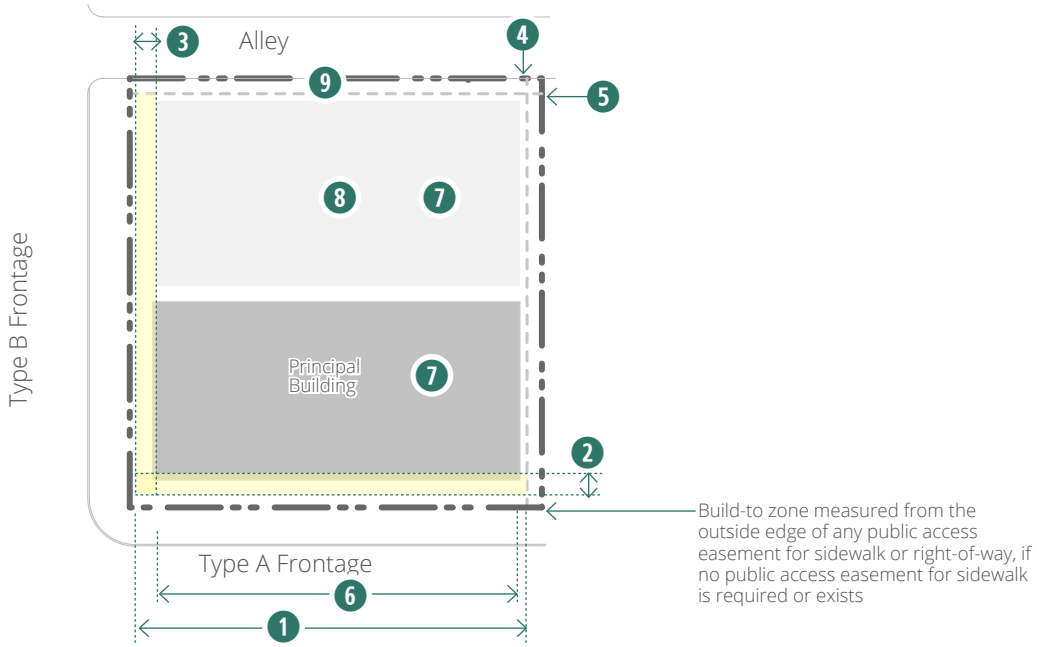


Figure M-1 (21). General Building: Building Siting

Building Types

General Building Type

	BOULDER JUNCTION PHASE I	REFERENCES/ ADDITIONAL REQUIREMENTS
USES Refer to FIGURE M-1 (22).		
13 Type A Frontage Ground Story	Where storefront is required per section M-1-6, Regulating Plans, limited to dining & entertainment, personal service, retail uses consistent with chapter 9-6	Refer to Chapter 9-6, B.R.C. 1981, for permitted uses per zoning district and definition of uses.
14 All Frontages & Stories	All uses consistent with chapter 9-6;	
15 Required Occupied Building Space	Minimum 20′ deep on all full height floors from any street facade	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for occupied building space.
16 Parking within Building	Permitted fully in any basement and in rear of all other stories. Prohibited where occupied space is required.	Refer to occupied building space requirement above.
FACADE & CAP REQUIREMENTS Refer to FIGURE M-1 (23).		
17 Type A Frontage Ground Story Transparency	Where storefront is required per M-1-6, Regulating Plans, minimum 75% required between 2′ and 10′ vertically from average grade of adjacent sidewalk, extending a minimum of 60 feet horizontally along facade from building corner.	Note that subsection M-1-13(g) requires this treatment to turn corners. Refer to subsection M-1-20(f) for information on measuring transparency.
18 Required Transparency on All Street, Courtyard, & Public Way Facades	Minimum 20%, measured per story of all stories, including blank wall limitations defined in M-1-20(f).	Refer to subsection M-1-20(f) for information on measuring transparency.
19 Entrance Location & Number	Principal entrance required on Type A frontage facade: entrances required a minimum of one per ground story residential unit and/or one per every 50′ of building facade for other uses. Where storefront is required per M-1-6, Regulating Plans, one entrance per 60 feet of storefront area.	Refer to subsection M-1-20(g) for information on measuring entrance location.
20 Entrance Configuration	Entry doors shall be off a stoop, minimum 6′ wide and 3′ deep. Where storefront is required per M-1-6, Regulating Plans, recessed between 3′ and 8′, maximum 8′ wide, from the portion of the Type A frontage facade closest to street.	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for stoop and porch. Refer to subsection M-1-25(e) for principal entryway requirements.
21 Entrance/Ground Story Elevation Grade	80% of entrances and the ground story shall be within 30″ (vertically) of adjacent street sidewalk average elevation OR between 30″ and 5′ (vertically) with visible basement (transparency required)	Exception: Entrances along Goose Creek frontage shall be located in reference to the elevation of 30th Street, Carbon Place, and/or Junction Place, whichever is closest.
22 Ground Story Vertical Facade Divisions	One minimum 2″ deep expression line per every 60′ of facade width	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for expression line.
23 Horizontal Facade Divisions	One minimum 2″ deep expression line within 3′ of the top of the ground story and the bottom of any 5th story	
24 Permitted Cap Types	Parapet, pitched, flat;	Refer to section M-1-21 for cap types and other cap requirements.

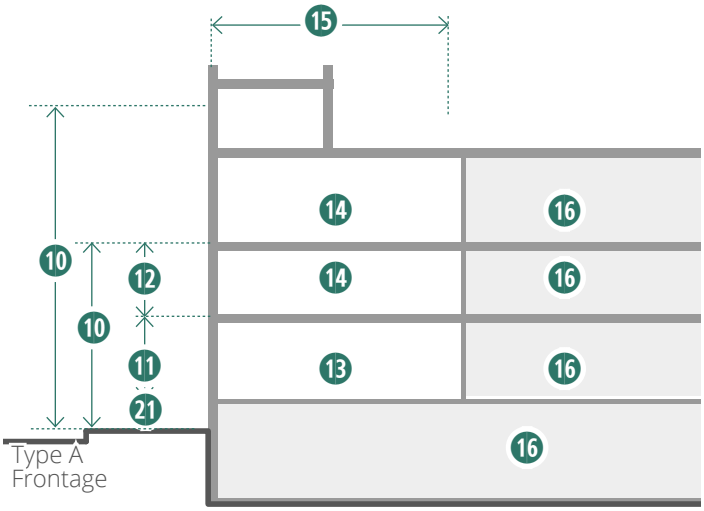


Figure M-1 (22). General Building: Height & Use Requirements

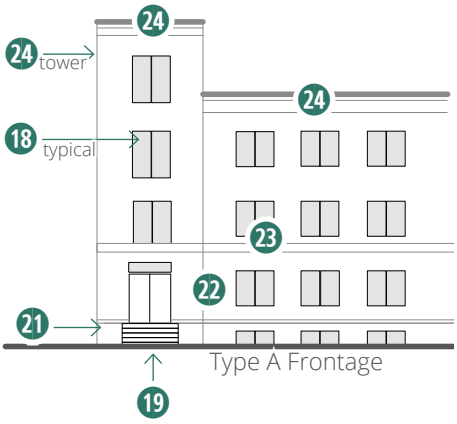


Figure M-1 (23). General Building: Facade Design Requirements

Building Types

Row Building Type

M-1-18. ROW BUILDING TYPE

Refer to M-1-6 Regulating Plans for the locations of buildings in the form-based code areas.

	BOULDER JUNCTION PHASE I	REFERENCES/ADDITIONAL REQUIREMENTS
BUILDING SITING Refer to FIGURE M-1 (24).		For the purposes of the Row Building, a building consists of multiple vertical units.
1 **Minimum Type A Frontage Build-to Zone Coverage**	80% required	Each unit shall have a facade located within the build-to zone, except 1 of every 2 units may front a courtyard or outdoor space type. Courtyards, minimum 30 feet wide and 30 feet deep, may count towards Type A frontage build-to zone coverage.
2 **Type A Frontage Build-to Zone**	5' to 15' from minimum streetscape, see note right	Build-to zones are measured from the outside edge of any public access easement for sidewalk or the right-of-way, if no public access easement for sidewalk is required or exists. Refer to subsection M-1-20(b) for additional information.
3 **Type B Frontage Build-to Zone**	5' to 15' from minimum streetscape, see note right	
4 **Minimum Side Setback**	7.5'; 0' required at paseo or multi-use path	For paseos and multi-use paths, refer to the regulating plans and the Transit Village Connections Plan for locations and details.
5 **Minimum Rear Setback**	20'; 30' if no alley; 5' for detached garage	
6 **Building Length** **Space between Buildings**	Minimum 3 units; maximum 6 units or 120', whichever is less. Paseo or multi-use path is required between buildings.	For paseos and multi-use paths, refer to the regulating plans and the Transit Village Connections Plan for locations and details. Refer to section M-1-28 for building massing requirements.
7 **Maximum Site Impervious Coverage** **Additional Semi-Pervious Coverage**	60% 20%	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for semi-pervious coverage.
8 **Minimum Yard Area**	Minimum 225 square feet rear yard required for each unit not fronting a courtyard or outdoor space type.	Minimum yard area shall meet the standards of one of the applicable types of useable open space specified in Subsection 9-9-11(e), B.R.C. 1981.
9 **Surface or Accessory Parking, Refuse & Recycling, Utilities, & Loading Location**	Parking yard only	Refer to Sections 9-9-9 and 9-9-12, B.R.C. 1981, for loading and screening requirements.
10 **Permitted Driveway Access Locations** **Permitted Garage Entrance Location**	Alley Rear facade only; if no rear facade, one shared entrance off a Type B frontage street is permitted.	If no alley exists or is planned, driveway access off a Type B street is permitted.

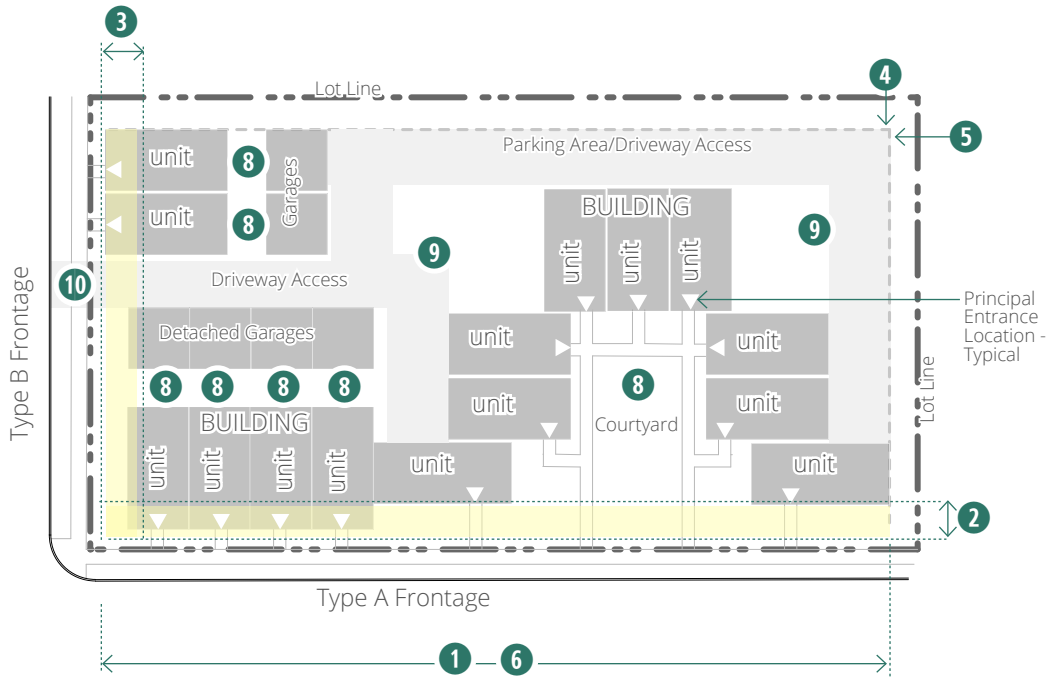


Figure M-1 (24). Row Building: Building Siting

Building Types

Row Building Type

	BOULDER JUNCTION PHASE I	REFERENCES/ADDITIONAL REQUIREMENTS
HEIGHT Refer to FIGURE M-1 (25).		
11 Overall: Minimum Height Maximum Height	2 stories minimum 3.5 stories maximum, up to 35′	Refer to subsection M-1-20(d) for height measuring requirements and section M-1-28 for building massing requirements. Subsection M-1-21(d), "Tower," B.R.C. 1981, allows additional height in a limited footprint.
12 All Stories: Minimum Height Maximum Height	9′ 16′	Stories are measured floor to floor. Refer to subsection M-1-20(e) for explanation of measurement.
USES Refer to FIGURE M-1 (25).		
14 All Frontages & Stories	All uses consistent with chapter 9-6;	Refer to Chapter 9-6, B.R.C. 1981, for permitted uses per zoning district and definition of uses.
15 Required Occupied Building Space	Minimum 20′ deep on all full height floors from any Type A street facade	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for occupied building space.
16 Parking within Building	Permitted fully in any basement and in rear of ground story. Prohibited where occupied space is required.	Refer to occupied building space requirement above.
FACADE & CAP REQUIREMENTS Refer to FIGURE M-1 (26).		
18 Required Transparency on All Street, Courtyards, & Public Way Facades	Minimum 20%, measured per story of all stories, including blank wall limitations defined in subsection M-1-20(f).	Refer to subsection M-1-20(f) for information on measuring transparency.
19 Entrance Location & Number	One entrance required per unit on the Type A frontage facade except 1 of every 2 units may front a courtyard, outdoor space type, or Type B frontage; minimum of one principal entrance per 30′ of facade.	Refer to subsection M-1-20(g) for information on measuring entrance location.
20 Entrance Configuration	Entry doors shall be off a stoop, minimum 4′ wide and 3′ deep; OR a porch, minimum 8′ wide & 5′ deep. No more than 2 entry doors may be located off each stoop or porch.	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for stoop and porch. Refer to subsection M-1-25(e) for principal entryway requirements.
21 Entrance/Ground Story Elevation Grade on Type A Frontage Facade	All Type A frontage facade entrances and the ground story shall be within 30″ (vertically) of adjacent street sidewalk average elevation OR between 30″ and 5′ (vertically) with visible basement (transparency required)	Exception: Entrances along Goose Creek frontage shall be located in reference to the elevation of 30th Street, Carbon Place, and/or Junction Place, whichever is closest.
22 Ground Story Vertical Facade Divisions	One minimum 2″ deep expression line per every 60′ of facade width or every 2 units, whichever is less	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for expression line and visible basement.
23 Horizontal Facade Divisions	One minimum 2″ deep expression line within 3′ of any visible basement	
24 Permitted Cap Types	Parapet, pitched, flat; one tower is permitted per building.	Refer to section M-1-21 for cap types; and other cap requirements.

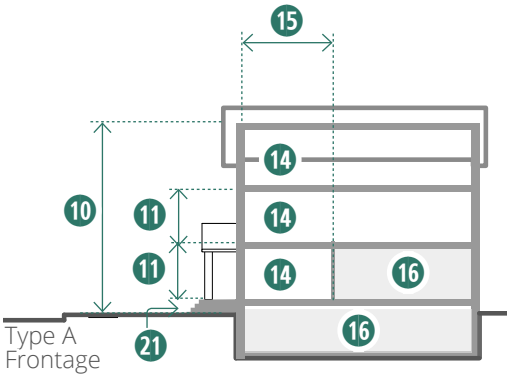


Figure M-1 (25). Row Building: Height & Use Requirements

Figure M-1 (26). Row Building: Facade Design Requirements

Building Types

Civic Building Type

M-1-19. CIVIC BUILDING TYPE

The Civic building type is not mapped on the regulating plans, but is permitted in any location, limited by the permitted uses inside. Refer to M-1-6 Regulating Plans.

		BOULDER JUNCTION PHASE I	REFERENCES/ ADDITIONAL REQUIREMENTS
BUILDING SITING Refer to FIGURE M-1 (27).			
1	Minimum Type A Frontage Coverage	None required	.
2	Type A Frontage Minimum Setback	20′	
3	Type B Frontage Minimum Setback	15′	
4	Minimum Side Setback	15′; 0′ required at paseo or multi-use path	For paseos and multi-use paths, refer to the regulating plans and the Transit Village Connections Plan for locations and details.
5	Minimum Rear Setback	15′; 0′ required at paseo or multi-use path	
6	Maximum Building Length	None required	Refer to section M-1-28 for building massing requirements.
7	Maximum Site Impervious Coverage Additional Semi-Pervious Coverage	50% 20%	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for semi-pervious coverage.
8	Surface or Accessory Parking, Refuse & Recycling, Utilities, & Loading Location	Parking yard only	Refer to Sections 9-9-9 and 9-9-12, B.R.C. 1981, for loading and screening requirements.
9	Permitted Driveway Access Locations Permitted Garage Entrance Location	Alley Rear facade only; if no rear facade, Type B frontage street is permitted	If no alley exists or is planned, driveway access off a Type B street is permitted.
HEIGHT Refer to FIGURE M-1 (28).			
10	Overall: Minimum Height Maximum Height	1 stories 5 stories up to 55′	Refer to subsection M-1-20(d) for height measuring requirements and section M-1-28 for building massing requirements. Subsection M-1-21(d), "Towers," B.R.C. 1981, allows additional height in a limited footprint.
11	All Stories: Minimum Height Maximum Height	9′ 18′; 24′ on single story building	Stories are measured floor to floor. Refer to subsection M-1-20(e) for explanation of measurement.

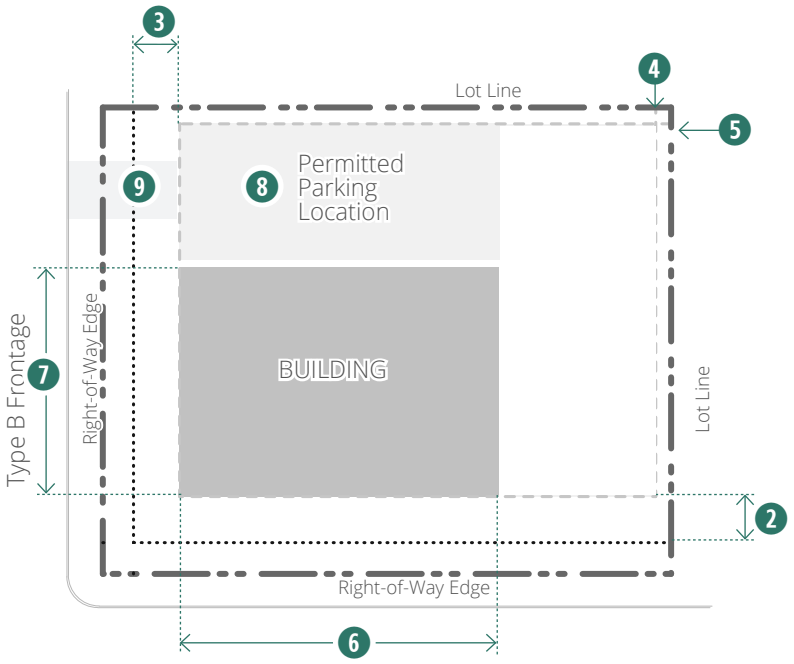


Figure M-1 (27). Civic Building: Building Siting

Building Types

Civic Building Type

	BOULDER JUNCTION PHASE I	REFERENCES/ ADDITIONAL REQUIREMENTS
USES Refer to FIGURE M-1 (28).		
14 All Frontages & Stories	Limited to museum, theater, governmental facilities, religious assemblies, transportation stations, park & recreation uses, public schools consistent with chapter 9-6	Refer to Chapter 9-6, B.R.C. 1981, for permitted uses per zoning district and definition of uses.
15 Required Occupied Building Space	Minimum 20′ deep on all full height floors from any street facade	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for occupied building space.
16 Parking within Building	Permitted fully in any basement and in rear of all other stories. Prohibited where occupied space is required.	Refer to occupied building space requirement above.
FACADE & CAP REQUIREMENTS Refer to FIGURE M-1 (29).		
18 Required Transparency on All Street, Courtyards, & Public Way Facades	Minimum 15%, measured per story of all stories.	Refer to subsection M-1-20(f) for information on measuring transparency.
19 Entrance Location & Number	Principal entrance required on Type A frontage facade	Refer to section M-1-20(g) for information on measuring entrance location.
20 Entrance Configuration	No requirement other than principal entryway requirements	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for stoop and porch. Refer to subsection M-1-25(e) for principal entryway requirements.
21 Entrance/Ground Story Elevation Grade	80% of entrances and the ground story shall be within 30" (vertically) of adjacent street sidewalk average elevation OR between 30" and 5′ (vertically) with visible basement (transparency required)	Exception: entrances along Goose Creek frontage shall be located in reference to the elevation of 30th Street, Carbon Place, and/or Junction Place, whichever is closest.
22 Ground Story Vertical Facade Divisions	No requirement	Refer to Section M-1-8, "Definitions," B.R.C. 1981, for expression line.
23 Horizontal Facade Divisions	No requirement	
24 Permitted Cap Types	Parapet, pitched, flat,	Refer to section M-1-21 for cap types, and other cap requirements.

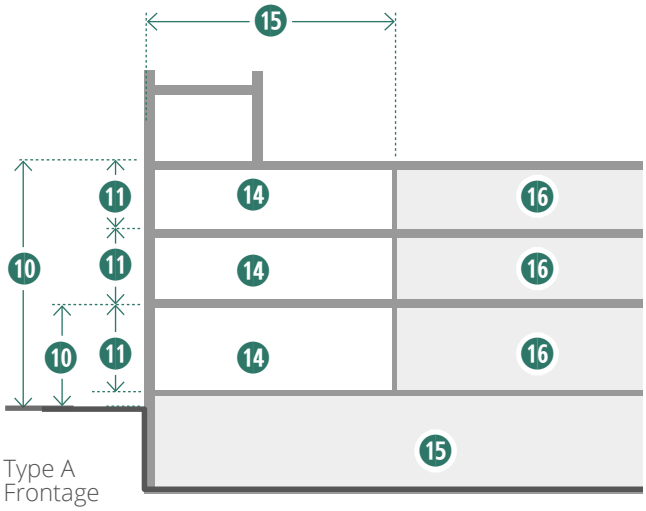


Figure M-1 (28). Civic Building: Height & Use Requirements

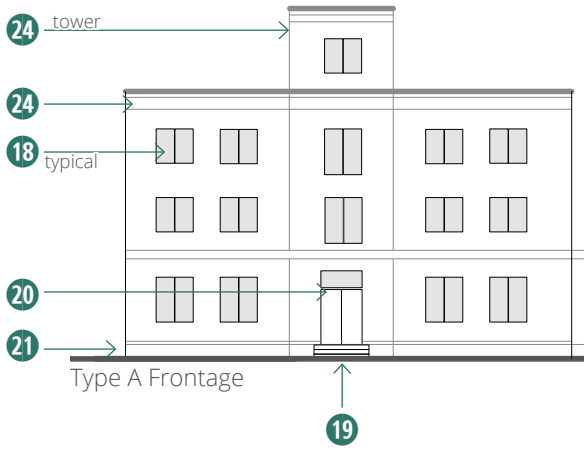


Figure M-1 (29). Civic Building: Facade Design Requirements

Building Types

Measurement of Building Type Requirements

M-1-20. MEASUREMENT OF BUILDING TYPE REQUIREMENTS

The standards outlined in the tables in sections M-1-15 through M-1-19, applicable to each building type, shall be measured and calculated consistent with the following standards:

(a) **Minimum Type A Frontage Build-to Zone Coverage.** The minimum percentage of building facade along the Type A frontage of a lot is measured as follows:

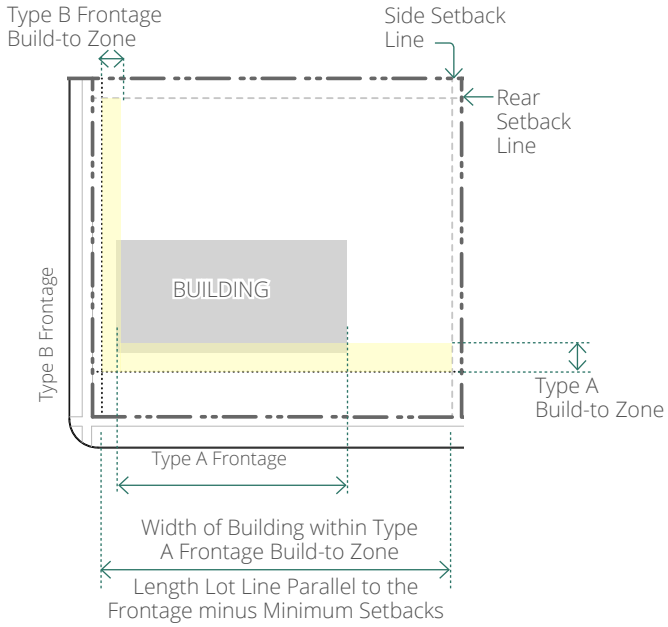
(1) **Measurement.** The minimum Type A frontage build-to zone coverage shall, at a minimum, equal the width of the principal structures, as measured within the build-to zone along the frontage edge, divided by the length of the frontage parallel to the property line following the street minus setbacks. Refer to Figure M-1 (30). Minimum Type A Frontage Build-to Zone Coverage.

(2) **Courtyards.** For some building types, courtyards located along the facade in the build-to zone count towards the minimum coverage. Refer to building type requirements of Sections M-1-15 through M-1-19, B.R.C. 1981.

(3) **Outdoor Space Type.** Open spaces meeting the requirements of one of the outdoor space types established in this appendix are exempt from the minimum Type A frontage build-to zone coverage requirement.

(b) **Build-to Zone.** The build-to zone shall be calculated and measured as follows. Refer to Figure M-1 (31). Build-to Zones.

(1) **Measurement.** The build-to zone for all frontages is measured from the property line parallel to the frontage from any public access easement for sidewalk required under Section 9-9-8, "Reservations, Dedications, and Improvement of Rights-of-Way," B.R.C. 1981, or the right-of-way if no public access easement for sidewalk is required or exists.



$$\frac{\text{Width of Building within Build-to Zone}}{\text{Length Lot Line Parallel to the Frontage minus Minimum Setbacks}} = \text{Type A Frontage Coverage}$$

Figure M-1 (30). Minimum Type A Frontage Build-to Zone Coverage

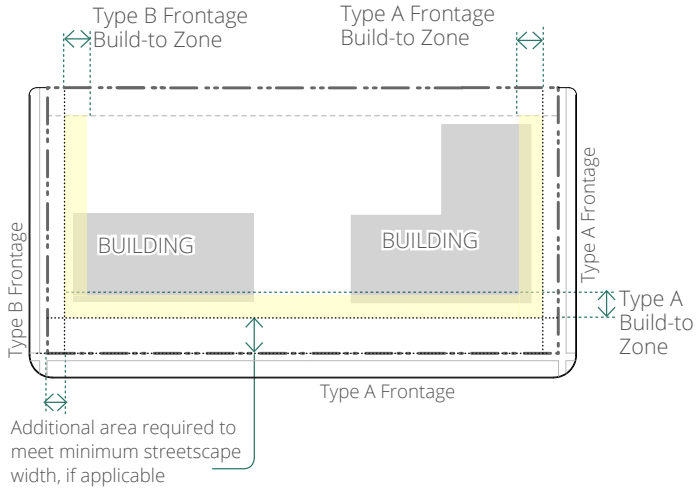


Figure M-1 (31). Build-to Zones

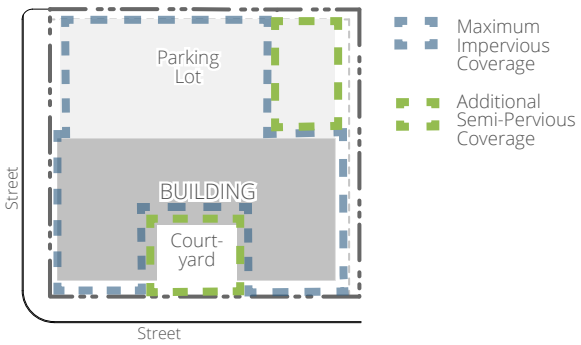


Figure M-1 (32). Site Impervious and Semi-Pervious Coverage

(2) **Height.** All building facades located within the build-to zone shall meet the minimum building height of the building.

(3) **Encroachments.** Awnings, architectural projections, balconies, and building mounted signage may extend beyond the build-to zone into any yard area, but shall not extend into the street right-of-way unless approved with a revocable permit or lease, as applicable.

(c) Maximum Site Impervious and Additional Semi-Pervious Coverage. Site impervious and additional semi-pervious coverage shall be calculated and measured as follows. Refer to Figure M-1 (32). Site Impervious and Semi-Pervious Coverage.

(1) **Maximum Site Impervious Coverage.** The maximum site impervious coverage is the maximum percentage of a lot permitted to be covered by structures, pavement, and other impervious surfaces.

(2) **Additional Semi-Pervious Coverage.** In addition to the allowable impervious coverage on a site, a maximum amount of additional semi-pervious coverage is permitted.

(d) Overall Minimum and Maximum Height. (Refer to Figure M-1 (33). Measuring Stories with Floor-to-Floor Height).

(1) **Minimum Overall Height.** Each building type requires a minimum number of stories. The building must meet the minimum required height along all Type A frontage facades and measured a minimum of thirty feet deep into the building.

(2) **Maximum Overall Height.** Maximum heights are specified both in number of stories and overall dimension. This requirement applies to the entire building.

(A) **Towers.** Where specifically allowed in the building type tables, Sections M-1-15 through M-1-19, B.R.C. 1981, towers may exceed the overall maximum height of the building type per subsection (f) of Section M-1-21, "Cap Types," B.R.C. 1981. Towers shall not exceed the maximum height per section 84 of the charter of the City of Boulder.

(B) **Cap Type.** Where specified in subsection (f) of Section M-1-21, "Cap Types," B.R.C. 1981, certain cap types may allow additional height.

(C) **Maximum Heights per the City Charter.** Under no circumstances may any building or structure exceed the height limitations established in section 84 of the charter of the City of Boulder.

(D) **Height Measurement Standards.** Height shall be measured consistent with height measurement standards of Section 9-7-5, "Building Height," B.R.C. 1981, and the definition of "height" within Section 9-16-1, "General Definitions," B.R.C. 1981.

(E) **View Corridors.** Height is subject to additional limitations where maximum heights are restricted pursuant to the regulating plan to preserve a view corridor. Refer to Sections M-1-6, "Regulating Plans," and M-1-7, "View Corridors," B.R.C. 1981.

(3) **Two Half Stories.** If a building has both a half story within the roof and a half story that is partially above and partially below grade, the combined height of the two half stories shall be considered one full story.

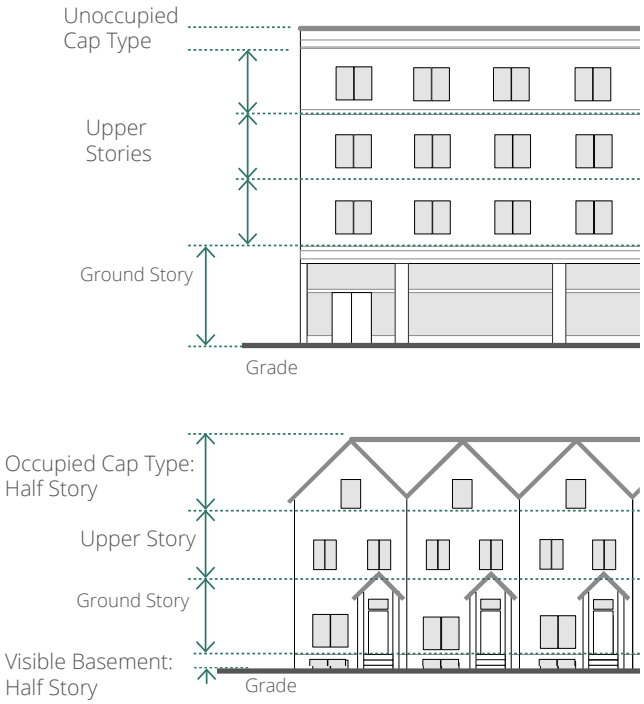


Figure M-1 (33). Measuring Stories with Floor-to-Floor Height

Building Types

Measurement of Building Type Requirements

(e) Minimum and Maximum Height per Story. Each story is measured with a range of permitted floor-to-floor heights. Refer to Figure M-1 (33). Measuring Stories with Floor-to-Floor Height.

(1) **Measurement.** Story height shall be measured in feet between the floor of a story to the floor of the story above it. Minimum and maximum floor-to-floor heights are required to be met along facades for a minimum of eighty percent of each story.

(2) **Single Story Buildings and Top Story Measurement.** For single story buildings and the uppermost story of a multiple story building, the minimum floor-to-floor height shall be one foot less than that required per building type. The measurement shall be from the floor of the story to the ceiling.

(3) **Mezzanines.** Mezzanines may be included within the floor-to-floor height of any story. Mezzanines occupying more than thirty percent of the floor area below and extending above the story's allowable floor-to-floor height shall count as an additional story and shall meet transparency requirements in subsection (e)(5), below.

(4) **Taller Spaces.** Spaces exceeding the allowable floor-to-floor heights of the building type are not permitted on Type A frontage facades; however, such spaces are allowed on interior lots and Type B frontage facades.

(f) Minimum Required Transparency. Per the requirements of each building type, a minimum amount of transparency is required on all stories of street, courtyard, and public way facades.

(1) **Measurement.** Minimum facade transparency is measured from floor-to-floor of each story separately, except for required minimum ground story transparency (refer to Paragraph M-1-20(f)(4), B.R.C. 1981, below). Refer to Figure M-1 (34). Measuring Minimum Facade Transparency. Transparency requirements shall be met with windows meeting the standards for transparency as defined in Section M-1-8, "Definitions," B.R.C. 1981. The measurement may include the frame, mullions, and muntins, but shall not include trim or casing.

(2) **Blank Wall Segments.** No rectangular area greater than thirty percent of the story's facade, as measured floor to floor, shall be without

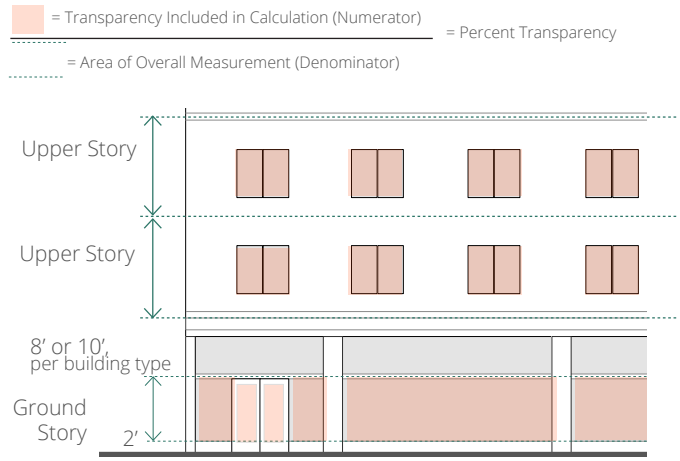


Figure M-1 (34). Measuring Minimum Facade Transparency

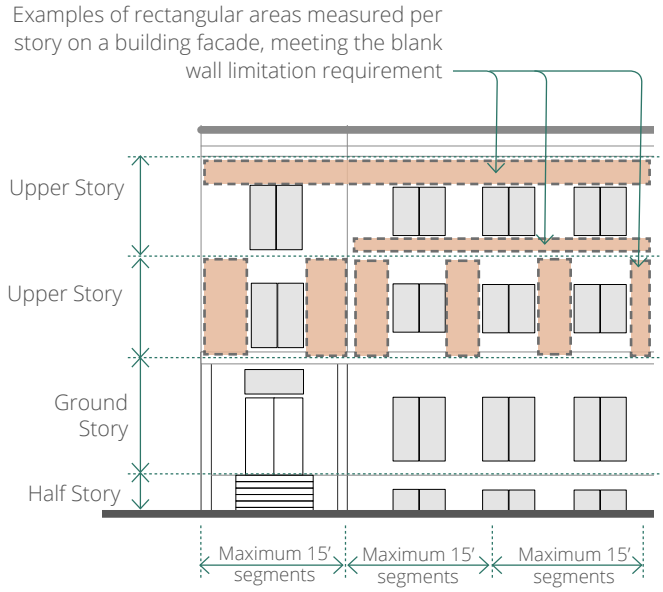


Figure M-1 (35). Measuring Blank Wall Limitations

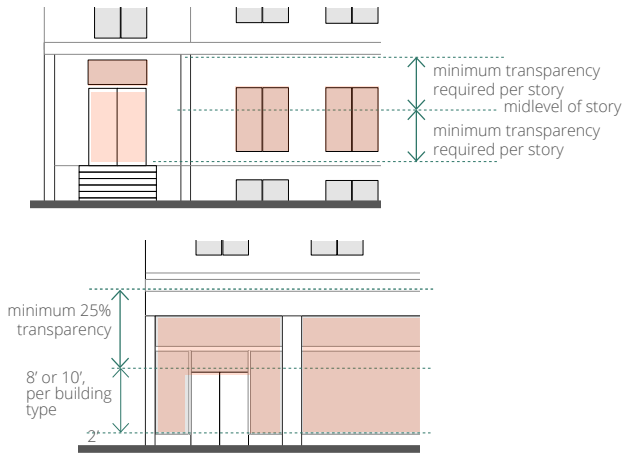


Figure M-1 (36). Transparency on Tall Stories

transparency. And, no horizontal segment of a story's facade greater than fifteen feet in width shall be without transparency. Refer to Figure M-1 (35). Measuring Blank Wall Limitations.

(3) **Exception.** When the facade of any story is located less than six feet from another parallel building facade, no minimum transparency is required for that story.

(4) **Minimum Ground Story Transparency.** When required by the building type tables of Sections M-1-15 through M-1-19, B.R.C. 1981, ground story transparency shall be measured between two feet and either eight or ten feet, as specified per building type, from the average grade at the base of the facade. The minimum ground story transparency requirements supersedes the minimum transparency required for the building type.

(5) **Mezzanines.** Mezzanines shall be treated as a separate story and include the required upper story transparency amounts.

(6) **Tall Stories.** Stories that are eighteen feet or taller in height shall include additional transparency consistent with the following standards. Refer to Figure M-1 (36). Transparency on Tall Stories.

(A) **Separate Ground Story Transparency Required.** When a separate minimum ground story transparency is required per the building types requirements of Sections M-1-15 through M-1-19, B.R.C. 1981, the facade design shall fulfill that requirement in addition to a minimum of twenty-five percent transparency for the remainder of the ground story.

(B) **No Separate Ground Story Transparency Required.** Except on a ground story facade to which a Type A frontage ground story facade transparency requirement applies, a tall story shall be treated as two separate stories, divided in half horizontally, with the minimum transparency per story applied to each half.

(7) **Half Stories.** All half stories located within the roof structure and within visible basements are required to meet the minimum required transparency.

(g) Minimum Number of Required Entrances. Entrances shall be provided consistent with the entrance location and number requirements established for the building type and consistent with

Figure M-1 (37). Number of Required Entrances.

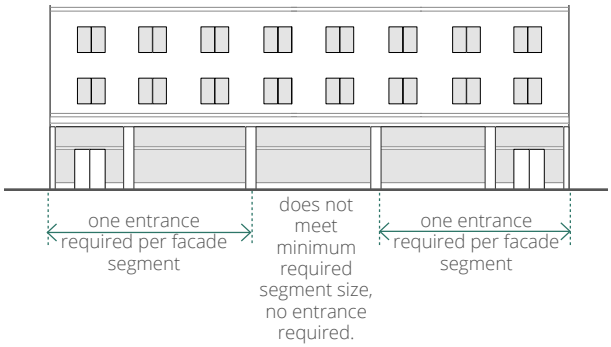


Figure M-1 (37). Number of Required Entrances

Building Types

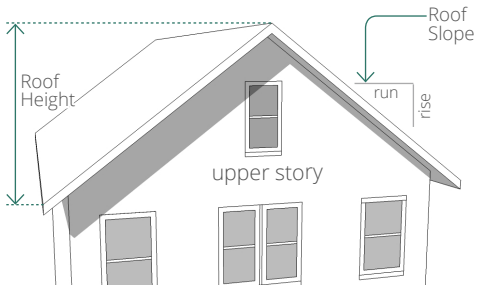
Cap Types

M-1-21. CAP TYPES

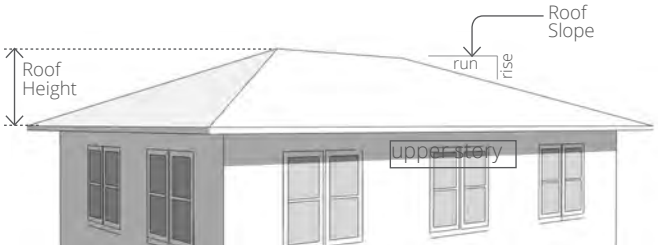
The major components of any roof shall meet the requirements of one of the cap types permitted for the building type pursuant to the building types requirements of Sections M-1-15 through M-1-19, B.R.C. 1981. Roofs for bay or bow windows, porches, canopies, and dormers are not required to meet the standards of a cap type.

(a) Pitched Cap Type. The pitched cap type has a sloped or pitched roof. Slope is measured with the vertical rise divided by the horizontal span or run, as shown in Figure M-1 (38). Examples of Pitched Cap Type.

Parallel PItched



Pitched Cap Type (Gable Roof)



Low Pitched Roof Cap Type (Hip Roof)

Figure M-1 (38). Examples of Pitched Cap Type

(1) **Pitch Measure.** The roof shall not be sloped less than 4:12 (rise:run) or more than 14:12. Slopes less than 4:12 are permitted to occur on second story or higher roofs.

(2) **Configurations.**

(A) Hipped, gabled, and a combination of hips and gables with or without dormers are permitted.

(B) Butterfly (inverted gable roof) and shed roofs are permitted

(C) Gambrel and mansard roofs are not permitted.

(3) **Parallel Ridge Line.** A gabled end or perpendicular ridge line shall occur at least every 100 feet of the roof when the ridge line runs parallel to the front lot line. See Figure M-1 (38). Examples of Pitched Cap Type.

(4) **Roof Height.** Roofs without occupied building space or dormers shall have a maximum height on Type A and Type B frontage facades equal to no more than 1.5 times the upper story floor-to-floor height used on the building.

(5) **Occupied Building Space.** Occupied building space may be incorporated within the pitched cap type. If occupied, the space counts as a half story.

(6) **Rooftop Appurtenances.** Any rooftop appurtenances shall be recessed within the pitched roof with no visibility when viewed from the sidewalk across the street and from any adjacent outdoor space. See Figure M-1 (39). Recessed Mechanicals in Pitched Cap Type. See Section M-1-26, "Mechanical Equipment & Appurtenances," B.R.C. 1981, for additional requirements.

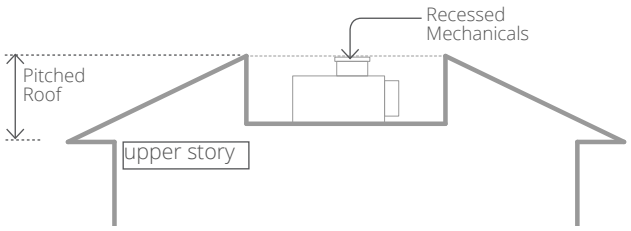


Figure M-1 (39). Recessed Mechanicals in Pitched Cap Type

(b) Parapet Cap Type. A parapet is a low wall projecting above a building's roof along the perimeter of the building as shown in Figure M-1 (40). Example of a Parapet Cap Type.

(1) **Parapet Height.** Parapet height is measured from the top of the upper story to the top of the parapet.

(A) **General Parapet Heights.** Minimum parapet height is two feet with a maximum height of six feet.

(B) **Parapets Exceeding Maximum Height.** The approving authority may approve a parapet causing the building height to exceed the maximum permitted height if the approving authority finds the standards for parapet walls of Section 9-7-7, B.R.C. 1981, are met.

(2) **Horizontal Expression Lines.** An expression line that is at least two inches deep and extends along at least eighty percent of the facade shall define the parapet from the upper stories of the building and shall define the top of the cap.

(3) **Occupied Building Space.** No building shall have occupied space behind a parapet cap.

(4) **Roof Terraces and Roof Decks.** Roof terraces and roof decks are permitted on the parapet cap type.

(5) **Rooftop Appurtenances.** Any rooftop appurtenances shall be located towards the rear or interior of the parapet roof. The parapet shall screen the mechanicals when viewed from the sidewalk across the street and from any adjacent outdoor space. See Section M-1-26, "Mechanical Equipment & Appurtenances," B.R.C. 1981, for additional requirements.

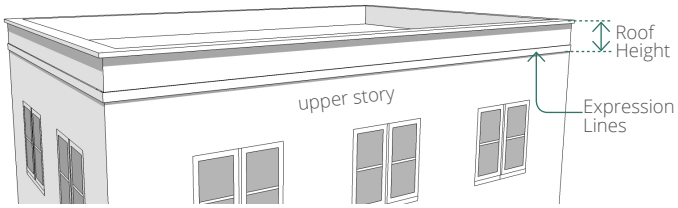


Figure M-1 (40). Example of a Parapet Cap Type

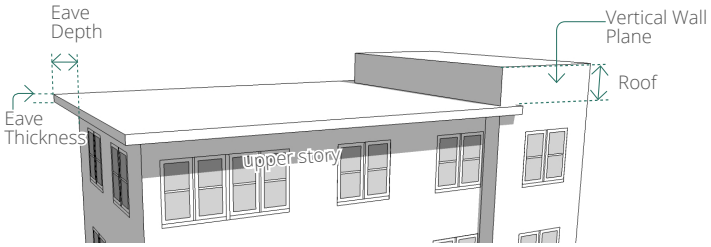


Figure M-1 (41). Example of a Flat Cap Type

(c) Flat Cap Type. The flat cap type has a visually flat roof with overhanging eaves as shown in Figure M-1 (41). Example of a Flat Cap Type.

(1) **Configuration.** The roof shall have no visible slope from the street, and eaves are required on all Type A and Type B frontage facades.

(2) **Eave Depth.** Eave depth is measured from the building facade to the outside edge of the eave. Eaves shall have a depth of at least fourteen inches.

(3) **Eave Thickness.** Eaves shall be a minimum of six inches thick. Eave thickness is measured at the midpoint of the eave depth, from the bottom of the eave to the top of the eave. The measurement may be taken from a structural support element of the eave to the top of the eave, provided the structural support element occurs at least every four feet along the entire length of the eave.

(4) **Interrupting Vertical Walls.** Vertical walls may interrupt the eave and extend above the top of the eave with no discernible cap if the following requirements are met:

(A) No more than one-third of the front facade shall consist of an interrupting vertical wall.

(B) Vertical walls shall extend no more than six feet above the top of the eave. See Figure M-1 (41). Example of a Flat Cap Type.

(5) **Occupied Building Space.** No building shall have occupied space behind a flat cap.

(6) **Roof Terraces and Roof Decks.** Roof terraces and roof decks are permitted on the flat cap type.

(7) **Rooftop Appurtenances.** If the interrupting vertical wall is utilized, any rooftop appurtenances shall be located behind the vertical wall with no visibility when viewed from the sidewalk across the street and from any adjacent outdoor space.

If no interrupting vertical wall is utilized, rooftop appurtenances shall be located such that the mechanicals are not visible when viewed from the sidewalk across the street or from any adjacent outdoor space. See Section M-1-26, "Mechanical Equipment & Appurtenances," B.R.C. 1981, for additional requirements.

Building Types

Cap Types

(d) Towers. A tower is a vertical element, polygonal (simple), rectilinear, or cylindrical in plan that shall only be used with other cap types. See Figure M-1 (42). Example of a Tower.

(1) **Additional Height.** Towers may add a single story of additional height beyond the maximum height allowed per building type.

(2) **Tower Width.** The maximum tower width along all facades shall be one-third the width of the front facade or fifteen feet, whichever is less. See Figure M-1 (42). Example of a Tower.

(3) **Transparency.** Towers that meet the minimum floor-to-floor height of the building type shall meet the minimum transparency requirements of the building.

(4) **Horizontal Expression Lines.** A minimum two inches deep expression line is required at the cap of the tower.

(5) **Occupied Building Space.** Towers with minimum floor-to-floor heights required by the building type shall be occupied space and may contain any of the uses allowed in upper stories of the building type to which it is attached.

(6) **Rooftop Appurtenances.** No rooftop appurtenances are permitted on tower roofs.

(7) **Tower Cap.** The tower shall be capped by a cap permitted on the building per the building type.

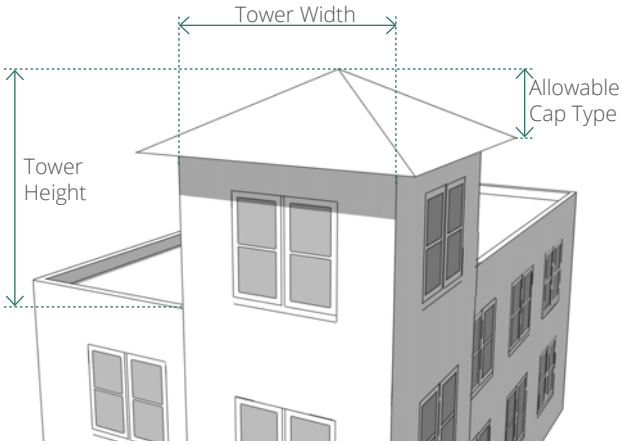


Figure M-1 (42). Example of a Tower

DRAFT

Building Design

Building Design

Applicability and Intent of Building Design Requirements

M-1-22. APPLICABILITY AND INTENT OF BUILDING DESIGN REQUIREMENTS

(a) Intent. The intent of the requirements in Sections M-1-22 through M-1-29, B.R.C. 1981, is to implement the vision for the area as defined in adopted plans for the area, create a sense of place and community, elicit high quality, durable buildings of appropriate scale and massing that are visually interesting, aesthetically pleasing, create a sense of permanence, and are human scaled to enhance the pedestrian experience.

All buildings are intended to be articulated in a simple, honest manner at human-scaled dimensions.

(1) **Simple.** Simple means the building design is organized and easy to comprehend through the use of repetition, regularity, and a clear hierarchy.

(2) **Honest.** Honest means the building is easily interpreted by the casual observer. Entrances, floors, and building use are apparent and the form of the building follows the function. The overall bulk and mass of the building clearly represents the structure, spatial layout, and materiality.

(3) **Human-Scaled.** Human-scaled means the buildings are scaled to proportions comfortable to people. Typically, human-scaled buildings have smaller building material units, architectural detailing to accentuate building elements, and a predictable rhythm to the facade pattern. This design approach is used particularly on the ground story where people walk adjacent to the building.

(b) Applicability. The requirements of Sections M-1-22 through M-1-29, B.R.C. 1981, establish general building design requirements applicable to all buildings located on a property designated in Appendix L, "Form-Based Code Areas," regardless of the building type. No person shall use or develop land in such areas except in conformance with the requirements of Sections M-1-22 through M-1-29, B.R.C. 1981, unless an exception has been granted pursuant to Subsection 9-2-16(i), B.R.C. 1981.

M-1-23. FACADE MATERIALS

(a) Intent. The intent of the facade materials standards of this section is to:

(1) Provide minimum material standards to ensure use of well-tested, high quality, durable, weather-resistant, exterior grade, preferably natural materials on the majority of finished surfaces, while permitting a wider range of materials for details. High quality materials can improve quality of buildings in that they weather well, have a low failure rate, require a low level of maintenance, and create buildings with a longer life cycle and a sense of permanence;

(2) Limit the number of facade materials to promote simpler, clearly articulated facades; and

(3) Encourage a high level of detail from smaller scaled, less monolithic materials in order to relate facades to pedestrians, especially at the ground level.

(b) Major Materials. A minimum of eighty percent of each facade, not including window and door areas, shall be composed of major materials, as specified in this section.

(1) **Simplicity of Surface Materials.** A minimum of sixty percent of each facade, not including window and door areas, shall be faced of a single major material, not including architectural metal panel systems.

(2) **Allowed Major Materials.** The following are allowed major materials. See Figure M-1 (43). Acceptable Materials and Figure M-1 (44). Unacceptable Major Materials.

(A) Stone.

(B) Brick.

(C) Wood.

(D) Architectural metal panel systems.

(3) **Prohibited Major Materials.** The following materials are prohibited as major materials:

(A) Face-sealed EIFS synthetic stucco assemblies and decorative architectural elements.

(B) Synthetic stucco or elastomeric finishes on stucco.

(C) Unfinished or untreated wood.

(D) Glass block.

(E) Vinyl siding.

(F) Plastic, including high-density polyethylene, polyvinyl chloride (PVC), and polycarbonate, panels.

(G) Fiberglass and acrylic panels.

(4) **Limited Use Major Materials.** The following materials are prohibited as a major material except consistent with the following:

(A) **Economy Bricks.** Brick types larger than three inches in height are allowed as major materials on rear, alley, and rail corridor facades.

(B) **Fiber Cement Board.** Fiber cement building materials are allowed on the row building type.

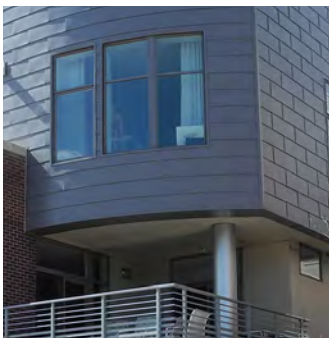
(C) **Cement-Based Stucco.** Traditional cement-based, hard coat stucco is allowed on all upper stories and on ground story facades facing rear yards, alleys, or the rail corridor. Where the ground story of a facade that is facing a rear yard, alley, or the rail corridor is adjacent to a facade where limited use major material may not be used on the ground story, major materials allowed pursuant to paragraph (2) of this subsection or approved pursuant subsection (d) of this section shall be continued around the corner on the ground story of the facade for no less than thirty feet along the cement-based stucco facade.

(D) **Concrete Masonry Units.** Burnished, glazed, or honed concrete masonry units or blocks are allowed as major materials on facades facing rear, alley, and the rail corridor. Where the ground story of such a facade is adjacent to a ground story facade where a limited use major material may not be used, major materials allowed pursuant to paragraph (2) of this subsection or approved pursuant to subsection (d) of this section shall turn the corner of the ground story facade no less than thirty feet along the facade.

(c) Minor Materials. Allowed minor materials are limited to trim, details, and other accent areas that combine to twenty percent or less of the total surface of each facade.

(1) **Major Materials.** All allowed major materials may serve as minor materials.

Brick with Metal Details


Architectural Metal Panels

Wood with Metal Details

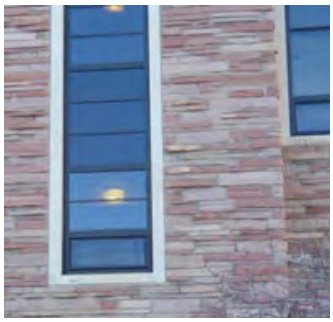
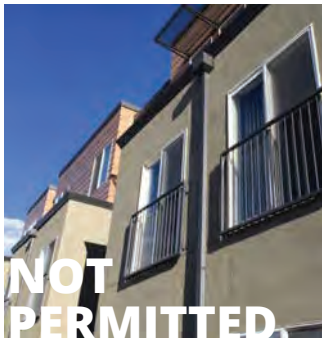

Cut Stone

Figure M-1 (43). Acceptable Materials



Synthetic Stucco

Concrete Masonry Units

Plastic Panels

Vinyl Siding

Figure M-1 (44). Unacceptable Major Materials

(2) **Allowed Minor Materials.** The following are allowed minor materials:

(A) Fiber cement and wood trim pieces.

(B) Metal for beams, lintels, trim, exposed structure, and other ornamentation.

(C) Split-faced, burnished, glazed, or honed concrete masonry units or block cast stone concrete elements.

(D) Vinyl for window trim.

(E) Glass curtain wall.

(F) Two- or three-coat cement-based or cement-hybrid stucco for surfaces.

(G) Terra cotta or ceramic tiles or panels.

(3) **Limited Use Minor Materials.** The following materials are allowed as minor surface materials on upper story facades only:

(A) **Fiber Cement Board.** Fiber cement building materials.

(4) **Prohibited Minor Materials.** The following materials are prohibited for use as minor materials:

(A) Face-sealed EIFS synthetic stucco assemblies and decorative architectural elements.

(B) Elastomeric finishes on stucco.

(d) Other Materials with Approval. Materials that are not listed in this section for its proposed application as allowed major materials, limited use materials, or allowed minor materials, may not be installed on any facade unless approved by the reviewing authority pursuant to this subsection (d). The reviewing authority may approve facade materials that are not listed in this section for its proposed application if the applicant demonstrates the material in its proposed application meets the intent of the facade material standards described in subsection (a) of this section. Samples and examples of successful high quality local installation shall be provided by the applicant.

M-1-24. BUILDING CONSTRUCTION QUALITY

(a) Intent. The intent of the building construction quality requirements is to advance the quality of construction, durability, and aesthetics of new buildings, specifically related to application and detailing of facade materials.

(b) Changes in Material. Changes in vertical surface materials shall meet the following standards:

(1) **Changes in Surface Materials.** Changes in surface materials, whether major materials or minor materials, shall occur only at concave corners, where the distance to the next generally parallel facade plane is a minimum of twelve inches. Surface materials are materials intended to cover the facade surface (such as unit materials, siding, stucco, panels) and do not include detail materials, such as but not limited to cast stone for lintels or cornices, exposed metal beams, or any material used to create an expression line. See Figure M-1 (45). Diagram of Allowable Changes in Surface Materials.

(2) **Materials Hierarchy.** Unit materials shall be elevated from the face of the building above less detailed, surface materials. For example, stucco, as a constant surface material, shall be recessed behind a bricked surface.

(3) **Expression Lines on Surfaces.** Expression lines shall be created with solid materials of a thickness that is greater than two inches, such as cast stone, masonry, or stone. For example, cast stone pieces may be offset to create a shadow, where the convex corner of the piece is used to create the corner of the detail.

(c) Appropriate Grade of Materials. Except on row buildings, all doors, windows, and hardware shall be of commercial quality.

(d) Applique Materials. Materials with thickness of less than two and a half inches, including but not limited to stucco, shall not be used or formed to create expression lines.

(e) Stucco Installation. Stucco, when allowed, shall be of the highest installation quality, meeting the following criteria:

(1) Contractor Submittal. The contractor utilized for installing the stucco shall have a minimum of five years experience with a minimum of at least thirty projects. The applicant shall submit as part of the design review application the contractor name, address, experience level, including years and number of projects, and examples of

installations within the last five years. Examples of installation shall be of high quality installations meeting the requirements of this subsection (e).

(2) Jointing. All stucco joints shall be aligned along the facade in the pattern shown on the elevations submitted for the design approval. Joints shall also align with the locations of windows and doors and other changes in material.

(3) Construction. The stucco wall assembly shall be indicated on the plans specifying stucco type and construction.

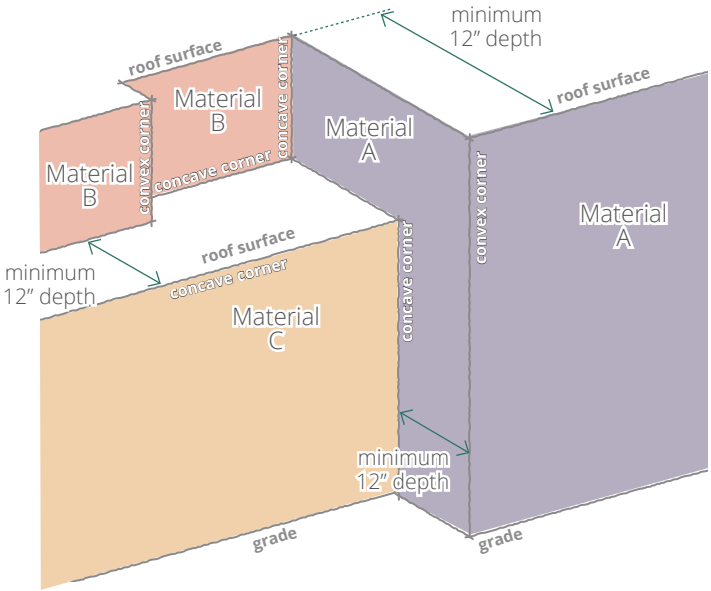


Figure M-1 (45). Diagram of Allowable Changes in Surface Materials

M-1-25. BUILDING FACADE ELEMENTS

(a) Windows. Windows on all buildings shall be constructed consistent with the following requirements:

(1) **Amount.** Each building shall meet the transparency requirements applicable to the building type pursuant to Sections M-1-15 through M-1-19, B.R.C. 1981.

(2) **Recessed.** All windows, with the exception of ground story storefront systems, shall be recessed with the glass a minimum of two inches back from the facade surface material or adjacent trim.

(3) **Vertically Oriented.** All windows shall be vertically oriented unless the following standards are met:

(A) **Flat Cap Type.** When the flat cap type pursuant to Subsection M-1-21(e), "Flat Cap Types," B.R.C. 1981, is used, horizontally oriented windows may be used for up to thirty percent of the total transparency area of each upper story.

(B) **Rear & Side Facades.** On facades facing the rear and interior side yards, up to fifty percent of the total transparency area of each story may include horizontally oriented windows.

(C) **Horizontally Oriented Windows.** Horizontally oriented windows may be used if the transparency of each story is forty percent or more, the height of at least seventy-five percent of the windows is a minimum of five feet, and the windows are

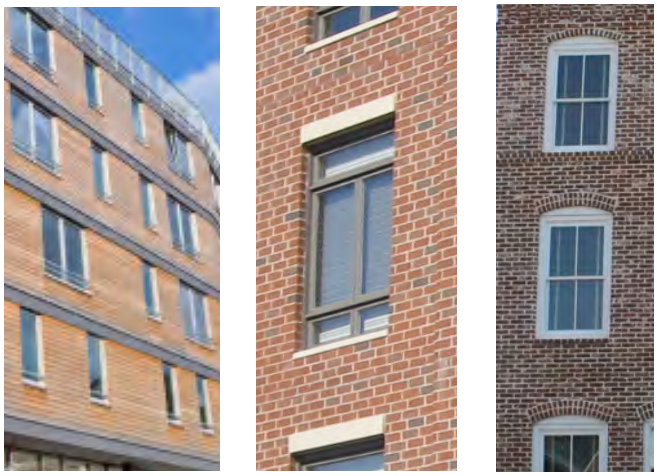


Figure M-1 (46). Vertically Oriented Windows with Expressed Lintels

Building Design

Building Facade Elements

located no more than three feet above the interior floor level.

(4) **Visibility Through Glass.** Reflective glass and glass block are prohibited on street facades. Windows shall meet the transmittance and reflectance factors established in the transparency definition of Section M-1-8 "Definitions," B.R.C. 1981. Windows on the ground story shall meet the transmittance and reflectance factors established in the ground story transparency definition in Section M-1-8, B.R.C. 1981.

(5) **Expressed Lintels.** Lintels shall be expressed above all windows and doors by a change in brick coursing or by a separate element. See Figure M-1 (45). Diagram of Allowable Changes in Surface Materials.

(b) Awnings, Canopies, & Light Shelves. Awnings, canopies, and light shelves shall be constructed consistent with the requirements of this subsection. See Figure M-1 (47). Examples of Permitted Awnings.

(1) **Encroachment.** Awnings, canopies, and light shelves shall not extend into a city right-of-way or easement except consistent with the requirements of Section 8-6-6, "Requirements for Revocable Permits, Short-Term Leases and Long-Term Leases," B.R.C. 1981.

(2) **Attached Awnings & Canopies.** Awnings and canopies that are attached to the building and could be removed shall meet the following standards:

(A) **Material.** All awnings and canopies shall be canvas or metal. Plastic awnings are prohibited.

(B) **Solar Panels.** Solar awnings or canopies are allowed.

(C) **Shapes.** Waterfall or convex, dome, and elongated dome awnings are prohibited.

(D) **Lighting.** Backlit awnings are prohibited.

(E) **Structures.** Frames shall be metal and shall be wall mounted. Support poles are prohibited unless utilized for outdoor eating areas over eight feet in depth.

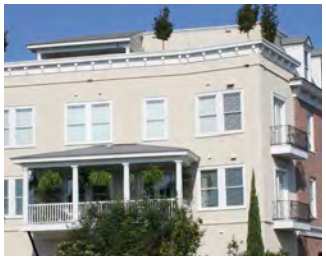
(F) **Multiple Awnings on the Facade.** When more than one awning is mounted on a facade, the awning types and colors shall be coordinated by matching the color, shape, material, or other element.

Metal Awning

Canvas Awning

Figure M-1 (47). Examples of Permitted Awnings.

Balconies: Covers More than 40 Percent of Facade



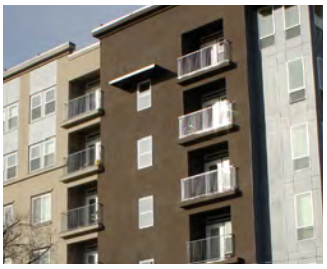

Balconies Appropriately Attached to or Incorporated into Facade.

Figure M-1 (48). Examples of Balconies.

(3) **Canopies & Light Shelves.** Permanent canopies, projections, or overhangs used as architectural features, light shelves, or shading devices are permitted, subject to materials standards of Section M-1-23, "Facade Materials," B.R.C. 1981.

(4) **Clearance.** All portions of any awning, canopy, or light shelf shall provide at least eight feet of clearance over any walkway and shall not extend over any driveway.

(c) Balconies. The installation or construction of balconies on street facades is encouraged, but not required. The construction of any balcony on a facade facing any street or public way shall be consistent with the requirements of this subsection. See Figure M-1 (48). Examples of Balconies.

(1) **Definition.** For the purpose of this subsection (c), balconies shall include any roofed or unroofed platform that projects from the wall of a building above grade and is enclosed only by a parapet or railing.

(2) **False Balconies.** False balconies are not permitted on any Type A frontage facade. False balconies consist of a rail and door, and any outdoor platform less than eighteen inches in depth. The requirements of this subsection (c) shall not apply to false balconies.

(3) **Size.** Balconies shall be a minimum of four feet deep and five feet wide.

(4) **Integrated Design.** A minimum of thirty-five percent of the perimeter of each balcony shall abut an exterior wall of the building, partially enclosing the balcony. The balcony support structure shall be integrated with the building facade; separate columns or posts supporting any balcony from the ground are prohibited.

(5) **Platform.** The balcony platform shall be at least three inches thick. Any underside of a balcony that is visible from any public way shall be finished.

(6) **Facade Coverage.** A maximum of forty percent of the Type A and Type B frontage facades, calculated separately for each facade, may be covered by balconies. The balcony area is calculated by drawing a rectangle around the platform or floor of the balcony, any columns or indentations, and any ceiling, roof, or upper balcony.

(7) **Right-of-Way.** Balconies shall not extend into any city right-of-way or easements.

(d) Shutters. If included in the design, shutters, whether functional or not, shall meet the following requirements:

(1) **Size.** All shutters shall be sized for the windows, so that, if the shutters were to be closed, they would not be too small for complete coverage of the window.

(2) **Materials.** Shutters shall be wood, metal, or fiber cement. Vinyl shutters are prohibited. Other "engineered" woods may be approved provided that the applicant submits a sample and examples of high quality, local installations of the material, installed a minimum of five years earlier and showing no degradation or wear of the material.

(e) Principal Entryway. See Figure M-1 (49). Examples of Defined Principal Entryway. Principal entrances to buildings or units shall be clearly delineated through one or more of the design features listed in paragraphs (1) through (4) of this subsection:

(1) **Cap or Canopy.** The entryway is covered by a cap or canopy differentiating it from the overall building cap.

(2) **Porch.** The entryway is through a porch.

(3) **Sidelights and Transom.** Sidelights or transom windows are included around the entryway.

Figure M-1 (49). Examples of Defined Principal Entryway.

(4) **Extended Articulation.** The entryway is included in a separate bay of the building that extends up at least two stories.

(5) **Other Design.** The approving authority may approve a design that does not meet the standards of this subsection if the authority finds that the design adds emphasis and draws attention to the entryway.

(6) **Right-of-Way.** Doors shall not swing into city right-of-way or easement.

M-1-26. MECHANICAL EQUIPMENT & APPURTENANCES

(a) Intent. Mechanical equipment and appurtenances can have a negative visual impact and detract from the quality of the design of a building. The purpose of the standards of this section is to ensure that the visual impact of mechanical equipment and appurtenances is minimized.

(b) Mechanical Equipment in Building. Mechanical equipment shall be located within the building, unless the applicant demonstrates the equipment is necessary for the function of the building and locating the equipment within the building would conflict with the equipment's function.

(c) Rooftop Mechanical Equipment. Any rooftop mechanical equipment, including without limitation vents, ventilators, skylights, and antennas, and excluding solar energy and wind energy conversion systems, shall meet the following standards:

(1) Rooftop mechanical equipment shall be located consistent with one of the following methods:

(A) Incorporate equipment into the roof design consistent with the applicable standards of Section M-1-21, "Cap Types," B.R.C. 1981.

(B) Set the equipment back a minimum of twenty feet from any Type A or B frontage facade.

(2) The requirements of Section 9-7-7, "Building Height, Appurtenances," B.R.C. 1981, shall be met.

(d) Mechanical Appurtenances on Facades. Mechanical appurtenances shall not be located on a facade unless the applicant demonstrates that locating the equipment in a different location would conflict with the equipment's function. Any mechanical appurtenance that may be carried on a facade, which may include, without limitation, dryer vents, gas meters, and air conditioners, shall be located consistent with the following standards:

(1) **Facade.** The mechanical equipment may be located on a non-Type A frontage facade. The mechanical equipment may be located on a Type A frontage facade only if the following requirements are met:

(A) The equipment is located on a surface perpendicular to any right-of-way;

(B) The equipment extends from the facade surface no more than three inches; and

(C) The equipment is screened from the sidewalk.

(2) **Alignment.** Multiple pieces of mechanical equipment shall be organized on the facade in a regular pattern and aligned. Compliance with this standard must be illustrated on the drawing elevations submitted as part of the application.

(3) **Material Coordination.** To the extent practicable, facade-mounted mechanical appurtenances shall be located on a material that limits their visibility. For example, dark colored vents will be more visible on light colored stucco than a textured, darker surface such as brick.

(4) **Screening.** Mechanical equipment shall be screened from view unless the approving authority finds that such screening conflicts with the function of the equipment. The form, material, and color of the screening shall meet the following criteria:

(A) Screening, other than landscaping, is consistent with the building design, colors, and materials;

(B) The equipment is placed where it is least visible from adjacent streets;

(C) The height of any screen is the minimum appropriate to adequately screen the mechanical equipment; and

(D) Screening does not increase the apparent height of the walls of the building.

(5) **No encroachment.** Mechanical equipment shall not extend into any city right-of-way or easement.

(e) Mechanical Equipment on Other Horizontal Surfaces. Mechanical equipment located on the ground, decks, or horizontal surfaces other than the roof, such as, but not limited to, electrical equipment and air conditioners, shall be located

consistent with the following standards:

(1) All mechanical equipment may be located in the parking yard or a Type B street yard.

(2) Mechanical equipment may be located in a side yard provided the side yard does not contain or abut a paseo.

(3) All equipment shall be screened from view from any public way with landscaping, fencing, or walls consistent with the building design, colors, and materials.

(4) The reviewing authority may approve appurtenances located on a Type A street or on a paseo only if the following conditions are met:

(A) The applicant demonstrates that the equipment cannot be located in a parking yard, Type B street yard, or in a side yard that does not contain a paseo.

(B) The appurtenance is fully screened with a wall that is consistent with the building design, colors, and materials and of a height that is the minimum to adequately screen the appurtenance and that does not prevent the facade from fulfilling any transparency requirements.

M-1-27. BUILDING ARTICULATION

(a) Intent. The intent of this section is to require building design that achieves balanced and articulated building composition, a perceived intimate scale of buildings, and pedestrian interest.

(b) Articulation of the Base. With the exception of entryways, the ground story of a building with a required storefront pursuant to Section M-1-6 "Regulating Plans," B.R.C. 1981, shall not be recessed more than eighteen inches from the second story facade.

(c) Building Facade Variety. See Figure M-1(50). Illustrations of Building Massing and Articulartion. All buildings 120 feet in width or greater along any Type A or B frontage shall fulfill the following requirements:

(1) **Increments.** Each Type A or B frontage facade shall be varied in segments less than or equal to ninety feet.

(2) **Requirements.** Each facade segment shall vary by the type of dominant material or by color, scale, or orientation of that material, and by at least two of the following:

(A) The proportion of recesses and projections. within the build-to zone.

(B) The location of the entrance and window placement, unless storefronts are utilized.

(C) Roof type, plane, or material, unless otherwise stated in the building type requirements.

(D) Building heights.

(3) **Alternative Method of Compliance.** The reviewing authority may approve a facade design that does not meet requirements of this subsection (c) if the applicant demonstrates that the proposed design achieves the intent of the building articulation requirements of this section without meeting the building facade variety requirements. The applicant shall submit fully rendered elevations and 3-dimensional drawings of all street, paseo and multi-use path facades with materials samples for all surfaces to demonstrate that the intent of this section is met.

Building Design

Building Massing

M-1-28. BUILDING MASSING

(a) Intent. The goals of the building massing standards are to ensure an appropriate perceived scale of buildings from the public ways -- breaking up large buildings in a simple way to ensure a human-scaled place and to provide a high level of permeability to all blocks.

(b) Buildings over Forty Feet in Height. See Figure M-1(50). Illustrations of Building Massing and Articulartion. If any building of the project is over forty feet in height and not utilizing a pitched cap on at least sixty percent of the roof, the following standards shall be met:

(1) **Varied Building Heights.** A minimum of thirty percent of the total footprint of all buildings combined on the site shall be at least one story lower than the tallest portion of the building footprint, not including towers.

(A) **Along Type A Frontages.** The lower height shall occur along the Type A frontage.

(B) **Stepped-Back Facade.** The requirement for varied building heights in paragraph (b)(1), above, shall not be met by a linear stepping-back of the facade along the top story, but shall constitute a change in massing of the building.

(2) **Terraces & Pitched Roofs.** Roof areas on lower portions of buildings are encouraged to be used for roof terraces, located to maximize mountain views, or for pitched cap types per Subsection M-1-21(a), "Pitched Cap Type ," B.R.C. 1981, to increase the variety of caps in the area.

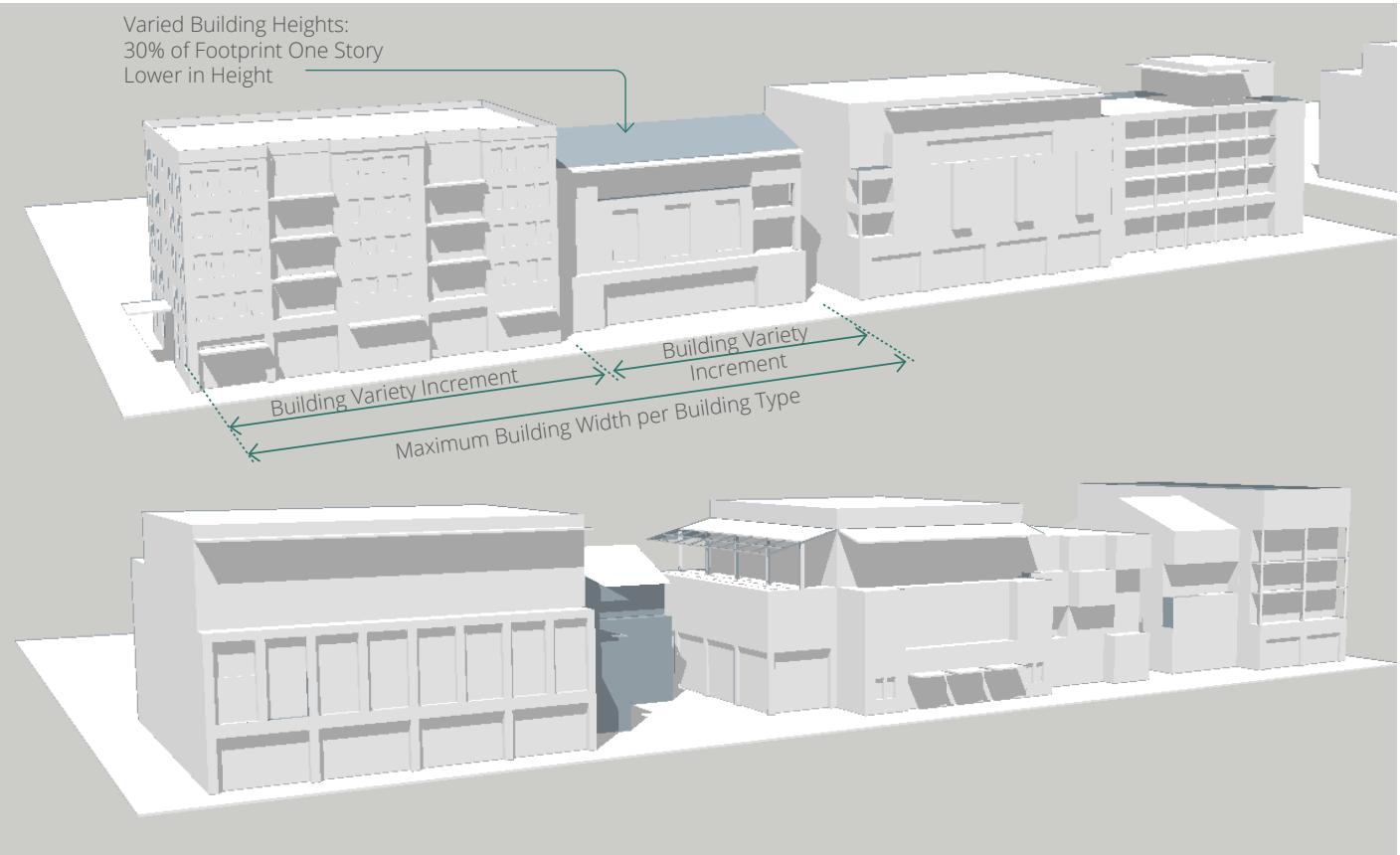


Figure M-1 (50). Illustrations of Building Massing and Articulation

M-1-29. BUILDING PROPORTIONS

(a) **Intent.** The golden ratio is a proportioning metric used throughout history in art and architecture to achieve what has been considered "divine" or visually pleasing proportions. The intent of this section is to achieve aesthetically pleasing building design through incorporation of the golden ratio into the exterior design of each building.

(b) **Definition of the Golden Ratio and Golden Rectangle.** Two quantities are in the golden ratio if their ratio is the same as the ratio of their sum to the larger of the two quantities, as shown in Figure M-1 (51). Numerically, the ratio is approximately 1:1.6180339887.

A golden rectangle is a rectangle with side lengths that are in the golden ratio, as shown in Figure M-1 (51); if a square section is removed as shown in Figure M-1 (51), "Description of Golden Ratio," the remainder is another golden rectangle

(c) **Use of Golden Ratio.** The design of facade elements or the massing of each building shall include expression of the golden ratio. Use of the golden ratio may include massing of building segments, windows, divisions of the facade, and overall height to width of the building. The preferred method of use is through the massing proportions and organization of facade components. See Figure M-1 (52),"Example of Documentation of Use of the Golden Ratio in the Building Design," for examples of demonstrated use of the golden ratio.

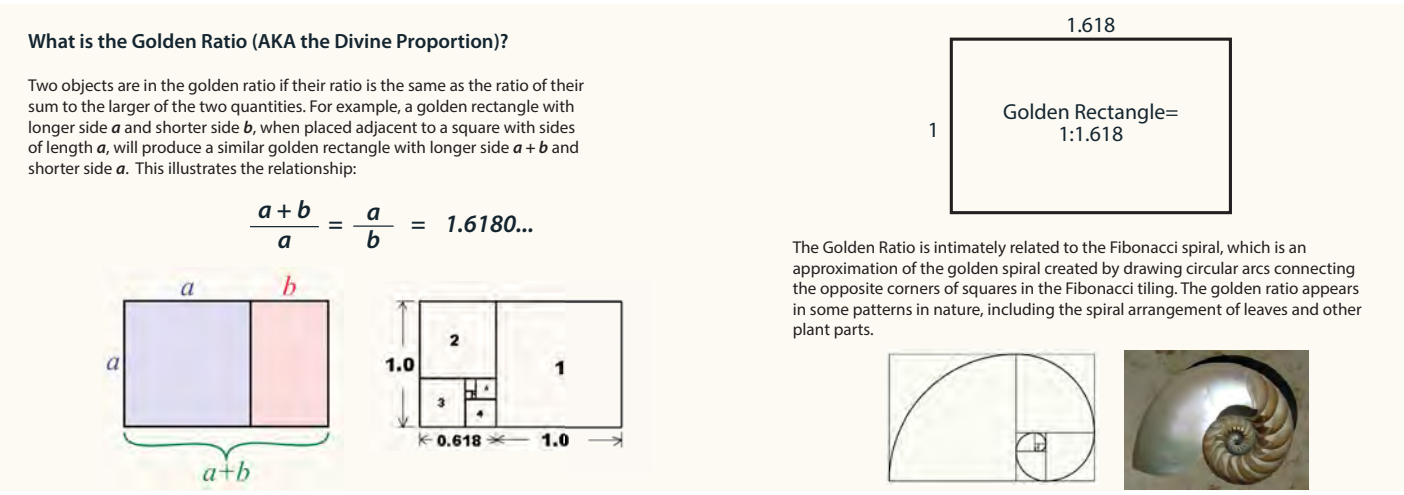
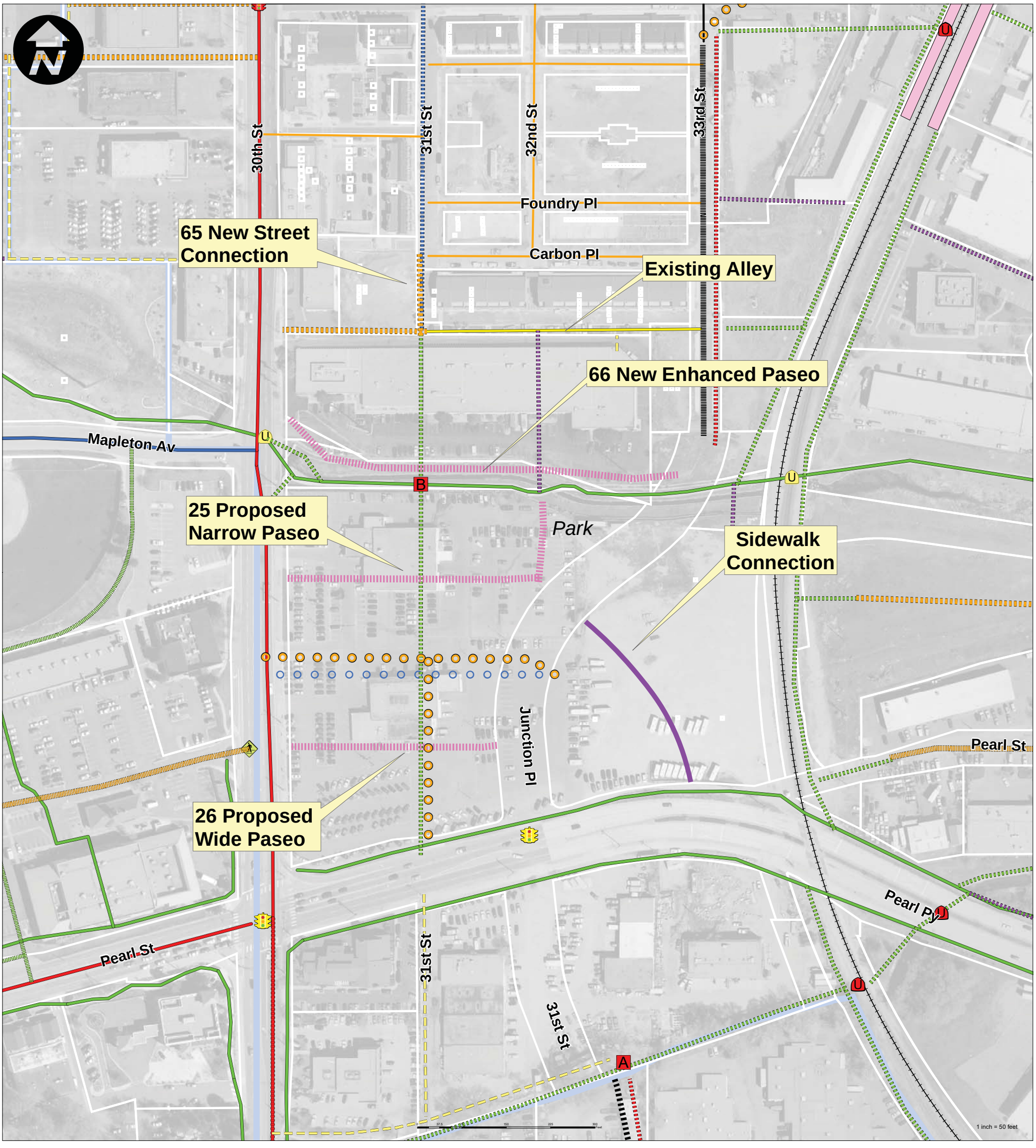


Figure M-1 (51). Description of the Golden Ratio

Figure M-1 (52). Example of Documentation of Use of the Golden Ratio in the Building Design

Transportation Connections Plan



Legend

Existing Street Connections
- Collector Street
- Local Street
- Railroad
- Plan Area Boundary
- Proposed Rail Platform

Proposed Street Connections
- Collector Street
- Collector Street - Flexible Alignment*
- Collector Street - Upgrade Existing
- Local Street
- Local Street - Flexible Alignment*
- Local Street - Upgrade Existing
- Alley
- Alley - Flexible Alignment*

Existing Bike and Ped Connections
- Multi Use Path
- On Street Bike Lane
- Designated Bike Route
- Sidewalk Connection
- Paved Shoulder

Existing Roadway Connections
- Secondary Connection
- Alley

Proposed Bike and Ped Connections
- Multi Use Path
- Multi Use Path Existing Upgrade
- On Street Bike Lane
- On Street Bike Lane - Flexible Alignment*
- Designated Bike Route
- Designated Bike Route - Flexible Alignment*
- Sidewalk Connection
- Sidewalk Connection - Flexible Alignment*

Existing Bike/Ped Crossings
- Enhanced Crossing
- Underpass
- Traffic Signal

Proposed Bike/Ped Crossings
- Traffic Signal
- Roadway Bridge
- Enhanced Crossing
- Bridge
- Underpass
- Enhanced Access

BACKGROUND & PUBLIC INPUT

Form-Based Code pilot project

As part of the Design Excellence Initiative, the city has been piloting a Form-Based Code (FBC) in Boulder Junction, defined as the Phase I area within the adopted Transit Village Area Plan. This area was selected on a recommendation by Victor Dover of Dover/Kohl Partners based on his work on the Design Excellence Initiative last winter. That work culminated with a recommendation to City Council last January for piloting a FBC for a limited area such as Boulder Junction where there is already a consensus on land use and urban design policy articulated in an adopted Transit Village Area Plan.

As requested by City Council, the FBC project was commenced in April of 2015 and was anticipated to be a six-month process. Due to the complexity of the changes and how they interface with current city policies and requirements, the project has taken significantly longer. The project has involved outreach to the community and coordination with review boards (i.e., Planning Board, Transportation Advisory Board, Design Advisory Board and Boulder Junction Access District) and council about desired building designs and forms that would inform the final pilot FBC. A working group composed of representatives of above referenced boards has also been informing the pilot FBC and has met seven times to date.

The overall purpose of considering FBC as a new tool for Boulder is to address design quality and provide more predictability on development review issues recently articulated through community, board and council conversations, as summarized in the January 20, 2015 memo from Dover Kohl (link to memo). The City of Boulder's Community Planning & Sustainability Department (CP&S) is leading the effort in collaboration with other city departments and two consultant teams: Dover Kohl and Partners and CodaMetrics. Dover Kohl and Partners will assist in the broad, citywide Design Excellence discussions that would ultimately inform changes to the land use code, and CodaMetrics will assist in preparation of the pilot FBC.

If adopted, the FBC pilot would apply to the Phase I area of Boulder Junction. Victor Dover's recommendation was that it be tested in a small geographic area where an adopted vision is already established. Several projects in the area recently obtained development review approvals. Staff and CodaMetrics have worked with applicants of the S*park, Reve and The Commons projects and those projects were informed by the FBC project. While the projects are not 100 percent consistent with the final FBC, each project incorporates design elements that reflect the evolution of the FBC. Staff finds that the approved Commons, Reve and S*park projects were well-informed by the ideas discussed during the FBC process.

With this pilot, the city is embarking on what could be a longer process of determining whether FBC is appropriate for Boulder to achieve better design outcomes versus just focused changes to the Site Review process and current design standards. Boulder Junction is an opportunity to test the FBC tool itself as well as the process. If successful,

staff anticipates structuring new public processes of review for other areas of the city (e.g., Phase II Boulder Junction, Downtown, North Boulder etc.) based on what has been learned through the pilot project.

Below is a summary of the FBC pilot timeline:

May & June 2015- Events related to the FBC pilot commenced in the week of May 11th and included a joint meeting of Planning Board, Boulder Design Advisory Board (BJAD), Transportation Advisory Board (TAB) and the Boulder Junction Access District on Thursday, May 14th. At the May 14th board workshop, CodaMetrics lead a discussion with board members on desired and undesired design elements that would help inform what the FBC covers and the types of prescriptive standards to achieve the desirable elements that may be incorporated into the draft FBC.

On May 15th, Dover Kohl and Partners presented to the public, "Form-Based Code 101", which summarized what form-based codes are, the benefits of a form-based code for the Boulder Junction area, how it might be useful elsewhere in Boulder, as well as some of the limitations of form-based codes. The event also included a question and answers session that can be viewed at the link above.

CodaMetrics held a community workshop open to the greater public on Saturday, May 16th at the Hotel Boulderado. The event was attended by roughly 30 persons and involved lively discussion about design and what would be appropriate in the Boulder Junction area. While there were expressions of varying architectural taste, there were also common themes of agreement.

City Council received an update on the FBC project on May 26, 2015 and provided input on draft Guiding Principles on June 15, 2015. The guiding principles were prepared by the consultant, CodaMetrics, to assist in the formulation of the draft FBC and inform applicants that have projects in the pipeline in the Boulder Junction area. The guiding principles included a list of "potential" regulations to address key design concerns identified through the process with goals of creating better buildings and ones that fit the vision for Boulder Junction. The findings of the principles were that Boulder desired "Honest, Simple and Human-Scaled" buildings. The packet regarding the FBC pilot including the guiding principles and a narrative of the entire process since April 2015 can be reviewed here.

July & August 2015- CodaMetrics and city staff held a workshop with members of the public on July 22nd. CodaMetrics presented an overview of the FBC and the input received thus far before discussing the draft components, which are discussed in the 'Structure and Content' section of this memorandum. Following the presentation, attendees circulated to review information and provide input on the following five topics: I. Regulating Plan, II. Public Realm, III. Building Materials and Construction Quality, IV. Building Proportions, and V. Building Massing. Most of the workshop was an opportunity for members of the public to better understand how FBC might work and what the proposed content would be.

Throughout the duration of the project CodaMetrics and staff have met with members of the community in stakeholder meetings ranging from neighborhood representatives (e.g., Steel Yards, North Boulder etc.) and other groups like the Chamber of Commerce and Downtown Boulder. Most feedback has been positive. Some concerns heard relate to whether FBC would create too many buildings that look the same or whether the FBC would add additional layers of development review complexity or cost upon proposals. CodaMetrics indicated that while certain parameters would have to be met to get a specified level of quality or design, there would still be flexibility to achieve varied, creative buildings. Portions of the code actually require certain levels of variation between properties in terms of setbacks, materiality etc. In terms of cost, while material costs may increase with higher levels of quality required, more predictability in city expectations and higher likelihood for shorter review process would also decrease cost.

A study session with City Council was held on Aug. 11th. A summary of the discussion can be found here within the Sept. 1, 2015 folder (Agenda item 3B).

September 2015- CodaMetrics provided the draft of the FBC to the city in Sept. 2015. The draft was circulated to several city departments for review and then was forwarded to the FBC Working Group for review and comment at two meetings. Victor Dover of Dover Kohl and partners has also reviewed and commented on the draft. Recommended changes from these reviewers have been incorporated into the draft FBC. Below is summary of comments from the working group meetings:

- Focus on the properties in the southwest quadrant of Boulder Junction Phase I, as this is the area that will be most impacted and informed by the adoption of the FBC. There was a discussion about exactly which properties where in Phase I. Staff has clarified that the limits are 30th to the west, Valmont to the north, the BNSF railway to the east, and just south of Pearl to the south. Phase I does not include properties west of 30th, which are technically part of Phase II.
- Industrial property north of Goose Creek path- There was discussion about the industrial property between the Steel Yards project to the north and Goose Creek to the south. There was some disagreement about what the scale of the buildings should be – To effectively frame the Depot Square Plaza to the south from an urban design standpoint taller (4-5 story) buildings would be most effective; however, some members were concerned about that scale and the impact it would have on the existing residential to the north. There was an expressed desire to have that property develop with residential, potentially townhouse type uses. CodaMetrics noted the importance that buildings on that site front to the south towards Goose Creek onto potentially a new enhanced pedestrian connection/linear park in order to avoid backs of buildings to the creek and fronts onto the private alley to the north. This is a requirement of the FBC.
- Building length/massing- The group liked the restrictions to building length by type as proposed. There was support for the massing and height limitations on the city site at the corner of 30th and Pearl in order to preserve views of the Flatirons from Depot Square. There was less consensus about the importance to protect

viewlines from the corner of 30th and Goose Creek. More mass modeling was requested for Planning Board.

- Paseos- With respect to paseos, open air walkways were preferred to roofed walkways or atria and that paseos should create permeability, be activated with uses and have good transparency (windows) throughout their length. No tunnels.
- Open space for residential- There were concerns that there may not be enough residential open space requirements for play areas to encourage families in the area.
- Public realm- There were discussions about block size and preference for narrower streets and other traffic calming measures such as bulb-outs. Coordination with fire department necessary.
  There was also discussion about the new north-south street through the city site to provide access to the lots.
- Building design/materials- There were discussions about the quality of buildings materials (e.g., material transitions, quality at the street level, stucco etc.), encouraging different roof styles, hiding mechanical equipment, and level of window glazing on different facades. There were also some divergent opinions about whether balconies should be restricted on facades or not as well as what kind of balconies are favored.

October 2015- Based on detailed comments received from City Council, the FBC Working Group, city staff, Victor Dover and stakeholders, CodaMetrics prepared an updated draft. Staff and CodaMetrics held an afternoon open house on Oct. 29th to present the draft FBC and then had a detailed discussion of the FBC with Planning Board the same evening. The open house was well attended and included people not previously involved in the process. Most were interested in what the FBC could do and inquired about transportation connections and how the ballot measures may have affected the FBC.

Planning Board was generally supportive of the FBC, but there was some disagreement about how prescriptive the FBC should be including an in-depth discussion about review process. Some board members felt that the FBC was too restrictive while others felt it necessary to have very specific building design requirements to avoid undesired, inflexible design outcomes.

The discussion on review process also included a variety of opinions on the topic of whether or not projects should be eligible for board or citizen call-up. However, the board coalesced around the idea that given that there were limited sites remaining in the Boulder Junction area and the desire to evaluate the efficacy of the FBC, the board agreed that all projects (or at least projects of a certain size) should be eligible for call-up and that if called up, a project would be evaluated for compliance with the FBC standards and any exception criteria.

The board also provided detailed comments on building design elements, such as cap styles and building materials, as well as discussing appropriate building types for the remaining sites. The board discussed the Pollard (city-owned) site and the industrial site

just north of the Goose Creek multi-use path. Some board members felt the site north of Goose Creek should be built with row houses while others felt that larger scale buildings may be appropriate. Planning Board also inquired about the possibility of requiring on-site permanently affordable units in the FBC along with specific energy code requirements.

November & December 2015- CodaMetrics has continued to update the draft FBC and has incorporated changes recommended by Planning Board and city staff. Staff returned to Planning Board on Dec. 17th to discuss the options related to on-site permanently affordable housing and specific energy code standards. This link includes the December discussion where Planning Board directed staff to look further into the prospect of special energy code requirements for the FBC.

December 2015-April 2016
Staff provided another project update to Planning Board in March 2016. The memo describing the work that was completed since the Board's December meeting is provided here. Recently, staff has also met with members of the Steel Yards HOA and other interested stakeholders to discuss the latest draft of the FBC. Generally, the interested parties have been supportive of the concept of implementing FBC. Steel Yards HOA has provided input on the proposed TVAP connection changes and has expressed concern about the ability of buildings on the property immediately to the south of Steel Yards adjacent to Goose Creek to be built up to four stories. To ensure a greater level of compatibly with the three-story context within Steel Yards, staff has proposed a three-story limit on properties north of Goose Creek and west of Junction Place within the FBC.

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
April 14, 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
Leonard May
Liz Payton
Crystal Gray
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:

STAFF PRESENT:
David Driskell, Executive Director of Community Planning
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Jessica Stevens, Civil Engineer II
Karl Guiler, Senior Planner, Code Amendment Specialist
Kalani Pahoa, Urban Designer

1. CALL TO ORDER
Chair, **B. Bowen**, declared a quorum at 6:05 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES
None to approve

3. PUBLIC PARTICIPATION
No one spoke.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

A. Call Up Items: Boulder Creek Path East of Foothills Parkway, Bridge Replacement, Floodplain Development Permit (LUR2016-00003), Wetland Permit (LUR2016-00004). This decision may be called up before Planning Board on or before April 18, 2016

This item was not called up.

5. PUBLIC HEARING ITEMS

A. AGENDA TITLE: Public hearing to consider the following two items:

1) Recommendation to City Council on an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to adopt a Form-Based Code (FBC) for the Boulder Junction Phase I through two appendices to Title 9: Appendix L designating "Form-Based Code Areas" and Appendix M as the FBC regulations, and adopting a Form Based Code Review process, and

2) Action on proposed amendments to the Transit Village Area Plan (TVAP) connections plan to be consistent with and to implement the FBC project

Staff Presentation:
D. Driskell introduced the item.
K. Guiler presented the item to the board.

Board Questions:
K. Guiler, D. Driskell and **Leslie Oberholtzer**, consultant with CodaMetrics, answered questions from the board.

Public Hearing:
No one spoke.

Board Comments:
Key Issue #1: Draft Ordinance

- **J. Putnam**, in regards to the scope of the review process, expressed concern with drafting a discretionary process like Site Review for the FBC. At this time, it would be worth having some degree of public process and review. However it should be taken out if it works. If it is not working, then it should be looked at. His concern lies with making it too discretionary because it would create more obstacles. The draft ordinance would strike a reasonable balance for now. In regards to the call up issue, he stated that persons calling up items should provide more detailed explanation of the bases to reduce the phenomenon we have seen of call ups with little discretionary ability to change anything and he encouraged staff to find out how to accomplish that. Overall, he is in support of the ordinance as written.
- **L. Payton** stated that she would support the ordinance. In regards to the call up issue, she stated that there would be a danger of having call ups and spending too much staff time on them. She suggested that to get around that, when staff prepares their memo for a potential call up, to include an analysis of whether the project addresses the FBC, then it may be easier for the board to evaluate. She agreed with a modification to the ordinance for the Transit Village to extend notice to all residents within 600 feet rather than just property owners since the Transit Village is a mostly rentals. She suggested extending the notice coverage to include "all addresses".
- **C. Gray** supported the suggested Transit Village modification and asked to include renters and renters of commercial property. **C. Gray** also supported the ability to for Planning Board to call up the projects to question staff on their analysis of FBC as it

applies to a project. She stated this was important for the first projects to understand the application of FBC.

- **B. Bowen** asked for a formal change in the language to include "property owners and renters within 600 feet of subject property" (Page 47 of packet). He stated that the board, overall, would agree to a change for all review processes notification.
- **J. Gerstle** agreed that he would like the modified notification to apply universally.
- **L. May** recommend that the modified language be applied universally and presented to Council.
- **C. Gray** suggested a universal modification to be applied city wide after the board's retreat so that Council would be aware of Planning Board's intent.
- The board agreed that this time to change the language regarding notification to apply to just FBC rather than city wide.
- **B. Bowen** stated that he would like to see a call up be made by a majority of the board rather than one person and to remove the ability of the public to call up an item. Overall, he supports the ordinance.
- **C. Gray** stated that she supports the ordinance. She suggested for staff to prepare a presentation for the first FBC project to come in front of Planning Board. This would give the board and the public to work through it.
- **J. Gerstle** stated that he would be uncomfortable with the restrictive call up provisions suggested by **B. Bowen**. He felt that the board should be open-minded and flexible given that the FBC is a pilot program. He felt it would be appropriate to move ahead with the FBC ordinance on a pilot level.
- **L. May** agreed with **J. Gerstle**. He stated that it would be good to move forward but there should be no reason to change the call up process.
- **H. Zuckerman** declared support for the ordinance. He would support additional notice to all interested parties within 600 feet. In regards to the call up process, he suggested a review process towards a more ministerial review process. Regarding public call up, he expressed concern regarding the vindictive person and perhaps making it harder for call up to occur and have the board act as the middle ground.
- **L. Payton** added that since FBC is a pilot, perhaps the call up provisions should remain the same as they are currently for other staff approvals.
- **J. Gerstle** agreed. The intent of the FBC is to seek to get better buildings. If this is adopted in other parts of the city in the future, then the call up issue could be readdressed.
- **B. Bowen** agreed to let the call up issue lie since FBC is a pilot and in purview of what we do for reviews.
- All board members agreed with the ordinance.
- **L. May** explained in a building model demonstration that projects built under FBC could meet the criteria of the FBC, but not necessarily meet the intent, i.e., check all the boxes and still have ugly buildings and places. The FBC will require the diligence of the board and staff to bring this out to the applicants/developers.
- **J. Putnam** suggested keeping this pilot to a prescriptive approach and not make it subjective.
- **C. Gray** mentioned that with any new ordinance, an evaluation or review process should take place. She liked the suggestion of **D. Driskell** to debrief at the end of each project, in which there may only be 5 total projects which will be using the FBC pilot.

- **B. Bowen** reminded the board that other area plans often have reviews set up within them and unfortunately, the reviews or debriefings are not held.
- **L. May** pointed out that undesirable outcomes may not be attributable to a flawed BFC, but to a flawed application fo the FBC by staff and the board.
- **B. Bowen** added that it is time for the FBC to happen.
- **H. Zuckerman** agreed and prepared to move forward.

Key Issue #2: Draft Form-Based Code including general provisions, site design, building types and building design

- **J. Gerstle** asked to discuss the tower designation limits and golden rectangle language. His concern with the towers is to understand how they relate to the existing height limitations. In no cases can a tower exceed the charter 55 foot height limit; however it could go over the three story limit under the FBC, but the tower could not obscure the view sheds, space needs to be occupied, and roof access. He stated that he agrees with the golden rectangle within the FBC, but felt it would be more constructive if the language encouraged, but not required it.
- **B. Bowen** opposed to requiring the golden rectangle and it should be removed. It may be a good compositional tool but it is not the only tool.
- **L. Payton** supports the inclusion of the golden rectangle because it would encourage architects to use pleasing proportions.
- **C. Gray** agreed with **L. Payton**.
- **L. May** explained that although the golden rectangle would be required, as are other articulations, none of these will guarantee a good building. He stated that it would be good to have all these tools in the FBC because it would give guidance toward obtaining good outcomes where they do not have the ability to do so without such assistance.
- **H. Zuckerman** explained that the FBC will a road map for a good building. This should represent guidelines that identify what we like, but still allow architects to present something they would like to build. He expressed that he would like to see that when applying the FBC.
- **B. Bowen** addressed the matter of people that were reacting to recent buildings and to see FBC as a method to correct them, noting that they were reacting to Figure M-1(21) in the FBC, which is the Daily Camera building.
- **L. Payton** disagreed and offered that the "ugly building" objections were to Solana.
- **C. Gray** and **L. May** agreed with **L. Payton**. **L. May** added that the objections to the Daily Camera building were based on the mass and scale but not on the architecture.
- **L. Payton**, on the regulating plan, mentioned that she approved of the Row House option on the property north of Goose Creek as it would allow an option to build missing middle income housing types and to possibly achieve the city's goals of offering that type of housing. She added that because the General Building type is an option at the Goose Creek site as well, she is concerned that there is not the incentive to do Row Houses and that Row Houses would likely not happen. She approved of the view corridor and roof height language. She listed some general edits to some language and figures within the FBC.
- **C. Gray** stated that the FBC was a reaction to conversations with the community.

Key Issue #3: TVAP connection changes

- There was no discussion by the board regarding this issue.

Motion:
On a motion by **C. Gray** seconded by **J. Putnam** the Planning Board voted 7-0 to recommend to City Council adoption of an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to adopt a Form-Based Code (FBC) for the Boulder Junction Phase I area and a FBC review process, and setting forth related details.

Friendly by **J. Putnam**, that Planning Board recommend to amend the notice provision in the ordinance to provide notice in the TVAP Area Phase I to all addresses and property owners and to revise Figure M-1(21) to show yard areas. Friendly amendment was accepted by **C. Gray**.

On a motion by **L. Payton** seconded by **C. Gray** the Planning Board voted 7-0 to approve amendments to the Transit Village Area Plan (TVAP) connections plan to be consistent with and implement the FBC project.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

There were no Matters to discuss.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 8:19 p.m.

APPROVED BY

Board Chair

5·5·16
DATE

Planning and Development Services – Information Resources Staff on Addressing Methodology for Public Noticing

Test case discussion-

As you can see in the case below the impact to the mailing is significant and represents approximately four times as many records. The impacts to staff time represent a doubling of time needed. We estimate that this fourfold difference is representative of areas where there are a significant number of businesses and rental properties. We do not anticipate the same impacts to the mailing list for smaller notification distances in largely residential areas. However, we do expect the impacts to staff time to be the same for those residential areas due to the necessity of performing the same steps in the methodology. Regardless of methodology we are still fulfilling the requirements of the code to notify the owner of record for the properties in the notification distance (section 9-4-3)

Test case: LUR2016-00038

- Mailing list to owners only (original methodology) – 170 recipients
- Mailing list to owners and occupants (new methodology) – 719 recipients

Original methodology (owner of record only)

- Select all properties within notification distance
- Check for condominium developments in selection and add any condo boxes that were not selected due to the “condo box” method of parcel record mapping (those boxes are sometimes not inside the selection distance but the main parcel is so they are added since every owner is partial owner in the entire condo development)
- Export list of owner addresses
- Cull list for duplicate owners

New Methodology (owner and occupant)

- Select all properties and rental license polygons within notification distance
- Check for condominium developments in selection and add any condo boxes that were not selected due to the “condo box” method of parcel record mapping (those boxes are sometimes not inside the selection distance but the main parcel is so they are added since every owner is partial owner in the entire condo development)

- Export list of owner addresses
- Audit owner list for owner present/owner absent and add to the list the situs address of all owner absent records
- Add to list the unit numbers of all rental properties within the notification distance. We use data we purchased from Mail Solutions for the unit numbers. This is fairly accurate but the place we do run into problems is with condos with rental licenses. In this case the rental license records are not always geographically coincidental with mailing list records. We feel this is a minor problem because the owner address is different than the situs address and the occupant would be accounted for in the step where we audit the first property list for owner absent/present.
- Add to the list the "P" accounts from county data. These are personal property records that are part of the county assessor records for the properties. This is the same data as the county displays on their property viewer map. We use these records to get at the business occupants. We made the decision to use these records instead of the city business license records. City business license records do not always map out to the actual place of business (store front).
- Cull list for duplicate records

CITY OF BOULDER

CITY COUNCIL AGENDA ITEM

MEETING DATE: June 21, 2016

AGENDA TITLE
2016 Annual Appointments to Boards and Commissions for Downtown Management Commission (DMC) and the University Hill Commercial Area Management Commission (UHCAMC)

PRESENTERS
Jane S. Brautigam, City Manager
Patrick von Keyserling, Communications Director
Lynnette Beck, City Clerk
Heidi Leatherwood, Deputy City Clerk

EXECUTIVE SUMMARY

Staff is requesting that Council make appointments to the City of Boulder Boards and Commissions for the 2016 annual recruitment to fill the remaining seat vacancies in the Downtown Management Commission and the University Hill Commercial Area Management Commission. Recruitment reopened for the remaining seats and closed on May 5, 2016. Interviews were rescheduled from June 7th to June 14th and June 16th to accomodate applicants.

The following is an excerpt from the BRC, 1981 Title II, Appendix – Council Procedure, IX – Nominations and Elections, outlining the process for nominating and appointing board and commission members.

IX. NOMINATIONS AND ELECTIONS

E. Nominations. At the conclusion of public testimony, council will consider nominations for mayor and mayor pro tem. Any council member may nominate anyone that expressed an interest and made a speech at the second Tuesday in November, including himself or herself, for either position. Provided, however, that the requirement of prior expression of interest shall be waived for any council member whose election was not decided before the second Tuesday in November. Nominations for mayor and acting mayor (generally referred to as mayor pro tem) are made orally. No second is required, but the consent of the nominee should have been obtained in advance. Any person so nominated may at this time withdraw his or her name from

nomination. Silence by the nominee shall be interpreted as acceptance of candidacy.

F. Order of Vote. A motion then is made and seconded to close the nominations and acted on as any motion. The voting is accomplished by raising of hands unless there is only one nomination and a unanimous vote for the candidate. The names shall be called in alphabetical order or reverse alphabetical order depending upon a flip of a coin by the clerk, who shall thereafter alternate the order for all further election ballots during the same meeting.

G. Ballots. If it is the desire of the council to use paper ballots rather than a voice vote, such a procedure is proper. However, since there is no provision for a secret vote, each ballot must be signed by the council member casting the vote.

H. Elimination Process. If any of the candidates nominated receives five votes on the first ballot, such person is declared elected. If none of the candidates receives five votes on the first ballot, the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. If this elimination would leave one candidate or less for the office, another vote is taken, and once again the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. In the event that one candidate or less is left for the office after the second vote, a flip of a coin shall be used in order to eliminate all but two candidates for the office.

I. Impasse Process. In the event that neither of the two final candidates receives five votes on the first ballot on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives such a majority vote, the meeting shall be adjourned for a period not to exceed twenty-four hours, and new nominations and new ballots shall be taken. If no candidate receives five votes on the first ballot at the adjourned meeting on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives a majority vote on the second such ballot at the adjourned meeting, a flip of a coin shall be used to determine which of the two final candidates shall be declared elected as mayor or mayor pro tem.

J. Appointment of Board Alternates. In the event that the Boulder Revised Code provides for the appointment of temporary alternate board members, such members shall be appointed as follows: The most recently departed member of the board needing a temporary alternate, who is eligible and able to serve, shall be appointed. In the event that more than one member departed at the same time, alternates shall be chosen in reverse alphabetical order, with appointments alternating between the eligible and able former members who departed at the same time. In the event that the most recently departed member is not eligible or able to serve, the next previously departed member shall be chosen, applying the procedure above if there is more than one potential appointee. No person shall be eligible for a temporary alternate appointment if he or she was removed from the board by the council. A temporary alternate shall be appointed only when

a member's absence either results in the lack of a quorum or may prevent the board from taking action. No person appointed as a temporary alternate shall serve at two consecutive meetings of the board to which he or she is appointed unless it is necessary to complete an agenda item that has been continued to another meeting.

K. Boards and Commissions. Elections to fill positions on boards or commissions shall be conducted in the same manner. However, a majority of the council members present rather than a majority of the full council is sufficient to decide an election of this nature. Each board or commission vacancy shall be voted on separately.

L. Advertising of Vacancies After Partial Terms. Prior to advertising board and commission vacancies, when a person has already served on the board or commission and is seeking reappointment, council should make the decision of whether or not to advertise that particular vacancy.

LIST OF APPOINTMENTS

Downtown Management Commission	Appoint 1 Property/Representative Member to fill a vacancy through March 31, 2018.
University Hill Commercial Area Management Commission	Appoint 1 Property/Representative Member to fill a vacancy through March 31, 2018.

***Property Owner/Representative: A person who owns, or an entity which owns, taxable real or personal property within the district or an agent authorized in writing by such a person or entity to sign Consents for petitions.

ATTACHMENTS

Attachment A - Roster
Attachment B - Vacancy List for DMC and UHCAM
Attachment C - Applicant List
Attachment D- Applications
Attachment E - Interview Schedule

Boulder City Council

2016 Boards and Commissions Appointment Guide

Downtown Management Commission

Council Action Requested:

Appoint one new Property Represenative Member to a five year term through March 31, 2018.

Current Members:		Occupation:	Status:
2021	Jerry Shapins	Artist/designer/community volunteer/retired	Occupied
2020	Eli Feldman	Conscience Bay Management LLC - Manager/Attorney	Occupied
2019	Susan Deans	Retired Journalist, freelance writer and communicatins consultant	Occupied
2018	Brad Peterson	First American Mortgage, PLLC Broker/Owner Mortgage Lending	Resigned 4/7/2016
2017	Scott Crabtree	renewable energy/real estate entrepreneur	Occupied

Boulder City Council

2016 Boards and Commissions Appointment Guide

University Hill Commercial Area Management Commission

Council Action Requested:

Appoint one new Property Owner Member to a three year term through March 31, 2018.

Current Members:		Occupation:	Status:
2021	Karen Gall	Treasurer, Al's Barber Shop	Occupied
2020	Lisa Nelson	Metropolitian State University of Denver - Administrator	Occupied
2019	Dakota Soifer	Restaurant Owner	Occupied
2018	Amanda Rubino	Co-Owner, Social Media Manager Frisk Accessories	Resigned 1/19/2016
2017	Cheryl Liguori	Entertainment Venue Management	Occupied

Applicant List

Downtown Management Commission Applicants

Adam Knoff

Boulder, CO 80304
Occupation: Unico Properties - sustainability project man

Peter Vitale
Boulder, CO 80304
Occupation: Attorney

Applicant List

University Hill Commercial Area Management Commission Applicants

Michael Brown

Boulder, CO 80302
Occupation: Filmmaker - Serac Adventure Films

Robin Luff

Boulder, CO 80302
Occupation: Director, Peace Initiatives Institute

DOWNTOWN MANAGEMENT COMMISSION

Annual Application - 2016

Date
05/02/16

The Downtown Management Commission consists of five members appointed by the City Council, each to five-year terms. Three appointees must either own real property or represent owners of real property in the Downtown Boulder area. Two appointees are residents from the community-at-large. The Commission has the combined responsibilities of the previous Central Area General Improvement District Board and the Downtown Mall Commission. See section 8-4-10 of B.R.C.

Staff Liaison: Molly Winter (303)441-7317

Meetings are held the first Monday of the month at 5:30 PM in the City Council Chambers.

The City of Boulder believes that a diverse work force adds quality and perspective to the services we provide to the public. Therefore, it is the ongoing policy and practice of the City of Boulder to strive for equal opportunity in employment for all employees and applicants. No person shall be discriminated against in any term, condition or privilege of employment because of race, national origin, religion, disability, pregnancy, age, military status, marital status, genetic characteristics or information, gender, gender identity, gender variance or sexual orientation.

The Boulder City Charter requires representation of both genders on City Boards and Commissions.

If you are applying as a representative, you must alsoprovide an authorization letter from the business owner allowing you torepresent the business.

Please send letters to the City Clerk's Office at P.O. Box791, Boulder, Colorado 80306

Be sure to check the map provided for proper district boundaries.

First Name *
Adam

Last Name *
Knoff

Home Address (Not available to the public unless you are appointed.) *

Street Address

Address Line 2

City
Boulder

State / Province / Region
CO

Postal / Zip Code
80304

Country
USA

Business Address (If you are representing a business.) *

Street Address
1426 Pearl St.

Address Line 2
Suite 110

City
Boulder

State / Province / Region
CO

Postal / Zip Code
80302

Country
USA

Best phone number where you can be reached

Home Phone (?)	Mobile Phone (?)	Work Phone (?)
	970-389-1221	720-484-5162

E-mail Address *
adamk@unicoprop.com

Occupation
Senior Sustainability Manager

Place of Employment/Retired
Unico Properties

Do you reside within the city limits? *
☑ Yes ☐ No

When did you become a resident of Boulder? *
9/1/2012

ANSWER ALL OF THE FOLLOWING QUESTIONS

1. What technical/professional qualifications, skill sets and relevant experiences do you have for this position (such as educational degrees, specialized training, service on governing or decision-making boards, etc.)? *

I hold a Master's degree in Urban Planning and Environmental Policy from Tufts University, in addition to a Bachelor's in Environmental Studies with a focus on the human-environment interface from Connecticut College. Additionally, prior to my work as Senior Sustainability Manager for Unico Properties, a commercial real estate investor and full-service operator, I served as an municipal planning consultant, specifically working with cities and towns with historic downtown districts. Additionally, I am Chairman of the Board for Denver 2030 District, a role in which I both govern and lead a start-up organization focused on Denver's downtown district. Finally, I have recently served on the task forces charged with creating recommendations for energy efficiency policies (rating and reporting) in both Boulder and Denver.

2. Have you had any experiences with this Board or the services it oversees that have sparked your interest in becoming a member of the Board, and, if so, please describe the experience(s) and what insight you gained. *

While I have not had any direct experience with this Board, as a downtown property owner I have had experience with complementary organizations and boards, such as Downtown Boulder, Inc, as well as the area this board is focused on. My interest primarily comes from my experience at Unico and as a Boulder resident. Maintaining a vibrant downtown that balances a set of diverse needs - safety, traffic, parking, tourist-interest, economic development and viability, etc. - is a fascinating challenge and one that is integral to Boulder's future.

3. Describe a situation where you were involved with a group and had to work through a disagreement or conflict among the members. What techniques or specific actions did you find to be most effective in mitigating or resolving the disagreement/conflict? *

My roles at both Unico and previously as a municipal planning consultant lie at the intersection of various stakeholder groups. In my experience, conflicts typically arise from a lack of information and resulting inability to see and understand an alternative perspective. When conflicts arise (though ideally before), I strive to make sure all stakeholders have access to the same information and understand any technical aspects of that information. Understanding, for example, the impact that limited parking (or the inverse) can have on retailers is not obvious to all parties. Before a conversation or argument begins, it is important for all members to be educated on the various perspectives and opinions on this topic. From there, maintaining a respectful dialogue is key.

Recently, my work on the task forces charged with recommending energy efficiency policies (rating and reporting) in both Boulder and Denver has given me tremendous experience in complex group decision-making. Both task forces required a lot of technical education as well as a willingness to develop and discuss compromises. I will bring this experience to the DMC.

4. List all potential conflicts of interest you might have with respect to the work of this board, and explain how you think any potential or perceived conflicts of interest should be handled by Board members. *

There should not be any potential conflicts. I will represent Unico Properties' downtown properties, and am also a resident of Boulder, living just a mile from downtown.

5. What are the changes to the management of parking downtown that would enhance the vitality, walkability and functioning of the core of our City? *

A smart parking system similar to what cities like San Francisco use could reduce both emissions and the time wasted looking for parking. These apps show drivers where available parking spaces are. By allowing drivers to head directly to an available parking space you decrease vehicle emissions, increased traffic volumes, and frustration that could ultimately lead a driver to abandon their efforts to visit downtown.

Creating incentives (restaurant discounts, shopping coupons, bus vouchers, etc.) for visitors to park further away from downtown could reduce parking-related traffic downtown, and increase walkability.

6. How do you perceive the current balance between automobile and alternate modes access to the downtown? What recommendations or improvements would you make? *

Although downtown is easily accessible by all forms of transportation within a few block radius, once you're more than a few blocks away, cars become the primary mode of transportation to downtown. Although there are numerous bus lines, deciphering and understanding the bus is often overwhelming (and sometimes intimidating) for many. Likewise, biking and walking are not always options, especially during the winter. Creating a downtown shuttle that connects to 29th St., The Hill, and NoBo, among other locations, could encourage people to leave their cars parked and still come downtown. If shuttles like this (akin to the 16th St. Mall shuttle) ran every 10-15 minutes, it would take the mystery out of public transportation for many and reduce traffic downtown.

A concept like this, combined with a smarter parking system and/or expanding the free Eco-Pass program, could reduce the prevalence of cars downtown, making it more walkable and visitor-friendly.

7. In your opinion, what are the most important factors to maintaining the aesthetic and economic vitality of downtown and what specific recommendations would you make? *

Fostering a balance of retail uses is key to maintaining the aesthetic and economic vitality of downtown. While zoning can accomplish some of this, the City can more actively advocate for this. Enticing distinct retailers/restaurants with incentives (such as expedited liquor licensing, etc.), creating more year-round events to bring shoppers downtown, and understanding the need for a balance in parking management are all important.

8. What is your perspective on how Pearl Street Mall is being managed? Specifically address events, maintenance/improvements, partnerships with Downtown Boulder Inc. and the Business Improvement District and city/county relationships. *

Downtown Boulder, Inc. is a great and invaluable partnership that does a great job with Pearl Street Mall management. Visitors consistently comment on how well-kempt the Mall is. Public-private partnerships such as these should be replicated and fostered to maintain Boulder's vitality. There is work to be done making the areas around the civic district more lively and frequently visited. It would be worthwhile to encourage input from the business community as well as DBI and the BID in the civic area improvements planning process to bring lessons learned from the Mall and downtown.

Questions Regarding Applications:
Boulder City Council
Attention: City Council Support
cityclerkstaff@bouldercolorado.gov
303-441-3019

DOWNTOWN MANAGEMENT COMMISSION

Annual Application - 2016

Date
04/29/16

The Downtown Management Commission consists of five members appointed by the City Council, each to five-year terms. Three appointees must either own real property or represent owners of real property in the Downtown Boulder area. Two appointees are residents from the community-at-large. The Commission has the combined responsibilities of the previous Central Area General Improvement District Board and the Downtown Mall Commission. See section 8-4-10 of B.R.C.

Staff Liaison: Molly Winter (303)441-7317

Meetings are held the first Monday of the month at 5:30 PM in the City Council Chambers.

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Be sure to check the map provided for proper district boundaries.

First Name *
Peter

Last Name *
Vitale

Home Address (Not available to the public unless you are appointed.) *

Street Address

Address Line 2

City
Boulder

State / Province / Region
CO

Postal / Zip Code
80304

Country
United States

Business Address (If you are representing a business.) *

Street Address
1035 Pearl

Address Line 2

City
Boulder

State / Province / Region
CO

Postal / Zip Code
80302

Country
USA

Best phone number where you can be reached

Home Phone (?) **Mobile Phone** (?) **Work Phone** (?)

E-mail Address *
peter@stok.com

Occupation
attorney

Place of Employment/Retired
stok

Do you reside within the city limits? *
☑ Yes ☐ No

When did you become a resident of Boulder? *
6/17/1998

ANSWER ALL OF THE FOLLOWING QUESTIONS

1. What technical/professional qualifications, skill sets and relevant experiences do you have for this position (such as educational degrees, specialized training, service on governing or decision-making boards, etc.)? *

Undergraduate degree from Notre Dame in Psychology (Neurophysiology/biology focus); 1997
Law degree from University of Colorado Boulder; 2001
Board Member, Habitat for Humanity Flatirons Chapter; 2015-current
Advisor to several for-profit companies focused on sustainable cities and regenerative food/water/energy strategies/solutions; current
Founded and operated a coffee shop in Chicago IL; 2009
Represented owner of 445,000 sf downtown high rise in Chicago IL, managed relationships with City of Chicago downtown district and citywide SSA organization (similar to DMC); 2006-2010
Managed public private partnership between Mayor Emanuel, the City of Chicago, Chicago Public School system, and Kimbal Musk's "The Kitchen Community" social enterprise; 2011-2014
UGBC LEED Accredited Professional; former
CCIM designee (Certified Commercial Investment Member); former
Member of IL and NM Bar Associations; (inactive status)
NM Real Estate Broker; former
Active member of the Boulder community
I have lived in Los Angeles, San Francisco, Portland, Chicago, Santa Fe, South Bend, St Louis,

2. Have you had any experiences with this Board or the services it oversees that have sparked your interest in becoming a member of the Board, and, if so, please describe the experience(s) and what insight you gained. *

As a resident of Boulder I have had experiences with the services this Board oversees and I believe that an intelligent and practical approach to community/urban growth must of course contain smart parking policies and regular, healthy analysis of downtown vitality indicators.

3. Describe a situation where you were involved with a group and had to work through a disagreement or conflict among the members. What techniques or specific actions did you find to be most effective in mitigating or resolving the disagreement/conflict? *

As a former practicing attorney I have dealt with matters including probate, trust/estate, general business, real estate, and art law. Conflict/tension is the norm in these scenarios. Of course, it's nice when it's not your personal conflict/disagreement but those of clients. However, I like to think of an approach that assists me in my own life, when I am, sadly the cause or at least in the immediate circle of some sort of disagreement. It's summed up generally in a short piece by the late David Foster Wallace, "This Is Not Water" (link below). Simply: it's all about empathy and respect for every person's point of view. Somewhere in that calculus is the equitable solution.
If you are a David Foster Wallace fan, you may enjoy this:
http://www.metastatic.org/text/This%20is%20Water.pdf

4. List all potential conflicts of interest you might have with respect to the work of this board, and explain how you think any potential or perceived conflicts of interest should be handled by Board members. *

I am not presently aware of any potential conflicts of interest.

5. What are the changes to the management of parking downtown that would enhance the vitality, walkability and functioning of the core of our City? *

Perhaps the most dangerous situation is when people are frantically looking for parking and not paying attention to the bikers or pedestrians. Certain intersections, such as Spruce and 11th, could use some attention.
How can we route pedestrian traffic in a way that flows more seamlessly into and away from downtown?

We should further develop relationships with "parking tech" companies such as Parkifi: http://www.parkifi.com/
This would reduce the number of frustrated hours and gallons of gas wasted in the hunt for parking, and thereby make the pedestrian's and biker's life safer and more efficient.

*I don't have set opinions on these matters yet, beyond those held by any concerned and civically minded resident. This is why I want to join DMC. I am interested in joining DMC because I want to dig much deeper into these issues, learn the nuances of the issues and opportunities, and use my citizenship in a way that best supports the City and its residents. I know that there isn't one single magic solution that promotes and maintains our downtown's aesthetic and economic vitality, or strikes the perfect balance between automobile and alternate modes access to the our downtown core. I know that of course there must be changes to management of parking downtown in a way that enhances the vitality, walkability and functioning of the core of our City. That's to be expected. I'd like to develop a skill set, as a member of the DMC Board, that would help me distinguish between workable ideas and impractical ideas.

6. How do you perceive the current balance between automobile and alternate modes access to the downtown? What recommendations or improvements would you make? *

We are a one car family, and I bike downtown from North Boulder 3-5 times a week when the weather is decent, or I take the bus. I don't see many issues while doing so. From 1998-2001 during law school and again 2012-present I have been biking and walking around Boulder and while less cars on the road would be great, it's not a serious impediment to me and certainly nothing that would prevent me from walking or biking.
Perhaps there should be a rebate or incentive available to me as a family of four, with one car?

We should also be aware of technological advancements in the form of sensors, GPS, etc that enhance the experience. For example, when I lived in Chicago, I used the BusTracker app very often - I could track the bus and know when it was arriving. This would drive some adoption of bus usage in Boulder, and alleviate parking issues in the core of our city.

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7. In your opinion, what are the most important factors to maintaining the aesthetic and economic vitality of downtown and what specific recommendations would you make? *

I was recently on the Boulder/Portland trip with the City and Chamber, and liked the comments that I heard about keeping vacant retail storefronts active and lively. Though we don't have much retail vacancy, we have enough that it really stands out sorely, in downtown. I believe that there can be a simple arrangement that satisfies landlord needs, and city/community needs. Boulder is known as a place where people can start businesses and grow ideas, we could showcase natural food or outdoor gear or any other aspect of our Boulder world in the very front three feet of these spaces, in the form of window displays and exhibits. Anything would be better than empty storefronts.
All of this to say, activity and creativity and sometimes the "unexpected" make a healthy downtown.

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8. What is your perspective on how Pearl Street Mall is being managed? Specifically address events, maintenance/improvements, partnerships with Downtown Boulder Inc. and the Business Improvement District and city/county relationships. *

I attend as many of the downtown events as possible, with my family and our boys aged 2 and 4. I am usually very impressed with the spirit and community feeling at these events. It's actually one of my favorite things about Boulder. We recently attended the The Lights of December Parade and sat next to Ginger and Sean's stage at Pearl and Broadway, and I deepened my affection for Boulder and the experience strengthened my resolve to be an advocate for the city and its citizens. The Munchkin Masquerade is another one of the experiences for me.
While there is always room for improvement, these experiences tell me that Pearl Street Mall is being managed well.

*I don't have set opinions on these matters yet, beyond those held by any concerned and civically minded resident. This is why I want to join DMC. I am interested in joining DMC because I want to dig much deeper into these issues, learn the nuances of the issues and opportunities, and use my citizenship in a way that best supports the City and its residents. I know that there isn't one single magic solution that promotes and maintains our downtown's aesthetic and economic vitality, or strikes the perfect balance between automobile and alternate modes access to the our downtown core. I know that of course there must be changes to management of parking downtown in a way that enhances the vitality, walkability and functioning of the core of our City. That's to be expected. I'd like to develop a skill set, as a member of the DMC Board, that would help me distinguish between workable ideas and impractical ideas.

Questions Regarding Applications:
Boulder City Council
Attention: City Council Support
cityclerkstaff@bouldercolorado.gov
303-441-3019

UNIVERSITY HILL COMMERCIAL AREA MGMT COMMISSION

Annual Application - 2016

Date
04/08/16

The University Hill Commercial Area Management Commission consists of five members appointed by City Council, each to five-year terms. Three appointees must own real or personal property in the district or be a designated representative of a person who owns real or personal property in the district; the other two appointments are for citizens-at-large. UHGID makes recommendations to City Council and City departments regarding parking issues and land acquisition for parking needs in the district.

Staff Liaison: Molly Winter (303)441-7317

UHCAMC meets on the third Wednesday of the month, 4-6 pm, in the 1777 West Conference Room, Municipal Building, 1777 Broadway.

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First Name *
Michael

Last Name *
Brown

Home Address (Not available to the public unless you are appointed.) *

Street Address

Address Line 2

City
Boulder

State / Province / Region
Colorado

Postal / Zip Code
80302

Country
United States

Best phone number where you can be reached

Home Phone (?)

Mobile Phone (?)
303-929-0609

Work Phone (?)
303-440-8101

E-mail Address *
michael@seracfilms.com

Occupation
Filmmaker

Place of Employment/Retired
Serac Adventure Films

Do you reside within the city limits? *

☑ Yes ☐ No

When did you become a resident of Boulder? *

1/1/2000

ANSWER ALL OF THE FOLLOWING QUESTIONS

1. What technical/professional qualifications, skill sets and relevant experiences do you have for this position (such as educational degrees, specialized training, service on governing or decision-making boards, etc.)? *

I have owned and operated my company Serac Adventure Films since 1992. I have a bachelors degree from CU and am the recipient of the Norlin Award from CU. I served on the BID board downtown in good standing till we closed our office on Pearl Street and moved to the Hill. The rules of that board required that I resign from the position. This conceded with starting a family and wanting to be closer to home - on University Hill.

2. Have you had any experiences with this Board or the services it oversees that have sparked your interest in becoming a member of the Board, and, if so, please describe the experience(s) and what insight you gained. *

I am a University Hill homeowner and my wife Julia and I are keenly interested in vitalizing the Hill business district and more importantly, maintaining a quality place to live and raise our children. This is our home. I already consider myself a steward of this place and plan to continue to work for the well being of the Hill community.

3. Describe a situation where you were involved with a group and had to work through a disagreement or conflict among the members. What techniques or specific actions did you find to be most effective in mitigating or resolving the disagreement/conflict? *

I have participated in the meetings between the University and Hill residents both on campus and at UniHill meetings. I find that most disagreements come from the parties simply not getting a chance to see the other's point of view. Everyone wants this to be a great place.

4. List all potential conflicts of interest you might have with respect to the work of this board, and explain how you think any potential or perceived conflicts of interest should be handled by Board members. *

I know a lot of people in Boulder so there could be perceived favoritism though that will be true of any board member. I have a film production company but it is currently not active in the areas that could conflict.

5. What are the greatest challenges facing the University Hill commercial area? What changes, if any, would you recommend as a member of the advisory board? *

The University Hill is a place with remarkable potential. The potential comes from the great diversity of the residents and customers of Hill businesses. The Hill is home to a range of people from students to young families to retirees and everyone in between. This diversity and frankly, the life stage, of people who go to the Hill are also what present the challenges. The desires of an 19 year-old university student are going to be quite different than a 40 year-old parent of young children.

The larger University Hill area, all that is in walking distance, also needs to be considered in the planning. Without significant improvements to parking or public transportation, the Hill's attractiveness to destination shoppers is going to remain limited. Even with this limitation there are plenty of people to support a thriving community center that is inclusive to students and long term residents.

I think that the landlords and owners of the commercial buildings and residential units on the Hill need to be encouraged to participate and contribute to the success of the area. They need to be shown how participation, rather than absentee rent collection, can benefit their property values in the long term.

I would also encourage and participate in an effort to bring at least some of the commercial properties into local ownership by people committed to community building. The Hill needs a diverse range of businesses that allow people to rethink what the area offers. With the right mix our neighborhood would have restaurants, food shops, retail, entertainment, recreation and residential space all working together.

6. How can the different Hill stakeholders – the city, CU (faculty, staff and students), the Hill neighbors and the Hill property owners and businesses partner to enhance the Hill commercial district's vitality? *

The city can apply some of the same thinking that it apples to Pearl Street and Downtown to The Hill with the obvious recognition that the Hill is in a dense residential area with some important differences to Downtown.

CU can take a larger role and accept that the Hill represents a vital connection to the larger community. I would invite them to take a stewardship role on the west side of Broadway. The University has so much at stake here and their participation is vital.

The students of CU can be invited to participate, every single year since they essentially cycle every year or two or at most three, in the community. There should be a big effort to include the concept of neighborliness in students who plan to rent on the Hill without alienating them. Landlords, the greek system and long term Hill residents can all do a part in helping student renters take ownership and pride in the place they live. Looking for ways to build community and respectful relationships can be a big part of it.

The Hill neighbors can participate and eventually come to see that a thriving commercial area is preferable to the alternative. When an area is held back or seen as a nuisance, it does not revert to quiet residential, it simply suffers.

The challenge to business owners will be one of the biggest and yet I see it already happening. I see really great businesses making it work in a challenging environment. I make an effort to support the businesses on the Hill first and I like the result.

7. In your opinion, what are the Hill's biggest assets and how can they be enhanced? *

The University Hill is a wonderful historic part of Boulder. It has proximity to the University and the amazing open spaces of Chautauqua, the Flatirons and Flagstaff. The Hill is a very desirable place to live for people of all ages. It is the obvious place for university students to walk to class, the schools are great for families with kids and the mature trees and beautiful homes satisfy just about everyone else.

The way to enhance these assets is to encourage a thriving community centered commercial district. The University Hill should be the place where a diverse range of ages and life experiences can come together and actually interact in a positive way. Diversity is a good thing in a community.

8. A goal of the Hill Reinvestment Strategy is to encourage a greater diversity of uses in the commercial area. What ideas and strategies do you have to achieve this goal? *

The best customers/users of the Hill business district are already here and within walking distance. We need to make it feel welcoming and safe. The diversity of business as well as some really simple infrastructure improvements can go along way to encouraging people to try it out and rediscovering the area. What works for people already here will eventually work for the larger community and all of Boulder will start to see the University Hill as a great place.

Questions Regarding Applications:
Boulder City Council
Attention: City Council Support
cityclerkstaff@bouldercolorado.gov
303-441-3019

UNIVERSITY HILL COMMERCIAL AREA MGMT COMMISSION

Annual Application - 2016

Date
04/27/16

The University Hill Commercial Area Management Commission consists of five members appointed by City Council, each to five-year terms. Three appointees must own real or personal property in the district or be a designated representative of a person who owns real or personal property in the district; the other two appointments are for citizens-at-large. UHGID makes recommendations to City Council and City departments regarding parking issues and land acquisition for parking needs in the district.

Staff Liaison: Molly Winter (303)441-7317

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First Name *
Robin

Last Name *
Luff

Home Address (Not available to the public unless you are appointed.) *

Street Address

Address Line 2

City
Boulder

State / Province / Region
Co

Postal / Zip Code
80302

Country
USA

Best phone number where you can be reached

Home Phone (?)
303-250-2549

Mobile Phone (?)
303-250-2549

Work Phone (?)
303-250-2549

E-mail Address *
luffrobin@me.com

Occupation
Director, Peace Initiatives Institute

Place of Employment/Retired
Boulder

Do you reside within the city limits? *

☑ Yes ☐ No

When did you become a resident of Boulder? *

1/1/1989

ANSWER ALL OF THE FOLLOWING QUESTIONS

1. What technical/professional qualifications, skill sets and relevant experiences do you have for this position (such as educational degrees, specialized training, service on governing or decision-making boards, etc.)? *

Marketing Degree from CU, Board member for following organizations: Impact on Education, Community Foundation, BVSD School Food Project, Summit Middle School, The Growe Foundation, el Centro Amistad. Awarded Community leader for YWCA and Family Learning Center

2. Have you had any experiences with this Board or the services it oversees that have sparked your interest in becoming a member of the Board, and, if so, please describe the experience(s) and what insight you gained. *

I have a long-view with organizations that would impact tax and bond issues, so I have developed skills that lend to long term thinking for University Hill projects. I understand detailed budgets and management of financials. I spearhead marketing plans to allow for community support and enthusiasm.

3. Describe a situation where you were involved with a group and had to work through a disagreement or conflict among the members. What techniques or specific actions did you find to be most effective in mitigating or resolving the disagreement/conflict? *

With the BVSD School Food Project, community members were very critical of real-time changes instead of considering the long-term objectives. We had to be sensitive their concerns and develop campaigns that promoted immediate financial support while meeting our 5-year buy-in to become sustainable. At Summit Middle School, the board had hiring, financial, book acquisition and curriculum planning. It was not always supported to have such oversight and we had to hold our ground based on By Laws. At Impact on Education, we made Board decisions on Bond issues and campaigned for project we felt worthy of support.

4. List all potential conflicts of interest you might have with respect to the work of this board, and explain how you think any potential or perceived conflicts of interest should be handled by Board members. *

I have witnessed the complexity of issues facing the Hill. I know land owners, neighborhood residents and restauranteurs. They are often in conflict as to the future. I have been persuaded by neighborhood campaigns to control noise and liquor consumption, desires of retail establishments make a more lively environment and land owners desire to improve the aesthetics.After living on The Hill for 20 years, I understand its complicated and would rather look at the long term objectives and stay out of the daily conflicts.

5. What are the greatest challenges facing the University Hill commercial area? What changes, if any, would you recommend as a member of the advisory board? *

The challenges would be: it does not feel safe; it does not serve CU; it does not attract Boulder's restaurant and retail citizens; it is not visually attractive; parking is challenging.

I would not to attempt have knowledgeable suggestions. In my opinion, we need strong voices to promote the assets that currently available to students, CU staffers, neighborhood families and look to long-term reasons to invest in The Hill. I would also look to improve safety and ownership of property and culture from community. There should always be a commitment to cleanliness and professionalism.

6. How can the different Hill stakeholders – the city, CU (faculty, staff and students), the Hill neighbors and the Hill property owners and businesses partner to enhance the Hill commercial district's vitality? *

I may be redundant, but students must feel invested in the culture and viability; neighbors must be asked to frequent establishments and look at long-term relationship; CU staff needs to develop a comfort with entertaining meetings internally and with out-of-town guests; and businesses should be willing to facilitate these relationships. UHCAMC must be a well known positive entity that represents the positive goals for long-term growth.

7. In your opinion, what are the Hill's biggest assets and how can they be enhanced? *

As a neighbor, it provides a sense of community. As a student, an extension of campus life. As a restaurant, a place to convene for neighbors and students and faculty. As a land owner, an investment. All actors have to create partnerships to grow the current status. It is an under utilized asset and all partners must be willing to contribute to develop a strong community investment. I am moe than willing to discuss ideas to create a vibrant Hill enviroment.

8. A goal of the Hill Reinvestment Strategy is to encourage a greater diversity of uses in the commercial area. What ideas and strategies do you have to achieve this goal? *

More retail/clothing outlets would need a profit customer profile. IFC demographics could encourage outlets to make lease commitments. A cleaner, safer walkway would create more appeal for shoppers. Visable IFC clean-up and patrol would create a strong commitment and visual partnership with patrons.Hill events would create a sense of community. An alliance with CWA, Shakespeare Festival, CU Music would encourage more traffic. Improvements and standards to exterior would provide more appeal. Of course, a hotel would increase usage and allow for more parking. It would also offer greater walking consumers.

Questions Regarding Applications:
Boulder City Council
Attention: City Council Support
cityclerkstaff@bouldercolorado.gov
303-441-3019

CITY OF BOULDER
Boards and Commission Interviews prior to the Regular City Council Meeting

1777 West Conference Room
Municipal Building, 1777 Broadway, Boulder

Tuesday, June 14, 2016
5:15 p.m.

University Hill Commercial Area Management Commission 5:15-5:30 p.m.

1. Michael Brown
2. Robin Luff-

Thursday, June 16, 2016
5:15 p.m.

Downtown Management Commission 5:15-5:30 p.m.

1. Adam Knoff
2. Peter Vitale

B & C/annual recruitment/2016 B & C/June Recruitment/

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: June 21, 2016

AGENDA TITLE
Motion to support proposed response to concerns on University Hill regarding (beer pong) tables in front yards.

PRESENTER/S
Jane S. Brautigam, City Manager
Mary Ann Weideman, Assistant City Manager
Curtis Johnson, Deputy Chief, Boulder Police Department
Jennifer Riley, Supervisor, Code Enforcement
Jennifer Korbelik, Community Liaison (City/CU)
Amanda Nagl, Neighborhood Liaison

EXECUTIVE SUMMARY
Issues related to beer pong games in University Hill front yards have recently been raised through individual conversations between long term residents of University Hill and staff as well as in conversations between residents and council members. These issues were also raised at the recent University of Colorado Dialogue Dinner, which was hosted by INVST Community Leadership Program and University of Colorado Off Campus Housing and Neighborhood Relations, designed to bring long-term residents and student renters together for conversation and relationship-building. Complaints from residents have focused on trash accumulation and unpleasant aesthetics related to the tables that are used for the game, particularly those that remain visible to neighbors after the game has ended. To date, public outreach to gain clarity about the underlying issues, scope of the problem, and inclusion of student opinion and needs has not been completed. The purpose of this memo is to receive Council direction to initiate a response to the expressed concerns. Staff recommends further exploration of the issue, involvement of key stakeholders and coordination of efforts involving awareness, education and enforcement.

Recommendations include a survey to University Hill residents, designed to gain clarity about the underlying issues related to the game of beer pong; joint outreach by City of

Boulder and the University of Colorado to discuss issues and brainstorm ideas with students living on University Hill and the creation of awareness and education materials to be created and distributed by the City of Boulder and the University of Colorado. These efforts will occur in collaboration with the City of Boulder Police Department.

BACKGROUND

The City of Boulder is committed to a high quality of life in Boulder neighborhoods. The issue of beer pong games and the tables upon which they are played have become the focus of concern in the University Hill neighborhood. This recommendation for further exploration of the problem, involvement of key stakeholders and coordination of efforts involving awareness, education and enforcement is being recommended as next steps to resolve this issue.

STAFF RECOMMENDATION

Staff recommends a collaborative approach and involvement of key stakeholders in this issue and an effort to better understand the problem that will be followed by a targeted awareness and education campaign aimed at impacting the underlying issues related to beer pong games in front yards on University Hill.

The following stakeholders have been identified and will be included in a variety of ways, specific to the population they represent and the tools available for communication with each targeted population. City staff will work with identified community partners to address the underlying issues related to this neighborhood problem. Some partners have been identified, based on the identification of key stakeholders and others may be identified as messaging for awareness and education campaigns become more specific.

Residents on University Hill

A survey will be created for distribution to University Hill residents. The survey will be designed in a manner that describes the game of beer pong and some of the dynamics surrounding how it is currently played in the neighborhood. Residents will be asked to prioritize underlying issues related to the tables and the game so that staff are able to target messaging directly to the prioritized issues. For example, if the primary issue is identified as the tables themselves, then placement of the tables, quality of tables and/or appropriateness for outdoor use, can be specifically addressed. The Neighborhood Liaison will request a meeting with the University Hill Neighborhood Association Executive Board to vet survey questions, as the survey is being created, and to review data, once administered. The association will be asked for advice on how to administer the survey; mailing, email lists, and Nextdoor.com will be offered as options.

Students

The Student Government at the University of Colorado has indicated an interest and willingness to work with City of Boulder City Council and staff members in an ongoing and proactive fashion, as well as to address this issue specifically. The recommendation from the Tri Executives of the Student Government centers on educational awareness for the students who live in the neighborhood. All will work together to share the survey data and priority concerns of residents with students through the use of current resources:

email campaigns, fliers, door hangers and conversations focused on move-in schedules and throughout the month of September and further into the fall semester as dictated by observed behavior change and additional requests from the community.

Landlords/Property Management Companies
Staff from the City of Boulder and University of Colorado will continue to build on relationships with landlords on University Hill to educate them about the underlying issues related to beer pong games and tables in front yards so that tenants are able to hear the concerns from this perspective and be given the opportunity to respond to potential landlord requests.

Police/Code Enforcement
Code Enforcement Officers will respond to complaints as well as proactively patrol the neighborhood for trash and nuisance violations. Officers have previously observed tables surrounded with trash such as beer cans and red cups, as well as tables in front yards with no trash present. In situations where no trash is observed, the table does not constitute a nuisance violation. In those situations where trash has accumulated on the property, a summons for violation of 6-3-3 Accumulation of Trash B.R.C 1981 is issued to residents for "party trash" left throughout the property. Most incidents of trash around a table also have the same type of trash in the yard, on the porch, and throughout the property; seldom is trash only found around a table in the yard.

The Neighborhood Impact Team and patrol officers will also continue to address complaints about active games and social gatherings that have escalated beyond the average impacts of this type of gathering. Officers will educate the residents on the impacts that they are causing and will give an opportunity for those involved to stop the behavior. Police will also issue summonses when appropriate for activities that have become a nuisance.

Measuring Impact
Late into the fall semester, when awareness and education have provided an opportunity to create a change in behavior, directly tied to the expressed underlying neighborhood issues, a follow-up survey will be distributed through the same channels as the initial survey in an effort to identify any change in impact experienced by residents in the University Hill neighborhood. A mechanism for student feedback will also be created and implemented. A summary report on all data collected will be provided back to all stakeholders and to City Council.

Suggested Motion Language:
Motion to support proposed response to concerns on University Hill regarding (beer pong) tables in front yards.

OTHER IMPACTS

- There should be no fiscal impact to this approach as we will utilize staff resources and education tools already in place to bring awareness to the identified problem and recommended resolutions.
- This problem is an opportunity to grow the relationship between the newly created City of Boulder Neighborhood Services, the Community Liaison, Police, Code Enforcement, Landlords, Property Management Companies, the University of Colorado and residents of the University Hill neighborhood; empowering all stakeholders to collectively identify and respond to issues that are impacting quality of life. Increasing capacity to collectively solve one problem leads to increased social capital and overall neighborhood capacity on University Hill.
- This experience may positively impact other Boulder neighborhoods with large student populations as they work to solve problems between long-term and short-term residents by providing an example of collective stakeholder engagement.

BOARD AND COMMISSION FEEDBACK

None to date.

PUBLIC FEEDBACK

Public outreach has not yet been conducted on this issue. Stakeholders and partners identified to-date have been made aware of this issue and have assisted in the creation of these recommendations. The University Hill Neighborhood Association has not yet been consulted regarding the proposed survey as that is considered a next step in this recommended process.

QUESTIONS FOR COUNCIL

- Does Council have any questions about this coordinated effort to address the identified community issue?
- Does Council have any suggested enhancements to the proposed plan and next steps?

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

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

2016 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel (Castillo – staff alternate)
Boulder County Consortium of Cities	Young, Burton (alternate)
Colorado Municipal League (CML) – Policy Committee	Jones, Appelbaum (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Brockett, Appelbaum (alternate)
Housing Authority (Boulder Housing Partners)	Shoemaker
Metro Mayors Caucus	Jones
National League of Cities (NLC)	Appelbaum
Resource Conservation Advisory Board (RCAB)	Morzel
Rocky Flats Stewardship Council	Morzel, Weaver (alternate) (Castillo – 2nd staff alternate)
University of Colorado (CU)/City Oversight Committee	Weaver, Yates, Burton
US 36 Mayors/Commissioners Coalition (MCC)	Jones
US 36 Commuting Solutions	Burton, Morzel (alternate)
Urban Drainage and Flood Control District	Young

LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Shoemaker
Boulder Convention and Visitors Bureau	Burton, Yates (alternate)
Colorado Chautauqua Board of Directors	Morzel
Dairy Center for the Arts	Brockett
Downtown Business Improvement District Board	Weaver, Yates

INTERNAL CITY COMMITTEES

Audit Committee	Shoemaker, Yates, Weaver
Boards and Commissions Committee	Appelbaum, Burton
Boulder Urban Renewal Authority (BURA)	Yates
Boulder Valley Comprehensive Plan (BVCP) Process Sub-Committee	Brockett, Weaver
Charter Committee	Morzel, Weaver, Young
Civic Use Pad/9th and Canyon	Morzel, Young
Council Retreat Committee	Morzel, Yates
Council Employee Evaluation Committee	Morzel, Shoemaker
Housing Strategy Process Sub-Committee	Morzel, Young, Burton
Legislative Committee	Jones, Weaver, Appelbaum
School Issues Committee	Morzel, Shoemaker, Young

SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Brockett
Kisumu, Kenya	Morzel
Llasa, Tibet	Shoemaker
Dushanbe, Tajikistan	Yates
Yamagata, Japan	Burton
Mante, Mexico	Young
Yateras, Cuba	Weaver
Sister City Sub-Committee	Morzel, Burton, Young

Approved 1/19/16

2016 Study Session Calendar

Date	Status	Topic	Time	Location	Contacts
A					
06/14/16		B & C Interviews for UHCAM-	5:15-5:30	1777 West	Heidi Leatherwood
		Mid Year Check in for Council Workplan	5:30-6:30	Chambers	Tammye Burnette/Dianne Marshall
		Living Wage	6:30-7:30	Chambers	Tammye Burnette/Dianne Marshall
		Development Related Impacts Fees and Excise Taxes	7:30-9:30	Chambers	Chris Meschuk/Melton
Thurs, 06/16/16		B & C Interviews for DMC	5 :15-5:30	1777 West	Heidi Leatherwood
	Council Recess June 22-July 11				
07/12/16		**SCIENCE TUESDAY - John Walker, Rocky Mountain Institute**	5:30 - 6:00	Chambers	Mayor Jones
		Update Regarding Community Survey	6:00 - 6:15	Chambers	Patrick von Keyserling
		Broadband Feasibility Study Results	6:15 - 7:45	Chambers	Don Ingle
		Residential and Commercial Energy Codes: Long Term Strate	7:45 - 9:15	Chambers	Kendra Tupper/M Melton
07/26/16		**Briefing: Boulder Energy Future**	5:30-6:00	Chambers	Heather Bailey/Heidi Joyce
		HOLD: Do not schedule without CM approval	6:00:9:00	Chambers	Wendy Schwartz/Corina Marin
		elections items?			
08/09/16		Draft 2017 to 2021 Capital Improvement Program	6:00-7:30	Chambers	Peggy Bunzli/Devin Billingsly
		Check in for 100 Resilient Cities	7:30-9:00	Chambers	Casey Earp/Dianne Marshall
08/23/16		**Briefing - Community Dashboard**	5:30-6:00	Chambers	
		Update from Marijuna Advisory Panel	6:00 - 9:00	Chambers	Sandra Llanes
8/30/2016		30th and Pearl Redevelopment Options	6:00-7:30	Chambers	Eric Ameigh/Melton
		Homelessness Strategy Draft and Homeless Action Plan Update	7:30-9:00	Chambers	Karen Rahn/Corina Marin
09/13/16		2017 COB Recommended Budget	6:00-8	Chambers	Peggy Bunzli/Devin Billingsly
		Middle Income Housing Strategy Subcommittee Report	8-9:00	Chambers	David Driskell
9/27/2016		**Briefing**	5:30-6:00	Chambers	
		2017 Recommended Budget 2nd Study Session if needed	6:00-7:30	Chambers	
		Renewed Vison for Transit Update- detailed info on activities	7:30-9:00	Chambers	Randall Rutsch, Rene Lopez
Thurs,10/13/2016		Boulder Valley Comp Plan Update?	1.5 hr	Chambers	L Ellis/Melton
		Community Perception Assessment Report?	1.5 hr	Chambers	Tammye Burnette/D Marshall
		Human Services Strategy Draft	7:30-9:00	Chambers	Karen Rahn, Corina Marin
10/25/15		**Briefing**: Boulder Energy Future	5:30-6:00	Chambers	Heather Bailey/Heidi Joyce
		Updating council on AMPS and CAGID update	6:00-6:30	chambers	Jay Sugnet/Ruth Weiss
		Boulder Community Hospital; Broadway Projet	6:30-8	Chambers	Joanna Crean/Celia Seaton
Thurs 11/10/2015		Framework for Lease Negotiations (BMoCA and the Dairy Arts Center))	6:00-7:30	Chambers	Joe Castro
			7:30-9:00	Chambers	
11/22/15	Thanksgiving Holiday Week - No Meeting				
11/29/15		**Briefing**	5:30-6		
			6- 7:30		
			7:30-9		
12/13/16		TMP Implementation Check-in with emphasis on Complete Streets, TDM, and Funding	6-7:30	Chambers	Melanie Sloan/M Schleske
			7:30-9	Chambers	
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, July 19, 2016

7/7/2016		Preliminary Materials Due
7/13/2016		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	7:05 PM	60 min	:60	Judge Cooke Marijuana Presentation			
7:05 PM	7:50 PM	45 min	:45	**OPEN COMMENT AND COUNCIL/STAFF RESPONSE**			
7:50 PM	8:05 PM	15 min	:15	**CONSENT AGENDA**			
				Consideration of a motion to accept the May 31, 2016 Study Session Summary on the 2014 Transportation Master Plan (TMP) Implementation			Randall Rutsch/Meredith Schleske
				Consideration of a motion to accept the May 31, 2016 Canyon Complete Street Study Session Summary			Noreen Walsh/Meredith Schleske
				Third Reading Form Based Code for Boulder Junction Phase I (if necessary)			Karl Guiler/Melton
				First Reading Modifications to the Mobile Food Vehicle Ordinance (human-powered)	N	Y	Lane Landrith/Molly Winter
8:05 PM	8:10 PM	5 min	0:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
8:10 PM	9:10 PM	60 min	1:00	Second Reading Ordinance 8116 Water Utility	Y	Y	Tom Carr
9:10 PM	9:40 PM	30 min	:30	Second Reading Ordinance on False Alarms	Y	N	Carey Weinheimer/Laurie Ogden
9:40 PM	11:40 PM	120 Min	2:00	First Reading Public Hearing Ballot Measures	Y	Y	Kathy Haddock
11:40 PM	12:10 AM	30 min	:30	Second Reading Amendment to BRC 12-2-4 Landlord Disclosures	Y	Y	Janet Michels
				MATTERS FROM CITY MANAGER			
				MATTERS FROM CITY ATTORNEY			
				MATTERS FROM MAYOR AND MEMBERS OF COUNCIL			
12:10 AM	12:20 AM	10 min	:10	Discuss Public Access Regarding Annual Retreat			Retreat Committee
12:20 AM	12:30 AM	10 min	:10	Update on Council Evaluation Process	N	N	Aimee Kane
				CALL-UPS			
				Call-up for easement vacation at 1590 Violet Ave			C Hill/Melton
		Total	**6:30**	**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: 06/13/16

Chris Meschuk/Melton

Kendra Tupper/M Melton

Wendy Schwartz/Corina Marin

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, August 2, 2016

7/21/2016		Preliminary Materials Due
7/27/2016		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	:45	**OPEN COMMENT AND COUNCIL/STAFF RESPONSE**			
6:50 PM	7:05 PM	15 min	:15	Special Presentation by Professor Frederick regarding the 2015 CAFR	Y	N	Elena Lazarevska
7:05 PM	7:20 PM	15 min	0:15	**CONSENT AGENDA**			
				Motion to adopt a Resolution accepting the City of Boulder 2015 Comprehensive Annual Financial Report and Independent Auditor's Reports (CAFR)	N	N	Elena Lazarevska
				Motion to adopt a Resolution Appointing Audit Firm to Examine City's Financial Accounts	N	N	Elena Lazarevska
7:20 PM	7:25 PM	5 min	:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
7:25 PM	8:55 PM	90 min	1:30	Second Reading Ballot Measures	Y	Y	Kathy Haddock
8:55 PM	10:55 PM	120 min	2:00	2nd Reading 96 Arapahoe Annexation	Y	N	Elaine McLaughlin/ Mellton
10:55 PM	11:55 PM	60 min	1:00	Motion for Final Direction on the Development Related Impact Fees and Excise Taxes	Y	N	Chris Meschuk/Melton
11:55 PM	12:55 AM	60 min	1:00	Motion for Final Direction on Options for Expanding Living Wage	Y	N	Carmen Atilano,Corina Marin
				MATTERS FROM CITY MANAGER			
				MATTERS FROM CITY ATTORNEY			
				MATTERS FROM MAYOR AND MEMBERS OF COUNCIL			
				CALL-UPS			
	Total		**6:55**	**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: 06/13/16

Chris Meschuk/Melton

Kendra Tupper/M Melton

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, August 16, 2016

8/4/2016		Preliminary Materials Due
8/10/2016		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	6:15 PM	10 min	0:10	Declaration Honoring Boulder's Companies to Watch		**N**	Molly Winter/Ruth Weiss
6:15 PM	7:00 PM	45 min	0:45	**OPEN COMMENT AND COUNCIL/STAFF RESPONSE**			
7:00 PM	7:15 PM	15 min	0:15	**CONSENT AGENDA**			
				Third Reading (if needed) Ballot Measures		Y	Kathy Haddock
				First Reading Ordinance regarding disposal of Open Space lands when management is transferred form OSMP to another city department		Y	Janet Michels
				First Reading and Emergency Adoption of Quarterly Supplement to BRC	N	Y	Mary Wallace
7:15 PM	7:20 PM	5 min	0:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
				MATTERS FROM CITY MANAGER			
7:20 PM	7:40 PM	20 min	0:20	Boulder Convention and Visitors Bureau Annual Report to Council	Y	N	Molly Winter
				MATTERS FROM CITY ATTORNEY			
				MATTERS FROM MAYOR AND MEMBERS OF COUNCIL			
				CALL-UPS			
Total			**1:40**	**If adding your item would bring the total estimated time to *over 4 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: 06/13/16

◯ 2nd Reading Co-Op Ordinance - ?

Kendra Tupper/M Melton

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, September 6, 2016

8/25/2016		Preliminary Materials Due
8/31/2016		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	6:10 PM	5 min	0:05	Boulder Pollinator Appreciation Month Declaration			Rella Abernathy
6:10 PM	6:55 PM	45 min	0:45	**OPEN COMMENT AND COUNCIL/STAFF RESPONSE**			
6:55 PM	7:10 PM	15 min	0:15	**CONSENT AGENDA**			
7:10 PM	7:15 PM	5 min	0:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
7:15 PM	7:25 PM	10 min	0:10	Second Reading Ordinance regarding disposal of Open Space lands when management is transferred form OSMP to another city department	Y	N	Janet Michels/Mary Bisset
7:25 PM	7:35 PM	10 min	0:10	Second modification to mobile food vehicle ordinance to include pedal-powered vehicles	Y	Y	Lane Landrith/Ruth Weiss
				MATTERS FROM CITY MANAGER			
				MATTERS FROM CITY ATTORNEY			
				MATTERS FROM MAYOR AND MEMBERS OF COUNCIL			
7:35 PM	8:20 PM	45 min	0:45	Council Evaluation Committee - Council Employee Evaluations	N	N	Aimee Kane
				CALL-UPS			
				Community and Environmental Assessment Process (CEAP) for the Boulder Creek Arapahoe Underpass (Arapahoe Avenue & 13th Street) Project			Melanie Sloan/Meredith Schleske
		Total	**2:20**	**If adding your item would bring the total estimated time to over 4 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: 06/13/16

Chris Meschuk/Melton

Kendra Tupper/M Melton

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, September 20, 2016

9/8/2016		Preliminary Materials Due
9/14/2016		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**			
				Study Session Summary for Community Perception Assessment Report			T Burnette/D Marshall
				Study Session Summary for 30th and Pearl Redevelopment Options			Eric Ameigh
7:05 PM	7:10 PM	5 min	0:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
				MATTERS FROM CITY MANAGER			
				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 4 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: 06/13/16

Kendra Tupper/M Melton

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, October 4, 2016

9/22/2016		Preliminary Materials Due
9/28/2016		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			
7:10 PM	9:10 PM	120 min	2:00	First Reading 2017 COB Budget Ordinances: Budget, Mill Levy, Appropriations, Fees	Y	N	Peggy Bunzli/Devin Billingsley
				MATTERS FROM CITY MANAGER			
				MATTERS FROM CITY ATTORNEY			
				MATTERS FROM MAYOR AND MEMBERS OF COUNCIL			
				CALL-UPS			
Total			**3:10**	**If adding your item would bring the total estimated time to over 4 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: 06/13/16

Chris Meschuk/Melton

Kendra Tupper/M Melton

Wendy Schwartz/Corina Marin

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, October 18, 2016

10/6/2016		Preliminary Materials Due
10/12/2016		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			
7:10 PM	8:40 PM	90 min	1:30	2nd Reading of 2017 COB Budget Ordinances: Budget, Mill Levy, Appropriations, Fees	Y	N	Peggy Bunzli/Devin Billingsley
				UHGID2 2017 Budget Hearing and Resolution: Budget, Mill Levy, appropriations			Same
				CAGID 2017 Budget Hearing and Resolutions; Budget, Mill Levy, Appropriations			Same
				Forest Glen GID Budget Hearing and Resolutions; Budget, Mill Levy, Appropriations			Same
				BJAD- Parking GID Budget Hearing and Resolutions; Budget, Mill Levy, Appropriations			Same
				BJAD TDM GID Budget Hearing and Resolutions; Budget, Mill Levy, Appropriations			Same
				BMPA Budget Resolution			Same
				MATTERS FROM CITY MANAGER			
				MATTERS FROM CITY ATTORNEY			
				MATTERS FROM MAYOR AND MEMBERS OF COUNCIL			
				CALL-UPS			
Total			**2:40**	**If adding your item would bring the total estimated time to over 4 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: 06/13/16 Chris Meschuk/Melton

Kendra Tupper/M Melton

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, November 1, 2016

10/20/2016		Preliminary Materials Due
10/26/2016		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 Motion to Approve a Management Agreement with St. Julien Partners LLC for Civil Use Space	N	N	Eric Ameigh/Melton
7:05 PM	7:10 PM	5 min	0:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
				MATTERS FROM CITY MANAGER			
				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 4 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: 06/13/16 Chris Meschuk/Melton

Kendra Tupper/M Melton

Wendy Schwartz/Corina Marin

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, November 15, 2016

11/3/2016		Preliminary Materials Due
11/9/2016		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**			
				1st Rdg for Final Adjustment to Base			
7:05 PM	7:10 PM	5 min	0:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
7:10 PM	7:55 PM	45 min	0:45	First Reading Motion to Approve a Management Agreement with St. Julien Partners LLC for Civil Use Space	Y	N	Eric Ameigh/Lauren Reader
				Study Session Summary for Boulder Community Hospital, Broadway Project: Guiding Principles and Framework		N	Joanna Crean/Maureen Rait
				MATTERS FROM CITY MANAGER			
7:10 PM	7:20 PM	10 min	0:10	Motion to Accept 2017 Human Services Fund Recommendations	N	N	Patrick Mulcrone/Corina Marin
				MATTERS FROM CITY ATTORNEY			
				MATTERS FROM MAYOR AND MEMBERS OF COUNCIL			
				CALL-UPS			
		Total	**2:05**	**If adding your item would bring the total estimated time to over 4 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: 06/13/16 Chris Meschuk/Melton

Kendra Tupper/M Melton

City Council Meeting

DRAFT Meeting Agenda - 6 p.m.

Tuesday, December 6, 2016

11/22/2016	Tues	Preliminary Materials Due - Early Because of Holiday
11/30/2016		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**			
				Final Adjustment to 2016 CAGID Budget			Peggy Bunzli/Devin Billingsley
				2nd Reading of Final Adjustment to Base- COB			Peggy Bunzli/Devin Billingsley
				Final Adjustment to 2016 UGID Budget			Peggy Bunzli/Devin Billingsley
7:05 PM	7:10 PM	5 min	0:05	**CALL-UP CHECK IN**			
				PUBLIC HEARINGS			
				MATTERS FROM CITY MANAGER			
		30 min		2016 Community Survey Results	Y	N	Jean Gatza/Patrick von Keyserling
				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 4 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: 06/13/16 Chris Meschuk/Melton

Kendra Tupper/M Melton

TO: Mayor and Members of City Council

FROM: Jordan Matthews, City Clerk's Office

DATE: June 21, 2016

SUBJECT: Information Packet

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1. CALL UPS

A. Vacation of a 35 square foot portion of a utility easement along with north property line of the property located at 215 30th Street. (ADR216-00109).
B. Concept Plan Review, 3200 Bluff Street (LUR2016-00028)
C. 2949 Broadway Site Review (LUR2014-00097)
D. Nonconforming Use Review (LUR2015-00118) request to amend the approved operating characteristics for the Alpine Modern Café at 904 College Ave. within the RL-1 zone district to allow for beer and wine sales during regular business hours, and to extend the closing time from 7:00 p.m. (existing) to 9:00 p.m. (proposed) Mondays through Thursdays. No other changes to the existing operating characteristics are proposed. The call up period expires on Jul. 5, 2016.
E. Community and Environmental Assessment Process (CEAP) Report Recommendations for the Fourmile Canyon Creek Greenways Improvement Project from Upland Avenue to West of Broadway
F. Vacation of an existing 1,224 square foot emergency access easement located in the northeast corner of the property and the vacation of emergency access easement rights in an existing 9,591 square foot Water, Sanitary Sewer, and Emergency Access Easement located in the northeast portion of the property at 3107 Iris Ave. (ADR2016-00108).

2. INFORMATION ITEMS

None

3. BOARDS & COMMISSIONS

A. Board of Zoning Adjustment – May 19, 2016
B. Environmental Advisory Board – April 6, 2016
C. Environmental Advisory board – May 4, 2016

D. Landmarks Commission – April 6, 2016
E. Landmarks Commission – May 4, 2016
F. Open Space Mountain Parks – June 8, 2016
G. Planning Board – May 12, 2016
H. Planning Board – May 26, 2016
I. Transportation Advisory Board – May 9, 2016

4. DECLARATIONS

A. General Aviation Appreciation Month – June, 2016

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing & Sustainability
Susan Richstone, Deputy Director of Planning, Housing & Sustainability
Charles Ferro, Development Review Manager
Caeli Hill, Associate Planner

Date: June 21, 2016

Subject: Call-Up Item: Vacation of a 35 square foot portion of a utility easement along the north property line of the property located at 215 30th Street. (ADR2016-00109).

EXECUTIVE SUMMARY:

The applicant requests vacation of a 35 square foot portion of a utility easement located at 215 30th St. (refer to **Attachment D** for exact location). The easement was dedicated on the final plat for the First Addition to Highland Park recorded at Plat Book No. 5, Page 78 on Aug. 6, 1953. This easement has never contained any utilities, however, at some point (a search of City records indicates sometime before the 1980s) a carport was built in the easement without a permit. Once the 35 square foot portion of this easement is vacated, the owner will pursue the opportunity to obtain after-the-fact permits to legally establish the carport and any previous work that has been done within the existing easement without a permit. There are no indications that the 35 square foot portion of this easement will be needed in the future creating no further public need for the easement. The proposed vacation was approved by staff on May 23, 2016. There are two scheduled City Council meetings within the 30-day call-up period on June 7, 2016 and June 21, 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 the 35 square foot portion of the utility easement. The date of staff approval of the easement vacation was May 23, 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 June 22, 2016 unless the approval is called up by City Council.

FISCAL IMPACTS:
None identified.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:
Economic: None identified.

Environmental: None identified.

Social: None identified.

BACKGROUND:

The subject property is approximately 6,344 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. The easement was originally established on the plat for the First Addition to Highland Park recorded at Plat book No. 5, page 78 on Aug. 6, 1953. The owner of this property is requesting the vacation of the 35 square foot portion of this easement in order to legally establish and repair a carport that is currently located within the existing easement. This carport was built a number of years ago without a permit and has always been located within the easement. The fact that this carport is located in an easement was identified at the end of 2015 when the owner attempted to apply for a building permit to correct and complete repair work that had been performed without a permit on the carport's roof and structural elements. The owner has indicated that he will pursue obtaining after-the-fact building permits for any work that has been performed without a permit.

There have never been any utilities located in this easement and there are no plans to locate utilities in this easement in the future. All utilities that serve this property are located within the 30th St. right-of-way. Additionally, approval of the easement vacation has been received from electric/gas, telephone and cable company representatives. There is no further public need for the 35 foot portion of this easement.

Given that there is no public need for the 35 square foot portion of 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 35 square foot portion of this easement to be vacated.

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 Low Density Residential per the Boulder Valley Comprehensive Plan and is being developed to be consistent with that designation.
There is an encroachment currently located in the easement. A carport was constructed in the easement many years ago without a permit. If this easement vacation is approved, the encroachment may remain if the applicant applies and receives after-the-fact building permits to legally establish the entirety of the carport and any other work done within it. If the applicant does not obtain after-the-fact building permits or this easement vacation is denied the carport structure must be removed.

N/A b. Would provide a greater public benefit than retaining the property in its present status.

PUBLIC COMMENT AND PROCESS:
Notice of the vacation will be advertised in the Daily Camera within the 30-day call up period. Staff has received no written or verbal comments adverse to the vacation.

NEXT STEPS:
If the requested vacation is not called up by City Council then the Deed of Vacation (**Attachment C**) will be recorded. If the requested vacation is called up, and subsequently denied, the applicant will be limited to development on the property outside of the easement area.

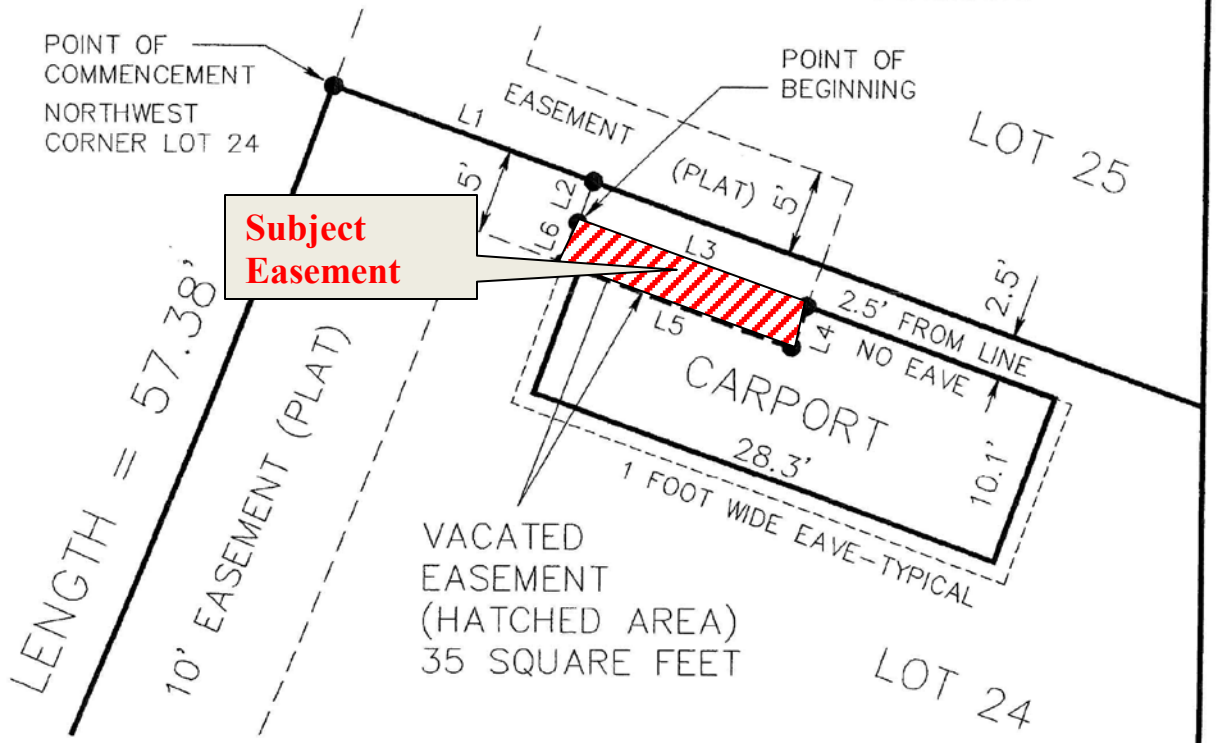
ATTACHMENTS:
Attachment A: Vicinity Map
Attachment B: Site Plan
Attachment C: Deed of Vacation
Attachment D: Exhibit A
Attachment E: Notice of Disposition

Existing Carport
30th St
215 30TH ST
29th St
Birch Av

EXHIBIT A

PAGE 02 OF 02

A PORTION OF LOT 24 . BLOCK 8 . FIRST ADDITION TO HIGHLAND PARK
IN THE NW 1/4 OF SECTION 5 . T 1 S . R 70 W OF THE 6TH P.M.
IN THE CITY OF BOULDER . BOULDER COUNTY . COLORADO

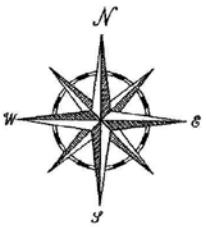


– Line Table –

L1	SOUTH 70–10–37 EAST / 16.0 FEET
L2	SOUTH 19–49–23 WEST / 2.5 FEET
L3	SOUTH 70–10–37 EAST / 14.0 FEET
L4	SOUTH 19–49–23 WEST / 2.5 FEET
L5	NORTH 70–10–37 WEST / 14.0 FEET
L6	NORTH 19–49–23 EAST / 2.5 FEET

DEGREES–MINUTES–SECONDS/DECIMAL FEET

PREPARED BY LEE STADELE / PLS 26300



SCALE : 1" = 10'

U.S. SURVEY FEET

17298a–1.dwg . 21 April 2016

For Administrative Purposes Only
Address: 215 30th Street
Case No.: ADR2016-00109

DEED OF VACATION

The City of Boulder, Colorado, does hereby vacate and release to the present owner of the subservient land, in a manner prescribed by Subsection 8-6-10(b), B.R.C. 1981, a portion of a utility easement previously dedicated to the City of Boulder on the final plat for the First Addition to Highland Park and recorded in the records of the Boulder County Clerk and Recorder at Plat Book No. 5, Page 78 – Tube 1, Page 27 on the 6th day of August, 1953 located at 215 30th Street 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 215 30th Street 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:

Hella Pannewig
City Attorney's Office

6-7-2016
Date

Exhibit A

Page 01 of 02

A portion of the easement located on Lot 24, Block 8,
FIRST ADDITION TO HIGHLAND PARK,
a subdivision in the City of Boulder,
located in the northwest quarter of Section 5,
Township 1 South, Range 70 West of the 6th Principal Meridian,
County of Boulder, State of Colorado, described as follows:

Commencing at the northwest corner of Lot 24;

thence South 70 degrees 10'37" East,
along the north line of Lot 24, a distance of 16 feet;

thence South 19 degrees 49'23" West, a distance of 2.5 feet
to the northwest corner of the eave covering the frame carport
that is located on Lot 24, said point being the **Point of Beginning**;

thence South 70 degrees 10'37" East, along the northerly edge
of the eave and the frame carport, a distance of 14.0 feet to the
easterly edge of the 10 foot by 30 foot platted easement;

thence South 19 degrees 49'23" West, a distance of 2.5 feet to
the southeast corner edge of the platted easement;

thence North 70 degrees 10'37" West, along the south edge of
the easement, a distance of 14.0 feet to the west edge of
the eave covering the frame carport;

thence North 19 degrees 49' 23" East, along the west edge of the
eave covering the frame carport, a distance of 2.5 feet to the
Point of Beginning.

The vacated portion of the easement contains 35 square feet.

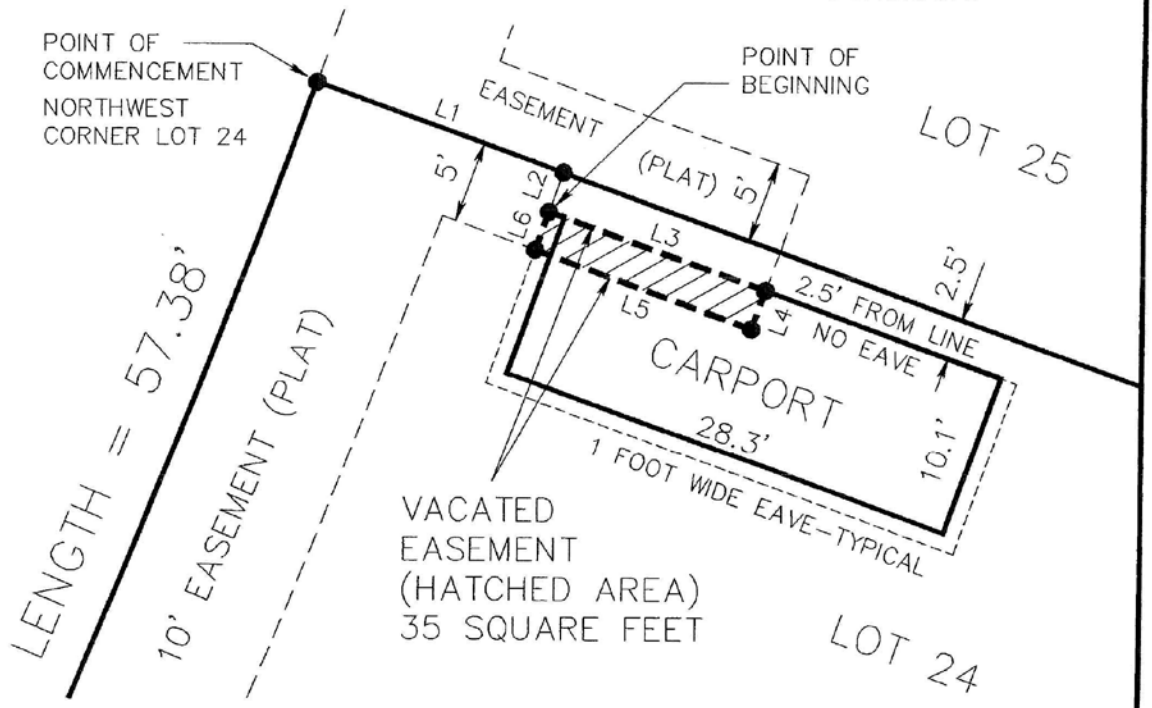
prepared by Lee Stadele
Registered Professional Land Surveyor
Colorado License Number 26300

COLORADO LICENSED
LEE W. STADELE
26300
4/21/16
PROFESSIONAL LAND SURVEYOR

EXHIBIT A

PAGE 02 OF 02

A PORTION OF LOT 24 . BLOCK 8 . FIRST ADDITION TO HIGHLAND PARK
IN THE NW 1/4 OF SECTION 5 . T 1 S . R 70 W OF THE 6TH P.M.
IN THE CITY OF BOULDER . BOULDER COUNTY . COLORADO



– Line Table –

L1	SOUTH 70–10–37 EAST / 16.0 FEET
L2	SOUTH 19–49–23 WEST / 2.5 FEET
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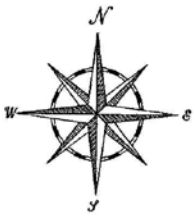
L4	SOUTH 19–49–23 WEST / 2.5 FEET
L5	NORTH 70–10–37 WEST / 14.0 FEET
L6	NORTH 19–49–23 EAST / 2.5 FEET

DEGREES–MINUTES–SECONDS/DECIMAL FEET

PREPARED BY LEE STADELE / PLS 26300



SCALE : 1" = 10'

0 5 10

U.S. SURVEY FEET

17298a–1.dwg . 21 April 2016

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:	May 23, 2016
REQUEST TYPE:	Vacation/Easement
ADDRESS:	215 30th Street
APPLICANT:	Paul Bousquet
CASE #:	ADR2016-00109
LEGAL DESCRIPTION:	Lot 24 Block 8 Highland Park 1, City of Boulder, County of Boulder, Colorado
DESCRIPTION:	ADMINISTRATIVE REVIEW application for vacation of a five-foot wide public utility easement along the north property line.

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 five-foot wide public utility easement along the north property line, previously dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder at Plat Book No. 5, page 78 on the First Addition to Highland Park on August 6, 1953.

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 Community Planning + Sustainability
Susan Richstone, Deputy Director of Community Planning + Sustainability
Charles Ferro, Development Review Manager
Karl Guiler, Senior Planner

Date: June 21, 2016

Subject: Call-Up Item: Concept Plan Review, 3200 Bluff Street (LUR2016-00028)

EXECUTIVE SUMMARY

On May 26, 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 June 27, 2016, because the end of date of the thirty-days falls on a Saturday, the thirty day call up period concludes on the following Monday. City Council call-up consideration within this time period is on June 21, 2016. The staff memorandum to Planning Board, minutes, meeting audio, and the applicant's submittal materials along with related background materials are available on the city website for Planning Board here (or follow the links: *www.bouldercolorado.gov ➔ A to Z ➔Planning Board➔search for past meeting materials planning board➔2016➔5.26.2016 PB Packet).* The minutes from the Planning Board hearing are provided in Attachment A.

The Concept Plan presented to Planning Board was for two buildings totaling 98,000 square feet in size comprised of 43,000 square feet of residential space with 36 rental units, 55,000 square feet of commercial space, and a 102 space underground parking garage. Preliminary consideration of a rezoning from Industrial Mixed Service (IMS) to Mixed-Use - 4 (MU-4) was also discussed.

At the Planning Board Hearing, there were no neighborhood comments, although written comments were received prior to the hearing and one after (see Attachment B). The Planning Board was generally supportive of the uses and design of the project and found it consistent with the Transit Village Area Plan (TVAP). Some board members had concerns about the massing of the buildings along the streetscapes. Other site design comments related to opportunities for pedestrian connections through the site and the proposed number of garage entries and their locations.

Consistent with land use code Section 9-2-13(a)(2), B.R.C. 1981 City Council shall vote to call up the application to review and comment on the concept plan within a 30-day call up period which expires on June 27, 2016.

ATTACHMENT

A. Approved May 26, 2016 Planning Board Minutes
B. Public comments

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
May 26, 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:
John Gerstle, Chair
John Putnam
Leonard May
Liz Payton
Crystal Gray
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:
Bryan Bowen

STAFF PRESENT:
Charles Ferro, Development Review Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Sloane Walbert, Planner II
David Thompson, Civil Engineer – Transportation
Karl Guiler, Senior Planner
Kalani Pahoa, Urban Designer
Louise Ferguson, Administrative Specialist II
Scott Kuhna, Civil Engineer – Utilities and Drainage
Jeff Yegian, Program & Policy Manager
Jay Sugnet, Senior Planner
Kurt Firnhaber, Deputy Director of Housing
Michelle Allen, Inclusionary Housing Program Manager

1. **CALL TO ORDER**
Chair, **J. Gerstle**, declared a quorum at 5:05 p.m. and the following business was conducted.

2. **APPROVAL OF MINUTES**
On a motion by **C. Gray** and seconded by **J. Putnam** the Planning Board voted 6-0 (**B. Bowen** absent) to approve the May 5, 2016 minutes as amended.

3. **PUBLIC PARTICIPATION**
1. **Christine Klein** spoke in regards to the proposed design of the project located at 1440 Pine St., which Planning Board will hear at an upcoming meeting.

2. **Mark Ely** spoke in opposition to the size and density of the project located at 1440 Pine St., which Planning Board will hear at an upcoming meeting.
3. **Juliet Gopinath (pooling time with Dinah McKay, Chris Brown and Miho Shida)** presented new information to the Planning Board regarding the Twin Lakes land use change request and spoke in support of Request #36 to convert to open space, and against Request #35 to convert to MXR.
4. **Susan Dawson** spoke in opposition to the size and density of the project located at 1440 Pine St., which Planning Board will hear at an upcoming meeting.

4. **DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS**

There were no items on the agenda.

5. **PUBLIC HEARING ITEMS**

A. AGENDA TITLE: Consideration of a motion to adopt an additional revision to the 2016 Downtown Urban Design Guidelines.

Staff Presentation:
K. Pahoa presented the item to the board.

Public Hearing:
No one spoke.

Motion:
On a motion by **L. Payton** seconded by **J. Putnam** the Planning Board voted 6-0 (**B. Bowen** absent) to adopt the additional revision to the Guidelines, as adopted by Council on May 3, 2016, removing "Solar panels should be as unobtrusive as possible" from Item 2.1.B.2.

B. AGENDA TITLE: Public hearing and consideration of a Site Review (case no. LUR2016-00027) to redevelop a 3.2-acre vacant property at 4525 Palo Parkway. The proposal includes the construction of 44 residential units and a community center in nine buildings surrounding a central park. The development will be 100% permanently affordable housing managed by Boulder Housing Partners, in partnership with Flatirons Habitat for Humanity. The project site is zoned Residential - Mixed 2 (RMX-2).

Applicant: Lauren Schevets, Boulder Housing Partners
Owner: Boulder Housing Partners

Board members were asked to reveal any ex-parte contacts they may have had on this item.
All board members made site visits and reviewed all incoming emails from the public. **L. May** declared that he worked for Habitat for Humanity approximately twenty years ago in Africa. **C. Gray** stated that she was a founding board member of an affordable housing homeowner occupied properties group in Boulder approximately twenty years ago.

Staff Presentation:
C. Ferro introduced the item.
S. Walbert presented the item to the board.

Board Questions:
S. Walbert, C. Ferro, H. Pannewig, S. Kuhna and **D. Thompson** answered questions from the board.

Applicant Presentation:
Lauren Schevets, with Boulder Housing Partners, presented the item to the board.

Board Questions:
Lauren Schevets, **Don Ash** with Scott, Cox & Associates, **Tim Ross** with Studio Architecture, and **Betsy Martens** with Boulder Housing Partners, representing the owners, answered questions from the board.

Public Hearing:

1. **Ed Byrne**, presented on behalf of Better Boulder, spoke in support to the project.
2. **Jenny Bux** spoke in support of the project.
3. **Susan Lythgoe**, presented on behalf of Habitat for Humanity, spoke in support of the project.
4. **Olive Stacy**, a current Bolder Housing Partners development resident, spoke in support of the project.
5. **Stephanie Warren**, a future Habitat of Humanity resident, spoke in support of the project.
6. **Harma Drenth**, currently living in Four Mile Creek, spoke in opposition to the three story buildings and height modification.
7. **David Willard**, currently living in the Palo Park neighborhood, supports the work of the Boulder Housing Partners but has concerns regarding the interactions between Boulder Housing Partners, the City and the County. He opposed the project as proposed.
8. **Val Soraen**, currently a resident of Red Oak Park and Commissioner of the Boulder Housing Partners Board, spoke in support of the project. She was in support of a two-way circulation and the proposed community center.
9. **Judy Langberg (pooling time with Judy Wakeland, Diane Rieck),** spoke in opposition of the project.
10. **Harold Hallstein (polling time with Bremer, Kirschenbaum, Gould, Blane and RK Pipani)**, presented a PowerPoint. He asked for a reduction of density on the site and to pull development away from the floodplain and wetlands. He expressed concerns about the authenticity of the public participation process.
11. **Sara Toole (pooling time with Dave Potas, Sean Potas, Susie Levin, Melissa Nipper and Ed Shalho)** spoke in opposition of the project due to the proposed density. She stated the proposal does not meet the BVCP policies and has concerns regarding the traffic.
12. **Karen Klerman**, a board member of the Boulder Housing Partners, spoke in support of the project.

13. **Greg Harms**, executive director of the Boulder Shelter for the Homeless, spoke in support of the project.
14. **Nolan Rosall**, as chair of the Flatirons Habitat for Humanity Board of Directors, spoke in support of the project.
15. **Daphne McCabe** spoke in support of the project.
16. **Ben Blazey**, currently living in affordable housing in Northfield Commons, stated that flood relief funds should not be used to build in the floodplain. He is in support of affordable housing in that location, but he is in opposition of the project.
17. **Michael Fitzgerald**, currently living in a Boulder Housing Partners project, spoke in support of the project.

Board Questions:
S. Walbert, C. Ferro, H. Pannewig, S. Kuhna, D. Thompson, Lauren Schevets, and **Jeff Dawson,** with Studio Architecture, answered questions from the board.

Board Comments:
Key Issue #1: Does the development proposal meet the Site Review criteria found in section 9-2-14(h), B.R.C. 1981, including Boulder Valley Comprehensive Plan (BVCP) policies?

- **1(a): Density (Number of Units)**
  - **C. Gray** stated that the majority of the board members approved the annexation. In her opinion, all annexations should be for affordable housing including homeownership and for maintaining the middle income. She recognized the quality work by BHP and Habitat for Humanity. Density can come down to a group feeling they have not been heard. Compromises need to be made. She suggested that the proposed density for the project is slightly high but the project overall could make a better community.
  - **L. Payton** stated that most of the public speakers seemed to be in support of doing the project but that it was too dense. She agreed that as proposed it is just too much and that is why there were so many impacts related to height, parking and traffic. She is uncertain if it makes more sense to reduce the number of units or the number of bedrooms in the stacked flats in order to reduce the overall size, but the architecture was such that there were a number of bays and voids that could possibly be reconfigured so that the project would have fewer impacts. She suggested that if the financing is based on the number of units, then reduce the number of bedrooms.
  - **J. Putnam** stated that under the Comp Plan, the project was contemplated within the proposed density. This project is not a radical departure in terms on density. In terms of impacts, he is struggling to find evidence that 44 units vs. 35 units would have a significant community impact. He cannot justify moving down from the proposed 44 units. In regards to bedrooms vs. units, he stated that removing some of the three-bedroom units would be worst thing to do because Boulder needs homes for families. If units were removed, then remove some of the one-bedroom units. Reducing bedrooms would not necessarily reduce the number of cars or trips. Therefore, he recommended keeping the mix of units as proposed.
  - **L. May** agreed with **J. Putnam.** The density proposed is what the current zoning suggests and the applicant isn't asking for anything more. He stated that the other elements of the project (i.e. height and parking) could be impacts. In addition, there is no

justification according to our site review criteria to suggest a change in number of bedroom units. The location is near bike trails and not too bad transit (though not good), which would be beneficial for an affordable housing project.

- **H. Zuckerman** stated that, the proposed project is compliant with its RMX-2 zoning in terms of parking and density. The RMX-2 requirement that no one housing type make up more than 50% of total units, while not met to the letter (one type of units makes up 54% of the total), is nonetheless met within the spirit of the code, as there are three distinct housing types present. The density that is being proposed is supportable, and if we want to talk about the need for affordable housing, we need to accept projects that can provide such housing where they do not require unreasonable modifications. The density proposed here is acceptable.
- **L. Payton** informed the board that the site review criteria does not require the board to consider loss of funding. The board needs to evaluate the project according to site review criteria.
- **J. Putnam** responded that the board also needs to look at Comp Plan objectives, which are to promote affordable housing, which is relevant.
- **J. Gerstle** added that the proposed density is in accordance with the Comprehensive Plan.
- **C. Gray** added that the neighborhood said they had not been heard regarding this issue. She suggested that Planning Board have this discussion about this larger issue citywide.

➢ **1(b): Parking**

- **C. Gray** stated that she would support a change to the design of the parking if it enables the height of some buildings to be reduced, even if it resulted in a parking reduction. While the site is not isolated, it is not on a transit line. She does not suggest a large parking reduction
- **L. Payton** suggested parking on the northeast corner could be converted to parallel parking to save more habitat and open space. This would result in a small reduction in parking.
- **J. Putnam** agreed. This is a unique site as that there is no luxury to spill out onto streets as a result of the soccer field proximity and neighborhood impact should be avoided. He encouraged but did not want to require that some of the parking be thought of as flex space in the long run, like a parklet, basketball court or community gardens.
- **L. May** stated that he does not find one parking space per unit to be inappropriate. Forty-four parking spaces would be appropriate for this project. The issuance of ECO-Passes and location to bike paths would help to migrate people to alternative modes. We need to start constraining parking access as a policy if we want to see mode shift.
- **H. Zuckerman**, in looking at the proposed design, it does not create the parking island effects that are currently problems. In addition, he would not want to see neighborhood spillover effects. He suggested keeping the parking as is.
- **L. Payton** commented that the comparison to Red Oak Park is not a good benchmark since Red Oak Park it is in a much more walkable area than the proposed site. This site will have more cars than at Red Oak Park.
- **C. Gray** stated that she would want to make sure neighbors are not fighting for parking. However, companion programs must be instituted for traffic or parking mitigation if infill development is going to be done in a neighborly way.

- **J. Gerstle** agreed with **J. Putnam**. He added that a car-share plan should be considered in the TDM.
- **J. Putnam** complimented the staff and applicant's plans for EV charging stations.

➢ **1(c): Site Design and Height Modifications**

- **C. Gray** stated that there are many creative ways that height could be reduced on the site and suggested that they give the applicant the opportunity to suggest alternative designs, rather than leaving it up to staff to ensure that they meet the Board's intent. If the board would like to get the height as close to 35 feet and have less of a modification, this has implications on how buildings are arranged on site.
- **H. Zuckerman** offered moving Building D to the south to reduce the requested height modification due to typography. Then, further reduce the site modification through architecture (e.g., with a flat roof design). If the applicant were to go with flat roofs, there should be a cornice, an outstanding architectural feature. Flat roofed buildings with cornices can effectively hide rooftop solar panels. The reduction in height caused by moving Building D and eliminating the pitched roofs would be a compromise. He suggested the southern façade of Building D, lining up with the community center, should then be better articulated than currently proposed since it would be highly visible and a gateway to the project. The entrances to the community center and Building D would bookend the pedestrian connection. Finally, he suggested moving the parking directly to the north of Building D and northeast of Building E for convenience and to make the north corner of the site a larger natural feature for flood control and the community garden.
- **L. Payton** expressed concern that that grid pattern would be lost if the proposed building moves were done. The tall buildings should be in the back so that they are not as visible.
- **L. May** stated that the relationship between buildings would be better if they were moved because they enclose and relate to the triangular commons much better and to each other much better. He stated the taller buildings would still be in the rear of the site.
- **J. Putnam** does not have concern regarding the height in general because the taller buildings are at the rear of the site and away from view corridors for most people. He approves of **H. Zuckerman** and **L. May's** solution. He stated that it would be a mistake to not provide a safer connection to the multi-use path to the east. He would like to see facilitating an east-west connection along northwest connector along east side of property, even if they lose two to four parking spaces. In general, he supports the connection proposed by Community Cycles. The connection would generally line up with the gap between Buildings D and E.
- **L. Payton** stated that the buildings would be better located where they are currently proposed. The height should be in the rear of the site. In addition, she supports the idea of the grid as an urban design principle.
- **C. Gray** stated the big issue is the height and impact on surrounding areas.
- **J. Gerstle** expressed concern regarding the height issue. He would hate to lose the proposed play area but if it were to be moved to the north of Building D, that would be acceptable.
- **L. May** explained that with **H. Zuckerman's** proposal, the play area might not be a play area per se, but more of a contiguous, natural open space.

- **1(d): Architecture**
  - **L. Payton** stated the materials (i.e. vinyl windows, hardie board and stone veneer) are not high quality. She is concerned that the materials will communicate that this is a low-income neighborhood. She would like to see clad windows, better materials and/or lap siding with narrow spacing to look more refined. On the architecture, the rear elevation of the Habitat homes (page SR.A4.32 of the applicant's plans, northeast perspective), the porch is truncated and the materials change. She finds this design strange and jarring.
  - **C. Gray** generally agreed. The proportions on the rear elevations are awkward and agree with **L. Payton's** suggestions.
  - **J. Putnam** had no comments but offered caution regarding costs because the project would be utilizing public funds to build affordable housing. This project has hit a good balance.
  - **L. May** generally agreed with **J. Putnam**; however, the Habitat houses are fragmented in their composition.
  - **H. Zuckerman** stated the architecture on the site is reasonable for the purpose.
  - **J. Gerstle** agreed with **L. Payton** regarding materials. This project should fit in the neighborhood. The proposed walls with no windows or doors (i.e. east side of Community Center) should be avoided.
  - **L. Payton** stated that a condition regarding the railings and stone veneers, on the Palo Parkway side (south), of Buildings A, B and C, should be added and shown on the elevations.

- **1(e): TDM**
  - **L. Payton** suggested adding a condition that ECO-Passes are provided for an extended length of time due to the nature of the population being served.
  - **J. Putnam** disagreed with extending the ECO-Passes due to the lack of knowledge of the cost in three years. Given that they are not asking for a parking reduction or a large mode shift in the TDM, there is too much uncertainty and not enough justification to impose an extra cost. The key to this site is the bike paths and to keep working with cycle groups instead.
  - **H. Zuckerman** suggested a condition that BHP facilitates the creation of an ECO-Pass district when still one year left of free ECO-Passes. The board cannot mandate that it is a success, however perhaps agree on a condition that the applicant attempt to create a Neighborhood ECO-Pass district and provide facilitation to the adjacent neighborhoods.
  - **L. May** supported the condition for a five year ECO-Pass.
  - **C. Gray** supported the condition for a five year ECO-Pass.
  - **J. Putnam** stated that until RTD provides better service in this area it will be difficult to justify an ECO-Pass district.
  - **L. May** stated there is potential for residents to get usage out of ECO-Passes.

- **1(f): Hydrology, Sewer and Flood**
  - **J. Putnam** stated that the community has identified this issue. He agrees with staff that there is not a significant flood or ground water issue. He is not convinced there is a sanitary sewer issue. There is no site review criterion that makes this unique.

- **L. May** noted that this site is not at a low point as several recent site review applications have been and has reasonable drop off to the stream and will be well drained. He expressed concern about future sewer back up given recent experiences with that and how creating additional flows to something that has already backed up exacerbates that circumstance.
- **L. Payton** said that this site is not as flood prone as other sites and that the groundwater is not as shallow as found in other sites. She does not foresee disturbance of the alluvial aquifer on the south side of Four Mile Creek being propagated across the creek and affecting the groundwater hydrology on the north side.
- **J. Gerstle** agreed.

Key Issue #2: Do the requested height modifications meet the Site Review criteria, especially subsection 9-2-14(h)(2)(F), *"Building Design, Livability and Relationship to the Existing or Proposed Surrounding Area"*?

- **J. Putnam** added that the project could meet the **criteria as** is, but it would be better with flat roof and/or cornice design and adjusting the building location, as discussed earlier. A smaller modification would still be required but would be more appropriate.
- **C. Gray** reminded the board that in regards to the site criteria for height, there is no community benefit referenced with a requested height modification. In this neighborhood, one cannot make the case for 43 feet based on the built environment. Therefore, she would like to have the roofs modified.
- **L. May** stated that the board would not have to establish exactly what that height is, only the maximum it can be.
- **H. Zuckerman** offered to word the motion so that the height modification for Building D (as amended) would be the applicant-proposed modification minus (1) the difference in height created by a change to a flat roof and (2) the difference in height associated with the movement of the building to the south. For Building E, the height modification as amended would be the applicant-proposed modification minus the difference in height created by a change o a flat roof.
- **L. May** suggested adding, "The current low wall plate submitted with a ¼ inch per foot slope roof".
- **L. Payton** suggested simply capping the height at 40 feet.
- Based on the response by the applicant, **H. Zuckerman** stated that he would be comfortable with a 41-foot limit because he would not want to limit the architecture style and end up with a building that does not fit with the rest of the development.
- **L. Payton** mentioned if the board decided to cap the building height at 41 feet they could have the buildings remain in the proposed locations on the site. She does not agree with how the grid would be broken up and the larger building would be visible from the street. It does not appear that the board is in agreement on this issue.
- **L. May** said the buildings should move. Connections are not being lost.
- **J. Gerstle** agreed that height should be the chief determinant and the site design should be left to the applicant.
- **H. Zuckerman** agreed that if the applicant cannot make the site work with the board's suggestions, then perhaps the board should not move the buildings around. However, if the applicant believes the modified plan is doable, then he prefers the board's modified plan.

- **J. Putnam** stated he is less concerned about the height being the driving factor. The other benefits to changing the site arrangement are much more compelling and interesting. The visibility of Building D from the street would not change substantially. He expressed interest in removing the pitched roofs from Building D and provide and acceptable cornice.
- **C. Gray** clarified that the proposed condition would only lessen the height by 2.5 feet.
- **J. Putnam** stated that he would like to include a performance standard that the sloped roof is eliminated and to move Building D without providing a particular height limit.
- **L. May** said that he agreed with the architect's request for flexibility in the design. The performance standard should be 41 feet not the configuration of the roof.
- **J. Putnam** stated there seemed like a majority interest in providing some sort of height cap that would reduce height but also provide flexibility in design.
- **J. Gerstle** stated there appears to be a majority interest in favor of the revised site layout.
- Based on feedback from the applicant, **L. May** said that the neighborhood communicated conflicting concerns about providing pitched roofs and about height maybe not realizing how they impact each other. He felt that the overwhelming concern was height.
- **L. Payton** stated that she felt the overwhelming concern of the neighborhood was whether the board granted a modification to the standards, not a specific height number. Given that, she stated that she supported the modification as requested and let the applicant design the project.
- **H. Zuckerman** stated that by capping the height at 41 feet, the roof will not be steeply pitched and make an impact on the skyline for the neighbors. With the constraints the board has just put in place on the project, the buildings will fit within the design of the neighborhood. There is a variety of roof forms in the surrounding neighborhood.
- **C. Gray** stated that they would not be able to increase the floor to ceiling height either.
- **H. Zuckerman** agreed that all other aspects of the design would have to be held constant.

Key Issue #3: Does the design of the community center building meet the Site Review criteria, especially subsection 9-2-14(h)(2)(F), *"Building Design, Livability and Relationship to the Existing or Proposed Surrounding Area"*?

- **L. Payton** stated that it is a modest building and the architecture is fine.
- **J. Gerstle** finds the modest structure acceptable.
- **H. Zuckerman** stated it creates an entry feature with the movement of Building D and J.

Motion:

On a motion by **J. Putnam,** seconded by **L. May,** the Planning Board voted 6-0 (**B. Bowen** absent and recused from this item) to approve Site Review case no. LUR2016-00027, incorporating the staff memorandum and the attached analysis of the Site Review criteria as findings of fact and subject to the recommended Conditions of Approval, amended as follows:

Condition 2.a. to be amended by adding:

2.a.i. The heights of Buildings D and E shall be limited to 41 feet.

2.a.ii. Simplify the porch design and materials of Buildings F, G and H to address fragmentation, considering, including but not limited to, the continuity of the porch and changes in materials.

2.a.iii. Refine the siding of all buildings to improve texture by measures, including but not limited to, using shake shingles instead of lap siding or reducing the exposure of the lap siding.

2.a.iv. Railings and stone veneer be included on the Palo Parkway elevation of Buildings A, B and C.

Condition 2.b. to be amended by adding:

2.b.iii. To add a pedestrian connection to the multi-use path to the east of the site and internal pedestrian crossing zone to it.

Condition 4 to be amended by adding:

4.a. To include ECO-Passes to five years instead of three years. The applicant shall undertake good faith efforts to try to establish a Neighborhood ECO-Pass zone. No later than four years after issuance of certificate of occupancy, the applicant will begin work to facilitate an effort to secure RTD approval of the project area as an ECO-Pass neighborhood, opening the process to the neighboring community, if appropriate. Nothing in this condition shall require the applicant to achieve such approval.

A new condition to be added reading:

The applicant shall provide ECO-Passes for the residents of the development for five years from issuance of a certificate of occupancy.

Motion by **J. Putnam**, seconded by **L. May**, to amend the main motion so as to further modify the recommended conditions of approval, in particular, to add a new condition 2.b.iv. that Building D shall be moved south, along with the northern parking lot, while Building J will be moved west into the site identified as the play area on the Site Plan. Passed 5-1 (**L. Payton** opposed, **B. Bowen** absent and recused from this item).

Motion by **L. May**, seconded by **J. Putnam**, to amend the main motion so as to further modify the recommended conditions of approval, in particular, that the TDM plan needs to include a program to encourage bike usage and maintenance, which can include a partnership with a third party non-profit. Passed 6-0 (B. Bowen absent and recused from this item).

C. AGENDA TITLE: Public hearing for consideration of a Concept Plan proposal to redevelop the AirGas site, LUR2016-00028, at 3200 Bluff Street (a roughly 1-acre property) with a mixed-use development in two buildings totaling 98,000 square feet in size comprised of 43,000 square feet of residential in 36 rental units and 55,000 square feet of commercial space with a 102 space underground parking garage in accordance with the adopted Transit Village Area Plan (TVAP). Preliminary consideration of a rezoning from Industrial Mixed Service (IMS) to Mixed-Use - 4 (MU-4) is also proposed.

Applicant: Kirsten Ehrhardt, Coburn Development, Inc.
Property Owner: AirGas InterMountain, Inc.

Staff Presentation:
K. Guiler presented the item to the board.

Board Questions:
K. Guiler answered questions from the board.

Applicant Presentation:
Andy Bush, with Morgan Creek Ventures, and **Bill Holicky**, with Coburn Architecture, the applicants, presented the item to the board.

Board Questions:
Andy Bush and **Bill Holicky**, the applicants, answered questions from the board.

Public Hearing:
No one spoke.

Board Comments:
Key Issues: Compliance with TVAP, Site and Building Design, Proposed rezoning to MU-4, Form-Based Code, Others?

- **L. Payton** read **C. Gray's** comments to the board since **C. Gray** was not present at the time of this Concept Review. **C. Gray's** comments stated that she would support net zero. She suggested a higher percentage of residential. In regards to architecture, the west elevation steps down to two stories, and the building reads as one 55' continuous building and should be broken up. There should be more connections through the building and the paseo seems cramped and tunnel-like.
- **L. Payton** appreciated the applicant's efforts to be energy efficient. She expressed concern that the project will have to be welcoming and interesting enough to compete with other places to shop, dine, and hang out in Boulder. She was not in support of the pedestrian tunnel. It should be open to the sky, but if not, then it should have some treatment on the ceiling that makes passing through the tunnel a special experience. She appreciated the staff's comments regarding the connections, such as shifting retail towards the rail plaza. She is interested in a terminated vista at the end of the pedestrian pathway along Junction Place.
- **J. Putnam** stated that the project is very close to consistency with the TVAP plan. In terms of the residential location, more residential would be better. He suggested locating the residential at the corner away from the railroad noise. He supports placing more ground level retail at the northeast corner. He suggested and agreed that the pedestrian connections at the east-west vista could be critical and perhaps the Steelyards connection should be dominant. A terminated vista needs to be considered. In terms of parking, he was curious if there would be a way to get it down to one point of access, which could improve the pedestrian activation and reduce impacts on the streetscape. He suggested pre-wiring for EV charging stations for the 60 spaces. Portions of the architecture read as a flat 2-dimensional piece. It is important to try to limit garage access to one-entry instead of two-entry points.

- **L. May** agreed. He suggested using solar panels to cantilever over the street as a nice architectural element like Bullet Center in Seattle.
- **H. Zuckerman** agreed. He added that he was not sure the proposed project respects neighbors living on the other three corners in terms of residential. The northeast corner could be reinforced with something stronger than entirely residential.
- **L. Payton** agreed with **J. Putnam** regarding the garage access.
- **J. Gerstle** agreed. He stressed that the applicant should develop a single entrance for the garage access. In regards to the footpath through the "Four C's", while residents are concerned about foot traffic, there is potential for an attractive pedestrian path and that they may be the most appropriate connection points.

Board Summary:
J. Gerstle gave a summary of the board's recommendations. Since this is a Concept Review, no action is required on behalf of the Planning Board. Generally, the board's comments were positive. The board had concern with the scale of the massing along the street and the tunnels being less desirable. Some on the board suggested treating the solar panels as architectural elements by extending beyond the walls. The garage and pedestrian paths were central issues as well. The amount of residential use should be as large as possible. Some board members supported more residential use at the northwest corner, while others supported more commercial at this location. There was some split among the board regarding the tunnel and whether it would be a dedicated paseo. However, all board members agreed that it must be done effectively and not sterile. Most members supported reducing garage access to one point instead of two.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Addition of Planning Board Meeting, July 14, 2016

Board Comments:

- After some discussion, it was determined that an additional Planning Board meeting would be scheduled for July 14, 2016 in Council Chambers to begin at 6:00 p.m. to discuss 1440 Pine Street Concept Plan.

B. EAB to work with Planning Board

Board Comments:

- **J. Gerstle** informed the board that he had been in contact with the Environmental Advisory Board (EAB). They would like to establish a closer relationship with the Planning Board. David Driskell and Brett KenCairn will be discussing the nature of how the EAB would like to proceed and will be in contact with the Planning Board later.
- **J. Putnam** suggested informing the EAB of the procedural guidelines of how the Planning Board operates (Quasi-Judicial mode) which may differ from how the EAB operates (Legislative mode). The Planning Board has constraints.

C. Landmarks Board Liaison

Board Comments:

- **H. Zuckerman** and **J. Putnam** mentioned they have not been contacted regarding the next Landmarks Board Meeting so that they could attend.
- **C. Spence** informed the board members that she would contact the Landmarks Board Secretary and have her contact them in time for the June Landmarks Board meeting.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 12:02 p.m.

APPROVED BY

Board Chair

2 June 2016

DATE

From: Giuliana de Toma [mailto:detoma@ucar.edu]
Sent: Wednesday, May 25, 2016 11:09 PM
To: Guiler, Karl; detoma@ucar.edu
Subject: AirGas site (LUR2016-00028)

Dear Karl,

I am a resident of the Boulder Steel Yards. I am not sure I will be able to attend the Public Meeting tomorrow due to my work schedule, so I decided to email you about the proposed redevelopment of the AirGas site (LUR2016-00028) made by Coburn Development Inc.

First, I would like to introduce myself. I am originally from Europe but I have lived and worked in Boulder for 20 years and I recently bought a condo in the Steel Yards.
I think the City of Boulder has done a great job in Boulder Junction. I am in favour of a mixed-used area that includes residential and commercial units and is pedestrian and bike friendly. I am one of the many residents here who takes full advantage of the bike-paths and public transportation. However, some of the recent and future additions to Boulder Junction rise some worries and do not seem to fit the original idea of the Steel Yards which include many open areas and wide walkways.

When I talked to my neighbours, they were all quite concerned (including
myself)
about the AirGas redevelopment because of the size of the buildings, the
36 rental
units, and the car traffic that will come with them. They seem a lot of rental units for a relatively small lot like the AirGas site. It appears that, now that space is scarce at Boulder Junction, the new buildings become more and more crowded.

My main concern is the request of Coburn Development Inc. to have only a 3' front yard setback instead of the standard 20'. I think this is too small for a building of this kind and I really hope the City will not allow it. The 3200 Bluff building is going to be well into the residential area of the Steel Yards and future S'Park.
This is not Denver downtown. I am not opposed to tall buildings but, as a pedestrian, I do not like them to be right on the sidewalk. I personally think a larger setback (maybe 12-15') with some landscaping will make a nicer transition between the new buildings and the public area.

I thank you very much for contacting us and asking for our feed-back. I hope the City of Boulder will not turn Boulder Junction into a crowded area and will preserve the nice character that it has now.

Warmest Regards,
Giuliana de Toma
3210 Iron Forge Place, Apt 104
Boulder CO 80301

From: Guiler, Karl
Sent: Thursday, May 19, 2016 3:17 PM
To: Susan Schwalb
Subject: RE: Comments on Concept Plan for Redevelopment of 3200 Bluff Street (Airgas Site)

Susan,

I had sent out notice of the upcoming Planning Board meeting to review the concept plan for the AirGas site. I wanted you to be aware that the Planning Board meeting will start earlier than previously noticed due the number of items on the agenda. The meeting will start at 5pm instead of 6pm. The AirGas item is later on the agenda and will not be heard before 6pm, but I wanted you to be aware of the earlier start. A link to the agenda is here: https://bouldercolorado.gov/boards-commissions/planning-board-agenda.

Please let me know if you have any questions.

Karl

Karl Guiler, AICP
Senior Planner/Code Amendment Specialist
City of Boulder Department of Community Planning & Sustainability
Planning & Development Services Center
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791

Phone: 303.441.4236
Fax: 303.441.3241
Email: guilerk@bouldercolorado.gov

From: Susan Schwalb [mailto:seascotdc@aol.com]
Sent: Thursday, May 12, 2016 10:00 AM
To: Guiler, Karl
Cc: planningboard@bouldercolorado.gov
Subject: Comments on Concept Plan for Redevelopment of 3200 Bluff Street (Airgas Site)

Dear Mr. Guiler and Planning Board Members:

We own two properties in the Steel Yards development (3101 Iron Forge Place #205 and 3210 Iron Forge Place #103). We endorse the redevelopment of the Airgas Site - we believe the site redevelopment will benefit the overall neighborhood and we have had an excellent experience with and have great confidence in Coburn Development.

Our comments relate to a feature that we believe the City of Boulder needs to incorporate into this redevelopment plan, as well as into the overall planning and development standards (if our recommendation is already so incorporated, we apologize for our ignorance of the standards). Namely, given the high per capita dog ownership in Boulder, we believe that the standards for

all new multi-resident projects should require the inclusion of a grass-covered area for dogs to relieve themselves.

As you are aware, Steel Yards has a small park that was included in the plan. It is well maintained by the HOA and, generally, the residents with dogs are conscientious about picking up after their dogs

Our concern is that with all the new development in this area (aside from the subject redevelopment, there are several other multi-resident plans under development for the area between Bluff and Valmont, not to mention the future development of the Jeep dealer property, the new Google campus two blocks away, and the multi-resident properties on the south side of Pearl) properties like the Steel Yards park will become magnets for dog walkers. Not only will the park not be able to sustain a substantially increased volume of dogs urinating on the grass, since many of the dog owners will not be residents of the Steel Yards neighborhood, there will inevitably be an increase in dogs not being picked up after.

Given the trend in increased use of public transportation (facilitated by the nearby transit center), bicycling and walking to work, it seems foreseeable that the need to plan for and require dog walking/relieving space will take on a greater significance for multi-resident properties than perhaps even parking.

In sum, we endorse the redevelopment of the Airgas Site, with the condition that the developer be required to include in the plan space(s) for dogs to walk and relieve themselves. Fortuitously, this proposed development is bounded on the east side by the railroad tracks. There is probably area associated with this and related development that would be inappropriate for formal development but would lend itself to an ideal dog area.

Thanks very much for your consideration of our comments. If you have any questions, please feel free to contact us.

Steve and Susan Schwalb
206-851-4002
seascotdc@aol.com

From: Brian Alfonso [mailto:brian@ABLandCo.com]
Sent: Friday, May 06, 2016 2:37 PM
To: Guiler, Karl
Cc: don@bloomin.com
Subject: REDEVELOPMENT OF 3200 BLUFF STREET (AIRGAS SITE) -- OPPOSED TO PARKING PROPOSAL

Dear Mr. Guiler,

OPPOSITION TO 3200 BLUFF STREET PARKING PROPOSAL

I am an owner of 3020 Carbon Place #102 in the Steel Yards complex that abuts the 3200 Bluff Street proposed redevelopment.

Me, my staff, all of the home owners and all of the business workers in the Steel Yards will be MATERIALLY NEGATIVELY IMPACTED by the LACK OF ONSITE PARKING in proposed redevelopment. The proposal is a pure and simple profit grab by Coburn (the developer) a highly profitable company, which used to be my upstairs neighbor in the Steel Yards. A one-time profit grab leaves everyone else behind with overcrowding issues FOREVER.

The plan proposes 102 parking spaces for 98,000 square feet of building.
102 spaces is nowhere near sufficient parking for a development of that size and I vehemently oppose allowing the project to go forward with so few spaces.

Every space to park in the Steel Yards complex is occupied EVERY DAY. Bluff street looks like Chernobyl and there is nothing along the rail corridor, yet OUR PROPERTY IN THE STEEL YARDS IS ALREADY OVERCROWDED.

It is a fantasy to expect that the occupants and customers using 3200 Bluff will come to the property via mass transit, which is pathetic, and by bicycle.

Our staff, for example, include a 55 year old who commutes from Magnolia (the mountains) and frequently has to plow his driveway just to get to the dirt road portion of Magnolia.
One staffer is 70+ and comes from Erie.
Another staffer is 60+ and comes from Westminster.
Yet, another staffer from Westminster also makes multiple client visits during the day and must use a personal automobile.

During the “tax season” we sometimes work past midnight.
It is neither reasonable, nor safe, to expect my employees to get to work via mass transit or bicycles.

I am sure a survey of the Upslope employees and the other employees that will work at 3200 Bluff will show that they do not reside in Boulder and that they commute into Boulder each day with a personal automobile.
Paris has wonderful mass transit. New York has wonderful mass transit. Boulder does not.

It seems apparent that our city planners think they can force residents and employees into not driving by INTENTIONIALLY ALLOWING INSUFFICIENT PARKING in all of the new developments around town.

As an aside, it is interesting that all of the new housing stock in Boulder is in the LUXURY category and none is reasonably priced or “affordable”, further exacerbating the commuting issue since the vast majority of employees in Boulder CANNOT AFFORD TO LIVE IN BOULDER. Boulder is thereby adding to global warming by knowingly, intentionally increasing the total number of commutes into the city from outside the city each and every day. To say otherwise would be insipid and preposterous.

Thank you,
Brian Alfonso

Brian Alfonso, J.D. Enrolled Agent
t 303 449 4570
We have expanded our accounting practice. As of June 1st, our new address in the Steel Yards:
3020 Carbon Place Ste 102
Boulder CO 80301
Our new look:

Alfonso, Brooks, Lev-Ary & Co.
Tax & Accounting

Any U.S. tax advice included in this written or electronic communication was not intended or written to be used, and it cannot be used by the taxpayer, for the purpose of avoiding any penalties that may be imposed under the Internal Revenue Code or applicable state or local tax law provisions.

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From: Guiler, Karl
Sent: Thursday, June 09, 2016 9:07 AM
To: 'rebekahrld@gmail.com'
Cc: boulderplanningboard
Subject: Questions/comments on the 3200 Bluff Concept Plan

Hi Rebekah,

Thanks for the email.

I will include your email in the file and forward it to the applicant for consideration in their formulation of a Site Review application.
Additionally, I've provided a few brief responses to your questions below.

Please feel free to contact me with any questions.

Best,

Karl

Karl Guiler, AICP
Senior Planner/Code Amendment Specialist
City of Boulder Department of Community Planning & Sustainability
Planning & Development Services Center
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791

Phone: 303.441.4236
Fax: 303.441.3241
Email: guilerk@bouldercolorado.gov

Planning Board:

I attended the May 26 meeting to learn more about the 3200 Bluff St development but left a little after 10pm, due to the long discussion on the Palo Parkway development.

I am a Boulder Junction neighbor of the 3200 Bluff project and am looking forward to this new development, new neighbors and new businesses.

I have the following questions regarding the development at 3200 Bluff and the overall Boulder Junction Phase I plan:

1. It is my understanding that the parking garages are privately owned and therefore not included in the Boulder Junction parking district. How can the city integrate private garages into the parking district to help manage demand across Boulder Junction? For example, the commercial garage may be used after hours for the new restaurants but also for the existing Depot restaurant overflow. At the same time, a fair number of Steelyards commercial parking spaces along the alley by the warehouses are empty at

night, but they are privately owned rather than managed as part of the district. Will parking be bundled into the residential rent for 3200 Bluff, or available to other uses if residents do not have cars? As long as we continue to treat each project separately for parking and are unable to pool all non-residential parking spots as public spots, we risk overbuilding parking in the district.

At this time, the applicant's proposal includes private parking for the site. The property is currently not within the Boulder Junction Access and Parking District, although the applicant has indicated their intent to petition to be part of the district. It would be part of that process to determine if and how many spaces in the proposed garage could be allotted to the shared parking of the district. If the property is rezoned MU-4 (Mixed-Use 4), as the applicant requests, unbundled parking would be required per the land use code section 9-9-6(i), which states,

> ***Parking Costs Separated From Housing Costs in New Residential Buildings: In the RH-7 and MU-4 zoning districts, all off-street parking spaces accessory to residential uses in new structures of ten dwelling units or more, or in new conversions of nonresidential buildings to residential use of ten dwelling units or more, shall be leased or sold separately from the rental or purchase fees for dwelling units for the life of the dwelling units, such that potential renters or buyers have the option of renting or buying a residential unit at a price lower than would be the case if there were a single price for both the residential unit and the parking space. Parking spaces that are unused or unsold with a residential unit may be leased or otherwise permitted to be used by persons who are not residents, tenants, or visitors to the property.***

2. It would be nice to see a comprehensive traffic and parking plan for all of the projects under construction and in review rather than viewing trip estimates in isolated reviews. What are the total counts for The Commons, 3200 Bluff, and S'Park? What percentage of those trips will go through the pedestrian plaza? Visiting drivers have a difficult time navigating the pedestrian plaza on Junction Place, which is compounded by funneling restaurant and Hyatt traffic through the plaza to enter the garage. Several bollards in the pedestrian plaza have been knocked over in the past six months. How can the city add design elements such as planted medians (not more signs) to help drivers safely navigate the plaza?

> ***A Trip Generation study was required as a part of Concept Plan and was necessary to determine whether the project would trigger enough trips to require a Traffic Study at time of Site Review. In this case, a Traffic Study would be required and would need to be prepared taking the context of the area into account. This includes the traffic counts of other approved and existing projects in the vicinity. This information is used to determine what possible impacts could result from the proposal. If the applicant requests a parking reduction, a parking study that takes into consideration the neighborhood parking conditions would be required.***

3. Residents in multifamily housing give up personal outdoor space for shared resources in the neighborhood, however it appears that amenities within 3200 Bluff will be private use (the roof deck with its flatiron views and the courtyard). It is unclear when the pocket park across from the pedestrian plaza will be completed (If it will not extend pass the MUP into the Pollard lot, it is a very small sloped area for all of the new residents at Depot Square, Solana, Nickel Flats, S'Park and 3200 Bluff). I believe the new Reve development on the south side of Pearl Parkway will include small public dog parks (on the back side which may not appear to be publicly accessible), but there are no corresponding services on the north end of Boulder Junction.

While open space is required as part of most projects, allowing public access to private property is allowed at the discretion of the property owner. Please note that the recently approved S'PARK development to the north (at the former Sutherland's Lumber site) will have a few publicly accessible, privately owned and managed open spaces. Note that the city's pocket park that you reference is expected to be completed by 2018.

Finally, there needs to be continued pressure on RTD to increase service at the Depot station. Currently, there is no local bus service (the nearest HOP stop is at Barnes and Noble, ~.5 mi away from The Commons site), no airport service, no night or weekend Flatiron Flyer service from the Depot Station. The ongoing HOP transit study will hopefully address the local service gap, but today it is very difficult to call this area "Transit Village" or TOD.

In short, I ask that the planning board look at the district as a whole and discuss parking, traffic, and public amenities across all developments rather than piece by piece so that the entire neighborhood is cohesive. Boulder Junction is an exciting neighborhood with a lot of potential in these new developments. Thank you for all of your work!

Regards,
Rebekah Dumouchelle

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing + Sustainability
Susan Richstone, Deputy Director of Planning, Housing + Sustainability
Charles Ferro, Development Review Manager for Land Use
Elaine McLaughlin, Senior Planner

Date: June 7, 2016

Subject: Call-Up Item: 2949 Broadway Site Review (LUR2014-00097)

EXECUTIVE SUMMARY

On June 2, 2016, the Planning Board unanimously approved (7-0) the above-referenced applications with conditions as provided in the attached Notice of Disposition (Attachment A), finding the project consistent with both the Site Review Criteria of Land Use Code sections 9-2-14(h), B.R.C. 1981. Approval of the application would permit the conversion of single family residence into a three dwelling unit complex with a request for a 37.5 percent parking reduction and a reduction in lot area per dwelling unit from 3,000 square feet to 2,076 square feet.

The Planning Board decision is subject to City Council call-up within 30 days concluding on July 5, 2016. Because the 30 day call-up period concludes on a Saturday, the land use code section 1-1-10(b), B.R.C. 1981 requires that if the last day of the call-up period is on a Saturday, the period is extended to include the next day which is not a Saturday, Sunday or legal holiday. There is one City Council meeting within this time period for call-up consideration on: June 21, 2016. The staff memorandum of recommendation to Planning Board and other related background materials are available on the city website for Planning Board here.

BACKGROUND

The subject site is shown **Figure 1** and is located on Broadway near Dellwood Avenue within the
RH-2 zoning district, which is defined in the land use code section 9-5-2(c)(1)(F), B.R.C. 1981 as:

"high density residential areas primarily used for a variety of types of attached residential units, including without limitation, apartment buildings, and where complementary uses may be allowed."

The zoning map for the site and surroundings is presented in Figure 1. The context of the site is varied: along Broadway primarily are attached residential buildings including Red Arrow Apartments and Washington Square Condominiums and the Washington Village Mixed Use. There are also non-residential uses including a Shell Gas Station, the CBIZ Meyers Dining Insurance Agency, and a small mixed use building adjacent to the site with office along Broadway and residential in back. To the west is single family residential. Further to the south are the former Boulder Community Hospital Campus and medical offices, along with neighborhood serving retail and offices.

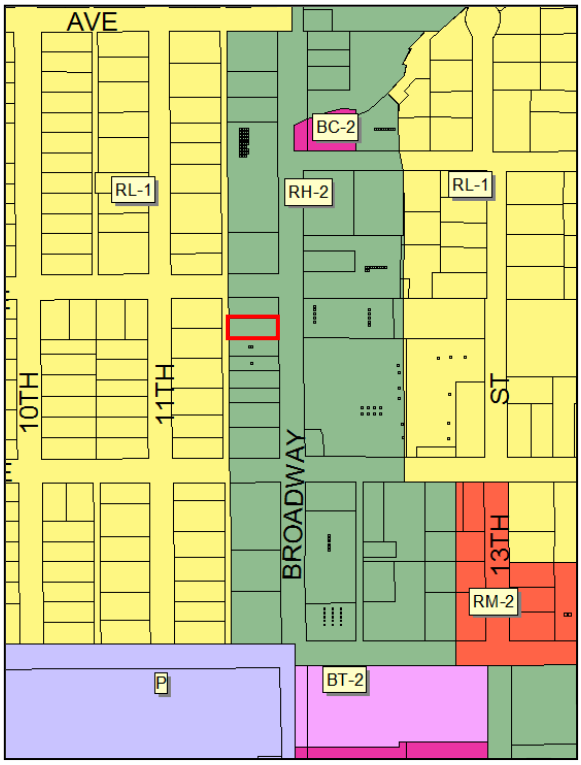


Figure 1: Zoning Map

The 6,228 square foot lot contains an existing 1,240 square foot house that was originally constructed in 1913 with Edwardian Vernacular elements that have been largely retained. Figure 2 is a photo from 1949 of the house and Figure 3 is a photo of the house today. Given the historic significance, staff recommended that the applicant submit an application to designate the property as a local historic landmark. The application to landmark was submitted on April 22, 2015 with a request that review of the application by the Landmarks Board and the City Council only proceed if Site Review approval is granted. Because the application to designate the property is pending, a Landmark Alteration Certificate request for the rehabilitation of the historic house and the construction of a rear addition was submitted for review by the to the Landmarks Design Review Committee (Ldrc)(HIS2016-00067). On April 13th, 2016, the Ldrc approved the current plans to rehabilitate and add to the house. Revisions to the design would require a new LAC application.

Proposed Project. The applicant is proposing to construct a 766 square foot, two-story addition to the rear of the existing house. The resulting floor area would total 2,066 square feet with three units. The applicant requests a reduction in lot area per dwelling unit from 3,000 square feet to 2,076 square feet. The Triplex would be comprised of: one 3-bedroom unit in the front and two units at the rear of the property: a 4-bedroom unit located partially above grade and partially below grade; and a 4-bedroom unit located on a portion of the first floor and on the second floor. Figure 5 illustrates a perspective sketch of the building from Broadway. There are eight parking spaces per standards, and five proposed, for a 37.5 percent parking reduction request as part of the application.

PUBLIC COMMENT AND PROCESS

Public Comment. Required public notice was provided in the form of written notifications to property owners within 600 feet of the subject property in December 2014 at the receipt of the application; along with notification of the Planning Board hearing on

May 11, 2016. In addition, a public notice sign was posted on the property and therefore, all public notice requirements of section 9-4-3, "*Public Notice Requirements*," B.R.C. 1981 were met. There were six comments letters received on the application (four were received several days prior to the Planning Board hearing) that articulated concerns primarily about the parking reduction.

PLANNING BOARD HEARING

At the June 2, 2016 Planning Board hearing, the board found that the application is consistent with the applicable Site Review criteria of the Land Use Code sections 9-2-14(h), B.R.C. 1981 including the following reasons:

The Land Use Code Section 9-2-14(h)(2)(K), B.R.C. 1981 includes criteria for approval of a parking reduction. In particular, the proposed parking reduction is proposed in a service- and transit-rich area where alternatives to single occupancy vehicles (SOVs) can readily be utilized. In particular, the site is on several major bus lines, the CLIMB, the 208, the Y and the SKIP which runs every 10 minutes until midnight. In addition, the applicant provided a Transportation Demand Management (TDM) Plan that included elements to reduce the need for SOVs such as additional bike parking, provision of EcoPasses.

CONCLUSION

By a unanimous vote (7-0) the Planning Board approved the application with conditions. Consistent with the land use code section 9-4-4(c), B.R.C. 1981, if the City Council disagrees with the decision of the Planning Board, it may call up the application within a 30-day call up period which expires on July 5, 2016 the City Council may consider this application for call-up at the **June 21, 2016** City Council public hearing.

ATTACHMENTS:

A. Planning Board Notice of Disposition dated June 2, 2016

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

CITY OF BOULDER PLANNING BOARD NOTICE OF DISPOSITION

You are hereby advised that on June 2, 2016 the following action was taken by the Planning Board based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C. 1981, as applied to the proposed development.

DECISION:	**APPROVED WITH CONDITIONS**
PROJECT NAME:	**2949 BROADWAY SINGLE-FAMILY CONVERSION**
DESCRIPTION:	**SITE REVIEW for conversion of single family residential into a three dwelling unit complex with a request for a 37.5 percent parking reduction and a reduction in lot area per dwelling unit from 3,000 square feet to 2,076 square feet.**
LOCATION:	**2949 BROADWAY**
COOR:	**N04W07**
LEGAL DESCRIPTION:	**LOTS 29 AND 30, BLOCK 4, NEWLANDS SUBDIVISION, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO**
APPLICANT:	**MICHAEL BOSMA**
OWNER:	**ALR INVESTMENTS, LLC**
APPLICATION:	**Site Review, LUR2014-00097**
ZONING:	**RH-2**
CASE MANAGER:	**Elaine McLaughlin**
VESTED PROPERTY RIGHT:	**NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.**

APPROVED MODIFICATIONS FROM THE LAND USE REGULATIONS:

- **Section 9-2-14(h)(2)(K), B.R.C.: 37.5 percent parking reduction (5 parking spaces provided where 8 are required)**
- **Section 9-8-3, B.R.C.: a reduction in the minimum lot area per dwelling unit from 3,000 square feet to 2,076 square feet.**

This decision may be called up before the City Council on or before **July 5, 2016**. If no call-up occurs, the decision is deemed final thirty days after the Planning Board's decision.

FOR CONDITIONS OF APPROVAL, SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND SIGNED FINAL PLANS MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING BOARD APPROVAL AUTOMATICALLY EXPIRES.

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete the approved development within three years from the date of final approval. Failure to "substantially complete" (as defined in Section 9-2-12, Boulder Revised Code 1981) the development within three years shall cause this development approval to expire.

At its public hearing on June 2, 2016 the Planning Board APPROVED WITH CONDITIONS the request with the following motion:

On a motion by **H. Zuckerman,** seconded by **B. Bowen,** the Planning Board voted 6-0 (**C. Gray** absent) to approve Site Review application # LUR2014-00097 subject to the conditions of approval listed below and adopting the staff memorandum and its attachments as findings of fact, with the addition of two conditions:

1. The south sidewalk be extended across the entire property from east to west replacing the "Landscape Area 6" with pavement for bicycle access and pedestrian access.

2. The addition be located as far west as can be accommodated by site constraints, particularly the back-up area, to create as much separation as possible between the massing of the primary structure and the addition.

Friendly amendment made by **L. Payton**, that Planning Board recommend a condition that the finishes on the addition be adjusted to be more sympathetic and compatible with the historical structure. Friendly amendment was accepted by **H. Zuckerman.**

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the development **shall be in compliance with all plans** prepared by the Applicant on February 12, 2016 and the Transportation Demand Management (TDM) Plan on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval.

2. The Applicant has filed an application seeking **Individual Landmark designation** of the property located at 2949 Broadway. The Applicant shall pursue such designation in good faith. Prior to a building permit application, the Applicant **shall obtain a final decision on the application for Individual Landmark designation** of the property.

3. Prior to a building permit application, the Applicant shall submit a Preliminary Plat and a Technical Document Review application for a **Final Plat**, subject to the review and approval of the City Manager and execute a subdivision agreement meeting the requirements of chapter 9-12, "Subdivision," B.R.C. 1981 and which provides, without limitation and at no cost to the City, for the following, unless otherwise approved by the City Manager:

    a. The elimination of the lot line between existing Lot 29 and Lot 30, Block 4, Newland Addition, City of Boulder, County of Boulder, State of Colorado; and

    b. The dedication, to the City, of an 8½- foot wide +/- public access easement for the detached sidewalk along Broadway.

4. Prior to a building permit application, the Applicant shall submit, and obtain City Manager approval of, a Technical Document Review application for the following items:

    a. **Final architectural plans**, including material samples and colors, to insure compliance with the intent of this approval and compatibility with the surrounding area. The architectural intent shown on the plans prepared by the Applicant on February 10, 2016 is acceptable. Planning staff will review plans to assure that the architectural intent is performed. The final plans shall illustrate the building to be prewired for future photovoltaic systems, from the roof-top to the primary electrical panel of the building. The finishes on the addition shall be adjusted to be more sympathetic and compatible with the historical structure.

    b. A **final site plan** which includes detailed floor plans and section drawings.

    c. A **final utility plan** meeting the City of Boulder Design and Construction Standards.

    d. A **final storm water report and plan** meeting the City of Boulder Design and Construction Standards.

e. **Final transportation plans** meeting the City of Boulder Design and Construction Standards, the CDOT Access Code Standards, and the Manual on Uniform Traffic Control Devices (MUTCD) for all transportation improvements. The final transportation plans must include, but are not limited to, a plan and profile drawing for the detached sidewalk.

f. A **detailed landscape plan**, including size, quantity, and type of plants existing and proposed; type and quality of non-living landscaping materials; any site grading proposed; and any irrigation system proposed, to insure compliance with this approval and the City's landscaping requirements. Removal of trees must receive prior approval of the Planning Department. Removal of any tree in City right of way must also receive prior approval of the City Forester.

g. A **detailed outdoor lighting plan** showing location, size, and intensity of illumination units, indicating compliance with section 9-9-16, B.R.C.1981.

5. Prior to a building permit application, the Applicant shall submit a **financial guarantee**, in a form acceptable to the Director of Public Works, in an amount equal to the cost of providing eco-passes to the residents of the development for three years after the issuance of a certificate of occupancy for each dwelling unit as proposed in the Applicant's Transportation Demand Management (TDM) plan.

6. The Applicant shall ensure that the **south sidewalk be extended across the entire property** from east to west replacing the "Landscape Area 6" with pavement for bicycle access and pedestrian access.

7. The Applicant shall ensure that the **addition be located as far west as can be accommodated by site constraints,** particularly the back-up area, to create with as much separation as possible between the massing of the primary structure and the addition.

By:_____
David Driskell, Secretary of the Planning Board

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Planning, Housing & Sustainability
Susan Richstone, Deputy Director of Planning, Housing & Sustainability
Charles Ferro, Development Review Manager

Date: June 21, 2016

Subject: **Call-Up Item:** Nonconforming Use Review (LUR2015-00118) request to amend the approved operating characteristics for the Alpine Modern Café at 904 College Ave. within the RL-1 zone district to allow for beer and wine sales during regular business hours, and to extend the closing time from 7:00 p.m. (existing) to 9:00 p.m. (proposed) Mondays through Thursdays. No other changes to the existing operating characteristics are proposed. The call up period expires on **Jul. 5, 2016.**

EXECUTIVE SUMMARY

On June 2, 2016, the Planning Board voted 6-0 (**C. Gray** absent), to approve a Nonconforming Use Review at 904 College Ave. The proposal is to amend the approved operating characteristics for the Alpine Modern Café to allow for beer and wine sales during regular business hours, and to extend the closing time from 7:00 p.m. (existing) to 9:00 p.m. (proposed), Mondays through Thursdays. No other changes to the existing operating characteristics are proposed, and the weekend hours of operation will not be changed. **Attachment A** contains the Planning Board Notice of Disposition of Approval with associated conditions of approval. **Attachment B** contains the approved plans and the applicant's written statement / management plan. **Attachment C** includes staff's analysis of the Non Conforming Use Review criteria. The Draft Minutes from the June 2, 2016 Planning Board hearing are included as **Attachment D**.

The Planning Board's approval is subject to a 30-day call-up period by City Council which expires on **Jul. 5, 2016** (the end of the call up period falls on a weekend and so is extended to the Tuesday following the city holiday). City Council is scheduled to consider this application for call-up at its **Jun. 21, 2016** public meeting.

The staff memorandum to Planning Board and other related background materials are available on the city website for Planning Board, follow the links: *www.bouldercolorado.gov* ➔ *A to Z* ➔*Planning Board*➔*Search for Past Meeting Materials - Planning Board*➔*2016*➔*06 JUN* ➔*06.02.16*➔*06.02.2016 PB Packet.*

BACKGROUND

Existing Site/Site Context:

As depicted below in **Figure 1** below, the roughly 3,700 square foot (.08-acre) project site is located at 904 College Ave., at the southeast corner of 9th St. and College Ave. within the Residential – Low 1 (RL-1) zoning district. Per section 9-5-2(c)(1)(A), B.R.C. 1981, the RL-1 zone district is defined as *single-family detached residential dwelling units at low to very low residential densities.*

The existing 1-story building was constructed in 1927, and was the former location of Delilah's Pretty Good Grocery, followed by the Second Kitchen Food Cooperative and most recently the Alpine Modern Cafe. The existing retail/ personal service use is considered a legal nonconforming use because it was established prior to the adoption of the current zoning regulations which make the use prohibited under RL-1 zoning. There are currently three off-street parking spaces provided in a paving parking area that is accessed directly off of 9th Street via a large curb cut. A shared driveway south of the building also provides access to the project site and adjacent property to the south.

The project site lies within the University Hill neighborhood, and is surrounded primarily by low-density single-family homes. The Columbia Cemetery sits diagonally adjacent to the site across the intersection of 9th and College. A few blocks to the east is the University Hill commercial district. The existing coffee shop use has been in operation since 2014.The existing use is the most recent substitution of use in a series of nonconforming retail/personal service uses that have occupied the site continuously over the last 90 years, and currently maintains the historic hours of operation of 7:00 a.m. to 7:00 p.m., Monday through Thursday, and from 8:00 a.m. to 10:00 p.m., Friday through Sunday.

Figure 1: Vicinity Map

Project Description:

The proposal is to amend the approved operating characteristics for the Alpine Modern Café to allow for beer and wine sales during regular business hours, and to extend the closing time from

7:00 p.m. (existing) to 9:00 p.m. (proposed), Mondays through Thursdays. No other changes to the existing operating characteristics are proposed, and the weekend hours of operation will be maintained. The proposal includes several site improvements, including the addition of seven new bike parking spaces (6 short-term and 1 long-term), new street trees along College Ave., and the removal of the existing noncompliant access off of 9th St. through the addition of a new split-rail metal fence to the west of the parking area. Following the addition of the new fence, access to the site and parking area will be taken from the alley south of the building, and it will no longer be possible for cars to back directly across the sidewalk (which is located within a school zone) out of the parking area onto 9th Street.

As mentioned above, the proposed hours of operation for the use are from 7:00 a.m. to 9:00 p.m., Monday through Thursday, and 8:00 a.m. to 10:00 p.m., Friday through Sunday. Outdoor seating will be available for patrons during regular business hours. Noise will be kept to a minimum as no amplified music will be played outdoors on the patio, at any time. Please see **Attachment B** for Applicant's proposed plans and management plan. These commitments have also been memorialized in the recommended conditions of approval included in this memorandum. If this application is approved, any future changes to the conditions of approval, the management plan or the operational characteristics would require a new Use Review.

Process:
The property is currently considered non-conforming as to parking and use. While the current proposal would not increase the degree of non-conformity with regards to parking because no floor area is being added, the proposal to allow alcohol sales constitutes an expansion of the existing nonconforming use because it is a "change in the operational characteristics which may increase the impacts or create adverse impacts to the surrounding area" (section 9-16-1, B.R.C. 1981). Pursuant to section 9-10-3(c)(2), B.R.C. 1981, any request for a change of use that constitutes expansion of a nonconforming use must be reviewed under procedures of section 9-2-15, "Use Review," B.R.C. 1981. Pursuant to section 9-2-15(d)(1), B.R.C. 1981, applications for a Use Review of a non-residential use in a residential zone district require a recommendation by staff with a final decision by the Planning Board at a public hearing.

ANALYSIS
The following key issue was identified by staff for the project:

1. **Is the proposal consistent with the Use Review criteria including the additional criteria for Modifications to Nonconforming Uses set forth in Sections 9-2-15(e) and (f), B.R.C. 1981?**

Refer to **Attachment C** for staff's analysis of the Non Conforming Use Review Criteria.

PLANNING BOARD ACTION:
One June 2, 2016, the Planning Board voted 6-0 (**C. Gray** absent) to approve the Non Conforming Use Review application.

Please see **Attachment D** for the meeting minutes from the June 2, 2016 Planning Board meeting and **Attachment A** for the Planning Board Notice of Disposition and associated conditions of approval.

PUBLIC COMMENT AND PROCESS:
Required public notice was provided in the form of written notifications to property owners within 600 feet of the subject property. In addition, a public notice sign was posted on the property and therefore, all public notice requirements of section 9-4-3, "*Public Notice Requirements*," B.R.C. 1981 were met. Staff initially received comments from several individuals opposed to the request based on concerns over noise and other potential impacts. Staff also received comments from individuals as well as the University Hill Neighborhood Association (UHNA) Executive Committee expressing strong support for the proposal. No one spoke in opposition of the proposal at the June 2, 2016 Planning Board hearing.

NEXT STEPS
The Planning Board decision is subject to City Council call-up within 30-days. The Site Review request is scheduled as an informational call-up item for the **Jun. 21, 2016** meeting. **The call up period expires on Jul. 5, 2016.**

ATTACHMENTS
A. Planning Board Notice of Disposition dated June 2, 2016
B. Applicant's Proposed Plans & Management Plan
C. Nonconforming Use Review Criteria Analysis
D. Draft June 2, 2016 Planning Board Minutes

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

CITY OF BOULDER PLANNING BOARD NOTICE OF DISPOSITION

You are hereby advised that on June 2, 2016 the following action was taken by the Planning Board based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C. 1981, as applied to the proposed development.

DECISION:	**APPROVED WITH CONDITIONS**
PROJECT NAME:	**ALPINE MODERN CAFE**
DESCRIPTION:	**NON-CONFORMING USE REVIEW to amend the approved operating characteristics for the Alpine Modern Café within the RL-1 zone district to allow for beer and wine sales during regular business hours and to extend the hours of operation.**
LOCATION:	**904 COLLEGE AVE**
COOR:	**N01W06**
LEGAL DESCRIPTION:	**LOTS 1-2, BLOCK 8, UNIVERSITY PLACE, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO**
APPLICANT:	**LON MCGOWAN**
OWNER:	**JAMES CARTER**
APPLICATION:	**Use Review, LUR2015-00118**
ZONING:	**RL-1**
CASE MANAGER:	**Sloane Walbert**
VESTED PROPERTY RIGHT:	**NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.**

This decision may be called up before the City Council on or before **July 5, 2016**. If no call-up occurs, the decision is deemed final thirty days after the Planning Board's decision.

FOR CONDITIONS OF APPROVAL, SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND SIGNED FINAL PLANS MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING BOARD APPROVAL AUTOMATICALLY EXPIRES.

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete the approved development within three years from the date of final approval. Failure to "substantially complete" (as defined in Section 9-2-12, Boulder Revised Code 1981) the development within three years shall cause this development approval to expire.

At its public hearing on June 2, 2016 the Planning Board APPROVED WITH CONDITIONS the request with the following motion:

On a motion by **B. Bowen**, seconded by **J. Putnam**, the Planning Board voted 6-0 (**C. Gray** absent) to approve the Use Review application LUR2015-00118, adopting the staff memorandum as findings of fact, including the attached analysis of review criteria, and subject to the recommended conditions of approval

found in the packet.

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all plans prepared by the Applicant on May 1, 2016 and the Applicant's written statement dated May 9, 2016** on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval. Further, the Applicant shall ensure that the approved use is operated in compliance with the following restrictions:

   a. The hours of operation for the approved use shall be from 7:00 a.m. to 9:00 p.m. Monday – Thursday and from 8:00 a.m. to 10:00 p.m. Friday – Sunday. The use shall be closed outside of these hours of operation.

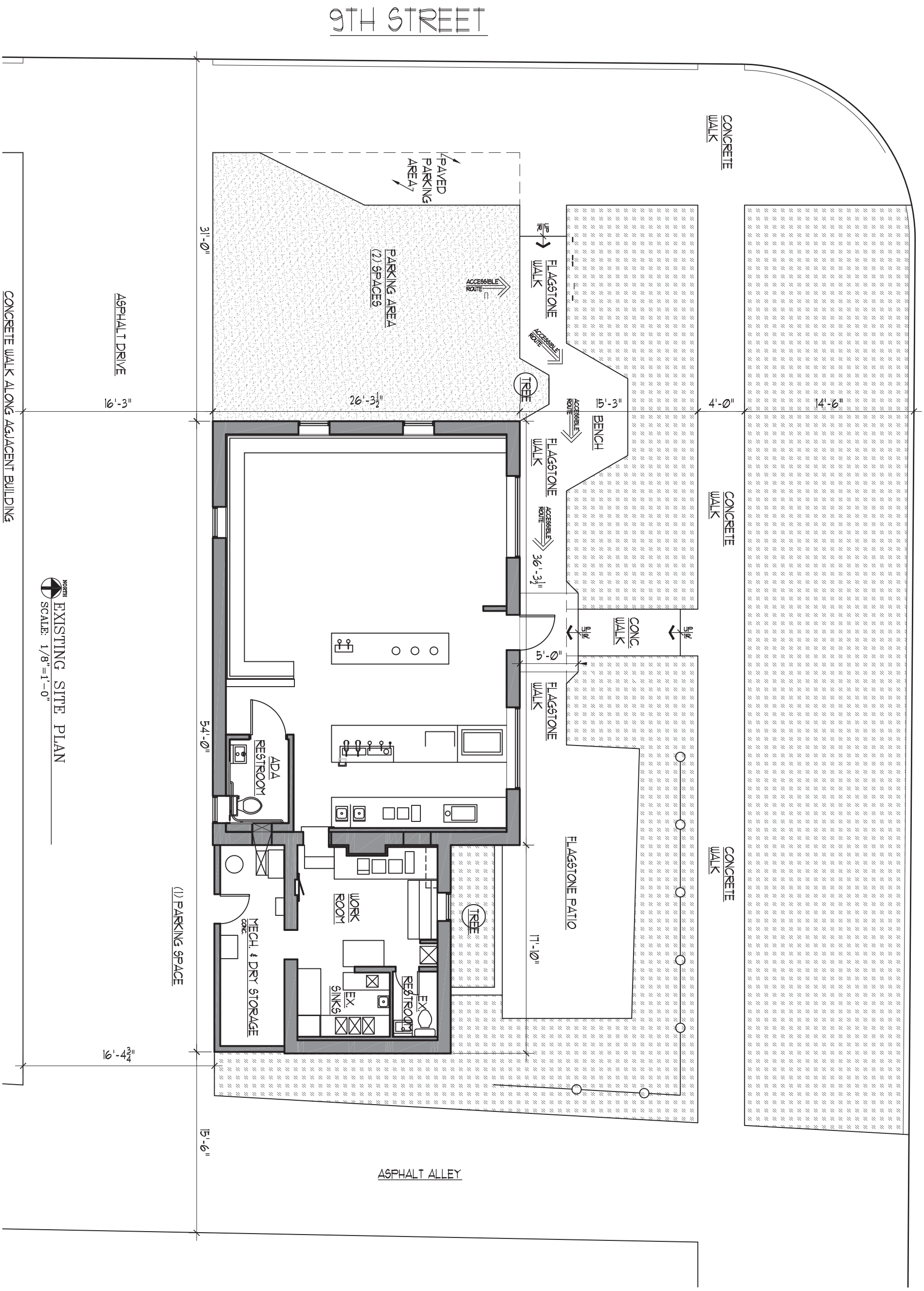
2. The Applicant **shall not expand or modify the approved use**, except pursuant to subsection 9-2-15(h), B.R.C. 1981.

3. The Applicant **shall comply with all previous standards or conditions** contained in any previous approvals, except to the extent that any previous standards or conditions may be modified by this approval, including, but not limited to, the Final Decision Standards contained in the Administrative Review Notice of Disposition of approval for ADR2014-00137 dated August 5, 2014.

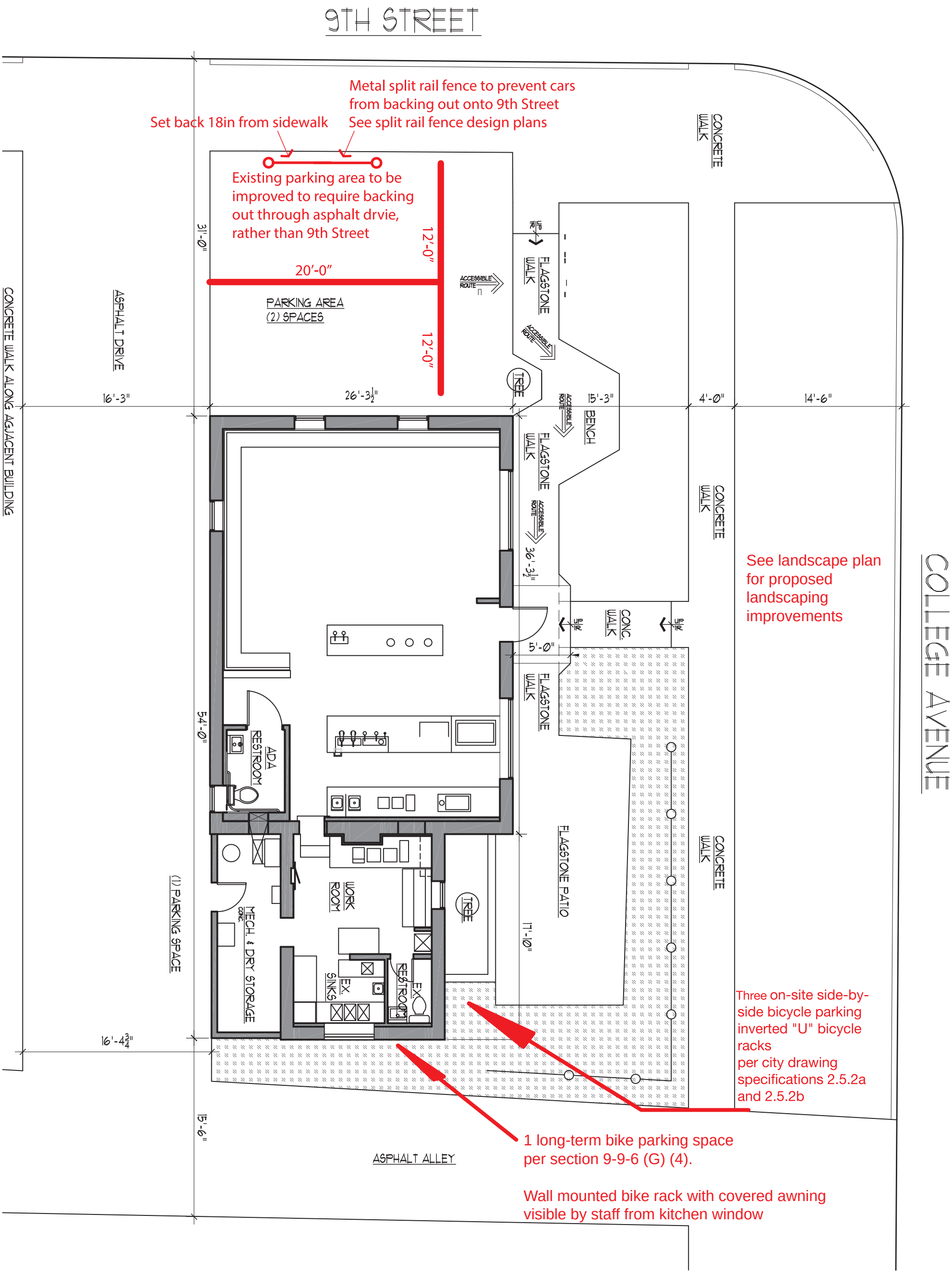
4. This approval **shall be limited to a coffee shop use** operated consistent with the Applicant's written statement dated May 9, 2016.

By: _____
David Driskell, Secretary of the Planning Board

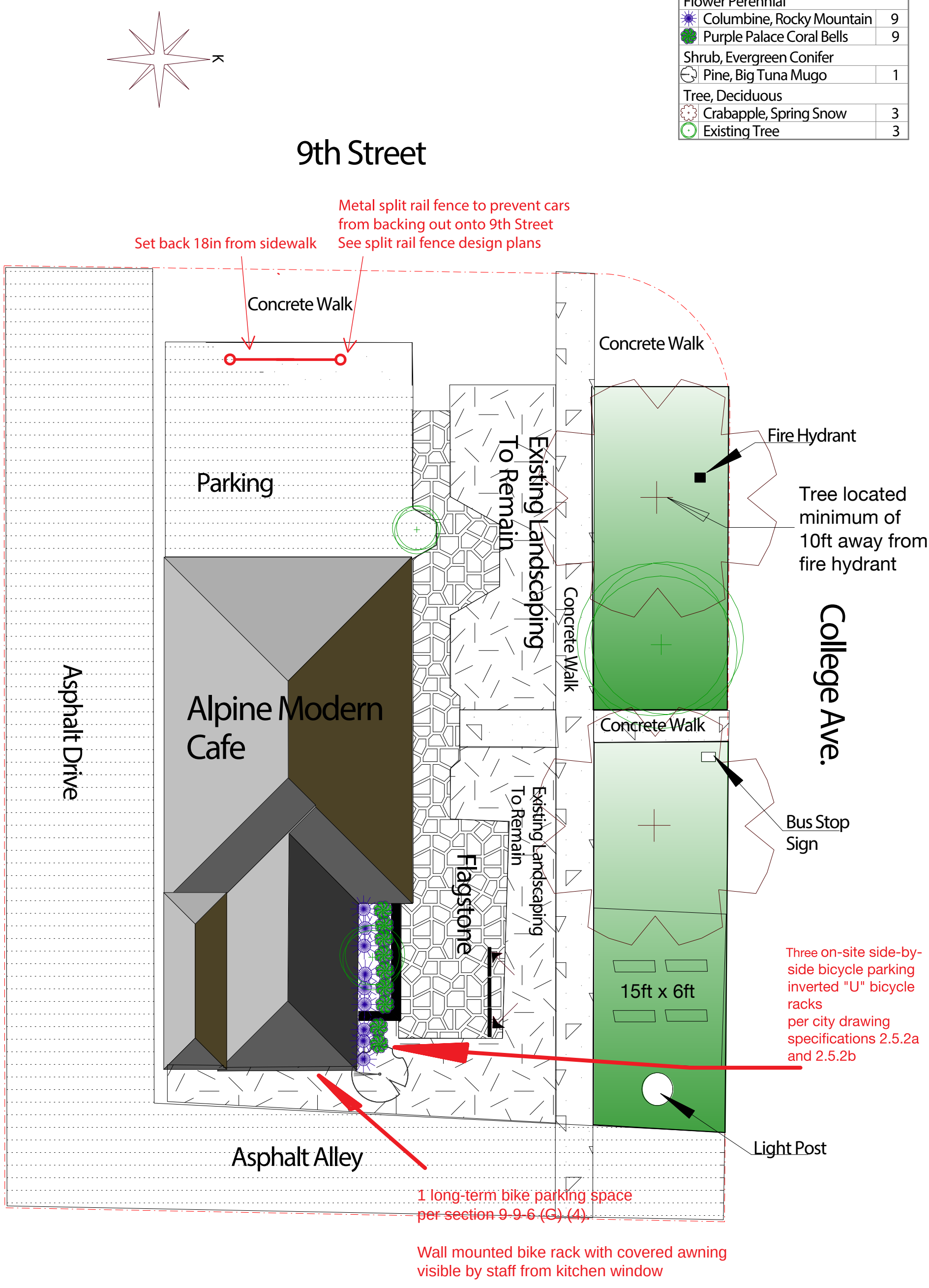
Existing Site Plan



Proposed Site Plan



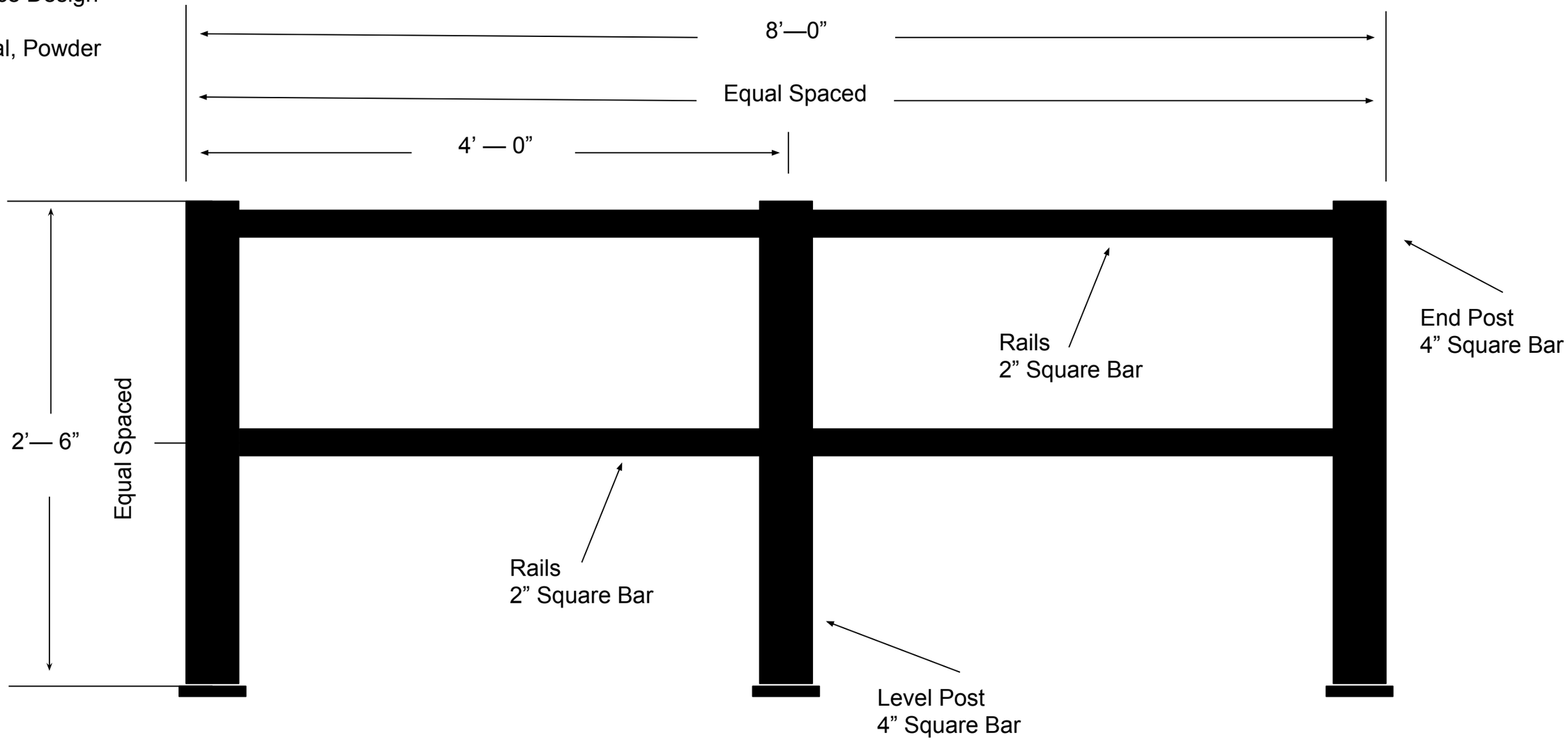
Legend		
	Common Name	Qty
Flower Perennial		
	Columbine, Rocky Mountain	9
	Purple Palace Coral Bells	9
Shrub, Evergreen Conifer		
	Pine, Big Tuna Mugo	1
Tree, Deciduous		
	Crabapple, Spring Snow	3
	Existing Tree	3



Packet Page 385	Scale: 1″ = 10″	Landscape Plane: 1 904 College Ave Call Up 904 College Avenue	Landscape Design By: LR Bowman Custom Landscaling, Inc

904 College
LUR2015-0118
Split Rail Fence Design

Material: Metal, Powder Coated Black



City of Boulder
Alpine Modern Cafe - Written Statement & Management Plan
Original Letter : December 7, 2015
Revised: May 9, 2016

Also see Use Review Comments Reply Letter for additional information.

Re: 904 College Ave LUR2015-00118

We are requesting a Change of Nonconforming Use to allow for the conversion of the former grocery store to a cafe with the ability to sell (and apply for a license to sell) wine and beer for consumption on-site. No changes to the site or building are being proposed. A previous approval for the use of this site as a cafe was already approved on 8/5/14. This request is for the same use and details, outlined below, but with the addition of the sale of wine and beer to be consumed on-site. Essentially, we are simply adding a menu item (wine and beer) and wish to be able to apply for a wine and beer license.

We have asked many citizens in our neighborhood if they would support this location selling wine and beer and we have received a resounding, yes. This location exists to serve its neighborhood and this is a service with which the neighborhood is in favor of having.

In reviewing the operations of the grocery store, our cafe has had, and we project it will continue to have, less impact on the surrounding neighborhood. The grocery store offered, among other items, coffee, pastries, and pre-made sandwiches. We have and would continue to offer these same items. However, we do not stock the general assortment of goods and prepacked fresh foods that the grocery did.

Because we are asking for a change of nonconforming use we will address the following for your understanding:

Occupancy: There is no change to the size of the floor plan that would increase the space and therefore will not create any expansion in the occupancy.

Floor Area: We do not intend to expand the existing floor area in any way.

Required Parking and Traffic:

- We have already created three dedicated off-street parking spaces for customers. These parking spaces were not open to the public when the grocery store was open.

- Traffic comes from local neighbors that live within walking distance to the location. Our customer base will not change. There will be no impact in regards to parking or traffic with this change.
- The former grocery store received multiple deliveries, daily, because of its requirement for fresh produce and other dry goods from multiple commercial distributors. We have and will continue to have less impact with our less frequent deliveries (3-4 per week)
- The former grocery previously made off-site deliveries. We would not be making any off site deliveries of any kind and therefore decrease the impact.

Outdoor Storage: No changes to the outdoor storage.

Hours of Operation: We wish to increase the hours of operation to 7am—9pm every day. Noise will be kep to a minimum as no amplified music will be played outdoors on the patio, at any time. Signs will be posted asking customers to keep noise levels down. Our outdoor patio area will be closed promptly at 9:00 pm every night. We have strong relationships and open dialogue with our immediate neighbors which will will continue to foster even with the increased hours.

Number of Employees: The former grocery operated with 3-4 staff members per shift. We will maintain the same level of staff at the cafe of 3-4 staff members per shift, thereby not creating any impact.

Exterior Changes: No exterior changes to the building or site are being planned or requested.

Thank you for your consideration. Best regards-

Lon McGowan
Owner
Alpine Modern Cafe (Tenant)

(e) Criteria for Review: No use review application will be approved unless the approving agency finds all of the following:

__✓__(1) Consistency With Zoning and Nonconformity: The use is consistent with the purpose of the zoning district as set forth in section 9-5-2, "Zoning Districts," B.R.C. 1981, except in the case of a nonconforming use;

The existing use is considered nonconforming as to use and parking. The project site is located within the RL-1 zone district, defined in section 9-5-2(c)(1)(A) of the land use code as "Single-family detached residential dwelling units at low to very low residential densities." Pursuant to section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, "Convenience retail sales" and "Personal service uses" are prohibited in the RL-1 zone district. Because the use was legally established prior to the adoption of the existing regulations that make such use prohibited, the use is considered to be a legal non-conforming use. Pursuant to section 9-10-3(c)(2), "*Any…change of use that constitutes expansion of a nonconforming use must be reviewed under procedures of section 9-2-15, "Use Review," B.R.C. 1981.*"

(2) Rationale: The use either:

__N/A__(A) Provides direct service or convenience to or reduces adverse impacts to the surrounding uses or neighborhood;

__N/A__(B) Provides a compatible transition between higher intensity and lower intensity uses;

__N/A__(C) Is necessary to foster a specific city policy, as expressed in the Boulder Valley Comprehensive Plan, including, without limitation, historic preservation, moderate income housing, residential and nonresidential mixed uses in appropriate locations and group living arrangements for special populations; or

__✓__(D) Is an existing legal nonconforming use or a change thereto that is permitted under subsection (f) of this section;

The existing retail/ personal service use is considered a legal non-conforming use, as the use was legally established prior to the adoption of the existing regulations that make such use prohibited in the RL-1 zone district. The proposed expansion of the use is permitted pursuant to subsection (f) of this section.

__✓__(3) Compatibility: The location, size, design and operating characteristics of the proposed development or change to an existing development are such that the use will be reasonably compatible with and have minimal negative impact on the use of nearby properties or for residential uses in industrial zoning districts, the proposed development reasonably mitigates the potential negative impacts from nearby properties;

The existing 1-story building was constructed in 1927, and was the former location of Delilah's Pretty Good Grocery, followed by the Second Kitchen Food Cooperative and most recently the Alpine

Modern Cafe. The existing use is the most recent substitution in a series of nonconforming retail/personal service uses that have occupied the site continuously over the last 90 years. The existing use has been in operation since 2014 and has become a popular establishment for the surrounding neighborhood, which contains a mix of student rental housing and single-family homeowners. The Alpine Modern Café currently maintains the historic hours of operation of 7:00 a.m. to 7:00 p.m., Monday through Thursday, and from 8:00 a.m. to 10:00 p.m., Friday through Sunday. In addition to the request to allow for the sale of beer and wine, the applicant is also requesting a later closing time of 9:00 p.m. Mondays through Thursdays (the use currently closes at 7:00 p.m. on those days). Aside from these requests, no other changes to the existing operating characteristics are proposed as part of this application. Given that the use is already a popular establishment with the neighborhood and that the existing hours of operation have been in place since 1927, adding beer and wine to the menu while extending those hours slightly on weekdays will allow the use to remain compatible with and have minimal negative impact on the use of nearby properties. In addition, the applicant has indicated in their written statement (see **Attachment A**) that no amplified music will be played outside at any time.

In addition, the applicant is proposing to make several site improvements which will improve the overall site design, particularly with regards to access and landscaping. Specifically, the existing noncompliant access to the site off of 9th Street will be closed so that access to the site will be taken from the existing shared alley south of the building, and street trees will be added to the front of the lot along College Ave. to bring the site into compliance with city landscaping standards. Thus, staff finds that no new impacts will be created by the proposed changes, and that the overall site design will be improved, thereby reducing potential negative traffic safety and visual impacts on surrounding properties.

_✓_(4) Infrastructure: As compared to development permitted under section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, in the zone, or as compared to the existing level of impact of a nonconforming use, the proposed development will not significantly adversely affect the infrastructure of the surrounding area, including, without limitation, water, wastewater and storm drainage utilities and streets;

Standard met. The proposed project will not significantly adversely affect the infrastructure of the surrounding area compared to the existing level of impact of the nonconforming use.

_✓_(5) Character of Area: The use will not change the predominant character of the surrounding area or the character established by adopted design guidelines or plans for the area; and

As mentioned above, the existing building has contained some form of retail and/or personal service use since it was constructed in 1927. As such, the presence of a retail/ personal service use at this site has become an integral part of the predominant character of the area. The existing use currently operates under the historic operating characteristics, which most notably include the limited hours of operation of 7:00 a.m. to 7:00 p.m., Monday through Thursday, and from 8:00 a.m. to 10:00 p.m., Friday through Sunday. Similar to the previous uses that have occupied the site, the current use includes an outdoor seating area and is a popular hub for neighborhood residents. The owner wishes to maintain the existing operating characteristics but to allow for the sale of beer and wine on their menu and extend the closing time to 9:00 p.m. Mondays through Thursdays. Given the popularity of the establishment and the overall community support for the proposal (see **Attachment B** for correspondence from the University Hill Neighborhood

Association in support of the proposed project) as well as the limited hours of operation (restaurants on the Hill serving alcohol are allowed to remain open until 11:00 p.m. seven days per week), staff finds that the current request to allow for beer and wine sales will not change the predominant character of the surrounding area and will indeed improve a use that has been a popular neighborhood establishment for many years.

_N/A_(6) Conversion of Dwelling Units to Nonresidential Uses: There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts to nonresidential uses that are allowed pursuant to a use review, or through the change of one nonconforming use to another nonconforming use. The presumption against such a conversion may be overcome by a finding that the use to be approved serves another compelling social, human services, governmental or recreational need in the community, including, without limitation, a use for a daycare center, park, religious assembly, social service use, benevolent organization use, art or craft studio space, museum or an educational use.

Not applicable, as the request does not include a change from a residential use to a nonresidential use.

(f) Additional Criteria for Modifications to Nonconforming Uses: No application for a change to a nonconforming use shall be granted unless all of the following criteria are met in addition to the criteria set forth above:

__✓__(1) Reasonable Measures Required: The applicant has undertaken all reasonable measures to reduce or alleviate the effects of the nonconformity upon the surrounding area, including, without limitation, objectionable conditions, glare, adverse visual impacts, noise pollution, air emissions, vehicular traffic, storage of equipment, materials and refuse, and on-street parking, so that the change will not adversely affect the surrounding area.

The applicant has indicated in their written statement that the intent is to maintain a low-noise environment on the outdoor patio area, and that there will be no amplified music played outdoors at any time. In addition, the applicant has met with the University Hill Neighborhood Association to explain the proposal, and has received a letter expressing their support of the proposed changes. In terms of vehicular traffic, the applicant will be decreasing the impacts to the surrounding area by removing the existing noncompliant access point off of 9th Street, thereby eliminating the current unsafe condition of having cars back directly onto 9th Street from the parking area on-site. In addition, the applicant is proposing to add street trees to the north side of the property along College Ave., which will not only bring the site into compliance with current streetscape standards but will also help to mitigate potential visual and noise impacts on surrounding properties.

__✓__(2) Reduction in Nonconformity/Improvement of Appearance: The proposed change or expansion will either reduce the degree of nonconformity of the use or improve the physical appearance of the structure or the site without increasing the degree of nonconformity.

The proposed change will reduce the degree of nonconformity with regards to site access and parking while improving the physical appearance of the site. The use is considered

nonconforming as to parking because it does not meet current parking standards. 3 parking spaces are provided where 5 parking spaces are required for the 1,404 square foot building, and the existing parking spaces do not meet current code standards. The current proposal includes adding a new split-rail fence to the western side of the property to block off the existing noncompliant access to the parking area and reconfiguring the parking so that three spaces are maintained and code-compliant backing distances are provided. While the use will remain nonconforming as to parking, overall the parking and access to parking will become significantly more code compliant as a result of the proposed changes. The site is also considered nonconforming as to bike parking due to the fact that the existing bike parking does not meet current city standards. The current proposal includes the addition of new short- and long-term bike parking in accordance with city standards, which will reduce the degree of nonconformity in that regard. Finally, in terms of improving the appearance of the site, the applicant is proposing to add new street trees along College Ave. as well as new landscaping on the north side of the building. Both of these additions will improve the appearance of the site and will also help to bring the site into compliance with city landscaping standards.

__✓__(3) Compliance With This Title/Exceptions: The proposed change in use complies with all of the requirements of this title:

__✓__(A) Except for a change of a nonconforming use to another nonconforming use; and

The current proposal is for a change to a nonconforming use. While the existing use will remain nonconforming after the proposed changes, the proposed changes to the site access, parking configuration and landscaping will bring the site into compliance with a number of code standards which it currently does not meet.

__N/A__(B) Unless a variance to the setback requirements has been granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or the setback has been varied through the application of the requirements of section 9-2-14, "Site Review," B.R.C. 1981.

__✓__(4) Cannot Reasonably Be Made Conforming: The existing building or lot cannot reasonably be utilized or made to conform to the requirements of chapter 9-6, "Use Standards," 9-7, "Form and Bulk Standards," 9-8, "Intensity Standards," or 9-9, "Development Standards," B.R.C. 1981.

The existing building has been used as a grocery store and neighborhood service use since it was constructed in 1927. The only way to make the building conform to the RL-1 zone standards would be to discontinue the existing use and convert the building to a single family residence. Therefore, staff finds that the use cannot reasonably be made conforming.

__✓__(5) No Increase in Floor Area Over Ten Percent: The change or expansion will not result in a cumulative increase in floor area of more than ten percent of the existing floor area.

The current proposal does not include any expansion of the existing floor area.

_N/A_ (6) Approving Authority May Grant Zoning Variances: The approving authority may grant the variances permitted by subsection 9-2-3(d), B.R.C. 1981, upon finding that the criteria set forth in subsection 9-2-3(h), B.R.C. 1981, have been met.

No zoning variance has been requested or granted through this application.

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
June 2, 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:
John Gerstle, Chair
John Putnam
Bryan Bowen
Leonard May
Liz Payton
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:
Crystal Gray

STAFF PRESENT:
Charles Ferro, Development Land Use Review Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Chandler Van Schaack, Planner II
Elaine McLaughlin, Senior Planner
Lane Landrith, Business and Special Events Coordinator, Community Vitality
Molly Winter, DUHMD Executive Director
Sandra Llanes, Assistant City Attorney

1. **CALL TO ORDER**
Chair, **J. Gerstle**, declared a quorum at 6:03 p.m. and the following business was conducted.

2. **APPROVAL OF MINUTES**
On a motion by **B. Bowen** and seconded by **J. Putnam** the Planning Board voted 6-0 (**C. Gray** absent) to approve the May 12, 2016 and May 26, 2016 minutes as amended,

3. **PUBLIC PARTICIPATION**
1. **John Driver** spoke in opposition to 1440 Pine and presented a handout.
2. **Rebecca Shoag** spoke in opposition to 1440 Pine.
3. **Scott Curry** spoke in opposition to 1440 Pine.

DRAFT

4. **DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS**

A. Call Up Item: SPARK Subdivision (TEC2016-00006) located at 3390 Valmont Road; 3085, 3155, and 3195 Bluff Street: Final Plat to replat the existing site into four lots and two outlots.

This item was not called up.

5. PUBLIC HEARING ITEMS

A. AGENDA TITLE: Public hearing and consideration of a motion to recommend approval of an ordinance amending section 9-6-5(d) "Mobile Food Vehicle Sales," amending section 9-16-1(c) "Definitions" to redefine "Mobile Food Vehicle" to include human powered vehicles, amending section 7-6-28, B.R.C. 1981 "Bicycle Parking" and setting forth related details.

Staff Presentation:
C. Ferro introduced the item.
L. Landrith presented the item to the board.

Board Questions:
L. Landrith, **S. Llanes** and **M. Winter** answered questions from the board.

Public Hearing:
No one spoke.

Board Comments:
<u>Key Issue</u>: Does Planning Board support the staff recommendation regarding ordinance changes for human-powered mobile food vehicles, including:

- **Parking on roadway while conducting mobile food vehicle sales?**
- **Prohibiting sales in transit along paths where bikes are allowed?**

- **L. Payton** supports the ord but since bike, maybe should go where cars can't go (parks). Would be more organic experience. Better not in parking lot.
- **J. Putnam** agreed. Find balance. Might be helpful to zone some parks and spaces to do that.
- **B. Bowen**, park environment safer for kids than a parking lot.
- **J. Putnam**, like to capture idea of zones in city to allow use. Intrigued by push carts. Like to look into.
- **H. Zuckerman**, going forward as presented is acceptable. Like idea of other places, they could go. Like to look into how we would do that. Want to limit distance where prepare food and sell. Have staff look into pursue. Not concerned with push cart idea.

<u>Motion:</u>
<u>On a motion by **J. Putnam**, seconded by **H. Zuckerman**, the Planning Board voted 6-0 (**C. Gray** absent) to recommend approval of an ordinance amending section 9-6-5(d) "Mobile Food Vehicle Sales," amending section 9-16-1(c) "Definitions" to redefine "Mobile Food Vehicle" to</u>

DRAFT

include human powered vehicles, amending section 7-6-28, B.R.C. 1981 "Bicycle Parking" and setting forth related details. Planning Board further recommends amending the current draft ordinance to include provisions for off-pavement sales in appropriate locations identified by the city in parks and other such places.

On a motion by **J. Gerstle**, seconded by **L. May**, the Planning Board voted 4-2 (**B. Bowen** and **H. Zuckerman** opposed, **C. Gray** absent) to recommend that staff consider and develop additional proposals that would address the use of push carts in public areas for vending food.

B. AGENDA TITLE: Public hearing and consideration of a request for a two-story, 766 square foot rear addition to an existing single family home to convert the residence into a tri-plex, located at 2949 Broadway with a request for a 37.5 percent parking reduction and a reduction in lot area per dwelling unit from 3,000 square feet to 2,076 square feet within the RH-2 zoning district. Case no. LUR2014-00097.

Applicant: Michael Bosma
Owner: ALR Investments LLC

Board members were asked to reveal any ex-parte contacts they may have had on this item.
L. May, due to the historic nature of the home, disclosed his wife currently sits on Landmarks Board and he is currently on the Historic Boulder Board. This item has not been discussed. The architect on the project was once a client of his approximately seven years ago.
L. Payton – on LB discussed

Staff Presentation:
C. Ferro introduced the item.
E. McLaughlin presented the item to the board.

Board Questions:
E. McLaughlin answered questions from the board.

Applicant Presentation:
Michael Bosma, the applicant, presented the item to the board.

Board Questions:
Michael Bosma the applicant and **Tom Jarmon** with ESA Architects answered questions from the board.

Public Hearing:
No one spoke.

Board Comments:
Key Issue #1: Does the project, with its proposed reduction in lot area per dwelling unit meet the Site Review Criteria?

DRAFT

Key Issue #2: Does the 37.5 percent parking reduction meet the review criteria under section 9-2-14(h)(2)(K), B.R.C.?

- **L. Payton**, great to landmark. Agree with applicant. Only issue is with the requirement to diff the new structure from old in excessive way. No one will be confused. Strike and encourage to use same siding and colors as main hist structure to be more compatible. Many ways to diff. Don't have to use all of them. Condition to encourage LB to make finishes more compatible. Support project and not parking issues.
- **J. Putnam** agreed. Meets BVCP and site review. New units where need it. Given TDM, agree with parking reduction. Looked at for wide variety of uses.
- **L. May**, agreed but like to add max extent possible addition shift west to give space from hist structure. Recommend to LB. 3ft to west.
- **B. Bowen**, backing distance may be governing. Not the setback.
- **L. May** agreed. If not 3ft, the more distance the better.
- **B. Bowen** offer condition to connect bike/pest connection all the way thru. On South side all the way thru the alley. Landscape area 6 and replace with hardscape.
- **H. Zuckerman**, re **L. May's** condition, create breezeway between additions.
- **L. May**, not a breezeway. Not change anything just give more separation.
- **H. Zuckerman**, great project. Variety of reasons, parking not an issue. Density support.
- **J. Gerstle**, agree and like the project. Re unbundled parking, clarified all spaces will be unbundled with requirement if desired, each unit would have a priority spot with payment. He agreed with this.

Motion:

On a motion by **H. Zuckerman** seconded by **B. Bowen** the Planning Board voted 6-0 (**C. Gray** absent) to approve Site Review application # LUR2014-00097 subject to the conditions of approval listed below and adopting the staff memorandum and its attachments as findings of fact, with the addition of two conditions:

1. The south sidewalk be extended across the entire property from east to west replacing the landscape area "6" with pavement for bicycle access and pedestrian access.

2. The addition be located as far west as can be accommodated by site constraints in particular the back-up area to create as much separation as possible between the massing of the primary structure and the addition.

Friendly amendment made by **L. Payton**, that Planning Board recommend a condition that the finishes on the addition be adjusted to be more sympathetic and compatible with the historical structure. Friendly amendment was accepted by **H. Zuckerman**.

C. AGENDA TITLE: Public hearing and consideration of a NONCONFORMING USE REVIEW (LUR2015-00118) request to amend the approved operating characteristics for the Alpine Modern Café at 904 College Ave. within the RL-1 zone district to allow for beer and wine sales during regular business hours, and to extend the closing time from 7:00 p.m. (existing) to 9:00 p.m. (proposed) Mondays through Thursdays. No other changes to the existing operating characteristics are proposed.

DRAFT

Applicant: Lon McGowan
Owner: James Carter

Board members were asked to reveal any ex-parte contacts they may have had on this item.
J. Gerstle used to live in the neighborhood
J. Putnam rides bike by that spot

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:
Lon McGowan, the applicant, presented the item to the board.

Board Questions:
Lon McGowan, the applicant, answered questions from the board.

Public Hearing:
No one spoke.

Board Comments:
Key Issue #1: Is the proposal consistent with the Use Review criteria including the additional criteria for Modifications to Nonconforming Uses set forth in Sections 9-2-15(e) and (f), B.R.C. 1981?

- **B. Bowen**, great this place exists. Should be happening. More walkable in the neighborhood. Steel split rail concern. Do something artful.
- **L. Payton**, other places with no amplified music, still loud. If only 12-15 ppl, not sure how to keep it there. Staff said would have to obey the noise ord. Liquor license controls from going outside.

Motion:
On a motion by **B. Bowen** seconded by **J. Putnam** the Planning Board voted 6-0 (**C. Gray** absent) approve the Use Review application LUR2015-00118, adopting the staff memorandum as findings of fact, including the attached analysis of review criteria, and subject to the recommended conditions of approval found in the packet.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Changes to Tax Credits Available for Residential and Commercial Restoration of Historic Structures

DRAFT

After attending the June Landmarks Board meeting, **L. Payton** informed the Planning Board of the details regarding tax credits that are available for residential and commercial restoration of historic structures.

B. Collaboration between the EAB and Planning Board

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 8:26 p.m.

APPROVED BY

_____
Board Chair

_____
DATE

DRAFT

INFORMATION PACKET
MEMORANDUM

To: Mayor and Members of Council

From: Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works
Mike Sweeney, Director of Public Works for Transportation
Jeff Arthur, Director of Public Works for Utilities
Annie Noble, Acting Principal Engineer for Flood and Greenways
Ward Bauscher, Engineering Project Manager, Flood and Greenways
Dave Kemp, Transportation Planner II
Christin Shepherd, Civil Engineer I, Flood and Greenways

Date: June 21, 2016

Subject: Call-up Item: Community and Environmental Assessment Process (CEAP) Report Recommendations for the Fourmile Canyon Creek Greenways Improvement Project from Upland Avenue to West of Broadway

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EXECUTIVE SUMMARY

This item provides the City Council with an opportunity to review and call up the Community and Environmental Assessment Process (CEAP) report recommendations for the Fourmile Canyon Creek Greenways Improvement Project from Upland Avenue to West of Broadway. The objective of this project is to apply flood mitigation and multi-use paths to improve flood safety and accessibility in the area east of Crest View Elementary School.

On May 17, 2016, the Greenways Advisory Committee (GAC) approved (5-0) the recommended flood mitigation and multi-use path alternatives that included:

- Underpasses at Violet Avenue and Upland Avenue
- Sediment capture within Violet Park
- Future collaboration with Open Space and Mountain Parks (OSMP) to address sediment and flood issues upstream of Broadway
- Future 50-year channel improvements from 9th to 19th Street
- Multi-use path Options 1, 2A and 3A:
    - Connection to Countryside Village (mobile home park)
    - North Alignment through Violet Park

- Connect Upland Avenue to Violet Avenue via Fourmile Canyon Creek

The approved motion by the GAC is included as Attachment A, and a map illustrating the recommended alternatives is included as Attachment B.

Final CEAP report recommendations for the The Fourmile Canyon Creek Greenways Improvement Project from Upland Avenue to West of Broadway are subject to call up for 30 days (June 22 – July 22). If City Council does not call up the CEAP recommendations, the design and permitting processes for the recommendations from Violet Park to 19th Street will begin in the fall of 2016.

The final CEAP report (dated June 6, 2016) is available at: https://www-static.bouldercolorado.gov/docs/FINAL_2016_Fourmile_Upland_to_Broadway_CEAP-1-201606060914.pdf. The audio recording of the GAC meeting is available at: https://bouldercolorado.gov/boards-commissions/greenways-meetings-and-events.

FISCAL IMPACT

Funding for all CEAP recommendations (excluding 50-year channel improvements) is being proposed in the 2017-2022 Capital Improvements Program (CIP), with a portion of the funding already included in the 2016 budget. Council will be asked to consider the funding through the 2017 budget process.

On April 18, 2016, the Water Resources Advisory Board (WRAB) received public feedback requesting that staff expand the original recommendation for flood mitigation alternatives to accommodate a 50-year storm event between Broadway and 19th Street. This work would begin once the flood improvements between Violet Avenue and Upland Avenue are completed. The cost for the 50-year channel improvements is not currently included in the proposed 2017-2022 CIP, and council will be asked to consider funding for the 50-year channel improvements at a later time.

The following table highlights proposed CIP funding for this project:

CIP Year	*Contribution from Flood*	*Contribution from Greenways*
2016	$500,000	$270,000
2017-2022*	$5,000,000	$800,000
Total	**$6,570,000**	

**includes UDFCD Contribution: $1.45 Million*

Concept level costs for the recommended improvements are as follows:

Underpasses at Violet Avenue and Upland Avenue (including channel improvements between)	$6,300,000
Sediment Capture at Violet Park	$80,000
Preferred Multi-Use Path Alternatives	$170,500
Total Cost	**$6,550,500**

The cost for 50-year channel improvements is estimated to be an additional $8.2 Million.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: The recommended underpasses and multi-use path would complete a missing link in the multi-use path system. Completing multimodal travel connections supports Boulder's economic vitality by connecting more neighborhoods to schools, parks and commercial properties while also improving the efficiency of the transportation system.

- Environmental: The multi-use path connection would help reduce greenhouse gas emissions by promoting non-motorized transportation, which helps meet the goals of the Transportation Master Plan and Climate Action Plan. Construction of the recommended multi-use path connections involves construction activities in and around Fourmile Canyon Creek, which will likely temporarily remove habitat during construction. After construction, native vegetation will be replaced, and it is anticipated that disturbed species will return to an enhanced habitat area at the project site. Increased use by humans or domestic animals is not anticipated to greatly impact the wildlife. Precaution will be taken during design to keep path alignments out of the wetlands and wetland buffer as much as possible to allow for the ecology of the stream corridor to remain continuous.

- Social: The recommended path and underpasses would improve health and safety by providing a safe crossing at Violet Avenue and Upland Avenue for students and other path users by separating bikes and pedestrians from vehicles. The underpasses may also encourage more students to bike or walk to school.

BACKGROUND

In 2009, City Council accepted the Fourmile Canyon Creek and Wonderland Creek Flood Mitigation Final Plan. At that time, council stated the importance of flood improvements at Crest View Elementary School to provide safer vehicular access during a major storm event. Crest View Elementary School is located at the northwest corner of 19th Street and Sumac Avenue, and flooding during a 100-year storm event would prohibit safe vehicular access to and from the school.

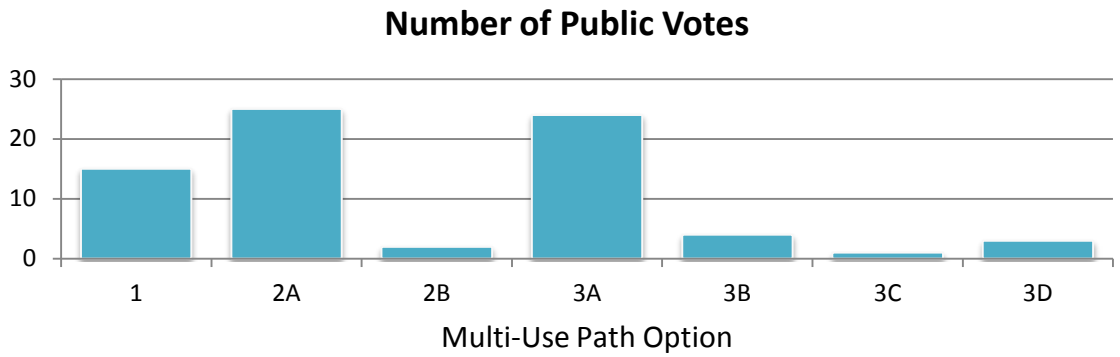
The 2009 Mitigation Final Plan originally called for 100-year floodplain containment from Violet Avenue to 26th Street, but due to lack of public support, this recommendation was changed to high hazard containment, floodproofing and providing safer access to Crest View Elementary School. The September 2013 flooding event caused significant flooding damage to homes, public infrastructure and utilities, in addition to significant sediment transport throughout the Fourmile Canyon Creek length. It also increased public awareness and created a desire to mitigate flood risk. As a result of the 2013 flood event, staff re-examined the conclusions in the 2009 Mitigation Final Plan to address spill flows, sediment containment, high hazard zone containment and feasible multi-use paths.

In early 2015, staff reviewed alternatives and plans for greenway trail extensions and connections along Fourmile Canyon Creek. The review determined that potential improvements for greenway multi-use paths could reasonably combine with floodplain mitigation efforts to make a singular, more beneficial project. This project would serve a two-fold purpose. First, it would complete a missing link in the multi-use path system between 19th Street and Broadway as shown in the Greenways Master Plan, Transportation Master Plan and the North Boulder Sub-Community Plan. Second, the project would likely decrease risk for structures currently within

the 100-year floodplain along Fourmile Canyon Creek. This effort would also allow vehicular access to Crest View Elementary School during major flood events and would reduce costs for both multi-use path and flood mitigation alternatives compared to completing these alternatives separately.

Public Feedback

On November 18, 2015, in conjunction with a listening session for the Boulder Valley Comprehensive Plan update, a variety of city departments hosted an open house at Crest View Elementary School to showcase projects in north Boulder. Approximately 124 people attended the open house, and 30 people provided feedback on multi-use path alternatives. The multi-use path alternatives were divided into three segments (segment 1, 2, and 3) with the option to provide feedback on more than one segment. Based on public comment, multi-use path options 1, 2A and 3A were the preferred options and are all being recommended for construction. Additional public comments from the open house focused on maximizing sediment capture in Violet Park and upstream of Broadway to minimize impacts on private property.



ANALYSIS

The CEAP evaluated seven flood mitigation alternatives:

- FM1: Multiple Detention Facilities (west of Broadway)
- FM2: Single Detention Facility (west of Broadway)
- FM3: Fourmile Canyon Creek 100-year Channel Improvements
- FM4: Spill Flow Diversion to Wonderland Creek
- FM5: Fourmile Canyon Creek 50-year Channel Improvements
- FM6: Fourmile Canyon Creek Sediment Capture Facility
- FM7: 2009 Fourmile Canyon Creek and Wonderland Creek Flood Mitigation Final Plan recommendations: safer access to Crest View Elementary through increased channel capacity from Violet Park to 19th Street

All Fourmile Canyon Creek flood mitigation measures that were evaluated require significant financial resources. However, the relative cost of the recommended flood mitigation alternative (FM7), as compared to other improvements evaluated as part of this CEAP, is significantly lower. In addition, these improvements address critical needs such as:

- Removing a fire station from the 500-year floodplain

- Reducing flood risk within the project limits, including safer vehicular access to Crest View Elementary School
- Increasing use of alternative modes of transportation and a corresponding decrease in greenhouse gas emissions by extending the city's multi-use path system
- Integrating flood mitigation improvements with recommended multi-use path options
- Increasing safety of pedestrians and bicyclists by eliminating the at-grade crossing at Violet Avenue and Upland Avenue
- Increasing recreational opportunities for the neighborhood by extending the multi-use path system to and through Violet Park

Multi-use path alternatives were evaluated based on the North Boulder Sub-Community Plan, Greenways Master Plan and the Transportation Master Plan. These master plans identify a missing link in the multi-use path system between 19th Street and Broadway. In 2012, a CEAP was completed and recommended a multi-use path underpass at 19th Street, and a multi-use path and secondary emergency access extension between 19th Street and Tamarack Avenue. The design for the 2012 CEAP recommendations is currently underway, and construction funds are provided in the Flood Utilities and Greenways CIP.

The CEAP, from Upland Avenue to West of Broadway, evaluated seven multi-use path alignment alternatives to complete the missing link in the multi-use path system between 19th Street and Broadway. The following options were evaluated:

- Option 1: Connection to Countryside Village (mobile home park)
- Option 2A: North Alignment through Violet Park
- Option 2B: South Alignment through Violet Park
- Option 3A: Connect Upland Avenue to Violet Avenue via Fourmile Canyon Creek
- Option 3B: Connect Upland Avenue to Violet Avenue via 17th Alignment
- Option 3C: Connect Upland Avenue to Violet Avenue via South Alignment on Violet Avenue
- Option 3D: Connect Upland Avenue to Violet Avenue via North Alignment on Violet Avenue

Multi-use path Options 1, 2A and 3A had significant public support and were approved (5-0) by the GAC. These alternatives allow for safer access to Crest View Elementary School and minimize disturbance by taking advantage of the area that is already being impacted by the recommended flood mitigation alternative.

NEXT STEPS

The Fourmile Canyon Creek Greenways Improvement Project from Upland Avenue to West of Broadway CEAP is subject for call-up through July 22, 2016. If the CEAP is not called-up, staff will begin the design work and permitting process for the recommended flood mitigation and multi-use path improvements. Coordination with the Parks and Recreation and OSMP Departments will continue through the design and construction phases. Council will be asked to consider funding for this project through the 2017 budget process.

For more information on this project, contact Ward Bauscher, Engineering Project Manager, at 303-441-4199 or bauscherw@bouldercolorado.gov.

ATTACHMENTS

Attachment A - Greenways Advisory Committee Approved Motion (May 17, 2016)

Attachment B - Recommended Flood Mitigation and Multi-Use Path Alternatives

ATTACHMENT A: Greenways Advisory Committee Approved Motion (May 17, 2016)
Staff recommends a motion from the Greenways Advisory Committee to City Council to accept the CEAP for the Fourmile Canyon Creek Greenways Improvements from Upland Avenue to West of Broadway. This recommendation includes:

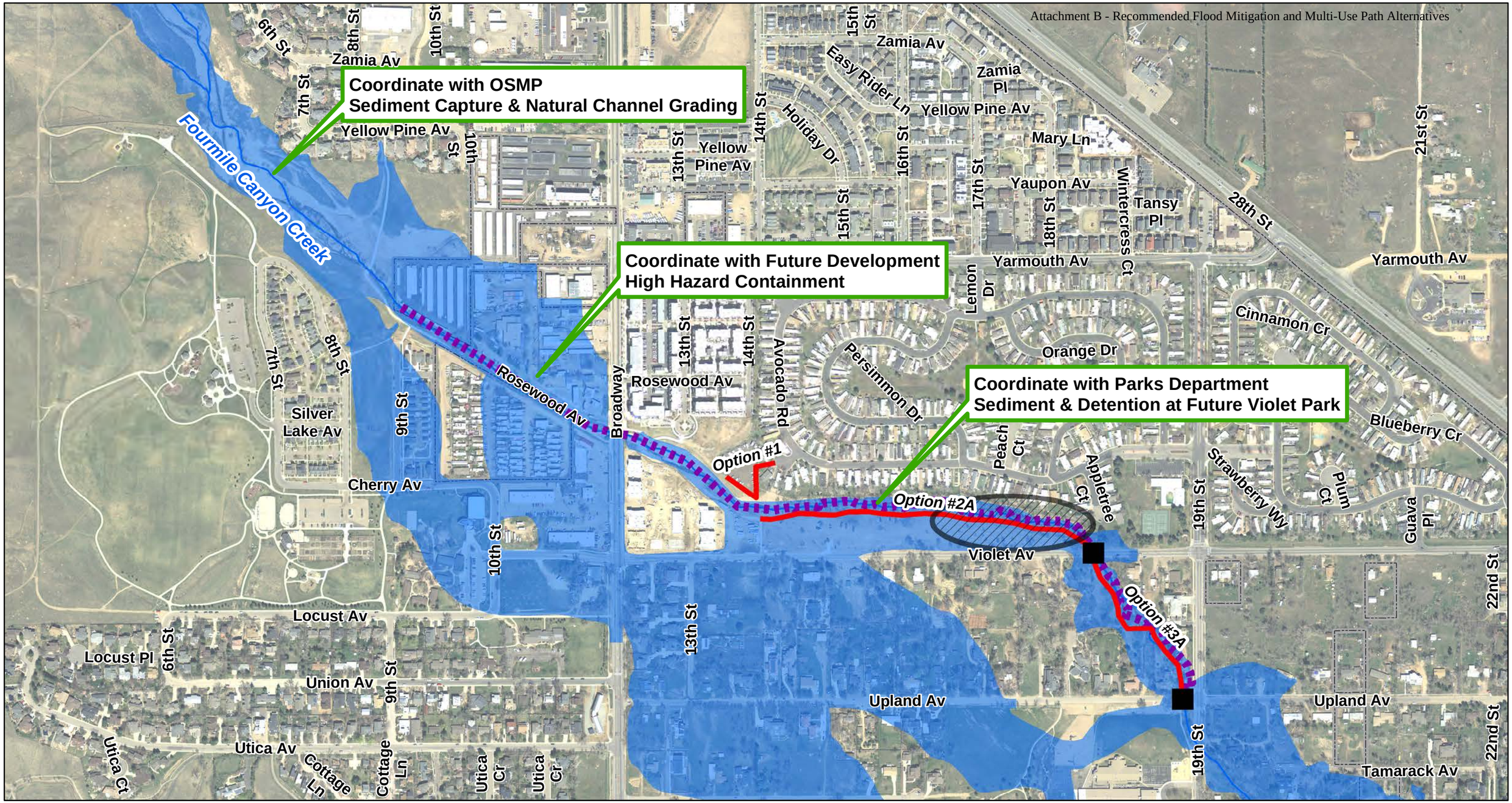
- Flood Mitigation Alternative 7 (FM7) - Provide safer access to Crest View Elementary which includes:
    - Underpasses at Violet Avenue and Upland Avenue,
    - Channel improvements between Violet Avenue and Upland Avenue, and
    - Sediment capture within Violet Park while balancing meaningful multi-use path and park development opportunities.

- Multi-Use Path Options:
    - Option 1: Connection to Countryside Village (mobile home park)
    - Option 2A: North Alignment through Violet Park
    - Option 3A: Connect Violet Avenue and Upland Avenue via Fourmile Canyon Creek

- Future collaboration with OSMP to address sediment and flood issues upstream of Broadway as:
    - Multi-stage, natural channel in conjunction with habitat and restoration improvements in the upstream area
    - Evaluation of sediment detention basin close to storage units in conjunction with habitat and restoration improvements

- Upon completion of Flood Mitigation Alternative 7, incorporation of 50-year channel improvements from 9th to 19th Street including addressing downstream impacts on Wonderland Creek.

Pending GAC approval, City Council will receive the CEAP as a call-up item in the summer of 2016.



Legend

- Effective 100-year Floodplain
- Creek
- Future Coordination Opportunities
- 50-year Channel Improvements
- Multi-Use Path Alignment
- Sediment Capture
- Underpass Location

N

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Fourmile Canyon Creek

Community & Environmental Assessment Process

Staff Recommendations

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: June 21, 2016

Subject: **Call-Up Item:** Vacation of an existing 1,224 square foot emergency access easement located in the northeast corner of the property and the vacation of emergency access easement rights in an existing 9,591 square foot Water, Sanitary Sewer, and Emergency Access Easement located in the northeast portion of the property at 3107 Iris Ave. (ADR2016-00108).

EXECUTIVE SUMMARY:

The applicant requests vacation of an existing 1,224 square foot emergency access easement located in the northeast corner of the property and the vacation of emergency access easement rights in an existing 9,591 square foot Water, Sanitary Sewer, and Emergency Access Easement on Outlot A. Both easements are located at 3107 Iris Ave. (refer to **Attachment D** for exact locations). The smaller one was dedicated to the City of Boulder on the final plat of the Replat of Lots 2 & 3, Bank of Boulder Park (Reception No. 394931) on May 9, 1980. The larger one was dedicated to the City of Boulder pursuant to the Water, Sanitary Sewer, and Emergency Access Easement and recorded at Film No. 1093, Reception No. 371661 on November 26, 1979.

These easement vacations are requested in order to develop the property to be consistent with the Conditions of Approval (**Attachment F**, *Notice of Disposition for Site Review*) for the approved site review (LUR2015-00088). A new configuration for emergency access has been approved through the site review process. These emergency access easements have never been open to pedestrian or vehicular traffic and are not recognized by emergency services creating no further public need for them. The proposed vacations were approved by staff on May 23, 2016. There are two scheduled City Council meetings within the 30-day call-up period on June 7, 2016 and June 21, 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 vacations of a 1,224 square foot emergency access easement, and the emergency access easement rights in a 9,591 square foot Water, Sanitary Sewer and Emergency Access Easement. The date of staff approval of the easement vacation was May 23, 2016 (refer to **Attachment E**, *Notice of Disposition*). These vacations do 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.

These vacations will be effective 30 days later on June 22, 2016 unless the approval is called up by City Council.

FISCAL IMPACTS:
None identified.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:
Economic: None identified.

Environmental: None identified.

Social: None identified.

BACKGROUND:
The subject property is approximately 41,285 square feet in area located in the Crossroads area of Boulder (refer to Attachment A, *Vicinity Map)*. The site is located in a Business-Transitional 1(BT-1) zone district. Both easements are officially established on Outlot A of the Replat of Lots 2 & 3, Bank of Boulder Park, which is otherwise known as 3105 Iris Ave. The smaller easement was dedicated to the City of Boulder in the records of the Boulder County Clerk at Recorder on the final plat of Replat of Lots 2 & 3, Bank of Boulder Park (Reception No. 394931) on May 9, 1980. The larger easement was dedicated to the City of Boulder pursuant to the Water, Sanitary Sewer, and Emergency Access Easement recorded at Film No. 1093, Reception No. 371661 on November 26, 1979.

Planning Board approved a Site Review (LUR2015-0008) for the redevelopment of the existing Bank of Boulder office park that consists of an approximately 42,000 square foot office building and redesign of the site for efficiency. This new site design provides for a reconfiguration of the parking and emergency access within the existing Bank of Boulder Planned Unit Development (P.U.D.) (**Attachment B**, *Site Plan*).

Given that the vacation of the subject easements were a requirement of a Site Review approval and that there is no public need for the easements, failure to vacate the requested easements would cause hardship to the property owner by limiting the development potential of the property.

ANALYSIS:
Staff finds the proposed vacation of these emergency access easements 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 easements being vacated.

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.

N/A 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

✓ b. Would provide a greater public benefit than retaining the property in its present status.

The new site configuration, approved through site review (LUR2015-00088) provides for fire apparatus access that is: better designed, meets International Fire Code requirements and is in a more centralized location providing for a safer environment for the public and visitors to this property.

PUBLIC COMMENT AND PROCESS:

Notice of these vacations 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.

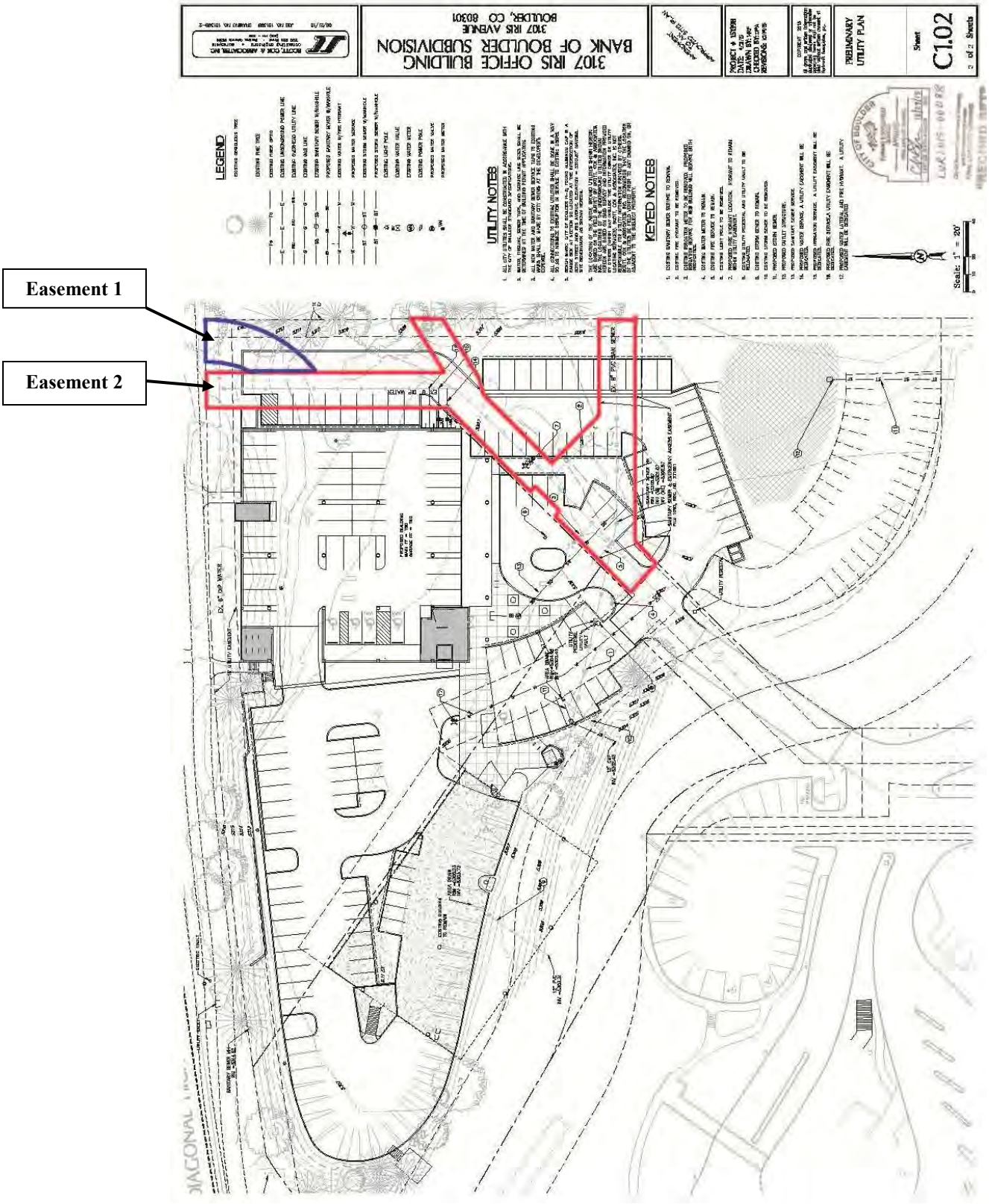
NEXT STEPS:

If the requested vacations are not called up by City Council then the Deed of Vacation (**Attachment C**) will be recorded. If the requested vacations are called up, and subsequently denied, the applicant will be limited to development on the property outside of the easement areas.

ATTACHMENTS:

Attachment A: Vicinity Map
Attachment B: Site Plan
Attachment C: Deed of Vacation
Attachment D: Exhibit A & Exhibit B
Attachment E: Notice of Disposition- Easement Vacation
Attachment F Notice of Disposition- Site Review Approval

Diagonal - West Hwy.
3107 Iris Ave.
30th St.
Iris Av


Easement 1
Easement 2
3107 IRIS OFFICE BUILDING
BANK OF BOULDER SUBDIVISION
3107 IRIS AVENUE
BOULDER, CO 80301
PRELIMINARY UTILITY PLAN
C1.02
LEGEND
UTILITY NOTES
KEYED NOTES
Scale: 1" = 20'

For Administrative Purposes Only
Address: 3107 Iris Avenue
Case No.: ADR2016-00108

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, the following easements:

1) an emergency access easement dedicated to the City of Boulder on the Replat of Lots 2 & 3, Bank of Boulder Park on May 9, 1980 and recorded in the records of the Boulder County Clerk and Recorder at Reception No. 394931 containing 1,224 square feet located at 3107 Iris Avenue and more particularly described on Exhibit A attached hereto and incorporated herein; and

2) the emergency access easement rights of the Water, Sanitary Sewer and Emergency Access Easement dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder at Film No 1093, Reception No. 371661 on November 26, 1979 containing 9,591 square feet at 3107 Iris Avenue and more particularly described on Exhibit B attached hereto and incorporated herein

The above easement vacations and releases of said easements at 3107 Iris Avenue shall extend only to the portions and the types of easements specifically vacated. The within vacations are not to be construed as vacating any rights-of-way, easements or cross-easements lying within the description of the vacated portions of the easements.

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

6-10-16
Date

1

EXHIBIT A
(PAGE 1 OF 2)

LEGAL DESCRIPTION – EMERGENCY ACCESS EASEMENT

AN EMERGENCY ACCESS EASEMENT BEING A PORTION OF OUTLOT A, REPLAT OF LOTS 2 & 3 BANK OF BOULDER PARK, A PLAT RECORDED MAY 9, 1980 AT RECEPTION NUMBER 394931 OF THE BOULDER COUNTY RECORDS, LOCATED IN THE NE 1/4 OF SECTION 20, T1N, R70W OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID OUTLOT A, WHENCE THE NORTH LINE OF SAID OUTLOT A BEARS N89°08'40"E, SAID LINE FORMING THE BASIS OF BEARINGS FOR THIS DESCRIPTION; THENCE SOUTHERLY ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 80.00 FEET AND A CENTRAL ANGLE OF 52°03'51" AND BEING SUBTENDED BY A CHORD WHICH BEARS S25°10'36"W, 70.22 FEET, 72.70 FEET;
THENCE N00°06'50"W, 37.23 FEET;
THENCE NORTHERLY ALONG THE ARC OF A CURVE CONCAVE TO THE NORTH HAVING A RADIUS OF 56.00 FEET AND A CENTRAL ANGLE OF 27°30'48" AND BEING SUBTENDED BY A CHORD WHICH BEARS N12°54'15"E, 26.63 FEET, 26.89 FEET TO THE NORTH LINE OF SAID OUTLOT A;
THENCE N89°08'40"E, ALONG SAID NORTH LINE 24.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 1224 SQUARE FEET OR 0.028 ACRES.

A. JOHN BURI P.L.S. #24302
FOR AND ON BEHALF OF
SCOTT, COX & ASSOCIATES, INC.
1530 55TH STREET
BOULDER, COLORADO 80303
303.444.3051
03/21/16
PROJECT NO. 15139E

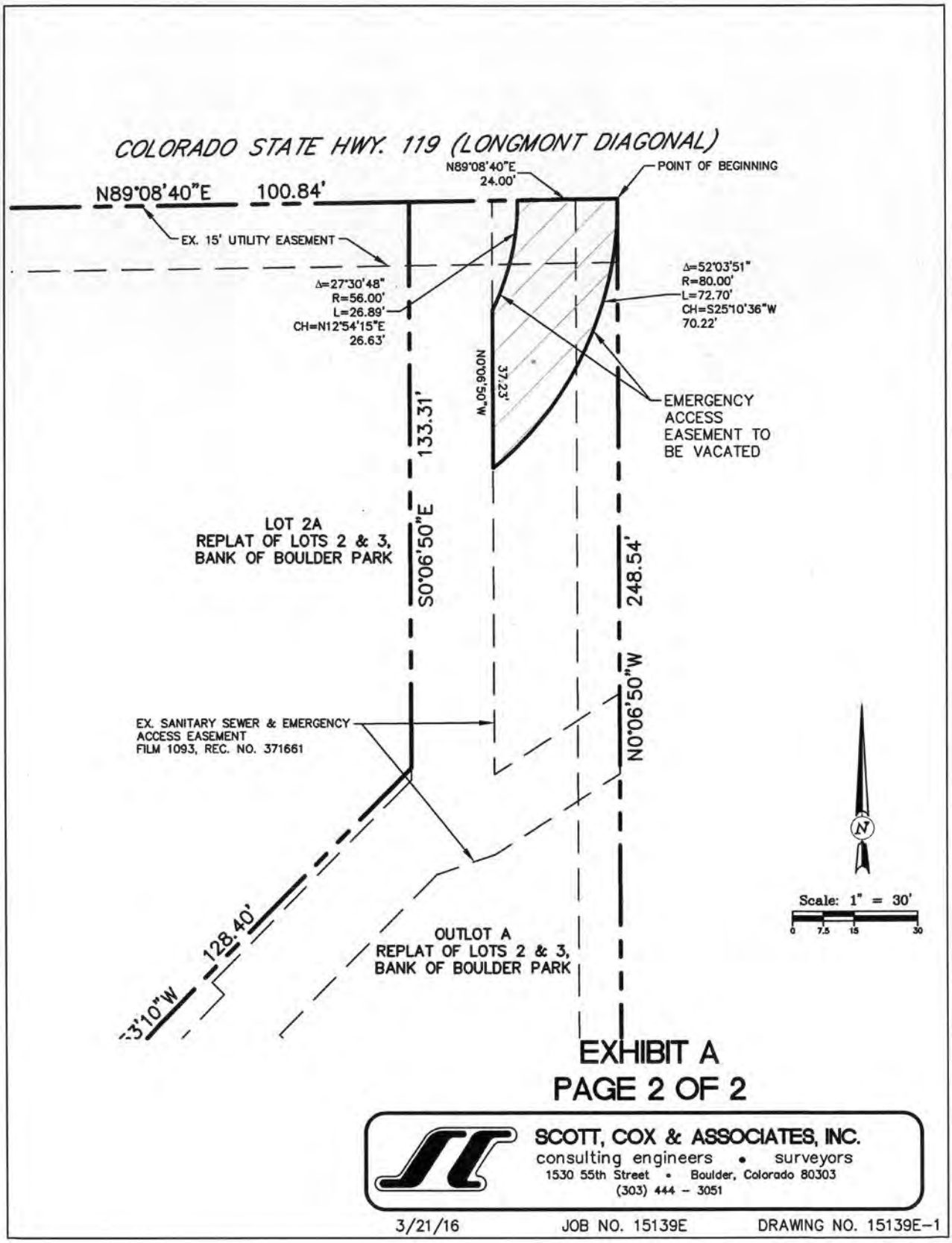

COLORADO STATE HWY. 119 (LONGMONT DIAGONAL)
N89°08'40"E 100.84'
N89°08'40"E 24.00'
POINT OF BEGINNING
EX. 15' UTILITY EASEMENT
Δ=27°30'48"
R=56.00'
L=26.89'
CH=N12°54'15"E
26.63'
Δ=52°03'51"
R=80.00'
L=72.70'
CH=S25°10'36"W
70.22'
N0°06'50"W
37.23'
EMERGENCY ACCESS EASEMENT TO BE VACATED
133.31'
S0°06'50"E
LOT 2A
REPLAT OF LOTS 2 & 3,
BANK OF BOULDER PARK
248.54'
N0°06'50"W
EX. SANITARY SEWER & EMERGENCY ACCESS EASEMENT
FILM 1093, REC. NO. 371661
128.40'
OUTLOT A
REPLAT OF LOTS 2 & 3,
BANK OF BOULDER PARK
N
Scale: 1" = 30'
0 7.5 15 30
EXHIBIT A
PAGE 2 OF 2
SCOTT, COX & ASSOCIATES, INC.
consulting engineers • surveyors
1530 55th Street • Boulder, Colorado 80303
(303) 444 – 3051
3/21/16
JOB NO. 15139E
DRAWING NO. 15139E–1

EXHIBIT B
(Page 1 of 2)

LEGAL DESCRIPTION – EMERGENCY ACCESS EASEMENT

AN EMERGENCY ACCESS EASEMENT BEING A PORTION OF OUTLOT A, REPLAT OF LOTS 2 & 3 BANK OF BOULDER PARK, A PLAT RECORDED MAY 9, 1980 AT RECEPTION NUMBER 394931 OF THE BOULDER COUNTY RECORDS, LOCATED IN THE NE 1/4 OF SECTION 20, T1N, R70W OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID OUTLOT A, WHENCE THE NORTH LINE OF SAID OUTLOT A BEARS N89°08'40"E, SAID LINE FORMING THE BASIS OF BEARINGS FOR THIS DESCRIPTION; THENCE S89°08'40"W, 30.00 FEET TO A POINT ON AN EXISTING SANITARY SEWER & EMERGENCY ACCESS EASEMENT RECORDED AT RECEPTION NO. 371661, THE POINT OF BEGINNING;
THENCE ALONG SAID EASEMENT THE FOLLOWING ELEVEN (11) COURSES:

1) S00°06'50"E, 135.20 FEET;
2) N57°26'40"E, 35.55 FEET;
3) S00°06'26"E, 18.96 FEET;
4) S57°26'40"W, 35.55 FEET;
5) S71°38'20"W, 14.89 FEET;
6) S44°53'10"W, 53.14 FEET;
7) S45°06'50"E, 38.44 FEET;
8) N89°53'10"E, 54.54 FEET;
9) S00°06'50"E, 20.00 FEET;
10) S89°53'10"W, 128.90 FEET;
11) S44°53'10"W, 19.86 FEET;

THENCE N45°06'50"W, 20.00' TO A POINT ON SAID EXISTING SANITARY SEWER & EMERGENCY ACCESS EASEMENT;
THENCE ALONG SAID EASEMENT THE FOLLOWING SEVEN (7) COURSES:

1) N44°53'10"E, 64.01 FEET;
2) S45°06'50"E, 4.00 FEET;
3) N44°53'10"E, 20.00 FEET;
4) N45°06'50"W, 4.00 FEET;
5) N44°53'10"E, 67.43 FEET;
6) N00°06'50"W, 136.14 FEET;
7) N89°08'40"E, 20.00 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS 9,591 SQUARE FEET OR 0.220 ACRES.

A. JOHN BURI REGISTERED 24302 LAND SURVEYOR STATE OF COLORADO

A. JOHN BURI P.L.S. #24302
FOR AND ON BEHALF OF
SCOTT, COX & ASSOCIATES, INC.
1530 55TH STREET
BOULDER, COLORADO 80303
303.444.3051
03/21/16
PROJECT NO. 15139E

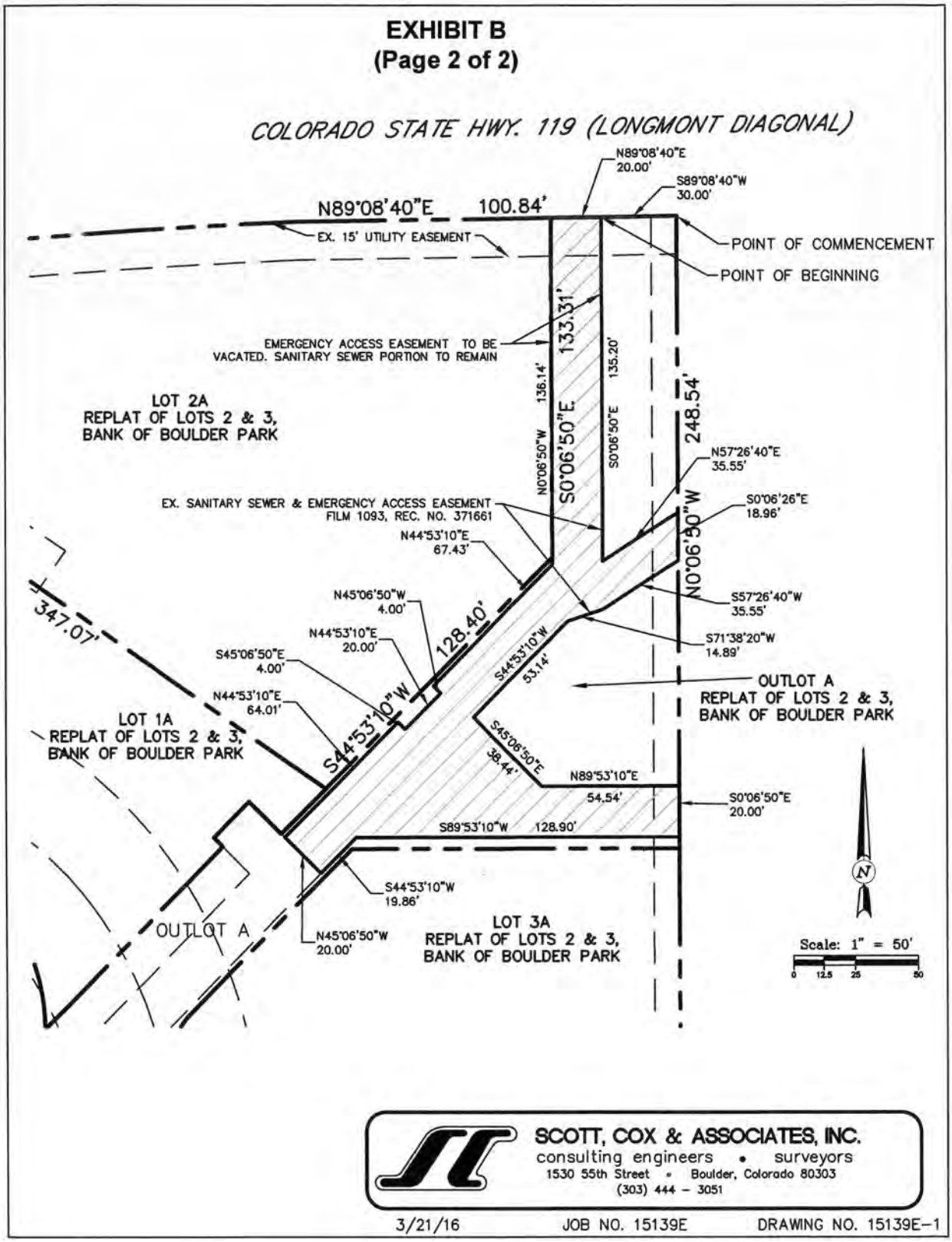


EXHIBIT B
(Page 2 of 2)
COLORADO STATE HWY. 119 (LONGMONT DIAGONAL)
N89°08'40"E 20.00'
S89°08'40"W 30.00'
N89°08'40"E 100.84'
EX. 15' UTILITY EASEMENT
POINT OF COMMENCEMENT
POINT OF BEGINNING
EMERGENCY ACCESS EASEMENT TO BE VACATED. SANITARY SEWER PORTION TO REMAIN
133.31'
136.14'
135.20'
N0°06'50"W
S0°06'50"E
S0°06'50"E
248.54'
N0°06'50"W
LOT 2A
REPLAT OF LOTS 2 & 3,
BANK OF BOULDER PARK
N57°26'40"E 35.55'
S0°06'26"E 18.96'
EX. SANITARY SEWER & EMERGENCY ACCESS EASEMENT FILM 1093, REC. NO. 371661
N44°53'10"E 67.43'
N45°06'50"W 4.00'
N44°53'10"E 20.00'
128.40'
S45°06'50"E 4.00'
N44°53'10"E 64.01'
S44°53'10"W
347.07'
S57°26'40"W 35.55'
S71°38'20"W 14.89'
S44°53'10"W 53.14'
OUTLOT A
REPLAT OF LOTS 2 & 3,
BANK OF BOULDER PARK
LOT 1A
REPLAT OF LOTS 2 & 3,
BANK OF BOULDER PARK
S45°06'50"E 38.44'
N89°53'10"E 54.54'
S0°06'50"E 20.00'
S89°53'10"W 128.90'
S44°53'10"W 19.86'
N45°06'50"W 20.00'
OUTLOT A
LOT 3A
REPLAT OF LOTS 2 & 3,
BANK OF BOULDER PARK
N
Scale: 1" = 50'
0 12.5 25 50
SCOTT, COX & ASSOCIATES, INC.
consulting engineers • surveyors
1530 55th Street • Boulder, Colorado 80303
(303) 444 – 3051
3/21/16
JOB NO. 15139E
DRAWING NO. 15139E-1

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:	May 23, 2016
REQUEST TYPE:	Vacation/Easement
ADDRESS:	3107 Iris Avenue
APPLICANT:	Hartronft Associates P.C.
CASE #:	ADR2016-00108
LEGAL DESCRIPTION:	Lot 2A Bank of Boulder Park Replat of Lots 2 & 3, City of Boulder, County of Boulder, Colorado
DESCRIPTION:	ADMINISTRATIVE REVIEW of a vacation of an existing emergency access easement located in the northeast corner of the subdivision. In addition, vacation of a part of the emergency access portion of the existing water, sanitary sewer, and emergency access easement on Outlot A.

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 an emergency access easement containing 1,224 square feet located in the northwest corner of the subdivision, and a segment of the emergency access portion, containing 9,591 square feet, of the existing water, sanitary sewer and emergency access easement on Outlot A. These easements were dedicated to the City of Boulder and recorded in the records of the Boulder County Clerk and Recorder at Reception No. 394931 on the Replat of Lots 2 & 3, Bank of Boulder plat on May 9, 1980.

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

CITY OF BOULDER
Planning, Housing & Sustainability
1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

CITY OF BOULDER PLANNING DEPARTMENT
NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C. 1981, as applied to the proposed development.

DECISION:	**APPROVED WITH CONDITIONS**
PROJECT NAME:	**Bank of Boulder Park PUD Amendment**
DESCRIPTION:	**SITE REVIEW for a new 42,250 sq. ft. office building within the Bank of Boulder Park PUD.**
LOCATION:	**3107 Iris Ave.**
COOR:	**N06W03**
LEGAL DESCRIPTION:	**Lot 2A, Replat of Lots 2 and 3, Bank of Boulder Park, County of Boulder, State of Colorado**
APPLICANT:	**Erik Hartronft**
OWNER:	**DellaCava Family LLC**
APPLICATION:	**Site Review, LUR2015-00088**
ZONING:	**BT-1**
CASE MANAGER:	**Chandler Van Schaack**
VESTED PROPERTY RIGHT:	**NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.**

APPROVED MODIFICATIONS FROM THE LAND USE REGULATIONS:

- **Section 9-7-1, "Form and Bulk Standards"**
  – Reduction of front yard setback from 20 feet to 15 feet
  – Reduction of rear yard setback from 20 feet to 0 feet
- **Section 9-9-6, "Parking Standards" – 16% parking reduction to allow for 219 parking spaces where 262 are required per the nonresidential parking standards for the BT-1 zone.**

FOR CONDITIONS OF APPROVAL, SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

Approved On: 12/14/15
Date

By: David Driskell/MSE
David Driskell, Executive Director of Community Planning and Sustainability

This decision may be appealed to the Planning Board by filing an appeal letter with the Planning Department within two weeks of the decision date. If no such appeal is filed, the decision shall be deemed final fourteen days after the date above mentioned.

Appeal to Planning Board expires: 12/28/15

Final Approval Date: 12/29/15

Address: 3107 Iris Ave.

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND THE FINAL PLANS FOR CITY SIGNATURE MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS. IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING DEPARTMENT APPROVAL AUTOMATICALLY EXPIRES.

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete the approved development within three years from the date of final approval. Failure to "substantially complete" (as defined in Section 9-2-12, Boulder Revised Code 1981) the development within three years shall cause this development approval to expire.

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all plans prepared by the Applicant** on November 9, 2015 on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval.

2. The Applicant shall **comply with all previous conditions** contained in any previous approvals, except to the extent that any previous conditions may be modified by this approval, including, but not limited to, the following:

   a. Annexation Agreement recorded at Film No. 780, Reception No. 00026810 on July 18, 1972;
   b. Subdivision Agreement recorded at Film No. 913, Reception No. 00165150 on January 27, 1976;
   c. Subdivision Agreement recorded at Film No. 1116, Reception No. 00394932 on May 9, 1980; and
   d. Bank of Boulder Office Park PUD dated April 12, 1972, as amended, including # P-90-55.

3. Prior to a building permit application, the Applicant shall submit, and obtain City Manager approval of, a Technical Document Review application for the following items:

   a. **Final architectural plans**, including material samples and colors, to insure compliance with the intent of this approval and compatibility with the surrounding area. The architectural intent shown on the approved plans dated November 9, 2015 is acceptable. Planning staff will review plans to assure that the architectural intent is performed.

   b. A **final site plan** which includes detailed floor plans and section drawings.

   c. A **final utility plan** meeting the City of Boulder Design and Construction Standards.

   d. A **final storm water report and plan** meeting the City of Boulder Design and Construction Standards.

   e. **CDOT access permit** meeting the CDOT Access Code Standards, for the closure of the existing access point from State Highway 119.

   f. A **detailed landscape plan**, including size, quantity, and type of plants existing and proposed; type and quality of non-living landscaping materials; any site grading proposed; and any irrigation system proposed, to insure compliance with this approval and the City's landscaping requirements. Removal of trees must receive prior approval of the Planning Department. Removal of any tree in City right of way must also receive prior approval of the City Forester.

   g. A **detailed outdoor lighting plan** showing location, size, and intensity of illumination units, indicating compliance with section 9-9-16, B.R.C.1981.

Address: 3107 Iris Ave.

h. A **detailed shadow analysis** to insure compliance with the City's solar access requirements of section 9-9-17, B.R.C.

4. Prior to a building permit application, the Applicant shall dedicate to the City, at no cost, the following easements as shown on the approved plans, meeting the City of Boulder Design and Construction Standards, as part of Technical Document Review applications, the form and final location of which shall be subject to the approval of the City Manager:

   a. A **25-foot wide utility easement** for the installation of a fire hydrant near the southwest corner of the proposed building; and
   b. A **utility easement** for the placement of the domestic water and irrigation meters near the southeast corner of the proposed building.

5. Prior to a building permit application, the Applicant shall submit a **financial guarantee**, in a form acceptable to the Director of Public Works, in an amount of $50,362.00 equal to the cost of providing eco-passes to the employees of the development for three years after the issuance of a certificate of occupancy as proposed in the Applicant's Travel Demand Management (TDM) Plan.

6. Prior to issuance of a building permit, the Applicant shall **vacate a portion of an emergency access easement which runs south from State Highway 119** in the northeast corner of property, the form and final location of the vacation shall be subject to the approval of the City Manager:

Address: 3107 Iris Ave.

CITY OF BOULDER
BOARD OF ZONING ADJUSTMENT
ACTION MINUTES
May 19, 2016, 5 p.m.
1777 Broadway, Council Chambers

Board Members Present:	David Schafer (Chair), Jill Grano (V. Chair), Ellen McCready, Jill Lester, Michael Hirsch
Board Members Absent:	N/A
City Attorney Representing Board:	Erin Poe
Staff Members Present:	Brian Holmes, Robbie Wyler, Cindy Spence

1. CALL TO ORDER:
D. Schafer called the meeting to order at 5:08 p.m.

BOZA first discussed Public Hearing Item 2E (Docket No.: BOZ2016-11) to request a continuation. Followed by Public Hearing Item 2D (Docket No.: BOZ2016-10) regarding modifications to site plan, proper public notice and to ask BOZA if a continuance is recommended.

2. BOARD HEARINGS:

A. Docket No.: BOZ2016-07
Address: 2335 Pine Street
Applicant: Rachel Sours-Page
Setback Variance: As part of a proposal for a second story addition and remodel of an existing non-standard residence on a non-standard lot, including a proposal to rebuild the existing first floor rear porch, the applicant is requesting a variance to the rear yard (north) setback. The resulting rear yard setback will be 10'-10 1/4" where 25 feet is required and where approximately 10'-10 1/4" exists today. Section of the Land Use Code to be modified: Section 9-7-1, BRC 1981.

***J. Grano** recused herself from this item.*

Staff Presentation:
B. Holmes presented the item to the board.

Board Questions:
B. Holmes answered questions from the Board.

Applicant's Presentation:
Rachel Sours-Page and **Alan McCluney,** the applicant, presented the item to the board.

Board Questions:
Rachel Sours-Page and **Alan McCluney,** the applicant, answered questions from the Board.

Public Hearing:
Greg Ekrem, a current neighbor, spoke in support of the project.

Board Discussion:

- **E. McCready** stated that the proposal appears in mass and scale similar to the home next door. Any addition would be difficult with the restrictions with the current lots. The proposal is minimal and would be adding a bedroom space. Wanted to state that it is not necessarily a given that everyone is allowed to expand to the size they want but she supports this project.
- **J. Lester** agreed that it is important to have structures to accommodate new families. This expansion is modest and does not exceed FAR. She expressed some concern with the mass. This is a modest proposal and does not impact neighbors.
- **M. Hirsch** stated the proposal is keeping with the neighborhood. It does not breach the side yard.
- **D. Schafer** agreed and supports the project.

Motion:
On a motion by **M. Hirssh**, seconded by **E. McCready**, the Board of Zoning Adjustment approved (4-0, **J. Grano** recused) the application (**Docket 2016-07**) as submitted.

J. Grano rejoined the meeting.

B. Docket No.: BOZ2016-08
Address: 1507 Pine Street
Applicant: Susan Dawson
Building Coverage Variance: As part of a proposal to construct a new 4-car detached garage which will provide parking for a landmarked structure (to be converted to a residential duplex), the applicant is requesting a variance to the 500 sq. ft. total cumulative building coverage of accessory buildings between the principal building rear yard setback and the rear yard property line. The resulting building coverage for the detached garage within the primary structure's rear yard setback will be approximately 924 square feet where 500 square feet is allowed and no structure exists today. Section of the Land Use Code to be modified: Section 9-7-8, BRC 1981

Staff Presentation:
R. Wyler presented the item to the board.

Board Questions:
R. Wyler answered questions from the Board.

Applicant's Presentation:
Kristen Lewis, the architect, presented the item to the board.

Board Questions:
Kristen Lewis, the architect, answered questions from the Board.

Public Hearing:
No one from the public addressed the board.

Board Discussion:

- **J. Grano**, in terms to Criteria 4, recommended deferring to Landmarks' opinion regarding the historic nature of the home and preservation.
- **M. Hirsch** noted that it is a large lot and the house has a large street presence. He agreed with the house returning to residential use. He commented that it seems like a lot of parking along the alley and a large structure.
- **E. McCready** asked if it would be in keeping with the historic nature of the lot if had the garage were split into two smaller buildings. However, she noted that directly across the alley, a five-bay structure currently exists. She supports the project and but hopes that the garage is used and appropriately sized.
- **J. Lester** concerned with the mass as well. Fortunate that the proposed garage will be in-line with the house to the north which will help minimize the mass.
- **D. Schafer** stated that the applicants could build by-right if the building were moved south. However, Landmarks wants to preserve the open space around the house and this becomes the driving force to push the building north toward the alley. The historic component and response to the open space allows for him to have support for the project. It is an urban environment and the proposal would fit within the neighborhood.

Motion:
On a motion by **J. Grano**, seconded by **J. Lester**, the Board of Zoning Adjustment approved (5-0) the application (**Docket 2016-08**) as submitted.

C. Docket No.: BOZ2016-09
Address: 3040 17th Street
Applicant: Lydia & Richard Dissly
Setback Variance: As part of a proposal for an addition/renovation to the entire house which includes enclosing an existing carport and converting it into a single-car attached garage, the applicant is requesting a variance to the side (south) yard setback in order to meet the combined side yard setback requirements of the zoning district. The resulting side yard setback will be approximately 5 feet where 9.5 feet is required and approximately 4.3 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.

Board Questions:
R. Wyler answered questions from the Board.

Applicant's Presentation:
Richard and **Lydia Dissly**, the applicant, and **Juana Gomez**, the architect, presented the item to the board.

Public Hearing:
No one from the public addressed the board.

Board Discussion:

- **E. McCready** appreciated that the side yard setback will be pulled back to come under compliance. The five foot minimum is an important dimension to keep. With Criteria 5, in keeping with the neighborhood, almost all the homes have an enclosed garage. Therefore, she supports the proposal.
- **M. Hirsch** stated that an enclosed garage would be an improvement over the existing carport.

Motion:
On a motion by **J. Lester**, seconded by **M. Hirsch**, the Board of Zoning Adjustment approved (5-0) the application (**Docket 2016-09**) as submitted.

After this item, BOZA discussed Public Hearing Item 2F (Docket No.: BOZ2016-12).

D. Docket No.: BOZ2016-10
Address: 3079 10th Street
Applicant: Hugh Josephs
Building Coverage Variance: As part of a proposal to construct a 352 sq. ft. carport addition in the 25'-0" rear yard principal building setback (where an existing 374 sq. ft. accessory building exists and will remain), the applicant is requesting a variance to the 500 sq. ft. total cumulative building coverage of accessory buildings between the principal building rear yard setback and the rear yard property line. The resulting cumulative building coverage of the existing building and proposed carport within the primary structure's rear yard setback will be 726 sq. ft. where 500 sq. ft. is the maximum permitted. Section of the Land Use Code to be modified: Section 9-7-8, BRC 1981.

At the start of the meeting, BOZA discussed whether a continuance is recommended due to modifications in the description and the square footage proposed.

Staff Presentation:
B. Holmes presented the item to the board stating that modifications in square footage within the description have been altered. Public notice was completed with the incorrect square footage amounts. **B. Holmes** asked the board if a continuance should be granted based on the fact that public notice was not given with the correct amounts. The plans remain unchanged.

Motion:
On a motion by **M. Hirsch**, seconded by **J. Grano**, the Board of Zoning Adjustment approved (5-0) the application (**Docket 2016-10**) to be heard tonight, May 19, 2016.

After this motion, BOZA reverted back to the standard agenda order and started with Public Hearing Item 2A (Docket No.: BOZ2016-07)

Staff Presentation:
B. Holmes presented the item to the board. Modifications in sq ft. in description. Public notice was different. Asked board if should give a continuance.

Board Questions:
B. Holmes answered questions from the Board.

Applicant's Presentation:
Hugh Josephs, the applicant, and **Matthew Schexnyder**, with Caddis Architects, presented the item to the board.

Board Questions:
Hugh Josephs, the applicant, and **Matthew Schexnyder**, with Caddis Architects, answered questions from the Board.

Public Hearing:
No one from the public addressed the board.

Board Discussion:
- **M. Hirsch** stated that the submitted letters in the packet speak for themselves and a hardship exists.

Motion:
On a motion by **J. Lester**, seconded by **M. Hirsch**, the Board of Zoning Adjustment approved (4-0, E. McCready absent) the application (**Docket 2016-10**) as submitted.

E. Docket No.: BOZ2016-11
Address: 603 North Street
Applicant: Richard Roosen
Setback Variance: As part of a proposal to add an enclosed entry/mudroom to the front of the house as well as enlarge the area of an existing rooftop deck (previously approved

by BOZA), the applicant is requesting a variance to the front (south) yard setback and the side (west) yard setbacks. The resulting front yard setback for the new entry will be approximately 3.5 feet where 25 feet is required and where approximately 9.5 feet exists today. The resulting west side yard setback for the new entry will be approximately 8.16 feet where 9.8 feet is required and where 1 foot exists today. For the rooftop deck, the resulting west side yard setback will be approximately 6.6 feet (taken from the spiral stairs which were previously approved by BOZA) where 9.8 feet is required and 1 foot exists today. A proposal to enlarge the size of the rooftop deck area within the BOZA approved setbacks is proposed at this time. 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 is requesting a continuation due to new survey information and to bring the 2014 application up to date. The applicant will resubmit for the June 2016 BOZA meeting.

Applicant's Presentation:
Brendan Kennedy, the applicant, requested the continuance from the board in light of the new information and resubmit for the June 2016 BOZA meeting.

Motion:
On a motion by **J. Grano**, seconded by **J. Lester**, the Board of Zoning Adjustment approved (5-0) the application (**Docket 2016-11**) to be continued.

***M. Hirsch** recused himself from this item.*

F. Docket No.: BOZ2016-12
Address: 735 Walnut Street
Applicant: Andrew & Wendy Cookler
Setback Variance: As part of a conversion/renovation from a commercial space to residential duplex which includes replacing exterior walls and adding a rooftop deck/cover to the single-story structure, the applicant is requesting a variance to both the east and west side yard setbacks in order to meet the combined side yard setback requirements of the zoning district. The resulting east and west side yard setback will each be approximately 10 feet where 20 feet each is required and 0 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.

Board Questions:
R. Wyler and **B. Holmes** answered questions from the Board.

Applicant's Presentation
EJ Meade and **James Trewitt**, with Arch11, Inc., and **Andy** and **Wendy Cookler**, the applicant, presented the item to the board.

Board Questions:
EJ Meade, **James Trewitt**, **Andy** and **Wendy Cookler** answered questions from the Board.

Public Hearing:
No one from the public addressed the board.

Board Discussion:

- **J. Lester** suggested that often roof top decks are not always practical. She suggested other options besides the roof top deck. Hardship needs to be considered.
- **J. Grano** stated the decision is subjective in nature. The proposal would be additional open space for a home which is a huge benefit.
- **D. Schafer** argued that the decision is not subjective. He stated that the Crisscross Rule is difficult to interpret. It often results in limited ability to use space on the site. The criterion regarding Minimal Relief asks to overlook the Crisscross Rule. He would lean more toward the unusual circumstance that created the problem and only waiving one obscure rule in the Code to allow the proposal.
- **E. McCready** suggested that due to the physical circumstances of the property, it could not be developed.
- **D. Schafer** noted that many residents in that area have rooftop decks and it is a consistent development pattern.

Motion:
On a motion by **D. Schafer**, seconded by **J. Grano**, the Board of Zoning Adjustment approved (4-0, **M. Hirsch** recused) the application (**Docket 2016-12**) as submitted.

***M. Hirsch** rejoined the meeting.*

After this item, BOZA finished discussing Public Hearing Item 2D (Docket No.: BOZ2016-10).

***E. McCready** dismissed herself from the meeting.*

3. GENERAL DISCUSSION:

A. Approval of Minutes
On a motion by **D. Schafer**, seconded by **J. Lester**, the Board of Zoning Adjustments voted 4-0 (**E. McCready** absent) to approve the April 14, 2016 minutes.

B. Matters from the Board

- **D. Schafer** informed the board that he would be absent from the June 9, 2016 BOZA meeting. All other board members stated they would be present.

C. Matters from the City Attorney

There were no matters from the City Attorney.

D. Matters from Planning and Development Services

- Staff informed the board that are a potential for four agenda items on the June 9, 2016 BOZA meeting.
- **B. Holmes** will be absent at the June meeting.

4. ADJOURNMENT:

There being no further business to come before the board at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 7:42 P.M

APPROVED BY

Board Chair

June 9, 2016

DATE

CITY OF BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING SUMMARY

NAME OF BOARD/COMMISSION: Environmental Advisory Board

DATE OF MEETING: April 6, 2016

NAME/TELEPHONE OF PERSON PREPARING SUMMARY: Sandy Briggs, 303-441-1931.

NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:
Environmental Advisory Board Members Present: Tim Hillman, Morgan Lommele, Brad Queen, Karen Crofton and Christina Gosnell.
Staff Members Present: Brett KenCairn, Elyse Hottel, Eitan Kantor, Valerie Matheson and Jennifer Riley.
Community Members Present: Brenda Lee and Odile Fazioni.

MEETING SUMMARY:

- **Public Participation – Black Bear Protection Ordinance**
  - **K. Crofton** asked about equal representation from the community and if the Boulder Bear Coalition could guarantee their ability to speak for everyone. This will be addressed during **V. Matheson's** staff presentation.
- **Sustainability Dashboard Memo, Q&A with Elyse Hottel**
  - The board made the following points and requests:
    - The structure and data presented should be audience-driven, succinct and easy to digest at high levels before becoming more detailed the deeper one dives.
    - The objectives were questioned – is the reporting intended to influence behavior or validate the value of city expenditures? Or both?
    - They would like to understand both what the objectives are as well as how dashboard design is intended to accomplish them.
    - They requested an update in July before the soft rollout.
- **Black Bear Protection Ordinance Update Memo, Q&A with Valerie Matheson**
  - The board questioned whether the data accurately reflects bear activity when the bears may simply be moving to other areas that are not being monitored.
  - They also asked if any other mitigation options were being considered to compare to the current plan.
  - The board agreed about the need to determine where the allotted funds would do the most good but questioned whether the CPW study would be useful in resolving the problem.
  - They disagreed about the necessity and feasibility of creating a cost/benefit analysis for what is ultimately considered research.
- **Planning for Joint Board Open House**
  - The board suggested including an introduction to the presentation explaining the mandate of the EAB, the background and context for having a joint meeting, along with an explanation as to why the other boards were invited and what their roles are in the larger picture.

- It was also suggested that a Council Member be invited to present a short Key Note speech reminding the group that Boulder's Climate Commitment is the number one city priority and highlight the value of integrating and coordinating together towards addressing this main concern.
- It was reiterated that the purpose of having a joint meeting is to consider objectives that are not part of the specific mandate of any individual board and to engage more diverse opinions and plant seeds for where the community wants and needs to go.
- The board agreed there needs to be a consensus regarding what the desired outcomes are and what the EAB is advocating. It's the EAB's job to help the other boards understand how the Climate Commitment effects their decisions and how to make those decisions with Climate Commitment in mind.
- The board decided to facilitate breakout groups consisting of one EAB member and other present board members together with their respective boards. The assignments are as follows:
  - **T. Hillman** – Parks & Recreation Advisory Board
  - **M. Lommele** – Open Space Board of Trustees
  - **B. Queen** – Planning Board
  - **K. Crofton** – Landmarks Board
  - **C. Gosnell** – Transportation Advisory Board
- The EAB will provide each group with three tailored questions relevant to the particular board's expertise and purview. For example:
  - [Something specific to the particular board and how their work relates to Climate Commitment.]
  - What are your core concerns?
  - How would you engage the community? What are the mechanisms, strategies and issues around accomplishing this?

1. CALL TO ORDER

Environmental Advisory Board Chair **T. Hillman** declared a quorum called the meeting to order at 6:05 pm.

2. ADMINISTRATIVE MATTERS

A. Approval of Minutes

On a motion by **B. Queen**, seconded by **K. Crofton**, the Environmental Advisory Board voted 5-0 to approve the March 9, 2016 meeting minutes.

B. Welcome and swearing in of new board member, Christina Gosnell

C. Gosnell read and signed the Oath of Office and was officially welcomed by the other members.

3. PUBLIC PARTICIPATION

- **Odile Fazioni**, community member, addressed the board regarding the proposed Colorado Parks & Wildlife (CPW) study relating to bear management and her belief in the need for a community voice in the proceedings. She stressed that better communication could reduce the amount of misinformation and mistrust. Since the community is looking to the Boulder Bear Coalition (BBC) for answers about what is going on, she suggested they could be the bridge for this communication between the community, CPW and the city.

She and the BBC would like to attend CPW meetings as the bear management study gets underway and asked about CPW's protocol for allowing outside attendance. She would like to receive a schedule of future meetings by the end of April so she and the BBC can arrange to participate.

- **Brenda Lee,** founder of the Boulder Bear Coalition, addressed the board about enforcement of the Bear Protection Ordinance. She would like to see a system of checks and balances and more definitive plan in place for cross-jurisdictional communication about where the bears are and what they are doing.
  She further believes when the CPW study begins the BBC needs to be fully engaged with the conversations and act as a liaison and voice for the community with CPW and the city. She stressed that since everyone's working together towards the same objectives, everything needs to be transparent and on the table.

4. PUBLIC HEARING ITEMS
None.

5. DISCUSSION ITEMS
None.

6. OLD BUSINESS/UPDATES

A. Sustainability Dashboard Memo, Q&A with Elyse Hottel

E. Hottel, Sustainability Data Analyst for the Department of Planning, Housing + Sustainability, provided an overview of the citywide dashboard pilot and Open Records concepts that will launch on April 27. She answered questions regarding the progress of the C+S-specific Dashboard and the memo regarding its development provided to the board last month.

The board's comments are captured in the meeting summary.

B. Black Bear Protection Ordinance Update Memo, Q&A with Valerie Matheson

V. Matheson, Urban Wildlife Conservation Coordinator, updated the board on the progression of ordinance implementation with a three part presentation:

- Status of the phased enforcement approach,
- Bear activity waste cart monitoring,
- The proposed CPW study looking at urban bear activity and the options available to measure and mitigate human/bear confrontation while responsibly administering resources and management decisions.

J. Riley, Code Enforcement Supervisor, provided specific enforcement details regarding numbers of violations and tickets issued. She further explained the usefulness of learning where bears are going and what they are doing in determining where enforcement and education are needed most. She also clarified that Code Enforcement will respond to reports outside the Enforcement Area as needed.

The board's comments are captured in the meeting summary.

7. MATTERS FROM THE ENVIRONMENTAL ADVISORY BOARD, CITY MANAGER AND CITY ATTORNEY

A. Planning for Joint Board Open House

B. KenCairn provided an outline of the proposed agenda for the Climate Commitment

portion of the joint meeting and reminded the board that the biggest question is still how to bring the topic to the public in a meaningful way. This includes drawing from the purviews of the different boards to enlist their assistance in determining how total systems transformation can occur from their perspectives. Additionally, he advocated widespread use of the public Climate Commitment survey in order to obtain the greatest possible amount of information and data.

The board discussed presentation content and physical logistics to ensure the meeting's greatest impact and success.

The board's comments are captured in the meeting summary.

8. DEBRIEF MEETING/CALENDAR CHECK/ACTION ITEMS

A. **B. KenCairn** will obtain the CPW meeting schedule regarding bear management and determine whether the public will be allowed to attend.

9. ADJOURNMENT

Environmental Advisory Board adjourned at 8:35 pm.

Approved:

_____

Chair Date

CITY OF BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING SUMMARY

NAME OF BOARD/COMMISSION: Environmental Advisory Board

DATE OF MEETING: May 4, 2016

NAME/TELEPHONE OF PERSON PREPARING SUMMARY: Sandy Briggs, 303-441-1931.

NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT:
Environmental Advisory Board Members Present: Tim Hillman, Morgan Lommele, Brad Queen, Karen Crofton and Christina Gosnell.
Staff Members Present: Brett KenCairn, Casey Earp, Mackenzie Boli and Sandy Briggs

MEETING SUMMARY:

- **Draft Resilient Strategic Plan**
  - The lack of modeling and a quantitative approach was identified, along with the need for stress tests and scenario planning.
  - It was suggested that clearly capturing the identification and prioritization of vulnerabilities in the document before creating strategies for addressing them could be a more useful framework for discussion.
  - The board asked about engagement and how the actions came about chronologically with results of the community risk assessment.
  - The board agreed that the city should look towards creating a full Resiliency Department that isn't just a "grafting in" of a whole new mission to existing departmental structure.
  - It was suggested that strategic planning around resiliency could be measured with an actuarial model.
  - It was also suggested that delineating more clearly how the strategies are tied to the challenges would be helpful. This could be accomplished by placing the identified challenge icons near the descriptions of the strategies.
  - Tangible first steps and clear messaging emerged as over-arching necessities.
  - Case studies were suggested as a potential framework for answering the "whys" and justifying the strategies.
  - The board expressed concerns about so many large initiatives losing the attention of the public and reiterated the need for clear communication from staff, consistent messaging and to facilitate the evolution of the various initiatives into a more unified approach.
- **Fourmile Canyon Creek CEAP Draft Document and Flood & Greenways Capital Improvement Program**
  - The board found these memos difficult to parse and felt the information was too abstract for text only.
  - The Greenways Advisory Committee's (GAC) EAB Representative, **M. Lommele**, may not be available to attend the GAC meeting this month and requested another volunteer.
  - The board would like additional direction and visual details (photos, maps) relating to the memos in order to provide constructive feedback.
  - **S. Briggs** will request this information and provide it to the board prior to the GAC

meeting in case someone is able to attend.

1. CALL TO ORDER

Environmental Advisory Board Chair **T. Hillman** declared a quorum called the meeting to order at 6:02 pm.

2. APPROVAL OF MINUTES

On a motion by **B. Queen**, seconded by **K. Crofton**, the Environmental Advisory Board voted 5-0 to approve the April 6, 2016 meeting minutes as amended.

3. PUBLIC PARTICIPATION

None.

4. PUBLIC HEARING ITEMS

A. Draft Resilient Strategic Plan (C. Earp)

Casey Earp, Assistant City Manager, provided a broad overview of the Draft Resilient Strategy and requested board feedback on behalf of Chief Resilience Officer Greg Guibert. The open public comment period is now through May 20, there is a Council Study Session on May 26, and adoption is sought in August.

The project, started in 2014, is funded for two years by the Rockefeller Foundation through its 100 Resilient Cities initiative. Boulder was one of the first of these chosen 100 cities to proceed with writing a strategic plan.

Due to the unavoidable impacts to the community, shocks and stresses – and the linkages between them – were identified as two of the most important areas to address.

What a Resiliency Plan is NOT was clarified, and that it is a conceptual strategy that will evolve and iterate over time was emphasized.

One of the bigger challenges of the project was to create a comprehensive community assessment stemming from 18 months of public engagement.

Within the larger conceptual framework, three broad strategies for action emerged:

- Connect and Prepare
- Partner and Innovate
- Transform and Integrate

Investing in the future (called the "Frontier" in the draft document), was identified as a main point to emphasize under each strategy.

The following questions were asked of the board:

- Is anything important missing from the draft strategy?
- Are there actions that align well with your strategic roadmap?

The board's comments are captured in the meeting summary.

5. DISCUSSION ITEMS

A. Fourmile Canyon Creek CEAP Draft Document (All)

A memo was provided in the packet for board review.

The board's comments are captured in the meeting summary.

B. Flood & Greenways Capital Improvement Program (All)

A memo was provided in the packet for board review.

The board's comments are captured in the meeting summary.

6. OLD BUSINESS/UPDATES

- It is still to be determined what the schedule is and whether public attendance will be allowed at the Colorado Parks & Wildlife meetings regarding bear management. **S. Briggs** will determine the CPW meeting schedule and protocols and report back to the board and community members **B. Lee** and **O. Fazioni**.

7. MATTERS FROM THE ENVIRONMENTAL ADVISORY BOARD, CITY MANAGER AND CITY ATTORNEY

A. **M. Lommele** heard from a resident who feels the County EV incentives are being incorrectly advertised as a completely funded program. There has been some confusion regarding the negotiated group purchase discount on electric bicycles and which vendors are directly involved, or not, and from where the funding comes.
Brad Smith with Boulder County is the main contact regarding these incentives.
M. Lommele will follow-up with the community member to explain.

B. **Portland/Eugene Trip Report Back (B. Queen)**
B. Queen shared his observations with the board and mentioned that while there was not too much about the trip that falls under the EAB's purview, it was an interesting delegation full of productive interaction.
He was impressed by Eugene City Council Member Chris Pryor, who echoed similar challenges in Eugene with what the EAB believes is a central issue in Boulder – public engagement.
Because of this connection regarding concerns about the lack of community outreach, public engagement and clear messaging, he felt making the trip was productive for not only himself, but he was also encouraged to see some of Boulder's council members engaging in discussions around the EAB's main concern.
He added that the political wrangling about the trip was way off base and he believes it served a useful and productive purpose.

C. **Joint Board Open House Debrief (All)**
The board discussed observations and outcomes stemming from the Joint Board Open House held last week.
The general consensus was that all the boards were receptive and appreciative, and the meeting allowed their members to conceptualize their mandates from a different frame of mind.
It was also agreed that the full measure of the meeting's success will be in the EAB's follow-up.
The overall takeaways and next steps are:

- A joint meeting of boards with overlapping purviews is recommended every year, if not more frequently, with the hosting board rotating.
- Council should mandate sustainability issues be considered by every board regularly in their day-to-day decisions.
- It would be useful to identify topics in the Climate Commitment Document specific to each board's purview that would help their members focus on those areas directly.
- A list of prioritized, overlapping, board-specific topics could be created and shared with other board's staff liaisons and secretaries for inclusion on their future

agendas for discussion and action.

- Landmarks and Planning Boards have unique challenges. The Landmarks Board charter makes energy efficient upgrades difficult to approve while still preserving historical significance. Planning Board doesn't feel they have the latitude or tools to make decisions with their own discretion since the process is driven by statute and regulation. They suggested a new approach that would include cursory, advisory reviews of projects brought before them by the EAB and Transportation Advisory Board.
- **B. Queen** will learn more about how Planning Board processes work in order to determine how the rubric might be changed.
- Each board member will prepare a proposition for what their assigned board should prioritize on its agenda and report back at next month's meeting.

8. DEBRIEF MEETING/CALENDAR CHECK

A. Boards & Commissions City Council Subcommittee meeting attendance
Any meeting from July through the end of the year is good to host subcommittee members Matt Appelbaum and Jan Burton. **S. Briggs** will inform CMO and/or invite them directly.

B. S. Briggs reminded the board about the Boards & Commissions Appreciation Event on May 12 from 5:30-7:30 at eTown Hall. **B. Queen** will attend but the other board members are unavailable.

C. M. Lommele intends to attend all meetings, only depending on the timing of her new baby's arrival.

D. T. Hillman will be available for the June and July meetings.

9. ADJOURNMENT

The Environmental Advisory Board adjourned at 8:01 pm.

Approved: Jim Hillman 6/1/16

Chair Date

CITY OF BOULDER
BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING
MINUTES

Name of Board/ Commission: Library Commission

Date of Meeting: April 6, 2016 at the Main Boulder Public Library, 1001 Arapahoe Ave.

Contact information preparing summary: Jennifer Bray, 303-441-4160

Commission members present: Paul Sutter, Joni Teter, Tim O'Shea, Juana Gomez
Commission members absent: Alicia Gibb

Library staff present:
David Farnan, Director of Library & Arts
Antonia Gaona, Public Services Manager
Hillary Dodge, Meadows Branch Manager

City staff:
Jennifer Bray, Communication Specialist III
Sam Veucasovic, Facilities Coordinator II
Bill Cowern, Transportation Operation Engineer
Kathleen Bracke, GO Boulder Manager
Molly Winter, Executive Director of Community Vitality
Lisa Smith, Communication Specialist
Noreen Walsh, Senior Transportation Planner

Members of the public present:
Nikki McCord
Joel Koenig

Type of Meeting: Regular

Agenda Item 1: Call to order and approval of agenda **[6:02 p.m.]**
The meeting was called to order at 6:02 p.m

Agenda Item 2: Public comment **[6:04 p.m.]**
Joel Koenig spoke about National History Day, which BPL is involved in, and he has volunteered for these past few years. Boulder Public Library participates with Research Rendezvous in the fall, to help the students as they are developing their papers. His opinion: America and the youth are fantastic!

Nikki McCord spoke to thank the commission for their leadership in the decision to disarm the security officers, and she feels safer in the library as a member of the community. Thanks to the Library Commission

Agenda Item 3: Consent agenda **[6:05 p.m.]**

Item 3A, Approval of March 2, 2016 meeting minutes
Teter had sent in some comments and edits over email.
O'Shea had a minor addition on page 5 in his comments in the 2nd bullet: "The incident reports show that we are not dealing with <u>a significant number of</u> violent behavioral issues." (The change/addition to the sentence is underlined.)

Agenda Item 4: Welcome new commissioner and elections **[6:06 p.m.]**

a. Administer oath of office to new commissioner Juana Gomez; Sutter administered.
b. Commission officer election: Teter nominated Sutter to continue as chair, O'Shea seconded. Approved with vote of 4-0. Sutter nominated Teter to continue as vice chair, O'Shea seconded. Approved with vote of 4-0.
c. Boulder Library Foundation board member appointments: Tim O'Shea and Alicia Gibb. Teter moved, Sutter seconded, approved with vote of 4-0.
d. Commission photo taken in gallery. (Gibb absent)

Agenda Item 5: Presentation: Data on Civic Area parking change implementation – Molly Winter, executive director of Community Vitality; Bill Cowern, transportation operation engineer; Kathleen Bracke, GO Boulder

manager; Lisa Smith, communication specialist. **[6:13 p.m.]**

Winter introduced topic, and Smith presented the information on how the Civic Area parking changes have gone since they were implemented in January. Cowern, Bracke, and Winter added information for commissioners about employee transportation demand management, parking studies, and that evaluation and study of the changes will continue.

Commission discussion, questions, and comments included:

- Sutter asked about numbers regarding parking utilization. Cowern responded with the numbers dropping from 78% utilization to 75%. In Library lot, was previously utilized above 90% in peak periods; after parking changes, utilization dropped below 80%. Sutter stated that is probably due to higher parking turnover, so more people are able to park there. Parking in surrounding neighborhood did increase, and about 15 city employees on average are parking in the former Boulder Community Hospital parking garage for free now that it's available. Canyon parking lot is experiencing higher utilization, which is likely library patrons and other Civic Area users.
- Sutter asked about warnings and citations numbers. Smith responded that there have been over 500 warnings issued so far. Tickets are still only being issued after at least one warning has been issued first, sometimes two. Smith asked for Library Commission's thoughts on how long to continue issuing warnings? Sutter liked continuing the warnings, and mentioned how some library patrons may not return to the library frequently enough to still be aware of these parking changes. Gomez mentioned the seasonal changes and that area users coming to the park and the creek may also not be aware of the new parking system. Winter mentioned that the explanation language on the kiosks is not intuitive and that staff is working on improving the directions with CALE, the kiosk manufacturer.
- Teter mentioned the difficulty adding time to the free 90 minutes in the kiosks. Staff will look into this.
- O'Shea asked about numbers of repeat offenders. Smith said they'd look into it and get back to commission. Smith mentioned the city looking at fee changes, including graduated fines for parking violations, to increase fines for offenders who continue to repeat the violation. Sutter agreed that is a good way to proceed.
- Teter asked about how the planned removal of the 20 spaces in the Canyon parking lot and asked if this will bring us back to the same high utilization rate that prior to these changes. She also mentioned the free 90 minutes in the Civic Area, but that since no other downtown area lots offer this free time, which could be increasing the pressure on the Civic Area lots. She asked whether staff might consider adding the free 90 minutes to downtown parking – a conversation we may continue to have.
- Teter mentioned the ParkMobile app works wonderfully, even with the 35 cent fee for the "free parking" so that is good. Using the credit card, it seems you can only pay to add 90 minutes with the app, instead of less time (like 30 minutes or one hour). Winter replied that staff can check if there is a way to have finer increments for purchasing time. You are currently able to pay for less time by using coins or tokens.
- Teter asked about future discussion items, such as ending the pay parking during the week at 6 p.m. instead of 7 p.m., or about 90 minutes not being enough time, looking at the different user groups at the library for a better discussion. Maybe looking at doing a survey of library patrons. Sutter replied that we are looking for what the "sweet spot" is for the free time amount for using the library. Teter mentioned that she is still concerned about the fact that library volunteers now are a cost to the library budget, in paying for their parking time, unlike volunteers for city departments like Open Space or Parks & Recreation, who don't have facilities in pay parking areas, so their budgets are not impacted by volunteer parking costs. Winter mentioned that this same issue comes up as far as city employees, as some work in areas where they have to pay for parking near their office, and some work in buildings where there is free parking (OSMP/P&R) as well --- this is a wider discussion and issue.
- Sutter asked how important revenue is. Winter said that revenue is not the driving factor -- it is a management tool. The equipment is expensive, for example, the kiosks cost$7,000 each. Smith stated that revenue is actually down in this area right now.
- Sutter also hopeful that employee parking in the area will decrease, as it has not really changed at all. Cowern responded that the most likely factor to decrease city employees parking here is to have them moved to buildings outside of the downtown area, like the former hospital site. Bracke added that more employees are carpooling, and in the warmer months, typically more employees use alternative modes such as biking/busing/walking, and also that they anticipate that more employees will park at the free satellite parking site on Broadway.
- Teter asked when the next presentation would be, with additional data. Cowern replied that they are collecting more data later this month. Bracke thought that coming back for the June commission meeting, might be good timing. (Teter promised to bring brownies ☺)

Agenda Item 6: Presentation: Meadows Branch Library renovations – Antonia Gaona, public services manager; Hillary Dodge, Meadows Branch manager; and Sam Veucasovic, facilities coordinator II. [6:59 p.m.]

Gaona presented a PowerPoint and sketch up of the goals and plans for the branch renovation, and presented that the renovations will occur while the branch is closed from May 9-29, 2016. Signs announcing the closure are already posted and patrons have been asking about the renovation and seem excited by the improvements coming to the Meadows Branch. The closure for the renovation will also be communicated in the library e-newsletter and in a news release, as well as on the website, and via social media.

- Gomez asked if any of the plumbing fixtures will be replaced, or if they will be repaired and reinstalled? Veucasovic replied that he will look into and confirm, but that if fixtures are near the end of their lifecycle, they would be replaced, and with low-flow toilets and urinals.
- O'Shea asked about the staff restroom and if any work was being done there. Veucasovic replied that none was really planned, but they could install a low-flow toilet. O'Shea asked if any work was being done on the conference room. Staff: not much, some freshening up with paint and lighting.
- Teter asked about the furniture being purchased. Gaona explained that new computer stations, new OPAC stations, new circulation desk. Some furniture alternates are reupholstering the wave couch, new lounge seating, a new custom-built teen bench, new staff chairs, etc. Dodge mentioned that the new laptop bar will have more power outlets, and USB ports.

Agenda Item 7: Canyon Boulevard complete street study – Noreen Walsh, senior transportation planner [7:40 p.m.]

Walsh presented a general description of the complete streets project they have begun, and are talking to advisory boards and commissions to learn preferences for all users of Canyon Boulevard and improvements that can be made. Explained how staff wants to remove the fact that Canyon Blvd. is a barrier between the downtown area and the rest of the Civic Area – difficult to cross. The project is a two phase process, they are in phase 1. Started in late 2015 to evaluate the corridor. Invited commissioners to the public meeting on April 27, from 6:30-8:30 p.m., at Boulder High School, with an open house style meeting.

- Sutter asked about the phrase "complete street" and all modes? Walsh said that the definition of a complete street is that it is for all users. Sutter asked about the aesthetics as well, and how that plays a role. Sutter mentioned library's main concern might be getting people across Canyon, and asked Walsh what they were looking at. Walsh said the team is looking at all of the crossings there are now, and how they are used; and mentioned that one of the aesthetics they look at is that of a promenade.
- Gomez asked about the 130 feet and how it's measured. Walsh: Code 65 foot setback from the center of Canyon Blvd. and that gets you the 130 feet of right of way. Gomez: is the speed limit on Canyon set by CDOT or does the city have any oversight of that to get traffic to slow down? Walsh: checking into that. Some of the features they are planning should calm the traffic down as well, and should be able to travel by all the modes there. Gomez mentioned speed humps on 55th where the crosswalks are, which help people see/feel the crosswalks where they should yield to pedestrians and slow down. Walsh: Canyon is a 4-lane road versus 55th, but those are the exact kind of thing we want o hear – hearing that it may be important to slow the traffic down a bit? Gomez: yes, even a bit scary as a driver or a pedestrian.
- O'Shea echoed the statements of Sutter and Gomez that it is hard to get across Canyon Blvd. Long ago there was a vision of a bridge across Canyon, and it's a major thoroughfare. O'Shea also asked about lessons learned from the Folsom "rightsizing" process. Walsh: Currently there are six options, which could also be broken into combinations of the options – the team is pretty open and doing a lot of engagement to hear how the street is working or not working, and they're trying to hear all opinions and viewpoints. Hoping this will all build a better community relationship, for the boulevard to be designed with the community.
- Teter stated that Canyon is a tough street. Asked about the May 18 joint board meeting (Planning, Transportation, Parks & Rec, Landmarks, DMC, etc.) at First Presbyterian Church on 15th St., from 6-7:30 p.m. Do commissioners want to participate in this joint meeting. General agreement that at least some commissioners would probably attend.
- Gomez mentioned that the negative public reaction to Folsom last summer could have been the term "right-sizing" itself, so she suggested caution about the term "complete streets."

Agenda Item 8: 2016 budget update and review first round Adjustment to Base requests [8:06 p.m.]

Commission discussion, questions, and comments included:

- Teter noted grant funds are deposited into the dedicated library fund, not the general fund. This is important for two reasons: Under the Charter, expenditures from the library fund are subject to Commission approval (rather than Commission "advice" for general fund expenditures). Second, revenues in the library fund remain dedicated to the library - they cannot be returned to the general fund for other purposes (like general fund revenues can). The annual re-appropriation of revenues derived from grants/library fund is a book-keeping exercise necessitated by City budget practices - not a true re-appropriation of dollars. We should make sure that our budget tracking information makes this distinction clear. Table 4 in the April packet does not make this distinction currently. Note that several of the items reflect Boulder Library Foundation contributions; a long standing concern of Foundation supporters has been the fear the BLF moneys will be subject to re-appropriation for non-library purposes within the City.
- O'Shea noted use of language of the charter change did not require creation of the Library Fund; language that should be changed in the memo in the agenda packet: "as a result of the charter change…."
- Sutter asked about requesting additional funding (page 5) for ideas coming down the pike: gender neutral restrooms, additional consultants for master plan process, additional staffing for BLDG 61 makerspace.

Agenda Item 9: Library Master Plan Update [8:15 p.m.]

Farnan: We have completed interviews for consultants, made a selection, and are finalizing the contract. The consultant should be coming to the May Library Commission meeting. Three great consultants responded this time, it was a difficult choice, and this one we chose really challenged our thinking and did a nice job.

Agenda Item 10: Library Commission updates [8:16 p.m.]

Foundation update – O'Shea: At the last meeting, we had some great presentations and introductions from library staff, foundation board seemed very appreciative and impressed. The library offers a wealth of programming and content that the foundation has a hand in. Discussion about Jaipur and that the library should be central to the event, putting in a few more metrics, there are no other literary festivals like it anywhere in Colorado. This is a critical year to determine the future of this festival, fundraising, etc.
Teter: Foundation committing to giving library $250k per year, and are moving away from an investment percentage donation. O'Shea: increasing goals for fundraising. Teter: Foundation meets again next week and four new members have been recommended to join the board.

10a. i. Creation of a Library Commission/Boulder Library Foundation (BLF) subcommittee to draft a community outreach presentation. Farnan outlined that this is to create a presentation explaining library funding and how the foundation plays an important role, etc. out to the community. Promised by May. Stress how important community funding is to library programs. BLF pays for about 90% of library programming.
Discussion: Teter happy to help, O'Shea happy to help make the presentations, Gibb might be interested (not in attendance), Gomez interested but not sure. O'Shea and Teter: We will ask BLF who would be interested in helping with this.

Sutter highlighted that April 17 is the BoulderReads Reading Progress Celebration – it's a wonderful event where you can see how lives are being changed from this program.

Teter on commission calendar: plan a date for the retreat soon. Have it in July, and then not have a July commission meeting. Commissioners should let others know of dates they are not available in July. Sutter will plug in a July date for the retreat.

Discussion of the Library Commission's recommendation to City Council about the Civic Area process.
Teter: One of the outcomes of last night's meeting was a decision that staff resources for the Civic Area will be focused on the East Bookend, especially the Market Hall. Civic area staff will not take up any further work on the West Bookend until after the Library Master Plan is complete. The primary factor driving this decision is limited staff resources. The situation on the north side is very complicated, and we may need to ask for additional budget to hire technical consultants to help with this discussion, since cit staff appears to be unavailable. Complications include the flood mapping around the Main Library, and how that affects the north building especially with where the high hazard zone sits, as well as an some interest in the community to possibly landmark the 1961 building, which would preclude major changes.
Farnan talked about improvements to engage boards and commissions around the Civic Area, planning for activating the Civic Area. May 4 meeting at the Main Library, 8-10 a.m., with breakfast. Inviting 7 or 8 boards and commissions to discuss Civic Area. Civic pad discussions at last night's council meeting. Farnan: thank you for the letter – it really

helped and was constructive with city staff in generating response and how to articulate plans for presentation to council and the public. Teter: would like to have a meeting with Parks and Recreation Advisory Board about activation and programming in the Civic Area.

Agenda Item 11: Library & Arts Director's report **[8:50 p.m.]**

a. Boulder Library Foundation funding and update

b. Update on contract security officers at the Main Library
G4S company policy is to not have one guard at an event where alcohol is served (BAC), but this is not a city code requirement.

c. Update on gender neutral restroom research
Investigating options at Main Library, and will look into possibility for Meadows Branch Library of offering some kind of public access to the staff restroom. Will need more research and thought. Gomez: Boulder Valley School District is also looking into providing gender-neutral restrooms as well. Farnan: public restrooms are a very important part of the customer service experience, and ours are not good. We should have the best restrooms around, and he's hopeful that we can get something going in this area, and put it in for a budget request for the 2017 budget.

d. CO Play & Learn
Can't find the app on iTunes yet. Farnan will talk to Aimee Schumm.

e. BLDG 61 gift announcement

f. Invitations

Agenda Item 12: Adjournment **[9:01 p.m.]**
There being no further business to come before the commission at this time, the meeting was adjourned at 8:29 p.m.

Date, time, and location of next meeting:
The next Library Commission meeting will be at 6 p.m. on Wednesday, May 4, 2016, in the George Reynolds Branch, 3595 Table Mesa Dr.

Commissioner Sutter approved these minutes on June 1, 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
BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING
MINUTES

Name of Board/ Commission: Library Commission

Date of meeting: May 4, 2016 at the George Reynolds Branch Library, 3595 Table Mesa Drive

Contact information preparing summary: Jennifer Bray, 303-441-4160

Commission members present: Paul Sutter, Joni Teter, Tim O'Shea, Alicia Gibb, Juana Gomez
Commission members absent: none

Library staff present:
David Farnan, Director of Library & Arts
Jennifer Phares, Deputy Library Director
Eileen McCluskey, Principal Librarian
Kathy Lane, Programs, Events, and Outreach Coordinator
Linda Cumming, Reynolds Branch Manager

City staff:
Devin Billingsley, Senior Budget Analyst
Greg Guibert, Chief Resiliency Officer
Jennifer Bray, Communication Specialist III

Members of the public:
Joel Koenig, future library commissioner (taking office in June)
Mandy Steen – AmeriCorps member working with Greg Guibert

Type of meeting: Regular

Agenda Item 1: Call to Order and Approval of Agenda **[6:00 p.m., 00:00:22 Audio min]**
The meeting was called to order at 6:05 p.m. Two small things were added to the end of the agenda: letter to City Council, and scheduling the July Library Commission Retreat, as well as adding an update from the Civic Area reactivation breakfast meeting.

Agenda Item 2: Public Comment **[6:01 p.m., 01:28 Audio min]**
None

Agenda Item 3: Consent Agenda **[6:01 p.m., 01:42 Audio min]**

Item 3A, Approval of April 6, 2016 meeting minutes
Teter had submitted some edits and clarifying comments to the summary minutes from the April meeting via email. O'Shea motioned to approve the minutes with the recommended changes, and Gomez seconded. Vote 4-0, unanimous (Gibb abstained as she was not at April meeting).

Agenda Item 4: Presentation: Resilient Strategic Plan – Greg Guibert, chief resiliency officer [6:05 p.m. 05:10Audio min]

Guibert presented the City of Boulder Resilience Strategy draft, April 2016, to the commission.

Commission discussion, questions, and comments included:

- Gibb wondered if there could be more about how these things might get funded within constrained budgets and resources. Guibert responded that exactly for that reason, this draft strategy is presented to come in advance of the 2017 city budgeting process. Many strategies have some alignment with community partners as well.
- Teter asked if Guibert has a sense of how much the community, especially in various sectors, understands the concept of resiliency. Guibert responded that the understanding is not where they'd like it to be, so working with AmeriCorps and the city's neighborhood liaison to help message more about what resiliency is. Teter mentioned cross-generational discussions about resiliency, to help broaden the understanding (having young people help older people understand and vice versa).

- Gomez asked about the transform and integrate concepts, and whether Guibert has done some outreach with Better Boulder and other community groups. Guibert said that they have been invited to some of the public meetings.
- Teter asked where the libraries fit into the Resiliency Strategy? Guibert replied that libraries will be part of some of the mapping pieces, examples of high hazard zones or places where people convene, etc. She also mentioned interacting with the city's Youth Opportunities Advisory Board.
- Sutter mentioned his kids were involved in a school program about resiliency, and Guibert replied that yes this concept really seems to be taking off nationally.

Agenda Item 5: Presentation: 2016 Summer Reading Program– Kathy Lane, programs, events, and outreach coordinator. [6:27 p.m., 0:27:09Audio min.]

Lane presented the 2016 Boulder Public Library Summer Reading Program

Commission discussion, questions, and comments included:

- Sutter asked what the participation was in 2015, as the goal this year is a 20% increase. Lane replied that in 2015, the participation increased 100% over the 2014 program.
- Gomez asked about how the sign-up works. Lane replied that registration is at the libraries and online, beginning May 31.
- Teter asked how we could let City Council know about this excellent program.
- O'Shea mentioned that the SRP team made a great impression on the Library Foundation, and asked about how the commission could help get the word out about the SRP. Lane mentioned that commissioners could take the fliers (in Spanish/English) out to their neighborhood, and Cumming added it would be great for all of us to talk up the program. Teter suggested posting information about the SRP onto NextDoor.

Agenda Item 6: Library Commission input on the proposed 2017 library budget – Devin Billingsley, senior budget analyst [6:43 p.m., 43:22 Audio min.]

Billingsley presented the proposed 2017 library budget.

Commission discussion, questions, and comments included:

- Teter asked about the employee request for the maker space. Farnan replied that currently, they are having a turn people away for BLDG 61 programs, and they'd like to add to the two employees in the maker space to be able to put on more programs – currently, 16 programs a week. Teter followed up by asking if hiring a part-time, temporary employee to help vet and train the volunteers for BLDG 61 just to get the help going in that way? Farnan replied that our current volunteer coordinator is working to help with this, but that position also has many other responsibilities. One area staff are trying to figure out how to address, are how to accommodate school groups or home school students, etc.
- Gibb mentioned that she is very supportive of this employee request in the budget as this first few months/year is a fragile time for the maker space in building the culture and making it a welcoming place.
- Gibb mentioned possibly creating a wish list for materials or equipment for the maker space.
- O'Shea wanted to clarify that many of the new BLDG 61 users are also new library users? Farnan agreed.
- Sutter asked if the early literacy app request is a one-time funding request. Farnan said it was. Farnan also mentioned looking for other libraries to help continue the funding for the app as it needs improvement and development to improve and refine the product.
- Sutter asked if the $20,000 request for the app not coming from existing library funds is because there is no room in the library budget, and Farnan confirmed that. Farnan also confirmed that he did not ask the Library Foundation for continual development funding.
- Teter asked about the home school groups and if there were foundations or other funding sources in that area? Gibb agreed that there are foundations for home school groups. Farnan mentioned thinking about a crowd sourcing campaign but decided not to go that direction at this time.
- O'Shea asked which funding ideas did not make the budget request list. Billingsley and Phares mentioned that the restroom renovations did not make the list because staff does not have enough information on costs at this time, but the information is in the document as information only. Farnan also mentioned the Main Library's north building and the future planning around the Civic Area and a performing arts facility, as well as the library's master plan update.
- Gomez asked who owns the land under the library. Farnan and Billingsley confirmed that the city owns all of the land in the Civic Area, between 9th and 13th streets.
- More discussion followed about the timing of the Civic Area reactivation and the question / request for a

performing arts center, and the library master plan, etc.

- Sutter made a motion that the commission enthusiastically support BPL's budget requests, Gibb seconded. Vote was 5-0 in favor. Sutter also moved, in light of a request that came from a patron, that the Library Commission strongly support the provision of gender-neutral bathrooms, and the necessary funding for such. Gibb seconded. Vote was 5-0 in favor.

Agenda Item 7: Library Master Plan Update **[7:24 p.m., 1:24:20, Audio min.]**

Commission discussion, questions, and comments included:

- Teter asked about the different phases, and where Margaret Sullivan Studio will be helping? Farnan replied that she is currently working on the first phase, the community needs assessment. The other phases are: the community engagement process (2nd phase). The third phase is a "Future Libraries" type of phase, with workshops, best practices. Fourth phase is writing, drafting, and checking back in with stakeholders and community groups, the public. Margaret Sullivan Studio is onboard currently for the first phase. Teter asked if staff will have to do additional RFPs for more consultants for the future phases, and Farnan replied that they are waiting to see how this first phase goes.
- Farnan mentioned that there will be a draft in June.

Agenda Item 8: Library Commission Update **[7:30 p.m., 1:30:28 Audio min.]**

A. Review draft of letter to City Council concerning Right to Rest legislation.
Commission discussed timing of the letter, and some of the language around how the public library is impacted especially. Teter motioned to accept letter with changes mentioned, O'Shea seconded. Vote 5-0 in favor. (Letter is attached.)

B. Boulder Library Foundation (BLF) update.
O'Shea updated about the last meeting being spent discussing in great detail the Library Foundation's bylaws. Teter has gone off the Library Foundation. Several new members have joined, including Alicia Gibb. Financial advisor position applications were reviewed. Jane Sykes Wilson is leaving the foundation, and will be the new community partnership manager.

C. Discussion of the Library Commission representation on Boulder Library Foundation's marketing and community outreach committee.
O'Shea mentioned that the committees are being formed. Next BLF meeting is May 31, 2016.

D. Retreat discussion.
Looking at the last two Saturdays in July, the 23rd or the 30th. Locations being discussed are OSMP on Cherryvale, NCAR, Chautauqua, or the library as we did last year. Saturday, July 30 works for everyone. Staff will look for locations. Potential topics: master plan update, priorities,
Make planning the retreat an agenda item for the next Library Commission meeting in June.

E. Responses to patron emails from the Library Commission

F. Report on the Civic Area breakfast this morning with other boards and commissions. Landmarks Board, Parks & Recreation Advisory Board, Human Relations, Arts Commission, other boards. Staff wanted feedback about what the board and commissioners thoughts on the Civic Area plan. Big subjects at the meeting: the Bandshell was a big subject, parking in the Civic Area, involving the immediate neighbors around the Civic Area, outreach to employees who work in the area around the Civic Area, outreach to seniors who live around the Civic Area, the Main Library as the west anchor and the north building, access across Canyon Boulevard. Civic Area team was responding to the feedback that the messaging had not been unified and consistent. Building an advocacy team and meeting semi-regularly. O'Shea thanked and acknowledged Molly Winter and her group around the parking changes, and how the parking and other city staff were in communication with the Library Commission and responsive to concerns, which was much appreciated. Many ideas from the boards and commissions were very interesting and seemed new to the staff, and also ideas for more groups to engage with were given to the staff. Question of how to pay for a lot of the ideas is still unknown.

G. City Council has a committee on boards and commissions, and Jan Burton and Matt Appelbaum would like to come to talk with the Library Commission at some time? September or October sound like a good time, staff can communicate that back to the appropriate people. Other boards or commissions the Library Commission would like to meet with? Parks & Recreation Advisory Board, possibly Landmarks Board, Arts Commission, and generally, topics around the master plan update and goals. Civic Area activation: Library Commission, Arts Commission, Parks and Recreation Advisory Board (PRAB). Also, around homeless issues and services, meeting with the Human Relations Commission and PRAB as well.

Agenda Item 9: Library & Arts Director's report **[8:22 p.m., 2:22:30 Audio min.]**

A. Boulder Art Cinema status
B. Library sponsorships
C. Gallery opening
D. Web resources report

Agenda Item 10: Adjournment **[8:34 p.m., 2:34:53 Audio min.]**

There being no further business to come before the commission at this time, the meeting was adjourned at 8:39 p.m.

Date, time, and location of next meeting:

The next Library Commission meeting will be at 6:00 p.m. on Wed., June 1, 2016, in the Canyon Meeting Room at the Main Library, 1001 Arapahoe Ave., Boulder, CO 80302.

Commissioner Teter approved these minutes on June 7, 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

May 24, 2016

To the Boulder City Council:

Several months ago it came to the attention of the Boulder Library Commission that the Colorado Legislature was considering a "Right to Rest Bill" (House Bill 16-1191 – "A Bill for an Act Concerning the Creation of a Bill of Rights for Persons Experiencing Homelessness") that included within it an unqualified right "to rest in public spaces without discrimination." While we understand that this bill failed to make it out of House Committee, we would still like to go on record expressing our opposition to such a sweeping bill and its potential impacts on the Boulder Public Library, and to urge the Boulder City Council to lobby against such a bill if it is reintroduced in future legislative sessions.

The Library Commission's opposition to such legislation does not spring from a lack of empathy for the plight of those among Colorado's population that are experiencing homelessness. We recognize that people experiencing homelessness need places to rest safely and securely, and we encourage the provision of such places by both municipal governments and non-governmental organizations. Nor should our opposition to such legislation be read as a sign that the Library Commission does not welcome Boulder's homeless population to make appropriate use of Boulder Public Library's spaces, resources, and services. We enthusiastically welcome all members of the public, and we hope that Boulder Public Library can be an essential resource for those experiencing homelessness. Rather, our major concern, simply put, is that the legal establishment of a blanket right "to rest in public spaces without discrimination" would risk transforming the public library into a de facto day shelter in ways that would interfere with Boulder Public Library's core mission and its ability to serve the entire Boulder community. This is not a question of who is welcome in the library; it is a question of what the appropriate uses of the library are. As our Library Rules state: "Our libraries are spaces for reading, studying, writing, listening to written or electronically transmitted materials, attending library or community-sponsored programs and meetings, and working collaboratively in the spirit of community." We do not see sleeping or lying down as appropriate uses of library spaces and, with that in mind, we adopted as one of our rules that "no person shall lie down, doze or sleep in any library facility except this rule shall not apply to children." The enactment of such right to rest legislation would not only make it illegal for the Boulder Public Library to continue to enforce this rule, but it would compromise the Boulder Public Library's ability serve its intended purposes.

Over the last several years, the Boulder Library Commission and the Boulder Public Library's leadership and staff have devoted considerable energy and effort into vitalizing and activating the Main Library and the various library branches as public spaces where all are welcome, and we believe that we have met with considerable success. We fear that the enactment of legislation that would guarantee a sweeping right to rest without discrimination could lead to the transformation of the library as a public space in ways that would substantially set back these efforts. It is with these thoughts in mind that we urge you to oppose and lobby against such legislation.

Sincerely,

The Boulder Library Commission

CITY OF BOULDER
Boards and Commissions Minutes

NAME OF COMMISSION: Open Space Board of Trustees
DATE OF MEETING: June 8, 2016
NAME/EXTENSION OF PERSON PREPARING SUMMARY: Leah Case x2025
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, Cecil Fenio, Alycia Alexander, Leah Case, Brian Anacker , Lynn Riedel, Will Keeley, Ericka Pilcher, Kacey French, Dan Burke GUESTS: Kathy Haddock, Senior Assistant City Attorney; Brett KenCairn, Senior City Environmental Planner; Chris Meschuk, City Planner II
TYPE OF MEETING: **REGULAR** CONTINUATION SPECIAL
SUMMATION: AGENDA ITEM 1 **- Approval of the Minutes** Molly Davis moved that the Open Space Board of Trustees approve the minutes from April 13, 2016 as amended. Curt Brown seconded. This motion passed four to zero; Kevin Bracy Knight abstained. AGENDA ITEM 2 **- Public Participation** Elizabeth Black, Boulder, spoke about climate change and possible carbon sequestration techniques for Boulder County. AGENDA ITEM 3 **- Matters from Staff** Brett KenCairn, Senior City Environmental Planner, presented on the Boulder's Climate Commitment and OSMP. Kathy Haddock, Senior Assistant City Attorney, presented on the City Blue Line. Brian Anacker, Science Officer, presented on the 2016 Funded Research Program. Jim Reeder, Trails and Facilities Manager, gave several trails updates. Kacey French, Planner I, gave an update on the agricultural plan.

AGENDA ITEM 4 **- Matters from the Board**
Molly Davis gave an update on the Fourmile Canyon Greenways improvement project. This is on the city website.

AGENDA ITEM 5 - **Review of and recommendation regarding the 2017 Open Space and Mountain Parks Department Capital Improvement Program Budget and a portion of the Lottery Fund Capital Improvement Program Budget.**
Abbie Poniatowski, Central Services Manager, presented this item.

This item spurred one motion:
Molly Davis moved the Open Space Board of Trustees approve, and recommend that Planning Board approve, an appropriation of $9,530,000 in 2017 from the Open Space Fund CIP as outlined in the June 8 memorandum and related attachments; and recommend that $766,450 be appropriated from the city's Lottery Fund CIP in 2017 as outlined in that memorandum and related attachments. Curt Brown seconded. This motion passed unanimously.

ADJOURNMENT: The meeting adjourned at 8:58 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 Wed. July 27 at 6 p.m. at 1777 Broadway in the Council Chambers

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
May 12, 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:
John Gerstle, Chair
John Putnam
Bryan Bowen
Leonard May
Liz Payton
Crystal Gray
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:
N/A

STAFF PRESENT:
Susan Richstone, Deputy Director of Planning Housing and Sustainability
Hella Pannewig, Assistant City Attorney
Lesli Ellis, Comprehensive Planning Manager
Cindy Spence, Administrative Specialist III
Molly Winter, DUHMD Executive Director
Greg Guibert, Chief Resilience Officer
Elaine McLaughlin, Senior Planner
Chandler Van Schaack, Planner II
Chris Hagelin, Senior Transportation Planner
Jean Gatza, Senior Planner

1. **CALL TO ORDER**
Chair, **J. Gerstle**, declared a quorum at 7:04 p.m. and the following business was conducted.

2. **APPROVAL OF MINUTES**
On a motion by **C. Gray** and seconded by **L. May** the Planning Board voted 6-0 (**J. Putnam** absent for this item) to approve the April 21, 2016 and April 28, 2016 minutes as amended,

3. **PUBLIC PARTICIPATION**
1. **Phil Ecklund** spoke in opposition to the Holiday Inn Express proposed at 3365 Diagonal Hwy.
2. **John H. Stewart II** spoke in opposition to the Holiday Inn Express proposed at 3365 Diagonal Hwy.

3. **Elizabeth Black** spoke concerning the Boulder Valley Comprehensive Plan and Soil Sequestration.

4. **DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS**

   A. Call Up Item: (Case # LUR2015-00039)**:** Site Review request to expand the existing Table Mesa Shopping Center PUD to include the 0.63-acre site located at 601 S. Broadway, and to redevelop the subject site with a new, 13,188 sq. ft. Walgreen's pharmacy. The project site is zoned Business – Community 2 (BC-2).

This item was not called up.

At this time, the Planning Board discussed Item 6A under MATTERS.

5. **PUBLIC HEARING ITEMS**

   A. AGENDA TITLE: Public hearing and consideration of a Non-Conforming Use Review application, case no. LUR2016-00014 and simple Site Review, case no. LUR2016-00025 for expansion of the Quality Inn Boulder Creek/Basecamp Motel and 33 percent parking reduction with 43 existing parking spaces where 60 are required. The site is located at 2020 Arapahoe Ave. Because this is an existing non-residential use within a residential zoning district (Residential – High 1), the use is considered non-conforming. The applicant requests to expand the exterior patio from 159 square feet to 346 square feet, and convert existing floor area to increase the room count from 47 to 50 rooms that includes the addition of one fully compliant Americans with Disabilities Association (ADA) room. The applicant is requesting Vested Rights per Land Use Code section 9-2-7(b)(1), B.R.C. 1981.

Applicant: Christian Stroebel
Owner: Boulder Motel Group, LLC

Staff Presentation:
E. McLaughlin presented the item to the board.

Board Questions:
E. McLaughlin answered questions from the board.

Applicant Presentation:
Christian Stroebel, the applicant, presented the item to the board.

Board Questions:
Christian Stroebel answered questions from the board.

Public Hearing:
No one spoke.

Board Comments:

- The board discussed the staff's suggestion of an additional condition recommending closure hours for the patio. The board did not feel the need for an additional condition restricting the hours of the patio due to noise ordinances that are currently in place. The patio would be self-regulating.

Motion:

On a motion by **C. Gray** seconded by **J. Putnam** the Planning Board voted 7-0 to approve the Site Review application LUR2016-00025 and Use Review application LUR2016-00014 adopting the staff memorandum as findings of fact and subject to the recommended conditions of approval in the staff memorandum.

Friendly amendment made by **C. Gray** to modify the conditions in the staff memorandum to include a new condition 5 to read:

"The patio shall be closed from 11:00 p.m. until 6:00 a.m. seven days per week."

The friendly amendment was not supported by a second.

After this item, the Planning Board discussed Items 6B, 6C, 6D, 6E and 6F under MATTERS.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. AGENDA TITLE: Presentation of Central Area General Improvement District (CAGID) Development and Access Projections

Staff Presentation:

M. Winter presented the item to the board.

Board Questions:

M. Winter, **S. Richstone**, **C. Hagelin, Bill Fox**, with Fox Tuttle Hernandez, and **David Becher**, with RRC Associates, answered questions from the board.

After this item, the Planning Board discussed Item 5A under PUBLIC HEARINGS.

B. AGENDA TITLE: City of Boulder Resilience Strategy

Staff Presentation:

G. Guibert presented the item to the board and asked for suggestions or observations that may be missing from the draft Resilience Strategy.

Board Comments:

- **J. Putnam** stated that the Resilience Strategy is important to have however the strategy itself seemed hidden and hard to find. It was difficult to find the strategy as opposed to plan and what those things mean. The document needs more detail and the strategy needs to be pulled out. There needs to be a transition from the document to actionable plans. In regards to the Comp Plan and other land use decisions, Site Review decisions have implications for resilience (i.e. floods and fires). These could be opportunities for

community or resilience connections. If there are interim pieces along the way to think about, it would be helpful to include more detail.

- **L. May** suggested the paper version of the Resilient Strategy have a companion electronic version with hyper links taking one to the additional detail. The current document seems more promotional. It needs more substance. He commented that the "*Shocks Expose Stresses*" section on page 4 of the Strategy suggests that we need to grow in order to be sustainable and resilient, which itself is unsustainable. There is a difference between not having commerce going on adequate to sustain vs. trying to grab every dollar that is available which ultimately a zero sum game for the region. That a company can't grow to the size it wants to, here, and moves to Denver is good for Denver and arguably good for us. The vacancy rate is low and the company that moves makes room for another. If hogging every dollar is our goal, where does that leave surrounding communities? Quality of life also is a sustainability and resilience issue. Boulder is frequently cited as one of the happiest places in the US. Much of that is attributable to the balance we have striven for between growth and quality of life. Happier people are healthier, kinder to others, etc. This suggests that we need to try to be like most other cities that are plagued with high stress lifestyles, congestion, overcrowding lack of open space etc.
- **L. Payton** agreed with **L. May**. She stated the focus of the document seems to be more reactive strategies rather than preventive strategies. Prevention should be part of resilience. She stated that the document does not mention any strategies to prevent exposure to wildfires or flooding. Management plans and preventive aspects were not mentioned yet we know there is the potential for these events to happen. The Resilience Strategy should to be embedded in the Code as well as the Comp Plan. Finally, she suggested that the resilience benefits of open space should be included.
- **H. Zuckerman** stated that the document comes across as a prescriptive document. The document is a document of "thought leadership" and should be inspiring. That should be indicated up front. The document did make connections and pointed out ideas of diversity and affordable housing, all which create resiliency. He suggested the idea addressing the fifteen minute neighborhood and fewer vehicles.
- **C. Gray** encouraged people to subscribe to "*100 Resilient Cities*" via email for more information. She approved the mentioning of the social cohesion and the community resilient centers. She observed one missing piece of getting from the Comp Plan and sub-areas (9) in the city to community-area plans. She suggested beginning at the sub-area level to refine the planning process on a neighborhood level and discuss the resilience strategy. Talk with people that live in the neighborhoods. Discussion should be at a smaller level.
- **B. Bowen** observed that co-housing communities currently exist in Boulder which have built-in resilience mechanisms. He suggested they be included in this document.
- **J. Gerstle** suggested that Boulder's plans for resilience should avoid the notion that Boulder is in competition with other cities; Boulder should instead work together with neighboring communities. Economically, Boulder is better off when it works together with other cities. In addition, in regards to fifteen minute neighborhoods, at some point there needs to be consideration of the potential for such policies to weaken Boulder's downtown economy, as they could divert commerce from the center of town and thus weaken our economic sustainability and resilience. He also has observed diminished

levels of interaction among neighbors which could have an impact on resilience. Previously, when there was a potentially dangerous or significant event (i.e. fire or flood), one generally knew how to contact their neighbors. Now, due to increasingly common automatic gates and diminished neighborhood interaction, the ability to warn neighbors of potential problems or address issues is diminished. Interaction should be encouraged to ensure the ability of neighbors to assist each other in times of need, and perhaps automatic and remotely controlled access gates should allow for emergency assistance by neighbors.

- **J. Putnam**, to help people visualize social connections and what a neighborhood may have to be resilient against, suggested inserting photos of people helping others during the flood in September 2013 or a recent wildfire.

C. AGENDA TITLE: Boulder Valley Comprehensive Plan Update

Staff Presentation:

L. Ellis presented the item to the board and shared the materials that were presented at the BVCP Public Meeting that took place on May 11, 2016.

Board Questions:

L. Ellis answered questions from the board.

D. Charter Height Limit Discussion (Rescheduling)

Board Discussion:

- The board has shown interest in rescheduling a discussion regarding the Charter Height Limit since it was postponed from their agenda at a prior Planning Board meeting.
- **L. May** suggested letting City Council know their interest or placing it on the Planning Board's agenda.
- **H. Pannewig** informed the board that the Planning Board does not have a role under Charter Amendments. The item will go to City Council on May 17, 2016 to ask Council if the matter should be brought back to Planning Board.
- **C. Gray** would like to forward City Council emails received by Planning Board.
- **C. Spence** will compile all emails received by Planning Board and send to City Council regarding the Charter Height Limit.
- **J. Putnam** added that the Planning Board may not need to take any action on this issue.
- After a straw poll, **L. May**, **L. Payton** and **J. Gerstle** would like to inform Council that they are eager to review the Charter Height Limit. The remaining board members would rather have Council take the initiative.
- **S. Richstone** informed the board that if Council on May 17, 2016 indicates they want input from the Planning Board, the item could be added to the June 2, 2016 agenda.

E. Hogan Pancost Withdrawal

Board Discussion:

- The board discussed the circumstances surrounding the withdrawal of the Hogan Pancost annexation application.

- **H. Pannewig** explained that there has not been an official withdrawal of the annexation petition. The applicant has requested that the hearing originally scheduled for May 23, 2016 be continued. The Planning Board procedural rules do allow this if the request comes in 48 hours before the hearing was to occur. Therefore, the hearing was continued. She stated that we believe the applicant may come back with a Concept Plan. Therefore, the public hearing on April 28, 2016 was closed. When the applicant resubmits, the public hearing will be reopened, the applicant will have the opportunity to present again and the public will be allowed to make comments. The continuance is neither a staff decision nor a board decision. The procedural rules allow it.

F. Scheduling for the July 21, 2016 Planning Board Meeting:

Staff Presentation:

S. Richstone presented some alternative items for discussion on that date to the board.

Board Comments:

- The board discussed several items that they would like to discuss. They agreed that "*Barriers to Development and Disclosures of Conflict*" would be on the agenda. In addition, perhaps a consultant would be brought in to go over meeting process and management with the board.
- The July 21, 2016 Planning Board meeting will be offsite and not televised.
- The board discussed possible meeting topics for the future to include the following:
  - Groundwater 101
  - Floodplain 101

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 10:43 p.m.

APPROVED BY

Board Chair

2 June 2016

DATE

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
May 26, 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:
John Gerstle, Chair
John Putnam
Leonard May
Liz Payton
Crystal Gray
Harmon Zuckerman

PLANNING BOARD MEMBERS ABSENT:
Bryan Bowen

STAFF PRESENT:
Charles Ferro, Development Review Manager
Hella Pannewig, Assistant City Attorney
Cindy Spence, Administrative Specialist III
Sloane Walbert, Planner II
David Thompson, Civil Engineer – Transportation
Karl Guiler, Senior Planner
Kalani Pahoa, Urban Designer
Louise Ferguson, Administrative Specialist II
Scott Kuhna, Civil Engineer – Utilities and Drainage
Jeff Yegian, Program & Policy Manager
Jay Sugnet, Senior Planner
Kurt Firnhaber, Deputy Director of Housing
Michelle Allen, Inclusionary Housing Program Manager

1. **CALL TO ORDER**
Chair, **J. Gerstle**, declared a quorum at 5:05 p.m. and the following business was conducted.

2. **APPROVAL OF MINUTES**
On a motion by **C. Gray** and seconded by **J. Putnam** the Planning Board voted 6-0 (**B. Bowen** absent) to approve the May 5, 2016 minutes as amended.

3. **PUBLIC PARTICIPATION**
1. **Christine Klein** spoke in regards to the proposed design of the project located at 1440 Pine St., which Planning Board will hear at an upcoming meeting.

2. **Mark Ely** spoke in opposition to the size and density of the project located at 1440 Pine St., which Planning Board will hear at an upcoming meeting.
3. **Juliet Gopinath (pooling time with Dinah McKay, Chris Brown and Miho Shida)** presented new information to the Planning Board regarding the Twin Lakes land use change request and spoke in support of Request #36 to convert to open space, and against Request #35 to convert to MXR.
4. **Susan Dawson** spoke in opposition to the size and density of the project located at 1440 Pine St., which Planning Board will hear at an upcoming meeting.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS

There were no items on the agenda.

5. PUBLIC HEARING ITEMS

A. AGENDA TITLE: Consideration of a motion to adopt an additional revision to the 2016 Downtown Urban Design Guidelines.

Staff Presentation:
K. Pahoa presented the item to the board.

Public Hearing:
No one spoke.

Motion:
On a motion by **L. Payton** seconded by **J. Putnam** the Planning Board voted 6-0 (**B. Bowen** absent) to adopt the additional revision to the Guidelines, as adopted by Council on May 3, 2016, removing "Solar panels should be as unobtrusive as possible" from Item 2.1.B.2.

B. AGENDA TITLE: Public hearing and consideration of a Site Review (case no. LUR2016-00027) to redevelop a 3.2-acre vacant property at 4525 Palo Parkway. The proposal includes the construction of 44 residential units and a community center in nine buildings surrounding a central park. The development will be 100% permanently affordable housing managed by Boulder Housing Partners, in partnership with Flatirons Habitat for Humanity. The project site is zoned Residential - Mixed 2 (RMX-2).

Applicant: Lauren Schevets, Boulder Housing Partners
Owner: Boulder Housing Partners

Board members were asked to reveal any ex-parte contacts they may have had on this item.
All board members made site visits and reviewed all incoming emails from the public. **L. May** declared that he worked for Habitat for Humanity approximately twenty years ago in Africa. **C. Gray** stated that she was a founding board member of an affordable housing homeowner occupied properties group in Boulder approximately twenty years ago.

Staff Presentation:
C. Ferro introduced the item.
S. Walbert presented the item to the board.

Board Questions:
S. Walbert, C. Ferro, H. Pannewig, S. Kuhna and **D. Thompson** answered questions from the board.

Applicant Presentation:
Lauren Schevets, with Boulder Housing Partners, presented the item to the board.

Board Questions:
Lauren Schevets, **Don Ash** with Scott, Cox & Associates, **Tim Ross** with Studio Architecture, and **Betsy Martens** with Boulder Housing Partners, representing the owners, answered questions from the board.

Public Hearing:

1. **Ed Byrne**, presented on behalf of Better Boulder, spoke in support to the project.
2. **Jenny Bux** spoke in support of the project.
3. **Susan Lythgoe**, presented on behalf of Habitat for Humanity, spoke in support of the project.
4. **Olive Stacy**, a current Bolder Housing Partners development resident, spoke in support of the project.
5. **Stephanie Warren**, a future Habitat of Humanity resident, spoke in support of the project.
6. **Harma Drenth**, currently living in Four Mile Creek, spoke in opposition to the three story buildings and height modification.
7. **David Willard**, currently living in the Palo Park neighborhood, supports the work of the Boulder Housing Partners but has concerns regarding the interactions between Boulder Housing Partners, the City and the County. He opposed the project as proposed.
8. **Val Soraen**, currently a resident of Red Oak Park and Commissioner of the Boulder Housing Partners Board, spoke in support of the project. She was in support of a two-way circulation and the proposed community center.
9. **Judy Langberg (pooling time with Judy Wakeland, Diane Rieck),** spoke in opposition of the project.
10. **Harold Hallstein (polling time with Bremer, Kirschenbaum, Gould, Blane and RK Pipani)**, presented a PowerPoint. He asked for a reduction of density on the site and to pull development away from the floodplain and wetlands. He expressed concerns about the authenticity of the public participation process.
11. **Sara Toole (pooling time with Dave Potas, Sean Potas, Susie Levin, Melissa Nipper and Ed Shalho)** spoke in opposition of the project due to the proposed density. She stated the proposal does not meet the BVCP policies and has concerns regarding the traffic.
12. **Karen Klerman**, a board member of the Boulder Housing Partners, spoke in support of the project.

13. **Greg Harms**, executive director of the Boulder Shelter for the Homeless, spoke in support of the project.
14. **Nolan Rosall**, as chair of the Flatirons Habitat for Humanity Board of Directors, spoke in support of the project.
15. **Daphne McCabe** spoke in support of the project.
16. **Ben Blazey**, currently living in affordable housing in Northfield Commons, stated that flood relief funds should not be used to build in the floodplain. He is in support of affordable housing in that location, but he is in opposition of the project.
17. **Michael Fitzgerald**, currently living in a Boulder Housing Partners project, spoke in support of the project.

Board Questions:
S. Walbert, C. Ferro, H. Pannewig, S. Kuhna, D. Thompson, Lauren Schevets, and **Jeff Dawson,** with Studio Architecture, answered questions from the board.

Board Comments:
Key Issue #1: Does the development proposal meet the Site Review criteria found in section 9-2-14(h), B.R.C. 1981, including Boulder Valley Comprehensive Plan (BVCP) policies?

- **1(a): Density (Number of Units)**
  - **C. Gray** stated that the majority of the board members approved the annexation. In her opinion, all annexations should be for affordable housing including homeownership and for maintaining the middle income. She recognized the quality work by BHP and Habitat for Humanity. Density can come down to a group feeling they have not been heard. Compromises need to be made. She suggested that the proposed density for the project is slightly high but the project overall could make a better community.
  - **L. Payton** stated that most of the public speakers seemed to be in support of doing the project but that it was too dense. She agreed that as proposed it is just too much and that is why there were so many impacts related to height, parking and traffic. She is uncertain if it makes more sense to reduce the number of units or the number of bedrooms in the stacked flats in order to reduce the overall size, but the architecture was such that there were a number of bays and voids that could possibly be reconfigured so that the project would have fewer impacts. She suggested that if the financing is based on the number of units, then reduce the number of bedrooms.
  - **J. Putnam** stated that under the Comp Plan, the project was contemplated within the proposed density. This project is not a radical departure in terms on density. In terms of impacts, he is struggling to find evidence that 44 units vs. 35 units would have a significant community impact. He cannot justify moving down from the proposed 44 units. In regards to bedrooms vs. units, he stated that removing some of the three-bedroom units would be worst thing to do because Boulder needs homes for families. If units were removed, then remove some of the one-bedroom units. Reducing bedrooms would not necessarily reduce the number of cars or trips. Therefore, he recommended keeping the mix of units as proposed.
  - **L. May** agreed with **J. Putnam.** The density proposed is what the current zoning suggests and the applicant isn't asking for anything more. He stated that the other elements of the project (i.e. height and parking) could be impacts. In addition, there is no

justification according to our site review criteria to suggest a change in number of bedroom units. The location is near bike trails and not too bad transit (though not good), which would be beneficial for an affordable housing project.

- **H. Zuckerman** stated that, the proposed project is compliant with its RMX-2 zoning in terms of parking and density. The RMX-2 requirement that no one housing type make up more than 50% of total units, while not met to the letter (one type of units makes up 54% of the total), is nonetheless met within the spirit of the code, as there are three distinct housing types present. The density that is being proposed is supportable, and if we want to talk about the need for affordable housing, we need to accept projects that can provide such housing where they do not require unreasonable modifications. The density proposed here is acceptable.
- **L. Payton** informed the board that the site review criteria does not require the board to consider loss of funding. The board needs to evaluate the project according to site review criteria.
- **J. Putnam** responded that the board also needs to look at Comp Plan objectives, which are to promote affordable housing, which is relevant.
- **J. Gerstle** added that the proposed density is in accordance with the Comprehensive Plan.
- **C. Gray** added that the neighborhood said they had not been heard regarding this issue. She suggested that Planning Board have this discussion about this larger issue citywide.

➢ **1(b): Parking**

- **C. Gray** stated that she would support a change to the design of the parking if it enables the height of some buildings to be reduced, even if it resulted in a parking reduction. While the site is not isolated, it is not on a transit line. She does not suggest a large parking reduction
- **L. Payton** suggested parking on the northeast corner could be converted to parallel parking to save more habitat and open space. This would result in a small reduction in parking.
- **J. Putnam** agreed. This is a unique site as that there is no luxury to spill out onto streets as a result of the soccer field proximity and neighborhood impact should be avoided. He encouraged but did not want to require that some of the parking be thought of as flex space in the long run, like a parklet, basketball court or community gardens.
- **L. May** stated that he does not find one parking space per unit to be inappropriate. Forty-four parking spaces would be appropriate for this project. The issuance of ECO-Passes and location to bike paths would help to migrate people to alternative modes. We need to start constraining parking access as a policy if we want to see mode shift.
- **H. Zuckerman**, in looking at the proposed design, it does not create the parking island effects that are currently problems. In addition, he would not want to see neighborhood spillover effects. He suggested keeping the parking as is.
- **L. Payton** commented that the comparison to Red Oak Park is not a good benchmark since Red Oak Park it is in a much more walkable area than the proposed site. This site will have more cars than at Red Oak Park.
- **C. Gray** stated that she would want to make sure neighbors are not fighting for parking. However, companion programs must be instituted for traffic or parking mitigation if infill development is going to be done in a neighborly way.

- **J. Gerstle** agreed with **J. Putnam**. He added that a car-share plan should be considered in the TDM.
- **J. Putnam** complimented the staff and applicant's plans for EV charging stations.

➢ **1(c): Site Design and Height Modifications**

- **C. Gray** stated that there are many creative ways that height could be reduced on the site and suggested that they give the applicant the opportunity to suggest alternative designs, rather than leaving it up to staff to ensure that they meet the Board's intent. If the board would like to get the height as close to 35 feet and have less of a modification, this has implications on how buildings are arranged on site.
- **H. Zuckerman** offered moving Building D to the south to reduce the requested height modification due to typography. Then, further reduce the site modification through architecture (e.g., with a flat roof design). If the applicant were to go with flat roofs, there should be a cornice, an outstanding architectural feature. Flat roofed buildings with cornices can effectively hide rooftop solar panels. The reduction in height caused by moving Building D and eliminating the pitched roofs would be a compromise. He suggested the southern façade of Building D, lining up with the community center, should then be better articulated than currently proposed since it would be highly visible and a gateway to the project. The entrances to the community center and Building D would bookend the pedestrian connection. Finally, he suggested moving the parking directly to the north of Building D and northeast of Building E for convenience and to make the north corner of the site a larger natural feature for flood control and the community garden.
- **L. Payton** expressed concern that that grid pattern would be lost if the proposed building moves were done. The tall buildings should be in the back so that they are not as visible.
- **L. May** stated that the relationship between buildings would be better if they were moved because they enclose and relate to the triangular commons much better and to each other much better. He stated the taller buildings would still be in the rear of the site.
- **J. Putnam** does not have concern regarding the height in general because the taller buildings are at the rear of the site and away from view corridors for most people. He approves of **H. Zuckerman** and **L. May's** solution. He stated that it would be a mistake to not provide a safer connection to the multi-use path to the east. He would like to see facilitating an east-west connection along northwest connector along east side of property, even if they lose two to four parking spaces. In general, he supports the connection proposed by Community Cycles. The connection would generally line up with the gap between Buildings D and E.
- **L. Payton** stated that the buildings would be better located where they are currently proposed. The height should be in the rear of the site. In addition, she supports the idea of the grid as an urban design principle.
- **C. Gray** stated the big issue is the height and impact on surrounding areas.
- **J. Gerstle** expressed concern regarding the height issue. He would hate to lose the proposed play area but if it were to be moved to the north of Building D, that would be acceptable.
- **L. May** explained that with **H. Zuckerman's** proposal, the play area might not be a play area per se, but more of a contiguous, natural open space.

- **1(d): Architecture**
  - **L. Payton** stated the materials (i.e. vinyl windows, hardie board and stone veneer) are not high quality. She is concerned that the materials will communicate that this is a low-income neighborhood. She would like to see clad windows, better materials and/or lap siding with narrow spacing to look more refined. On the architecture, the rear elevation of the Habitat homes (page SR.A4.32 of the applicant's plans, northeast perspective), the porch is truncated and the materials change. She finds this design strange and jarring.
  - **C. Gray** generally agreed. The proportions on the rear elevations are awkward and agree with **L. Payton's** suggestions.
  - **J. Putnam** had no comments but offered caution regarding costs because the project would be utilizing public funds to build affordable housing. This project has hit a good balance.
  - **L. May** generally agreed with **J. Putnam**; however, the Habitat houses are fragmented in their composition.
  - **H. Zuckerman** stated the architecture on the site is reasonable for the purpose.
  - **J. Gerstle** agreed with **L. Payton** regarding materials. This project should fit in the neighborhood. The proposed walls with no windows or doors (i.e. east side of Community Center) should be avoided.
  - **L. Payton** stated that a condition regarding the railings and stone veneers, on the Palo Parkway side (south), of Buildings A, B and C, should be added and shown on the elevations.

- **1(e): TDM**
  - **L. Payton** suggested adding a condition that ECO-Passes are provided for an extended length of time due to the nature of the population being served.
  - **J. Putnam** disagreed with extending the ECO-Passes due to the lack of knowledge of the cost in three years. Given that they are not asking for a parking reduction or a large mode shift in the TDM, there is too much uncertainty and not enough justification to impose an extra cost. The key to this site is the bike paths and to keep working with cycle groups instead.
  - **H. Zuckerman** suggested a condition that BHP facilitates the creation of an ECO-Pass district when still one year left of free ECO-Passes. The board cannot mandate that it is a success, however perhaps agree on a condition that the applicant attempt to create a Neighborhood ECO-Pass district and provide facilitation to the adjacent neighborhoods.
  - **L. May** supported the condition for a five year ECO-Pass.
  - **C. Gray** supported the condition for a five year ECO-Pass.
  - **J. Putnam** stated that until RTD provides better service in this area it will be difficult to justify an ECO-Pass district.
  - **L. May** stated there is potential for residents to get usage out of ECO-Passes.

- **1(f): Hydrology, Sewer and Flood**
  - **J. Putnam** stated that the community has identified this issue. He agrees with staff that there is not a significant flood or ground water issue. He is not convinced there is a sanitary sewer issue. There is no site review criterion that makes this unique.

- **L. May** noted that this site is not at a low point as several recent site review applications have been and has reasonable drop off to the stream and will be well drained. He expressed concern about future sewer back up given recent experiences with that and how creating additional flows to something that has already backed up exacerbates that circumstance.
- **L. Payton** said that this site is not as flood prone as other sites and that the groundwater is not as shallow as found in other sites. She does not foresee disturbance of the alluvial aquifer on the south side of Four Mile Creek being propagated across the creek and affecting the groundwater hydrology on the north side.
- **J. Gerstle** agreed.

<u>Key Issue #2</u>: Do the requested height modifications meet the Site Review criteria, especially subsection 9-2-14(h)(2)(F), *"Building Design, Livability and Relationship to the Existing or Proposed Surrounding Area"*?

- **J. Putnam** added that the project could meet the **criteria as** is, but it would be better with flat roof and/or cornice design and adjusting the building location, as discussed earlier. A smaller modification would still be required but would be more appropriate.
- **C. Gray** reminded the board that in regards to the site criteria for height, there is no community benefit referenced with a requested height modification. In this neighborhood, one cannot make the case for 43 feet based on the built environment. Therefore, she would like to have the roofs modified.
- **L. May** stated that the board would not have to establish exactly what that height is, only the maximum it can be.
- **H. Zuckerman** offered to word the motion so that the height modification for Building D (as amended) would be the applicant-proposed modification minus (1) the difference in height created by a change to a flat roof and (2) the difference in height associated with the movement of the building to the south. For Building E, the height modification as amended would be the applicant-proposed modification minus the difference in height created by a change o a flat roof.
- **L. May** suggested adding, "The current low wall plate submitted with a ¼ inch per foot slope roof".
- **L. Payton** suggested simply capping the height at 40 feet.
- Based on the response by the applicant, **H. Zuckerman** stated that he would be comfortable with a 41-foot limit because he would not want to limit the architecture style and end up with a building that does not fit with the rest of the development.
- **L. Payton** mentioned if the board decided to cap the building height at 41 feet they could have the buildings remain in the proposed locations on the site. She does not agree with how the grid would be broken up and the larger building would be visible from the street. It does not appear that the board is in agreement on this issue.
- **L. May** said the buildings should move. Connections are not being lost.
- **J. Gerstle** agreed that height should be the chief determinant and the site design should be left to the applicant.
- **H. Zuckerman** agreed that if the applicant cannot make the site work with the board's suggestions, then perhaps the board should not move the buildings around. However, if the applicant believes the modified plan is doable, then he prefers the board's modified plan.

- **J. Putnam** stated he is less concerned about the height being the driving factor. The other benefits to changing the site arrangement are much more compelling and interesting. The visibility of Building D from the street would not change substantially. He expressed interest in removing the pitched roofs from Building D and provide and acceptable cornice.
- **C. Gray** clarified that the proposed condition would only lessen the height by 2.5 feet.
- **J. Putnam** stated that he would like to include a performance standard that the sloped roof is eliminated and to move Building D without providing a particular height limit.
- **L. May** said that he agreed with the architect's request for flexibility in the design. The performance standard should be 41 feet not the configuration of the roof.
- **J. Putnam** stated there seemed like a majority interest in providing some sort of height cap that would reduce height but also provide flexibility in design.
- **J. Gerstle** stated there appears to be a majority interest in favor of the revised site layout.
- Based on feedback from the applicant, **L. May** said that the neighborhood communicated conflicting concerns about providing pitched roofs and about height maybe not realizing how they impact each other. He felt that the overwhelming concern was height.
- **L. Payton** stated that she felt the overwhelming concern of the neighborhood was whether the board granted a modification to the standards, not a specific height number. Given that, she stated that she supported the modification as requested and let the applicant design the project.
- **H. Zuckerman** stated that by capping the height at 41 feet, the roof will not be steeply pitched and make an impact on the skyline for the neighbors. With the constraints the board has just put in place on the project, the buildings will fit within the design of the neighborhood. There is a variety of roof forms in the surrounding neighborhood.
- **C. Gray** stated that they would not be able to increase the floor to ceiling height either.
- **H. Zuckerman** agreed that all other aspects of the design would have to be held constant.

Key Issue #3: Does the design of the community center building meet the Site Review criteria, especially subsection 9-2-14(h)(2)(F), *"Building Design, Livability and Relationship to the Existing or Proposed Surrounding Area"*?

- **L. Payton** stated that it is a modest building and the architecture is fine.
- **J. Gerstle** finds the modest structure acceptable.
- **H. Zuckerman** stated it creates an entry feature with the movement of Building D and J.

Motion:

On a motion by **J. Putnam,** seconded by **L. May,** the Planning Board voted 6-0 (**B. Bowen** absent and recused from this item) to approve Site Review case no. LUR2016-00027, incorporating the staff memorandum and the attached analysis of the Site Review criteria as findings of fact and subject to the recommended Conditions of Approval, amended as follows:

Condition 2.a. to be amended by adding:

2.a.i. The heights of Buildings D and E shall be limited to 41 feet.

2.a.ii. Simplify the porch design and materials of Buildings F, G and H to address fragmentation, considering, including but not limited to, the continuity of the porch and changes in materials.

2.a.iii. Refine the siding of all buildings to improve texture by measures, including but not limited to, using shake shingles instead of lap siding or reducing the exposure of the lap siding.

2.a.iv. Railings and stone veneer be included on the Palo Parkway elevation of Buildings A, B and C.

Condition 2.b. to be amended by adding:

2.b.iii. To add a pedestrian connection to the multi-use path to the east of the site and internal pedestrian crossing zone to it.

Condition 4 to be amended by adding:

4.a. To include ECO-Passes to five years instead of three years. The applicant shall undertake good faith efforts to try to establish a Neighborhood ECO-Pass zone. No later than four years after issuance of certificate of occupancy, the applicant will begin work to facilitate an effort to secure RTD approval of the project area as an ECO-Pass neighborhood, opening the process to the neighboring community, if appropriate. Nothing in this condition shall require the applicant to achieve such approval.

A new condition to be added reading:

The applicant shall provide ECO-Passes for the residents of the development for five years from issuance of a certificate of occupancy.

Motion by **J. Putnam**, seconded by **L. May**, to amend the main motion so as to further modify the recommended conditions of approval, in particular, to add a new condition 2.b.iv. that Building D shall be moved south, along with the northern parking lot, while Building J will be moved west into the site identified as the play area on the Site Plan. Passed 5-1 (**L. Payton** opposed, **B. Bowen** absent and recused from this item).

Motion by **L. May**, seconded by **J. Putnam**, to amend the main motion so as to further modify the recommended conditions of approval, in particular, that the TDM plan needs to include a program to encourage bike usage and maintenance, which can include a partnership with a third party non-profit. Passed 6-0 (B. Bowen absent and recused from this item).

C. AGENDA TITLE: Public hearing for consideration of a Concept Plan proposal to redevelop the AirGas site, LUR2016-00028, at 3200 Bluff Street (a roughly 1-acre property) with a mixed-use development in two buildings totaling 98,000 square feet in size comprised of 43,000 square feet of residential in 36 rental units and 55,000 square feet of commercial space with a 102 space underground parking garage in accordance with the adopted Transit Village Area Plan (TVAP). Preliminary consideration of a rezoning from Industrial Mixed Service (IMS) to Mixed-Use - 4 (MU-4) is also proposed.

Applicant: Kirsten Ehrhardt, Coburn Development, Inc.
Property Owner: AirGas InterMountain, Inc.

Staff Presentation:
K. Guiler presented the item to the board.

Board Questions:
K. Guiler answered questions from the board.

Applicant Presentation:
Andy Bush, with Morgan Creek Ventures, and **Bill Holicky**, with Coburn Architecture, the applicants, presented the item to the board.

Board Questions:
Andy Bush and **Bill Holicky**, the applicants, answered questions from the board.

Public Hearing:
No one spoke.

Board Comments:
Key Issues: Compliance with TVAP, Site and Building Design, Proposed rezoning to MU-4, Form-Based Code, Others?

- **L. Payton** read **C. Gray's** comments to the board since **C. Gray** was not present at the time of this Concept Review. **C. Gray's** comments stated that she would support net zero. She suggested a higher percentage of residential. In regards to architecture, the west elevation steps down to two stories, and the building reads as one 55' continuous building and should be broken up. There should be more connections through the building and the paseo seems cramped and tunnel-like.
- **L. Payton** appreciated the applicant's efforts to be energy efficient. She expressed concern that the project will have to be welcoming and interesting enough to compete with other places to shop, dine, and hang out in Boulder. She was not in support of the pedestrian tunnel. It should be open to the sky, but if not, then it should have some treatment on the ceiling that makes passing through the tunnel a special experience. She appreciated the staff's comments regarding the connections, such as shifting retail towards the rail plaza. She is interested in a terminated vista at the end of the pedestrian pathway along Junction Place.
- **J. Putnam** stated that the project is very close to consistency with the TVAP plan. In terms of the residential location, more residential would be better. He suggested locating the residential at the corner away from the railroad noise. He supports placing more ground level retail at the northeast corner. He suggested and agreed that the pedestrian connections at the east-west vista could be critical and perhaps the Steelyards connection should be dominant. A terminated vista needs to be considered. In terms of parking, he was curious if there would be a way to get it down to one point of access, which could improve the pedestrian activation and reduce impacts on the streetscape. He suggested pre-wiring for EV charging stations for the 60 spaces. Portions of the architecture read as a flat 2-dimensional piece. It is important to try to limit garage access to one-entry instead of two-entry points.

- **L. May** agreed. He suggested using solar panels to cantilever over the street as a nice architectural element like Bullet Center in Seattle.
- **H. Zuckerman** agreed. He added that he was not sure the proposed project respects neighbors living on the other three corners in terms of residential. The northeast corner could be reinforced with something stronger than entirely residential.
- **L. Payton** agreed with **J. Putnam** regarding the garage access.
- **J. Gerstle** agreed. He stressed that the applicant should develop a single entrance for the garage access. In regards to the footpath through the "Four C's", while residents are concerned about foot traffic, there is potential for an attractive pedestrian path and that they may be the most appropriate connection points.

Board Summary:
J. Gerstle gave a summary of the board's recommendations. Since this is a Concept Review, no action is required on behalf of the Planning Board. Generally, the board's comments were positive. The board had concern with the scale of the massing along the street and the tunnels being less desirable. Some on the board suggested treating the solar panels as architectural elements by extending beyond the walls. The garage and pedestrian paths were central issues as well. The amount of residential use should be as large as possible. Some board members supported more residential use at the northwest corner, while others supported more commercial at this location. There was some split among the board regarding the tunnel and whether it would be a dedicated paseo. However, all board members agreed that it must be done effectively and not sterile. Most members supported reducing garage access to one point instead of two.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Addition of Planning Board Meeting, July 14, 2016

Board Comments:

- After some discussion, it was determined that an additional Planning Board meeting would be scheduled for July 14, 2016 in Council Chambers to begin at 6:00 p.m. to discuss 1440 Pine Street Concept Plan.

B. EAB to work with Planning Board

Board Comments:

- **J. Gerstle** informed the board that he had been in contact with the Environmental Advisory Board (EAB). They would like to establish a closer relationship with the Planning Board. David Driskell and Brett KenCairn will be discussing the nature of how the EAB would like to proceed and will be in contact with the Planning Board later.
- **J. Putnam** suggested informing the EAB of the procedural guidelines of how the Planning Board operates (Quasi-Judicial mode) which may differ from how the EAB operates (Legislative mode). The Planning Board has constraints.

C. Landmarks Board Liaison

Board Comments:

- **H. Zuckerman** and **J. Putnam** mentioned they have not been contacted regarding the next Landmarks Board Meeting so that they could attend.
- **C. Spence** informed the board members that she would contact the Landmarks Board Secretary and have her contact them in time for the June Landmarks Board meeting.

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 12:02 p.m.

APPROVED BY

Board Chair

2 June 2016

DATE

CITY OF BOULDER
BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING
MINUTES

Name of Board/ Commission: Transportation Advisory Board

Date of Meeting: May 9, 2016

Contact Information Preparing Summary: Meredith Schleske 303.441.3204

Board Members Present: Bill Rigler, Chair; Jennifer Nicoll, Dom Nozzi, Anna Reid, Zane Selvans
Board Members Absent:

Staff Present: Michael Gardner-Sweeney, Director of Public Works for Transportation
Kathleen Bracke, GO Boulder Manager
Noreen Walsh, Senior Transportation Planner
Bill Cowern, Acting Principal Traffic Engineer
Carey Sager, Maintenance Supervisor
Gerrit Slatter, Principal Transportation Project Engineer
Molly Winter, Director, Department of Community Vitality
Greg Guibert, Chief Resilience Officer
Lesli Ellis, Comprehensive Planning Manager
Meredith Schleske, Board Secretary

Consultants Present: Carlos Hernandez, Fox Tuttle Hernandez

Type of Meeting: Advisory/ Regular

Agenda Item 1: Call to Order **[6:30 p.m.]**
The meeting was called to order at 6:30 p.m.

Agenda Item 2: Approval of minutes from April 2016 **[6:30 p.m.]**
Move to approve minutes as presented.
Motion: Nozzi Second: Reid
5:0:0 Motion Passes

Agenda Item 3: Public Participation none **[6:31 p.m.]**

Agenda Item 4: Staff briefing and TAB discussion regarding TMP Implementation Progress Update including Canyon Corridor Study in advance of May 31, 2016 City Council Study Session (Rutsch/Bracke) **[6:31 p.m.]**

Executive Summary:
The Transportation Master Plan (TMP) is the city's policy document establishing the goals, objectives and investment priorities for transportation. Since 1989, the TMP has reflected a consistent policy direction of accommodating increased person travel, managing the impacts of automobile travel, and developing a multimodal transportation system with the pedestrian as the primary mode. The TMP aligns with the community's broader goals expressed in the Boulder Valley Comprehensive Plan (BVCP) and the city's Sustainability Framework. The 2014 TMP includes an extensive analysis of transportation's role and needed contributions for Boulder's Climate Commitment. The measurable objectives of the 2014 TMP support accommodating the increase in person trips while reflecting the reductions needed to reduce the impacts of automobile traffic in support of the community's sustainability and resiliency goals. The 2014 TMP also included a detailed Action Plan to guide work efforts in implementing the plan.

This update to the Transportation Advisory Board (TAB) on May 9 and upcoming City Council Study Session on May 31 provides an opportunity to check in with TAB and council regarding the progress to-date on the TMP since council acceptance of the plan in August 2014. This is the third study session on implementation, including the activities occurring since the last study session on the TMP on Aug. 25, 2015.

Transportation Division staff is sharing updates regarding pedestrian-related projects, plans and programs, as well as status report on core services in the areas of operations, maintenance, capital projects.

Staff is seeking input and guidance from TAB and City Council on several key areas of the TMP Complete Streets work program for 2016-17, including updates on the Canyon Corridor study and the Living Lab Phase II Folsom Street pilot project, as well as a check-in on next steps for the city's Renewed Vision for Transit.

Additional highlights are provided as information items regarding the other TMP focus areas of Regional Travel,

Transportation Demand Management (TDM), Funding, and Integration with Sustainability Initiatives.

Future transportation study sessions in 2016 will focus on progress reports on transportation funding (June), Renewed Vision for Transit (September), the multi-departmental Access Management and Parking Strategy (October), and TMP progress on Complete Streets, Transportation Demand Management (TDM), and Funding (December). Prior to each of these council study sessions, TAB will have an opportunity to review and share feedback with staff and council.

Questions for TAB

1. Does TAB have questions and feedback regarding the overall TMP implementation to-date? As well as suggestions for next steps?
2. Does TAB have questions and feedback regarding the Canyon Corridor study goals, objectives, evaluation measures, and conceptual design options?
3. Does TAB have questions and feedback regarding the Living Lab Phase II Folsom Street pilot project update?
   i. Does TAB have questions and feedback on the national cities research and input to guide preparations for the proposed practitioners' panel planned for fall 2016?
4. Does TAB have input to guide next steps on the elements of the city's Renewed Vision for Transit 2016 work program items?

Kathleen Bracke gave the presentation to the board.

Board discussion and comments included:

i. **Canyon Complete Streets:**
- Questions regarding where the additional width would come from, the concept of reversible lanes, discussion of the vision statement, definition of "efficient" roadway, and lowering car speeds.
- Questions regarding the staging at the downtown bus transit station and support for separating the bike and pedestrian paths downtown.
- Questions regarding the logic of developing seven preliminary designs and suggestions to include examples from other cities in the memo to City Council. A request for several bike treatments that TAB could consider as well.
- Support for separate paths for bikes and pedestrians, protected bike lanes as shown in design option 6.
- Questions as to whether bike traffic signals would be considered if bike lanes are only on one side of the street.

ii. **Living Labs**:
- Questions regarding whether the case for staff's recommendation has been made.
- Recommendations to focus on facts.
- Suggestions that at least two years of tracking are required for valid data, factoring in influences such as seasonality and whether schools are in session. Suggestion to modify the presentation to reflect this.
- Suggestions to include "lessons learned" and to use care with terminology.

iii. **Renewed Vision for Transit**
- Questions regarding what criteria limit further transportation improvements.
- Suggestion to give citizens background and information to be able to make informed suggestions.
- Suggestion to emphasize focusing on "headlines" for City Council – profile achievements. Are we making progress or not? How are they impacting TMP goals?
- Request for an update on the status of a community-wide Eco-Pass.
- Suggestion that transit stop improvements be viewed from a marketing perspective. Branding and bus wraps have been good in the past.
- Suggestion to ensure that the memo and presentation tell those receiving them why they should care.

Agenda Item 5: Staff briefing and TAB discussion regarding the Chautauqua Access Management Plan (CAMP) (Cowern/Winter)
[8:07 p.m.]

Executive Summary:

The purpose of this briefing is to provide the Transportation Advisory Board (TAB) with materials associated with the 2016 work program for the development of the Chautauqua Access Management Plan (CAMP).

The development of the CAMP is a process involving city staff from multiple departments, including the Transportation

Division of Public Works, Community Vitality, Open Space and Mountain Parks, Parks and Recreation and the City Manager's Office. The CAMP will explore ways to manage existing demand for transportation access (including parking) to and from the Chautauqua area in ways that minimize vehicular and parking impacts to surrounding neighbors, visitors and the area's natural and cultural resources. The CAMP will not be exploring resource management or visitor use of OSMP land in the Chautauqua area. At this early stage in the CAMP development project, city staff are interested in gathering feedback from the public, city boards, and city council on the proposed planning process, including the scope of work, schedule, and community engagement.

City Council will be receiving an information item concerning this topic in their June 7th packet. Input from the TAB and other related boards and commissions will be provided in that memorandum.

Bill Cowern gave the presentation to the board.
Board discussion and comments included:

- Questions regarding the scope and schedule.
- Expression of concerns around safety along Baseline.
- Expressions of excitement that this is happening.
- Recommendations to consider including the Gregory trailhead, extending the CAMP past Chautauqua, and considering months other than summer.
- Expressions of concern about parking management and proper pricing and suggestions that it be addressed in the communication plan.

TAB members may contact Bill Cowern with further questions and comments.

Agenda Item 6: Staff briefing and TAB input regarding the 2017-2022 Transportation Capital Improvement Program (CIP)-- Part II of III (Slatter) [8:26 p.m.]

Executive Summary:

Every year the city goes through a budget process that creates a six-year planning budget, this year for the time period of 2017 through 2022. Within this process, funds are appropriated for the first year, 2017. The Transportation Advisory Board's (TAB) role in this process is defined in the Boulder Revised Code (BRC) TITLE 2 GOVERNMENT ORGANIZATION, Chapter 3 Boards and Commissions, Section 14 - Transportation Advisory Board; ". . . to review all city transportation environmental assessments and capital improvements." It is within this context that the board is asked to hold a public hearing and provide a recommendation on the Capital Improvements Program (CIP) to Planning Board and City Council.

TAB Action Requested:

Staff asks that the TAB review the recommended draft 2017-2022 Transportation and Transportation Development Funds CIPs and provide feedback.

Gerrit Slatter gave the presentation to the board.
Board discussion and comments included:

- A suggestion to increase user fees.
- Expressions of support for funding for traffic mitigation.
- A request for information regarding the tradeoff if NTMP funding is added back to the CIP.
- Questions regarding what defines an issue as quality of life versus safety.
- Confirmation that the project from Violet to Highway 36 is in coordination with greenways.
- Inquiry about the correlation of projects with housing density and provision for emerging technologies.

Agenda Item 7: Staff briefing and TAB input regarding the city's draft Resilient Strategic Plan (Guibert) [8:54 p.m.]

Executive Summary:

The purpose of this memo is to provide select boards and commissions the draft of the City of Boulder's Resilience Strategy and receive feedback.

TAB Action Requested – Key Questions for the TAB:

1. Is anything important missing from the draft strategy?
2. Are there proposed actions that the board feels aligns well with their strategic roadmap?

Greg Guibert gave the presentation to the board.
Board discussion and comments included:

- Questions regarding recommendations for what TAB should consider at their planning retreat, and how to overcome silos.
- Encouragement towards consideration of other factors such as disruptions or changes such as food, fuel supply or demographic changes. "Plan B" may be better terminology for the public. Are we trying to achieve self-sufficiency?
- Suggestions to include land use transportation system and fiscal responsibility.

TAB members may contact Greg Guibert at guibertg@bouldercolorado.gov with further questions and comments.

Agenda Item 8: Matters
[9:14 p.m.]

A. Matters from the Board

- **Greenways Advisory Committee Referrals – Comments regarding the Fourmile Canyon Creek CEAP and the Greenways CIP (Nicoll) [9:14 p.m.]**

1. **Fourmile Canyon Creek CEAP**
2. **Greenways CIP**

TAB members are asked to contact Jennifer Nicoll with questions and comments.

- Updates re: collaboration with other city boards – Anna Reid serves on the East Arapahoe Corridor Study workgroup with 21 other volunteers. They have met once; updates will be provided as it progresses. Bill Rigler is on the HOP workgroup, meeting next week.
- Dom Nozzi requested his report on the Portland/Eugene trip be tabled due to time.

B. Matters from the Staff/ Non-Agenda
[9:18 p.m.]

- Boulder Valley Comprehensive Plan Update (Ellis/Rutsch)
  Lesli Ellis gave the presentation to the board. The purpose is to compare the Boulder Valley Comprehensive Plan (BVCP) to the TMP and other documents to ensure alignment. A public engagement event is planned this week. TAB members may contact Randall Rutsch or Kathleen Bracke with questions and comments.
- Chautauqua Pedestrian Safety, Access, and Lighting Final Improvements update (Walsh/Sloan) – Mike Sweeney reported that the goal is to enhance pedestrian access. Funding is through a limited term sales tax. There is concern over the impact to an historic district and onsite lighting was removed from project. The summary will be forwarded to TAB.
- Board Retreat Planning – date in process.
- CIP Tour Planning – date in process.
- Regional studies update (Gardner-Sweeney) –there is a potential statewide road-centric transportation funding ballot measure. Metro mayors opposed the language.
- Other matters - the TAB to-do list is generated in part by planning retreat discussions. There will be a joint boards meeting in August regarding the Arapahoe Underpass project.

Agenda Item 9: Future Schedule Discussion **[9:33 p.m.]**

Agenda Item 10: Adjournment **[9:34 p.m.]**

There being no further business to come before the board at this time, by motion regularly adopted, the meeting was adjourned at 9:34 p.m.

Motion: moved to adjourn: Nozzi, seconded by: Selvans
Motion passes 5:0

Date, Time, and Location of Next Meeting:
The next meeting will be a regular meeting on Monday, 13 June 2016 in the Council Chambers, 2nd floor of the Municipal Building, at 6 p.m.; unless otherwise decided by staff and the Board.

APPROVED BY:

Board Chair

13 June 2016
Date

ATTESTED:

Board Secretary

6/13/16
Date

An audio recording of the full meeting for which these minutes are a summary is available on the Transportation Advisory Board web page.

General Aviation Appreciation Month
June 2016

WHEREAS, the City of Boulder, Colorado, has a significant interest in the continued vitality of general aviation, aircraft manufacturing, aviation educational institutions, aviation organizations and community airports; and

WHEREAS, general aviation and the Boulder Municipal Airport have an immense economic impact on the City of Boulder; and

WHEREAS, Colorado is home to 61 public-use general aviation airports, which serve 17,435 pilots and 5,412 active general aviation aircraft; and

WHEREAS, Colorado is home to 70 fixed-base operators, 71 repair stations, 447 heliports, 9 FAA-approved pilot schools, 3,528 flight students and 2,817 flight instructors; and

WHEREAS, general aviation airports in Colorado contribute $2.4 billion to the state's economy; and

WHEREAS, general aviation not only supports Colorado's economy, it improves overall quality of life by supporting emergency medical and healthcare services, law enforcement, firefighting and disaster relief, and by transporting business travelers to their destinations quickly and safely; and

WHEREAS, the nation's aviation infrastructure represents an important public benefit, and Congressional oversight should be in place to ensure stable funding of this system.

NOW THEREFORE BE IT DECLARED by the City Council of the City of Boulder, Colorado, that general aviation is a vital strategic resource to the City of Boulder and declare June as

GENERAL AVIATION APPRECIATION MONTH

Suzanne Jones, Mayor