



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: Nov 8, 2011**

**AGENDA TITLE:** Consideration and Motion granting the City Manager authority to enter into (a) a development agreement and lease for the city-owned Historic Depot substantially consistent with the provisions identified by Council, and (b) the conveyance of property into the proposed condominium association at Depot Square including terms implementing the provisions and guiding principles identified by Council, related to the 8.1-acre city-owned site in Boulder Junction known as the "Boulder Transit Village."

**PRESENTERS**

Jane S. Brautigam, City Manager  
Paul J. Fetherston, Deputy City Manager

City Attorney's Office

Tom Carr, City Attorney  
David Gehr, Deputy City Attorney  
Kathy Haddock, Senior Assistant City Attorney

Department of Public Works

Maureen Rait, Executive Director of Public Works  
Tracy Winfree, Director of Public Works for Transportation  
Mike Sweeney, Transportation Planning and Operations Coordinator  
Martha Roskowski, GO Boulder Program Manager  
Randall Rutsch, Senior Transportation Planner

Department of Housing and Human Services

Karen Rahn, Director of Housing and Human Services  
Andy Proctor, Housing Manager  
Michelle Allen, Housing Planner

Department of Community Planning and Sustainability

David Driskell, Executive Director of Community Planning & Sustainability  
Susan Richstone, Comprehensive Planning Manager  
Charles Ferro, Land Use Review Manager  
James Hewat, Historic Preservation Planner

Downtown and University Hill Management Division and Parking Services

Molly Winter, Director

## EXECUTIVE SUMMARY

City staff requests that City Council authorize the city manager to take two additional steps towards the implementation of the joint development of the property at 30<sup>th</sup> and Pearl streets owned by the city and the Regional Transportation District (RTD). Those actions are:

1. Authorization for the city manager to enter into a development agreement with Pedersen Development Company (PDC) related to the terms that it will rehabilitate the historic depot building. In addition to the development agreement, authorization for the city manager to enter into a 20 year lease with PDC for its use of the depot Property. This is a disposition of land under Section 2-2-8, B.R.C. 1981 that requires the council's approval.
2. Authorize the city manager to grant Lot 2, Boulder Transit Village Subdivision Replat A, for creation of a condominium-association in exchange for an ownership of a condominium unit that includes the depot and the land associated with the historic depot building.

As part of the Depot Square development proposed by PDC, more than a million dollars will be invested in repair and restoration work of the historic depot, which will be leased to an active use tenant such as a restaurant or brew pub. In exchange for this capital investment, PDC proposes to enter into a low cost lease with the city for the depot and a patio area that would allow it to recover this investment. This item proposes that the development agreement for rehabilitating the depot and the lease be negotiated and signed by the city manager under the principles established by council. Proposed principles and terms are included in the Analysis Section and **Attachment A** of this memo.

The Depot Square development includes a mix of transit, permanently affordable housing, hotel and commercial activities on the site, along with a civic plaza south of the depot. As an integrated, mixed-use development, the project has a number of common facilities such as a plaza and parking garage that will serve all users of the site. These common elements will be owned and managed by a condominium association, with each member of the association having representation on the board of directors for the association. As a property owner, the city will be a member of condominium association and represented on the board of directors. As council action is required for the conveyance of property, this item proposes that council authorize the city manager to negotiate the condominium declarations based on the principles and agreements approved by council and on this basis, transfer property to the resulting condominium association for the Depot Square development in exchange for ownership of the condominium unit with the depot and its land. These proposed principles and agreements are included in the Analysis section and **Attachment B** of this memo

## STAFF RECOMMENDATION

### **Suggested Motion Language:**

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

Motion to authorize the city manager to enter into (a) a development agreement and lease for the city-owned Historic Depot substantially consistent with the provisions set forth in Attachment A, and (b) the conveyance of property into the proposed condominium association at Depot Square including terms implementing the provisions and guiding principles set forth in Attachment B, related to the 8.1-acre city-owned site in Boulder Junction known as the "Boulder Transit Village."

### **COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS:**

**Economic** - A new transit facility, affordable housing, hotel with 5,000 square feet of meeting space and supportive neighborhood commercial uses are proposed for the portion of Boulder Transit Village (BTV) site owned by RTD. Many of the housing units will provide workforce housing for employees working in Boulder and the transit improvements will provide affordable transportation options for Boulder residents and employees. Formation of a condominium association and rehabilitation of the historic depot are key components of the Depot Square development that support its efficient management and market attractiveness.

**Environmental** - Increased transit ridership, expanded multimodal connections and increased alternative mode share support the city's goals of reducing dependency on single-occupant automobile use, congestion and emission reductions. The central location of the RTD Bus/bus rapid transit (BRT) transit facility promotes long-term environmental sustainability throughout the city by encouraging transit use. The mix of housing, hotel and supportive commercial uses in close proximity to various modes of alternative transportation will allow residents and visitors to reduce vehicle miles traveled and energy consumption. The two Boulder Junction Access Districts – Travel Demand Management (TDM) and Parking – provide the mechanism to manage the parking (unbundled, shared and paid) and to provide transit passes and TDM services to residents and employees in the area. Owners of individually landmarked buildings like the depot are encouraged to reuse and repair as much of the original building as possible when making exterior alterations, thereby reducing the amount of construction waste of building materials deposited in landfills.

**Social** - The Depot Square portion of the BTV site will be a vibrant location with housing, employment, transit, recreation and other amenities and services. This rich mix of uses provides an attractive location for existing and potential residents, particularly for people with disabilities and/or seniors. A new transit facility and associated transportation connections create new access options for all segments of the community. The plaza will provide a public space for community gatherings, festivals, markets and events that will

contribute to the vibrancy of the area. The greater community benefits from the preservation of historic buildings like the landmarked depot.

## **OTHER IMPACTS**

- Fiscal - Fiscal impacts will be determined by the final negotiated agreements. The city may have on-going financial obligations with the Depot Square condominium association, at the end of the Lease Agreement, if not extended, or unless otherwise terminated earlier.
- Staff time - Staff support for continued work on the depot lease and condominium declarations are included in existing work plans.

## **BACKGROUND**

### **Site Selection and purchase**

In 2001, the BTV began as a City Council initiative to partner with RTD to acquire a transit anchor in the Boulder Valley Regional Center, years prior to the passage of RTD's FasTracks program. A site selection study in 2001 identified the 11.24-acre Pollard property, at 30<sup>th</sup> and Pearl streets, as the preferred location for the transit facility and council directed staff to negotiate the purchase. In 2004, council approved the purchase of the site by the city Housing and Transportation divisions. This purchase came with the expressed purpose of designing and constructing a "transit-oriented development" that would be located near high-frequency transit service and provide a mix of housing types, including a "significant level" of affordable housing. Of the approximately eight acres of land purchased by the city, 5.5 acres are leased to Pollard Motors until 2016. RTD owns the remaining 3.2 acres of the site.

### **RTD Federal Grant**

In 2004, the city in partnership with RTD, received a \$7.8 million federal grant to create a master plan for the BTV 11.24-acre property, and to design and construct the RTD bus/BRT transit facility. The intent of the planning portion of the grant is to ensure that the 11.24-acre site functions well for transit, while ensuring that it is integrated with and does not negatively impact the housing and transit-oriented development. Originally scheduled to begin in 2006, this work effort was postponed at the request of the city to allow the Transit Village Area Plan (TVAP) to be completed and provide the framework for the planning and development of the site.

### **Concept and Site Planning**

Following council's approval of TVAP in Sept. 2007, the city and RTD entered an alternatives analysis and concept planning process for the BTV site. Options at this time were significantly limited by the size of the RTD parcel and the funding amount of the federal grant. In March 2009, a concept plan for a surface bus facility and parking lot was reviewed by Planning Board and considered by council in a study session. Both council and Planning Board were concerned with the "suburban" character of the surface development, including the lack of an urban street wall and civic amenities. However, council concluded that as a first phase of development, the facility would meet the long standing plans for a transit anchor in the Boulder Valley Regional Center (BVRC) and directed staff to proceed with site planning.

As the city and RTD were beginning the site planning, RTD received a “third strike” sanction notification from the Denver Regional Council of Governments (DRCOG) for delays in spending the federal grant. These sanctions required RTD to explain the delay and appeal to the DRCOG Board to keep the grant, resulting in an agreement requiring RTD to advertise for a design/build contract by Sept. 30, 2010. The city and RTD worked together during the summer of 2010 to prepare a design/build request for proposals (RFP) for construction of the transit facility. The RFP also contained optional elements desired by the city to build a transit oriented development (TOD) on the site and to include the historic depot in the development proposal. A joint RTD and city selection committee evaluated the responses received and selected a development team in February 2011. The RFP response by Pedersen Development Corporation (PDC) brought private capital into the project, allowing for a below-grade bus rapid transit facility, a five-level parking structure wrapped by permanently affordable residential units, a 101-room hotel and repurposing the historic depot.

Since its selection, PDC has moved rapidly to refine its proposal and receive the necessary city approvals. As the RFP responses were developed to a Concept Plan level, PDC submitted for Concept Plan review in March 2011 and the proposal was reviewed by the Planning Board on April 21, 2011. The development agreement between PDC and RTD was approved by the RTD Board of Directors in September 2011. After numerous meetings with city and RTD staff, an initial site plan was submitted in July. This site plan was reviewed by Planning Board and unanimously approved on Oct. 20, 2011.

### **Current Ownership and Agreement with RTD**

Currently the ownership of specific parcels by the city and RTD is inconsistent with the proposed development. On June 7, 2011, council authorized the city manager to enter into an intergovernmental agreement with RTD to make the necessary land exchanges to accommodate the development and the reconciliation of costs anticipated by earlier agreements between the city and RTD historic depot. The city, RTD and PDC have recently reached a general understanding on reconciliation but the agreement on the reconciliation of land has not been finalized.

### **RFP Depot Option**

In the Sept. 2010 RFP, RTD agreed to include renovation of the historic depot as an option in responses to the RFP. The city’s ‘Criteria for Success’ was included as an attachment to the RFP. The criteria outlined the city’s desire for TOD development on the site that would be consistent with the vision and goals of TVAP, ensure high quality design and public spaces, and respond to the depot as “an important focal point, destination, historic landmark and activity center.” The RFP identified the potential advantages of including the depot in a development proposal as an opportunity to fully integrate it in the development design, to manage it for rental income, to use the building to add value to the development; and identified one potential scenario as involving a low cost long term lease in return for a tenant finish pledge. A brief history of the historic depot is found in **Attachment D**.

In the 1990s, funds were raised by the Depot Task Force, led by Betty Chronic, for the rehabilitation of the building. The fundraising was primarily achieved by selling commemorative bricks that would be installed around the depot. Today, the fund consists of approximately \$50,000 that is being held in a Parks & Recreation account. The intention is to have bricks transcribed with the donor names and installed in an area adjacent to the building, possibly on the trackside. There has been some discussion about such an area being dedicated to the memory of Betty Chronic, who worked for several decades to see the depot appropriately relocated and rehabilitated.

### **Depot Square Development**

The submitted site plan for Depot Square is part of the Oct. 20, 2011 Planning Board packet that can be found at

[http://www.bouldercolorado.gov/index.php?option=com\\_content&view=article&id=15297&Itemid=766](http://www.bouldercolorado.gov/index.php?option=com_content&view=article&id=15297&Itemid=766).

### **Affordable Housing**

PDC was the original developer that obtained the entitlements for 3100 Pearl prior to purchase by the current owner. The affordable housing obligation for 3100 Pearl is proposed to be met by PDC constructing the 3100 Pearl affordable housing on the Depot Square site. PDC has proposed that all of the housing in the Depot Square development be affordable rental housing. Such request for affordable housing at Depot Square is consistent with TVAP and the Housing Division has verified that the affordable obligation from 3100 Pearl to be built at Depot Square due to the importance of this project to the city. Also, the “sending” site for the affordable housing is close in proximity to where the affordable housing will be.

### **Parking**

In order to realize the transit-oriented goals of TVAP, two strategies were incorporated into the Boulder Junction development: zoning regulations creating parking maximums and establishment of general improvement taxing districts to provide shared parking and travel demand management (TDM) services. In 2010, City Council created the Boulder Junction Access Districts for Parking and TDM. The Parking District and city policies for on-street parking will ensure the fundamental principles of transit oriented development – parking that is paid, shared and unbundled. The TDM District will provide more affordable access to Eco Passes, car share and bike share by residents and employees within the district boundaries. The Access Districts are based on the successful combination of programs in the downtown – the Central Area General Improvement Parking District (CAGID) and downtown employee Eco Pass.

A component of the PDC proposal includes 100 spaces within the parking garage for the Boulder Junction Access District – Parking. Discussions are also underway to develop a shared parking management approach for all the users of the garage (hotel, RTD, housing, depot and Plaza users) to comply with the transit oriented goals of shared, paid and unbundled parking. A proposal for District financing of the 100 spaces is scheduled to be presented to City Council in December.

## **ANALYSIS**

The PDC development proposal responded to the city's options for both a high quality transit oriented development and to rehabilitate and fully integrate the historic depot into the development. To effectively implement the mixed use, urban development envisioned in the Depot Square proposal, the city needs to negotiate and participate in a number of agreements with PDC. These agreements involve leasing the depot and incorporating it, as well as the city-owned Lot 2, into the Depot Square condominium association.

The Boulder Revised Code, 2-2-8, Conveyance of City Real Property Interests, allows the city manager to "convey, grant, or lease any interest in any city real property for a term of three years or more only if the manager first obtains City Council approval in the form of a motion, ..." council is being asked to approve a motion to allow the city manager to lease the depot and transfer property to the Depot Square condominium association. Council direction and agreement is sought on the guiding principles and agreements to represent the city's position in these negotiations.

### **Historic Depot Lease and Development Agreement**

While there are a range of understandings and expectations from the community for the depot, the fundamental focus for this lease is a rehabilitated, active building, supporting the civic space of the plaza. Much like the Boulder Jaycee's prior use of the building, the depot will be privately operated, but its uses will be commercial and open to the public as other commercial buildings. The public will be able to continue to enjoy the architecture of the building and setting around Junction Place and Depot Square. Staff supports a leased and rehabilitated building as the focus for the lease term with the understanding that other options could be pursued in the future.

The developer plans to make approximately \$1 million in improvements to the depot. The PDC will recover that investment by leasing the depot from the city for a nominal amount with the right to sublease it at market rates. Since the terms of the lease will be very different from the agreement between the city and the developer for rehabilitating the depot, it is recommended that two agreements be pursued so that the development agreement expires before the lease term begins. The development agreement would specify the conditions for the rehab work and tenant improvements when a tenant is identified, and the lease would begin when the identified tenant becomes operational.

### ***Other city leases***

The city has a number of existing long term lease agreements for property owned by the city and operated by private or non-profit entities. Among these are the Dushanbe Teahouse, the Boulder Museum of Contemporary Art (BMOCA), the Dairy Center for the Arts and the Spice of Life Catering/Banquet Facility at Flatirons Golf Course. While these facilities all have unique histories and situations, they provide guidance in developing a lease for the depot. The City Attorney's Office assembled these previous leases and evaluated them to inform the proposed principles for the depot lease. Long term leases by the city are limited to 20 years, though they are often renegotiated prior to that term due to changing conditions.

### ***Rehabilitation of the Historic Depot***

PDC has presented plans to the Landmarks Board and staff to repair, rehabilitate, and rebuild the depot building, using industry accepted construction and rehabilitation techniques and in accordance with the proposed plans approved by the city. The site plan presented for the landmark alteration certificate includes repair, rehabilitation, and reconstruction of lost features such as:

1. Reconstruction of finials on roof;
2. Reroof building;
3. Reconstruct fascia based upon historic plans and photographs;
4. Repair and limited reconstruction of damaged masonry on exterior of building;
5. Reconstruction of porte-cochere at façade;
6. Reconstruction of arched opening and baggage bay opening on track side; and
7. Reconstruction of fenestration including replacement with historically accurate windows and doors on all faces of building based upon historic plans and photographs.

### ***Development Agreement***

A development agreement would span the time period between the developer's commencement of the rehabilitation and use of the depot by a specific tenant. The agreement would include provisions regarding the specific rehabilitation work to be performed, timelines for performance and construction of interior tenant improvements necessary for a specific tenant. A separate lease between the city and PDC would be an exhibit to the development agreement.

### ***Lease***

The lease term would commence upon the expiration of the development agreement and when the sublessee of PDC takes occupancy of the depot. An interdepartmental city staff group has met several times to develop the principles for the use of the depot as part of the Depot Square Development. The historic depot lease and use principles are listed below.

- The lease will be with PDC for up to 20 years and for a nominal amount, with the term of the lease set to allow the developer the opportunity to recover its rehabilitation expenses over the life of the lease.
- PDC will be permitted to sublease the depot to a user for market rates and retain all rents derived during the term of the lease with the city.
- PDC will pay for all utilities and all building costs, including roof and mechanical systems, during the term of the development agreement and the lease.
- The lessee will have access to the parking garage that will be open to the public.
- There are a limited number of parking spaces near the depot that may be reserved to allow vendors to deliver products and entertainment groups to move equipment in and out of the depot.
- The city should not expect to recover its capital investments in the depot, but recognize the value the city brings to the lease deal.
- A capital replacement fund needs to be established and funded, whether through the lease or from city sources.

The provisions that have been identified to be included in the Development Agreement and the Lease are in **Attachment A**.

### **City Property Part of Condominium Association**

The creation of a condominium association for Depot Square allows the costs of construction, maintenance and management of the land area to be shared with the other users of the common area, while allowing the owners of individual condominium units to hold recognized property ownership rights in its unit. It is anticipated that the city will contribute its interests in the depot and the lot where the depot is located (Lot 2) to the proposed condominium association under conditions approved by council. By doing so, Lot 2 including the depot, would become a condominium unit owned solely by the city. The city would share in the costs of the common area and hold decision-making authority within the condominium association as an owner. Council is being asked to approve a motion that the city manager may transfer property to the Depot Square condominium association consistent with the principles below being reflected in the condominium association declarations. The City Attorney's Office has been working with PDC attorneys in drafting the condominium association declarations.

### ***Condominium or Common Interests Communities.***

The parties evaluated several options for ownership of the land that allowed each party to protect its investment while allowing Depot Square to function as a TOD; the parking to be unbundled and shared, and managed separately from other uses; and each party to hold sufficient ownership rights to be able to finance and manage its own use. A condominium-type structure is recognized in Colorado to provide each owner with a fee simple ownership in its unit of the condominium even if the unit does not include the land. This ownership structure allows for RTD to own the land under the bus facility as well as the bus facility, and the city to own the land under the depot as well as the depot structure. Elements of this ownership structure are still being developed, as it has not been determined if the hotel will own the land under the hotel building. Details for ownership of the housing site and parking structure in particular are still under discussion between the parties. Any land that is not made part of an individually-owned condominium unit becomes part of the common area of the association.

It is anticipated that there will be different classes of common areas with management and maintenance costs responsibilities being calculated differently for each class. For instance, there may be some common areas that are paid for only by the residents and others that are paid for only by commercial users. The costs of management and maintenance responsibilities will likely be determined on a formula based upon the square-footage of individually-owned condominium units and some factor of the utilization of the common area by the unit owner. The condominium declarations will address all of the management and maintenance issues, how decisions are made with respect to programming and using common areas, repairing building structures, making improvements to any of the buildings or common areas and other issues required by law or necessary to allow the association to function. All owners of condominium units, including the city, will have a role and a voice in making such decisions and any amendments to the declarations.

### ***Examples of city public/private partnerships***

There are several examples of city involvement in public private partnerships. The St. Julien Hotel and Central Area General Improvement District (CAGID) garage project is a recent example of a public- private partnership. The project implemented the vision of the 9<sup>th</sup> and Canyon Urban Renewal Plan to enhance the vitality and long term sustainability of downtown. In a similar fashion to the Depot Square development, a development agreement was created during construction and a condominium association was established between the St. Julien Hotel and CAGID with common area charges. The two kiosk buildings on the 1300 block of the Pearl Street Mall were also privately constructed with the lease provision that after 20 years, the ownership of the buildings would be conveyed to the City of Boulder.

### ***Condominium Association Guiding Principles***

The interdepartmental city staff group also worked with PDC and RTD to develop concepts for a condominium association that would meet goals and principles of all parties and protect the city's property interests for inclusion of Lot 2 and the depot into the condominium association. The Condominium Association Guiding Principles are as follows:

- In order for the city to protect its property interest, the city must be able to use the depot and have access to surrounding land for its use, in the event development does not happen as planned or the joint uses planned do not develop. RTD has the same interest for its land as a governmental entity;
- All parking within Depot Square is expected be unbundled and shared rather than dedicated to a specific use or user and managed by the Boulder Junction Access General Improvement District-Parking. Fees would be charged for parking consistent with the tenets of a TOD and other provisions of the Transit Village Area Plan;
- Nothing shall be construed to authorize variation from applicable laws of the city; however, the city may waive application of some provisions of the code if necessary to implement the purposes and provisions of the Transit Village Area Plan or the Site Plan for Depot Square;
- Costs for maintenance and repair of common areas shall be shared among the condominium owners on an equitable basis; and
- Responsibilities for maintenance and repair costs, decision-making, enforcement of responsibilities, and approvals necessary for future decisions will all be addressed in the condominium declarations and agreed upon by the parties, including the city, prior to creation of the condominium association or including any property into the association.

**Attachment B** identifies the requirements for the city to implement these principles.

### **Plaza Use Guiding Principles**

Decision-making for use of the plaza will also be important to the future success of Depot Square. The plaza is adjacent to residents in the housing and guests of the hotel that will expect a use of the plaza that allows them to sleep. At the same time, the plaza will be accessed with various modes of transportation by users of the RTD facility to ride buses and the depot is expected to have a very active use. While the balance of all those

interests and how to protect the plaza itself from becoming an unrestricted public forum has not been finally determined, several guiding principles have been identified.

- The general Plaza area as defined in **Attachment C** will remain open to public uses with appropriate management principles.
- Primary consideration of uses and programming will reflect the needs of and impacts on the collective and individual uses of the Depot Square condominium units.
- The activities and events will be promoted with the intent to enliven the plaza and be inviting to the broad range of users.
- The plaza should become a Boulder Junction area neighborhood-gathering spot rather than for use for city-wide events.
- Uses will take advantage of opportunities for coordinating programming with the adjacent park.

#### **NEXT STEPS:**

If council approves the proposed motion, the city will continue to work with PDC to craft a development agreement and long term lease for the historic depot and the condominium declarations in a manner consistent with the guiding principles and provisions approved by council. If agreements are reached consistent with these principles and provisions, the city manager will execute these agreements on behalf of the city.

#### **Upcoming agenda items**

An interdepartmental staff team has been coordinating the numerous public and private implementation actions required to make the Boulder Junction vision a reality. While council has seen items related to the Depot Square and Junction Place (3100 Pearl) developments on both side of Pearl Parkway, numerous other efforts are underway that will be coming to council. Staff has prepared a master calendar of implementation activities in Boulder Junction and anticipates that the following items will be coming to council over the next few months:

- Dec. 6 or Jan. 17 - Boulder Junction Access District - Parking financing agreement for the district portion of the project's garage
- Jan. 17 - Update on implementation and financing plan
- April 10 - Study Session on Boulder Junction implementation, resulting changes and potential options for the city owned site.

#### **Attachments:**

- A. Provisions for Depot Development Agreement and Lease
- B. Provisions for Condominium Association and Inclusion of Lot 2
- C. Depot Square Site Plan identifying the plaza area
- D. Depot History

## **Historic Depot Development Agreement Provisions**

The development agreement will:

1. Incorporate the plans of PDC approved by the city for rehabilitation of the depot;
1. Require the interior and exterior to be improved, renovated, and reconstructed to the standards typically associated with a core and shall for a commercial building;
2. Require the developer to extend all utilities to the depot at its expense;
3. Include construction contract-type terms for insurance coverage, indemnification of the city during construction, and anticipated timelines for completion of rehabilitation;
4. Address circumstances where there may be a gap of time between completion of the rehabilitation and commencement of tenant improvements to the interior of the building;
5. Contain the form of the lease as an exhibit;
6. Address circumstances if no user commits to sublease the depot within three years or less of completion of rehabilitation;
7. Define deadlines for completion of construction subject to the terms of the Landmark Alteration Certificate;
8. Identify interim uses permitted prior to a tenant agreeing to a long term lease, if any;
9. Allow PDC to improve the interior of the depot to be habitable for commercial purposes;
10. Provide for extension of utilities to the depot at the expense of the developer and payment of utility services charges during construction and prior to a long-term tenant assuming utility costs; and
11. Include other terms necessary to implement the goals of the city as defined herein, TVAP and the zoning of the property.

## **Historic Depot Lease Provisions**

The lease will include terms addressing, at a minimum, the following issues:

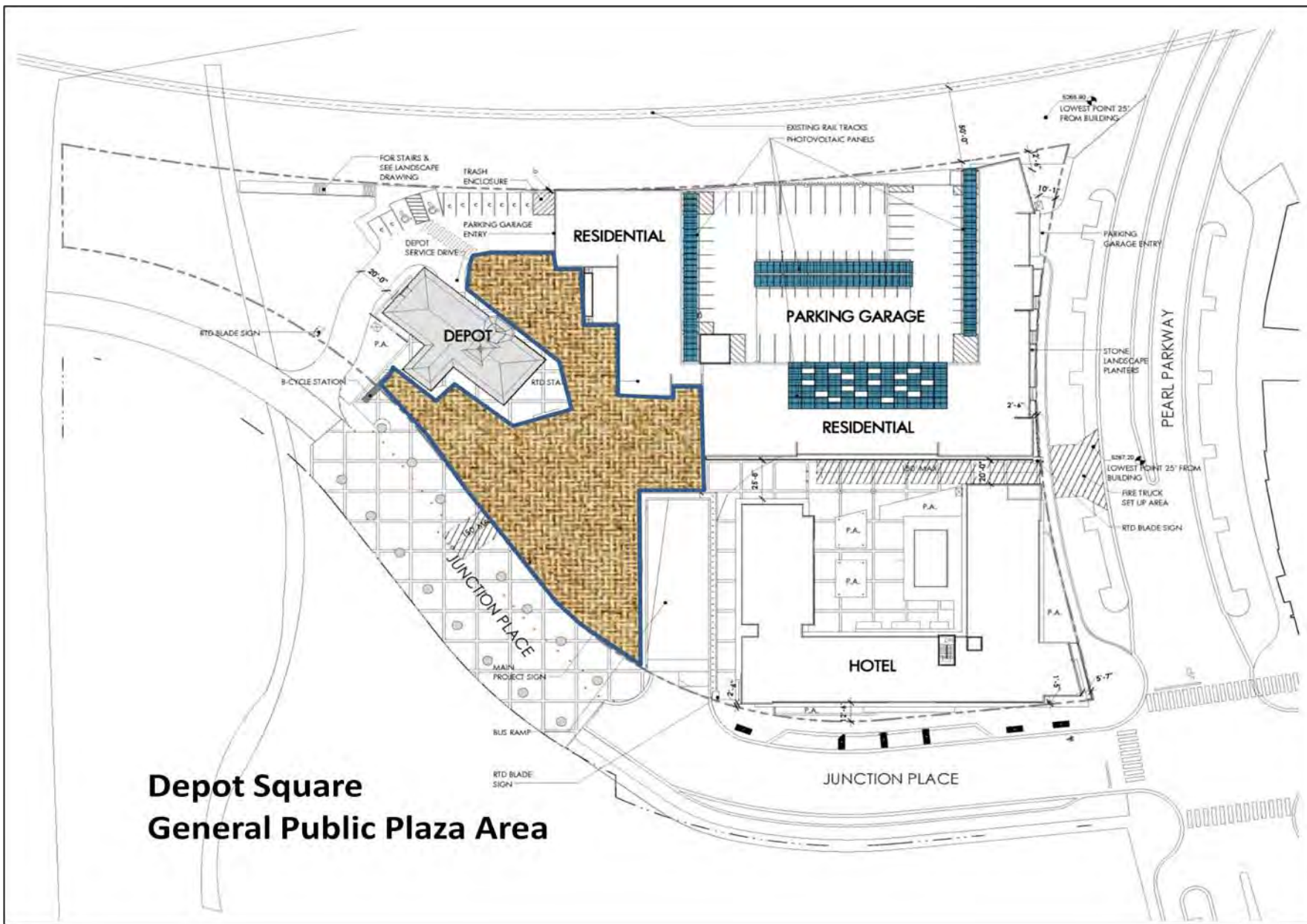
1. Uses: Residential and office uses will be prohibited. Dining, entertainment, and limited retail sales as permitted by TVAP and the applicable zoning.
2. Maintenance of building: PDC will be responsible for all maintenance of the exterior and interior of the building, including: the roof, building structure. HVAC and other mechanical improvements, utilities to the tap main line, and any patio area (and, including the fence), that is included as part of the lease.
3. Condition of depot at end of term: At the end of the lease term, PDC will be required to return the depot for use by the city in well-maintained condition as defined in the lease with all personal property removed, except personal property affixed to the building.
4. Leased premises: In addition to the main floor of the depot, the lease will allow for the subtenant to exercise an option to include the basement in the lease and a defined patio seating area on the south side of the depot building.

5. Term: The term of the lease may be up to 20 years commencing on the date a sublessee takes occupancy or earlier.
6. Common area maintenance and use: PDC will be responsible for all common area maintenance costs of the condominium association that are attributed to the depot, and have use of the common area.
7. Parking: Arrangements for close parking on an intermittent basis may be provided for service providers, deliveries by vendors, and loading and unloading for bands and other entertainers.
8. Utilities, Taxes and Insurance: PDC will be responsible for the cost of all utilities serving the depot and all taxes and insurance.
9. Rent: Rent will be nominal with the term of the lease set to allow PDC to recover its rehabilitation costs plus a reasonable return.
10. Sublease: The tenant will sublease the depot for uses permitted by the lease with prior approval by the city, which approval would not be unreasonably withheld.
11. Assignability: No assignment of the lease would be permitted without the prior approval of the city and the right of the city to enter into a lease directly with the assignee.
12. Inspection: The city shall have the right to inspect the premises during the lease for compliance with the lease and assure maintenance of the depot.
13. Use of basement by city: In the event that the sublessee does not exercise the option to include the basement in the lease, the city may use the basement without payment to PDC, except for pro-rated utilities. The city's use will be secondary to the use of any sublessee, shall not unreasonably interfere with the use by the sublessee and shall be consistent with the uses permitted under the applicable codes. In the event a subsequent sublessee desires to use the basement, such user would have priority over use by the city.

### **Condominium Association and Formation Provisions**

The formation of the condominium association including Lot 2 and the depot shall address at a minimum the following issues:

- The city will own the land under the depot, all improvements and an identified area around the depot. The city will be able to use such property even if other improvements are not constructed on the Depot Square property, are damaged in the future, or otherwise are not able to operate as anticipated by the parties;
- RTD would own the land under its bus facility and be responsible for maintenance and repair costs that are directly related to the bus facility, including the escalator;
- Parking shall be unbundled and shared rather than dedicated to a specific use or user and managed by the Boulder Junction Access General Improvement District-Parking. Fees would be charged for parking consistent with the tenets of a TOD and other provisions of the Transit Village Area Plan. In the event there are governing laws that limit charging for parking appropriate provisions will be made to maintain the likelihood for viability and success of the Boulder Junction Access General Improvement District-Parking;
- The city may waive application of some provisions of the code if necessary to implement the purposes and provisions of the Transit Village Area Plan or the Site Plan for Depot Square; and
- Responsibilities for maintenance and repair costs, decision-making, enforcement of responsibilities, and approvals necessary for future decisions will all be addressed in the condominium declarations and agreed upon by the parties, including the city, prior to creation of the condominium association or including any property into the association.



**Depot Square  
General Public Plaza Area**

## The Historic Depot



Figure 1. Original Depot

The individually landmarked Union Pacific Depot has a long and colorful history. Constructed in 1890, the depot was originally located on the north side of Canyon Boulevard at 14th Street in downtown Boulder. As the city’s railroad station, the depot served as an important gathering place as well as the primary arrival and departure point to and from Boulder until 1957. From 1957 until 1973, its use was marginalized as a bus terminal and travel agency.



Figure 2 Depot being moved from original location in 1973

In 1973 under threat of demolition, the Boulder Jaycees purchased the building and moved it to the northwest corner of 30th and Pearl streets, which at the time was the site of the “Pow Wow grounds” of the Boulder County Fair. After the building was moved

and rehabilitated, it was designated by the city as a local individual landmark in 1979. Architecturally, the depot is considered a fine example of a Richardsonian-Romanesque railroad station design with its massive rusticated stone walls, round arch openings and roof dominated form. . Unfortunately, its original context was lost as result of the 1973 move to the fairgrounds and was further eroded as the area around it developed, leaving the depot isolated and largely surrounded by parking lots.



Figure 3 2008 Depot en-route to Junction Place (then Transit Village)

In 2006, the city purchased the depot from the Boulder Jaycees, and in October 2008 the depot was relocated to the Transit Village Area (Boulder Junction) as part of a development agreement with the Crossroad Commons Shopping Center to accommodate the new Barnes and Noble Booksellers building. The depot is shown in its current location in Figure 4. In the Depot Square proposal, the historic depot building is shown to be an integral part of the development.



Figure 4 Depot in its current location at Boulder Junction