

BOULDER CITY COUNCIL
MAYOR: Susan Osborne
DEPUTY MAYOR: Ken Wilson
COUNCIL MEMBERS:

Suzy Ageton
Matt Appelbaum
KC Becker
Macon Cowles

Crystal Gray
George Karakehian
Lisa Morzel

City Manager: Jane S. Brautigam

City Attorney: Tom Carr

Municipal Judge: Linda P. Cooke

Deputy City Manager: Paul J. Fetherston

DIRECTORS:

City Clerk/ Support Services: Alisa D. Lewis

Executive Director of Community Planning & Sustainability David Driskell

Downtown, University Hill Management & Parking Services: Molly Winter

Chief Financial Officer: Bob Eichen

Fire Chief: Larry Donner

Housing and Human Services: Karen Rahn

Human Resources: Eileen Gomez

Information Technology: Don Ingle

Library Director (Acting): Jennifer Miles

Municipal Court Administrator: Lynne C. Reynolds

Open Space and Mountain Parks: Michael Patton

Parks and Recreation: Kirk Kincannon

Police Chief: Mark R. Beckner

Public Works, Executive Director: Maureen Rait

Public Works, Transportation: Tracy Winfree

Public Works, Utilities: Ned Williams

Economic Vitality Team:

Molly Winter - Downtown and University Hill

David Driskell - Community Planning & Sustainability

Liz Hanson - Business Liaison

Patrick von Keyserling -Communication Manager

Jennifer Miles - Arts and Culture

BOULDER CITY COUNCIL SPECIAL MEETING

MUNICIPAL BUILDING, 1777 BROADWAY

Tuesday, April 26, 2011

8:00 p.m. or immediately following the Council study session

AGENDA

1. **CALL TO ORDER AND ROLL CALL**
2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE** (limited to 45 min.) Public may address any city business for which a public hearing is not scheduled later in the meeting (this includes the consent agenda and first readings). After all public hearings have taken place, any remaining speakers will be allowed to address Council. All speakers are limited to three minutes.
3. **CONSENT AGENDA:** (to include first reading of ordinances) Vote to be taken on the motion at this time. *Roll call vote is required.*
 - A. Consideration of a motion to approve the **March 30, 2011** City Council meeting **minutes**.
 - B. Second reading and consideration of a motion to adopt **Ordinance No. 7790 authorizing** the granting of a Revocable License Agreement to allow for **Boulder Bike Sharing locations** in the public right of way, on city-owned parcels including parks property.
 - C. Consideration of a **motion to approve shipment of fresh water to Japan**.
4. **POTENTIAL CALL- UP CHECK IN:** Opportunity for Council to indicate possible interest in the call- up of an item listed under agenda Item 8-A1.

ORDER OF BUSINESS

5. **PUBLIC HEARINGS:**
 - A. Second reading and consideration of a motion to adopt **Ordinance No. 7787** that proposes amendments to Title 4, "Licenses and Permits," B.R.C. 1981, specifically related to section 4-18-2, "Public Property Use Permits," B.R.C. 1981, **regarding mobile food vehicle sales**; adding a new section 4-20-65, "Mobile Food Vehicle Sales," B.R.C. 1981; and Title 9, "Land Use Code," B.R.C. 1981, amending section 9-6-5, "Temporary Lodging, Dining, Entertainment, and Cultural Uses," B.R.C. 1981.

- B. Second reading and consideration of a motion to adopt **Ordinance No. 7786** that proposes amendments to Title 8, “Parks, Open Space, Streets, and Public Ways” B.R.C. 1981 by **allowing Temporary Street Furniture** (a.k.a. **Café Seating**) **to be placed in the public right of way** subject to conditions and setting forth related details.

6. **MATTERS FROM THE CITY MANAGER:**

- A. Consideration of **a motion** directly the city manager **to proceed with next steps in evaluating redevelopment of the Diagonal Plaza shopping center** and area, including continued communications and data gathering with property owners; soliciting feedback from potentially interested developers and tenants; and a blight study.

7. **MATTERS FROM THE CITY ATTORNEY:**

None.

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL:**

- A. Potential Call-Ups:

- 1) Potential call-up of a **Vacation of Easement at 1655 Yarmouth**. Last opportunity for call-up: 04/26/2011, I.P. Date: 04/20/2011, and vote/action: Staff level approval

- 2) **Landmark Alteration Certificate** for the construction of a 917 sq. ft., one and one half-story, two-car garage at **809 Pine Street**, per Section 9-11-18 of the Boulder Revised Code 1981 (HIS2011-00003). Last opportunity for call-up: 05/03/2011, I.P. Date: 04/20/2011, and vote/action: Conditionally approved/ 5-0.

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

10. **ADJOURNMENT**

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CONSENT ITEM – 3A

CITY COUNCIL PROCEEDINGS

Wednesday, March 30, 2011

(Continued from March 29, 2011)

6:00 p.m.

1. CALL TO ORDER AND ROLL CALL

Mayor Osborne called the March 30, 2011 continued meeting from March 15, 2011 to order at 6:00 p.m. in Council Chambers.

Those present were: Mayor Osborne, Deputy Mayor Wilson, and Council Members Ageton, Appelbaum, Becker, Cowles, Gray, Karakehian and Morzel.

Mayor Osborne read a brief statement indicating that staff would be piloting the EventBrite software at its April 5 council meeting. Residents could sign up electronically beginning at 4 p.m. on Friday prior to the meeting and the cut off would be 4:30 p.m. the day of the Council meeting. Residents who showed up in Council Chambers at 5 p.m. the night of the meeting would still be allowed to sign up but move to the end of the list. The speaker order from electronic sign up would be randomized.

ORDER OF BUSINESS

2. PUBLIC HEARINGS:

A. CONSIDERATION OF A MOTION TO APPROVE THE OPEN SPACE AND MOUNTAIN PARKS WEST TRAIL STUDY AREA PLAN.

The public hearing on this item was held on March 15, 2011. No additional public comment will be taken.

Mayor Osborne provided a brief introduction to the item, thanking all of those who have shown so much interest and spent time working on the process. She commented that Council's job was to look at the West TSA plan from a broader perspective and ensure groups who may not have been represented were represented in the final plan. While she and her council colleagues understood the opinion that the plan should be adopted as presented, given the extensive process it had already gone through, Council now had the opportunity to amend the plan based on a broader perspective with under-represented constituents in mind. She then outlined how the evening's discussion would take place.

Identification of Open Space Policies, Regulations and Practices that effect the West TSA Plan Recommendations (not part of CCG's Considerations):

Council Member Becker wanted to see a more thorough Environmental Impact Statement or scientific type study for future trail study areas. In addition, she referenced an MOU between the National Park Service and IMBA that was a good model for establishing a cooperative relationship between users. She would like to see more focus on that kind of proactive, collaborative effort.

Council Member Cowles would like to see the Green Tag voice and site program re-vamped, the conditions under which commercial outfitters can use Open Space should be reviewed as well. He would also like to see people and animals required stay on the corridor.

Council Member Gray requested additional study sessions throughout the year; more regional work with the County Commissioners; revisiting the Green tag program (should green tags be for residents only); commercial use (are the principles adopted as part of the Visitor Master Plan still valid and she wanted to see the VMP updated); She wanted to see the Open Space positions filled; and wanted the new ideas to be tied to the CIP program to ensure action; and finally, she suggested looking at fees for parking in certain areas.

Deputy Mayor Wilson thanked everyone who worked on the project. He would like to see a focus on long-term management and raised concern about how to really preserve endangered species. It would be important to discuss how to maintain a quality outdoor experience and avoid open space degradation.

Mayor Osborne echoed Deputy Mayor Wilson's concern about population growth in the region and thought long term planning was critically important. The Green tag program update would be very important and closely tied into the long term planning (maybe green tag was Boulder resident only or must have dog license in Boulder; charge more and have program that pays its own way). Users contribute more to issues raised by dogs on trails. Commercial uses on open space, not just what is charged but other over-use related issues. She agreed with other issues listed by previous speakers.

Council Member Ageton echoed the thanks to everyone involved. Consistency across the entire open space/trails system should be a goal. She agreed with another look at the Green Tag program (Should ask about dog licenses and vaccinations). She supported looking at commercial use/impacts, and requiring people and animals to stay on corridor. She would like to see night time use of open space and its impact on trails and wildlife/nocturnal creatures included. She asked whether penalties for violations on open space were sufficient. She suggested more rationale behind creating proposals for multi-use (i.e. why some areas are designated and others are not). In the long-term, was the City generating any revenue from outside Boulder groups that was commensurate with impact on system and administrative costs.

Council Member Morzel suggested more education and etiquette. Perhaps consider yellow tags for bikes, blue tags for runners, pink tags for walkers etc... Everyone should understand etiquette and increase knowledge of how to enjoy the resource and have similar programs. Why should dog users be the only ones paying into the system. She suggested better signage on trails so visitors know where to go. Expand beyond HCA to natural areas. Generate energy out of dog waste was a great idea. Permit fees needed to be increased. Boulder residents' enjoyment was taken away by visitors, perhaps work with their cities/counties to encourage creating more open space. Don't short change boulder residents. Consider bike racks at all trailheads. Long distance trails were needed (Boulder to Golden and Boulder to Lyons). Night time use and impacts to wildlife needed to be considered. Recognize multiple bike users (mountain bikes, commuters etc...) and recognize that displacement by hikers, mountain bikes or dogs is real. Needs more than temporal management. Is this all open space's responsibility? Partnerships were needed with Parks and Recreation and Transportation.

Council Member Karakehian was surprised by the amount of use and was his biggest concern including habitat, endangered species and long term planning. When does Boulder say no more? He liked the ideas already mentioned of the green tag program expansion, commercial use, staying on trails, night time use, off trail use in passive recreation and natural areas, parking issues in neighborhoods, and was concerned about for-profit groups. Non-resident use was concerning. Regarding off trail horses, was there an option for alternating use?

Council Member Appelbaum commented that the goal was to protect the resource as much as possible. He was in favor of considering commercial uses and groups, green tags/other tags (long-term management), night time use, temporal management, timeline for completion of projects/CIP projects. He suggested it was time to re-evaluate some of the HCA, natural, recreational boundaries. He also suggested a review of the CCG process (how members are appointed, what are guidelines for the group etc...).

After all council members spoke, each had another opportunity to comment:

Council Member Becker reiterated her desire to see science based decision-making.

Council Member Cowles had nothing more to add, he agreed with all points made.

Council Member Gray also agreed with all the points made. She suggested more study sessions would be helpful to gain additional information as the Open Space department got started on some of these issues.

Deputy Mayor Wilson also agreed with all of the ideas presented and suggested Council let staff and the Open Space Board prioritize and weight the ideas. He would like to see them come back with a weighted priority list.

Mayor Osborne wanted to underline the timeline/CIP/staffing in the Open Space department. She suggested most of the items raised fell under the long term planning options.

Council Member Ageton reiterated that her primary concern was related to user impact and how much use was allowed. She thought the process had been extremely helpful and was comfortable with the ideas presented.

Council Member Morzel agreed with all of the ideas and suggested education efforts go further by coordinating a volunteer effort. She also underlined the importance of full staffing in the Open Space Department.

Council Member Karakehian was comfortable with the ideas presented and had nothing more to add.

Council Member Appelbaum thanked everyone involved and acknowledged that the Visitor Master Plan was a huge accomplishment. He really appreciated that Council was willing to take on the difficult long-range projects. - 7:17 p.m.

WTSA Area-Wide Recommendations (page 5)

Council Member Morzel moved, seconded by Gray to adopt the West TSA area-wide recommendations as outlined on page 5 of the West TSA plan. The motion carried unanimously 9:0 at 7:35 p.m.

Council Member Cowles asked whether staff thought the nighttime curfew statement encouraged people to be on HCA's in the evening. Mike Patton commented it would have little effect. Staff did not have the capacity to do more than encourage people not to use HCA's after dark as it was not prohibited. Peer review showed Boulder was the only system without a nighttime curfew.

Council Member Appelbaum indicated interest in pursuing this issue beyond just the West TSA area.

Council Member Ageton supported comments about night time use. She was okay with the provision but did not want it to be a signal that night time use was okay. She would like more considerations brought back on that system-wide.

Trail Recommendations (pgs 7-34)

Council Member Gray moved, seconded by Morzel to adopt the trail recommendations as outlined in pages 7 through 34 of the West TSA plan. The motion carried unanimously at 8:12 p.m.

Council Member Ageton clarified that no trees would be removed to address site line issues on the Flagstaff trails.

Council Member Appelbaum raised some concern about specific trail areas but would like staff to take another look at some of the social trails that were questionable and were just neighborhood shortcuts with an eye towards whether they were contributing to environmental damage.

Council Member Morzel echoed Council Member Appelbaum's concerns.

Visitor Infrastructure Recommendations (pgs 51-61)

Council Member Karakehian moved, seconded by Wilson to approve the visitor infrastructure recommendations as amended. The motion carried unanimously 9:0 at 8:40 p.m.

Council Member Morzel asked staff to look at where additional parking could be including roads like Telluride Lane, Silverplume, Hardscrabble etc... and suggested that incorrectly posted signs be looked at.

Council Member Appelbaum offered an amendment, seconded by Morzel to explore creating additional public parking opportunities in the Shannahan Ridge area. The motion carried 8:1; Gray opposed.

Mike Patton noted staff could return pretty quickly on the idea to create additional public parking opportunities in the Shannahan Ridge area.

Deputy Mayor Wilson offered an amendment, seconded by Gray to remove the section on page 59 regarding “Additional Horse Trailer Parking Recommendations” and remove the sentence on page 58 under the subtitle Chautauqua/Enchanted Mesa trail that reads “Make best effort and include in the multi-jurisdictional conversation the possibility of using the bus off-loading area for horse trailer off-loading and/or any other horse trailer parking possibilities at Chautauqua.” The motion carried 8:1; Becker opposed.

Council Member Cowles offered a friendly amendment to also remove the section adding additional horse trailer parking at South Boulder Creek West. The friendly amendment was withdrawn.

Council Member Cowles offered an amendment, seconded by Appelbaum to remove the section on page 58 “Add horse trailer parking” under the section South Boulder Creek West. The motion failed 4:5; Ageton, Becker, Karakehian, Osborne and Wilson opposed.

Monitoring Program (pgs 63 & 64) – 8:41 p.m.

Deputy Mayor Wilson moved, seconded by Gray to adopt the monitoring program as outlined on pages 63 through 64 of the West TSA Plan. The motion carried unanimously 9:0 at 8:42 p.m.

Recreational Activity Recommendations:

Council Member Gray moved, seconded by Osborne to adopt the recreational activity recommendations as outlined in pages 35 through 39 of the West TSA Plan as amended. The motion carried unanimously 9:0. 11:37 p.m.

Dog Management

Council Member Ageton offered an amendment, seconded by Karakehian to remove the Tenderfoot Chapman loop trail designated as a no dog trail. The motion carried unanimously 9:0. at 8:46 p.m.

Council Member Appelbaum moved, seconded by Wilson to remove the Saddlerock Trail designated as a no dog trail and remove the no dog restriction for lower Greenman referenced on page 40 of the West TSA plan. The motion carried unanimously 9:0. at 8:55 p.m.

Council Member Appelbaum moved, seconded by Ageton to direct staff to look for other opportunities for no dog trails that would have easy trailhead access for families with children, seniors, dog fearful people and preferably with a loop. The motion carried unanimously 9:0. at 9:08 p.m.

Deputy Mayor Wilson noted he was very concerned about the integrity of the prairie on the southern end of the West TSA and wanted to see dogs kept under control in that area. Perhaps there was a need for more than just seasonal closures. That was one of the habitats that was vanishing in the whole front range area. He would like to see it protected for wildlife.

Council Member Appelbaum moved to make the new Greenbriar/Bluestem connector trail as a dogs on leash trail. The motion failed for lack of a second.

Council Member Appelbaum moved, seconded by Ageton to remove the weekend restrictions on upper Bluestem trail. The motion was withdrawn.

Deputy Mayor Wilson indicated that it would be wonderful to see a monitoring program with volunteers from FIDOS helping out.

Horseback Riding – 9:35 p.m.

Council Member Cowles moved, seconded by Wilson to delete the section on page 44 under “Towhee Trail” “with horses allowed on trail.” The Towhee Trail section would read”Towhee Trail will be designed for pedestrian use and horses will not be permitted; and from the 1st sentence under “Off Trail Activity” it shall read “horses must remain on trail in Passive Recreation and Natural Areas. Horses not allowed on or off trail in the West Sanitas/Wittemyer area. The motion carried 6:3, Ageton, Becker and Karakehian opposed.

Council Members Appelbaum and Morzel suggested they would like to see the seasonal protected areas changed to year round.

10:06 p.m.

John Putnam with the Open Space Board of Trustees indicated the Board had heard many comments from the horse community. He spoke to the complexities and long standing historical use in the area. Cattle was also allowed in much of the area under discussion. He recommended further study, rather than a firm plan this evening.

Council Member Ageton moved, seconded by Morzel to suspend the rules and continue the meeting at 10:17 p.m. The motion carried 8:0; Karakehian opposed.

Mountain bike riding

Council Member Becker commented that accommodating recreation was an important way to achieve environmental goals. Some of the issues felt generational. She did not like where S2 merged into Mesa. She was confident that mountain bikers had a vested interest in the West TSA and would help ensure it worked. She wanted to try this out and work on enforcement rather than discrimination.

Deputy Mayor Wilson commented that this part of the process disappointed him as it became very heated and acrimonious and was not the Boulder he liked. He acknowledged safety issues around getting bikers to trailheads. He would like to see council direct staff, board and transportation/County to look at how to get people safely to trailheads on bikes.

Council Member Morzel moved, seconded by Gray to amend the mountain biking section on page 47 to look at possibilities to extend the Boulder Creek Path to provide access to the Betasso Preserve consistent with the contents of the Boulder County Parks and Open Space Betasso Preserve Management Plan; and to work with Eldorado State Park, Boulder County and other groups to create a Walker connection as soon as a source of funding is identified. The motion carried unanimously 9:0 at 10:47 p.m.

Council Member Morzel moved, seconded by Gray to suspend the rules and continue the meeting at 10:36 p.m.

Council Member Gray asked about the Board decision on Anemone trail. Bill Briggs with the Open Space Board responded that the Board was split due to limited information. There were two proposed alignments and the existing were not suitable for mountain biking. The Board wanted to look at alternatives and run a public process. Both alignments were still on the table. The Board thought there were other possibilities to make a connection to Fourmile canyon and get to the Betasso connection. Three members of the Board felt it wasn't worth ruling any of those options out.

Patricia Billig with the Open Space Board commented that the nature of the soil on Anemone was very erodible. Due to slope and drainage it would be difficult to build trail. One proposal was to have a mountain bike only downhill trail. The steepness and switchbacks were a concern and a lot of land would be used up to get bikers down the steep slopes. 10:57 p.m.

Council Member Morzel moved, seconded by Ageton to suspend the rules and continue the meeting at 11:33 p.m. The motion carried 8:0, Karakehian opposed.

Council Member Ageton offered an amendment, seconded by Karakehian to direct staff to explore possibilities for a bike loop or bike trail within the Anemone area especially looking at a connection coming in from the Boulder Canyon Bike trail as soon as possible. The motion carried 7:2; Appelbaum and Morzel opposed. 11:21 p.m.

Council Member Karakehian expressed his disappointment with the vilification of mountain bikers. The tone was uncomfortable and when given opportunities to talk they were snuffed out. He wanted to find other ways to get the north-south safe connections.

Council Member Gray moved, seconded by Morzel to approve the West TSA Plan included as attachment A and amended by the Open Space Board of Trustees indicated in attachment C and as amended with the five amendments by the Boulder City Council. The motion carried unanimously 9:0. 11:40 p.m.

3. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 11:42 P.M.

APPROVED BY:

Susan Osborne,
Mayor

ATTEST:

Alisa D. Lewis,
City Clerk

CONSENT ITEM – 3B



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 26, 2011

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance 7790 authorizing the granting of a Revocable License Agreement to allow for Boulder Bike Sharing locations in the public right of way, on city-owned parcels including Parks property

PRESENTERS

Jane S. Brautigam, City Manager

Tom Carr, City Attorney

Paul J. Fetherston, Deputy City Manager

Erin Poe, Assistant City Attorney

Public Works Department

Maureen Rait, Executive Director of Public Works

Tracy Winfree, Director of Public Works for Transportation

Jeff Arthur, Engineering Review Manager

Mike Sweeney, Transportation Planning and Operations Coordinator

Martha Roskowski, GO Boulder Program Manager

Randall Rutsch, Senior Transportation Planner

Marni Ratzel, Transportation Planner

Department of Community Planning and Sustainability

David Driskell, Executive Director of Community Planning and Sustainability

Charles Ferro, Land Use Review Manager

EXECUTIVE SUMMARY

This item requests City Council consideration of Ordinance 7790 (Attachment A) authorizing a revocable license agreement to be granted to site bike share stations on public property and in the public right of way. Timely approval of this agreement will help to meet the currently scheduled launch date of May 2011. Council considered the first reading of this ordinance on April 5, 2011 and had no comments.

As part of its efforts to develop transportation options consistent with the policy direction of the Transportation Master Plan (TMP) and Climate Action Plan (CAP), the city is

working with Boulder Bike Sharing (BBS), a local nonprofit, to implement a public bike sharing system in Boulder. Bike share systems provide short-term bike access at multiple, conveniently located automated stations and have proven to be popular in other cities. While most bike share systems have been implemented by large metropolitan cities, Boulder's robust network of bicycle facilities, a large visitor base and the community's embrace of bicycling create a strong foundation for a successful program. With an initial launch planned for May 2011, Boulder will likely be the first community of its size in the United States to launch a bike share system. BBS has raised capital funds for an initial installation of 14 stations and 150 bicycles. Four additional stations will be installed this summer. It is anticipated that the phase I system will expand to 20 stations with 200 bikes during the first year.

BBS, operating as Boulder B-cycle, and the city have identified 14 potential station locations in the general commercial area between Fourth Street and 30th Street, from the Boulder Creek Path north to Valmont. Twelve station locations are currently proposed for public right of way locations. Of these, three stations are proposed to be located on Parks and Recreation property. The rest are in public rights of way managed by Downtown & University Hill Management Divisions & Parking Services (DUHMD/PS), Parks and Recreation, or the Transportation Division.

All of the proposed bike share station locations on public property or right of way would be governed by the proposed City of Boulder Revocable License Agreement included in **Attachment B**. The license agreement references the initial proposed stations with the expectation that additional stations will be added over time as addendums to this license. This agreement is based on the city's standard license agreement with a maximum term of three years. It gives the city the right to cancel the agreement at any time and requires that license sites be returned to their previous condition at the end of the license term if the license is not renewed or at any time if the license is canceled by the city.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance 7790 authorizing the granting of a Revocable License Agreement for Boulder Bike Sharing locations in the public right of way, on city-owned parcels, including Parks property

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:

Economic: By adding a transportation option to the central area of Boulder, bike sharing would support sustainable economic activity by expanding the range of commercial opportunities easily available to visitors and employees without a car, particularly those who arrive by transit.

Environmental: The planned Boulder B-cycle system will create a public bike share program accommodating a variety of trips in the community, particularly for visitors and employees. A bike share system supports Boulder's commitment to providing transportation options, relieving congestion and reducing greenhouse gas emissions as called for by the city's transportation and climate goals.

Social: By making bicycles highly accessible and highly visible, the city believes it can significantly increase the number of trips made by bicycle. As the system is oriented to short-term trips that would be available for no additional cost with an annual membership, the system will provide a low-cost transportation option to all segments of the community. The system also provides convenient travel options to visitors and employees who travel to the community without a private vehicle.

OTHER IMPACTS

- Fiscal - The terms of the license agreement require Boulder B-cycle to fund the installation of bike stations and return the sites to their previous conditions should the stations need to be removed. This will minimize any fiscal exposure to the city.
- Staff time - Staff support for implementing the Boulder Bike Share is included in existing work plans.

BOARD FEEDBACK

The location of Boulder B-cycle stations on Parks and Recreation Department land was considered by the Parks and Recreation Board (PRAB) at its meetings in December 2010, January 2011 and February 2011. The PRAB has a unique role in the use of Parks land as the Charter and Boulder Revised Code (BRC) give the PRAB “**the authority to approve any lease, license, or permit in or on park lands...**” (BRC Section 8-3-23). The PRAB approved the Revocable License Agreement for Boulder Bike Sharing locations unanimously at its Feb. 28, 2011 meeting.

The Downtown Management Commission received a briefing at its meeting in December 2010 on the station locations and offered input and suggestions, which were incorporated into the planning. The Transportation Advisory Board was briefed on the bike share project at its November 2010 and February 2011 meetings and will continue to receive regular staff briefings at future Board meetings.

PUBLIC FEEDBACK:

Several meetings with stakeholders and interested parties were held in 2009 and 2010 to identify priority destinations and user groups to be served by the system. An open house on the proposed Phase 1 bike sharing station locations was held on Feb. 1, 2011 in the Municipal Building lobby. While attendance was somewhat limited by cold weather, the individuals that attended were supportive of the proposed locations and excited about bike sharing. A number of individuals suggested additional station locations that will be considered for the second phase. The open house materials have also been posted on the project's website at:

http://www.bouldercolorado.gov/index.php?option=com_content&view=article&id=11401&Itemid=4497.

This site includes both the display boards and presentation used at the open house and includes a comment form. A number of comments have been received and comments are generally supportive of the system and include suggestions for additional station locations.

There were no comments from the public or council on the first reading of this ordinance on April 5, 2011.

BACKGROUND

Bike sharing is already successful in dozens of European and Asian cities and is rapidly being adopted in North America. The *Velib* program in Paris is perhaps the most famous model; while Montreal implemented the first North American system in 2009. Denver, Washington D.C and Minneapolis launched pioneering programs in 2010. Cities expecting to launch bike sharing systems in 2011 include Aspen, Boston, Fort Lauderdale, San Antonio, Chattanooga, Des Moines, Nashville, Honolulu, San Francisco and the Bay Area, New York, Miami, Toronto, and Ottawa.

Boulder is launching a bike share program to help meet the sustainability goals established by the city of reducing single-occupant vehicle trips, vehicle miles traveled and transportation-related emissions. Additional goals of the program are to:

- Increase use and awareness of Boulder's award-winning bikeway system;
- Create new bicycle commuters;
- Expand community partnerships in support of bicycling as an active, fun and convenient transportation mode;
- Leverage city contribution and commitment of the program with community-based sponsorship revenues;
- Bolster the city's reputation as a leader in bicycling; and,
- Encourage Boulder's many visitors to explore the city by bicycle.

BBS, operating as Boulder B-Cycle, will own, operate and maintain the system. They have raised capital funds for an initial installation of 14 stations and 150 bicycles. BBS plans for full implementation of Phase 1 includes 20 stations with 200 bikes during the first year. Stations will be located every few blocks in the Downtown area, with additional stations in an area generally bounded by Fourth Street to the west, 30th Street to the east, Valmont Street to the north and the Boulder Creek Path to the south. Following the first 14 stations, four additional stations will be completed this summer and it is anticipated that the full phase I system will be complete by May 2012.

The bikes are specially designed to fit people of all sizes and are equipped for utility trips around town. Members and walk-up users can check out a bike by swiping a credit card or membership card at the station and bikes can be returned to any station. A progressive rate structure encourages short trips and a quick turn-over to maximize the availability of

bikes. A maintenance staff actively monitors the system to ensure the bikes are ready to ride and to redistribute bikes as needed.

The city's Transportation Division of the Public Works Department has been interested in bike sharing for a number of years. Work on this project started when the city committed \$250,000 of our formulaic Energy Efficiency and Conservation Block grant (EECBG), awarded in December 2009, to support bike sharing. At its Jan. 4, 2011 meeting, City Council approved code changes to allow sponsorship opportunities on bike share equipment including the kiosks, sign module and bicycles. The revenue BBS generates from sponsorships will support operations and maintenance as well as future expansion of the bike share system.

ANALYSIS

Council is asked to consider Ordinance 7790 contained in **Attachment A** to allow Boulder B-cycle to locate stations in the public right of way and on city-owned parcels including Parks property. BBS will secure required permits as necessary, including flood, wetland, electric and right of way permits. Additional stations will be located on private property and approved through the existing site review and construction permitting process.

BBS has been scouting potential station locations in the downtown area for several months and analyzing the proposed locations with city staff. In addition, a number of site visits have been conducted with an interdepartmental staff group to assess potential station locations. Close coordination with staff from DUHMD/PS; Forestry; Parks & Recreation; Risk Management; Planning & Development Services, including Floodplain, Wetlands, and Historic Preservation planners; as well as Transportation Operations and Maintenance has provided guidance on station location planning. A map of all phase I stations locations is included as **Attachment C**. A standard checklist of factors to consider in station siting is included in **Attachment D**. Once the initial system is established, the system will expand over time as funding allows, with a long-term goal of stations throughout more of Boulder, including the CU campus.

The proposed license agreement is based on the city's standard three-year license for use of the public right of way and city-owned property. It strongly protects the city's interests and narrowly defines the allowed use. The requirements of the license include:

- Limiting the use of the licensed area solely to a bike share system;
- The city may revoke any portion or the entirety of the license at any point and without any cost or liability;
- For any revoked site, BBS will remove its equipment within 10 days and restore the site to its previous condition;
- BBS will pay for the installation and power required for any stations;
- BBS will maintain primary liability insurance for the leased locations and indemnify the city.

Photos and layout diagrams for each station located in the public right of way or on city-owned parcels are included in Exhibit B or C of the license agreement, as detailed in **Attachment B**.

Proposed Stations on Parks and Recreation Department Property

For the first phase of the Boulder B-Cycle system, three stations are proposed on Parks and Recreation Department property. These include stations at 2490 Spruce, Greenleaf Park and stations located in Central Park on each side of Broadway to serve the transit stops near the municipal campus. Details of these proposed locations are included in Exhibit B of the proposed license agreement, included as **Attachment B**.

The following two proposed locations are on city-owned lands that are maintained by Parks and Recreation staff:

1. 1015 Arapahoe- Main Library
2. Pearl and 11th, west end of the Pearl Street Mall

Both of these locations have been reviewed and visited by Parks and Recreation Department maintenance staff and do not present any maintenance concerns. All stations also meeting the station siting considerations contained in **Attachment D**.

NEXT STEPS:

As the bike sharing system becomes successful and expands, BBS may find that one or more additional sites are desirable station locations. Any future stations proposed will be approved by the Department of Community Planning & Sustainability under this license agreement. In addition, any stations proposed for Parks and Recreation property will be presented to the PRAB for the board's approval as an addendum to the existing license.

ATTACHMENTS

- A: Ordinance No. 7790
- B. Revocable License Agreement for Boulder Bike Share Station Locations on Parks and Recreation Properties
- C. Map of Potential Station Locations
- D. Station Location Considerations

1 form of which is attached to this ordinance as Exhibit A. The term of this license shall run from
2 April 25, 2011 through April 24, 2014 subject to the requirements of Charter Section 115, B.R.C.
3 1981 that said license may be revocable at the will of the city council at such sooner date as the
4 council may so desire. The city manager is authorized to renew the revocable license in
5 increments not to exceed three years.
6

7 Section 2. The city council delegates to the city manager the authority to make
8 modifications to the revocable license including but not limited to the locations, additions, or
9 deletions of kiosks or other equipment. The city manager is authorized to approve such
10 modifications to this license provided that it is necessary to further the interests of the public
11 health, safety, or welfare.
12

13 Section 3. This ordinance is necessary to protect the public health, safety, and welfare of
14 the residents of the city, and covers matters of local concern.

15 Section 4. The city council deems it appropriate that this ordinance be published by title
16 only and orders that copies of this ordinance be made available in the office of the city clerk for
17 public inspection and acquisition.
18

19 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
20 TITLE ONLY this 5th day of April 2011.
21

22 _____
23 Mayor

24 Attest:

25 _____
26 City Clerk on behalf of the
27 Director of Finance and Record
28

1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
2 PUBLISHED BY TITLE ONLY this 26th day of April 2011.

3
4 _____
5 Mayor

6 Attest:

7 _____
8 City Clerk on behalf of the
9 Director of Finance and Record

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CITY OF BOULDER
REVOCABLE LICENSE

THIS License is granted into this ____ day of _____, 2011, by and between the CITY OF BOULDER, a municipal corporation of the State of Colorado, a municipal corporation of the State of Colorado and a home rule city (“City”), located at 1777 Broadway Street, Boulder, Colorado 80306, and BOULDER BIKE SHARING, a Colorado nonprofit corporation (“Licensee” or “BBS”) located at 2930 Island Drive, Boulder, CO 80301.

RECITALS

- A. City is the owner of the public right of way located at several sites in Boulder, Colorado, as more particularly, described on Exhibit A attached hereto and incorporated herein (“Licensed Premises – Parcels and Rights of way”).
- B. City is the owner of public property located at several sites in Boulder, Colorado, as more particularly, described on Exhibit B attached hereto and incorporated herein (“Licensed Premises – Park Land”).
- C. Licensee is in the process of developing a bicycle sharing system for Boulder, Colorado (the “Bike Sharing System” or “Project”).
- D. Licensee desires to locate microprocessor controlled locking bicycle racks and kiosks with bicycles (collectively, the “Bike Station”) on the portion of the Licensed Premises shown on Exhibit A, attached hereto and incorporation herein.
- E. City has determined that the said public right of way will not be required for a public purpose during the term of this License and that the use of the surface of said right of way by the public or the City will not be impaired.
- F. City finds that there is a public benefit in providing a bike sharing system to the community.

NOW THEREFORE, for and in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged. City and Licensee agree as follows:

1. License.

(a) City hereby grants a License to the Licensee and the Permitted Users (as defined in Subsection 1 (b) below), to allow encroachments into the following described locations in the County of Boulder, State of Colorado, to-wit:

As depicted on Exhibit A and Exhibit B attached hereto

(b) The Licensed Premises shall be used solely for the purposes of a bike share system by Licensee, its members, managers, directors, officers, employees, agents, contractors, subcontractors, guests or invitees (each, a “Permitted User” and, collectively, the “Permitted Users”).

(c) BBS shall not assign this License or any of Licensee’s rights or obligations hereunder without Licensee’s prior written consent.

(d) This License is non-exclusive and the City may lease, permit, or license other individuals or entities to use area within, above, or below the area licensed to BBS.

2. Fee. Licensee hereby agrees to pay the sum of \$10.00 for the term of the License, which will expire on _____, 2014. This amount is due and payable, without requirement of notice or billing by City, on or before the date of issuance as set forth below.

3. Term. The term of this License shall commence on the Date of Issuance specified below and shall continue three years.

4. Revocation. This License may be revoked in its entirety or any portion thereof without any cost or liability to the City. The decision to revoke may be made whenever the City, in its sole discretion, determines that the encroachment, obstruction, or other structure constitutes a nuisance, destroys or impairs the use of the property by the public, constitutes a traffic hazard, or the property is required for use by the public, or for any reason deemed sufficient by the City. All indemnities and releases shall survive revocation.

BBS shall remove at its expense, the encroachment, obstruction, or structure within ten (10) days of revocation. In the event that BBS does not remove the encroachment, obstruction, or structure within ten (10) days, the City is hereby authorized to remove same and Licensee agrees to reimburse the City for the costs of removal.

5. Insurance. Licensee shall be liable for and agrees to, at Licensee’s sole expense, to maintain, or cause to be maintained with insurers approved by City, a comprehensive general liability insurance policy with minimum limits of \$150,000.00 per person, \$600,000.00 per accident and Public Property Damage limits of \$100,000.00 per accident, naming the City of Boulder as Certificate Holder and Additional Insured, and including the limits of each policy, the policy number, the name of the insured, the effective date and expiration date of each policy, and a copy of an endorsement on each policy requiring ten (10) days notice, by mail, to the City of Boulder before the insurer may cancel the policy for any reason. The above stated policy limits shall be raised by City to meet any additional coverage required by amendments to the Colorado Governmental Immunity Act. City shall be named insured on each policy. Licensee shall Provide City with a Certificate of Insurance as evidence of compliance with the provisions of this paragraph. Licensee further shall provide City with a Certificate of Insurance if the policy is renewed or changed during the term of the License.

This policy shall stand as the primary liability policy with respect to any interest the City may have in this property. This policy shall remain in effect for the duration of the License. Licensee shall notify the City thirty (30) days prior to the cancellation of insurance coverage.

All insurance policies and certificates shall be submitted prior to the execution of the License and shall be subject to approval by the City.

6. Waiver of Subrogation. Licensee waives (to the extent of insurance proceeds collected) any and all rights of recovery, claim, action or cause of action against the other, its agents, officers, or employees for any damage that may occur to the Licensed Premises, including but not limited to the Licensed Premises, and/or any personal property of such party therein by reason of any cause which is insured against under the terms of any insurance policies referred to herein or self-insured, regardless of cause or origin, including negligence. Licensee agrees that no insurer shall hold any rights of subrogation against City, and that Licensee's insurance policies shall be endorsed or otherwise written to provide that no insurer shall hold any rights of subrogation against such other party. This Section 6 shall survive the expiration or earlier revocation of this License.

7. Installation of Bike Station. At no cost or expense to City, Licensee or its contractor shall be responsible for installing the Bike Station within the Licensed Premises as described in Exhibit C.

8. Bike Station Power Consumption. At no cost or expense to the City, Licensee shall be responsible for the electrical consumption cost of the Bike Sharing System.

9. General Maintenance and Repair. Licensee agrees to construct and maintain the Bike Sharing System with due caution and regard for the City's and the public's use and access. The City shall not be responsible for any maintenance in the Licensed Premises including and not limited to snow removal.. However, the City reserves the right to access the Licensed Premises to maintain any and all City utilities. In an emergency, the City may remove the encroachment, obstruction, or structure immediately without notice to Licensee. It is expressly understood that interruptions of utility services to Licensee's property or damage to Licensee's property by act of God or sabotage are beyond the control of the City and do not constitute breach of this License. Loss or damage to property of any kind in the Licensed Premises or loss suffered by the business or occupation by Licensee as a result of the foregoing events shall be at Licensee's risk. Licensee agrees, at its sole cost, to repair and maintain the Bike Sharing System in safe working order and good condition.

10. Sponsorships. City acknowledges that Licensee desires to obtain sponsorships (each, a "Sponsorship" and, collectively, the "Sponsorships") in connection with the Bike Sharing System and agrees that Licensee shall have the right to place and display within the Licensed Premises certain names, trademarks, service marks and logos (collectively, the "Marks") of the Bike Station sponsor (each, a "Sponsor" and, collectively, the "Sponsors"); Provided, however. All sponsorships must comply with the requirements of the Boulder Revised Code, 1981.

11. Indemnification.

(a). Licensee hereby agrees to defend, indemnify, reimburse and hold harmless City, its appointed and elected officials, agents and employees for, from and against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the License (“Claims”), unless such Claims have been specifically determined by the trier of fact to be the sole negligence or willful misconduct of the City. This indemnity shall be interpreted in the broadest possible manner to indemnify City for any acts or omissions of Licensee either passive or active, irrespective of fault, including City’s concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of City.

(b). Licensee’s duty to defend and indemnify City shall arise at the time written notice of the Claim is first provided to City regardless of whether Claimant has filed suit on the Claim. Licensee’s duty to defend and indemnify City shall arise even if City is the only party sued by claimant and/or claimant alleges that City’s negligence or willful misconduct was the sole cause of claimant’s damages.

(c). Licensee will defend any and all Claims which may be brought or threatened against City and will pay on behalf of City any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation. Such payments on behalf of City shall be in addition to any other legal remedies available to City and shall not be considered City’s exclusive remedy.

(d). Insurance coverage requirements specified in this Revocable Permit shall in no way lessen or limit the liability of the Licensee under the terms of this indemnification obligation. The Licensee shall obtain, at its own expense, any additional insurance that it deems necessary for the City’s protection.

(e). This defense and indemnification obligation shall survive the expiration or revocation of this License.

12. Removal and Restoration. Licensee agrees that upon removal of any encroachments or private improvements, to restore the Licensed Premises to its original condition. If the City determines that all or portions of the Licensed Premises have been damaged beyond reasonable repair, Licensee agrees to repair the damage in accordance with standards for construction in the public right of way prescribed by the Public Works Department’s most current “Design and Construction Standards.” Licensee agrees to notify the City within five working days of removal of any such private improvements or encroachments so the City may inspect the area. This Section 12 shall survive the expiration or earlier revocation of this License.

13. Default by Licensee. If Licensee shall fail to Perform any of the agreements, terms, covenants or conditions hereof on Licensee’s part to be performed, and such non-performance shall continue for a period of thirty (30) days after written notice thereof by City to Licensee, such event shall be deemed an “event of default.”

14. Remedies of City. If any one or more events of default shall happen, then City shall have the right, at City's option, to revoke this License by written notice to Licensee, and to pursue any other remedy provided in law or in equity for damages incurred by City.

15. Waiver of Consequential Damages. Each party waives the right to special, indirect, consequential and punitive damages, including lost profits. This Section 15 shall survive the expiration or earlier revocation of this License.

16. Notices. Any notices required by any provision of this License shall be made in writing and delivered by (a) United States registered or certified mail, postage prepaid; (b) reputable overnight courier, or (c) facsimile transmission. Such notice shall be effective three (3) days after the mailing thereof by registered or certified mail, one (1) business day after the mailing thereof by overnight courier, and on the day of confirmed delivery by facsimile transmission. Each party shall give notice to the other party in the event of any change of address. Rejection or refusal to accept delivery or the inability to deliver because of a change of address of which no notice was given shall be deemed to be receipt of notices as of the date such notice was deposited in the mail or delivered to the courier or transmitted via confirmed facsimile. Notices shall be addressed to the addresses set forth on the respective signature page hereto.

17. No Third Party Beneficiaries. Enforcement of the terms of this License, and all rights of action relating to enforcement are strictly reserved to the parties. Nothing contained in this License gives or allows any claim or right of action to any third person or entity. Any person or entity other than the City or the Licensee receiving services or benefits pursuant to this License is an incidental beneficiary only.

18. Attorneys' Fees. In the event of any dispute between the parties concerning this License, each party will be responsible for its own costs and fees.

19. Headings. The headings and captions in this License are inserted only as a matter of convenience and in no way define, limit, construe, or describe the scope or intent of this License.

20. Counterparts. This License may be executed in multiple counterparts each of which shall be deemed an original and together will constitute one and the same instrument.

21. Facsimile Signatures. This License may be executed by facsimile signatures which shall be binding as originals on the parties hereto.

22. Governing Law. This License shall be governed by and construed in accordance with the laws of the State of Colorado.

22. Police Power. Nothing contained in this license shall be construed as a waiver of any City regulations or the City's police power.

23. Modifications. Licensee must secure written approval from the City prior to making any changes to the size, type, or location of any encroachment, obstruction, or structure. Minor changes to the size, type, or location of any encroachment, obstruction, or structure may

CITY OF BOULDER

City Manager

ATTEST:

City Clerk on behalf of the
Director of Finance and Record

APPROVED AS TO FORM:

City Attorney's Office

Date: _____

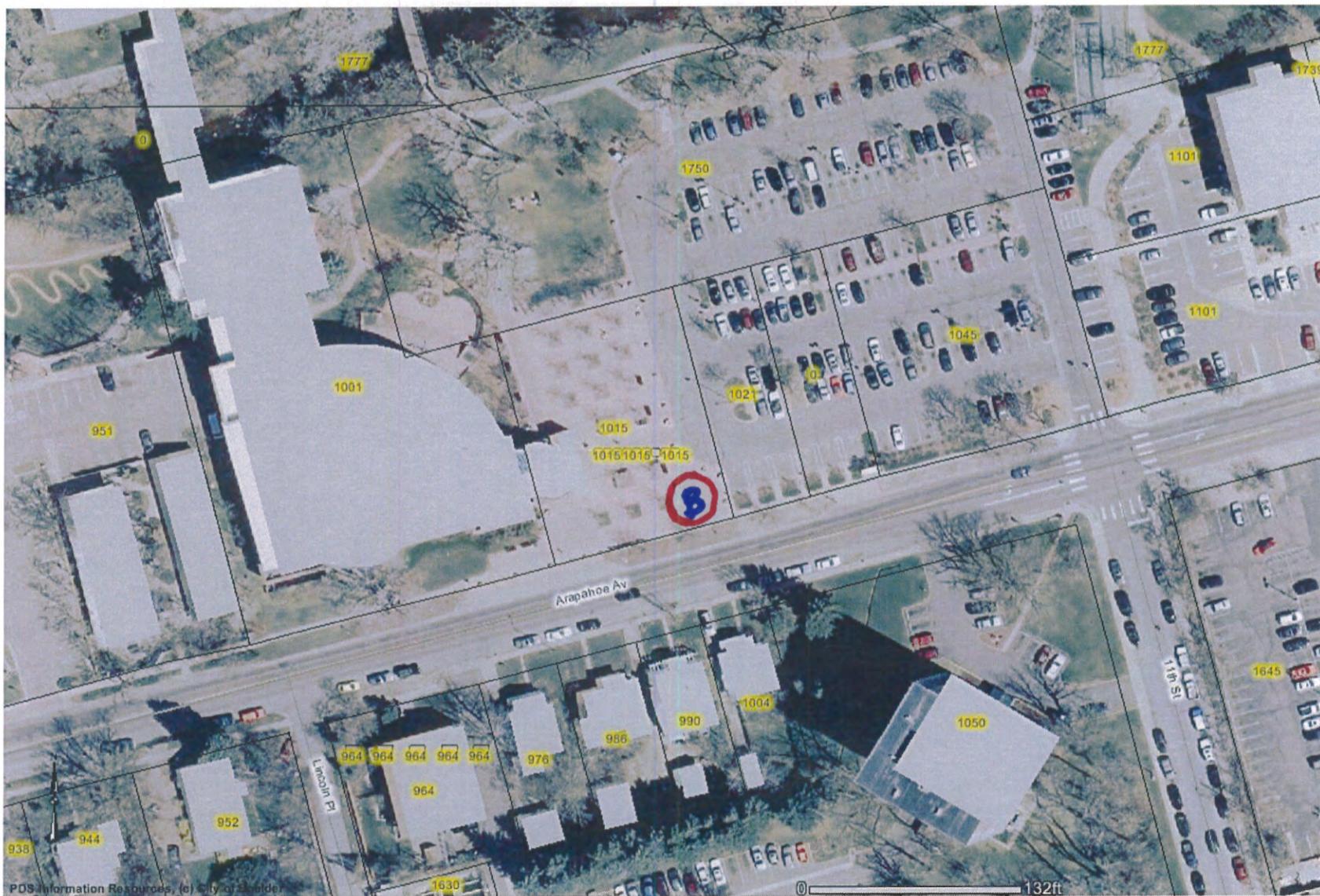
CITY'S NOTICE OF ADDRESSES:

EXHIBIT A
THE LICENSED PREMISES
PARCELS AND RIGHTS OF WAY

B-station Number	B-station Name	Address	Long/Lat
1	Boulder Public Library	1015 Arapahoe	40.013760°, -105.280950°
2	Broadway & Alpine	2600-2690 Broadway	40.025430°, -105.281427°
3	10th & Walnut	10th Street alignment south of Walnut (east side of parking garage)	40.016109°, -105.282091°
4	11th & Pearl	1100 Pearl (Adjacent Address is 1102 Pearl)	40.017482°, -105.281102°
5	13th & Walnut	1301 Walnut Street	40.017315°, -105.278281°
6	13th & Spruce	2045 13th Street	40.019113°, -105.278882°
7	15th & Pearl	SE Corner of Intersection on Sidewalk	40.018669°, -105.275738°
8	19th & Walnut (Park)	Park @ end of Street	40.018494°, -105.270305°
9	Millennium Harvest House Hotel	1345 28th Street	40.011857°, -105.260307°

Photos of locations with marked area for stations are attached

Station # 1 – Boulder Public Library

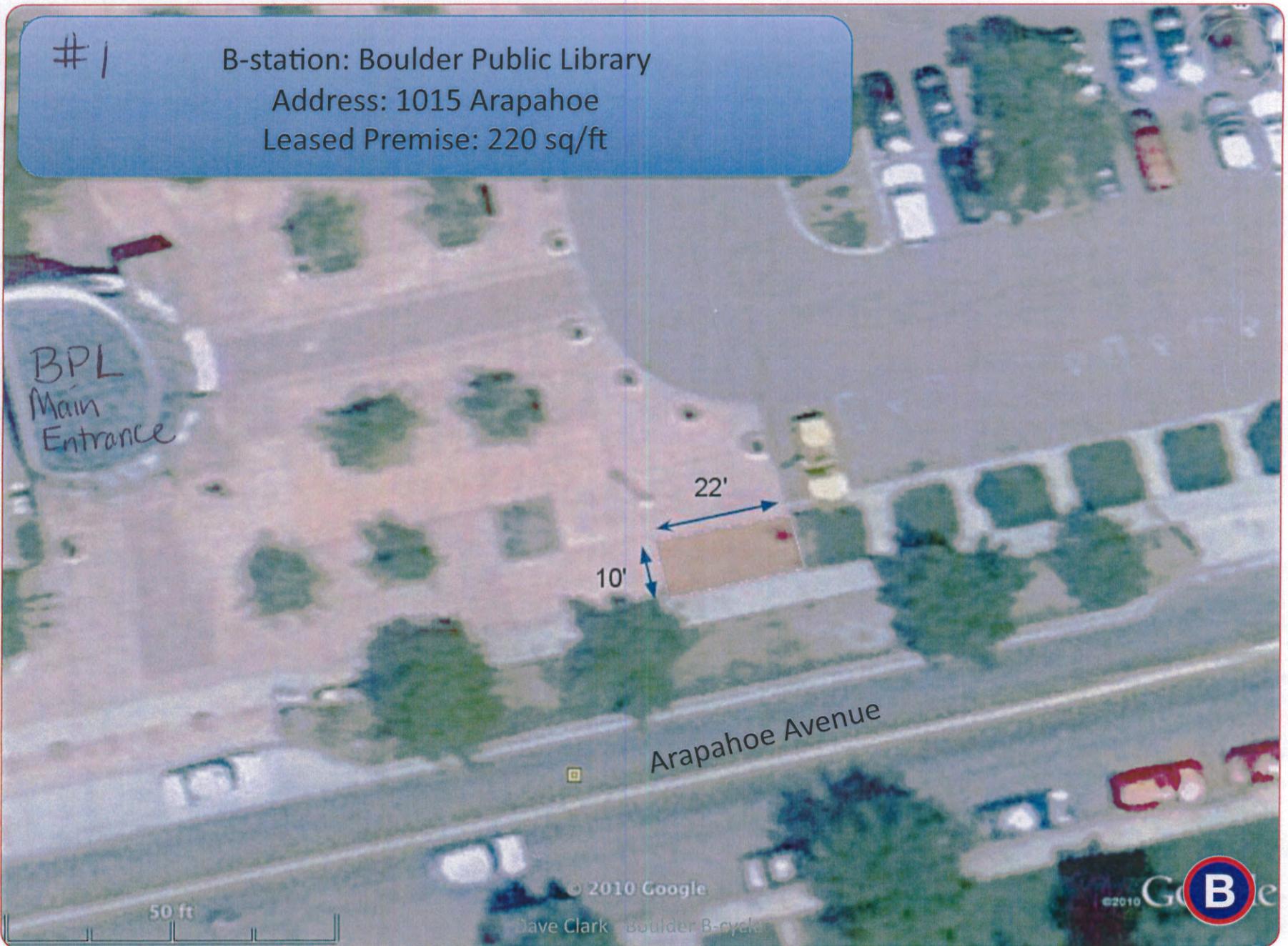


1

B-station: Boulder Public Library

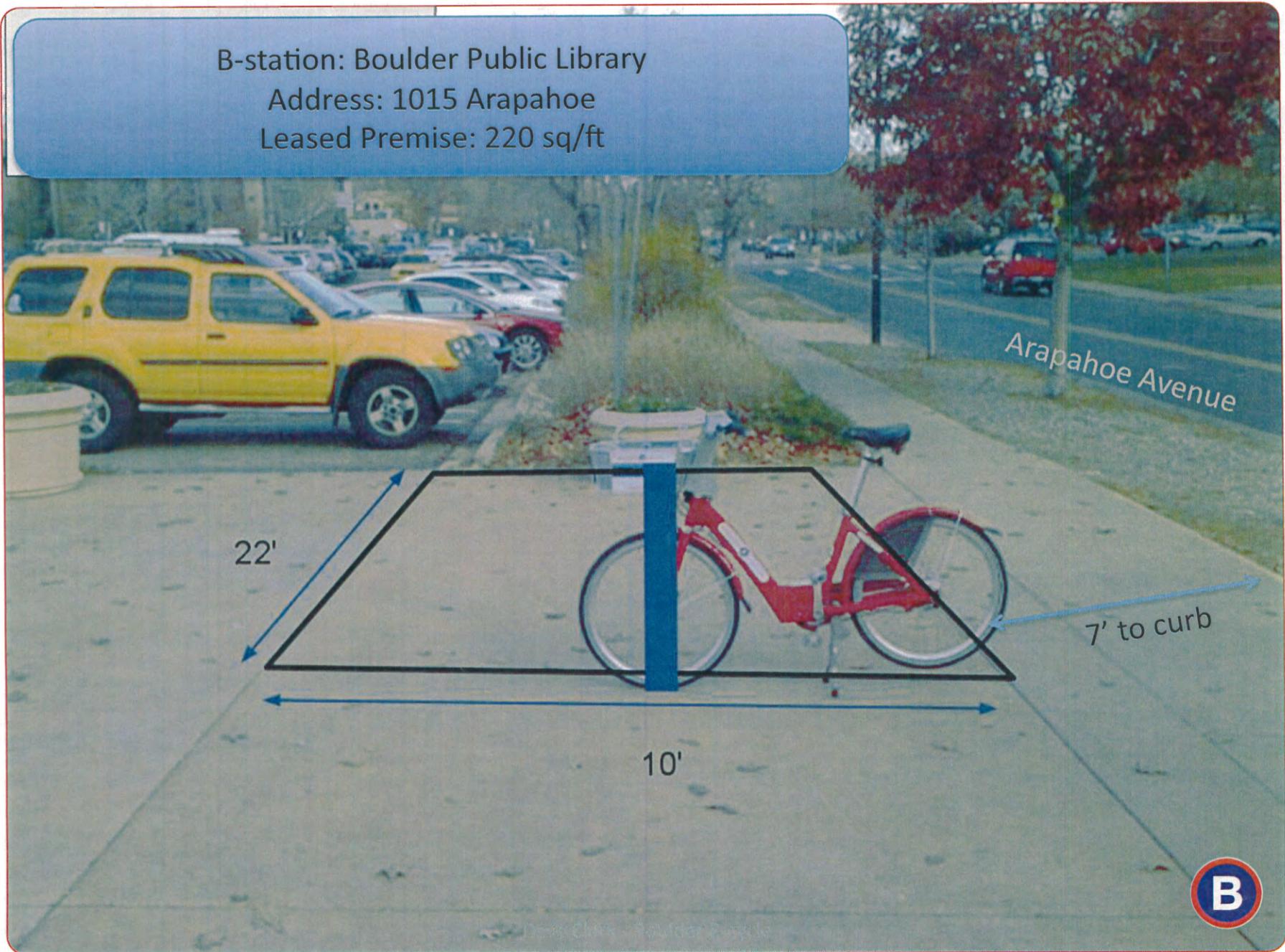
Address: 1015 Arapahoe

Leased Premise: 220 sq/ft



Station #1

B-station: Boulder Public Library
Address: 1015 Arapahoe
Leased Premise: 220 sq/ft



Arapahoe Avenue

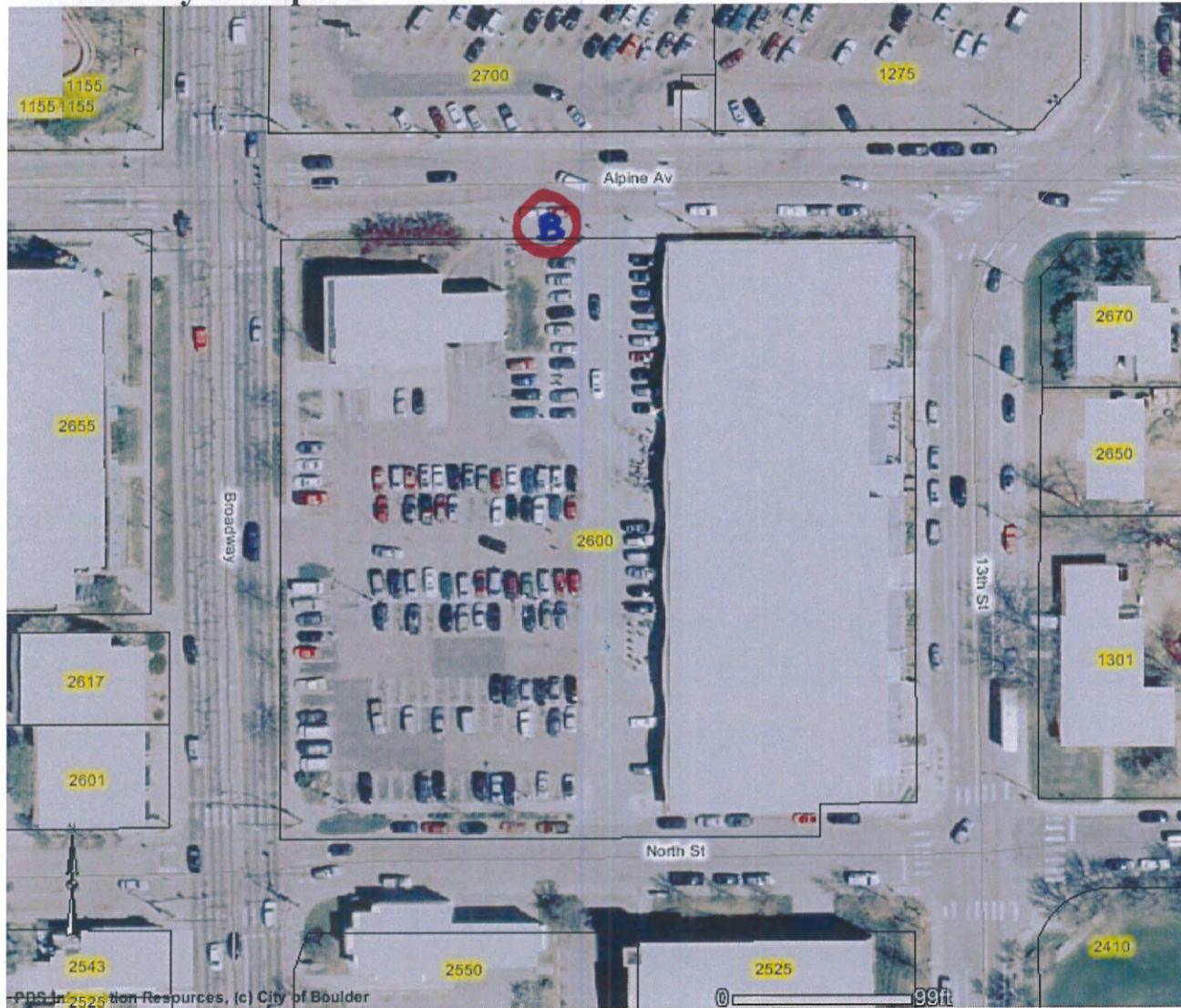
22'

10'

7' to curb



Station # 2 – Broadway & Alpine



Broadway

#2

B-station: Broadway & Alpine
Address: 2600-2690 Broadway

Owner: Right-of-Way

Leased Premise: 252 sq/ft

Flood: Conveyance Zone

Phase 1 Station: 13 Dock Single Sided Solar

Alpine Avenue

42'

6'

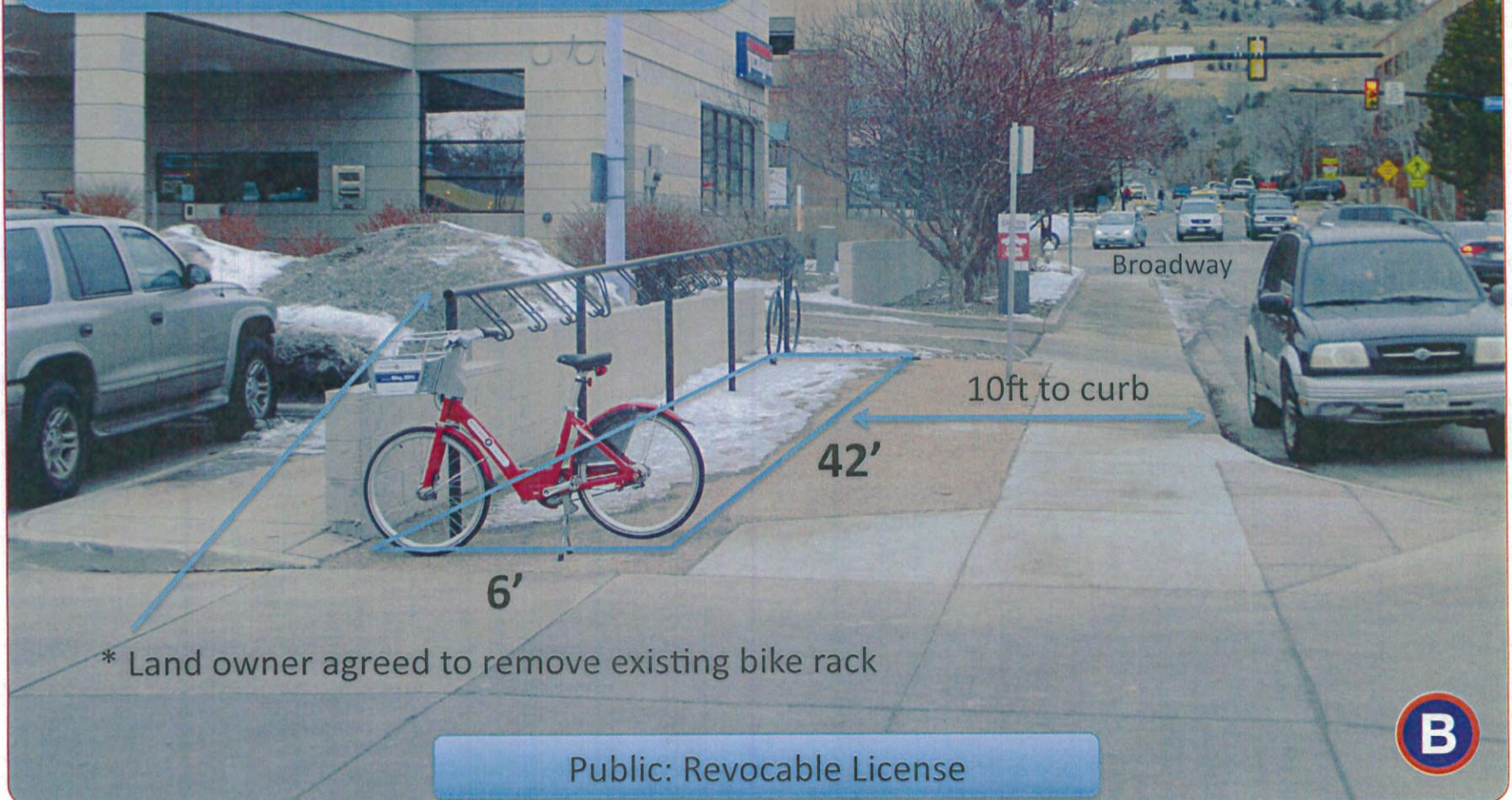
Public: Revocable License

45 ft



B-station: Broadway & Alpine
Address: 2600-2690 Broadway
Owner: Right-of-Way
Leased Premise: 252 sq/ft
Flood: Conveyance Zone

Phase 1 Station: 13 Dock Single Sided Solar



* Land owner agreed to remove existing bike rack

Public: Revocable License



Station # 3 – 10th & Walnut



— Walnut —

B-station: 10th & Walnut
Address: 10th & Walnut (East side of Parking Garage)
Leased Premise: 408 sq/ft



10th Street

St Julian Hotel

St. Julian Public Parking

68'

6'

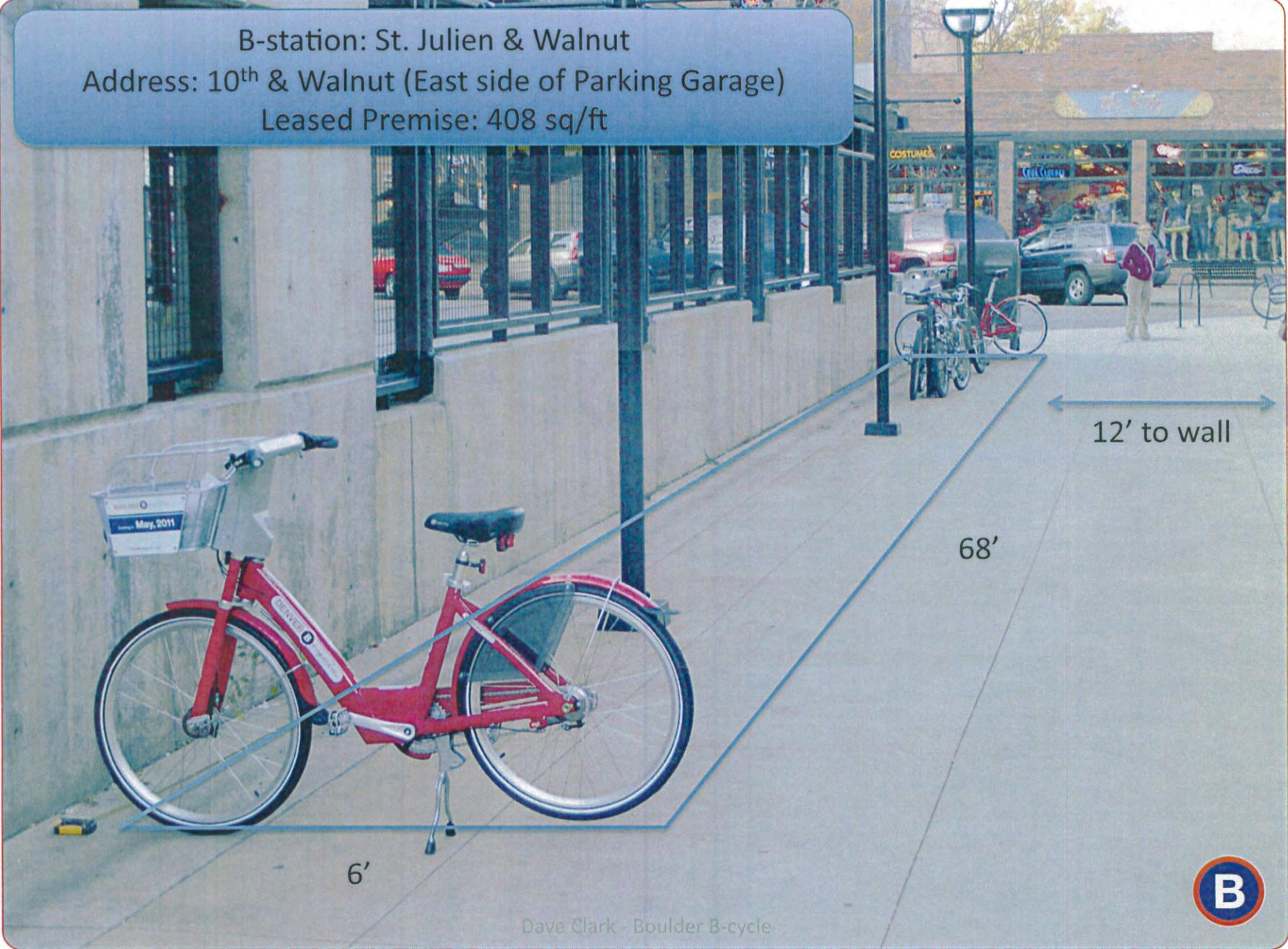
10th St Pedestrian Walkway

45 ft

© 2010 Google



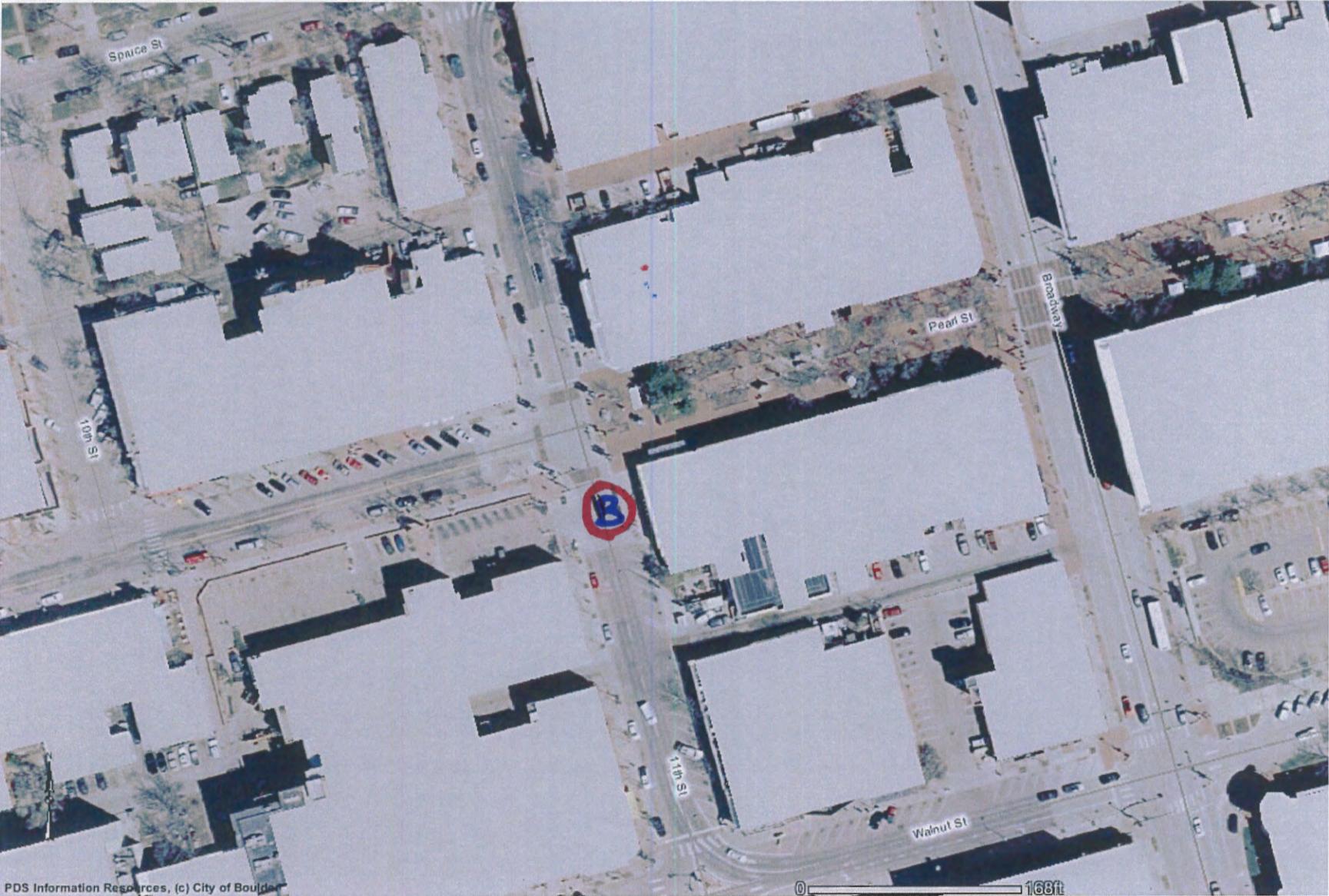
B-station: St. Julien & Walnut
Address: 10th & Walnut (East side of Parking Garage)
Leased Premise: 408 sq/ft



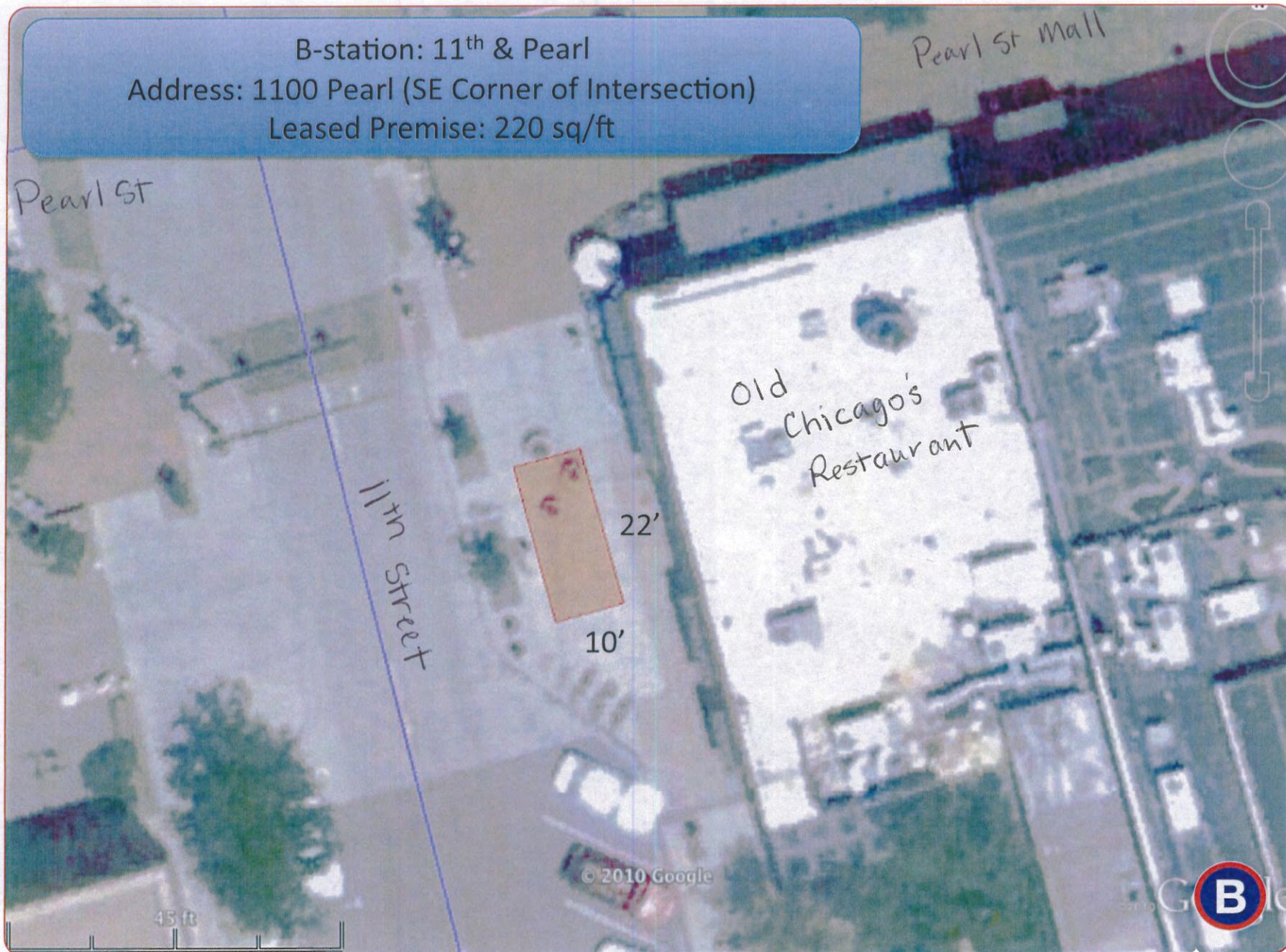
Dave Clark - Boulder B-cycle



Station # 4 – 11th & Pearl



B-station: 11th & Pearl
Address: 1100 Pearl (SE Corner of Intersection)
Leased Premise: 220 sq/ft



Station # 4

B-station: 11th & Pearl
Address: 1100 Pearl (SE Corner of Intersection)
Leased Premise: 220 sq/ft



10' to wall

22'

10'



Dave Clark - Boulder B-cycle

Station # 5 – 13th & Walnut



B-station: 13th & Walnut

Address: NE Corner of the Intersection

Leased Space: 300sq/ft

Concrete Needed: 32sq/ft + 54sq/ft

Station Size: 6 Dock Single Sided Solar + 10 Dock Single Sided

Landscaping: I have left 3' on each side of the major trees

13th Street

27'

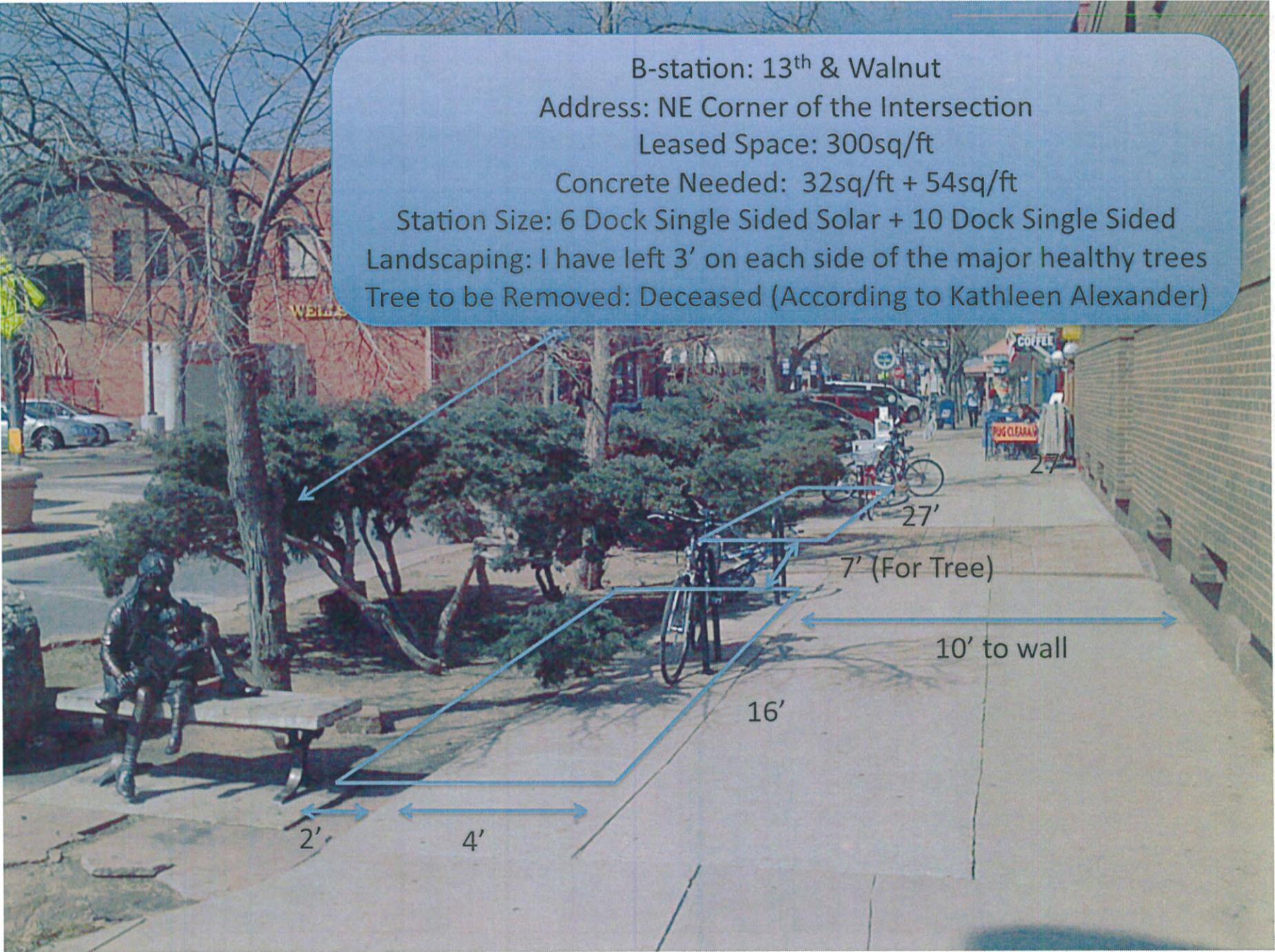
7'

16'

6'



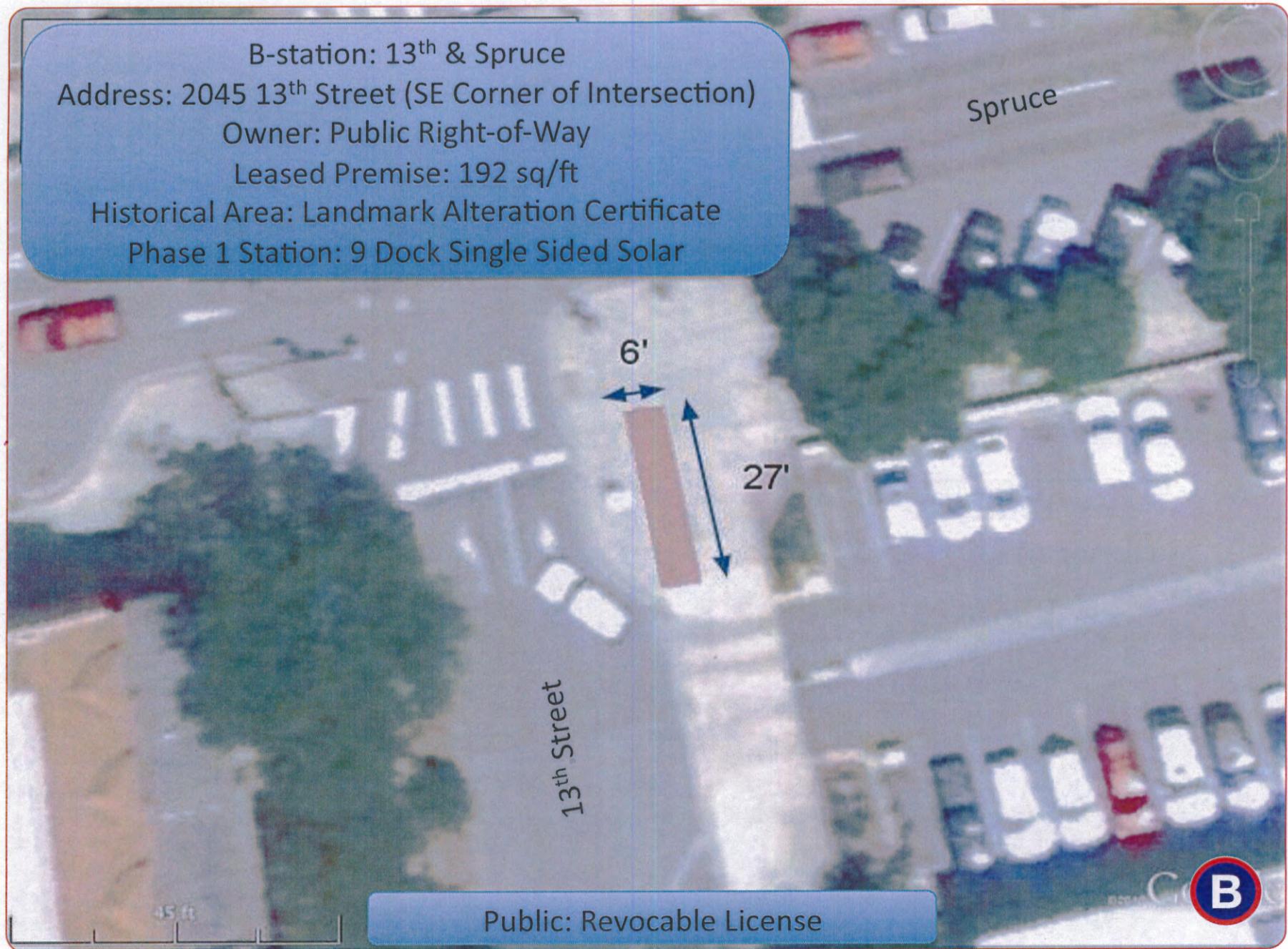
B-station: 13th & Walnut
 Address: NE Corner of the Intersection
 Leased Space: 300sq/ft
 Concrete Needed: 32sq/ft + 54sq/ft
 Station Size: 6 Dock Single Sided Solar + 10 Dock Single Sided
 Landscaping: I have left 3' on each side of the major healthy trees
 Tree to be Removed: Deceased (According to Kathleen Alexander)



Station # 6 – 13th & Spruce



B-station: 13th & Spruce
Address: 2045 13th Street (SE Corner of Intersection)
Owner: Public Right-of-Way
Leased Premise: 192 sq/ft
Historical Area: Landmark Alteration Certificate
Phase 1 Station: 9 Dock Single Sided Solar

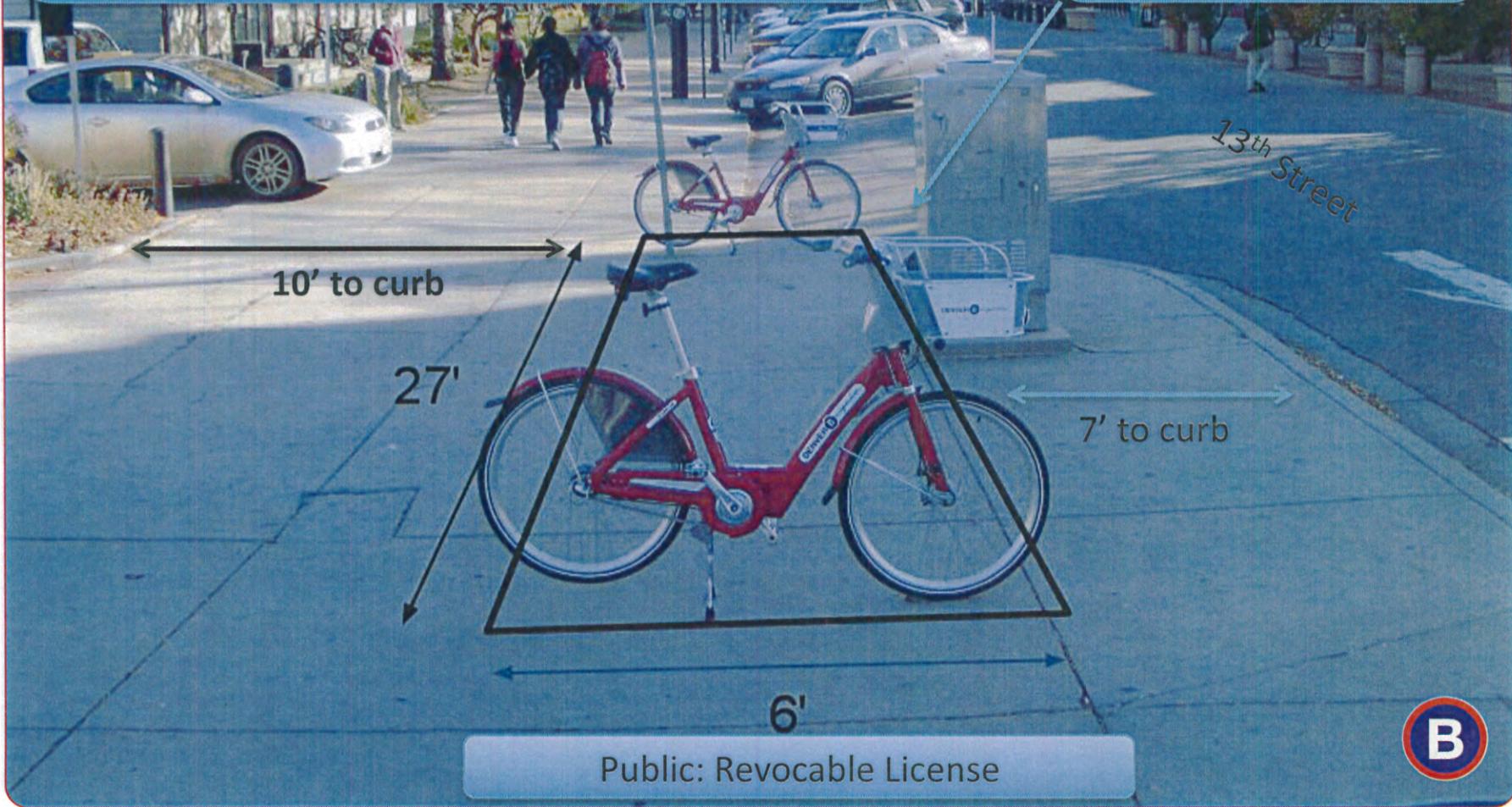


Public: Revocable License



B-station: 13th & Spruce
Address: 2045 13th Street (SE Corner of Intersection)
Owner: Public Right-of-Way
Leased Premise: 192 sq/ft
Historical Area: Landmark Alteration Certificate
Phase 1 Station: 9 Dock Single Sided Solar

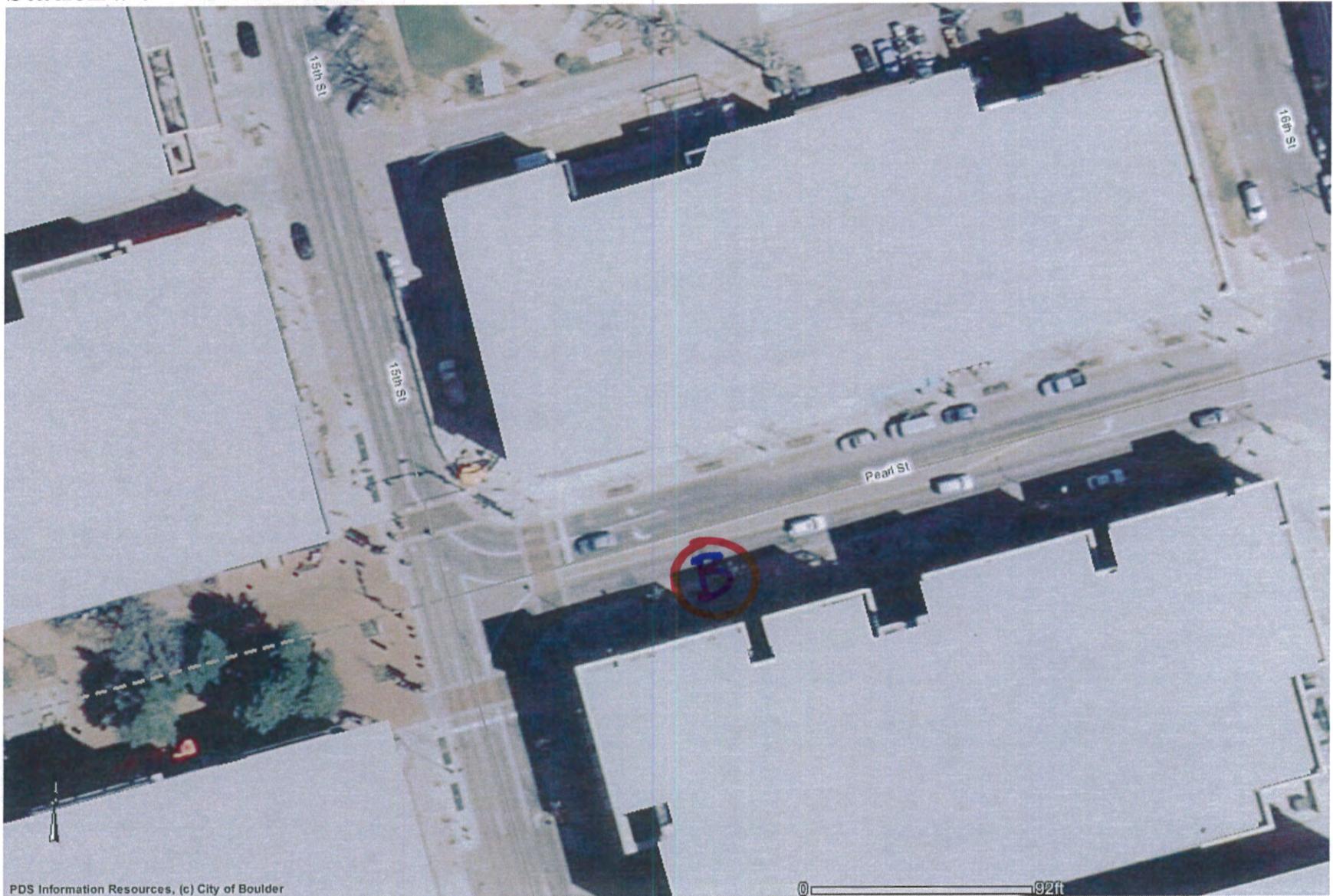
Station will be set back 3' from signal box for maintenance



Public: Revocable License



Station # 7 – 15th & Pearl



B-station: 15th & Pearl
Address: 1500 Pearl Street
Leased Premise: 378 sq/ft



Dave Clark Boulder B-cycle

B-station: 15th & Pearl
Address: 1500 Pearl Street
Leased Premise: 378 sq/ft



Station # 8 – 19th & Walnut



Walnut

19th & Walnut Park

11 Dock Single Sided A/C Station (Possible Solar) (192 sq/ft Footprint in Red shown)

**Location would be one of our outlier residential stations adjacent to bus stop (20th & Walnut) and near pearl commercial district.

Pocket Park
w/in 19th Street
roadway right of way
south of Walnut

42'

6'



19th & Walnut

45 ft

19th Street

© 2010 Google



Walnut

19th & Walnut Park

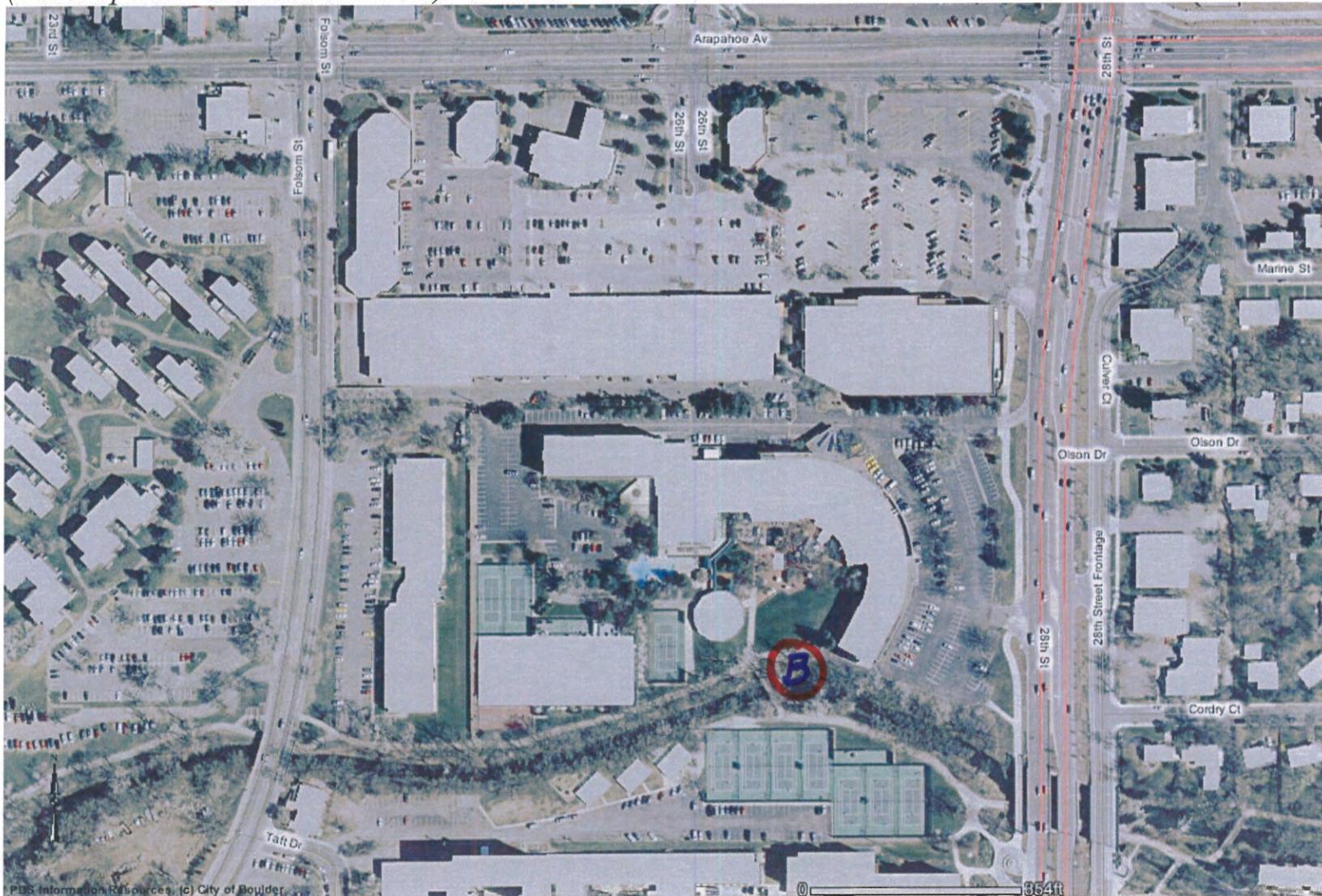
11 Dock Single Sided A/C Station (Possible Solar

**Location would be one of our outlier residential stations adjacent to bus stop (20th & Walnut) and near pearl commercial district.

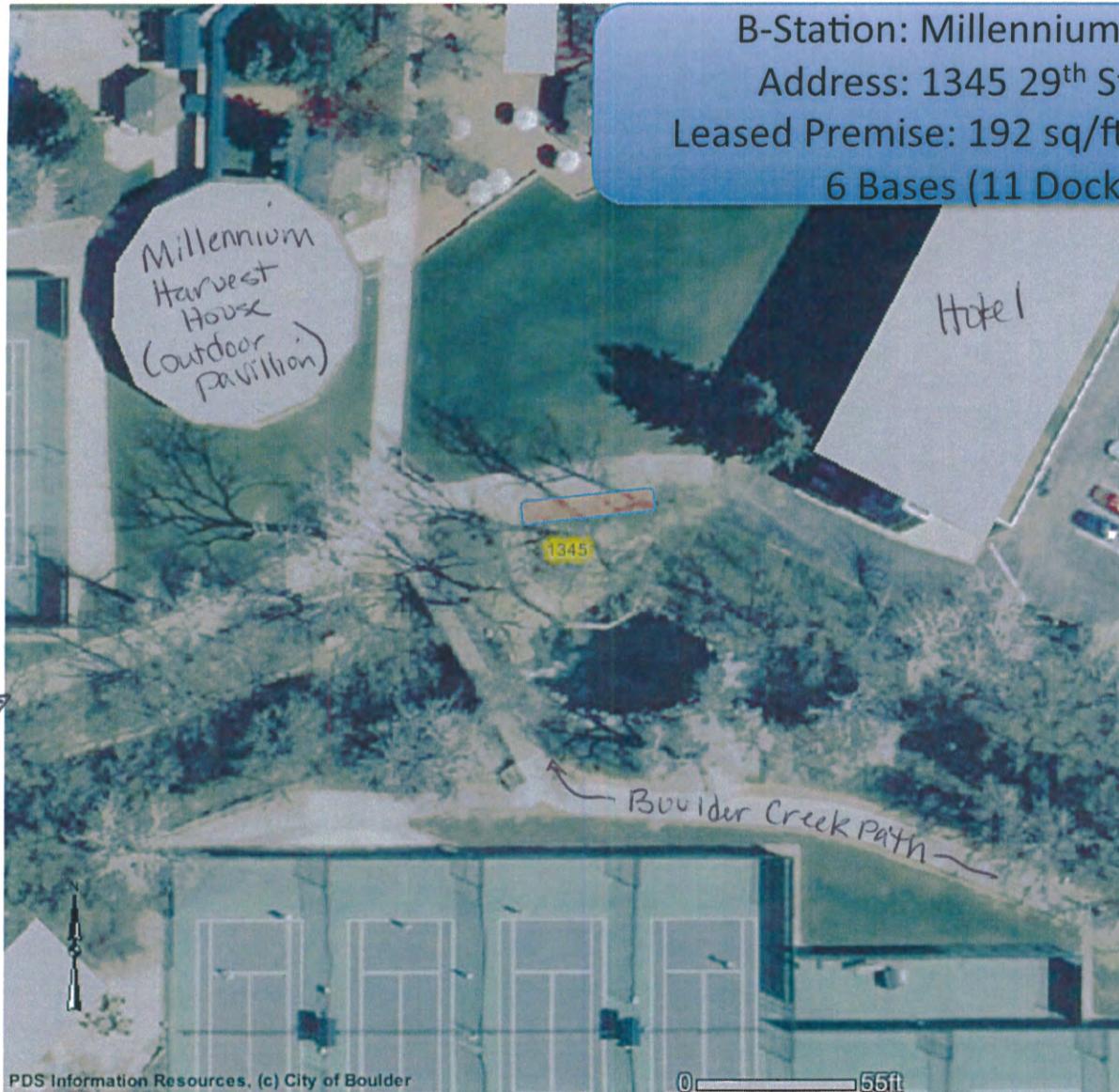
**Concrete pad required, size is negotiable to accommodate station footprint.



Station # 9 - Millennium Harvest House Hotel
(within public access easement)



B-Station: Millennium Hotel
Address: 1345 29th Street
Leased Premise: 192 sq/ft (6' x 32')
6 Bases (11 Dock)



B-Station: Millennium Hotel
Address: 1345 29th Street
Leased Premise: 192 sq/ft (6' x 32')
6 Bases (11 Dock) Single AC



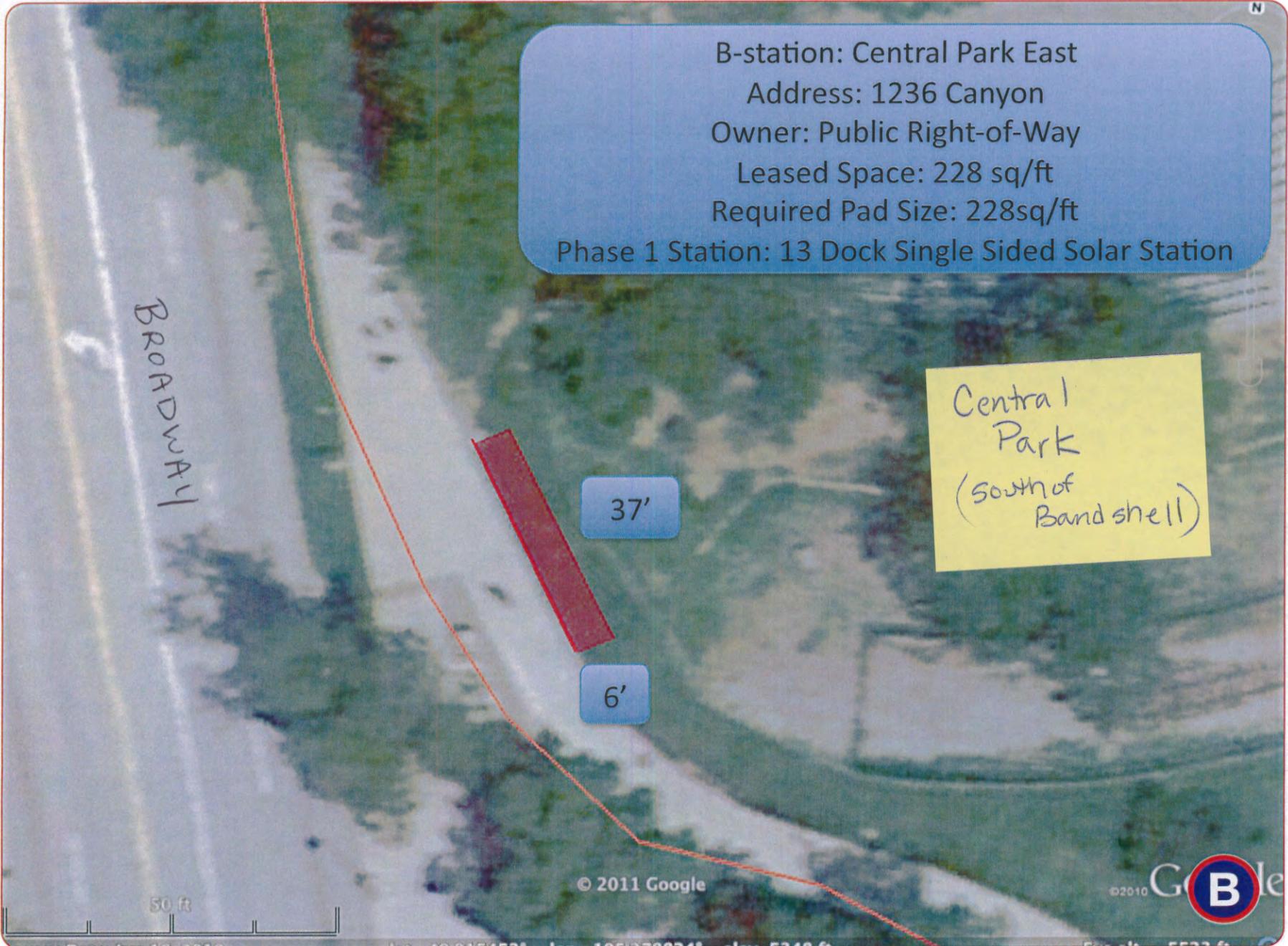
EXHIBIT B
THE LICENSED PREMISES
PARK LAND

B-station Number	B-station Name	Address	Long/Lat
10	Central Park East	1236 Canyon	40.015225°, -105.278762°
11	Central Park West	1777 Broadway	40.015234°, -105.279255°
12	Green Leaf Park	2490 Spruce Street	40.022162°, -105.263832°

Photos of locations with marked area for stations are attached

Station # 10 – Central Park East





B-station: Central Park East
Address: 1236 Canyon
Owner: Public Right-of-Way
Leased Space: 228 sq/ft
Required Pad Size: 228sq/ft
Phase 1 Station: 13 Dock Single Sided Solar Station

Central Park
(south of Band shell)

37'

6'

BROADWAY

50 ft

© 2011 Google

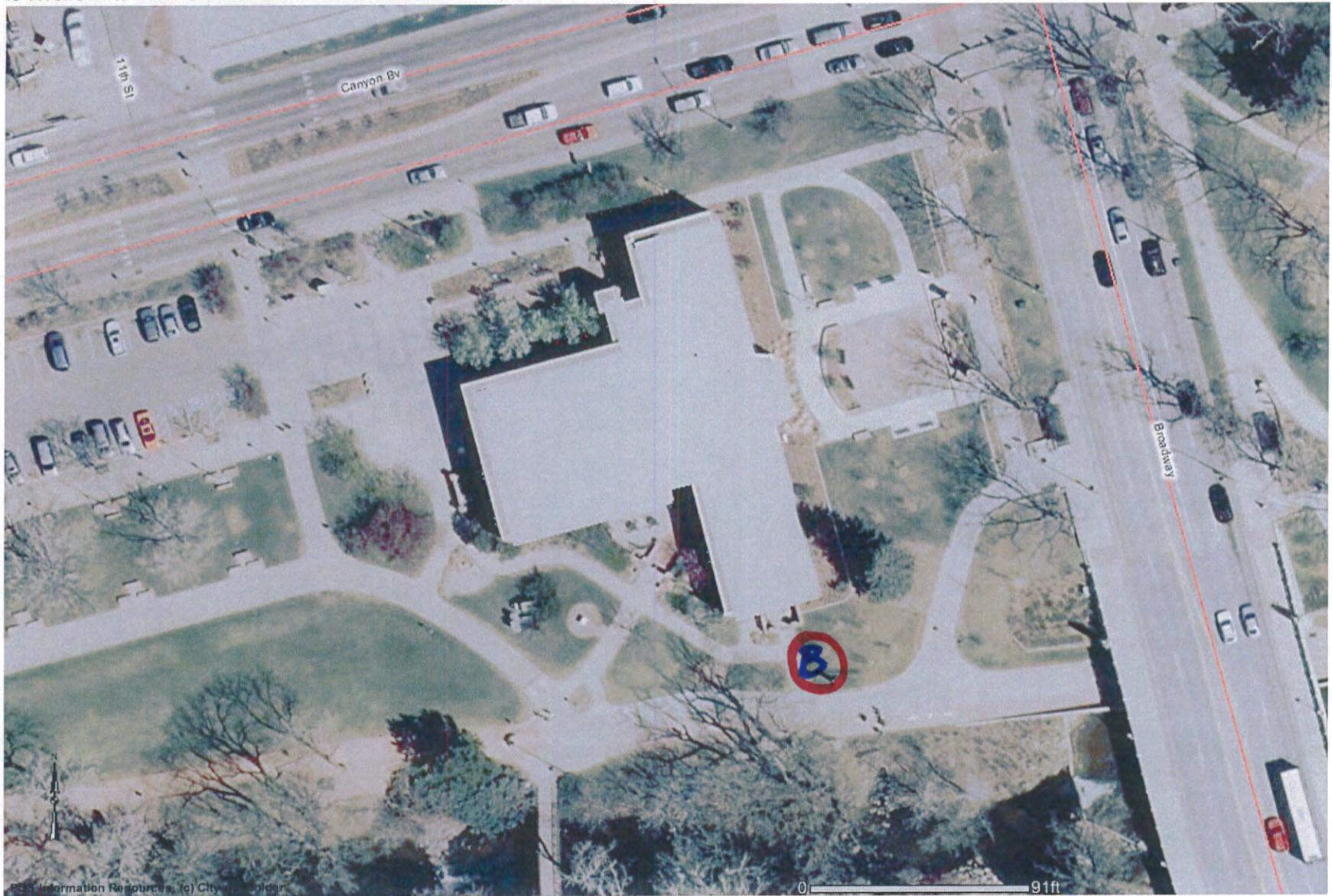


B-station: Central Park East
Address: 1236 Canyon
Owner: Public Right-of-Way
Leased Space: 228 sq/ft
Required Pad Size: 228sq/ft

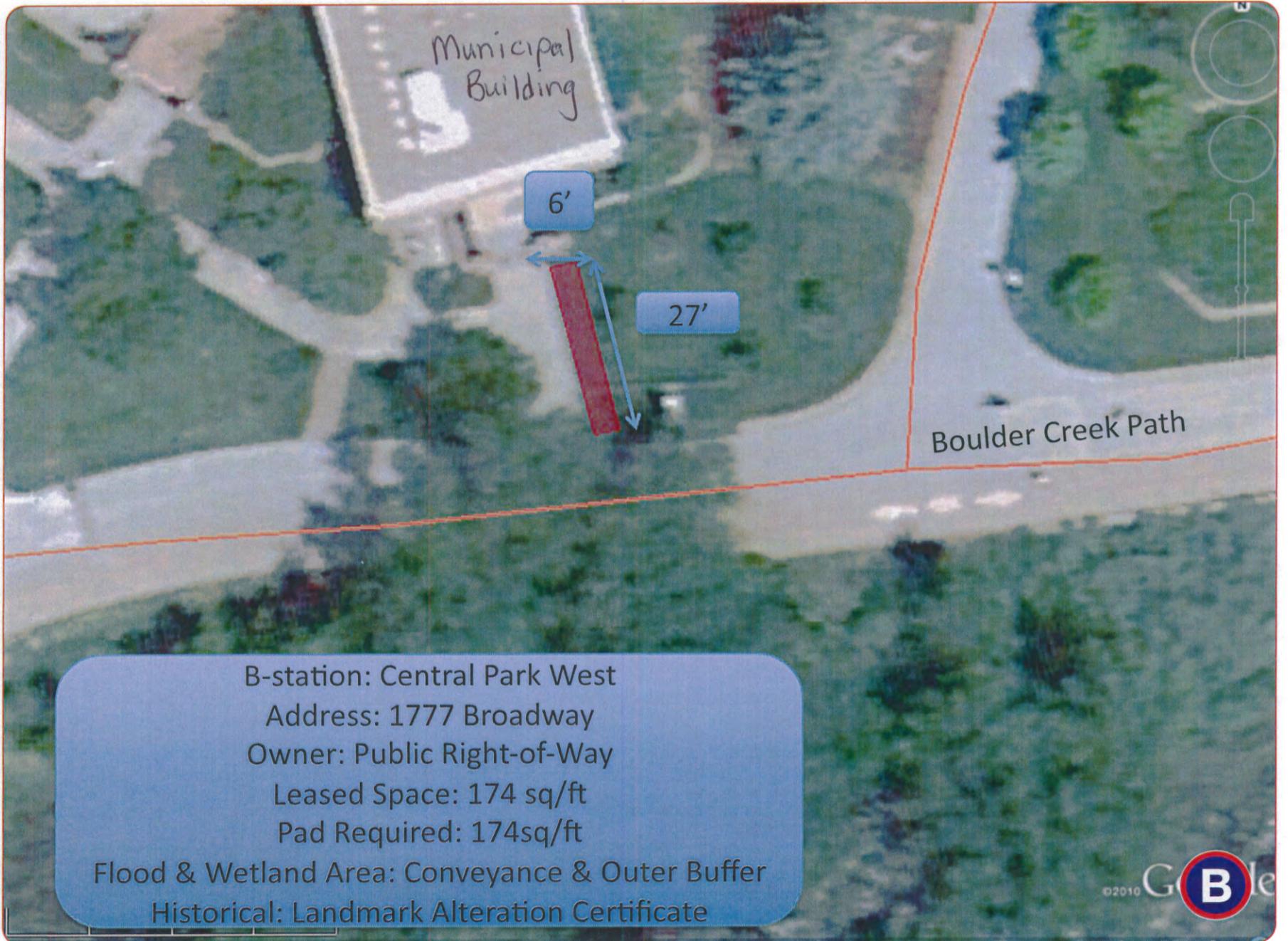
Phase 1 Station: 13 Dock Single Sided Solar Station



Station # 11 Central Park West



— Canyon —



— Broadway —

B-station: Central Park West
Address: 1777 Broadway
Owner: Public Right-of-Way
Leased Space: 174 sq/ft
Pad Required: 174sq/ft
Flood & Wetland Area: Conveyance & Outer Buffer
Historical: Landmark Alteration Certificate

B-station: Central Park West

Address: 1777 Broadway

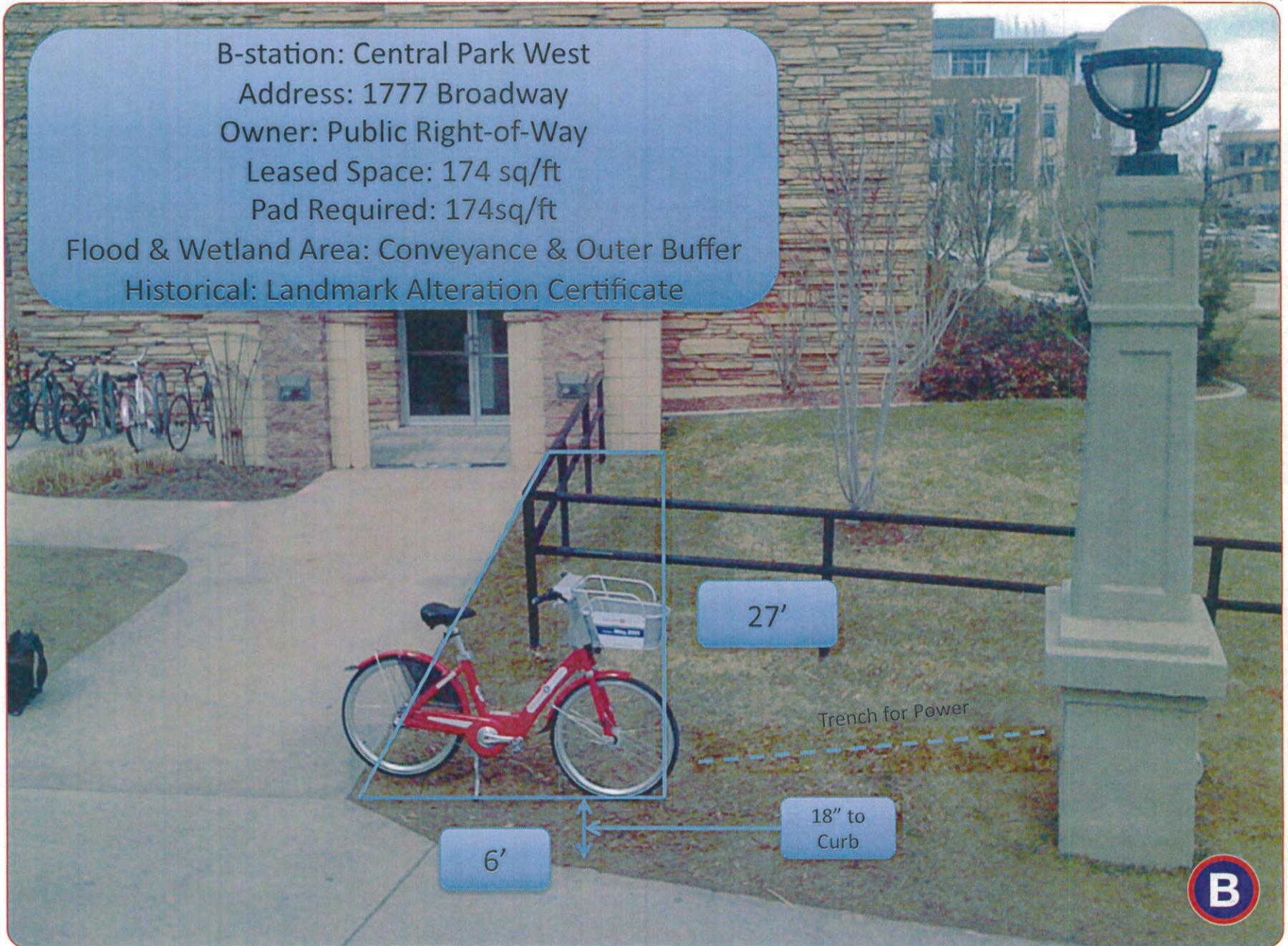
Owner: Public Right-of-Way

Leased Space: 174 sq/ft

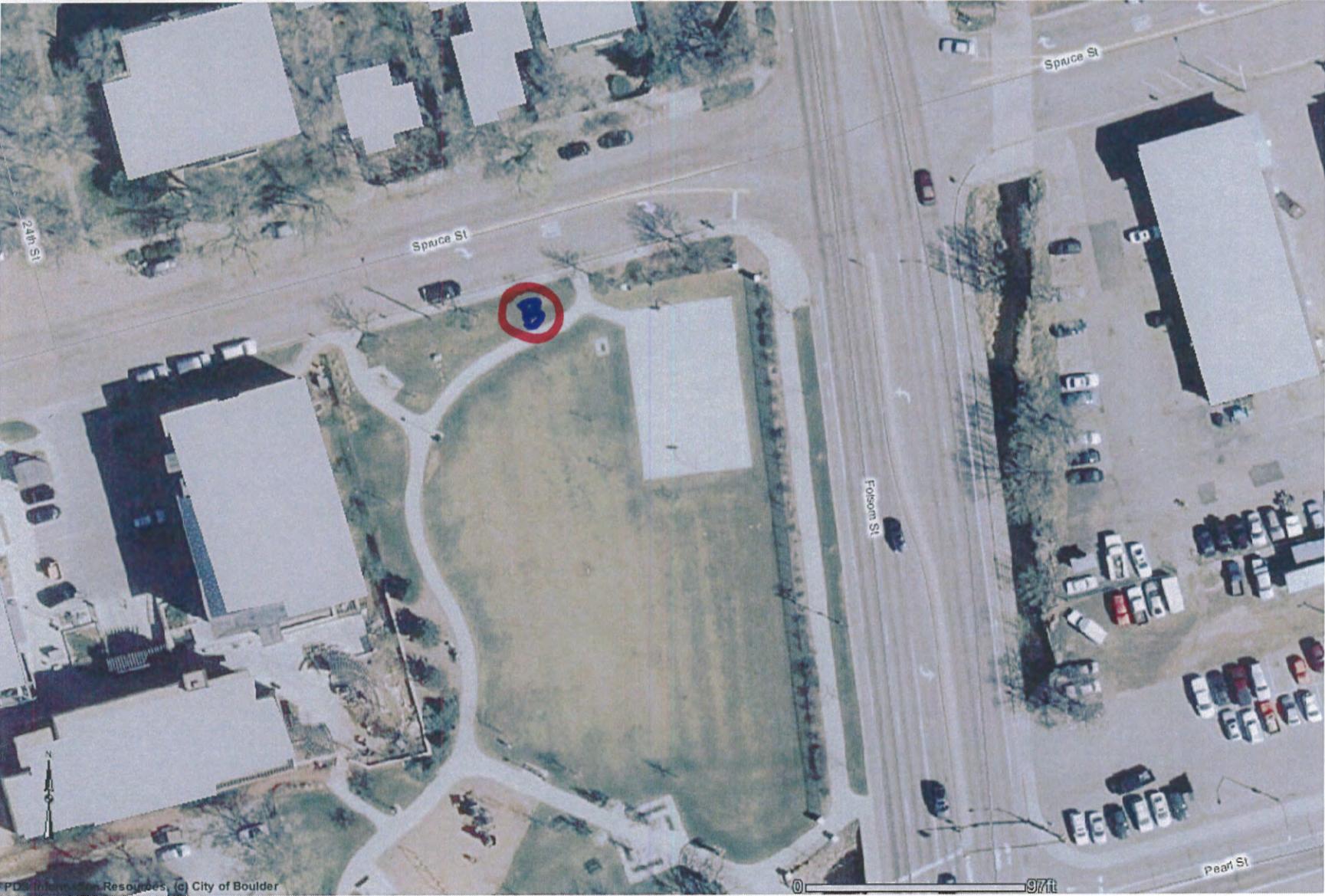
Pad Required: 174sq/ft

Flood & Wetland Area: Conveyance & Outer Buffer

Historical: Landmark Alteration Certificate



Station # 12 – Green Leaf Park



2490 Spruce Street – Green Leaf Park

11 Dock Single Sided (Solar) (192 sq ft Footprint in Red shown)

**Parks Owned: Location would serve Boulder Nature Conservancy, adjacent business and residential community. Near bus stops and safe bicycling streets.

Spruce Street

32'

7'

Green Leaf
Park

45 ft

© 2010 Google

B

Kolsom

Station #12

2490 Spruce Street – Green Leaf Park

11 Dock Single Sided (Solar) (192 sq ft Footprint in blue shown)

**Parks Owned: Location would serve Boulder Nature Conservancy, adjacent business and residential community. Near bus stops and safe bicycling streets.

**Concrete pad (192 sq ft) required to bolt station into.



Station #12

Boulder Bike Sharing Phase 1 Proposed Station Locations

Legend

Proposed BikeShare Stations

- Station Locations (Station Locations)
- Parks Locations (Park Locations)

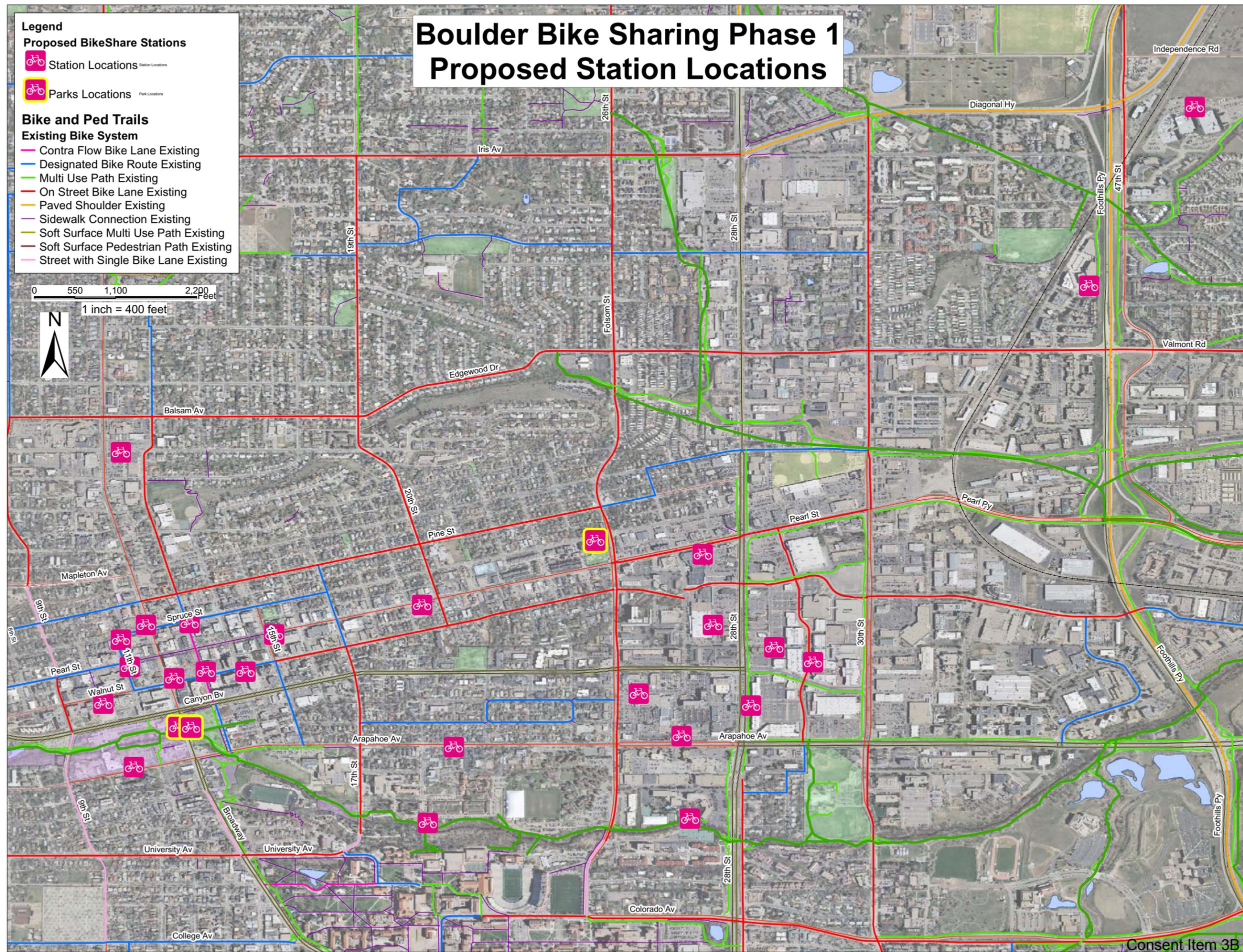
Bike and Ped Trails

Existing Bike System

- Contra Flow Bike Lane Existing
- Designated Bike Route Existing
- Multi Use Path Existing
- On Street Bike Lane Existing
- Paved Shoulder Existing
- Sidewalk Connection Existing
- Soft Surface Multi Use Path Existing
- Soft Surface Pedestrian Path Existing
- Street with Single Bike Lane Existing

0 550 1,100 2,200 Feet

1 inch = 400 feet



Station Location Considerations

While bike sharing is a relatively new technology, experience with established systems over the last five years has provided some general guidelines on selecting station location. Key factors related to successful station location include:

- Stations need to be conveniently located. The general rule of thumb for station spacing is that they be located about 300 meters apart. This density of stations supports the short trips that bike share systems are designed to serve. For the Boulder Downtown area with many trip originations and destinations, this suggests a station about every three blocks, such that a station can be accessed on average in less than a two block walk. In other areas, stations are further apart and located in close proximity to an anchor, such as the Millennium Hotel;
- Stations need to be in highly visible locations, so they are easily found by visitors and residents alike. While bikes are not allowed to be ridden on the Pearl Street Mall, highly visible locations for Boulder B-Cycle stations could be placed on the loop roads around the Mall and on the streets that cross Pearl;
- Stations should be located in areas with a density of population and employment and a variety of destinations that attract trips. The Downtown area was selected for the initial phase of Boulder B-Cycle as it has a variety of attractions, a high employment density, and a number of populations that are likely customers for bike sharing, including employees, visitors and tourists;
- Station locations should be balanced by user base and trip type. This aspect is supported by having a variety of user types and destinations so that trips are relatively balanced. Some bike share systems have had a strong directionality of trips, such as from residential to employment areas, which require significant maintenance to rebalance the system so that bikes remain available.

There are also a significant number of practical considerations in determining the specific location for a station. These include:

- Adequate space for the required station foot print, which includes not only the physical dimensions of the station but a back-up zone allowing bikes to move behind parked bikes to access all docking stations;
- Maintain pedestrian and ADA access to areas, building entrances and sidewalks adjacent to the bike share stations;
- Provide good solar access where possible so that the stations can be solar powered. Where this is not possible, locate so that reasonable access to electric power is available;
- Locate so that mowing, snow clearing, snow storage and other maintenance activities are not obstructed and can be carried out efficiently;
- Avoid or minimize impacts to other infrastructure systems, such as signs, power, irrigation and drainage facilities;
- Install on existing hard surface where possible for a secure footing and to minimize project costs and additional impervious surface.

For stations located on Parks and Recreation Department property maintained by Parks and Recreation staff, in addition to the practical considerations in determining specific station locations provided above, staff recommends the following criteria for bike share station locations:

- The Boulder B-Cycle Station operators should be responsible for all maintenance and repair of the stations.
- The Boulder B-Cycle Station operators should be responsible for any safety issue to both Boulder B-Cycle Stations users and non-users in the area.
- The Boulder B-Cycle Station operators should be responsible for all snow removal around stations and bicycles.

CONSENT ITEM – 3C



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 26, 2011

AGENDA TITLE: Consideration of a motion to approve Shipment of Fresh Water to Japan.

PRESENTER/S

Jane S. Brautigam, City Manager

Alisa D. Lewis, Director of Support Services and City Clerk

Susan Kohl, Deputy City Clerk/Sister City Program Coordinator

SUMMARY

NYK Lines has offered to ship relief supplies to Japan for free. To create the greatest economies of scale, NYK has limited this offer to government entities. Naropa University and Kansuke Productions have teamed up to purchase the water and pay for overland shipping expenses, which Yusen Logistics is offering at costs. Together, they plan to spend \$100,000 to purchase water and pay for overland shipping. They have asked the City of Boulder to act as the shipper to provide the requisite assurance to NYK Lines and to allow the city to participate in this humanitarian effort in light of our sister city relationship to Yamagata City.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to approve the City of Boulder's partnering with Naropa University and Kansuke Productions to ship fresh water to Japan.

PUBLIC HEARING ITEM – 5A



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 26, 2011

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance 7787 that proposes amendments to Title 4, "Licenses and Permits," B.R.C. 1981, specifically related to section 4-18-2, "Public Property Use Permits," B.R.C. 1981, regarding mobile food vehicles sales; adding a new section 4-20-65, "Mobile Food Vehicle Sales," B.R.C. 1981; and Title 9, "Land Use Code," B.R.C. 1981, amending section 9-6-5, "Temporary Lodging, Dining, Entertainment, and Cultural Uses," B.R.C. 1981.

PRESENTER/S

Jane S. Brautigam, City Manager
David Driskell, Executive Director, Community Planning and Sustainability
Molly Winter, Executive Director, Downtown and University Hill Management
Division/Parking Services, (DUHMD/PS)
Charles Ferro, Land Use Review Manager
Ellen Cunningham, Business Assistance and Special Events Manager, DUHMD/PS
Sandra Llanes, Assistant City Attorney

EXECUTIVE SUMMARY

Currently, the city code does not permit mobile food vehicles sales. Staff is proposing changes to the code that would permit this use within certain areas and under certain conditions. These changes are set forth as amendments to section 4-18-2, "Public Property Use Permits," B.R.C. 1981, regarding mobile food vehicles sales; adding a new section 4-20-65, "Mobile Food Vehicle Sales," B.R.C. 1981; and, amending section 9-6-5, "Temporary Lodging, Dining, Entertainment, and Cultural Uses," B.R.C. 1981, by the addition of a new subsection (d) regarding mobile food vehicle sales, and setting forth related details to allow mobile food vehicle sales. (**Attachment A**)

Below are the responses to the first reading questions from council members Ageton and Becker:

1. What is the rationale of requiring mobile food vehicles to remain 200 feet from any other mobile food truck? I can understand the reasoning behind separation from bricks and mortar restaurants but not other trucks.

The restriction does not apply to sales on private property or on public right of way property in connection with an organized event permit. The rationale for the 200-foot separation is to reduce potential health and safety issues regarding traffic/pedestrian congestion and parking in the public right-of-way.

2. I'd like to consider allowing the trucks to be able to go to parks in residential neighborhoods with certain requirements in place like they can't park in front of a house; they must provide trash receptacles or pay for extra trash pick up; they can only be there in limited hours, etc. A brief survey of my own neighborhood tells me that there is wide support (in fact unanimous as of this writing) for this idea. I heard that this was brought up at the Planning Board but city staff responded that there were concerns around liability for city parks. If this is really the concern, could you explain that more? How are rights-of-ways near city parks any different than city rights-of-way anywhere else?

The current ordinance allows mobile food vehicles sales in residential neighborhoods and in or adjacent to parks so long as it is part of an organized event permit pursuant to BRC 4-18-2. However, the broader issue of permitting vehicle food sales in certain parks or on public rights of way adjacent to parks by right is an item that the Parks and Recreation Department will consider when developing its 2012 work plan.

In discussions with current mobile food vehicle vendors, operations adjacent to city parks were discussed. Staff offered to include the consideration of mobile food vehicle operations in or adjacent to city parks but noted it would require additional analysis and review and would delay the proposed ordinance schedule. Those vendors who attended the meetings were in agreement to move forward without including parks and address this issue at a later time. There are over 70 urban parks within the city. The research related to parks would need to address each park location to see if it is conducive to a mobile food vehicle vendor locating at or adjacent to the park. Because parks can be places of high volumes of public congregation and activity, the location of a food vendor vehicle needs to take into account minimizing potential safety issues related to public access of the food operation. The Parks and Transportation Departments would need to review pedestrian and traffic issues when determining potential placement of a mobile food vehicle on a right of way, in addition to any zoning and code changes that may be required. Concessionaires located within the confines of an urban park are subject to contracts with the Department, similar to food vendors in the larger park areas, including the reservoir, premier athletic fields and outdoor pools.

3. I question the requirement that before a permit is issued, that the city manager consult with the Downtown and University Hill Mgmt Division "to determine the

appropriateness of sales activities within the commercial district based on the impact to the economic viability of existing businesses...." First, as I understand it, permits aren't issued for particular areas, so I'm not sure why one area's economic viability should limit the issuance of a permit. Second, this seems very subjective. Third, it doesn't require that the city manager actually show that the food cart will have an impact on the economic viability of existing businesses. Fourth, "existing businesses" is pretty broad. Are you only concerned about brick and mortar restaurants? Fifth, doesn't the economic viability of the food cart matter too? Can the food cart show that it could have a positive economic impact? Sixth, the economic viability of existing businesses in an area could be affected in lots of ways. I'm not sure why this one use has to bare the burden of increased competition. I could go on with my objections on this provision, but I think it's clear that I'd like to see greater rationale for this provision in particular.

The proposed changes to section 4-18-2 do two things. First, more clearly delineate the considerations by the city manager prior to issuing a public property use permit. These include additional considerations for the Transportation, Police and Fire Departments as well as adding consultation with the Downtown and University Hill Management Division and Parking Services, and the Parks and Recreation Department if relevant. The second change specifically identifies the process for mobile food vehicles to operate in the public right of way not already proposed in Title 9 section 9-6-5: they must be "in connection with an approved organized permit."

The proposed ordinance provides two ways in which a mobile food vehicle may operate legally in the city. They may either (1) operate in approved zones or (2) operate in other zones as part of an organized event to be held at a particular location, date, and time. Mobile food vehicles are prohibited from public property in the downtown and Hill area but may be allowed as part of an organized event. The discretion provided to the city in consideration of factors tailored to the downtown and Hill area are specific to organized event permits only. As such, these permits would be for a particular location, date, and time, and provides the city with broad authority to take into consideration various factors in determining whether a permit may be granted.

Table 9-6-1(d) identifies the approved zoned areas in which the vehicles may operate subject to certain conditions (150 feet from residential zone; 100 feet from any restaurant; and 200 feet from any other food vehicle with regard to right of sales).

Some of the factors considered in special events and found in B.R.C. 8-3-14 "Permits for Organized Events", are as follows:

... whether or not the available seating, parking, and sanitation facilities are adequate for the proposed use; whether or not the event would conflict with any law, ordinance, code, rule or regulation, resource management, or environmental policy; and whether or not the event would unduly interfere with the general public use of the site.

And

...The city manager may issue a permit if the event is appropriate for the site, the infrastructure of the site will support the event without environmental or resource damage, and the public benefit from the proposed event exceeds its detriments.

Special Event permits are issued by the city as to a particular location, date, time, and type of event. The Public Property Use Permit set forth in 4-18-2 provides a similar case by case review of the proposed location, date, time, impacts to the surrounding neighbors, health and safety issues, etc. as does the special event permit process.

Consideration of various factors including impacts to the economic vitality of the commercial district allows the city discretion to further the legislative intent of the code in preserving the unique character of the Pearl St. Mall, downtown, and the Hill by ensuring compatibility of uses as well as consideration of traffic and pedestrian issues.

When an organized permit application is denied, the city provides a written explanation explaining the basis for permit denial.

The term “existing businesses” was intentionally used to include all businesses not just restaurants.

Lastly, the appropriateness of sales activities within commercial districts is only one of several factors that are considered in permit approval. Other factors include the public’s use and enjoyment of sidewalks and other public areas for patio and café seating, amenities including and not limited to benches, trees, trash receptacles, parking kiosks, bicycle parking, events, and the mobility of pedestrians.

4. What about the idea of changing the distance to brick and mortar restaurants if the restaurant is a different type? I can see the concern with a mobile food truck that sells tacos near say, the Rio. But I don't see the issue if it's near say, Frasca and L'Atelier. This would be difficult to enforce because of the many nuances and varieties of foods and restaurants. There is a legal concern that this type of regulation might be difficult to enforce and defend if challenged on vagueness grounds.

5. I'd like to know if the \$200.00 annual renewal charge is consistent with other types of licenses. For instance, do other business licenses need to be renewed annually? Are the carts on the mall charged a \$200 annual renewal?

Other than sales and use tax licenses, all licenses, including liquor licenses, medical marijuana business licenses, carnival licenses (only per event), auction, itinerant merchant licenses, and pawnbroker/second hand dealer licenses, must be renewed every year. The renewal fees for the above licenses range from around \$46 a year (itinerant merchant licenses issued mostly for health and safety background check reasons) to \$2,000 a year (medical marijuana licenses issued for regulatory reasons with council

direction that the licensing will pay for itself). The \$200 fee for the mobile food vehicle license application was calculated to recover the direct staff costs in reviewing the application. Three departments are involved: Licensing, Sales Tax and Development Review.

The mobile vending carts on the Pearl Street Mall are limited to a specific number and are selected through a competitive process. The carts pay an annual lease fee for a specific location on the Pearl Street Mall. For 2011 the fee is \$1898.

6. Under the proposed ordinance re: mobile food vehicles sales, how is City owned land that is leased addressed? If the city retains responsibility for any streets and/or road on such leased land, are these arteries considered public right of way?

Unless addressed otherwise in a lease, city owned land that is leased to a tenant would be considered private property. However, the streets located next to such property remain public right of way.

Key Issue Identification

1. Are the areas identified on the zoning map appropriate for mobile food vehicle operations?
2. Are the criteria complete for mobile food vehicle operations?
3. Has staff addressed the need for balance between established “brick and mortar” restaurants, residential areas, and the mobile food vehicle areas of operation?

STAFF RECOMMENDATION

Staff recommends that City Council pass the proposed ordinance, allowing for mobile food vehicles to operate in certain locations within the city of Boulder.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The mobile food vehicle ordinance will enable and support the burgeoning mobile food vending industry by creating relatively affordable opportunities for new, local businesses while enhancing and building on Boulder’s very successful food culture.
- Environmental – Providing mobile food vending within industrial areas will lessen vehicle miles traveled (VMT) by reducing the need for employees to travel to restaurants.
- Social – There are no perceived direct impacts on social sustainability. However, mobile food vehicles will be allowed to participate in special events such as festivals that provide opportunities for social and cultural interaction.

OTHER IMPACTS

- Fiscal – The license fee covers administrative costs.
- Staff time – No additional staff will be required.

BOARD AND COMMISSION FEEDBACK

The Downtown Management Commission met on February 7, 2011, and voted 4 in favor, with 1 commissioner abstaining, to make a recommendation to City Council to approve the amendments to allow mobile food vehicles to operate in specific areas of the city.

Downtown Boulder, Inc. met on Wednesday, February 9, 2011, and passed a motion to recommend to City Council to amend the ordinances to allow mobile food vehicles to operate in specific areas of the city.

The Boulder Business Improvement District board met on Thursday, February 10, 2011, and passed a motion to recommend to City Council to amend the ordinances to allow mobile food vehicles to operate in specific areas of the city.

The University Hill Commercial Area Management Commission met on Wednesday, February 16, 2011 and passed a motion to recommend to City Council to amend the ordinances to allow mobile food vehicles to operate in specific areas of the city.

On Thursday, March 10, 2011, the Planning Board approved (7-0) to recommend amendments to Title 4, Section 4-18-2, and Title 9, Section 9-6-5, and adding a new section 4-20-65 to allow mobile food vehicles to operate in specific areas and under specific conditions covered in this memorandum, with a friendly amendment to extend hours of operation to start at 7 am and explore adding an extension of a late night component. (Staff changed the proposed ordinance to a 7am start time.)

PUBLIC FEEDBACK

Staff has had several meetings with interested mobile food vehicle vendors to solicit feedback from them to craft recommendations for their operation while balancing the competing needs of the brick and mortar establishments.

On Tuesday, February 1, 2011, all existing and potential mobile food vehicle vendors were invited to attend a meeting to discuss the proposed ordinance. Six vendors came to the meeting and voiced their support for the ordinance.

In discussions with local mobile food vehicle operators, most rely on social network sites such as Twitter and Facebook to notify patrons of their location and hours of operation. Staff also learned that most operators rely on a predetermined route and schedule to make service predictable for customers. While some vendors have been operating downtown, it appears that a majority of businesses occurs in the city's industrial parks.

Sean Maher, Executive Director, Downtown Boulder, Inc., surveyed 52 restaurants in downtown Boulder representing a 53% response rate. (Attachment F) The results were:

72% of these establishments were not in favor of the mobile food vehicles operating in the downtown commercial area. 63 % were opposed to vehicles operating on private property in the downtown commercial area. 74% believed that these vehicles have an unfair advantage over permanent restaurants. 91% of the respondents were in favor of having these vehicles operate in business parks and industrial areas with the permission of the property owners.

Staff received twelve emails from the public stating their opinions on the proposed mobile food vehicle ordinance. (**Attachment D**)

On Thursday, April 14, City Council received the position of the Downtown Boulder Inc. Board of Directors in support of the staff recommendation. (**Attachment D**)

In statements from two mobile food vehicle vendors at the first reading of this ordinance, they stated that they would like to operate in downtown and on the Hill until 2 a.m. because there are no late night options for food in these locations. Staff wanted to clarify that there are many late night food options both areas. (**Attachment E**)

BACKGROUND

The increasing national trend in mobile food vending has prompted the need for a formal Land Use Code interpretation on this activity. Recent inquiries and activities have involved requests to sell food from mobile food vending vehicles both on private property and from the public right of way which are not currently permitted in the city's regulations. The business community has expressed a great deal of concern and interest in the city drafting some specific regulations that would make the use and operational characteristics of mobile food vehicles more predictable in the city. There needs to be a balance between the operation of brick and mortar restaurants and the operation of mobile food vehicles so that the vehicles do not compete unfairly with these businesses. Other public health and safety factors such as traffic congestion and use of sidewalks should also be considered.

Overall, the goal of the proposed amendments is to provide balanced regulations that protect established restaurants and residential neighborhoods from impacts while providing a predictable licensing process for mobile food vehicle operators.

A cross-departmental team from Community Planning & Sustainability, Downtown and University Hill Management Division/Parking Services (DUHMD/PS), Licensing, Sales Tax and the City Attorney's office developed the recommended code changes based on research from other cities that allow mobile food vehicles, feedback from mobile food vehicle operators, downtown, the Hill, and 29th Street commercial area organizations and private property owners. The specific criteria and operating requirements are outlined in the ordinance and license application found in **Attachment B**.

ANALYSIS

Paragraph 9-6-5(c)(2) B.R.C. 1981, generally prohibits mobile vending activities on public and private property within the city. The proposed changes would specifically define mobile food vehicles as a recognized use under the city's Land Use Code, establish a formal licensing process, and identify appropriate locations and operation requirements on public and private properties. A Mobile food vehicle is defined as a readily movable, motorized-wheeled vehicle or a towed vehicle designed and equipped to prepare, or serve, and sell food. This ordinance does not apply to human-powered vending carts on the Pearl Street Mall or University Hill.

Private Property The proposed ordinance would allow mobile food vehicles to operate on private property with the permission of the property owner in the city's industrial (I), business (B), mixed use (MU), and downtown zoning (DT) districts. However, mobile food vehicles operating on private property in the above zone districts would be required to maintain a minimum separation of 100 feet from any existing brick and mortar restaurants, and 150 feet from residential zone districts (see map in **Attachment C**). These changes are reflected in subsections 9-6-5(d) and 9-6-1(d), B.R.C. 1981.

Public Property The proposed ordinance would only permit mobile food vehicles to operate in the city's right-of-way in the Industrial zone districts or as part of an organized special event (i.e., Creek Fest, Harvest Fest, Green Streets, block parties, etc.). Mobile food vehicles would have less restrictions in the city's Industrial (I) zones where brick and mortar restaurants are much less prevalent and rights of way are typically much larger to accommodate larger vehicle and truck traffic. However, mobile food vehicles would still be required to maintain a minimum separation of 100 feet from any existing brick and mortar restaurants, and 150 feet from residential zone districts. In addition, such vehicles would also be required to maintain a minimum separation of 200 feet from any other mobile food vehicle operating in the public right-of-way.

Operation in residential zones and city parks are prohibited unless permitted as a part of an organized special event. These changes are reflected in paragraph 9-6-5(d)(2) and section 4-18-2, B.R.C. 1981.

Distances for separation were determined by studying zoning maps of several different neighborhood typologies, the location of existing restaurants and the zone districts that support such uses and private property available for the operation of mobile food vehicles. For example, a typical block in the downtown area is 300 feet by 150 feet. Standard blocks on University Hill and in North Boulder are slightly larger. Given the urban context of downtown, the Hill and North Boulder (alleys, little available private surface parking) staff determined that available private property for mobile food vehicle operations in the downtown, the Hill, and North Boulder is for the most part limited. Further consideration was given to discussions with brick and mortar restaurant owners and mobile food vehicle operators in an effort to strike an appropriate balance that prevented unfair competition with established restaurants and impacts on transitional residential areas that abut commercially zoned properties. Additional consideration was given to the hours of operation and the overall operational characteristics of mobile food

vehicles in determining impacts and appropriate distances for separation.

Distances shall be measured by the city on official maps as the radius from the closest points on the perimeter of the applicant's mobile food vehicle to the closest point of the designated residential zone or property of the restaurant. With regard to measurement between two or more mobile food vehicles in the public right of way, measurement shall be in the form of standard measuring devices including and not limited to a tape measure.

Operational Requirements The proposed ordinance establishes a number of operational requirements for mobile food vehicle sales on private property and public locations. No person who operates any mobile food vehicle on public property or private property shall:

- obstruct the pedestrian or bicycle access, the visibility of motorists, nor obstruct parking lot circulation or block access to a public street, alley or sidewalk;
- locate any vehicle, structure, or device upon a public sidewalk within the extended boundaries of a crosswalk or within ten feet of the extension of any building entranceway, doorway or driveway;
- fail to maintain and provide proof when requested of written consent from the private property owner authorizing the property to be used for the proposed use with regard to mobile food vehicle sales on private property;
- fail to park legally;
- operate before 7 a.m. or after 9 p.m. and for more than a maximum of 4 hours at any one approved location;
- set up any structures, canopies, tables or chairs;
- sell anything other than food and non-alcoholic beverages;
- provide amplified music;
- place signs/banners in or alongside the public-right-of-way or across roadways. Signs must be permanently affixed to or painted on the mobile food vehicle;
- fail to have the vehicle attend at all times;
- fail to permanently display to the public in the food handling area of the mobile food vehicle the permit authorizing such use;
- fail to provide trash receptacles and properly dispose of all trash, refuse, compost and garbage that is generated by the use;
- cause any liquid wastes used in the operation to be discharged from the mobile food vehicle; and,
- fail to abide by all other ordinances of the city.
- fail to comply with the Boulder sign code section relating to motor vehicle signage:

(P) Vehicular: A sign displayed on a motor vehicle is prohibited if:

(i) The vehicle is not in operable condition;

(ii) The sign is roof-mounted and has more than two faces or any face exceeds four square feet in area;

(iii) More than two signs are mounted on the roof of the vehicle;

(iv) The sign, if not roof-mounted, is not painted on or securely affixed on all edges to the surface of the side of the body of the vehicle;

(v) The principal use of the vehicle at the time of the display is for display of the sign;

(vi) It is a commercial sign which does not identify the owner of the vehicle or a good or service which may be purchased from the owner;

(vii) It is a commercial sign and the vehicle is not being operated in the normal course of business;

(viii) It is a commercial sign and the vehicle is not parked or stored in the normal course of business in an area appropriate to the use of the vehicle for delivery or another commercial purpose; or

(ix) It is a commercial sign and the vehicle, if parked on private property, is not parked within the setback requirements of this section, unless no other reasonable provision can be made for such parking.

(x) It is a specific defense to a charge of violation of subparagraph (b)(3)(P)(vi) of this section that the vehicle was licensed by the Colorado Public Utilities Commission for the commercial transportation of passengers, or was engaged in such transportation but was exempt from such licensure.

Staff supports the Planning Board's recommendation to extend the start time to 7 a.m. and have made changes to the ordinance. Staff has concerns about changing the ending time past 9 p.m. based on impacts to surrounding properties and businesses and does not recommend extending the operating hours to 2 a.m. at this time. It will be useful to observe the operation of the mobile food vehicles at the approved times before considering operation until 2 a.m.

Mobile food vehicles sales that are part of an approved organized event are exempt from the requirements above but will be subject to other conditions imposed in connection with the event. Those conditions will be identified in the special event permit process and guided by the following criteria found in subsections 4-18-2(c) and (e):

Before issuing a permit under this section the city manager shall:

- Consult with the city fire and police departments and transportation division to determine the degree of congestion of any public right of way which may result from the proposed use, design and location, including the probability of impact of the proposed use on the safe flow of vehicular and pedestrian traffic. Factors considered shall include but not be limited to the width of the streets and sidewalks, the volume of traffic, the availability of off-street parking, or any other factor related to the protection of the public health, safety, and welfare;
- Consult with the Parks and Recreation Department to determine the appropriateness of commercial sales activities within or adjacent to parks and recreation facilities based on the public's use and enjoyment for recreational activities, events, competition with existing contracted concessionaires, and

impacts upon landscaping and facilities;

- Consult with the Downtown and University Hill Management Division and Parking Services to determine the appropriateness of sales activities within commercial districts based on the impact to the economic viability of existing businesses, the public's use and enjoyment of sidewalks and other public areas for patio and café seating, amenities including and not limited to benches, trees, trash receptacles, parking kiosks, bicycle parking, events, and the mobility of pedestrians;
- Determine whether the permit meets all requirements of this code and other ordinances of the city.
- The manager shall issue such permit upon a finding that, in view of the location or area proposed to be used and the type of business to be carried on, the sales business complies with all requirements of this code, other ordinances of the city, would not constitute an obstruction of public property or a health or safety hazard, and the public benefit from the proposed use exceeds its detriments. The city manager may impose reasonable conditions in the permit to assure the use of public property and right-of-way and protect the public health, safety, and welfare. The permittee shall meet all applicable requirements of chapter 3-2, "Sales and Use Tax," B.R.C. 1981.

Licensing

The general licensing provisions of chapter 4-1, "Licenses and Permits," B.R.C. 1981 shall apply to mobile food vehicle sales licenses. An individual or entity that wishes to operate a mobile food vehicle in the city must first obtain a Boulder County Health Department license and City of Boulder sales tax license. They may then apply for a mobile food vehicle license (see **Attachment B**) through the city's licensing department.

The applicant must provide proof of a valid driver's license, vehicle registration, motor vehicle insurance, and liability insurance. The application is reviewed by the Planning Department and then routed to the licensing department for approval or denial of the license. The cost of a mobile food vehicle license is \$200 and the license must be renewed annually. The cost for a renewal is \$200. As a condition of accepting the license, the applicant is required to sign the application agreeing to meet all the requirements pursuant to city code and to assume responsibility for the actions and omissions of its agents and employees in the performance of or failure to perform its obligations under the license.

ATTACHMENTS

- A. Draft ordinance
- B. License Application
- C. Zone Map
- D. Correspondence Received
- E. Late Night Dining
- F. Downtown Response – Mobile Food Vending Survey

ORDINANCE NO.7787

AN ORDINANCE AMENDING SECTION 4-18-2, "PUBLIC PROPERTY USE PERMITS," B.R.C. 1981, REGARDING MOBILE FOOD VEHICLES SALES; ADDING A NEW SECTION 4-20-65, "MOBILE FOOD VEHICLE SALES," B.R.C. 1981; AND AMENDING SECTION 9-6-5, "TEMPORARY LODGING, DINING, ENTERTAINMENT, AND CULTURAL USES," B.R.C. 1981, BY THE ADDITION OF A NEW SUBSECTION (D) REGARDING MOBILE FOOD VEHICLE SALES, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 4-18-2 is amended to read:

4-18-2 Public Property Use Permits.

- (a) No person shall place for sale or for solicitation of orders any merchandise or other things upon any street, alley, sidewalk, or other public property or suspended from any building or structure over the street, sidewalk, or public property without first obtaining a permit from the city manager under this section.
- (b) Nothing in this section shall be deemed to waive or supersede the requirement to obtain any other license or permit required by this code, including without limitation a license or permit to sell or display goods or merchandise on the Downtown Boulder Mall or University Hill, as required by chapter 4-11, "Mall Permits and Leases," or by section 4-18-4, "University Hill Mobile Vending Cart Permit," or for mobile food vehicle sales pursuant to section 9-6-5(d) "Mobile Food Vehicle Sales," B.R.C. 1981.
- (c) Before issuing a permit under this section the city manager shall:
- (1) Consult with the city fire and police departments and transportation division to determine the degree of congestion of any public right-of-way which may result from the proposed use, design and location, including the probability of impact of the proposed use on the safe flow of vehicular and pedestrian traffic. Factors considered shall include but not be limited to the width of the streets and sidewalks, the volume of traffic, the availability of off-street parking, or any other factor related to the protection of the public health, safety, and welfare;
 - (2) Consult with the Parks and Recreation Department to determine the appropriateness of commercial sales activities within or adjacent to parks and

1 recreation facilities based on the public's use and enjoyment for recreational
 2 activities, events, competition with existing contracted concessionaires, and
 3 impacts upon landscaping and facilities;

4 (3) Consult with the Downtown and University Hill Management Division and
 5 Parking Services to determine the appropriateness of sales activities within
 6 commercial districts based on the impact to the economic viability of existing
 7 businesses, the public's use and enjoyment of sidewalks and other public areas for
 8 patio and café seating, amenities including and not limited to benches, trees, trash
 9 receptacles, parking kiosks, bicycle parking, events, and the mobility of
 10 pedestrians;

11 (4) Determine whether the permit meets all requirements of this code and other
 12 ordinances of the city.

13 (d) With regard to mobile food vehicle sales on public property or in the public
 14 right-of-way, any such permit obtained under this section must be in connection with an
 15 approved organized permit pursuant to BRC 8-3-14 or street closure permit pursuant to
 16 BRC 2-2-11.

17 (e) The manager shall issue such permit upon a finding that, in view of the location or area
 18 proposed to be used and the type of business to be carried on, the sales business complies
 19 with all requirements of this code, other ordinances of the city, ~~and~~ would not constitute
 20 an obstruction of public property or a health or safety hazard, and the public benefit from
 21 the proposed use exceeds its detriments. The city manager may impose reasonable
 22 conditions in the permit to assure the use of public property and right-of-way and protect
 23 the public health, safety, and welfare. The permittee shall meet all applicable
 24 requirements of chapter 3-2, "Sales and Use Tax," B.R.C. 1981.

25 Section 2. Chapter 4-20 Fees is amended by the addition of a new subsection 4-20-65 to
 26 read:

27 **4-20-65. Mobile Food Vehicle Sales.**

28 An applicant for a mobile food vehicle permit shall pay a \$200 application fee and a \$200
renewal fee per year.

1 Section 3. Section 9-16-1, B.R.C. 1981 is amended by the addition of a new definition to
 2 read:

3 **9-16-1 General Definitions.**

4 ...

5 “Mobile Food Vehicle” means a readily movable, motorized-wheeled vehicle or a towed vehicle
 6 designed and equipped to prepare, or serve, and sell food, but which does not include mobile
 7 vending carts as defined in section 4-18-4, “University Hill Mobile Vending Cart Permit,” and
 8 section 4-11-12, “Mobile Vending Cart Permit,” B.R.C. 1981.

8 ...

9 Section 4. Paragraph 9-6-5(c)(2), B.R.C. 1981 is amended to read:

10 (c) **Temporary Sales or Outdoor Entertainment:**

11 ...

12 (2) Prohibitions: No person shall sell merchandise or services from a motor vehicle,
 13 trailer, mobile home, or tent upon any public or private property, including,
 14 without limitation, lots or portions thereof that are vacant or used for parking
 15 except as provided in this subsection.

16 Section 5. Section 9-6-5, B.R.C.1981 is amended by the addition of a new subsection

17 (d) to read:

18 **9-6-5 Temporary Lodging, Dining, Entertainment, and Cultural Uses.**

19 (d) Mobile Food Vehicle Sales. The following criteria apply to any mobile food vehicle
 20 sales use:

21 1. Standards: The city manager will permit mobile food vehicle sales on private
 22 property or in the public right of way if the use is permitted in the applicable
 23 zoning district and meets the following standards and conditions:

24 (A) The use shall be located at least:

25 i. 150 feet from any residential zone districts; and

26 ii. 100 feet from any established restaurant; and

27 iii. 200 feet from any other mobile food vehicle with regard to public
 28 right of way sales.

Distances shall be measured by the City on official maps as the radius
from the closest points on the perimeter of the applicant's mobile food
vehicle to the closest point of the designated residential zone or property
of the restaurant. With regard to measurement between two or more

1 mobile food vehicles in the public right of way, measurement shall be in
 2 the form of standard measuring devices including and not limited to a tape
 3 measure.

4 (B) No person shall operate a mobile food vehicle sales use without a permit
 5 or in violation of the conditions of a permit. The permit will be valid for
 6 12 consecutive months, or such other time as the city manager may by rule
 7 designate. Such application shall meet the following requirements:

- 8 i. provide proof of and maintain a valid driver's license, vehicle
 9 registration, and current motor vehicle insurance;
 10 ii. provide proof of and maintain a Colorado Retail Food license for a
 11 mobile unit;
 12 iii. provide proof of and maintain a valid sales use tax license;
 13 iv. provide payment of the fee prescribed by section 4-20-65, B.R.C.
 14 1981.

15 (C) As a condition of accepting the permit, applicant shall sign an agreement,
 16 in a form acceptable to the city manager in which the applicant agrees to
 17 to meet all requirements under this section and chapter 4-1, "General
 18 Licensing Provisions, B.R.C. 1981 and assume responsibility for the
 19 actions and omissions of its agents and employees in the performance of
 20 or failure to perform its obligation under the permit.

21 2. Scope:

22 (A) In addition to the zoning districts permitted by this section, mobile food
 23 vehicle sales may take place in other public property locations or in the
 24 public right of way but only as part of an approved organized event or
 25 street closure permit and granted pursuant to the authority in section 4-18-
 26 2, "Public Property Use Permit," B.R.C. 1981 or any other relevant code
 27 section.

28 (B) The standards set forth in subsection (d)(1)(A) and (d)(3) shall not apply
 29 to mobile food vehicle sales that meet the criteria as indicated above in
 30 (d)(2)(A) but shall be subject to any conditions imposed in connection
 31 with the event. All other requirements of this subsection shall apply.

32 (C) The city manager may from time to time prohibit the issuance of
 33 additional licenses and specified areas of the city in the interest of
 34 avoiding traffic congestion or preserving the public health, safety, and
 35 welfare.

- 1 3. Operating Requirements: No person who operates any mobile food vehicle on
2 public property or private property shall:
- 3 (A) obstruct the pedestrian or bicycle access, the visibility of motorists, nor
4 obstruct parking lot circulation or block access to a public street, alley or
5 sidewalk;
- 6 (B) locate any vehicle, structure, or device upon a public sidewalk within the
7 extended boundaries of a crosswalk or within ten feet of the extension of
8 any building entranceway, doorway, or driveway;
- 9 (C) fail to maintain and provide proof when requested of written consent from
10 the private property owner authorizing the property to be used for the
11 proposed use with regard to mobile food vehicle sales on private property;
- 12 (D) fail to park legally;
- 13 (E) operate before 7 a.m. or after 9 p.m. and for more than a maximum of 4
14 hours at any one approved location;
- 15 (F) set up any structures, canopies, tables or chairs;
- 16 (G) sell anything other than food and non-alcoholic beverages;
- 17 (H) provide amplified music;
- 18 (I) place signs/banners in or alongside the public right-of-way or across
19 roadways. Signs must be permanently affixed to or painted on the mobile
20 food vehicle;
- 21 (J) fail to have the vehicle attended at all times;
- 22 (K) fail to permanently display to the public in the food handling area of the
23 mobile food vehicle the permit authorizing such use;
- 24 (L) fail to provide trash receptacles and properly dispose of all trash, refuse,
25 compost, and garbage that is generated by the use;
- 26 (M) cause any liquid wastes used in the operation to be discharged from the
27 mobile food vehicle;
- 28 (N) fail to abide by all other ordinances of the city.
4. The general licensing provisions of chapter 4-1, "Licenses and Permits," B.R.C.
 1981 shall apply.

1 Section 6. Section 9-6-1 is amended by the addition of a new subsection to the Table 6-1
 2 Use Table.

3
 4 9-6-1(d) Schedule of Permitted Land Uses

Use Modules	R1	R2	R3	R4	R5	R6	R7	R8	MH	M1	M2	M3	B1	B2	B3	B4	B5	D1	D2	D3	I1	I2	I3	I4	P	A	Specific Use Standard
<u>Mobile Food Vehicle on Private Property</u>	*	*	*	*	*	*	*	*	*	<u>C</u>	<u>9-6-5(d)</u>																
<u>Mobile Food Vehicle on Public Right of Way</u>	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	*	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>C</u>	<u>9-6-5(d)</u>

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

17
 18 Section 8. The City Council deems it appropriate that this ordinance be published by title
 19 only and orders that copies of this ordinance be made available in the office of the city clerk for
 20 public inspection and acquisition.

21 INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
 22 TITLE ONLY this 5th day of April, 2011.

23
 24 _____
 25 Mayor

26 Attest:

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

1 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED

2 PUBLISHED BY TITLE ONLY this 26th day of April, 2011.

3
4 _____
5 Mayor

6 Attest:

7 _____
8 City Clerk on behalf of the
9 Director of Finance and Record

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Date Received: _____

Receipt Number: _____

Amount R'cvd: _____

Check Number: _____

**DRAFT CITY OF BOULDER
MOBILE FOOD VEHICLE LICENSE APPLICATION**

Please make checks payable to: CITY OF BOULDER
Return completed application, fee and supporting documents to:
FINANCE DEPARTMENT, LICENSING DIVISION
1777 Broadway, P.O. Box 791, Boulder, CO 80306.

You must apply at least 2 weeks prior to beginning sales and you cannot conduct business in Boulder until you have your Mobile Food Vehicle License, Boulder County Health Department Certificate and city sales tax license issued.

License is valid through December 31st of the current year and must be renewed annually, by January 1st, with a \$200 renewal fee.

License Application Fee: \$200.00

License Renewal Fee: \$200.00

Business Applicant: _____ Phone: _____

Address: _____
(Include Street, PO Box, City, State & Zip)

Trade Name: _____ Phone: _____

Business Mailing Address: _____

Business Email Address: _____

Address of Commissary: _____

Business Contact Name and Phone Number in case of Location Complaints: _____

Business owned by: Individual Partnership Corporation Limited Liability Company

If an individual or partnership, provide the following information:

Name Home Address (City-State-Zip) Date of Birth

Name Home Address (City-State-Zip) Date of Birth

Name Home Address (City-State-Zip) Date of Birth

(IF NECESSARY, SUPPLY ADDITIONAL INFORMATION ON A SEPARATE PAGE AND ATTACH)

If a corporation or LLC, provide the following information:

President/ Managing Member:

Name	Home Address (City-State-Zip)	Date of Birth
------	-------------------------------	---------------

Vice-Pres./Member:

Name	Home Address (City-State-Zip)	Date of Birth
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Secretary/ Member:

Name	Home Address (City-State-Zip)	Date of Birth
------	-------------------------------	---------------

Treasurer/ Member:

Name	Home Address (City-State-Zip)	Date of Birth
------	-------------------------------	---------------

(IF NECESSARY, SUPPLY ADDITIONAL INFORMATION ON A SEPARATE PAGE AND ATTACH)

Please attach a list of all owners and employee’s names, home addresses and birth dates who will drive the mobile food vehicle.

Please provide a brief description of your business:

Please refer to the attached map which indicates the allowed zones of operation for mobile food vehicles. Below is a summary of the zoning requirements:

Private Property: Allowed in commercial districts as indicated in BRC 9-6-1 with specific criteria.

Public Right of Way, such as public streets: Allowed only in Industrial Zones as indicated in BRC 9-6-1 with specific criteria or in connection with an approved organized event permit.

Public Property: Allowed only as part of an organized event permit.

Mobile Food Vehicle Information that must be provided with Application:

With this application, the applicant must:

- 1) Furnish the city copies of valid drivers’ licenses for all drivers of the mobile food vehicle.
- 2) Furnish the city with a copy of the mobile food vehicle current registration.
- 3) Furnish the city with a copy of the mobile food vehicle insurance.
- 4) Furnish the city with a certificate signed by a qualified agent of an insurance company evidencing the existence of valid and effective policies of workers' compensation and public liability and property damage insurance naming the city and its officers and employees as an additional named insured on the liability policy with minimum limits of \$150,000.00 for any one person and \$600,000.00 for any one accident, and public property damage insurance with a minimum limit of \$100,000.00 for any one accident.
- 5) Furnish the city with a copy of a valid Boulder County Health Department certificate for the mobile food vehicle.

Have you applied for a City of Boulder Business/Sales Tax License? Yes No

If you answered “yes,” please provide a copy of the issued sales tax license or the sales tax license application indicating payment of the fee.

If you answered “no,” contact the Sales Tax department at: 303-441-3050. Please note that a license will not be issued until proof of applying for and/or receiving a city sales tax license is provided.

OATH OF APPLICANT

I hereby certify on behalf of the applicant to agree to abide by the requirements as outlined in the Boulder Revised Code and as outlined in the attachment to this application. As per regulation and in accordance with the attached map, the applicant understands that operation of a mobile food vehicle is allowed only in certain zoning districts.

I hereby certify on behalf of the applicant that the business has prior properly obtained, will keep on file, and will provide to the city if requested a copy of the written permission from the private property owner to operate on their private property.

I hereby certify under penalty of perjury in the second degree, that the above application, statements and all attachments are true and correct to the best of my knowledge, and that I have read, understood and agree to all conditions within this application and attachments.

Signature of Applicant

Print Name, Title & Date

Attachments that must be included with this Mobile Food Vehicle License application:

- Mobile Food Vehicles Standards and Operating Requirements (provided and attached with application)
- Map of allowed zones for operation (provided and attached with application)
- List of all employees driving the mobile food vehicle with copies of valid drivers licenses (provided by applicant)
- Current Boulder County Health Department Food Establishment Certificate (provided by applicant)
- Current City of Boulder Sales Tax License or Application with payment confirmation (provided by applicant)
- Current Mobile Food Vehicle registration and insurance (provided by applicant)
- Certificate of Insurance (provided by applicant)

FOR OFFICE USE ONLY

Sales Tax Department Recommendation: Approve Deny

Date Sent: _____

Remarks: _____

Name: _____ Date: _____

Community Planning and Sustainability Recommendation: Approve Deny

Date Sent: _____

Remarks: _____

Name: _____ Date: _____

DRAFT

Mobile Food Vehicle Standards and Operating Requirements

Boulder Revised Code 9-6-5-d

Standards:

The city manager will permit mobile food vehicle sales on private property or in the public right of way if the use is permitted in the applicable zoning district and meets the following standards and conditions:

The use shall be located at least:

- 100 feet from any residential zone districts; and
- 100 feet from any established restaurant; and
- 200 feet from any other mobile food vehicle with regard to public right of way sales.

No person shall operate a mobile food vehicle sales use without a permit. The city manager will approve a permit if the applicant pays the fee prescribed by Section 4-20-65, B.R.C. 1981. The permit will be valid for 12 consecutive months, or such other time as the city manager may by rule designate. Such application shall meet the following requirements:

- provide proof of and maintain a valid driver's license, vehicle registration, and current motor vehicle insurance;
- provide proof of and maintain a Colorado Retail Food license for a mobile unit;
- provide proof of and maintain a valid sales use tax license;

As a condition of accepting the permit, applicant shall sign an agreement, in a form acceptable to the city manager in which the applicant agrees to meet all requirements under this section and Chapter 4-1, "General Licensing Provisions, B.R.C. 1981 and assume responsibility for the actions and omissions of its agents and employees in the performance of or failure to perform its obligation under the permit.

Operating Requirements:

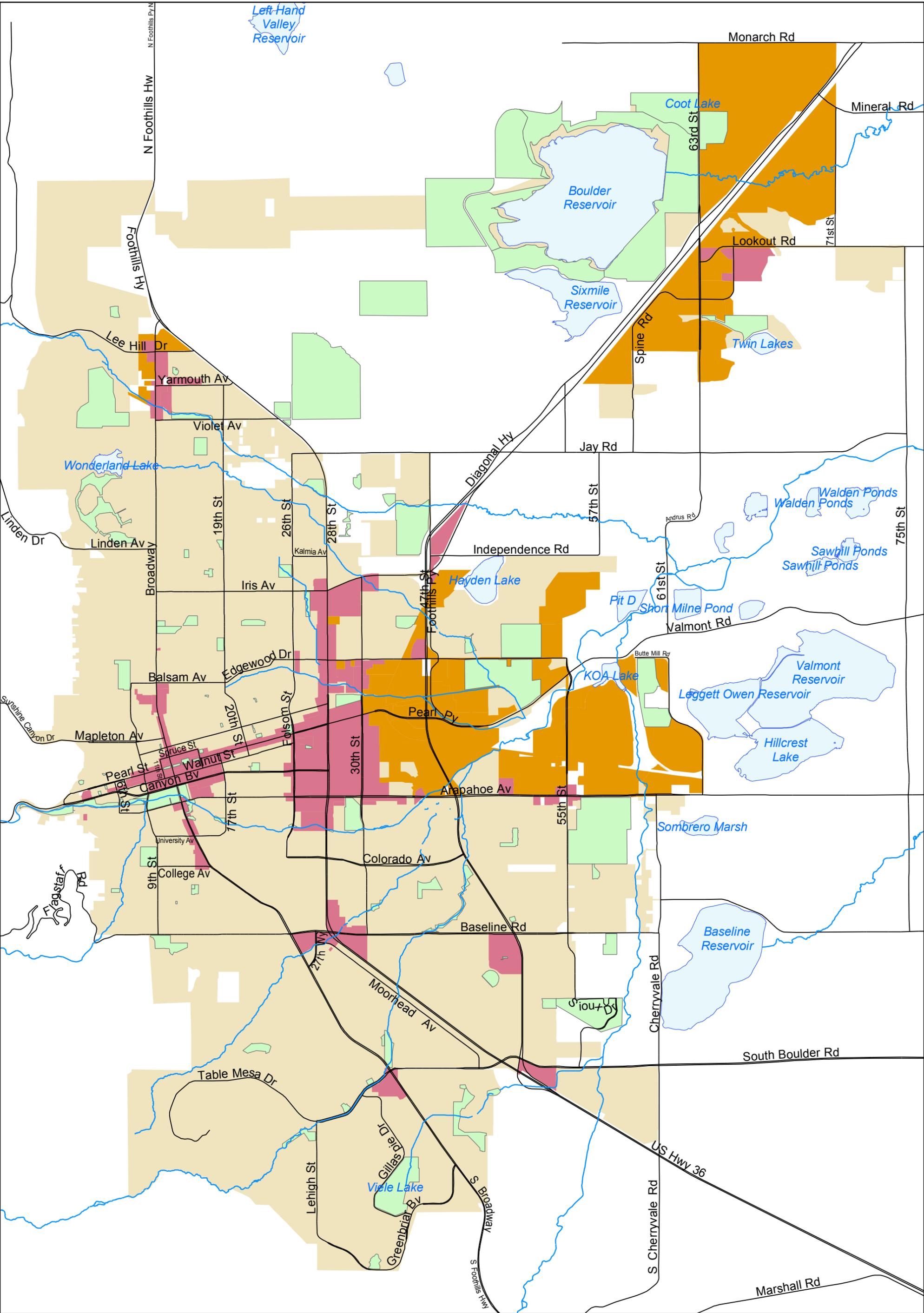
No person who operates any mobile food vehicle on public property or private property shall:

- obstruct the pedestrian or bicycle access, the visibility of motorists, nor obstruct parking lot circulation or block access to a public street, alley or sidewalk;
- locate any vehicle, structure, or device upon a public sidewalk within the extended boundaries of a crosswalk or within ten feet of the extension of any building entranceway, doorway, or driveway;
- fail to maintain and provide proof when requested of written consent from the private property owner authorizing the property to be used for the proposed use with regard to mobile food vehicle sales on private property;
- fail to park legally;

ATTACHMENT B

- operate before 7 a.m. or after 9 p.m. and for no more than 4 hours at any one approved location;
- set up any structures, canopies, tables or chairs;
- sell anything other than food and non-alcoholic beverages;
- provide amplified music;
- place signs/banners in or alongside the public right of way or across roadways. Signs must be permanently affixed to or painted on the mobile food vehicle;
- fail to have the vehicle attended at all times;
- fail to permanently display to the public in the food handling area of the mobile food vehicle the permit authorizing such use;
- fail to provide trash receptacles and properly dispose of all trash, refuse, compost, and garbage that is generated by the use;
- cause any liquid wastes used in the operation to be discharged from the mobile food vehicle;
- fail to abide by all other ordinances of the city.

Mobile Food Truck Operation



Mobile Food Truck Operation

- Private Property and Public ROW
- Private Property Only

- Urban Parks
- Boulder, City Limits

- Roads
- Creek
- Major Lakes

Public Hearing Item 5A





Downtown Boulder, Inc. Board of Directors Position on Regulating Food Trucks

The Board of Downtown Boulder, Inc. (DBI) endorses the regulation of mobile food trucks in the downtown district as drafted by City staff. The proposed guidelines successfully balance the right of access for these new entrepreneurs with the need to maintain the vibrant restaurant scene that makes downtown such a popular destination for both locals and tourists.

Santa Monica and Los Angeles are often cited as examples of cities where the trucks and “brick and mortar” restaurants coexist successfully. However, when our downtown staff spoke with their counterparts in these two cities, they heard a clear message that trucks can harm existing restaurants and a proliferation of mobile food vendors can endanger the character and vitality of a district. Specific issues include:

Signage & Visibility. As in Santa Monica, Boulder restaurants face strict city codes that limit the size, color and visibility of their signage. Food trucks have no such restrictions. Operators can cover every inch of their large vehicles in whatever colors and graphics they choose to promote their business. The result is a “sign” that is many times larger and more visible than what is allowed for storefront businesses. In California, this has forced some restaurants to buy trucks or trailers and cover them with oversized graphics. They don’t sell from these mobile “billboards” but use them as extra signage to compete with the brightly colored food trucks.

An Unequal Playing Field. Operating a restaurant is risky and expensive. A typical 2,000 square foot quick-serve restaurant in downtown Boulder will require \$400,000 to \$600,000 to build a commercial kitchen and finish the space. The business will then pay \$6,000 to \$8,000 per month in rent. In addition, property taxes and common area expenses average another \$1,500 for a total monthly occupancy cost of up to \$9,500. Truck owners can start and operate their ventures at a small fraction of these costs. This allows them to undercut the prices of restaurants and siphon customers away from the small businesses whose property taxes pay to keep downtown clean and safe.

Proliferation. In L.A. and Santa Monica, the success of the food vendors has led to mobile retail trucks selling shoes, clothing, etc. Some are even outfitted with dressing rooms. This proliferation into other types of businesses has increased tensions between storefront businesses and the trucks.

These other cities are now trying to regulate the trucks to mitigate their impacts. Boulder City staffers are smart to get ahead of the curve and put some reasonable limits on this new trend before we face the same issues that have arisen elsewhere.

Mobile food vendors are part of an exciting national trend and most deliver high quality food conveniently and affordably. However, without reasonable limits on when and where they operate, the trucks could threaten the viability of our downtown restaurant scene. DBI urges City Council to adopt the common sense regulations proposed by staff.

Distance proposal.txt

ATTACHMENT D

From: thetasterietruck@gmail.com
Sent: Wednesday, February 09, 2011 10:32 PM
To: Cunningham, Ellen
Subject: Distance proposal

Hi Ellen,

My apologies for the extremely late response in getting this over to you.

As I mentioned in the meeting last week, the only amendment I would propose on the new ordinance is the distance requirement from a brick and mortar restaurant. I think this is more than

fair for brick and mortar places serving the same type of cuisine but i would propose that the requirement be less if the mobile unit is serving a completely different type of cuisine than the Brick and mortar, thus not in direct competition.

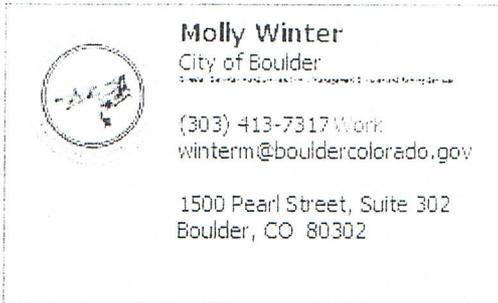
Let me know if you have any questions or concerns.

Many thanks!

Sent from myTouch 4G

Cunningham, Ellen

From: Winter, Molly
Sent: Monday, April 04, 2011 11:43 AM
To: Cunningham, Ellen
Subject: FW: mobile food vending
Attachments: Molly Winter.vcf; image001.jpg



From: Kara W. Edmunds [<mailto:kwe@greensborolawyer.com>]
Sent: Monday, April 04, 2011 9:36 AM
To: Council
Subject: mobile food vending

Hi. I am a boulder resident and have greatly enjoyed the unique experience of "mobile dining." This did not exist where I moved from in NC and I find it a fun and different dining experience. It allows me to "eat out" (literally outside and enjoy the beautiful boulder scenery and weather) while not taking too much time (ie- like 'fast food' but much healthier and more delicious!) It is also so fun how the food 'comes to you.' I like the Comida truck in particular which comes to the Health Department parking area on Broadway. I can walk, saving precious resources, and so can all the people who work in the building. Think of the savings in gas! Anyway, it also allows me to interact with the people who live and work in my neighborhood. Please consider further support and tolerance of mobile food vending.

Kara Edmunds
Conifer Ct.
Boulder

Kara W. Edmunds
Direct: 336.458.0058 x 102
Fax: 336.458.0117

Confidentiality Notice

The information contained in this e-mail transmittal is privileged and confidential intended for the addressee only. If you are neither the intended recipient nor the employee or agent responsible for delivering this e-mail to the intended recipient, any disclosure of this information in any way or taking of any action in reliance on this information is strictly prohibited. If you have received this e-mail in error, please notify the person transmitting the information immediately.

Cunningham, Ellen

From: Winter, Molly
Sent: Wednesday, April 06, 2011 2:41 PM
To: Cunningham, Ellen
Subject: Fwd: Mobile food vending

Sent from my iPhone

Begin forwarded message:

From: The Everett/Riccio family <everett.riccio@gmail.com>
Date: April 6, 2011 9:44:55 AM CDT
To: Council <Council@bouldercolorado.gov>
Subject: **Mobile food vending**

I wanted to speak up on the issue of mobile food vending. I'm really excited about the current mobile food trucks that are operating in the Boulder and greater Denver area, and have been purchasing great food from them for almost a year. They are exactly the type of business that Boulder should support, as they revitalize different areas around town, wherever they are located. Who else could make a nondescript office parking lot into a fun and festive lunch spot? They serve amazing food, partner with and support other local businesses when they park nearby (it's great to see the interaction and cooperation between business owners and patrons) and improve Boulder's food and social scenes. We need this type of sophistication and diversity in our local economy, and we also need things that will bring people together, get them outdoors and interacting, and introduce them to new ideas. Having traveled to many other cities that have vital mobile vending scenes (most recently Seattle and Austin), it would be wonderful to have this type of addition to our town. Please support mobile vending and encourage it all that you can!

Thanks,
Susan

Cunningham, Ellen

From: Winter, Molly
Sent: Wednesday, April 06, 2011 2:41 PM
To: Cunningham, Ellen
Subject: Fwd: In support of the Mobile Vending Code

Sent from my iPhone

Begin forwarded message:

From: Shelly Drumm <shelly@drumm.info>
Date: April 6, 2011 10:20:00 AM CDT
To: Council <Council@bouldercolorado.gov>
Cc: Rayme at Comida <rayme@eatcomida.com>, Walnut a Go Go <walnutagogo@gmail.com>, Laura at Streat Chefs <laura@streachefs.com>
Subject: In support of the Mobile Vending Code

Dear City Council,

I'm writing to express my enthusiasm and support for Boulder's growing street food scene. The unique emerging business model of the gourmet food truck (or cart or trailer, in many cases!) has allowed a new crop of energetic entrepreneurs to take advantage of a relatively low barrier to entry to bring a nationwide trend to Boulder and Denver. Serving up amazing food (have you tried the Comida truck's poblano gordita? Or Walnut A Go Go's mouthwatering breakfasts?!), these trucks are able to bring interesting and exciting new food options to all parts of your great city. The beauty of the trucks themselves draw curious onlookers and the quality of the food often quickly converts them to rabid fans!

Their mobility adds a feeling of spontaneity and fun to following them, and the interactive nature of their social networking presences pull citizens of Boulder and surrounding areas into a buzzing community of shared interest. Through my involvement in DenverStreetFood.com, I've met some incredibly interesting people all of whom share a passion for this scene. There's a sense of civic pride that's being tapped into by these vendors that I find heartwarming.

In addition, I've been able to watch as our website's list of active vendors has grown from about 6 to the current list of over 40 vendors in less than a year - several of them located in Boulder, and more are cropping up all the time. That's over 30 new small businesses on the road in the Denver/Boulder metro area! That's good news for Colorado. I can't tell you how much it means to me, as a consumer, to know that if I want to pop out of my office for a quick lunch, my options for a quick bite on-the-go aren't limited to national chains. I would much rather spend my money on a great meal crafted by a local chef and support a Colorado-grown business.

I understand that the Boulder City Council is currently reviewing a proposed Mobile Vending Code that would create a business environment in which this emerging model can continue to grow and evolve. I'd like to urge you to do what is in your power to make Boulder a food truck friendly city, and by extension, a small-business friendly city. Creating an environment where these creative entrepreneurs can thrive and the cultural benefit they provide to the city can grow is in all of our best interests.

Cunningham, Ellen

From: Winter, Molly
Sent: Wednesday, April 06, 2011 2:41 PM
To: Cunningham, Ellen
Subject: Fwd: food trucks

Sent from my iPhone

Begin forwarded message:

From: Sarah Epp <sarahgepp@gmail.com>
Date: April 6, 2011 9:16:40 AM CDT
To: Council <Council@bouldercolorado.gov>
Subject: food trucks

Hello,

I support the change of zoning and land use regulations to allow mobile food trucks to operate on private property with the permission of the property owner in the city's industrial (I), business (B), mixed use (MU), and downtown zoning (DT) districts.

Thank you,

Sarah Epp
275 Short Place
Louisville 80027

Cunningham, Ellen

From: Winter, Molly
Sent: Thursday, April 07, 2011 9:06 AM
To: Cunningham, Ellen
Subject: Fwd: Mobile food trucks

Sent from my iPhone

Begin forwarded message:

From: "Marshall, Dianne" <MarshallD@bouldercolorado.gov>
Date: April 7, 2011 9:47:58 AM CDT
To: Council <Council@bouldercolorado.gov>
Subject: **FW: Mobile food trucks**

-----Original Message-----

From: Brian Benham [mailto:brian@dishgourmet.com]
Sent: Wednesday, April 06, 2011 5:17 PM
To: Brautigam, Jane
Cc: Fetherston, Paul
Subject: Mobel food trucks

Jane,

My name is Brian Benham I own a gourmet deli at 1918 pearl st. I am sending this e mail as to the mabel food trucks in downtown. I don't thing it is good for downtown to let the food trucks downtown. We all pay top \$\$ for the space we rent or own. If someone can pull up at our rush time and move on it is just not right. We all need to suffer on the snowy,rainy,and just off day's and they get to pick just the best one's with no rent. We all work hard to keep the restaurants we have going. I think office parks and other places with maybe not the high volume of restaurants if a better fit for the trucks. Thanks for you time. If you have any questions fell free to call or e mail.

Brian Benham
Dish Gourmet
1918 Pearl St
303-817-4671

Cunningham, Ellen

From: CouncilAdmin@bouldercolorado.gov
Sent: Thursday, April 07, 2011 9:25 AM
To: Cunningham, Ellen
Subject: [CouncilCorr] FWD: Food Trucks Yes Please!

This is only for your information. No need to reply.

From: Tara Eastcott, Psy.D.
Date Received: 04/06/2011
Response Key: 45835
Respondents sent this email:
Lane Landrith in DUHMDPS sent an FYI only.
Ellen Cunningham in DUHMD sent an FYI only.
Jen Korbelik in CMO sent an FYI only.

Council Correspondence:

Please support food trucks! Because they are tasty, and because it's cool to support local small businesses, and because it is just the right and Boulder thing to do!

Tara Eastcott, Psy.D.
2121 30th Street, Suite 108
Boulder, CO 80301
720.236.2821
www.tarapsyd.com

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If you would like to respond to this correspondence, please use the following link "<http://intraweb.bouldercolorado.gov/CouncilCorr/pages/email/respondLink.jsf?respKey=Q2FTY0NyS1Nj>"

If the link above does not work, copy and paste the link into your browser.

Cunningham, Ellen

From: CouncilAdmin@bouldercolorado.gov
Sent: Thursday, April 07, 2011 9:25 AM
To: Cunningham, Ellen
Subject: [CouncilCorr] FWD: mobile vending - YES

This is only for your information. No need to reply.

From: Laurie Lamar
Date Received: 04/07/2011
Response Key: 45838
Respondents sent this email:
Lane Landrith in DUHMDPS sent an FYI only.
Ellen Cunningham in DUHMD sent an FYI only.
Jen Korbelik in CMO sent an FYI only.

Council Correspondence:

Hi, I am a 20-year resident of Boulder. I am writing to encourage City Council to approve the mobile vending rules that you are considering. As long as health regulations are in place and enforced, these mobile restaurants (like Comida or StreatChefs) are a healthy, delightful, affordable treat in a busy life. I travel a lot and other cities have this type of thing. I think we should too.

Best regards, Laurie Lamar
708 Ithaca Drive
Boulder, CO 80305
laurie@laurielamar.com

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["http://intraweb.bouldercolorado.gov/CouncilCorr/pages/email/respond link.jsf?respKey=Q2FTY0NyS0Ny"](http://intraweb.bouldercolorado.gov/CouncilCorr/pages/email/respond_link.jsf?respKey=Q2FTY0NyS0Ny)

If the link above does not work, copy and paste the link into your browser.

Cunningham, Ellen

From: CouncilAdmin@bouldercolorado.gov
Sent: Thursday, April 07, 2011 9:26 AM
To: Cunningham, Ellen
Subject: [CouncilCorr] FWD: FW: Mobile food trucks

This is only for your information. No need to reply.

From: Marshall, Dianne
Date Received: 04/07/2011
Response Key: 45842
Respondents sent this email:
Jen Korbelik in CMO sent an FYI only.
Lane Landrith in DUHMDPS sent an FYI only.
Ellen Cunningham in DUHMD sent an FYI only.

Council Correspondence:

-----Original Message-----

From: Brian Benham [mailto:brian@dishgourmet.com]
Sent: Wednesday, April 06, 2011 5:17 PM
To: Brautigam, Jane
Cc: Fetherston, Paul
Subject: Mabel food trucks

Jane,
My name is Brian Benham I own a gourmet deli at 1918 pearl st. I am sending this e mail as to the mabel food trucks in downtown. I don't thing it is good for downtown to let the food trucks downtown. We all pay top \$\$ for the space we rent or own. If someone can pull up at our rush time and move on it is just not right. We all need to suffer on the snowy,rainy,and just off day's and they get to pick just the best one's with no rent. We all work hard to keep the restaurants we have going. I think office parks and other places with maybe not the high volume of restaurants if a better fit for the trucks. Thanks for you time. If you have any questions fell free to call or e mail.

Brian Benham
Dish Gourmet
1918 Pearl St
303-817-4671

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If the link above does not work, copy and paste the link into your browser.

Cunningham, Ellen

From: CouncilAdmin@bouldercolorado.gov
Sent: Thursday, April 07, 2011 9:31 AM
To: Cunningham, Ellen
Subject: [CouncilCorr] FWD: no mobile vending downtown PLEASE

This is only for your information. No need to reply.

From: David Cohen
Date Received: 04/06/2011
Response Key: 45844
Respondents sent this email:
Lane Landrith in DUHMDPS sent an FYI only.
Ellen Cunningham in DUHMD sent an FYI only.
Jen Korbelik in CMO sent an FYI only.

Council Correspondence:

Hello - I am writing since you have had many emails requesting mobile vending be allowed downtown. While the few responsible for your deluge of emails may be hiding under the guise of "food for the people", the fact is, they are attempting to capitalize on the existing downtown restaurants in a mosquito-like way.

While the stationary restaurant ends up charging more for a meal, they are also paying high property taxes and rents, providing ADA accessible restrooms and entrances, possibly toning down their look to abide by Landmarks, paying for numerous building permits and application fees, and are not allowed to put out temporary signs.

A brightly colored truck with sign painted on its side could easily pull up nearby and create a great deal of unanticipated (and therefore costly) competition by offering food and drink at lower prices due to their much lower overhead.

The reason there are so many people to serve downtown is due in part because of the huge risks restaurant owners have taken to create a market. To allow competition to pull up during the meal time rushes would be incredibly unfair.

Thanks for listening!

David

David Cohen
SpruceConfections@mac.com

767 Pearl Street, suite B
Boulder, CO 80302
303-449-6773 (phone/fax)

If you would like to respond to this correspondence, please use the following link
["http://intraweb.bouldercolorado.gov/CouncilCorr/pages/email/respond_link.jsf?respKey=Q2FTY0NyQ2FDYQ%3D%3D"](http://intraweb.bouldercolorado.gov/CouncilCorr/pages/email/respond_link.jsf?respKey=Q2FTY0NyQ2FDYQ%3D%3D)

If the link above does not work, copy and paste the link into your browser.

Cunningham, Ellen

From: CouncilAdmin@bouldercolorado.gov
Sent: Friday, April 08, 2011 8:25 AM
To: Cunningham, Ellen
Subject: [CouncilCorr] FWD: Mobile Food Vending Ordinance

This is only for your information. No need to reply.

From: Steven Ross
Date Received: 04/07/2011
Response Key: 45848
Respondents sent this email:
Lane Landrith in DUHMDPS sent an FYI only.
Jen Korbelik in CMO sent an FYI only.
Ellen Cunningham in DUHMD sent an FYI only.

Council Correspondence:

Dear Members,

I am the owner of The Lazy Dog, located at 1346 Pearl Street. I am writing regarding the Mobile Food Vending Ordinance presently before the council. I fully support the Ordinance the way it is written and urge the Council to reject any loosening of the Ordinance as it is.

The Pearl Street Mall is the heart and soul of Boulder and, as such, has been the place where all the businesses in town want to be. I started my tenancy at this location in 2004 after spending an enormous amount of money renovating the space to accommodate my restaurant. My choice to invest was based solely on the value of this location and all that it is. Like every other business on The Pearl Street Mall, I evaluated the competition, the traffic, the visibility and the uniqueness of being here. The formula is very simple: I sell food and liquor. If you allow mobile vendors, who pay NO rent and have none of the restrictions and expenses any of us have with a brick and mortar store, on or near Pearl Street, you will devalue my business tremendously. It would be unfair competition and you would fundamentally change the value of all the businesses located at or near the Mall.

In 2008 I purchased the building. My purchase price was based on all of the value stated above. If my business has to fight unfair competition that can undercut prices because of their no-rent status and lower costs, the value of my building ownership will decrease. Is that fair?

In addition to the above, like many businesses I have a patio that I pay rent to the city for. Is the city going to lower those costs in the event that that territory is less valuable? I would guess not.

The city set up the Mall to be what it always has been and all of us who have invested our life savings to be here have not only counted on that continuing but we have also valued those investments accordingly. Changing that mix that has made the Mall a fantastic success would be a terrible and unfair decision causing many businesses hardship and a huge loss of their investment.

I strongly urge the Council to accept the Ordinance as written and reject any loosening of the rules as they are.

Respectfully,

Steven Ross
Owner
Lazy Dog

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["http://intraweb.bouldercolorado.gov/CouncilCorr/pages/email/respond_link.jsf?respKey=Q2FTY0NyQ2FDcg%3D%3D"](http://intraweb.bouldercolorado.gov/CouncilCorr/pages/email/respond_link.jsf?respKey=Q2FTY0NyQ2FDcg%3D%3D)

If the link above does not work, copy and paste the link into your browser.

Cunningham, Ellen

From: CouncilAdmin@bouldercolorado.gov
Sent: Friday, April 08, 2011 8:26 AM
To: Cunningham, Ellen
Subject: [CouncilCorr] FWD: Food Trucks and Mobile Vending in Downtown Boulder

This is only for your information. No need to reply.

From: Greg Lefcourt
Date Received: 04/07/2011
Response Key: 45849
Respondents sent this email:
Ellen Cunningham in DUHMD sent an FYI only.
Jen Korbelik in CMO sent an FYI only.
Lane Landrith in DUHMDPS sent an FYI only.

Council Correspondence:
Dearest Boulder City Council and Mayor Osborne,

I write to you today as a concerned business owner in downtown Boulder, CO. I am aware that the food truck craze is becoming very popular and Boulder is now in the spotlight for allowing such enterprises to operate with more coverage.

Let me first say that I am a big fan of food trucks and mobile vending. I love the idea and the uniqueness of the mobile food fad. Rayme from Comida and Hosea from StrEAT Chefs are both personal friends of mine and I fully support their businesses.

I know that many of the vendors are pushing for the right to come into the downtown Boulder area to sell their goods. I do support this move, however, I do wish to urge the city to be extremely strict and particular about how, where, and when the mobile units will be allowed to operate.

Please consider the following when making your decision as to how you will allow the food trucks to do business:

1. Downtown Boulder tenants pay extremely high rent, taxes, and annual fees for doing business in Downtown Boulder.
2. We have had to obtain many permits and permissions costing thousands of dollars.
3. We are required to have ADA approved restrooms.
4. We must obtain permission from the Landmarks Board to make any changes to our buildings.
5. We are a huge draw for both locals and tourists alike to visit downtown Boulder and we generate a lot of commerce for the city.

If the City Council does allow mobile vending to take place in downtown Boulder, some suggestions to make current local business owners accepting of the sudden increase in competition could be the following:

1. Designate a location for the trucks to park and do business a fair distance away from all current businesses (maybe in the library parking lot or near the bus station), or just keep it out of downtown altogether and strictly to industrial zones in East/South/North Boulder.
2. Have strict guidelines for hours of operation and days of the week.
3. Set up specific rules so competition is between other mobile vendors and not directly influencing bricks and mortar businesses

The rising trend for food trucks over the last few years has finally come to the Denver/Boulder area and with careful planning, everyone involved should be able to be happy. Take Portland, Oregon as an example for how mobile vending can work and be accepted by both the city government and local businesses. The website, <http://www.foodcartsportland.com/>, is a pro-food truck site, but it does explain how P-town handles the massive onslaught of food truck vending.

As a fairly new downtown business owner, the concern of fierce competition is always apparent. I encourage the City Council to please act fairly and use superior ethical judgement when deciding how to procede with allowing mobile vending in the Downtown Boulder area.

Thank you so much for your time. Hope to see you soon for coffee....

Kind Regards,

Greg Lefcourt
Co-Owner

Ozo Coffee Co.
1015 Pearl St.
5340 Arapahoe Ave.
Boulder, CO

email: greg@ozocoffee.com
direct #: 303.859.3944

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Cunningham, Ellen

From: CouncilAdmin@bouldercolorado.gov
Sent: Tuesday, April 12, 2011 8:24 AM
To: Cunningham, Ellen
Subject: [CouncilCorr] FWD: food trucks

This is only for your information. No need to reply.

From: LAUREL LINDBERG
Date Received: 04/11/2011
Response Key: 45884
Respondents sent this email:
Ellen Cunningham in DUHMD sent an FYI only.
Jen Korbelik in CMO sent an FYI only.
Lane Landrith in DUHMDPS sent an FYI only.

Council Correspondence:

On a recent trip to Portland, Or, I had a fun time walking around checking out the food trucks in that city. It was an exciting and new adventure. I encourage you to make this happen in Boulder or at least not block its development. I understand that food safety could be an issue but as other cities have dealt with this I am sure Boulder can as well. Please encourage entrepreneurial ship in our city.

Thanks you,

Laurel lindberg
720 Iris Ave

If you would like to respond to this correspondence, please use the following link
["http://intraweb.bouldercolorado.gov/CouncilCorr/pages/email/respond link.jsf?respKey=Q2FTY0NyQ3JDYQ%3D%3D"](http://intraweb.bouldercolorado.gov/CouncilCorr/pages/email/respond%20link.jsf?respKey=Q2FTY0NyQ3JDYQ%3D%3D)

If the link above does not work, copy and paste the link into your browser.

LATE NIGHT FOOD OPTIONS – HILL

ATTACHMENT E

Name	Late Night Kitchen Hours	Food Offering
Abo's Pizza	TH-SA till 2:00AM;SU-WE till 12:00AM	Pizza & calzones
Café Aion	Thursday-Saturday till 11:00PM	Farm to table upscale dining
Bova's Pantry	Everyday till 3:00AM	Market & Deli sandwiches
Cheba Hut	TH-SA till 11:00PM	Toasted sub sandwiches
Cosmo's Pizza	Everyday till 2:30AM	Pizza
Del Taco	TH-SA till 3:00AM; SU-WE till 2:00AM	Tacos, burritos, nachos
Fatty J's Pizza at The Goose	TH-SA till 3:30AM; SU-WE till 12:00AM	Pizza
Five Guys Burgers & Fries	TH-SA till 12:00AM; SU-WE till 11:00PM	Burgers, fries and peanuts
Half Fast Subs	TH-SA till 1:00AM; SU-WE till 11:00PM	Sub sandwiches
Hapa Sushi	TH-SA till 12:00AM	Sushi & Japanese dining
Illegal Pete's	TH-SA till 2:30AM; SU-WE till 12:00AM	Burritos
Jimmy John's	FR-SA till 4:00AM; SU-TH till 3:00AM	Sandwiches & salads
K's China	Everyday till 12:00AM	Chinese fare
Mamacita's Mexican	TH-SA till 12:00AM	Mexican dining
Papa Romano's	TH-SA till 3:00AM; MO-WE till 2:00AM	Pizza & calzones
Qdoba	TH-FR till 12:00AM; SA-WE till 11:00PM	Mexican fare
Tra Lings	TH-SA till 2:30AM; SU-WE till 12:00AM	Chinese fare
University Hill Market & Deli	Everyday till 4:00AM	Convenience mart & deli sandwiches

LATE NIGHT FOOD OPTIONS – DOWNTOWN

ATTACHMENT E

Name	Late Night Kitchen Hours	Food Specials
Boulder Organic Pizza	Friday-Saturday till 2:00 a.m.	Specials on pizza by the slice
Boulder Baked	Thursday-Sunday till Midnight	Baked to order cookies, brownie sundaes, delicious soups and a variety of grilled cheese sandwiches
Catacombs	Thursday-Sunday till Midnight	A variety of small plates, appetizers, burgers and sandwiches for under \$10.00. Full menu served all day
Corner Bar	Thursday-Sunday till Midnight	A variety of small plates, appetizers, burgers and sandwiches under \$10.00. Full menu served all day
Crepes a la Carte	Friday-Saturday till 3:00 a.m.	Delicious variety of sweet and savory crepes. Also serving gelato and wine by the glass
Dubbins Grubbery	Tuesday-Saturday till 2:45 a.m.	Serves a variety of sandwiches, a build-your-own quesadilla and a very popular breakfast burrito. All menu items are priced at \$8.00 or less
Hapa Sushi	Thursday-Saturday till Midnight	2 for \$7.00 sushi rolls
Illegal Pete's	Thursday-Saturday till 2:30 a.m.	Giant burritos, fish tacos, nachos, a variety of vegetarian items and delicious sopapillas
Lolita's Market	Open 24 Hours a Day	Full service market and deli open all day
Oak at Fourteenth	Thursday & Friday till Midnight, Saturday till 12:30 a.m.	Offers a gourmet, late-night menu that includes: fried pickles, a rootbeer float, homemade potato chips and braised short-rib tacos
Old Chicago	Thursday-Sunday till 1:00 a.m.	Bar food, bar food, bar food, yummy salads. Happy hour specials run Sunday-Thursday, 10 p.m.-Midnight
Pearl St. Grill/Gyro Stand	Tuesday-Saturday 8:00-2:30 a.m.	Food cart featuring all natural beef hamburgers and to-die-for gyros. Conveniently parked right next to the cab line
Pearl St. Pub	Sunday-Sunday till 1:30 a.m.	Mouth-watering hamburgers, fried mac 'n cheese, wings, sliders...

LATE NIGHT FOOD OPTIONS – DOWNTOWN

ATTACHMENT E

<u>Pizza Colore</u>	Thursday-Saturday till 2:30 a.m.	N.Y. style pizza by the slice, fresh calzones, sandwiches, salads and homemade desserts. 2 slices for \$7.00 special runs all day
<u>Rueben's Burger Bistro</u>	Thursday-Saturday till 1:00 a.m.	Build-your-own burgers, custom mac 'n cheese, wings, mussels and a late night happy hour that includes \$5.00 burgers



1942 Broadway, Suite 301
 Boulder, Colorado 80302
 Phone: 303.449.3774
 BoulderDowntown.com

Overview:

Between October 12, 2010 and March 30, 2011, 99 restaurants/coffee shops/bars/bakeries¹ in the Downtown Boulder Business Improvement District were asked to provide input on the subject of mobile food vending trucks via a Constant Contact survey². Five notifications were sent out requesting feedback from the query group: October 12, 2010, March 16, 2011, March 18, 2011, March 25, 2011 & March 29, 2011.

A total of 52 businesses³ replied to the survey representing a **53% response rate**. (Individual responses to the survey itself totaled 54 – this accounts for more than one person from a specific business responding.) Four questions were posed in the survey. Below is a quick overview of the responses:

1. Do you favor allowing mobile food vending trucks/trailers on city streets or other public property in downtown Boulder? **72% Opposed**
2. Would you be in favor of allowing mobile units downtown if they were restricted to private property (not streets or public spaces) and not allowed within 200 feet of a permanent restaurant? **63% Opposed**
3. Do you believe that mobile units have an unfair advantage over permanent restaurants? **74% Yes**
4. Do you favor allowing mobile units in parts of Boulder where there is not a concentration of restaurants (business parks, industrial areas, etc.) with permission of the private property owner? **91% in favor**

The information below can be found on the attached pages:

- Copy of the Constant Contact Survey and responses⁴
- Detailed comments from respondents for each individual question⁵

¹ Pages 2-4: Complete list of businesses who received survey

² <http://survey.constantcontact.com/survey/a07e32e88orgf7a109c/start>

³ Page 5: List of businesses represented in the survey

⁴ Pages 6 - 7

⁵ Pages 8 -17

Downtown Boulder Business Improvement District Businesses Contacted to Complete Survey:

15th Street Coffee
Aji
Amante Coffee
Amu Sake Bar and Restaurant
Antica Roma
Arabesque
Atlas Purveyors
The Attic Bar & Bistro
Bacaro Venetian Taverna
Belvedere Belgian Chocolate Shop- Boulder
Ben & Jerry's
BJ's Restaurant & Brewery
Black Cat
Bombay Bistro
BookEnd Espresso Cafe, LLC
Boulder Absinthe House
Boulder Baked
Boulder Cafe
Boulder ChopHouse & Tavern
Boulder Creek Market
Boulder Dushanbe Tea House
Boulder Organic Pizza
Boulder Theater
Brasserie Ten Ten
Brewing Market Coffee
The Catacombs
Centro Latin American Kitchen & Refreshment Palace
The Cheesecake Factory
Chipotle Mexican Grill
Conor O'Neill's Irish Pub & Restaurant
Corner Bar & Cafe
Crepes A La Cart
The Cup - Espresso Cafe
Dish
Dubbins Grubbery
Falafel King
Foolish Craig's Cafe
Frasca Food & Wine
George's Food and Drink
Gondolier on Pearl
Great Awakening
Hapa Sushi Grill & Sake Bar
Happy and The Bitter Bar
Himalayas Restaurant
Il Caffè

Illegal Pete's, Inc.
Japango
Jax Fish House
Jill's at St. Julien Hotel
Johnny's Cigar Bar
Kasa Japanese Grill & Bar
The Kitchen
L'Atelier
Laughing Goat Coffeehouse
Lazy Dog Sports Bar & Grill
Leaf Vegetarian Restaurant
Lindsay's Boulder Deli @ Haagen Dazs
Lolita's Market & Deli
Maiberry
Mateo
The Mediterranean
MoonGate Asian Bistro
Mountain Sun Pub & Brewery
Mustard's Last Stand
Nick-N-Willy's Take-N-Bake Pizza
Oak at Fourteenth
Old Chicago
Paradise Bakery & Cafe
Pasta Jay's
Pearl Street Grill
Pearl Street Pub
The Pinyon
Pizza Colóre
Pizzeria Locale
Q's Restaurant
The Rib House
Rio Grande Mexican Restaurant
Rueben's Burger Bistro
Salt the Bistro
Salvaggio's Deli
Saxy's Cafe
Sherpa's Adventurers
Shooters
Smooch Frozen Yogurt & Mochi
Spruce Confections
Starbucks Coffee
Sushi Tora
Sushi Zanmai
Tahona Tequila Bistro
Ted's Montana Grill
Tee and Cakes
Trattoria on Pearl

Trident Booksellers and Cafe
Two Spoons
The Unseen Bean
Walnut Brewery
Walrus Saloon
West End Tavern
Zoe Ma Ma

Downtown Boulder Business Improvement District Businesses Who Completed Survey:

Aji
Antica Roma
Belvedere Belgian Chocolate Shop- Boulder
Ben & Jerry's
Black Cat
BookEnd Espresso Cafe, LLC
Boulder Baked
Boulder Cafe
Boulder Dushanbe Tea House
Boulder Organic Pizza
Boulder Theater
Brasserie Ten Ten
Brewing Market Coffee
Centro Latin American Kitchen & Refreshment Palace
The Cheesecake Factory
Crepes A La Cart
The Cup - Espresso Cafe
Dish
Foolish Craig's Cafe
Frasca Food & Wine
George's Food and Drink
Great Awakening
Hapa Sushi Grill & Sake Bar
Happy and The Bitter Bar
Il Caffe
Japango
Jax Fish House
Lazy Dog Sports Bar & Grill
Leaf Vegetarian Restaurant
Lindsay's Boulder Deli @ Haagen Dazs
Mustard's Last Stand
Nick-N-Willy's Take-N-Bake Pizza
Pasta Jay's
The Pinyon
Pizza Colóre
Pizzeria Locale
Q's Restaurant
The Rib House
Rueben's Burger Bistro
Salt the Bistro
Saxy's Cafe
Shooters
Smooch Frozen Yogurt & Mochi
Spruce Confections
Sushi Tora
Tahona Tequila Bistro
Ted's Montana Grill
Tee and Cakes
Trattoria on Pearl
Two Spoons
The Unseen Bean
West End Tavern



Constant Contact Survey Results

Survey Name: Mobile Food Vending Trucks/Trailers Survey

Response Status: Partial & Completed

Filter: None

3/30/2011 4:16 PM MDT

TextBlock:

Dear Restaurant Owner/Manager: The City of Boulder is considering whether to allow mobile food vending trucks and trailers to utilize city streets and other public spaces to sell their products. Currently, it is not allowed except in business and industrial parks where there are limited restaurant options. We have been asked by City Council and City staff to find out what you think about the potential impact on your business of allowing mobile food sales in the downtown area. Please take a few minutes to give us your feedback. Survey results will be provided to City Council and staff as they work to draft new rules. Your input will also influence the official position that DBI will adopt on this issue. Thanks and we look forward to hearing your thoughts!

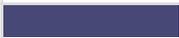
* Do you favor allowing mobile food vending trucks/trailers on city streets or other public property in Downtown Boulder?

Answer	0%	100%	Number of Response(s)	Response Ratio
Yes			15	27.7 %
No			39	72.2 %
No Response(s)			0	0.0 %
Totals			54	100%

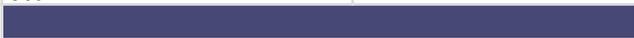
- * Would you be in favor of allowing mobile units downtown if they were restricted to private property (not streets or public spaces) and not allowed within 200 feet of a permanent restaurant?

Answer	0%	100%	Number of Response(s)	Response Ratio
Yes			20	37.0 %
No			34	62.9 %
No Response(s)			0	0.0 %
Totals			54	100%

- * Do you believe that mobile units have an unfair advantage over permanent restaurants?

Answer	0%	100%	Number of Response(s)	Response Ratio
Yes			40	74.0 %
No			14	25.9 %
No Response(s)			0	0.0 %
Totals			54	100%

- * Do you favor allowing mobile units in parts of Boulder where there is not a concentration of restaurants (business parks, industrial areas, etc.) with permission of the private property owner?

Answer	0%	100%	Number of Response(s)	Response Ratio
Yes			49	90.7 %
No			5	9.2 %
No Response(s)			0	0.0 %
Totals			54	100%

Question 1: Do you favor allowing mobile food vending trucks/trailers on city streets or other public property in downtown Boulder?

Individual Responses:

I don't think downtown Boulder should have mobile units - there are so many permanent restaurants who are already struggling to meet their overhead costs and pay the rent.

I feel that mobile food trucks will take away from the existing permanent restaurants. If food trucks are able to park where they want, they could potentially park it in front of an existing restaurant and take that restaurant's business. Downtown Boulder already has a ton of restaurants that pay a premium for their location, it would be wrong to allow a mobile unit the rights to park where they choose to and take away from those permanent restaurants.

Competition factors for standing restaurants.

A slew of trucks in same spaces.

Restaurants have to go through a use review for any new establishment (at least downtown). A blanket allowance for mobile food vending trucks does not seem to be in accordance with this. Providing they fill an after hours void.

I love the idea of mobile food vending trucks/trailers and would frequent them as a customer. I don't favor them in Downtown Boulder because I feel that they are meant to service areas where there are limited to no food options. Also because there is very limited parking and space, in general in Downtown Boulder and it doesn't seem right for a food truck to only have to pay for the hourly rate of a parking space to directly compete with established businesses that have to pay taxes.

We all pay top \$\$ for the space we have if someone can pull up and just start selling food that's wrong.

Allowing a competitive food source to sell and distribute product without the overhead of all the other restaurants on the mall is an unfair practice. They can pull up and pay \$2.50 for a parking ticket, open and sell product without the normal overhead that other restaurants have to endure to stay in business. Rent, NNN charges, that includes real estate taxes, maintenance, contribution to the downtown improvement district, and all the other fees and planning restrictions by the city. Limited

With restaurants in the area having to pay very high rental rates to be downtown, the mobile food vending trucks would have a distinct competitive advantage. It would also have a negative impact on our quaint downtown with such wonderful character, instead introducing a bit of Los Angeles to downtown Boulder (yes, the gourmet carts are already a fad out there, along with lots of cement highways, smog, and everything else many people left for the beauty of Boulder).

It will take business from Mall restaurants, which already struggle in this economy. Allowing people to eat, without entering the mall proper, will pull business from everyone, including retail and restaurant properties.

Local Businesses should be given priority. Only that restaurant, should be able to set up in front of its own property, or let another vendor with that restaurant's permission. Mobile units should not block traffic. Push Carts should be allowed too.

As a restaurant, it is hard enough to drive local business people to our business for lunch. Most mobile vendors can out price local restaurants which in turn hurts our business, takes away from the downtown community feel and may reduce the number of restaurants serving lunch.

Gives Boulder's finest and most beautiful park (downtown) a trashy look.

Vending trucks make our city more vibrant.

I run two local downtown restaurants. We have paid huge rent and years of hardwork to build our business. Mobile units will be taking advantage of our money and hard work.

They are not shouldering any of the occupation costs and shoulder be kept 500 yards away from the restaurants that are trying to pay off large notes. There is a place for the trucks but not in directly compete with brick and mortar store as they can easily undercut our price structure with their lower overhead. DBI needs to focus on supporting the businesses whom pay rent property taxes. Food trucks should be directed towards underserved areas not areas with so many options.

Absolutely not. They would only take business away from existing restaurants who are forced to pay ridiculous taxes and fees to operate in the city of Boulder. Our "patio tax" continues to go up every year. How is it that food trucks should be allowed to serve outside without paying for the space that their patrons would occupy while consuming their product?

Larger, dinner-oriented restaurants aren't as affected by mobile shops. They offer an environment, table service, alcohol, etc. Many restaurants open after 4PM and I suspect they wouldn't mind if a lunch truck pulled up in front of their doors at noon or an espresso van at 6AM.

There are small, non-mobile shops focusing primarily on carry out food. And the rules for these shops versus mobile are so different and in favor of mobile ones that this would seriously hurt the stationary shops.

I think food vending trucks are great, but should be utilized and available in areas outside of downtown, where people would benefit more because they don't have all the options you do downtown. With a stipulation that they cannot be within 200 feet of a significantly competing restaurant - Italian food truck within 200 ft of an italian restaurant, greek food truck within 200 ft of a greek restaurant, etc.

Besides the obvious impact on our sales from more competition with I assume the ability to have lower prices (No Rent and Not nearly the overhead), they would be taking valuable parking places where people already feel they have a hard time finding parking.

The sidewalks and parking areas are much to crowded. Small carts that could be moved by a pedestrian would be better in my opinion.

I would be in favor if the number of trucks is very limited, maybe 4 downtown?

If the food is good and the vehicle's kitchen is clean, go for it.

CAN I put food equipment on wheels on streets and sidewalks?

My concern is that the downtown boulder businesses pay a premium for space and deal with many challenges such as parking and visibility. With a mobile food vending business you get to bypass most of that by renting in a cheaper space but still getting all the benefits of having a downtown storefront.

The city/DBI already allows a certain amount of permits to be given out per year for mobile trailers located on the Pearl Street Mall (hotdog carts, ice-cream carts, a hamburger/gyro cart, snow cone trailer). Why should they be exempt from these rules? If I was looking to start a quick service food cart on the mall while knowing that vending trucks could pull up near me in the future I'd probably would have to reconsider. So why would this be fair to the already established carts and restaurants?

Question 2: Would you be in favor of allowing mobile units downtown if they were restricted to private property (not streets or public spaces) and not allowed within 200 feet of a permanent restaurant?

Individual Responses:

I think at the least under these conditions the mobile units would be approved by the property owner. Even if mobile food trucks are not allowed within 200 feet of a permanent restaurant, it would still take away from that restaurant's business. For example, a customer at Boulder High School who frequents a sandwich shop in Downtown during lunch will go to the food truck located on their parking lot if it is more convenient for her. Multiply that by the number of students at such a big school and the restaurants in Downtown could really be hurt by that move.

Limited available places so not so many

I would want even more specifics, but I think that yes this would be a reasonable allowance.

I think the walking part is fine as we have some now but 200 feet should be 2000 feet.

These types of mobile vendors should be restricted from the Pearl St. Mall area and downtown Boulder completely. I'm sure they can find somewhere other than near the very livelihood of the business district and character that makes Boulder what it is...

This would still impact downtown restaurants as local diners would walk outside to their parking lot to get lunch instead of a couple of blocks to a local restaurant.

If I wanted to see food carts, I would move to Los Angeles. One of the reasons that Boulder has a thriving, locally-owned restaurant industry is that we haven't allowed this type of large city approach to exist, which would have a negative impact on local restaurants and eventually erode the character of downtown.

Not enough distance. It doesn't matter if they're on public or private space. Their mere existence in the vicinity is a problem.

What if the restaurant wanted to put their own mobile food cart outside of its own property. And being restricted to private property would drive up rent costs and reduce choice.

Not to be rude, but this isn't even possible. To my knowledge, you can't walk 200 ft. between 2 restaurants in DT Boulder.

Same reason, lets' keep downtown Boulder looking beautiful.

Maybe - if there was a fee and permits required. Mobile units need to be charged significant fees to operate even within a mile of downtown. This is privileged space.

200 feet? That is not enough. In an area like downtown Boulder that is already saturated with dining options and competition, 200 feet would not be enough of a separation, if you could even find 200 feet of restaurant free space!

Absolutely not. 200 feet is not far enough. Mobile restaurants should never be allowed on Pearl Street. We are paying extremely high rent to be here and indeed are what is drawing the community to this area. To allow the mobile restaurant to capitalize on the risks we have taken is immoral.

I'm going with no here only because I'd like to know where there is private property downtown that could fit a mobile food truck that isn't within 200 feet of a permanent restaurant? What are the boundaries of downtown?

Although this sounds better, I'd prefer if the distance is greater. The last two to three years have been brutal for our restaurant and another food option within 200 feet will not help.

I think they would be too hard to control and regulate Also the control and regulation would be too expensive.

Same limits

I don't always eat what I make, some days I order out.

I feel some of these trucks/trailers will try to bend the rules to make a buck, some already have, parking in front of Nick & Willy's during lunch hour and beside Tesla in the evening. This restriction is not strong enough because if you owned a food truck business you would scour every inch of downtown to find that perfect spot within guidelines that would knowingly or unknowingly cut into someone's business.

Maybe you could park on somebody's front lawn? Park against the Colorado Daily building?

Question 3: Do you believe that mobile units have an unfair advantage over permanent restaurants?

Individual Responses:

Yes, due to their low overhead costs, they can provide food for much lower prices and this could negatively impact permanent restaurants in established areas.

Mobile units can drive where they want to and essentially set up business. Essentially, they could park in multiple spots during the day and take advantage of peak foot traffic in different areas, whereas a permanent restaurant would only have 1-2 peak times during a day. Permanent restaurants also have to spend money to drive businesses to them (marketing/advertising), which can be quite costly. Mobile units only have to drive to where there are people and spend less money on advertising.

Depending on location

There overall costs are much lower. They contribute less to the community as they have less employees. I would also be very concerned about food safety issues.

They enjoy an advantage of advertising and promotion that fixed business does not.

Advantage yes...overall though, unfair may be a bit strong. obviously they have the ability to move their operation and make it convenient for all occupants of a given city. Permanent restaurants are obviously more dependent on the fixed based near their location, especially for lunch business which is what the mobile vendors are pursuing. Downtown rents are very steep, and mobile vendors do have an unfair advantage in that they are cannibalizing sales from vendors paying rent downtown.

Yes and no. There are advantages and disadvantages to both mobile units and permanent restaurants. Permanent restaurants do have to deal with significant overhead and taxes compared to a mobile business.

Although stationary restaurants typically charge more for a meal, they are paying high property taxes, rents, providing ADA accessible restrooms & entrances, toning down their look to abide by Landmarks, paying for numerous building permits & application fees, and are not allowed to put out temporary signs.

A brightly colored truck with sign painted on its side could pull up and create unanticipated competition by offering food and drink at lower prices due to their much lower overhead.

Yes no over head or little at best. If it is slow you just pick up and go home. Other restaurants need to keep the doors open even when it is slower.

Absolutely, and in every category. No permits for signage, no rent or overhead, no contribution to the mall except when they choose to show up and take business and market share from permanent owners.

What is the incentive to have a store front if they can park near you and sell like products. Coffee vans can park near coffee shops, burrito vans can park near Mexican rests. Ice cream vans can park by Ice cream stores and on and on. They can sell cheaper because they have no overhead!! Not Good!

Absolutely. Restaurants in the area pay high rental rates to be downtown, which is a significant part of their cost structure. It would be difficult to compete with businesses with significantly lower costs but with the same access to the downtown market.

Have you asked the building owners how they would feel about the impact to their ability to command such rental rates down the road when restaurants are competing with low cost trucks?

They have WAY lower overhead, which allows them to be significantly less expensive.

They're not renting or taking any type of ownership and responsibility of a property, what investment do they have in keeping the ambience in downtown that so many businesses over the years work to preserve and enhance.

In some ways, yes. Other ways, no. I think in an environment like ours, the mobile vendors would have an advantage because they can undercut the full scale restaurants by price and speed but not spend the time and money actually marketing to bring customers down here. The established businesses do that.

I think we are already paying a high rent just by being in downtown, if we allow the mobile food vendors then they will have a price advantage over us because they don't have to pay extra rent costs like us. We don't want to be competing with the mobile vendors.

Yes! Have you seen what we pay in rent to operate at a desirable location? A mobile food truck would be able to move according to events and conduct business from highly desirable locations without the cost of rent. They could place themselves between an event and existing restaurants, along the path of foot traffic. That is a clear advantage.

While the stationary restaurant ends up charging more for a meal, they are also paying high property taxes and rents, providing ADA accessible restrooms and entrances, possibly toning down their look to abide by Landmarks, paying for numerous building permits and application fees, and are not allowed to put out temporary signs.

A brightly colored truck with sign painted on its side could easily pull up nearby and create a great deal of unanticipated competition and offer lower prices.

Yes, because they can go to their customer. They don't have to draw them in the same way that permanent restaurants do. Also their overhead, taxes and fees are significantly less.

I think they do not have as much overhead so they can charge less. I think that would hurt our takeout business.

I think that the permanent restaurants should have first choice at a mobile outlet near them.

Downtown rents are very high and with very little overhead mobile units can undercut pricing...but then again the experience is different. I think the restaurants that do a good lunch business under \$10 per head will be negatively impacted.

Last I checked, it was still a free country. Granted, with all the bureaucracy and red tape, it makes it harder for the working man to get a leg up. So, let Boulder get some good mobile food.

Instead of people finding restaurants, you have gas hogs finding people. No rent, no seating no bathrooms , etc. means lower prices. unfair.

One idea is that the city should charge a premium for parking downtown to make it fair for businesses downtown.

If allowed to roam Boulder freely they could place themselves in the middle of the action. For a locale downtown restaurant, in an already saturated market, to be in the same action as them we have to pay a much higher expenses. One of my employees told me of a place she worked at in LA. that used to be incredibly busy until the food truck craze started. Boulder should support the restaurants that have committed to making Boulder its home and not make it a cut throat market by adding trucks.

Question 4: Do you favor allowing mobile units in parts of Boulder where there is not a concentration of restaurants (business parks, industrial areas, etc.) with permission of the private property owner?

Individual Responses:

This seems to be the best market for the mobile units, giving them a good customer base without negatively impacting the permanent businesses or creating an unfair market.

This one is up for debate. With permission of the private property owner, the mobile unit would act similar as a private caterer to the business parks/industrial areas. While I am against food trucks in general to the City of Boulder, it seems unfair to tell a private owner of a building/parking lot that they cannot allow food trucks on their property.

Provides a service.

Yes, it is a great option for the people that work in these areas!

This is why they are mobile. To allow them to compete with stationary restaurants is wrong. An espresso cart could theoretically pull up in front of a coffee shop, or a lunch truck in front of a business that is providing a full days worth of wages to its staff just for that two hour lunch rush. The mobile unit can just swoop in for that rush...

Yes that is what they are for. Park, football games, soccer moms on Sunday at the field, not in our downtown. Then we all just pick up shop and park on the street. Not good for downtown.

Just another way to get around any city ordinance that would deny them access to areas in the city if an ordinance said no public parking" Construction sites, industrial parks, private business bldings, all have people who come to local restaurants for lunch and dinner. Why support your local restaurants and business if you can just go the parking lot and grab a sandwich etc, and go back to work? It would decrease people walking on the Pearl St. which would also effect retail stores, walk bys?

I would consider this with an appropriate and reasonable definition of a "concentration of restaurants" - which would exclude such businesses from the downtown area.

No problems with that at all.

I think there is a place for mobile vendors in Boulder, but it is not downtown.

As long as they are not in down town Boulder.

No, I still believe it would be detrimental to the restaurants in that area who may already be struggling to bring in business in a less populated area.

By all means. I imagine that the people who work in the business parks or industrial areas would love to have a great food option other than bringing their own lunch or having to drive to one of the limited restaurant options close to their work.

That seems reasonable. As long as the people in the area like it.

This has been going on for years, lunch wagons, food trucks etc.

That's what they signed up for.

PUBLIC HEARING ITEM – 5B



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 26, 2011

AGENDA TITLE: Second reading and consideration of a motion to order published by title only Ordinance 7786 that proposes amendments to Title 8, “Parks, Open Space, Streets, and Public Ways” B.R.C. 1981 allowing Temporary Street Furniture (a.k.a. Cafe Seating) to be placed in the public right of way subject to conditions and setting forth related details.

PRESENTER/S

Jane S. Brautigam, City Manager

David Driskell, Executive Director

Molly Winter, Executive Director, Downtown and University Hill Management Division/Parking Services, (DUHMD/PS)

Ellen Cunningham, Business Assistance and Special Events Manager, DUHMD/PS

Sandra Llanes, Assistant City Attorney III

EXECUTIVE SUMMARY

Café style seating involves business owners providing temporary street furniture on public sidewalks directly adjacent to their business. Café style seating does not require patio railings. Currently, the city does not permit café style seating on public sidewalks.

Staff is proposing changes to the code that would permit this type of encroachment into the public right of way without a patio lease within certain areas and under certain conditions. These changes are set forth as amendments to chapter 8-6, “Public Right of Way and Easement Encroachments,” B.R.C. 1981: amending section 8-6-8, “Exempt Encroachments” by adding a new subsection (f) regarding temporary street furniture and amending section 8-6-4 “Removal of Public Nuisances” by the addition of a new subsection (d) related to enforcement of non-compliant use of temporary street furniture. **(Attachment A)** Liquor licensed establishments do not qualify for a café seating exemption because the law requires permanent patio railings for establishments with patio seating.

Below is the response to council member Ageton's question concerning café seating:

What level of enforcement do we currently undertake against “café seating?” How many tickets, if any, have been written in the last couple years?

Downtown and University Hill Management Division staff works closely with the 13 establishments that currently do café seating. No tickets have been issued for violations. Staff has been working closely with these establishments to educate them about the proposed ordinance changes. All of the establishments agree with the proposed criteria and have voiced appreciation for the consideration to allow café seating at their establishments without a lengthy permit process.

Also, how were the Hill Commercial District and the Downtown chosen as the two areas where café seating would be permitted? Current city resources do not provide the ability to enforce these regulations citywide. The Downtown and University Hill Management Division have jurisdiction over these areas and they have agreed to take on the majority of the administrative and enforcement responsibilities of café seating relative to these two areas. The city also has an economic interest in enhancing the most popular commercial and tourist oriented areas in the city. There is a possibility for expansion to other parts of the city in the future depending on the availability of city resources.

Is it likely that the City would prevail legally if the proposed ordinance is challenged by businesses outside these two areas? Yes, an equal protection violation does not arise if there is any basis for a classification or official action that bears a debatably rational relationship to a conceivably legitimate governmental end. There is a strong government interest in ensuring compliance with café seating regulations for the public's health, safety and welfare. Current city resources do not provide the ability to enforce these regulations citywide. Therefore, café seating is limited to the Downtown and Hill Commercial District areas. The city also has an economic interest in enhancing the most popular commercial and tourist oriented areas in the city.

Key Issue Identification

1. Are the areas identified on the attached maps appropriate for café seating?
2. Are the criteria complete for café seating?
3. Is there sufficient pedestrian access between the café seating area and the street?

STAFF RECOMMENDATION

Staff recommends that City Council pass the proposed ordinance allowing for café seating in the downtown and University Hill commercial areas.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Allowing and regulating outdoor seating at cafes or other establishments that do not serve alcohol or provide table service will be an economic benefit to the business by providing additional seating for customers.
- Environmental – There is no perceived direct impact on environmental sustainability. However, many customers frequenting Boulder’s coffee and tea shops that would be eligible for outdoor café seating often travel there by bicycle as evidenced by the number of bikes parked in the vicinity. The two pilot on-street bike parking spaces are both adjacent to coffee houses (Trident and Cup).
- Social – Café seating encourages social sustainability by providing seating open to all in the public right of way in a convivial atmosphere. The café environment is notable for public discourse and interaction worldwide.

OTHER IMPACTS

- Fiscal – There are no fiscal impacts associated with café seating.
- Staff time – No additional staff time will be required to administer café seating.

BOARD AND COMMISSION FEEDBACK

The Downtown Management Commission on Monday, February 7, 2010, voted 4 in favor with one member abstaining to recommend to City Council to amend Chapter 8-6 to allow for café seating.

Downtown Boulder, Inc. on Wednesday, February 9, 2011, passed a motion to recommend to City Council to amend chapter 8-6 to allow café seating.

The Business Improvement District board on Thursday, February 10, 2011, passed a motion to recommend to City Council to amend chapter 8-6 to allow café seating.

The University Hill Commercial Area Management Commission met on Wednesday, February 16 and passed a motion to recommend to City Council to amend chapter 8-6 to allow café seating.

The Planning Board met on Thursday, March 10, 2011 the Planning Board approved (7-0) to recommend amending Chapter 8-6 to allow café seating in the areas named under the conditions listed in this memo, with a friendly amendment to extent to everywhere in the city.

PUBLIC FEEDBACK

The 13 establishments that currently qualify for café seating have been notified by letter of the proposed ordinance changes. Staff held an open house for these businesses and one representative from Spruce Confections attended. She believed that the requirements for café seating were fair and reasonable.

BACKGROUND

Cafe seating areas at coffee shops and restaurants on the Hill and downtown Boulder have become popular over the past few years. Currently the city does not allow cafe seating in the public right of way. Staff recommends provisions to allow for café seating in the University Hill commercial area and downtown Boulder as it creates a welcoming ambiance to patrons of these establishments and creates activity and vitality in the pedestrian districts. The Pearl Street Mall is not included within the proposed areas because it has its own set of regulations for patio seating.

Two major concerns at present are that some of these businesses are providing café seating without providing liability protection for the City of Boulder. Also, there are no regulations as to how each business can set up café seating while ensuring a clear walkway, as well as allowing for pedestrian safety and access to bike racks and parking pay stations.

ANALYSIS

Section 8-6-3, "Public Right-of-Way and Public Easement Encroachments Prohibited" B.R.C. 1981, generally prohibits any encroachment within the public right of way without obtaining permission from the city unless exempt pursuant to the provisions of section 8-6-8, "Exempt Encroachments," B.R.C. 1981. The proposed ordinance would add temporary street furniture to the list of exempt encroachments. Exempt encroachments do not require a revocable right of way permit or lease but must meet the criteria outlined in section 8-6-8, B.R.C. 1981 noted below.

There are 13 establishments in the downtown commercial district that are utilizing the right of way to place tables and chairs for their patrons. Staff supports the use of café seating for establishments without liquor licenses with the understanding that each business will sign an affidavit of understanding that he/she will abide by the criteria that is set forth, including proof of liability insurance. No permit or license will be required. No railing is required. There will be no cost to the business other than providing the city with a certificate of liability insurance naming the city as an additional insured.

Staff from Risk Management, Transportation, City Attorney's Office, Downtown and University Hill Management Division, and Development Review and Community Planning and sustainability have met several times over the past two years to establish the following criteria for café seating.

Café Seating Criteria

Temporary Street Furniture may be placed in the public right of way on a sidewalk in the area immediately adjacent to the property by the owner or tenant of property if the following standards are met: **(Attachment B)**

- Property is located within the University Hill General Improvement District or the Downtown Boulder Business Improvement District and excluding the Pearl Street Mall.
- The furniture shall consist solely of tables or chairs intended for outdoor use. Furniture shall be constructed of metal or similarly stable and durable materials that are subject to approval by the city manager. Any other encroachments, including without limitation umbrellas and railings are not allowed.
- The placement or use of the furniture cannot impair or impede the utility of the right-of-way or easement for its designated purpose.
- Establishment must provide the city with a certificate of general comprehensive liability insurance naming the City of Boulder as an additional insured.
- The furniture is available for use by the general public. Temporary street furniture for the exclusive use of patrons, offering table service of food or beverages or associated with an establishment licensed to serve alcoholic beverages is prohibited.
- The furniture must be temporary in nature and removed easily without tools or equipment;
- The furniture must be removed and securely stored on private property between the hours of 11 p.m. and 6 a.m. or outside of business hours, whichever is more restrictive;
- No amplified music provided to the right of way area.
- The placement or use of the furniture does not reduce the unobstructed width of the adjacent sidewalk to less than six feet. The unobstructed width may be reduced to five feet for a maximum distance of five feet in areas adjacent to fixed public infrastructure including, but not limited to, utility poles, parking payment facilities, and fire hydrants ([Attachment C](#)).
- The sidewalk area adjacent to the furniture is accessible and usable to persons of all levels of mobility and the sidewalk area can be used in a manner that is consistent with the federal Americans with Disabilities Act.
- Additional configurations of café seating may be considered and would need the approval of city staff.

Enforcement

Temporary street furniture may be removed by the city without notice for non-compliance. In addition, businesses may be subject to penalties or fines under Section 5-2-4, “General Penalties,” B.R.C. 1981. DUHMD/PS staff will monitor café seating establishments for compliance.

Extending the café seating regulations beyond the hill commercial district and downtown would pose challenges for administration and enforcement. Staff does not recommend

including the entire city in this ordinance until there is a mechanism for administration and enforcement.

ATTACHMENTS:

- A. Draft ordinance & Appendix 8-A, 8-B
- B. Café Seating Brochure
- C. Café Seating Schematic

ORDINANCE NO. 7786

AN ORDINANCE AMENDING CHAPTER 8-6, "PUBLIC RIGHT OF WAY AND EASEMENT," B.R.C. 1981 TO PERMIT TEMPORARY STREET FURNITURE TO BE PLACED IN THE PUBLIC RIGHT OF WAY SUBJECT TO CONDITIONS AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 8-6-4, B.R.C. 1981 is amended to read:

8-6-4 Removal of Public Nuisances

- (a) Encroachments Are Public Nuisances: An encroachment placed upon or maintained within the public right-of-way or a public easement contrary to the terms of this chapter constitutes a public nuisance that may be removed or enjoined and abated by suit or other action by the city or any resident of the city.
- (b) Order To Remove Encroachments: Whenever any encroachment exists or is located contrary to the provisions of this chapter or when the city manager revokes a permit or lease granted pursuant to this chapter, the manager will notify the person who made, located, caused, allowed or permitted the encroachment, or who owns or controls the premises or property adjacent to or for which such encroachment exists and order the person to remove the encroachment within such time that the city manager determines is reasonable under the circumstances. Notice under this subsection 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 if given by personal service, or, in the case of a condition sufficiently dangerous to constitute an emergency, given orally in person or by telephone to the owner or the owner's authorized representative. The manager is additionally authorized to use the provisions of this section to correct violations on private property adjacent to the public right-of-way of section 9-9-7, "Sight Triangles," B.R.C. 1981, and of section 9-9-15, "Fences And Walls," B.R.C. 1981, where such structures or hedges are within eighteen inches of a roadway, sidewalk, or path, and such conditions shall be deemed encroachments.
- (c) City Manager May Remove Encroachments: If the person notified under subsection (b) of this section fails to comply with the order to remove the encroachment, the city manager may cause the encroachment or obstruction to be removed and may charge the cost thereof plus up to fifteen percent of such cost for administration to the person so notified. If any person fails or refuses to pay when due any charge imposed under this section, the city manager may, in addition to taking other collection remedies, certify due any unpaid charges, including interest, to the Boulder County Treasurer to be levied against the person's property for collection by the County in the same manner as delinquent general taxes upon such property are collected, under the procedures

1 prescribed by section 2-2-12, "City Manager May Certify Taxes, Charges, And
 2 Assessments To County Treasurer For Collection," B.R.C. 1981. This civil remedy is in
 3 addition to any criminal action which the city may bring or pursue for a violation of this
 chapter.

4 (d) Unattached Encroachments. In addition to the authority to remove encroachments in
 5 section (c) above, the city manager is authorized to remove or order removed at any time,
 6 without notice, any encroachment or other item that is not permanently attached to a
 7 building, the public right of way, or public easements, if the encroachment or other item:

- 8 (1) Violates any provision of the Boulder Revised Code;
- 9 (2) Creates any nuisance or public safety hazard;
- 10 (3) Needs to be removed to prevent any nuisance or public safety hazard;
- 11 (4) Presents an inconvenience to the users of the public right of way; or
- 12 (5) The area is necessary to accommodate any other public right of way purpose.

13 (de) Compliance With Order Required: No person shall place an encroachment in a public
 14 right-of-way or public easement in a manner contrary to the terms of this chapter, or fail
 15 to comply with an order to remove such an encroachment.

16 (ef) Hearing: Any person notified of an order under subsection (b) of this section may request
 17 a hearing pursuant to chapter 1-3, "Quasi-Judicial Hearings," B.R.C. 1981. If a timely
 18 request for a hearing is made, the manager may stay the order pending the hearing, or
 19 may opt to require the person to remove the obstruction, in which case the hearing officer
 20 may, if the initial order is found not to have been in compliance with the code, order the
 21 city to pay the reasonable cost of removal and, in a proper case, the reasonable cost to
 22 restore a structure or replace a plant.

23 Section 2. Section 8-6-8, B.R.C. 1981 is amended to read:

24 **8-6-8 Exempt Encroachments.**

25 The following items are conditionally permitted to encroach on public rights-of-way or public
 26 easements without obtaining a revocable right-of-way permit or a lease, and unless indicated
 27 otherwise in section 8-6-4, "Removal of Public Nuisances," B.R.C. 1981 subject to an order to
 28 remove, without cause, by the city manager after ten days' notice for encroachments that are
attached to buildings or the public right of way or public easements:

...

29 (f) Temporary Street Furniture: Street furniture may be placed in the public right of way on
 30 a sidewalk in the area immediately adjacent to the property by the owner or tenant of
 31 property if the following standards are met:

- 32 (1) The property is located within the University Hill General Improvement District
 33 as shown in Appendix 8-A of this chapter or the Downtown Boulder Business
 34 Improvement District, excluding the Pearl Street Mall as shown in Appendix 8-B
 35 of this chapter.

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- (2) The furniture shall consist solely of tables or chairs intended for outdoor use. Furniture shall be constructed of metal or similarly stable and durable materials that are subject to approval by the city manager. Any other encroachments, including without limitation umbrellas and railings are not exempt encroachments under this section.
 - (3) The placement or use of the furniture does not impair or impede the utility of the right-of-way or easement for its designated purpose.
 - (4) The right of way area is covered by a general comprehensive liability insurance policy that is on file with the city manager naming the City of Boulder as additional insured in accordance with section 4-1-8, "Insurance Required," B.R.C. 1981.
 - (5) The furniture is available for use by the general public. Temporary street furniture for the exclusive use of patrons, offering table service of food or beverages or associated with an establishment licensed to serve alcoholic beverages is prohibited under this section.
 - (6) The furniture is temporary in nature and removed easily without tools or equipment.
 - (7) The furniture is removed and securely stored on private property between the hours of 11 p.m. and 6 a.m. or outside of business hours, whichever is more restrictive.
 - (8) There is no amplified music provided to the right of way area.
 - (9) The placement or use of the furniture does not reduce the unobstructed width of the adjacent sidewalk to less than six feet. The unobstructed width may be reduced to five feet for a maximum distance of five feet in areas adjacent to fixed public infrastructure including, but not limited to, utility poles, parking payment facilities, and fire hydrants.
 - (10) The sidewalk area adjacent to the furniture is accessible and usable to persons of all levels of mobility and the sidewalk area can be used in a manner that is consistent with the federal Americans with Disabilities Act.

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Section 3. Chapter 8-6 is amended by the adoption of Appendix 8-A, a map showing boundaries of the University Hill General Improvement District, and Appendix 8-B, a map showing the boundaries of the Downtown Boulder Business Improvement District that excludes the Pearl Street Mall, as attached to this ordinance.

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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 5th day of April, 2011.

Mayor

Attest:

City Clerk on behalf of the
Director of Finance and Record

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY
TITLE ONLY this 26th day of April, 2011.

Mayor

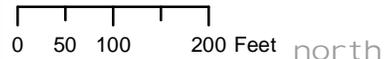
Attest:

City Clerk on behalf of the
Director of Finance and Record

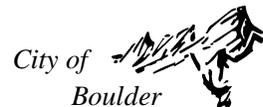
The information depicted on this map is provided as graphical representation only. While source documents were developed with National Map Accuracy Standards, The City of Boulder provides no warranty, expressed or implied, as to the accuracy and/or completeness of the information contained herein.

Map produced by
Information Resources Office
Planning & Development Services
City of Boulder
www.boulderplandevlop.net

1 inch equals 200 feet



north



Legend

-  Properties not in University Hill General Improvement District (UHGID)
-  Boundaries

University Ave

Pleasant St

Pennsylvania Ave

College Ave

12th St

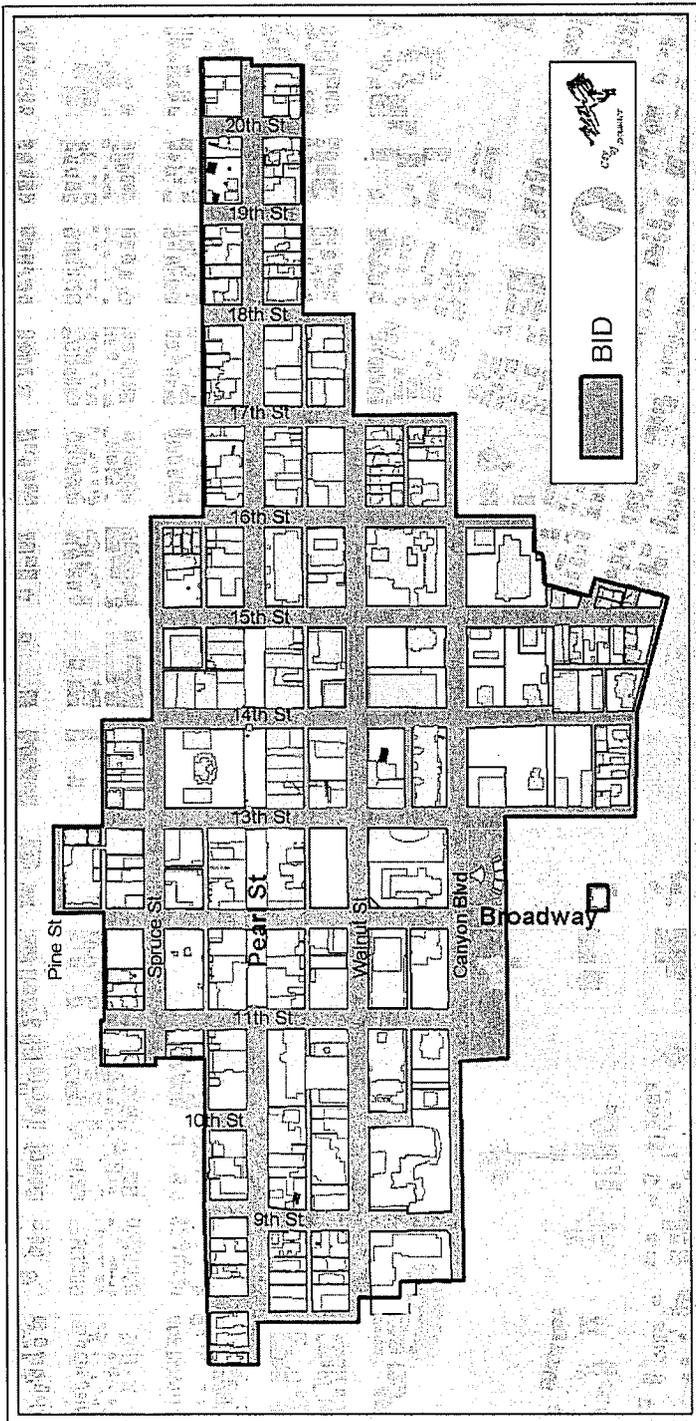
13th St

14th St

University
of
Colorado

Broadway

University Hill Commercial Area



CAFÉ SEATING

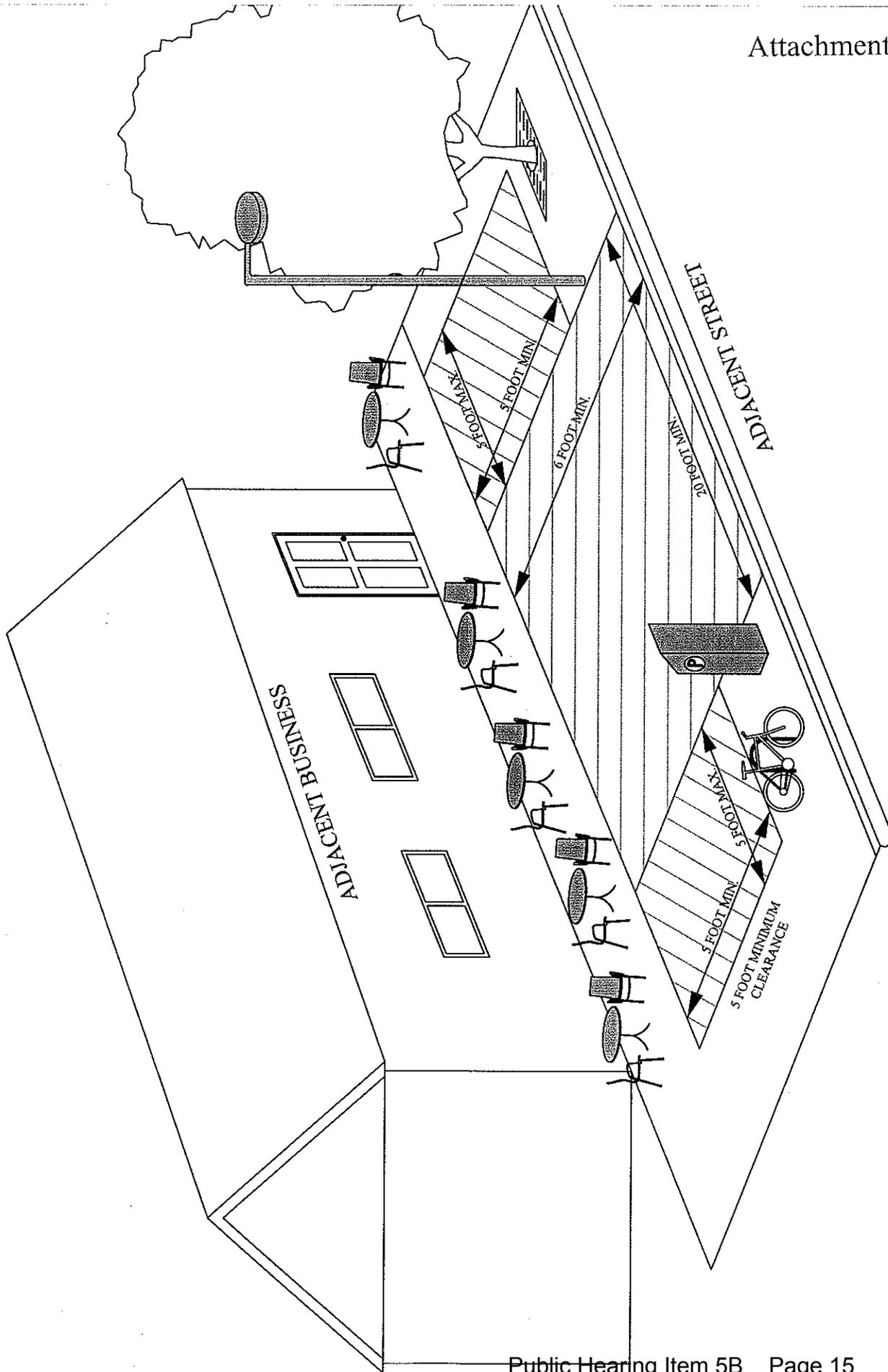
Café seating at coffee shops and restaurants on the Hill and downtown have become more and more popular over the past few years. With that in mind, the city of Boulder now allows these establishments to provide temporary street furniture without a permit under the following conditions¹:

- Property is located within the University Hill General Improvement District or the Downtown Boulder Business Improvement District and excluding the Pearl Street Mall;
- The furniture shall consist solely of tables or chairs intended for outdoor use. Furniture shall be constructed of metal or similarly stable and durable materials that are subject to approval by the city manager. Any other encroachments, including without limitation umbrellas and railings are not allowed;
- The placement or use of the furniture can not impair or impede the utility of the right-of-way or easement for its designated purpose;
- Establishment must provide the city with a certificate of general comprehensive liability insurance naming the City of Boulder as an additional insured;
- The furniture is available for use by the general public. Temporary street furniture for the exclusive use of patrons, offering table service of food or beverages or associated with an establishment licensed to serve alcoholic beverages is prohibited;
- The furniture must be temporary in nature and removed easily without tools or equipment;
- The furniture must be removed and securely stored on private property between the hours of 11 p.m. and 6 a.m. or outside of business hours, whichever is more restrictive;
- No amplified music provided to the right of way area;
- The placement or use of the furniture does not reduce the unobstructed width of the adjacent sidewalk to less than six feet. The unobstructed width may be reduced to five feet for a maximum distance of five feet in areas adjacent to fixed public infrastructure including, but not limited to, utility poles, parking payment facilities, and fire hydrants (see attached diagram);
- The sidewalk area adjacent to the furniture is accessible and usable to persons of all levels of mobility and the sidewalk area can be used in a manner that is consistent with the federal Americans with Disabilities Act.
- Additional configurations of café seating may be considered and would need the approval of city staff.
- There is no charge for establishments

¹ “Exempt Encroachments” Boulder Revised Code 8-6-8.

If you are interested in café seating, please contact Ellen Cunningham, Downtown and University Hill Management Division, at 303-413-7315.

DRAFT



MATTERS FROM THE CITY MANAGER – ITEM 6A



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 26, 2011

AGENDA TITLE

Consideration of a motion directing the city manager to proceed with next steps in evaluating redevelopment of the Diagonal Plaza shopping center and area, including continued communications and data gathering with property owners; soliciting feedback from potentially interested developers and tenants; and a blight study.

PRESENTER/S

Jane S. Brautigam, City Manager
Paul J. Fetherston, Deputy City Manager
Bob Eiche, Chief Financial Officer
David Driskell, Executive Director of Community Planning and Sustainability
Liz Hanson, Economic Vitality Coordinator
Sam Assefa, Senior Urban Designer
Trish Jimenez, Senior Financial Manager

EXECUTIVE SUMMARY

Diagonal Plaza is an aging commercial center in northeast Boulder. First developed in 1965, the area is comprised of multiple properties, all controlled by separate owners. Over the past several years, primary tenants such as Albertson's, Ross, and PetSmart have moved from the site and tax revenue collections have declined each year. There have been no applications to the city for redevelopment, although there has been an increase in inquiries from developers interested in the site. In June 2010, the city hired the consulting firm of Economic & Planning Systems (EPS) to determine the economic feasibility of the three general redevelopment options for Diagonal Plaza. The City Council reviewed this report at its November 16, 2010 meeting.

At that meeting, council considered options for next steps and directed staff to work with the Urban Land Institute (ULI) of Colorado to schedule a Technical Advisory Panel

(TAP) on Diagonal Plaza. On January 20, a ULI TAP, consisting of seven ULI members with extensive experience in real estate, planning, financial, and development fields met to discuss the future of Diagonal Plaza. After the full day panel, the TAP presented its initial findings and recommendations to an audience of about 50 people which included members of the City Council, Planning Board, and Boulder Urban Renewal Authority (BURA), Diagonal Plaza property owners, developers, and community residents. ULI has provided the city with a report (**Attachment A**) which provides an overview of the TAP's answers to the city's problem statement/questions, summaries of stakeholder interviews, and recommendations.

Both the EPS and TAP reports note that based on the history of the site and redevelopment of similar aging shopping centers elsewhere, one of the most significant challenges for privately led redevelopment will be property assemblage. Further, the initial economic analysis indicates that it is unlikely that a private developer will pursue Diagonal Plaza as a project without access to tools such as tax increment financing to help fund the significant infrastructure and other site improvements needed to support economic success. In summary, it is unlikely that Diagonal Plaza will successfully redevelop in the next five to ten years without active city participation in helping to overcome these substantial logistical and financial obstacles.

The BURA Board met on February 23 to review and discuss the ULI TAP report on Diagonal Plaza. BURA meeting minutes are in **Attachment B** and BURA Commissioners' comments are summarized below.

STAFF RECOMMENDATION

Staff recommends maintaining the momentum around this project that has developed over past year with several next steps that will have relatively minor impacts on staff's 2011 work program. These steps are outlined in the motion language below and discussed in greater detail on page 7 of this memo.

Suggested Motion Language:

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

Motion to direct the city manager to proceed with next steps in evaluating redevelopment of the Diagonal Plaza shopping center and area, including continued communications and data gathering with property owners; soliciting feedback from potentially interested developers and tenants; and a blight study.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – Sales tax revenues from the Diagonal Plaza shopping center have declined over the past few years. Redevelopment of an underperforming shopping center would likely result in an increase in occupied retail square

footage and an increase in city sales tax revenues. When evaluating planning and retail tenant options, careful consideration must be given to uses that draw new shopping dollars into Boulder, thereby minimizing “cannibalization” or relocating existing sales tax revenues from other parts of Boulder to this site.

- Environmental – Diagonal Plaza and the surrounding properties could greatly benefit from (in new construction or renovation) energy efficiency improvements the use of renewable energy sources, drainage and stormwater improvements, and greatly improved multimodal circulation patterns.
- Social - Redevelopment of an existing, aging shopping center may cause a reduction in existing affordable retail space, although it may also result in retail space with more affordable merchandise. Redevelopment for affordable housing and/or a wider range of retail stores and services could better serve the needs of different ethnicities and cultures, incomes, and family demographics.

OTHER IMPACTS

- Fiscal - For the next steps recommended in this memo and the suggested motion language, funds have already been allocated in the 2011 budget. Estimated cost for the blight study is approximately \$15,000.
- Staff time - Community Planning and Sustainability’s redevelopment staff team—Liz Hanson (Economic Vitality Coordinator), Sam Assefa (Senior Urban Designer), and Trish Jimenez (Senior Financial Manager)—under the direction of the City Manager and the Executive Director of Community Planning and Sustainability will oversee the recommended next steps, with Liz Hanson serving as the project lead.

BOARD AND COMMISSION FEEDBACK

The Boulder Urban Renewal Authority (BURA) reviewed the ULI TAP report on Diagonal Plaza and provided the following feedback on the next steps for evaluating Diagonal Plaza redevelopment. Minutes of the February 23 BURA meeting are included as **Attachment B**; they include detailed notes of the Commissioners discussions. Some key findings and recommendations of the BURA Commissioners include:

- There are no compelling market conditions to suggest that the site is immediately poised for redevelopment.
- Unlike Twenty Ninth Street – when most agreed that the project was to replace a regional shopping center – the potential future for this site is less defined. If the city does a plan to figure out a vision it needs to be based on market reality, and feasibility.
- There was general support for the “incremental approach,” finding that there is homework to be done to keep the momentum going. The next step is to “take the temperature” of the property owners with regards to redevelopment, selling, encumbrances, and lease terms and lengths. Certain data gathering and background information, including discussions with property owners, is necessary for any good comprehensive planning effort. City staff should spend as much time working on the site as is reasonable, including providing BURA a work plan

- and quarterly reports on what has been accomplished, with summaries on the number of people contacted, informing the Commissioners of the progress.
- As part of a neighborhood planning analysis, scenarios could look at adaptive reuse including leaving some buildings and complementing them with new development. The city could consider what incentives would encourage adaptive reuse.
 - Consider undertaking a blight study so that the city knows if the site qualifies to meet state statutes for urban renewal.
 - There were a variety of opinions regarding affordable housing as a use. There was also debate about whether a void analysis should be done as a next step. There was concern that if a void analysis was funded now, it may need to be redone in two years and could be affected by other new projects like Boulder Junction.

PUBLIC FEEDBACK

Diagonal Plaza study area property owners and the general public have been contacted as follows:

- **Diagonal Plaza Redevelopment and BURA web sites** – with information on the study area, RFP process and schedule, ULI TAP process and presentation, and public meetings.
- **Letters from City Manager** – were sent to study area property owners to inform them of the RFP process and the consultants' economic analysis report.
- **Communication from Economic Vitality Coordinator** – by phone calls and e-mails to in-state property owners to provide updates and answer questions about the Diagonal Plaza redevelopment study and next steps. Feedback from owners was generally positive. Several indicated that they were not surprised the city was trying to get a redevelopment project started on the site.
- **Public participation at the September 29 and February 23 BURA meetings** Five people, including study area property owners, spoke to the BURA Commissioners regarding Diagonal Plaza (see meeting minutes in **Attachment B**). They encouraged a proactive approach by the city to redevelopment.

BACKGROUND

Background information about the Diagonal Plaza shopping center, property ownership, 2010 economic analysis, and updated tax revenue collections is found in **Attachment D**.

ANALYSIS

Urban Land Institute Technical Advisory Panel Report

The ULI TAP report (see **Attachment A**) finds that there is no clear, compelling reason for dramatic action or investment by the city for Diagonal Plaza since

- a) there is not currently a mixed-use developer or major retailer with strong interest in the site, and

- b) the site is not currently assembled under one developer or property owner (or an agreement among all of the current property owners).

The report also finds:

- a) The high land cost (estimated in the 2010 EPS report at \$29 to \$45 million) is a barrier to redevelopment, especially for a discount retailer or for affordable housing
- b) Diagonal Plaza has the potential to create a landmark gateway as well as neighborhood identity
- c) A major grocery store is a possible new use (a King Soopers representative has expressed interest, as discussed in the report)
- d) Greater effort is needed to engage current property owners
- e) More research is needed to determine what retailers Boulder lacks and which would be interested (e.g. an economic void study)
- f) A hotel is a potential use (compelling need?)
- g) Identify a major retailer or other anchor that really wants to be on the site
- h) The city has not developed a compelling vision for what it wants to see happen
- i) A comprehensive Neighborhood Plan is the first step to develop and build consensus about the vision

The ULI TAP report identifies three alternatives for next steps, including pros and cons of each alternative (on pages 14 through 16 of the report):

- 1. Limited or No Action** – Lacking an economic driver to transform the site through redevelopment, the city could make Diagonal Plaza a low priority and wait for real estate markets to recover to reevaluate.
- 2. Incremental Approach** – The city sets the stage for redevelopment through tougher code enforcement (to improve the physical appearance of Diagonal Plaza) and by building partnerships with on-site property owners and adjacent players such as Boulder Housing Partners. This may not require cash or financing but does need the time and attention of council and staff.
- 3. Dramatic Action** – To spur redevelopment as soon as possible, the city assembles the land into one site through a blight study, urban renewal and other aggressive policies and actions.

The TAP report recommends No. 2, the Incremental Approach citing that “limited or no action can only lead to more deterioration at Diagonal Plaza. Dramatic action has many risks and ill-defined reward.”

Staff Recommendation of Next Steps

Since the TAP presentation in January, developer interest in the site has increased. City staff has spoken to at least five parties (developers, architects, and/or retailers) that have expressed interest in the site, reviewed recent public meeting records, requested

information from the city, and discussed general project ideas. Common questions are about the city's vision for the property, zoning, property assemblage, and likelihood of TIF/urban renewal.

In light of the clear public interest in redevelopment of Diagonal Plaza and the continuing interest from the development community, the following next steps are recommended, consistent with the TAP and BURA recommendations for the "incremental approach":

- **Develop a work plan for communication with property owners and interested developers/tenants**

Staff recommends development of a quarterly staff work plan for Diagonal Plaza, with input and review by BURA Commissioners as appropriate (understanding that potential developers and tenants may request confidentiality at this early stage).

Attachment C includes a preliminary draft work plan which includes:

- **Expanded communications with property owners** – City staff would expand conversations with and provide regular updates to in-state property owners. (An update letter to out-of-state owners is scheduled to be sent following the April 26 City Council meeting.) As recommended by BURA, staff supports expanding these conversations to learn more about the status of tenant and property leases and property owners' short and long term plans. Also, more complete contact information is needed for out-of-state owners. Information obtained in this data gathering would be helpful should a property assemblage be attempted at a later date.
 - **Expanded communications with interested developers and retailers** – Continue to obtain insight about Diagonal Plaza from interested real estate developers and major retailers of high interest to Boulder. Expand conversations with developers to test market realities and better understand the possible courses of action and potential outcomes for the city.
- **Conduct a Blight Study** – Hire a consultant to determine if specific properties in the Diagonal Plaza area are considered "blighted," as defined in state statutes (see **Attachment H** for more detail). If the study finds the area in question to be blighted, this could allow the city to proceed with redevelopment planning under an urban renewal project at some point in the future (understanding that the "shelf life" of a blight study is seven years). A finding of blight also gives the city the right to condemn property using eminent domain. For almost a year, staff has referred to use of an urban renewal plan as a possible future step with Diagonal Plaza study area property owners, and interested developers have asked whether the city has determined the site's eligibility to meet the state's criteria. The RFP issued by the city in June 2010 included a Phase 2 option for a blight study. The cost of a blight study would be approximately \$15,000 which would come from approved 2011 redevelopment funds. Also, a blight study is one of several possible next steps

identified by BURA (and recommended by BURA Chair Richard Wobbekind) at its February 23 meeting.

As discussed by City Council at its January 2011 retreat, other work program priorities do not allow a city-led Diagonal Plaza planning process to begin in 2011. The recommended next steps will build on the work completed to date without significantly impacting staff resources needed for other priority projects, and provide important information for potential further steps in 2012. City staff does not recommend conducting an economic void analysis at this time, in part because it is costly (likely over \$50,000) and it is uncertain at this time whether a development proposal for Diagonal Plaza would be predominantly retail.

ATTACHMENTS

- A. Urban Land Institute (ULI) of Colorado's Technical Advisory Panel (TAP) report on Diagonal Plaza
- B. BURA Meeting Minutes – February 23, 2011
- C. Preliminary Diagonal Plaza Work Plan
- D. Diagonal Plaza Background Information
- E. Diagonal Plaza Study Area Map
- F. Diagonal Plaza Study Area - Property and Building Data
- G. Diagonal Plaza Study Area - Property Ownership
- H. Urban Renewal – An Overview

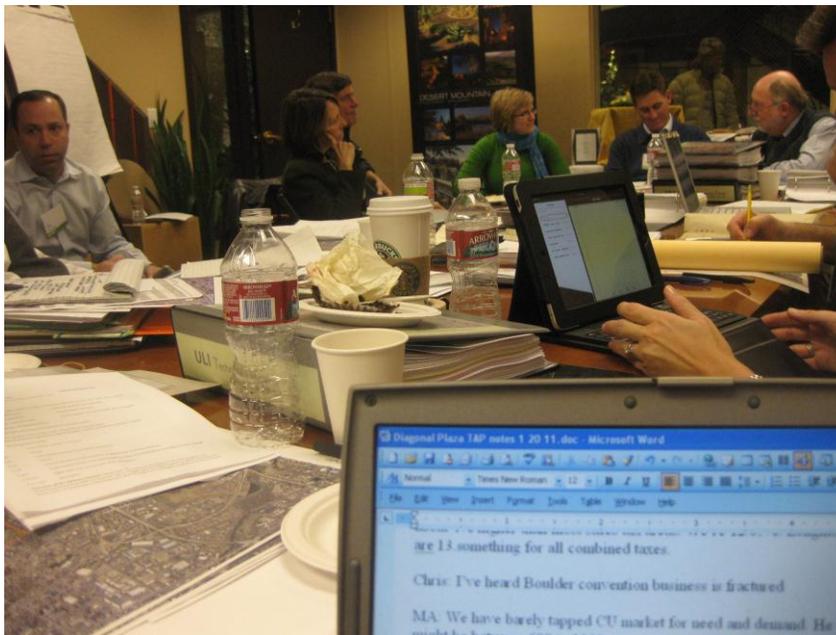


Leadership in Responsible Land Use

Technical Advisory Panel (TAPs) Report on the future
of Diagonal Plaza

January 20, 2011

Report prepared by
Colorado District Council of the Urban Land Institute (ULI Colorado)
for City of Boulder
February 2011



Based in Washington, D.C., the Urban Land Institute is a 501-c-3 nonprofit dedicated to leadership in responsible land use. District Councils are ULI at the local level in 65 regions worldwide serving more than 30,000 members.

District Councils support best practices in land use through Smart Growth programs, seminars, and project tours. By offering nonpartisan, unbiased expertise to community leaders, ULI Colorado positively influence land use issues while engaging its 900 members to participate in their community. Based in Denver in the historic Equitable Building,

ULI Colorado's leadership includes William E. Mosher, Chair; Chris Achenbach, vice chair; Michael Leccese, executive director, and Kacey Wilkins, director.

Technical Advisory Panels (TAPs) are non-binding and strategic reviews on planning and development issues in which ULI members donate their expertise to help communities solve pressing land-use problems

Special thanks to:

City of Boulder: Samuel Assefa, David Driskell, Liz Hanson

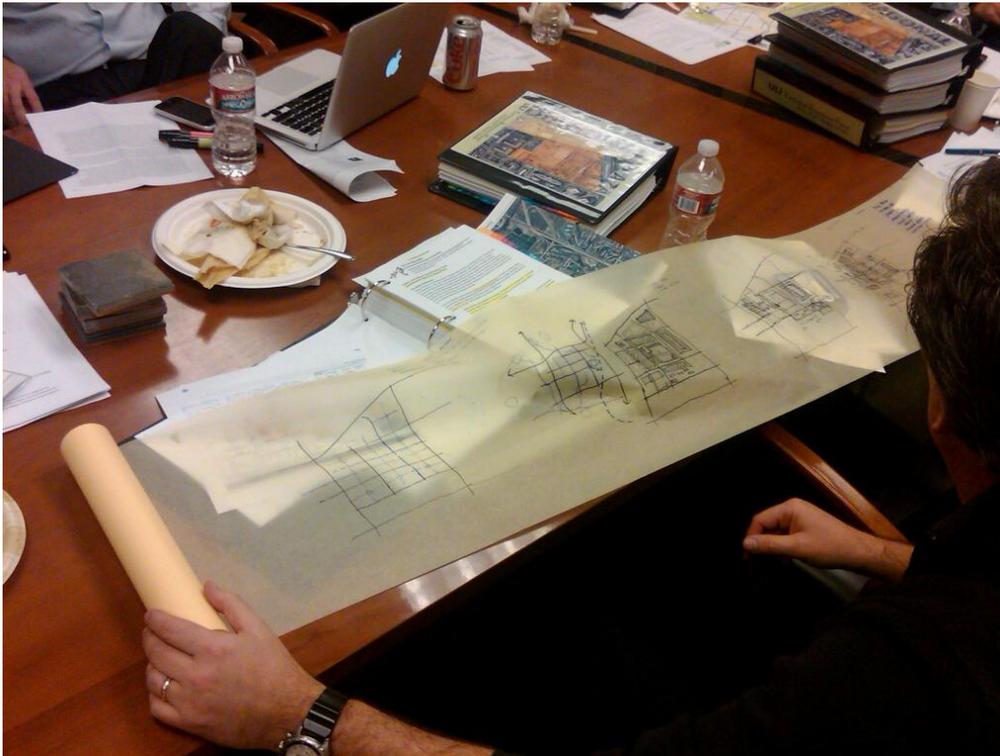
ULI Colorado TAPs co-chairs: Al Colussy and Arleen Taniwaki

Volunteers: Dan Cohen, Liz DiLorenzo, Aaron Schlagel

Host: DTJ Design

Contents

- I) Executive Summary
- II) Answers to City of Boulder Council questions
- III) Stakeholder interview summary
- IV) Recommendations
- V) Pros and Cons of the Three Scenarios
- VI) Panelist bios



I) Executive Summary

On January 20, 2011, at the City of Boulder's invitation, Urban Land Institute Colorado (ULI Colorado) convened a one-day Technical Advisory Panel (TAP) to consider redevelopment of Diagonal Plaza, a 46-year-old, 24-acre commercial center located at 28th and Iris in North Boulder.

Viewed as both a real estate proposition and a significant site for the community, Diagonal Plaza has many advantages. It holds a potentially vibrant location near high-quality, high-density housing, a major RTD transit stop, and a growing system of greenways. It is also located near the future Boulder Junction transit village with new pedestrian, bicycling, road, and transit connections planned.

Other positives include Diagonal Plaza's several viable businesses; its "Gateway" location for commuters and visitors coming from Longmont and points north; and its "dumbbell" location anchoring the north end of Boulder's 28th and 30th streets commercial corridors.

But in recent years Diagonal Plaza has lagged. An Albertson's grocery store closed as an anchor tenant. More recently several other large retailers closed leaving empty storefronts behind. Sales taxes collected on site have plummeted. Visually the center looks tired. It presents the typical low-slung, nondescript suburban commercial buildings set back behind a Sargasso Sea of parking. Landscaping and urban design are not up to Boulder's current standards.

In addition, redevelopment action on Diagonal Plaza has been forestalled by fragmented ownership. It has 15



different owners, some located out of state. It may be a challenge to get all these owners marching in the same redevelopment direction.

Alternatively the city or a private developer could assemble the land. But the cost might be quite high (more than \$1 million an acre). Unless the city can offer a major subsidy, this reality of high land cost rules out some desirable land uses like affordable housing and discount retailers, which by definition need low land costs.

The TAP consisted of seven ULI members with extensive experience in mixed-use development, retail development and leasing, urban design, landscape architecture, real estate law, and urban renewal (full bios in back). The panelists prepared by touring the site and reviewing an Advance Packet, prepared by City of Boulder staff, and containing relevant policies, plans, data on traffic and demographics, retail sales tax trends, a 2010 Retail Study prepared by Economic and Planning Systems (EPS), City Council proceedings, and correspondence with property owners.

Meeting for just one day, panelists interviewed stakeholders (see Section III) and then quickly deliberated to answer questions posed by the City.

The result was three different courses of action with a preferred option. The panel weighed pros and cons of each option.

Analysis and findings

Diagonal Plaza is a site with potential but no clear, compelling reason for dramatic action or investment by the city. However, the city could (and should) take intermediate steps to improve the look of Diagonal Plaza and prepare the site for positive redevelopment down the road.

Immediate action would be warranted by the following conditions:

- A mixed-use developer or major retailer with **strong interest** in the site and impatient to act
- The **assemblage of the site** under one developer or landowner; or an agreement among all the current landowners (and possibly also all retail tenants) to move together as a team on redevelopment

Other findings:

--**High land cost** of Diagonal Plaza (estimated in the 2010 EPS report at \$29 to \$45 million or more than \$1 million per acre) is a barrier to redevelopment, especially for a discount retailer or for affordable housing. By their nature these uses require low overhead, eg affordable or below-market land costs

--Diagonal Plaza has the **potential to create a landmark gateway** as well as **neighborhood identity** that is now somewhat lacking. Despite the presence of high-density housing, there is no nearby neighborhood association for Northeast Boulder

--A **major grocery store** is a **possible new use**. According to a real estate representative of King Soopers, the site could support a 125,000 square-foot

--Greater effort is needed to **engage current property owners** and

“Marketplace” store (50 percent larger than the new Whole Foods at 28th and Pearl), even with the presence of the redeveloped Safeway across the street -- More research is needed (including perhaps an Economic Void Study to determine what retailers Boulder lacks that would do well here) to learn **which retailers truly have interest** in both Boulder and the mixed-use, higher-density format

--A **hotel** is a potential use although there does not seem to be a compelling need for a hotel on this site and other sites may be better

--To proceed with a major redevelopment with the city’s participation and support, the city must **first identify a major retailer or other anchor** who really wants to be on the site. Investing in the site or assembling land without an “end game” strategy would be a mistake

--In the same vein, the city needs to do more homework to determine what retailers are absent in Boulder and may have interest in locating at Diagonal Plaza (Economic Void Study)

-- The City of Boulder has **not developed a compelling vision** for what it wants to see happen on this site and there does not seem to be a consensus about the direction of future redevelopment.

--A **comprehensive Neighborhood Plan** is the first step in developing and building consensus about the vision for what the site might become. businesses in redevelopment planning and redevelopment itself

Recommendations (Three Alternatives)

1) **Limited or No action.** Lacking an economic driver to transform the site through redevelopment, the city could make Diagonal Plaza a low priority and wait for real estate markets to recover to reevaluate. Still the city can move on to #2.

2) **Incremental Approach.** The city sets the stage for redevelopment through tougher code enforcement (to improve the physical appearance of Diagonal Plaza) and by building partnerships with on-site property owners and adjacent players such as Boulder Housing Partners. This may not require cash or financing but does need the time and attention of council and staff.

3) **Dramatic action.** To spur redevelopment as soon as possible, the city assembles the land into one site through a blight study, urban renewal and other aggressive policies and actions.



The TAP **recommends # 2, The Incremental Approach.** Limited or no action can only lead to more deterioration at Diagonal Plaza. Dramatic action has many risks and ill-defined rewards. See sections IV and V for more details.

“I read the preliminary economic study. It doesn’t seem like CostCo is showing up.”—John Schwartz, REM Investment, adjacent property owner

II) Panel Responses to City of Boulder Questions

1) *What non-traditional (e.g. multistory, structured parking, sustainable) large format retail options are feasible for the Diagonal Plaza site?*

The panel recommends more outreach and study on this issue. On the positive side a real estate representative of King Soopers who attended as a stakeholder said King Soopers would be friendly to a mixed-use center anchored by a King Soopers Marketplace (125,000 square feet).

This suggests mainstream interest in the site from large-format commercial developers and retailers. But more research is needed to determine what retailers might be interested.

To test these waters with national and regional retailers, the panel suggested approaching Wal-Mart at the corporate level to assess interest in a prototype “Boulder” store in an urban format on this site. But this may be controversial.



2) *How can development be supported by higher density and/or a mix of uses?*

Retail development is driven by the presence of “rooftops,” usually defined as homes within driving distance of a prescribed area. Mixed-use developments create their own rooftops by including housing on site. The panel showed examples of urban-format Target stores, attached to structure parking. Higher density and mixed use promises higher returns and richer social uses—but it also requires public support including public finance.

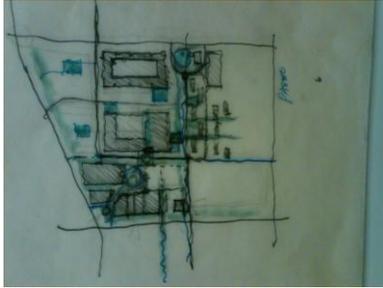
3) *What are the urban design opportunities?*

The current urban design is a mixed bag. The panel noted the presence of a highly used transit stop and higher-density housing around Diagonal Plaza--in stark contrast with the suburban strip format of the center itself. In addition new pedestrian crossings at 28th Street connect the center to other established neighborhoods to the west. The center’s northern orientation is a disadvantage in Boulder, which loves sunny locations with Flatirons views to the south.

The panel explored three placemaking possibilities:

- a) **Main Street:** Assumes that retail anchors remain or new ones can be attracted. Restructures the center around a new low-speed north-south street that pushes buildings to the edges of the site enveloping more intimate public spaces.





b) **Paseo.** Does not assume the presence of major retail, but creates a compact neighborhood with connections. Creates walkable links along intimate pathways that lead to BHP housing and other adjacent neighborhoods

c) **Community Destination.** Replaces or enhances major retail by adding a community destination like playing fields (softball, soccer, lacrosse, etc), always in short supply in Boulder. If mixed with major retail, the playing fields could be placed on a deck over structured parking at the center of the site.

4) *What are the most feasible public financing/partnership options?*

a) The public tools are well-known and have been used in Boulder.

Urban renewal has become politically difficult and has not been used in Boulder since the 1980s.

b) Tax-increment finance only makes sense if used in partnership with a major retailer guaranteed to generate sales taxes over a long period

c) A Business Improvement District (BID) makes sense only if the businesses are in for the long haul—and this may not be the case if the property is assembled and completely redeveloped

5) *Is there any strategic advantage to moving forward now rather than waiting?*

There is no strategic advantage to pushing ahead for a complex speculative redevelopment in this “down” market for real estate. This only makes sense with a major new anchor tenant or land use assured in advance.

There are however strategic risks with waiting. The center might attract less desirable tenants to its vacant spaces. The center might continue to deteriorate physically and create blight at one of Boulder’s north gateways. In addition there is an opportunity today to build on today’s momentum by working with a motivated partner in Boulder Housing Partners.

6) *What are the pros and cons of an incremental phased approach, including retention of existing viable businesses?*

The panel strongly favors this approach. A project born of consensus among current landowners and tenants stands a strong chance of implementation; it turns the current stakeholders into an asset rather than an obstacle to redevelopment. However the City has much work ahead to organize this group.

III Stakeholder Interview Summary

Matt Appelbaum, Boulder City Council

- This is the city's last big box site, but it needs something less suburban, with more substantial architecture and an urban, walkable feel
- City has no money to invest into this
- Unclear if we want a big box; if so, how do we get it without the suburban form?
- Let's use the site for something special
- Is there a timely opportunity that we shouldn't miss that would lead us to action sooner than later?
- Not sure if Council supports affordable housing on this site.
- Office would be fine, but office demand seems weak in Boulder. For example an approved 300,000 SF office building hasn't been built for lack of market.
- Hotel – no objection, not sure why one should be here.
- Could put a recreation center there in concept, but don't have funding to build and operate.
- Not a good site for the conference center. Too far from University and Pearl Street

Jerry Lee, Reynolds-Lee and Boulder Urban Renewal Authority (BURA) Commissioner

- The City wants sales tax
- For at least the next five years, redevelopment doesn't make economic sense without major subsidy.
- This may require condemnation, but city hasn't used this tool in 30 years
- City is sensitive about condemnation, so would have to be for a very compelling reason.
- City has been in contact with all of the owners. Owners have been very positive. The down economy that makes them interested.
- Among the 15 owners, there would likely be some holdouts. No one has indicated they would be an all out holdout.
- Avoid structured parking for retail here. Locals don't like it.
- Don't use 29th Street redevelopment as a template. 29th Street: is an underperforming asset. Design is the reason. The site needs more density.
- What's the highest and best use for the site? retail, commercial, residential would all be good.
- Incremental approach would be too fragmented.
- Financing – No projects in town have a PIF.
- Height limit – absolutely not the place to break 55 foot height limit. Downtown is the place to do it. Would be politically very difficult.

Mary Ann Mahoney Boulder Convention and Visitors Bureau

- key site as an entrance/gateway but location is challenged by high land costs
- Hotel use? Occupancy in Boulder is 67 percent. There are already 2,400 hotel rooms in Boulder and a 100-room hotel slated in Gunbarrel

- City would like to see a “boutique” convention center built with a 2,000-3,000 seat hall, but this location is not the place to do it

Stuart Grogan and Liz Wolfert, Boulder Housing Partners

- Would like to leverage HUD’s Moving to Work program for Public Housing Authorities to become redeveloper of DP
- Because of income of census tract, site is eligible for New Market Tax Credits, which you don’t have to compete for, like standard affordable housing tax credits
- Could potentially participate in urban renewal/land assembly
- Housing demand in Boulder is strong with 1,000 people on BHP wait list
- BHP could also partner with a master developer

KC Becker, Boulder City Council and BURA

- Sees this as a last box site and good for lower cost retail
- Not sure what the community wants
- Thinks EPS scenarios were “not dense enough”
- Always a demand for affordable housing, but Boulder especially needs family housing
- Most of council and community not on board with big box.
- Family housing is needed.
- Council needs to support TIF at a minimum to make anything happen
- Doesn’t like the idea of incremental effort.

Liz Hanson, City of Boulder Economic Vitality Coordinator

- 2002 meeting with Wal-Mart: City Manager said we weren’t interested. So they left.
- Council might get behind a traditional mixed use, with housing, office, and a supermarket.

Shawn Camden, Latin America Cultural Immersion (LACI)

- Stakeholder on site (leases two spaces)
- Thinks complex needs “facelift”
- Sees potential for affordable retail that would appeal to a diverse population, such as Avanza Supermarket, which has done well as an affordable grocer in 25-35k square feet

Mike Scheckel, King Soopers

- This would be a good location for King Soopers
- KS does “boutique” stores of 25k square feet to “Marketplace” stores of 125k square feet
- Thinks Boulder is underserved by retail, including grocers
- KS would consider and “analyze” two-story building with structured parking. Example is a City Market with residential over the store in Vail
- KS could help assemble the site

Mary Roosevelt and Ellen McCready, Thistle Community Housing

- Nonprofit homebuilder serving the 50 to 80 percent AMI market
- Prefers to build condos; families don't want to rent long-term
- This is a good site as a gateway with good access and connectivity
- Low- and moderate-income do need more affordable shopping; Albertson's on this site was the more affordable grocer in town
- But thinks there are better sites for Wal-Mart
- Site is not ripe or ready; more good planning needed

John Schwartz, REM Investments

- Owns adjacent commercial buildings at 3280 and 3300 28th Street
- His properties are almost entirely leased (Core Power Yoga, Sola Salon, Edward Jones Investments, plumbing supply business, more)
- Rents range from \$8 to \$17 per square foot
- Favors mixed use redevelopment of Diagonal Plaza
- Has participated in City planning exercises
- Does not favor condemnation tool—some property owners are still angry from Crossroads redevelopment 30 years ago
- Does not hold out hope for Costco as anchor tenant
- Thinks many people favor big box but would bristle at Wal-Mart

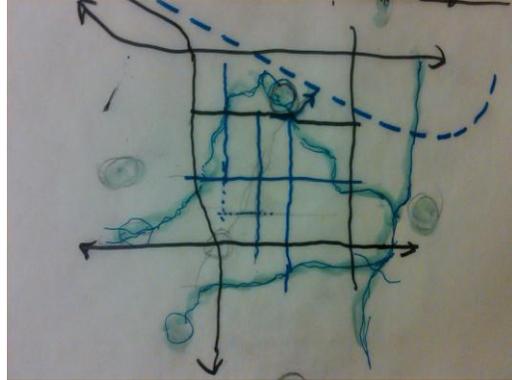


“High land cost rules make some desirable land uses like affordable housing and discount retailers, which by definition need low land costs, more of a challenge.—from the Executive Summary

IV. Recommendations

1) Limited or No action.

Lacking an economic driver to transform the site through redevelopment, the City could make Diagonal Plaza a low priority and wait for real estate markets to recover before reevaluating the potential and alternatives for redeveloping the site.



At the same time, the city may attempt to improve the physical appearance of the site through tougher code enforcement such as requiring landowners to clean-up trash, cut weeds, repave parking lots and address any existing code violations. In addition, when the Department of Motor Vehicle lease expires, the City could consider relocating the DMV office. Relocation the DMV office would probably make economic conditions on the site worse; a negative in the short term, but also an incentive to redevelop sooner.

2) Incremental Approach

May include all or some combination of the following actions:

- a) Retain a consulting firm to conduct an Economic Void Analysis to identify the types of retail, office, manufacturing, high tech, light industrial, hotel, conference or other commercial uses that are currently missing from the City of Boulder market and to identify the most needed and probable commercial businesses that the city might seek to attract.
The ULI Panel recommends conducting a Void Analysis rather than the “leakage” study that has been previously considered to determine the amount of sales tax that is being lost by the City of Boulder to the surrounding communities and region.
- b) Have City or BURA staff continue informal outreach to select (or all) property owners to understand property owners’ priorities for the site and to determine if cooperative activities are possible to encourage improvement or redevelopment
- c) Have City Staff contact property owners about the possibility of forming a Business Improvement District for the site. Site improvements might include: improving traffic access to site, parking lot improvements, storm water detention improvements, streetscape and landscaping improvements, façade improvements, and joint marketing efforts.
- d) Have City staff reach out to select retailers to assess interest in the site. For example, City Staff could contact Wal-Mart, Avenza, King Soopers, Costco (although the conventional wisdom is that Costco is not interested in locating a store in Boulder), Kohl’s, JC Penny’s, and others to be identified.

- e) Have City staff reach out to select developers to solicit their ideas for redeveloping the site. Since the TAPS was publicly announced, staff has received calls from several potential developers. It is probably worthwhile following up on these calls to see what these developers might propose and if they have made any contacts with existing landowners (why or why not?) regarding purchasing portions of the site and what the response has been.
- f) Have Boulder Housing Partners, BURA and City Staff continue to pursue opportunities to expand and improve affordable housing on the site. This work should be done in the context of Boulder Housing Partner's application to HUD for the "Moving to Work Grant" and the potential of adding a street adjacent to the existing affordable housing to create another housing site.

3) Dramatic action.

- a) Initiate Blight Study,
- b) identify the appropriate Neighborhood Planning Study Area
- c) conduct a Neighborhood Planning Process (including citizen outreach, charrette, alternative scenario analysis, comprehensive vision and implementation strategy for the neighborhood including the Diagonal Plaza Site)
- d) Prepare Urban Renewal Plan consistent with the comprehensive neighborhood plan
- e) Issue RFP to developers for proposals to redevelop the site
- f) Decide upon acquisition and assembly strategy for the Diagonal Plaza property
- g) Proceed with necessary actions and public/private partnerships to redevelop the property.

Important note: The Panel believes that it would be unwise for public officials to mention the prospect of condemnation until the City and the Urban Renewal Authority have a definitive plan (if not the actual money in the bank) to acquire the necessary property.

The ULI panel recommends # 2, The Incremental Approach with a focus on the following actions:

- a) Retain a consulting firm to conduct an Economic Void Analysis to identify the types of retail, office, manufacturing, high tech, light industrial, hotel, conference or other commercial uses that are currently missing from the City of Boulder market and to identify the most needed and probable commercial businesses that the city might seek to attract to the Diagonal Plaza and other priority sites in Boulder. This study may cost \$50,000 to \$75,000 and will involve City Staff time in working with a consultant to prepare the scope of the study.
- b) Have City or BURA staff continue informal outreach to select property owners in order to better understand the terms of existing leases, the property owners' priorities for the site and to determine if cooperative activities might be possible to encourage improvement and/or redevelopment of the site. The ULI panel was disappointed that more of the actual property owners did not

participate in the stakeholder's interviews and believes that more information from the property owners is an essential step in evaluating options for redevelopment of the site.

The City should contact three key groups of property owners:

- 1) Property owners that may be most interested in redeveloping and improving the site, such as: Boulder Housing Partners; Naropa; owners who have made recent improvements to their properties; and other owners that have reached out to the City.
 - 2) The five out-of-state property owners that have been difficult to reach and whose opinion about redevelopment is largely unknown. Have City staff reach out to select developers and solicit their ideas for redeveloping the site. Since the TAPS was publicly announced, staff has received calls from several potential developers and it is probably worthwhile following up on these calls to see what these developers might propose and if they have made any contacts with existing landowners (why or why not) regarding purchasing portions of the site and what the response has been.
 - 3) The owners of the largest spaces such as Rite Aid and 24 Hour Fitness.
- c) Have City staff reach out to select developers and solicit their ideas for redeveloping the site. Since the TAPS was publicly announced, staff has received calls from several potential developers. It is probably worthwhile following up on these calls to see what these developers might propose and if they have made any contacts with existing landowners (why or why not) regarding purchasing portions of the site and what the response has been. It is advisable to start with actual developers rather than specific retailers, because the developers will have more success than the city in involving the correct retail people in the discussion. The potential developers include: King Soopers, the developer of the Wal-Mart store at Lakeside (if the Void study indicates a market for a Wal-Mart store and if the City has the political will to undergo the controversy that is inevitable with any Wal-Mart Store), Cornerstone Group Holdings, and Continuum Partners. The City needs to carefully ascertain the developer's level of interest and to ascertain how much city involvement (in the context of Urban Renewal Activities and city subsidy) that the developers are anticipating.
- d) Have Boulder Housing Partners, BURA and City Staff continue to discuss options for expanding and



improving the affordable housing on the site. This work should be done in the context of Boulder Housing Partner’s application to HUD for the “Moving to Work Grant” and the potential of adding a street adjacent to the existing affordable housing to create another housing site. At a minimum, the owner of the properties where the street and the new housing site would be located should be contacted. BPH should not even mention the word “condemnation” in public discussions of the potential improvements to the existing affordable housing.

At this time we would not recommend devoting city staff time to attempting to form a BID. The BID discussion would be better if it was initiated by one or a group of property owners. In addition, we would not suggest that city staff reach out to potential retailers or tenants for Diagonal Plaza, at this time. As mentioned above, contact with potential retailers and tenants would be best made by potential developers.

Interim steps combining carrots and sticks for property owners may set the stage for future redevelopment. If the city does nothing Diagonal Plaza will continue to deteriorate.

V. Pros and Cons of the Three Scenarios

The pros and cons of each alternative are outlined below:

1) Limited or No action

Pros:

- a) Little to no cost to City.
- b) Little to no staff time commitment from City Staff.
- c) If the city opts for increased code enforcement, this is a part of the ongoing responsibilities of existing city staff and might result in some nominal improvements to the appearance of the site.
- d) This is the market-based approach. It basically says that the City will let the market dictate the conditions on the site and will let the market tell us what the site’s future.
- e) Relocating the DMV office may reduce traffic to the site, and may reduce sales revenues. This in turn may increase vacancy and reduce property tax revenues. Such a reduction in the tax base may actually be a positive factor if a TIF District is established to redevelop the site.

Cons:

- a) The site will continue to deteriorate. This will result in an even less attractive gateway into the City of Boulder.
- b) New (perhaps even less desirable) tenants may decide to locate on the site. Such less desirable tenants might include: additional adult uses, deep discount

stores such as Dollar Stores, used clothing stores such as Goodwill. Such tenants may secure long-term leases that would make eventual assembly and redevelopment of the site more difficult.

- c) Stopping all staff involvement now might require the need to regroup and respond quickly (with less information than is desirable) should the Boulder Housing Partner's application for a HUD "Moving to Work" grant application be approved.
- d) Current positive momentum relating redevelopment may be lost.
- e) Current property owners may react negatively to increased code enforcement
- f) Moving the DMV office may reduce traffic to the site, and may reduce sales revenues. This in turn may increase vacancy and reduce property tax revenues. Such a reduction in the tax revenues will be a financial loss to the City.

2) Incremental Approach

Pros

- a) The Economic Void analysis would be benefit not only Diagonal Plaza but other potential projects in the City of Boulder. The study should cover the entire City limits.
- b) Recommended incremental actions will maintain the momentum to move the redevelopment discussion forward.
- c) By reaching out to existing property owners and understanding the economics of the existing leases, city staff may form relationships that enhance the probability of owner/city cooperation to redevelop the site. In the long-term at least some level of property owner cooperation is needed for successful redevelopment.
- d) Outreach to property owners should provide useful information for future redevelopment efforts. If some property owners do not respond it also provides evidence that the City reached out to the owners and was unable to get a response.
- e) Outreach to potential developers may provide useful information; a developer may take the lead to propose redevelopment.
- f) Continuing communication between Boulder Housing Partners and City Staff will result in a more viable BHP project if the HUD Grant is approved.
- g) Staff time needed is probably minimal; the benefit of keeping communication open may well outweigh the staff costs.

Cons

- a) The Economic Void Analysis will cost \$50,000 to \$75,000 and take resources from other city priorities.
- b) The incremental approach requires some City staff time. Even a minimal time commitment takes away from other projects.
- c) If the city reaches out to property owners, these current owners may expect or pressure for financial or technical assistance the city does not have.
- d) If the city reaches out to developers that could also raise expectations For example, developers will probably want the City to form an Urban Renewal District and to provide TIF resources.

3) Dramatic action.

Pros

- a) In the short or long-term a public/private partnership is probably needed to redevelop the site
- b) It may be prudent to begin this process in a “down” market when property values are lower.

Cons

- a) Requires significant commitment of City and BURA time and money.
- b) There are no compelling market conditions to suggest, even with the above activities, that the site is immediately poised for redevelopment. Therefore, if the Blight study was undertaken now (cost approximately \$20,000) and the conditions precedent for redevelopment did not occur for several years the blight study might have to be updated or redone. The cost for an update might equal the cost of the original study.
- c) Preparation of a Neighborhood Plan for the Diagonal Plaza neighborhood will be time consuming and the Planning Office has indicated that there are several important neighborhood plans ahead of this project. However, the TAPS Panel believes that it is absolutely essential to prepare this type of neighborhood plan and to develop more consensus on the vision for the Diagonal Plaza Site before preparing an Urban Renewal Plan and creating an Urban Renewal District.
- d) Initiating a Blight Study, without reaching out to property owners first, may create an adversarial relationship between the City and some property owners that could lead to lawsuits and extended legal action that may delay the development process in the future.
- e) Blight Studies and Urban Renewal Actions that are not initiated by property owners or with their support, are by their nature politically controversial. If the City takes the Dramatic Action approach it must be willing to expend the political capital to see this process through to conclusion.



VI) Panel Bios

Panel chair: Charles J. Perry, Managing Partner, Perry Rose LLC. A recognized national authority in community based planning and mixed-use, mixed-income infill real estate development, Chuck Perry brings extensive

background in public process and financing strategies to his role as Managing Partner of Perry Rose. Mr. Perry managed the development of the award winning Highlands' Garden Village (HGV), leading the development team from concept to obtaining entitlements, approvals and financing through design, value engineering and construction management. The Highlands' Garden Village Planned Unit Development (PUD), written by Mr. Perry, served as a model for the City of Denver's mixed-use zoning code. Highlands' Garden Village was recently lauded by the EPA as a local model for economic growth and environmental sustainability. Prior to joining Perry Rose, Mr. Perry served as the Assistant Executive Director of the Denver Urban Renewal Authority (DURA) and was responsible for the preparation of numerous downtown and neighborhood urban renewal plans and financings. He also managed the redevelopment of the Denver Dry Goods Building and initiated several programs to renovate single family housing and make it available to low and moderate income home buyers. Mr. Perry holds a Ph.D. in Urban and Regional Planning from Massachusetts Institute of Technology with a specialization in citizen participation, land use and environmental planning.

Christopher Crosby, Executive Vice President, The Nichols Partnership, Denver. Before joining Nichols in 2001, Chris was a partner and Vice President of the Atlanta-based development company Legacy Property Group, a leading Atlanta urban infill developer. Before participating in the foundation of Legacy, Chris was a Venue Logistics Manager for the Atlanta Committee for The Olympic Games, working on both Olympic Stadium and the Olympic Village. Since 1991, Chris has participated in more than \$500 million of real estate development containing a mix of uses including office, multi-family, hotel, retail and entertainment/sport. Most recently, Chris was involved with building and marketing SPIRE, downtown Denver's LEED® certified 41-story tower... Chris received a Bachelor's degree from Ohio University and his Master's from The University of Georgia. Chris serves on the board of the Cherry Creek North Business Improvement District the Cherry Creek North Design Advisory Board, the Cherry Creek Capital Improvements Committee and is a co-chair of the Downtown Denver Partnership's 14th Street Initiative and the Housing Council's Marketing Committee. Chris is a LEED accredited professional.

Deborah S. Froeb, Director of Land Conservation and Finance, The Nature Conservancy. A seasoned real estate executive, Deborah Froeb joined The Nature Conservancy, the world's largest conservation organization, in 2008. Froeb leads a team of land protection and public funding specialists in structuring creative land deals and financing them through public capital, private investment and philanthropic gifts. Before joining TNC, Froeb had responsibility for Regency's Rocky Mountain region for 10 years. Regency is one of the nation's largest retail Real Estate Investment Trusts (REITS) with a market capitalization exceeding \$7 Billion and a portfolio of 400+ community and neighborhood shopping centers. Froeb's background in commercial real estate includes associations with Mutual of New York and First Interstate Bank.

She received her Masters in Management from Northwestern University and her B.A. from Colorado College. Current community engagements include service as Vice President of the Middle Park Land Trust Board in Grand County, Colorado; a member of the Board of the Colorado Coalition of Land Trusts; and an Executive Committee member for the CU Real Estate Council.

Greg Moran, Senior Leasing Director, Weingarten Realty. Mr. Moran guides and plans for the long term health and profitability of the 2.66 MM square foot Weingarten shopping center portfolio in Colorado. Previously Mr. Moran served for three years as Director of New Development for Miller Weingarten Realty and before that served for eight years as Director of the Miller Weingarten Realty leasing department. His primary role was to manage the marketing and leasing production for the company's 4.6 million square foot shopping center portfolio. Mr. Moran has a 25-year track record of developing, selling and leasing retail & mixed-use real estate throughout the central and western US. Until recently, Mr. Moran served as the International Council of Shopping Centers (ICSC) Western Division Government Relations Committee Chair. He served on the Board of Directors for the Denver Metro Commercial Association of Realtors (DMCAR), he also serves as a Burns Fellow for the University of Denver's Burns School of Real Estate. Mr. Moran received a Bachelor's degree in Real Estate/Finance, with a minor in Economics from the University of Denver. He pursued his Masters degree in Business Administration at Saint Edwards University in Austin, Texas. Mr. Moran maintains a Colorado Real Estate Brokers license.

Dennis Rubba is principal and founder of studioINSITE, LLC with over 25 years of experience in urban planning, design and landscape architecture. Having received numerous awards for academic and professional excellence, Dennis is nationally recognized for design of urban environments and university campuses. Notable urban planning and design projects led by Dennis include the 14th Street Initiative and Design Services (Market St to Colfax Avenue); 16th Street Urban Design Plan Phase II; Larimer Square Redevelopment; Colorado Center Mixed-use Redevelopment Plan; Village at Castle Pines Mixed-Use Development; California Street Streetscape Improvements (14th St to Broadway); and Clayton Lane Mixed-Use Redevelopment in Cherry Creek North. Dennis also led design concepts for the revitalization efforts of Fillmore Plaza in Cherry Creek North. Dennis is a Registered Landscape Architect of Colorado and member of the following professional associations: American Society of Landscape Architects (ASLA); American Institute of Architects, Affiliate Member (AIA); AIA Denver Board Member, Professional Affiliate Director; ASLA Urban Design and Campus Planning Committees; Congress for New Urbanism; Downtown Denver Partnership, Inc.; Union Station Task Force, Downtown Denver Partnership; and Union Station Advisory Council, Downtown Denver Inc. Dennis' holds a Master in Landscape Architecture with Distinction from Harvard University and Bachelor of Science in Landscape Architecture with Distinction from Colorado State University.

Tim Steinhaus, Executive Director, Arvada Urban Renewal Authority and past Director for the City of Arvada Economic Development Association. Tim has over 35 years of experience in economic and community development. He headed the economic and redevelopment activities for a number of cities in California. He attended college in Fort Collins and Glenwood Springs, Colorado, and obtained a Master's Degree in Public Administration and a Bachelor of Arts Degree in Environmental Studies from California State University.

Carolynne C. White, Shareholder, Brownstein Hyatt Farber & Schreck, Denver. Ms. White's practice spans the Land Use, Government Relations, Real Estate and Natural Resources groups. Ms. White is an experienced land use and public policy attorney, with strong state and local government relationships, and cutting-edge expertise. Her specialty is managing complex and challenging projects and navigating multiple regulatory environments for optimal outcomes for clients. One of only 12 LEED-accredited attorneys in Colorado, Ms. White also holds a Masters degree in Public Policy, and in Urban and Regional Planning, from the University of Colorado at Denver. Ms. White's practice focuses primarily on the zoning and entitlement process, with an emphasis on complex projects involving redevelopment, infill, brownfields, urban renewal, eminent domain, mixed use, transit-oriented development, PIFs and other public financing tools, and special challenges such as historic preservation. Ms. White also serves as special and general counsel to a variety of governmental and quasi-governmental entities, such as urban renewal authorities, special districts, and redevelopment authorities. From 1999 to 2004, Ms. White was the staff attorney for the Colorado Municipal League, the nonprofit association representing the cities and towns of Colorado.

Attachment B

Boulder Urban Renewal Authority (BURA) Board of Commissioners Special Meeting

Wednesday, February 23, 2011 / 7:00pm
Creekside Room / West Senior Center / 909 Arapahoe Avenue

BURA BOARD MEMBERS PRESENT:

K C Becker
John Wyatt
Richard Wobbekind
Chet Winter

STAFF MEMBERS PRESENT:

Sam Assefa, Senior Urban Designer
Jane Brautigam, City Manager and BURA Executive Director
Liz Hanson, Economic Vitality Coordinator

1. Call to Order

Four Commissioners present, quorum met.

2. Public Participation

No one from the public addressed the board at the beginning of the meeting. Two people addressed the board when Chair Wobbekind re-opened Public Participation later in the meeting.

Harris Faberman, Boulder, indicated that he is part of an ownership group that owns the former auto dealership at 3200 28th Street (and is receiving a high level of interest in this site) and several other commercial properties, including the site of the former Circuit City store (now being partially converted to Google offices). He said that he believed that retail interest in Boulder is dismal and that retailers are cautious, noting that Boulderites will go to Denver to shop but Denverites are less likely to come to Boulder to shop. He also noted that retailers are offering leases that are 40% of the previous value and that Boulder is competing for retail locations nationally with cities around the country. He suggested that Diagonal Plaza be “refaced” to make it better for what it is, to adaptively reuse what’s there with creativity and energy. Mr. Faberman noted that real estate in Boulder is very valuable and that the Sports Authority store at Diagonal Plaza is one of the company’s most profitable stores. He said that he was involved in the entire Transit Village Area Project (TVAP), and that it was a laborious process that took three to four years and took lots of staff time.

John Schwartz, Boulder, said that for property that he controls at 3300 28th Street the back of the property was easier to lease than the portion that faces 28th Street.

Public Participation closed

3. New Business and Report of the Executive Director

Review and Comment: Urban Land Institute's Technical Advisory Panel Report on the future of Diagonal Plaza

Review of Next Steps – Diagonal Plaza Redevelopment

Opening Statements

L. Hanson summarized the current status of the city's study of Diagonal Plaza redevelopment. She noted that after the economic analysis performed by a consultant in the summer and review of the analysis by BURA, Planning Board and the City Council, the City Council directed staff to work with the Urban Land Institute (ULI) of Colorado to schedule a Technical Advisory Panel (TAP) to look at some key problem statements related to redevelopment of Diagonal Plaza. The ULI TAP took place on January 20 and after a full day of work, the panel presented its findings at a group of about 50 community members (including City Council, BURA, and Planning Board members). Last week, ULI presented the city with a written report summarizing its findings and Chuck Perry and Michael Leccese were here at the BURA Board meeting tonight to review the findings and answer BURA Commissioners' questions.

Chuck Perry of ULI Colorado presented the findings of the ULI TAP report. He said that the question of "what do you do with deteriorating shopping centers" is a tough one. He explained that the fundamental answer is that you need to look at more mixed use and take advantage of retail opportunities, acknowledging that many places are actually over-retailed.

Mr. Perry said that one TAP final recommendation is to do a "void analysis." This study looks at key retail opportunities so you can try to attract some of the retailers you don't have. He explained that the analysis is useful for the whole city.

Mr. Perry cited the new Target in Belmar for an example of a non-traditional big box store. He also explained that given the more than 50,000 in-commuters into the city, perhaps the more housing the better. He urged that the site is an urban design opportunity as a gateway site adjacent to transit and neighborhoods.

Mr. Perry said that the ULI TAP does not recommend the first option, limited action, and that the pros and cons of each option are listed on page 17 of the report. He explained that under this option, the center may likely get worse before it gets better (with new less desirable tenants) and the city may lose the momentum it has gained so far.

Mr. Perry said that the ULI TAP recommends the second option, the incremental approach, as the preferred alternative given the market and existing conditions. He

suggested that city staff continue outreach to property owners to ask “what potential they see?” He added that the TAP also recommends hiring a consultant to complete a city-wide “void analysis.”

Mr. Perry said it is also recommended that the city follow up with developers who have made contact with the city about this project. He urged an exploration into what is meant by “Boulder needs more affordable retail.” He asked if this sentiment referred to what is there currently, or to a new big box like Walmart and if Walmart is interested in building a non-traditional store? Mr. Perry reported that the Boulder Housing Partners (BHP) have submitted Moving to Work application to HUD and the city staff should keep talking to BHP to be poised to move forward if a new affordable housing project on a portion of the site is a possibility.

Mr. Perry said that the third alternative identified by the TAP is a full scale urban renewal project with a blight study to test compliance with state statutes’ criteria, a larger visioning process to create community consensus about the future of the site, development of an urban renewal plan, issuance of an RFP to select a developer, and decision about the level of public financing. He concluded that the ULI TAP believed this level of activity to be premature at this stage.

Board Discussion

C. Winter thanked ULI for the great job in one day’s work. He asked where the city was in its discussions with landowners and tenants, noting that some landowners may not sell.

L. Hanson stated that out of the 15 property owners 10 are in-state, and she had personally spoken to all of them. All the feedback has been positive. All 15 owners have received two letters from the city manager in the past year. Details of the property ownership and lease terms are not known.

K. Becker noted that without reaching to property owners, it can create an adversarial relationship.

J. Wyatt said that he felt the next step was to take the temperature of the property owners with regards to redevelopment, selling, encumbrances, and lease terms and lengths. He asked if ULI looked at a strictly residential redevelopment, noting that market rate residential may have the greatest economic potential.

C. Perry said it is an alternative to look at. He said that while outreach has occurred, more information is needed to understand details, such as when leases will expire. He suggested the city start to channel their outreach to learn what property owners would like to see, to collect information systematically and in group forums. If one or two property owners should “step up,” the process would be more systematic.

K. Becker said that no compelling market conditions suggest that the site is immediately poised for redevelopment. She asked what it would take for that to occur.

C. Perry indicated that the city needs to be clearer about its vision, including the level of desired density, height, and what “affordable retail” means. Given market conditions today, moderate rate apartments are most viable and retail is last. He added that if Boulder wants to capture some of the big box opportunities that may have been lost in the past, it should consider what the “right kind” of big box would be.

The BURA Commissioners noted that City Council and BURA have discussed a possible vision of retail but that the ULI TAP report indicates that regional retail may not happen at this site on the north end of the city.

C. Perry described how the EPS financial analysis for Diagonal Plaza completed this summer painted a very bleak picture about the likelihood for a new big box retailer on the site and that he agreed that the analysis was credible. Given the complicated ownership, there is a need to create consensus with the community and then to try to create consensus with a majority of the property owners. With the site’s strategic location as a gateway (and the high land values), someday the city will need to enter into a public-private partnership to develop this site.

C. Winter suggested that one could wait or “get its ducks in a row” to be ready for an opportunity – something in between “do something or do nothing.”

J. Wyatt noted the need to “set the course” with the community and the City Council and questioned “who gets to set the vision?” He noted that five years ago, and from conversations he has had with a local developer, Costco indicated that it would not build a specially designed/mixed use store in the “planning reserve” area just north of Boulder as ever community in the country would want a ‘specially designed store’ vs. the standard, effectively programmed Costco and that he understands that a void analysis was conducted by that same private developer at that time. He has been told that the analysis showed that affordable retail was the key need in the Boulder community

J. Wyatt noted the need to “set the course” with the community and the City Council and questioned “who gets to set the vision?” He noted that five years ago, Costco indicated that it would not build a store in the “planning reserve” area just north of Boulder and a void analysis conducted by a private developer at the time was that affordable retail was the key need.

R. Wobbekind said that given the fiscal condition of the city, if a redevelopment project will not be done now, then he questions spending funds on a void analysis. He also said that if the void analysis doesn’t focus on micro-zones, then he doesn’t see any value to it.

Michael Leccese of ULI Colorado noted that a void analysis could benefit other Boulder sites.

C. Perry said that certain data gathering and background information is necessary for any good comprehensive planning effort, including discussions with property owners. He noted that the last thing the community would want would be to convince Walmart to

build a model, sustainable store here but then have the community oppose this type of project.

R. Wobbekind expressed concern that if the city funded a void analysis now, it may need to be redone in two years and could be affected by other new projects like Boulder Junction. He said he was cautious about housing because of the loss of sales tax revenue to the city (now generated by retail uses) and the changes to property tax revenues. He expressed concerns about the incremental approach (option 2) because if the city does not proceed with option 3, then perhaps we should not put any more city funds into the property. This could affect a future ability to make a finding of blight and could be investing funds into a site that we would like to see redeveloped. He said he has no reservations about continuing to work with property owners.

K. Becker noted that a neighborhood plan would help determine the vision for the site.

R. Wobbekind questioned whether a blight study should be done to see if the site would qualify and meet the criteria. He said that he thinks this should be considered as a next step, as well as considering affordable housing. He noted that he liked the idea of a planning process to develop a vision, but then a future developer may not find that this vision matches the market reality. He indicated that he was mostly concerned about the City Council dropping the project since it is a key gateway property that should look as nice as other sites in Boulder.

J. Wyatt supports the minimal incremental approach and working with the property owners to find out if they are willing to be part of a property assembly and, possibly, a blight study. An incremental approach would try to influence what happens in the near term.

R. Wobbekind noted that the city is already making improvements in the area, including the 28th Street crosswalk.

C. Winter asked about the estimated cost of a void analysis.

C. Perry estimated that it would cost between \$50,000 and \$75,000. He also noted that 24 Hour Fitness and Rite Aid are savvy real estate tenants.

R. Wobbekind said that he would like the city to talk to the property owners, but it may be difficult to get a response from absentee landowners.

C. Perry said that he has seen less deteriorated sites deemed blighted.

M. Leccese suggested that the city may want to first focus on the larger vacant spaces.

L. Hanson noted that the two largest vacant spaces were owned by an in-state property owner.

At this point in the meeting, Chair Wobbekind reopened public participation and two people spoke (see Public Participation above).

C. Perry noted that as part of a neighborhood planning analysis, scenarios could look at adaptive reuse including leaving some buildings and complementing them with new development.

J. Wyatt suggested that the city consider what incentives would encourage adaptive reuse. He also questioned whether the goal is only to make the site visually appealing or to accommodate a large goal like redevelopment and affordable housing.

K. Becker expressed concerns about the city spending funds on a neighborhood plan that could have no relation to what is feasible in the market. She noted that a realistic visioning process is needed to study “what it would take and here’s what you could lose.”

C. Perry agreed that the planning process must be connected to reality and that city officials must engage in the public planning process.

C. Winter said that it appears that there is homework to be done to keep the momentum going.

R. Wobbekind asked City Manager Jane Brautigam what type of input was desired from the Commissioners.

Jane Brautigam, City Manager, said that at their retreat in January, the City Council looked at the 2011 work plan, including what projects were currently on their plate and a list of other projects that could be added. She said that the Council agreed that if there was available staff time between now and June, additional work should be done on visioning the civic area downtown. The Council found that there was not time for staff to work on other additional projects, including Diagonal Plaza. She noted that there will be a “mini retreat” in June for the City Council to check on the status of work projects. For Diagonal Plaza, Ms. Brautigam said that the ULI TAP report and the BURA Commissioners comments from tonight’s meeting will be sent to the City Council, including a staff recommendation of what city staff could do in the first half of 2011. She clarified that there is no time for a neighborhood plan in 2011, but agreed that the city does not want to lose momentum on the project.

R. Wobbekind noted that the wheels of real estate development move slowly and that there must be a more productive use of such a large parking lot. He noted that Commissioner Jerry Lee (who was not present) sent an e-mail to the commissioners and staff to indicate that he supported the incremental approach and that he would like to see data collected and for the city staff to spend as much time on the site as reasonable. Mr. Wobbekind requested that staff provide quarterly reports on what has been accomplished, with summaries on the number of people contacted, informing the commissioners of the progress.

C. Winter suggested that staff forward a work plan to the BURA Board for review.

J. Wyatt agreed about continuing the data collection and would like to know more about options for reuse, including possible incentives that the city could offer (floor area ratio increases?). He said the site needs leadership. Unlike Twenty Ninth Street – when most agreed that the project was to replace a regional shopping center – the future of this site is more challenging.

R. Wobbekind noted that the BURA Board is divided but that he does not think the city will finance a public use like a soccer field, based on the market-based economic realities.

K. Becker said that she believes that if the city does a plan to figure out a vision it needs to be based on the market, reality, and feasibility.

The meeting was adjourned at approximately 9:15 p.m.

Diagonal Plaza Staff Work Plan - 2011

	First Quarter			Second Quarter			Third Quarter			Fourth Quarter		
<i>Developer / Tenant Outreach</i>												
Meet with prospective/interested developers	Ongoing			Ongoing			Ongoing / Quarterly Report to BURA			Ongoing / Quarterly Report to BURA		
Contact potential developers						Contact List	Contact / Quarterly Report to BURA			Contact / Quarterly Report to BURA		
Contact potential tenants						Contact List	Contact / Quarterly Report to BURA			Contact / Quarterly Report to BURA		
<i>Property Owner Outreach / Data</i>												
Interview in-state property owners					Schedule	Interviews	Interview / Quarterly Report to BURA			Interview / Quarterly Report to BURA		
Research / contact out-of-state property owners						ID Research	Research / Quarterly Report to BURA			Research / Quarterly Report to BURA		
Document new property/lease info.							Ongoing / Quarterly Report to BURA			Ongoing / Quarterly Report to BURA		
<i>Consultant Reports</i>												
ULI Technical Advisory Panel and Report	ULI Panel	BURA		CC Review								
Blight Study				CC Direction	Select Consultant			Final report	BURA	CC Review		

ATTACHMENT D

DIAGONAL PLAZA BACKGROUND INFORMATION

Diagonal Plaza Shopping Center

The Diagonal Plaza is a commercial center in northeast Boulder. The center was first developed in 1965, with a subsequent phase developed in 1995 near 30th Street. The area is comprised of multiple properties, all controlled by separate owners. Several of the properties have long term leases. The area is mainly zoned BC-1 (Business Community – 1) and the center’s physical infrastructure does not meet the city’s current land use regulation standards, including circulation, landscaping, and lighting.

The Diagonal Plaza center has been aging and the physical appearance of its buildings and improvements have been declining. It is also the city’s most underutilized retail center.

- Over the past several years, primary tenants such as Albertson’s, Ross, and PetSmart have moved from the site. Other smaller tenant spaces are also vacant throughout the project, including those in the “mini-mall” indoor retail space and the former Lazy Dog Saloon site along the Diagonal Highway.
- 24 Hour Fitness is the newest large tenant and one of the site’s major draws, along with the State of Colorado Drivers’ License Office.
- Rite Aid and Sports Authority occupy larger tenant spaces along 28th Street.
- There have been no applications to the city for redevelopment of the site, although in 2010 and 2011 the city has received increased inquiries from developers interested in the site.

A draft list of “Preliminary Criteria for Success” was developed by staff in spring 2010 with the goal of establishing *“a new paradigm for the design, development and management of community shopping centers in Boulder in a manner that advances our community’s goals related to economic, social and environmental sustainability.”* Issues related to retail uses, sales tax, connectivity, public space, mixed uses, and environmental sustainability are identified as being key to the center’s redevelopment regardless of the specific development scenario chosen.

The Diagonal Plaza Study

The Boulder Valley Comprehensive Plan focuses on infill and redevelopment as a means of avoiding sprawl. Community discussions about how we can best manage our future focus on the revitalization and redevelopment of underperforming and underutilized properties in our existing urban core. The Diagonal Plaza is one of these properties. The City of Boulder has begun the steps to conduct an initial study of the Diagonal Plaza center and the immediate surrounding area, including evaluating the options related to future redevelopment. The city also seeks information about the feasibility of public-private partnerships or financial options such as the use of the Boulder Urban Renewal Authority (BURA), tax increment financing, or other public financing tools. For an overview of urban renewal, tax increment financing, and BURA, please see **Attachment H**.

The city has defined a study area for the purpose of this initial analysis – the commercial properties generally bounded by the Diagonal Highway, Glenwood Drive, 28th and 30th Streets (see map in **Attachment E**). The study area includes the Diagonal Plaza shopping center as well as several nearby properties that provide context or may benefit from circulation improvements; it includes 15 properties, each with separate owners. Two of the properties near the northeast corner of Glenwood Avenue and 28th Street have considerable vacancies. **Attachments F and G** shows property, building and property ownership information for the 15 properties. Property owners in the study area were contacted by the city by mail and/or by phone to review the status of the 2010 Diagonal Plaza Study.

The table below shows the aggregate city taxes collected for the 15 properties in the Diagonal Plaza Study Area from 2007 to 2010. Tax revenue collections have declined each year, except from 2009 to 2010 when a new restaurant and new medical marijuana dispensary resulted in higher sales taxes (if not for these new businesses, 2010 sales taxes would have been approximately \$19,000 less than 2009 total). Less than half a million dollars in city sales taxes were collected in 2010. In a general comparison of 2010 sales tax revenues, \$2,335,527 were collected from Table Mesa Shopping Center (Broadway and Table Mesa), \$1,627,977 from Basemar Shopping Center (Baseline and Broadway), and \$864,112 from Meadows on the Baseline (Foothills Parkway and Baseline).

**Diagonal Plaza RFP Study Area
City of Boulder - Aggregate Taxes**

	2007	2008	2009	2010	Total
Sales Tax	\$673,943	\$547,152	\$483,792	\$489,509	\$2,194,396
Use Tax	\$6,225	\$10,170	\$6,613	\$1,362	\$24,370
Food Tax	\$6,465	\$5,955	\$5,589	\$5,217	\$23,226
Property Tax	\$910,684	\$958,441	\$1,002,361	\$1,043,567	\$3,915,053
Total	\$1,597,317	\$1,521,718	\$1,498,355	\$1,539,655	\$6,157,045

EPS Economic Analysis Report

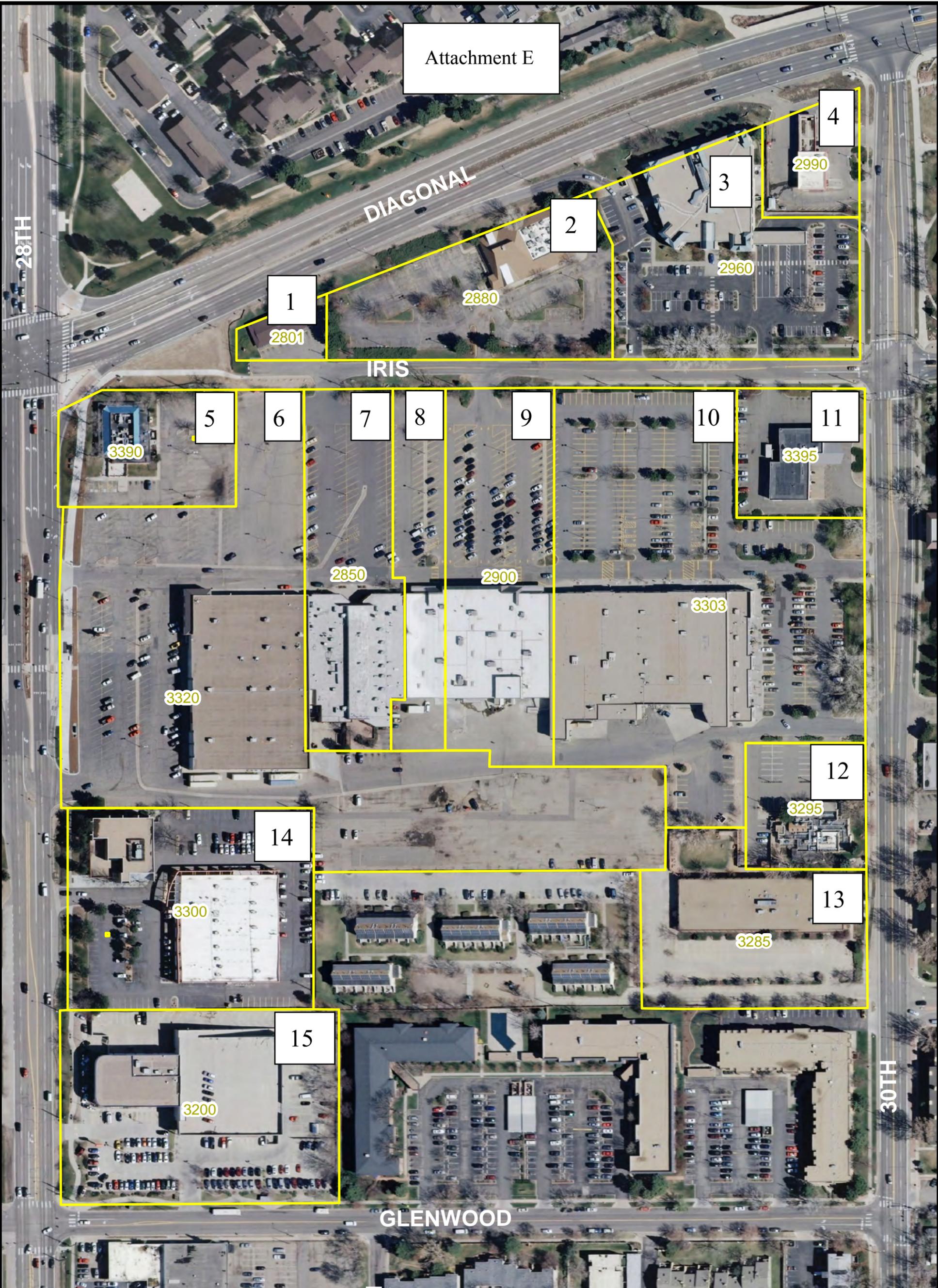
In June 2010, a Request for Proposal (RFP) was issued by the city and in August 2010, the city selected a consulting team lead by the consulting firm of Economic & Planning Systems (EPS) to determine the economic feasibility of the following redevelopment options:

1. Retail big box or mid-box development
2. Horizontal mixed use with a mix of retail and residential uses
3. Vertical mixed use containing both retail and residential uses

The resulting report was included in the November 16, 2010 City Council packet. The consultants' analysis indicates that each of the three scenarios would require some level of public subsidy or investment. The feasibility of Scenario 1 (commercial only with big box retail) and Scenario 2 (horizontal mixed use) is questionable even with the maximum public financing. The report indicates that Scenario 3 (vertical mixed use) may be feasible with tax increment financing (TIF) if retail is configured in a way that is appealing to the commercial market. Only a few big box retailers are listed as having "high" potential and these retailers are generally seeking a project land cost that is substantially lower than the report's rough estimation of the site's value. The report also raises questions as to the appeal of the Diagonal Plaza as a regional retail site versus a community retail center.

The Boulder Urban Renewal Authority (BURA) met on September 29, 2010 to discuss the economic analysis report and provide recommendations and the Planning Board was updated on the report at its November 4, 2010 meeting.

Attachment E



1
2801

2
2880

3
2960

4
2990

5
3390

6

7

8

9

10

11
3395

3320

2850

2900

3303

12
3295

14
3300

13
3285

15
3200

30TH

Diagonal Plaza Redevelopment Analysis
RFP Study Area June 2010

Attachment F

Diagonal Plaza Study Area

Building and Land Information

Source : Boulder County Assessor Records

Plot #	ADDRESS	BLDGCLASS	BLDGYEAR	BLDGSQFT	AREASQFT	ZONING	LANDUSE	PREVREVIEW	FLOOD	BLDGVALUE	LANDVALUE
1	2801 IRIS AV	MERCHANDISING	1960	2,707.00	10,591.00	BC-1	GB			\$ 214,400.00	\$ 290,100
2	2880 DIAGONAL HY	RESTAURANTS	1979	10,322.00	81,448.00	BC-1	GB	P-78-39	500Ye	\$ 48,400.00	\$ 1,192,900
3	2960 DIAGONAL HY	BANKS	1995	44,301.00	108,584.00	BC-1	GB	SI-94-5, UR-94-6	100Ye	\$ 4,073,900.00	\$ 2,326,100
4	2990 DIAGONAL HY	SERVICE STATION	1969	1,961.00	25,725.00	BC-1	GB	SR, SI-97-7	100Ye	\$ 155,000.00	\$ 537,000
5	3390 28TH ST	RESTAURANTS	1975	5,902.00	48,749.00	BC-1	CB	PUD		\$ 503,200.00	\$ 869,600
6	3320 28TH ST	MERCHANDISING	1965	48,968.00	291,900.00	BC-1	CB			\$ 1,033,400.00	\$ 2,961,100
7	2850 IRIS AV WEST	MERCHANDISING	1983	25,089.00	79,871.00	BC-1	CB			\$ 1,562,700.00	\$ 1,626,100
8	2850 IRIS AV EAST		0	-	42,408.00	BC-1	CB				\$ 924,000
9	2900 IRIS AV	MERCHANDISING	1973	38,226.00	96,912.00	BC-1	CB			\$ 2,580,600.00	\$ 2,108,800
10	3303 30TH ST	MERCHANDISING	1995	117,596.00	247,771.00	BC-1			100Ye	\$ 4,151,600.00	\$ 3,948,400
11	3395 30TH ST	MERCHANDISING	1977	7,259.00	39,678.00	BC-1	CB	SR-80-19	100Ye	\$ 335,000.00	\$ 640,000
12	3295 30TH ST	RESTAURANTS	1969	6,896.00	36,417.00	BC-1	CB		500Ye	\$ 600,000.00	\$ 822,000
13	3285 30TH ST	TOTAL SCHOOL	1981	54,874.00	83,587.00	BC-1				\$ 1,410,300.00	\$ 1,639,400
14	3300 28TH ST	OFFICES	1982	16,983.00	119,046.00	BC-1	CB	P-82-1, P-81-4, P-79-58		\$ 2,135,300.00	\$ 1,706,500
15	3200 28TH ST	AUTO DEALER	1996	39,881.00	129,952.00	IG	HR			\$ 2,943,800.00	\$ 3,265,900
Total				420,965.00	1,442,639.00					\$21,747,600.00	\$ 24,857,900

Diagonal Plaza - Owner Info

Call #	Address	Owner Name	Owner In Care Of	Owner Contact	Owner Address
1	2801 IRIS AV	ACE SELF STORAGE PARTNERSHIP LLP		Jack Lacy	1590 CRESS CT BOULDER, CO 80302
2	2880 DIAGONAL HY	AZTEC CORPORATION	C/O GARDNER CARTON & DOUGLAS L		191 N WACKER DR STE 3700 CHICAGO, IL 60606
3	2960 DIAGONAL HY	ELEVATIONS FEDERAL CREDIT UNION		Gerry Agnes	P.O. Box 9004 BOULDER, CO 80301
4	2990 DIAGONAL HY	FILL N GO COMPANY INC		Prasanna Sfrestfa	1461 MAGPIE CT GOLDEN, CO 80403
5	3390 28TH ST	SMELLAGE ROBERT H JR BOWLIN PROPERTIES LLC	C/O THOMPSON TAX & ACCOUNTING		1735 MARKET ST SUITE A 400 PHILADELPHIA, PA 19103
6	3320 - 3338 28TH ST	CEDAR ENTERPRISES CORP	RITE AID CORP/REAL ESTATE TAX		PO BOX 3165 HARRISBURG, PA 17105-3165
7	2850 IRIS AV	DIAGONAL LLC	C/O HALBERT & ASSOC	Larry D Burnett	PO BOX 19622 BOULDER, CO 80308
8	2850 IRIS AV	ABS RM LEASE OWNER LLC			250 E PARK CENTER BLVD BOISE, ID 83726
9	2900 IRIS AV	WAL PROPERTIES LLC			6345 NORTHWEST 23RD CT BOCA RATON, FL 33496
10	3303 30TH ST	R W RINDERKNECHT COMPANY		John Rinderknecht	1777 HARRISON ST STE P2 DENVER, CO 80210
11	3395 30TH ST	PISCIOTTA LARRY F UND 25 PCT & ETAL	C/O BRIDGESTONE/FIRESTONE INC	Larry Pisciotta	5500 E. QUINCY AVE. CHERRY HILLS CO, 80113
12	3295 30TH ST	EVANS CLAUD R TRUSTEE	C/O CORK AND CLEAVER	Doug Evans	1278 S Chambers Rd. AURORA, CO 80017-4046
13	3285 30TH ST	NAROPA UNIVERSITY			2130 ARAPAHOE AVE BOULDER, CO 80302
14	3300 28TH ST	REM INVESTMENT LLC HILGERS FAMILY TRUST ET AL		John Schwartz	2121 S ONEIDA ST STE 635 DENVER, CO 80224
15	3200 28TH ST	3200 LLC		Harris Faberman	6800 N 79TH ST UNIT 200 NIWOT, CO 80503

Attachment H

Urban Renewal: An Overview September 24, 2010

Prepared by City of Boulder Economic Vitality Staff

Urban Renewal

Urban renewal is a form of land redevelopment usually seen in urban areas. The process of urban renewal involves taking urban land that has deteriorated, either physically or economically, and redeveloping it to renew the property and its surroundings' value.

An "Urban Renewal Project" is defined in State Statute 31-25-102 as:

Undertaking activities for the elimination and for the prevention of the development or spread of slums and blight and may involve slum clearance and redevelopment, or rehabilitation, or conservation, or any combination or part thereof in accordance with and urban renewal plan. Such undertakings and activities may include

- a) Acquisition of slum or blighted area*
- b) Demolition and removal of buildings and improvements*
- c) Installation, construction, or reconstruction of streets, utilities, parks, playgrounds, and other necessary improvements need to carry out the "urban renewal plan"*
- d) Disposition of any property acquired by the Authority including sale, initial leasing, or retention by the authority for fair value of such property as with its use in the urban renewal plan*
- e) Repair, alteration, and rehabilitation of buildings or other improvements in accordance with the urban renewal plan.*
- f) Acquisition of any other property where necessary to eliminate unhealthful, unsanitary, or unsafe conditions, lessen density, eliminate obsolete or other uses detrimental to the public welfare, or otherwise remove or prevent the spread of blight or deterioration or to provide land for needed public facilities.*

By Colorado State Statute 31-25-102 an urban authority may only proceed with an urban renewal plan, and designate an urban renewal area, if the area in question is determined to be blighted. The judgment is based on the results of a blight study. Colorado urban renewal law was updated this year with the passing of House Bill 10-1107. The bill limits the use of agriculture lands in urban renewal projects.

Blight Study

A “blighted area” is a term defined in Colorado State Statute 31-25-103. There are 11 factors of blight identified in the law, and four of them must be found for an area to be declared an urban renewal area, unless there is no objection by the property owner(s) and tenants, in which case only one factor of blight must be present. If eminent domain is used, five factors of blight must be found. The following factors are used to determine if an area is blighted:

- a) Slum, deteriorated, or deteriorating structures;
- b) Predominance of defective or inadequate street layout;
- c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness
- d) Unsanitary or unsafe conditions
- e) Deterioration of site or other improvements
- f) Unusual topography or inadequate public improvements or utilities
- g) Defective or unusual conditions of title rendering the title non-marketable
- h) The existence of conditions that endanger life or property by fire or other causes
- i) Buildings that are unsafe or unhealthy for persons to live or work in because of building code violations, dilapidation, deterioration, defective design, physical construction, or faulty or inadequate facilities
- j) Environmental contamination of buildings or property
- k) The existence of health, safety, or welfare factors requiring high levels of municipal services or substantial physical underutilization or vacancy of sites, buildings, or other improvements

If the study finds the area in question to be blighted, the urban renewal authority may proceed with redevelopment planning under an urban renewal project. A finding of blight also gives the city the right to condemn property using eminent domain.

Tax Increment Financing (TIF)

Tax Incremental Financing (TIF) is a tool utilized by urban renewal authorities (URAs) to fill the gap between the total cost of a redevelopment project and the level of private financing it can obtain. TIF utilizes the future sales tax and/or property tax revenue gains from redevelopment to fund the redevelopment itself. The URA estimates the expected tax value of the redeveloped site and subtracts the current tax value, known as the “base valuation.” The difference between the two is the “tax increment.” The city keeps the base valuation, while the tax increment is used to pay off any bonds or other financing used to fund the project. Under Colorado state law, the URA can capture the tax increment for up to 25 years after the approval of the plan to use TIF.

History of the Boulder Urban Renewal Authority

The Boulder Urban Renewal Authority (BURA) was created by the Boulder City Council in March 1979. BURA consists of five commissioners who serve five year terms. BURA Commissioners are appointed by the Mayor of the City of Boulder. BURA is responsible for encouraging the redevelopment of property within City Council-established redevelopment

districts. BURA also provides input regarding redevelopment issues and programs to the City Manager. The BURA Board of Commissioners meets as needed, rather than on a regular, monthly basis.

The current BURA commissioners are: KC Becker, John Wyatt, Richard Wobbekind, Jerry Lee, and Chet Winter.

Historically, BURA has only used urban renewal for large commercial projects. BURA has undertaken only two urban renewal projects: the redevelopment of Crossroads Mall in the early 1980's and the Ninth and Canyon redevelopment where the St. Julien Hotel and a public parking structure stand today. In both projects, the City partnered with a private developer. Each urban renewal proposal is evaluated on a project by project basis to ensure compliance with state statutes.

Boulder Valley Regional Center (BVRC) and Crossroads Mall

1979

February Boulder City Council votes unanimously to use “persuasive and legal powers” to expand shopping facilities between 28th and 30th, north of Arapahoe, and to improve transportation in the area.

March City Council creates the Boulder Urban Renewal Authority.

April City Council approves the Boulder Valley Regional Center (BVRC) Urban Renewal Plan.

April The Macerich Company purchases Crossroads Mall for \$12 million.

June Boulder voters approve Tax Increment Financing (TIF) method to finance redevelopment.

December Macerich selected as developer and May D&F (now Macy's) commits to build a store at Crossroads.

1981 Boulder voters reaffirm support for Crossroads' expansion through a second election brought by a citizen petition.

1982 BURA secures financing for a \$20 million bond issue.

1983 The expansion of Crossroads Mall opens in August with May D&F and new retail stores in the enclosed north end of the mall. The mall is approximately 850,000 square feet.

1987 The BVRC Urban Renewal Plan is revised to include more specific planning and development goals for the portion of the BVRC surrounding Crossroads Mall.

9th and Canyon

1994

December 14 St. Julien Partners purchase parcel at 9th and Canyon

1995

July 11 City Council approves reviewed Urban Renewal Plan

1996

March 5 City Council, acting as the Central Area General Improvement District (CAGID) Board of Directors, denies inclusion of CAGID property in the St. Julien concept review for the Urban Renewal Plan

May 7 St. Julien submittal of a hotel project only on Canyon (on St. Julien property only)

December 5 Planning Board denies St. Julien project on Canyon

1997

January 21 City Council, acting as the CAGID Board of Directors, authorizes CAGID inclusion on the St. Julien concept plan in accordance with the Urban Renewal Plan

1998

July 21 City Council approval of Letter of Intent with St. Julien Partners
City Council approval of CAGID Bond election for the garage

November 3 CAGID Election for garage is successful

1999

September 21 Civic Use Task Force recommendations endorsed by City Council

November 18 BURA meeting and review of site review submittal

2000

February 17 Planning Board approval of St. Julien/CAGID site (7-1) and VAC use review

May 17 BURA approval of the BURA/City of Boulder Cooperation Agreement

June 6 City Council approval of Civic Users Letter of Intent
City Council approval of BURA/City of Boulder Cooperation Agreement

2002

May 21 St. Julien Hotel/ CAGID garage submit for building permit

2003

January 16 Request to BURA for loan for civic infrastructure

April 2 BURA approval of the Cooperation Agreement

April 7	Building Permit approval
May 6	City Council approves the project agreements including Condominium Declaration, Joint Development Agreement, etc. City Council approves the preliminary Official Statement for CAGID bond sale of \$12,500,000
May 21	Groundbreaking Ceremony
June 19	CAGID Bond Sale
2004	
November	CAGID garage opens
2005	
February	Hotel opens

REFERENCE MATERIALS

	1st Qtr. - 2011	2nd Qtr. 2011	3rd Qtr. 2011	4th Qtr. 2011
General				
Boulder Valley Comp. Plan - 5 yr. update^	STAFF	CC -SS	CC - PH	
Carter Lake Pipeline	STAFF			CC - IP
Chautauqua Study Session^		CC - SS		
Children & Youth Study Session Follow Up	CC - IP		CC - IP	
Comcast Franchise Renewal	CC - IP		CC	
Community Survey		Developed	Administered	Results
Compatible Development Implementation Rpt.		CC - IP		
Drought Planning & Response Plan Update	CC - PH			
IBM Connector Trail - IGA				
Keep it Clean Partnership - IGA		CC - PH		
Legislative Agenda^				CC - SS
Medical Marijuana				CC - Matter
Code Update	CC - PH			
Sales & Use Tax Audit/ Rev.	STAFF		CC - IP	
Open Space - Disposal of Eldorado Fire Station site	STAFF/ PUBLIC PROCESS	CC		
75th Street Wastewater Treatment Facility	STAFF		CC - IP	
State of the Court Presentation	CC - Presentation			
University of Colorado at Boulder				
Wastewater Re-Use			CC - IP	
Master Plan	STAFF	CC - MATTER		
Grandview	STAFF	CC - MATTER		
University Hill - issues		CC - IP	CC - Matter	
Valmont Butte Site Management and Remediation^		CC - MATTER		
Water and Ditch Rights	STAFF		CC - PH	
Water Budget Study for Industrial, Commercial & Institutional Customers (ICI)	STAFF/ PUBLIC PROCESS			CC - IP
Water Conservation and Municipal Water Budgets		CC - IP		
West Trail Study Area (West TSA)		CC - PH		
Boulder Junction Implementation				
Financial Plan^		CC - IP	CC - via budget	
Private/ Public Development^		CC - IP	CC - via budget	
TDM & Parking Access GID's^		CC - IP		
Code Changes/ Updates				
Bike Share ^	CC - ACTION	CC - ACTION		
2012 ICC Building, Fire and Energy Codes	STAFF/ PUBLIC PROCESS		CC ACTION	
Café Seating^		CC - PH		
Community Gardens/ Solar Generation Fac.			CC - PH	
Contractor Licensing				CC - PH
Mobile Food Vending		CC - PH		
Public Works Design & Construction Standards Update				CC ACTION
RH-2 Zone District				CC - PH
Tree Protection	CC			
Wind Generation Facilities				PB/ CC

	1st Qtr. - 2011	2nd Qtr. 2011	3rd Qtr. 2011	4th Qtr. 2011
SoDA, Downtown Zone Districts & Site Review Criteria for Height Modifications		CC - PH		
Out-of-City Utility Permits		CC - PH		
Code Enforcement				
Graffiti Enforcement and Regulations		CC - IP		
Rental Housing Enforcement/Smart Regs Impl.	STAFF/ PUBLIC PROCESS		CC - SS	
Smoking in Public Places	STAFF/ PUBLIC PROCESS			CC - PH
Snow Removal Ordinance	CC - PH			
Development Review - Potential Call Ups/ Annexation Applications				
Boulder Community Hospital				Potential Call up
Daily Camera Site		CONCEPT PLAN		
First Christian Church - 950 28th Street		CONCEPT PLAN		Potential Call up
Gunbarrel Town Center	CONCEPT PLAN			
Harper Hollow - annexation application		CC - PH		
Hogan Pancost - Annexation/ Site Review		CONCEPT PLAN		
Junior Academy		CONCEPT PLAN		Potential Call up
RTD Bus Facility at Boulder Junction		CONCEPT PLAN		
Waterview Apts. (63rd/ Arapahoe)		CONCEPT PLAN		
955 Broadway/ 1715 Aurora - multi family		CONCEPT PLAN		
Economic Vitality/ Downtown/ Uni Hill				
Civic Use Task Force IV		CC	STAFF	
Diagonal Plaza	ULI TAP/ CC - Matter			
13th/15th- Streetscape Improvements	CC - IP			
Federal Lab Partnerships/ MOU's			CC	
Randolph Center Condominium Association	STAFF	CC - Consent		
University Hill Revitalization				
Innovation District^	STAFF	ULI TAP		
14th Street - Lot Redevelopment^	STAFF		CC	
Residential Service District^	STAFF	CC - IP	CC	STAFF
Energy				
Boulder Canyon Hydroelectric Agreement			CC - IP	
Boulder's Energy Future^	CC ROUNDTABLE / SS		CC - PH	
Congressional Field Hearing on Sustainability^			Council Participation	
Local Environmental Action Division (LEAD)				
Program evaluation check in		CC - IP		
Sustainability IGAs		CC		
Finance/ Budget				
Capital Improvement Plan (CIP)^		CC - Matters	CC-SS and action	
City Wide Ballot Issues (CIP, etc)^		CC - SS	CC - SS	CC - SS
Construction Use Tax - Imp. & Training^	STAFF		CC - IP	
2012 Recommended Budget^			CC - SS	CC - PH
Purchasing procedures	STAFF		CC - IP	
Flood Management and Mitigation Program				
Boulder Creek Flood Map Updates	STAFF/ PUBLIC PROCESS		CC - PH	
Critical Facilities Flood Ordinance	STAFF/ PUBLIC PROCESS		CC - PH	
Multi-hazard mitigation plan update		CC - IP		
Wonderland Creek at Foothills Parkway,	STAFF		CC - IP	

	1st Qtr. - 2011	2nd Qtr. 2011	3rd Qtr. 2011	4th Qtr. 2011
Four Mile Fire/ Potential Flood Impact		CC - IP		
South Boulder Creek Flood Mitigation Plan	STAFF/ PUBLIC PROCESS			CC - PH
Master Plans				
Boulder Reservoir Master Plan			CC	
DUHMD/ PS Master Plan			CC - IP	CC - Present
FAM Master Plan Update				CC ACTION
Fire Master Plan	STAFF			CC - SS
Greenways Master Plan Update	STAFF	CC - PH		
Parks and Recreation Master Plan Update	STAFF			CC
Police Department Master Plan Update	STAFF			CC
Waste Reduction Master Plan				
Master Plan	CC - SS			
6400 Arapahoe Annexation^			CC - PH	
Water Utility Master Plan				CC - PH
Social Sustainability				
Affordable Housing				
Inclusionary Housing/ Program Review	CC	STAFF		
Mobile Home Park Strategies	STAFF			CC - PH
Task Force		CC - UPDATE	Recommendation	STAFF
Homelessness - 10 yr. plan implementation	STAFF			
Mapleton Early Childhood Center	CC - IP	CC - Matter		
Transportation Related				
Broadway/Euclid		CC - IP	CC - IP	
DRCOG-TIP Coordination	STAFF		CC - via budget	
Pedestrian Crossing Treatment Guidelines review	STAFF		CC - ACTION	
Transportation Demand Management (TDM), Parking, BVSD & RTD Coordination	STAFF	CC - IP		
Transportation Capital Construction	STAFF	CC - IP		
Transportation Master Plan Implementation		CC - IP		IP (Metrics & Multimodal Study)
Regional Transportation Issues/ US 36	STAFF	CC - IP		
Urban Wildlife/ Integrated Pest Mgmt. Issues				
Integrated Pest Mgt. Policy Revision^		CC - IP		
Nuisance Mosquito Pilot Evaluation		CC - PH		
Urban Wildlife Plan - Bear/Lion^		CC - direction		CC - acceptance

KEY:
CC = City Council Public Hearing or Matter
CC = Information Packet Memo (IP)
CC = Consent Item
STAFF:

^ = Cross Departmental Item
 IP = Information Packet
 SS = Study Session

BVSD = Boulder Valley School District
 CEAP = Community & Environment Assessment Process
 CIP = Capital Improvement Plan
 DRCOG = Denver Region Council of Governments
 DUHMD = Downtown/ University Hill Management District
 FAM - Facilities and Asset Management
 GID = General Improvement District
 ICC = International Code Council
 ICI = Industrial, Commercial & Institutional Customers
 IGA = Inter Governmental Agreement
 MOU = Memorandum of Understanding
 PS = Parking Services
 RH = Residential Housing
 RTD = Regional Transit District
 SoDA = South of Downtown Area
 TIP = Transportation Improvement Program
 TDM = Transportation Demand Management

	1st Qtr. - 2011	2nd Qtr. 2011	3rd Qtr. 2011	4th Qtr. 2011

Note: Dates are tentative and subject to change.

**2010-2011 City Council Goals
REVISED JANUARY 2011**

Boulder's Energy Future – Note: Highlighted Section is new

The city's top priority for 2011 is to develop a vision and framework to guide planning and decision making about Boulder's energy future, and to analyze and make decisions about potential options for achieving the community's vision. The project's overarching goal is:

To ensure that Boulder residents, businesses and institutions have access to energy that is increasingly clean, reliable and competitively priced.

In charting Boulder's energy future, the following objectives will be used to evaluate success:

Boulder's energy future will:

- Ensure a stable, safe and reliable energy supply
- Ensure competitive rates, balancing short-term and long-term interests
- Significantly reduce carbon emissions and pollutants
- Provide energy customers with a greater say about their energy supply
- Promote local economic vitality
- Promote social and environmental justice

Specific actions to be accomplished in 2011 are:

- 1) **Develop a November 2011 Ballot Measure** through a series of community engagement opportunities, intensive research efforts and council discussions to establish the city's options or preferred option for its energy future; and
- 2) **Conduct Analysis to Inform Development of a 2012 Action Plan** which would be implement council and voter direction as established in the November 2011 vote.

ADDITIONAL COUNCIL PRIORITIES

Affordable Housing

- Receive the Affordable Housing Task Force recommendations on program goals and strategies in August. Based on council decisions regarding these recommendations, develop an implementation plan for the updated Affordable Housing Strategy.
- Conduct a study session in 4Q, 2011 to review approaches to addressing the maintenance and preservation of mobile home parks as affordable housing options and staff recommendations on a comprehensive approach to addressing mobile home park issues

Climate Action Plan

- Focus on success of projects and programs already underway, especially implementation of SmartRegs and Energy Smart, and work to reduce energy consumption in the commercial and industrial sectors
- Maximize utilization of Xcel's SmartGrid: part of localization strategy
- Fund transportation projects that reduce greenhouse gas impacts
- Integrate Climate Action Plan with BVCP

University Hill Revitalization

- Continue work of Ownership Group to develop comprehensive revitalization strategy
- Investigate formation of a general improvement district, including the commercial area and part of the residential area to control trash and other problems
- Change boundaries of BMS land use to coincide with UHGID through BVCP process
- Support private development and investment in Hill area, including potential partnership for redevelopment on city-owned properties
- Partner with CU to consider opportunities for properties in the Hill area
- Provide an opportunity to explore big ideas

Boulder Junction Implementation

- Continue to implement key elements of Boulder Junction by: coordinating with public and private development, including RTD and its selected developer and the developer of the 3100 Pearl project; refining financial commitments which prioritize and phase in key public improvements, and advancing the Access and TDM Districts.
- Design key public improvements in greater detail; refine project costing and prioritize projects for phasing.
- Prioritize city actions to facilitate private investment
- Focus additional planning work on reconsidering use for Pollard site

Capital Investment Strategy

- Develop a capital investment strategy that commits unallocated existing revenues to address deficiencies first and high priority enhancements second.
- Consider asking voters for bonding authority based on existing revenues as early as Nov 2011.
- Establish a stakeholder committee which would provide advice to staff and City Council regarding potential new revenues for an expanded capital investment strategy, with the potential for a 2012 ballot item.

Waste Reduction

- Update Waste Reduction Master Plan, focusing on innovative solutions such as “waste to energy;” reduction of commercial waste stream; and reduction of toxic materials.

Homelessness

- Continue to participate in the implementation of the Ten Year Plan to Address Homelessness, including balancing long term and short term service needs and investing new available resources in the Housing First model.
- Continue to work with emergency service providers such as Carriage House, Shelter for the Homeless and Boulder Outreach for Homeless Overflow to coordinate emergency services.

Sustainable Agriculture and Local Food Systems

- Identify lands for potential food production
- Continue efforts to identify and address constraints of the Farmer’s Market, and to explore potential for development of a year-round market facility
- Create a stronger policy framework for sustainable agriculture in the BVCP update

Mapleton Early Childhood Center

- Continue to work with community service providers, BVSD and Head Start to identify opportunities for meeting a range of family needs and incomes for early childhood programs and services which address the achievement gap.

OTHER CITY GOALS AND WORK PLAN ITEMS

In addition, the City Council endorsed the staff work plan for 2011 which includes completion of the five year update to the Boulder Valley Comprehensive Plan, land use and zoning code changes, studies in support of water budgets, engagement with the Colorado Chautauqua Association regarding their planning efforts, work with CU related to their ten-year facilities master plan, a Congressional field hearing on sustainability, a critical facilities flood ordinance, and investigation of opportunities to support capital investment in the community. The full 2011 work program is detailed in the attached spreadsheet.

Realizing the magnitude of the work plan, the City Council also directed staff to utilize additional staff resources, if any, on background investigations to support Civic Center planning.

Council will reconvene in June 2011, to review progress on the Council goals and to address prioritization of projects.

Council Working Agreements

Council Process:

- The Council will work on general discipline in being prepared to ask questions and make comments.
- The Council asks the Mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The Mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check-in with fellow members periodically to ensure that this is not an issue.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously clean between members of boards and members of council, like expressing ideas to board members on things coming before the Board, and carefully disclose or recuse themselves when they're involved with board members on a topic.
- Council agrees to e-mail the city manager about issues that they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Members will keep the full council informed on issues from committees, public groups or other agencies that they are following, the a hot line e-mails, brief verbal reports at the end of council meetings or other means.
- The Council will find ways to support majority council decisions and adequately inform the public, through response letters that explain how divergent points of view were heard and honored in decisions, via standard e-mail responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

Council Committees

- Council goal committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each goal committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from Members of Council, noting that written communications from the committees are appropriate as well.

2011 Study Sessions: 4:30 - 6pm Energy Roundtable, 6-6:30 dinner and 6:30 study session start times				
April 12, 2011	1) Clean Energy Roundtable 4:30 - 6 p.m. 2) 6:30 p.m. Discussion re: Chautauqua strategic Plan	3 hours total		Muni Lobby Contact: Susan Richstone/James Hewat
April 26, 2011	1) Clean Energy Roundtable 4:30-6pm 2) All things Ballot and Budget - 2011 & 2012; Bond/Ballot item check-in, Charter Committee Update and Development of the 2012 budget (highlight citizen initiatives etc...)		Budget Televised	Council Chambers; contact: Bob Eichen
May 10, 2011	Clean Energy	4 hours total	Televised	Contact: David Driskell/Jonathan Koehn/Sara Finfrock
May 24, 2011	1) Clean Energy Roundtable 4:30 - 6pm 2) Special Meeting and public hearing - BVCP Joint Meeting with Planning Board;	<i>Restrict roundtable to 6 p.m. end time</i>		Council Chambers
May 31, 2011	CANCELED - NO MEETING			
Thursday, June 9, 2011	Joint w/ Landmarks			Susan Richstone
June 14, 2011	Clean Energy	4 hours total	Televised	
Thursday, June 16 2011	Work Plan Prioritization			
July 12, 2011	RECESS ?			
July 26, 2011	Clean Energy	2 hours	Budget Televised	
August 9, 2011	1) Clean Energy Roundtable and 2) CIP			

May 3	Est. time	CAO to Prepare Ordinance?	Ppoint	Timing Issues	Contact
** Mayor Read Historic Preservation Month Declaration					Bonnell/Hewat
CONSENT:					
* Minutes					
* Study Session Summary for BVCP Major Update from March 29		N			Finrock/Chris Meschuk
* Motion to Authorize the City Manager to convey a ROW to CDOT at 6400 Arapahoe		N		like this to occur asap. It must be at least 14 days	Kara Mertz/Driskell/Finrock
* City/County Sustainability IGA's		Y - Kalish	5 min.		Kara Mertz/David Driskell
* 2nd Reading Emergency - Supplement No. 108		Y			Missy Rickson x3020
* 1st Reading 2011 Budget Carryover and 1st budget supplemental		N			Peggy Bunzli and Bob Eiche x1848
* Charter Committee 1st readings?					Alisa Lewis
* Title 13 Election code clean-up		Y			Alisa Lewis
* 2nd Reading ordinance extending the city's franchise agreement with Comcast		Y			Carl Castillo
PUBLIC HEARINGS:					
* Mapleton EET Request	1 hour	N	Will be late for final?		Carl Castillo
* Downtown Code Changes	45 minutes				Susan Richstone/Sara Finrock
* IGA for Section 16 Property		Y		Only needs one reading	Castillo/Carr
MATTERS FROM CITY MANAGER:					
* Approval of an IGA with RTD for site planning and development of their BTV Site	15 min.		5 min.	Depends on RTD for timing	Randall Rutsch/Laurel Olsen-Horen
* CU Master Plan	30 min.				David Driskell
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

May 17	Est. time	CAO to Prepare Ordinance?	Ppoint	Timing Issues	Contact
CONSENT:					
* Minutes					
* Motion to call 5/24 Special Meeting		N			Clerks office
* 2nd Reading 2011 Budget Carryover and 1st budget supplemental		N			Peggy Bunzli and Bob Eichen x1848
* Resolution; CAGID 2011 Carryover and 1st Budget Supplemental		N			Peggy Bunzli and Bob Eichen x1848
* Resolution; UHGID 2011 Carryover and 1st Budget Supplemental		N			Peggy Bunzli and Bob Eichen x1848
* 1st reading landmark designation for 1921 Pine Street		N			finfrock/vaughn
PUBLIC HEARINGS:					
* Charter Committee items - Possibly a second reading of ordinances					Alisa
*West TSA Horse access issue?					
MATTERS FROM CITY MANAGER:					
Civic use pad task force	1/2 HR				Ellen Cunningham x7315 Ruth Weiss x
* Affordable Housing Task Force Update and Check-in		N	15 min.		Darcy Johnson
MATTERS FROM CITY ATTORNEY:					
MATTERS FROM MAYOR AND MEMBERS:					
CALL-UPS:					

Council Appointments to Committees:

2011 ASSIGNMENTS

INTERGOVERNMENTAL ORGANIZATIONS:

Boulder County Consortium of Cities:	Ken Wilson, alternate George Karakehian
Colorado Municipal League Policy Committee (CML):	Matt Appelbaum, KC Becker, alternate Carl Castillo
Denver Regional Council of Governments (DRCOG):	Macon Cowles, alternate KC Becker
Housing Authority (Boulder Housing Partners):	Suzy Ageton
Metro Mayors Caucus:	Susan Osborne
National League of Cities:	Matt Appelbaum
Resource Conservation Advisory Board:	Lisa Morzel
Rocky Flats Stewardship Council:	Lisa Morzel, alternate Carl Castillo, second alternate Eric Stone
CU/City Oversight Group:	Crystal Gray, Ken Wilson and George Karakehian
US 36 Mayors and Commission Coalition:	Susan Osborne, alternate Suzy Ageton
US 36 Commuting Solutions	Suzy Ageton
Urban Drainage and Flood Control District	Ken Wilson

REGIONAL STUDY COMMITTEES:

Beyond the Fences Coalition	Lisa Morzel
Northwest Rail Environmental Assessment Team:	Suzy Ageton

LOCAL ORGANIZATIONS:

Boulder Museum of Contemporary Art (BMoCA):	Macon Cowles, alternate George Karakehian
Boulder Convention and Visitors Bureau:	Crystal Gray, alternate Susan Osborne
Dairy Center for the Arts:	George Karakehian
Downtown Business Improvement District Board:	KC Becker and Ken Wilson

INTERNAL CITY COMMITTEES:

Audit Committee:	Susan Osborne, George Karakehian, Lisa Morzel
Boulder Valley School District Issues:	Crystal Gray, Lisa Morzel, George Karakehian
Evaluation Coordinators:	Ken Wilson, Matt Appelbaum
Civic Use/9th & Canyon:	Crystal Gray and Lisa Morzel
Legislative Committee:	Matt Appelbaum, Crystal Gray, KC Becker, Susan Osborne
Charter Committee:	Suzy Ageton, KC Becker, Lisa Morzel
Council Budget Action Plan Committee:	Matt Appelbaum, Crystal Gray, KC Becker

SISTER CITY REPRESENTATIVES:

Jalapa, Nicaragua:	Lisa Morzel
Kisumu, Kenya	Lisa Morzel
Llaza, Tibet:	Suzy Ageton
Dushanbe, Tajikistan:	Susan Osborne, alternate George Karakehian
Yamagata, Japan:	Ken Wilson
Mante, Mexico:	KC Becker
Yateras, Cuba:	Crystal Gray, alternate Macon Cowles
Sister City Sub-committee:	Crystal Gray and Lisa Morzel