



TOWN BOARD REGULAR MEETING

April 28, 2014 - 7:00 P.M.

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

AGENDA

A. CALL TO ORDER

1. Roll Call
2. Pledge of Allegiance
3. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration by the Board
4. Board Liaison Reports
 - Town Board Member Baker – Water & Sewer Board; Cache la Poudre Trail Board
 - Town Board Member Morgan – Parks, Recreation & Culture; Great Western Trail Authority
 - Mayor Pro-Tem Melendez – Downtown Development Authority; Chamber of Commerce
 - Town Board Member Rose – Clearview Library Board
 - Town Board Member Bishop-Cotner – Historic Preservation Commission; North Front Range/MPO alternate
 - Town Board Member Adams – Tree Board; Student Advisory Leadership Team (SALT)
 - Mayor Vazquez – Windsor Housing Authority; North Front Range/MPO
5. Public Invited to be Heard

B. CONSENT CALENDAR

1. Minutes of the April 14, 2014 Regular Town Board Meeting – M. Lee
2. Resolution No. 2014-21 - A Resolution Approving The Third Amendment To The October 22, 2012, Infrastructure Improvements Agreement Between The Town Of Windsor And Eagle Crossing Windsor, LLC, With Respect To Retail Development Within The Eagle Crossing Subdivision In The Town Of Windsor, Colorado – I. McCargar
3. Resolution No. 2014-22 - A Resolution To Appropriate Water Rights For Kyger Reservoir And Approving Filing Of An Application For Water Storage Rights In Kyger Reservoir With The Division 1 Water Court – I. McCargar
4. Rescheduling of May 26, 2014 Regular Meeting to Tuesday, May 27, 2014 – P. Garcia

C. BOARD ACTION

1. Resolution No. 2014-23 – A Resolution Appointing Robert Bishop-Cotner to Serve as the Mayor Pro-Tem for the Town of Windsor, Colorado, Pursuant to § 3.2 of the Windsor Home Rule Charter
 - Legislative action
 - Presentation: John Vazquez, Mayor
2. Resolution No. 2014-24 - Resolution Appointing and Affirming Local Board and Commission Service by Current Town Board Members – J. Vazquez
 - Legislative action
 - Presentation: John Vazquez, Mayor
3. Ordinance No. 2014 -1472 – An Ordinance Repealing, Amending And Readopting Certain Portions Of The Windsor Municipal Code With Respect To The Uniform Administration Of The

Maximum Fine Imposed Upon Persons Convicted Of Violations By The Town Of Windsor
Municipal Court

Super-majority vote required for adoption on second reading

- Second Reading
 - Legislative action
 - Staff presentation: Ian D. McCargar, Town Attorney
4. Ordinance No. 2014-1473 - Amending Chapter 16 of the Windsor Municipal Code for the purpose of adopting regulations for accessory dwelling units in residential zoning districts within the Town of Windsor
- Super-majority vote required for adoption on second reading***
- Second reading
 - Legislative action
 - Staff presentation: Scott Ballstadt, Chief Planner
5. Resolution No. 2014-25 - A Resolution Approving and Adopting a Development-related Fee Pertaining to the Review of Applications for Accessory Dwelling Units in the Town Windsor, Colorado
- Legislative action
 - Staff presentation: Scott Ballstadt, Chief Planner
6. Public Hearing – Conditional Use Grant for temporary gravel parking in the Central Business (CB) zoning district located on a portion of Lots 21 and 22, Burlington Subdivision and a portion of Lot 5, Town of Windsor Subdivision – Bob Winter, Chairman, Windsor Downtown Development Authority, applicant
- Quasi-judicial action
 - Staff presentation: Scott Ballstadt, Chief Planner
7. Conditional Use Grant for temporary gravel parking in the Central Business (CB) zoning district located on a portion of Lots 21 and 22, Burlington Subdivision and a portion of Lot 5, Town of Windsor Subdivision – Bob Winter, Chairman, Windsor Downtown Development Authority, applicant
- Quasi-judicial action
 - Staff presentation: Scott Ballstadt, Chief Planner
8. Reimbursement Request by Windsor Downtown Development Authority
- Legislative action
 - Presentation: Bob Winter, Chairman, Windsor Downtown Development Authority
9. Request for Commitment of Underground Electric Funds for Development Purposes
- Presentation: Bob Winter, Chairman, Windsor Downtown Development Authority
10. Financial Report for March 2014
- Staff presentation: Dean Moyer, Director of Finance

D. COMMUNICATIONS

1. Communications from the Town Attorney
2. Communications from Town Staff
3. Communications from the Town Manager
4. Communications from Town Board Members

E. EXECUTIVE SESSION

An executive session pursuant to § 24-6-402 (4)(e), C.R.S., for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators. Economic Development Incentives (Stacy Johnson, Kelly Arnold)

F. ADJOURN



TOWN BOARD REGULAR MEETING

April 14, 2014 - 7:00 P.M.

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

Minutes

A. CALL TO ORDER

Mayor Vazquez called the regular meeting to order at 7:00 p.m.

- 1. Roll Call

Mayor Mayor Pro-Tem	John Vazquez Kristie Melendez Myles Baker Don Thompson Jeremy Rose Robert Bishop-Cotner Ivan Adams
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- Also present:
- | | |
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| Town Manager
Town Attorney
Director of Parks Recreation and Culture
Town Clerk
Chief of Police
Director of Planning
Management Intern
Director of Engineering
Senior Planner | Kelly Arnold
Ian McCargar
Melissa Chew
Patti Garcia
John Michaels
Joe Plummer
Kelly Unger
Dennis Wagner
Scott Ballstadt |
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- 2. Pledge of Allegiance
Mr. Thompson led the Pledge of Allegiance.
- 3. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration by the Board
**Mr. Thompson moved to approve the agenda as presented; Mr. Baker seconded the motion. Roll call on the vote resulted as follows:
Yeas – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Adams, Vazquez
Nays – None. Motion passed.**
- 4. Board Liaison Reports
 - Town Board Member Baker – Parks, Recreation & Culture Advisory Board; Cache La Poudre Trail Board Alternate
Mr. Baker reported PReCAB met on 4/1 to elect officers, review updates to the Trails Master Plan, and discuss the Frank State Wildlife Conservation Easement. He added the Summer Concert Series begins 6/5. The Art & Heritage Center will be hosting an art exhibit featuring art work created by high school and middle school students. The exhibit will run from 4/11-5/8.
 - Town Board Member Thompson – Planning Commission; Tree Board; Great Western Trail Authority
Mr. Thompson stated the Tree Board is planning Arbor Day celebrations to be held at Rangeview Elementary and Skyview Elementary on 4/25. The Arbor Day Race and Tree Sale will take place on 4/26. Mr. Thompson went on to tell the Board the Planning Commission met on 4/2 and discussed Design Criteria amendments related to the Highway 392 IGA, Temporary Signs in residential developments, and a proposal from Aims Community College for a multi-jurisdictional fire-fighting training facility. He concluded by stating the Great Western Trail Authority meets on 4/16.

- Mayor Pro-Tem Melendez – Downtown Development Authority; Chamber of Commerce; North Front Range/MPO Alternate
Mayor Pro-Tem Melendez reviewed actions of the DDA including beautification of Main Street focusing on gas meter clean up; marketing efforts for web site improvements set to go live in 3-4 weeks; printed rack cards to showcase events and businesses in the downtown area; Salsa on 5th to be held 8/23; and receipt of a \$20,000 DOLA grant for the mill feasibility study. Ms. Melendez went on to state the Chamber of Commerce reviewed their goals and projects for 2014, noting this will be their 112th anniversary; finalized plans for their annual dinner to be held at the National Guard Readiness Center; discussed the new membership/sponsorship program; reevaluated marketing efforts regarding events; and revisited opportunities to increase membership and retention of existing members.
- Town Board Member Rose – Water & Sewer Board; Windsor Housing Authority, Planning Commission Alternate
Mr. Rose had nothing new to report at this time.
- Town Board Member Bishop-Cotner – Historic Preservation Commission; Clearview Library Board
Mr. Bishop-Cotner began his report by stating the most recent HPC meeting was cancelled; the Library Foundation Book Sale will take place at the CRC 4/25-27; the One Book for Colorado program will provide a book to every four-year-old who comes into the Library to register. Mr. Bishop-Cotner reviewed upcoming workshops and encouraged attendance, noting the Library will be closed on Easter.
- Town Board Member Adams – Cache La Poudre Trail Board; Student Advisory Leadership Team (SALT)
Mr. Adams began by stating SALT will be hosting an Easter Egg Hunt with glow-in-the-dark eggs meant to attract middle and high school students. They are also planning a 5K on 6/7, tentatively to be held at Windsor Lake, pending staff approval. He added the tutoring program has had great retention among tutors and participants. Mr. Adams also reported the Cache La Poudre Trail Board hosted a special meeting on 4/10 to present a program focusing on the economic and community effects of the South Platte River. The presentation caused Board Members to draw comparisons to the Poudre River corridor, and led to discussions regarding future improvements.
- Mayor Vazquez – North Front Range/MPO
Mayor Vazquez reported he was unable to attend the last MPO meeting, but briefly recapped pending projects.

5. Arbor Day Proclamation

Mayor Vazquez read the Arbor Day Proclamation and urged citizens to celebrate Arbor Day.

6. Public Invited to be Heard

There was no public comment.

B. CONSENT CALENDAR

1. Minutes of the March 24, 2014 Regular Town Board Meeting – M. Lee
2. Advisory Board Appointments – P. Garcia

3. Resolution No. 2014-19 vacating the southern five feet of the ten-foot utility easement located along the north property line of Lot 104 of the Highpointe Subdivision in the Town of Windsor, Colorado – J. Plummer, Director of Planning

4. Report of Bills March 2014 – D. Moyer

Mr. Adams moved to approve the Consent Calendar as presented; Mr. Thompson seconded the motion. Roll call on the vote resulted as follows:

Yeas – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Adams, Vazquez

Nays – None. Motion passed.

C. BOARD ACTION

NOTE: The official record of this evening's proceedings shall include the application, staff memos and recommendations, packet materials and supporting documents, and all testimony received.

1. Short Form Grant Application – Energy Star Homes

- Legislative action
- Presentation: Vicki Wagner, Director

Ms. Wagner addressed the Board, telling them their 2013 goals were to provide training for HVAC contractors, and make upgrades to their web site. She highlighted those organizations that sponsor the Energy Star program, and builders that subscribe to the Energy Star program, noting a commitment to sustainability, as energy efficient homes yield a 30% reduction in energy consumption. She requested a donation at the minimum level of \$1000.

Mayor Pro-Tem Melendez inquired how many local builders are members, and about visitor volume to the web site. Ms. Wagner responded 35-40% the National Energy Star builders are also local members. She told the Board their site had 104 unique visits per month. Mr. Adams inquired why Windsor's sponsorship level is so low. Ms. Wagner responded Windsor is a member at the minimum level. Mayor Pre-Tem Melendez stated for the record, she would not support membership at a higher level. Mr. Baker inquired about recent revenue changes, which Ms. Wagner clarified as she reviewed the history of the organization.

Mr. Thompson moved to approve the grant application as presented; Mr. Baker seconded the motion. Roll call on the vote resulted as follows:

Yeas – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Adams, Vazquez

Nays – None. Motion passed.

2. Long Form Grant Application – Northern Colorado Balloon Event

- Legislative action
- Presentation: Casey Johnson, Event Chairman

Mr. Johnson approached the Board noting this request is for start-up costs for a new event. He reviewed current plans for the event, noting this is a spin-off from an event previously held in Greeley. Mr. Johnson stated this would be a one-time request. Mayor Vazquez inquired if additional donations have been obtained, questioning if the character of this request would make this a town event. Mr. Johnson responded several local businesses have contributed via cash and in-kind sponsorships. Board Members inquired about budget, plans for the future, scholarship requirements, expenditures, cost estimates and marketing efforts. They expressed concern regarding a precedent that could be set by this request, and perception that the Town is paying for a private entity to establish itself. The Board asked Mr. Johnson if the event can move forward without this grant. Mr. Johnson responded it will not move forward as currently planned without the grant.

Mr. Thompson moved to approve the grant application as presented; Mr. Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:

Yeas – Adams

Nayes – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Vazquez. Motion failed.

3. Ordinance No. 2014-1471 - An Ordinance Approving An Application By The Town Of Windsor For The Release Of Certain Water Allocation Contract Rights, And Authorizing Two Persons To Undertake Such Application

Super-majority vote required for adoption on second reading

- Second Reading
- Legislative action
- Staff presentation: Ian D. McCargar, Town Attorney

Mayor Pro-Tem Melendez moved to approve Ordinance 2014-1471; Mr. Thompson seconded the motion.

Mr. McCargar approached the Board, reminding them this is the Town's response to a request to transfer 20 units of water to Tri State Generation and Transmission. He reviewed the background of this request, noting there have been no changes to the Ordinance since first reading.

Roll call on the vote resulted as follows:

Yeas – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Adams, Vazquez

Nayes – None. Motion passed.

4. Ordinance No. 2014 -1472 – An Ordinance Repealing, Amending And Readopting Certain Portions Of The Windsor Municipal Code With Respect To The Uniform Administration Of The Maximum Fine Imposed Upon Persons Convicted Of Violations By The Town Of Windsor Municipal Court

- First Reading
- Legislative action
- Staff presentation: Ian D. McCargar, Town Attorney

Mr. Adams moved to approve Ordinance 2014-1472; Mr. Thompson seconded the motion.

Mr. McCargar addressed the Board. He explained this Ordinance is a mechanism to clean-up obsolete Code references to the previous maximum fine of \$1000. He noted this will not increase fines, just eliminate those references that no longer apply.

Roll call on the vote resulted as follows:

Yeas – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Adams, Vazquez

Nayes – None. Motion passed.

5. Public Hearing - Resolution No. 2014-20 - Approving the Final Plat for the Lighthouse Point Townhomes Subdivision Third Filing – WVBSR, property owner and applicant/Jason Sherrill, Landmark Homes, owner and applicant representative

- Quasi-judicial action
- Staff presentation: Scott Ballstadt, Chief Planner

Mayor Pro-Tem Melendez moved to open the public hearing; Mr. Thompson seconded the motion. Roll call on the vote resulted as follows:

Yeas – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Adams, Vazquez

Nayes – None. Motion passed.

Mr. Ballstadt began by reviewing the major subdivision process, and the specific details of this project. In his presentation, Mr. Ballstadt highlighted existing structures in the subdivision, proposed units, density, infrastructure, landscaping, creation of fee-simple structures within the subdivision, and comments from neighboring property owners. Mr. Ballstadt reported at their 3/5 meeting, the Planning Commission forwarded a recommendation of approval subject to the following conditions:

- All remaining Town Board, Planning Commission and staff comments shall be addressed prior to submittal of mylars.
- All subdivision requirements shall continue to be met.
- The applicant and the Lighthouse Point Condo Association shall resolve and come to an agreement on the following issues:
 1. Water and electric utilities
 2. Parking
 3. Road conditions – Cape Hatteras Drive
 4. Use of trash enclosure(s)
- The applicant shall provide to the Town satisfactory evidence that an agreement is in place. This agreement shall be provided to the Town prior to recordation of the subdivision plat.

Mr. Baker inquired if a new Homeowner's Association would be formed for this area. Mr. Ballstadt responded there would. Mr. Thompson asked for clarification regarding the required agreement between the developer and existing home owners. Mr. McCargar noted the Town would not be involved in that agreement.

Mr. Jason Sherrill of Landmark Homes stepped to the podium stating a signed agreement is in place to address issues raised by the existing home owners. He briefly reviewed the background of the project, noting conversion from condominiums to fee-simple town homes with basements, two-car garages, and individual water meters. Mr. Sherrill added this change will also allow FHA approval for loans on the structures once completed. He confirmed a new association will be created to serve the property owners at these new structures. Mr. Sherrill explained the location of the proposed club house for this area.

Mr. Robert Boback representing the existing HOA addressed the Board stating the agreements have been prepared and delivered to the developer's attorneys. He thanked the Town for helping the HOA finally resolve this situation.

In conclusion Mr. Ballstadt clarified the existing completed units are no longer under the control of the applicant. He pointed out the southern-most boundary of the area under discussion.

Mr. Thompson moved to close the public hearing; Mr. Adams seconded the motion. Roll call on the vote resulted as follows:

Yeas – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Adams, Vazquez
Nays – None. Motion passed.

6. Resolution No. 2014-20 - Approving the Final Plat for the Lighthouse Point Townhomes Subdivision Third Filing – WVBSR, property owner and applicant/Jason Sherrill, Landmark Homes, owner and applicant representative
 - Quasi-judicial action
 - Staff presentation: Scott Ballstadt, Chief Planner**Mayor Pro-Tem Melendez moved to approve Resolution 2014-20; Mr. Baker seconded the motion.**

There were no additional questions or comments.

Roll call on the vote resulted as follows:

Yeas – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Adams, Vazquez

Nays – None. Motion passed.

7. Public Hearing - Ordinance No. 2014-1473 - Amending Chapter 16 of the Windsor Municipal Code for the purpose of adopting regulations for accessory dwelling units in residential zoning districts within the Town of Windsor

- First reading
- Legislative action
- Staff presentation: Scott Ballstadt, Chief Planner

Mayor Pro-Tem Melendez moved to open the public hearing; Mr. Thompson seconded the motion. Roll call on the vote resulted as follows:

Yeas – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Adams, Vazquez

Nays – None. Motion passed.

Mr. Ballstadt began by stating adoption of this Ordinance would allow Accessory Dwelling Units in Windsor. He briefly reviewed the history of discussions of this topic by the Town Board and the Planning Commission adding staff was directed to bring this issue forward for consideration by the Board. Mr. Ballstadt highlighted the many uses and advantages of ADUs noting many communities are adopting similar Ordinances. He outlined changes/clarifications to the Ordinance since the last work session including:

- Adoption of this Ordinance will not impact exiting legal non-conforming ADUs within the Town, nor will it legalize ADUs that exist currently but that the Town is not aware of.
- Home occupations in an ADU will be allowed subject to existing requirements.
- Water and sewer utilities serving the ADU will be from those lines serving the principal dwelling unit.
- One off-street paved parking space will be required.
- Rental of ADUs will be allowed, and references to rentals were removed from the Ordinance.
- Allowable size for ADUs will be changed to 500-950 square feet.

Mr. Ballstadt noted at the 3/19 meeting, the Planning Commission forwarded a recommendation of approval of this Ordinance. Mr. Ballstadt reviewed the application and approval process noting it is very similar to the existing site plan review process. He added the applicant would be required to record a covenant/deed restriction stating the unit will remain in compliance for perpetuity.

Mr. Thompson inquired if allowing an ADU would be fair to surrounding property/home owners. Mr. Ballstadt noted, if adopted, this would become an allowed accessory use, but HOA requirements could prohibit ADUs if they so choose. He added not many lots in town will meet the criteria required to allow an ADU. Mayor Vazquez inquired if there is a public input facet to the application. Mr. Thompson also expressed concern that HOA's have an opportunity to change their covenants, and suggested all HOA's be notified if this Ordinance passes.

Mr. Baker agreed. He also voiced concerns that existing water and sewer infrastructure may not be able to handle the increased load on the system. Mr. Wagner responded it is not anticipated that a large number of ADUs will be built, and existing capacity should be adequate to accommodate the ADUs. He interjected that surcharges or denial of applications would address any problems that may arise in the future. Mr. Wagner also explained the town routinely uses eight inch sewer mains as opposed to six inch mains, and noted that conservation efforts have

resulted in downward trends in consumption. Mayor Vazquez expanded on the topic of infrastructure for informational purposes.

Mr. Bishop-Cotner stated there may need to be some future enhancements to the Ordinance before it's perfected, but called this a good change for Windsor. He drew comparisons to other building projects he has seen in his neighborhood where public input was not required. Mr. Thompson reiterated a need to inform HOA's of this change. Mr. Baker agreed, stating HOA's need to know of this pending change as soon as is practical. Mr. McCargar cautioned final approval by the Board is not part of the ADU approval process; public input may be a moot issue if the Board has no recourse to address concerns raised in a public input process.

Mayor Pro-Tem Melendez pointed out the Ordinance and procedure should set the criteria for approval, and if approved, that process should stand on its own merits. Mr. Arnold added most lots in Windsor will not fit the criteria to allow construction of an ADU.

Mr. Jason Kingery, a Windsor resident addressed the Board stating this would be an asset to families, particularly those with family members experiencing health issues. He stated occupancy by only two residents may be too low, encouraging Board Members to allow two adults and a child. He noted many advantages to residents.

Mr. Thompson moved to close the public hearing; Mayor Pro-Tem Melendez seconded the motion. Roll call on the vote resulted as follows:

Yeas – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Adams, Vazquez

Nayes – None. Motion passed.

8. Ordinance No. 2014-1473 - Amending Chapter 16 of the Windsor Municipal Code for the purpose of adopting regulations for accessory dwelling units in residential zoning districts within the Town of Windsor

- First reading
- Legislative action
- Staff presentation: Scott Ballstadt, Chief Planner

Mayor Pro-Tem Melendez moved to approve Ordinance 2014-1473; Mr. Thompson seconded the motion.

Mr. Thompson and Mr. Baker reiterated the desire to notify HOA's of this action. The consensus was to notify HOA's immediately allowing them the opportunity to address the Board prior to second reading. Mr. Arnold also suggested a dedicated web page to explain the process.

Roll call on the vote resulted as follows:

Yeas – Baker, Thompson, Rose, Melendez, Bishop-Cotner, Adams, Vazquez

Nayes – None. Motion passed.

D. COMMUNICATIONS

1. Communications from the Town Attorney
Mr. McCargar had no communications.
2. Communications from Town Staff
Ms. Chew reminded Board Members the CRC will be closed on Easter.
3. Communications from the Town Manager
Mr. Arnold reviewed upcoming discussion topics.

4. Communications from Town Board Members

Ms. Melendez spoke of free distribution newspapers, asking those reporting the events of the meeting speak to their distribution managers regarding complaints.

Board Members welcomed Mr. Morgan to the Board, and thanked Mr. Thompson for his service to the Town. Tributes to Mr. Thompson included thanks for always looking at the “big picture,” and references to his leadership and concern for the community as unmatched. Board Members spoke of his character, calling his integrity “beyond reproach.”

Mr. Thompson thanked Board Members for their kind words and support over the years. He also welcomed Mr. Morgan to the Board, and wished him well. Mr. Thompson thanked the press for their even-handed reporting of issues facing the Town.

5. Presentation to departing Town Board Member – Mayor John Vazquez

Mayor Vazquez presented a plaque to Mr. Thompson in honor of his tenure on the Board. Mr. Arnold presented a copy of *The Images of Windsor* as a memento.

E. SEATING OF NEWLY ELECTED TOWN BOARD MEMBERS

1. Oath of Office – Patti Garcia, Town Clerk

Mr. Morgan took a seat on the dais. Ms. Garcia asked Mr. Morgan, Ms. Melendez, and Mr. Adams to stand as she recited the Oath of Office, to which the newly seated responded, “I will.”

F. COMMUNICATIONS FROM NEWLY ELECTED TOWN BOARD MEMBER

Mr. Morgan spoke briefly, thanking the Board. He noted seeing a great many changes in the Town since he moved here, and expressed his thanks to Mr. Thompson. Mr. Morgan also stated he hopes to offer a new perspective on the Board, noting he is anxious to contribute to the future of the Town. Mr. Morgan introduced his wife to the Board.

E. ADJOURN

Upon a motion duly made and seconded, the meeting was adjourned at 9:15 p.m.

TOWN OF WINDSOR

RESOLUTION NO. 2014-21

A RESOLUTION APPROVING THE THIRD AMENDMENT TO THE OCTOBER 22, 2012, INFRASTRUCTURE IMPROVEMENTS AGREEMENT BETWEEN THE TOWN OF WINDSOR AND EAGLE CROSSING WINDSOR, LLC, WITH RESPECT TO RETAIL DEVELOPMENT WITHIN THE EAGLE CROSSING SUBDIVISION IN THE TOWN OF WINDSOR, COLORADO

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality with all powers and authority vested by Colorado law; and

WHEREAS, the vicinity of Crossroads Boulevard and Fairgrounds Avenue (Weld County Road 5) is an important gateway to the Town in its southwest quadrant; and

WHEREAS, this southwestern gateway to Town is an important retail location for the Town, full development of which will bring employment, tax revenue and enhanced visitor traffic to the community; and

WHEREAS, the Eagle Crossing Subdivision (“Eagle Crossing”) is located at this important gateway, and is suitable for retail development; and

WHEREAS, the owner of Eagle Crossing (“Owner”) previously approached the Town with the representation that construction of certain public infrastructure by the Town will enable the Owner to attract two national retail outlets to lots within Eagle Crossing; and

WHEREAS, the attraction of these two national retailers to Eagle Crossing is expected to generate significant sales tax, use tax, property tax and fee revenue for the Town; and

WHEREAS, based upon representations made by the Owner, the Town and the Owner entered into that certain Infrastructure Improvements Agreement dated October 22, 2012 (“Agreement”); and

WHEREAS, under the First Amendment to the Agreement, the Owner represented that both national retailers would be open for business on or before May 1, 2014; and

WHEREAS, one of the two retailers is open for business, but it now appears that a more-realistic opening date for the second of the two retailers is August 1, 2014; and

WHEREAS, attached hereto and incorporated herein by this reference is a copy of the Third Amendment To Eagle Crossing Subdivision Second Filing, Lot 1 And Lot 5 Infrastructure Improvements Agreement (“Third Amendment”) which contains the amended opening date for the second of the two retailers; and

WHEREAS, the Town Board has considered the extension of time called for in the Third Amendment, and has concluded that the public benefits of the retail activity expected within Eagle Crossing justify the extension of the opening date; and

WHEREAS, the Town Board believes that the terms of the attached Third Amendment are fair, reasonable and in the public interest.

NOW, THEREFORE, be it resolved by the Town Board for the Town of Windsor, Colorado, as follows:

1. The attached Third Amendment is hereby approved by the Town Board.
2. The Mayor is authorized to execute the said Third Amendment on behalf of the Town.
3. The Town Attorney is authorized to make modifications to the form of the Third Amendment as may be necessary.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 28th day of April, 2014.

TOWN OF WINDSOR, COLORADO

By: _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk

**THIRD AMENDMENT
TO
EAGLE CROSSING SUBDIVISION
SECOND FILING, LOT 1 AND LOT 5
INFRASTRUCTURE IMPROVEMENTS AGREEMENT**

THIS THIRD AMENDMENT TO INFRASTRUCTURE IMPROVEMENTS AGREEMENT is made and entered into this 28th day of April, 2014, by and between the TOWN OF WINDSOR, a Colorado home rule municipality (“Town”) and EAGLE CROSSING WINDSOR, LLC, a Colorado limited liability company (“Developer”).

WITNESSETH:

WHEREAS, the Town and Developer entered into that certain Eagle Crossing Subdivision, Second Filing, Lot 1 and Lot 5 Infrastructure Improvements Agreement dated October 22, 2012, and recorded in the books and records of the Larimer County Clerk & Recorder on May 17, 2013 at Reception #20130037284 (“Agreement”); and

WHEREAS, the Agreement contemplated that the Town would advance certain infrastructure costs to enable roadway, storm drainage, water and sewer system improvements, such that two lots within the Eagle Crossing Subdivision, Second Filing (“Subdivision”), specifically identified as “Lot 1 and Lot 5”; and

WHEREAS, in agreeing to its undertakings as set forth in the Agreement, the Town expressly relied upon the Developer’s representation that infrastructure improvements to the Subdivision would bring about retail activity upon Lot 1 and Lot 5; and

WHEREAS, in reliance upon Developer’s representations, the Town concluded that a public benefit will occur, thus justifying the expenditure of public funds for the infrastructure improvements; and

WHEREAS, the Agreement was further executed for the purpose of assuring the completion of certain infrastructure improvements, such that the Town would not bear the ultimate cost of completing the identified infrastructure improvements; and

WHEREAS, in furtherance of the Town’s objectives under the Agreement, the Agreement provided that the Town’s rights to reimbursement, indemnification and recovery of public funds constituted a lien against all property within the Subdivision; and

WHEREAS, the Agreement provided that the Town’s lien for its rights to reimbursement, indemnification and recovery of public funds would be a first lien on all property within the Subdivision; and

WHEREAS, the Agreement specifically provided that the Town's obligation to pay infrastructure costs was expressly conditioned upon the Developer presenting written evidence that all lien-holders were subordinate to the Town's lien for reimbursement, indemnification and recovery of public funds; and

WHEREAS, the parties entered into that certain First Amendment to the Agreement dated June 10, 2013, under which various revisions were made with respect to the Town's secured position, and under which the "Summit Opening Date" was re-set to May 1, 2014; and

WHEREAS, the parties entered into that certain Second Amendment to the Agreement dated September 23, 2013, under which various revisions were made to the manner in which infrastructure costs were to be paid; and

WHEREAS, the parties acknowledge that the infrastructure has been installed, has received Construction Acceptance and all costs have been paid therefor; and

WHEREAS, the parties have determined that the May 1, 2014, "Summit Opening Date" cannot be achieved, and should be extended to allow for completion of all improvements necessary for the Summit facility to commence retail operations upon Lot 5; and

WHEREAS, the within Amendment will enable the development of Lot 5 as intended, which both parties agree is the primary mutual benefit to the parties arising out of the Agreement.

NOW, THEREFORE, in consideration of the mutual promises, covenants, obligations, payments, and performances of the parties, it is mutually agreed as follows:

PREAMBLE

The Town and the Developer agree that the aforesaid recitals are true and correct, and those recitals are hereby incorporated into the body of this Amendment.

SPECIFIC TERMS AMENDED

The Agreement shall be modified as follows:

1. Paragraph 23 of the Agreement shall henceforth read:

The Town, by undertaking to pay the cost of certain Public Improvements within the Subdivision as provided herein, is relying upon the Developer's representations as to the public benefit to be derived from retail activity within the Subdivision, including but not limited to the retail activity associated with the Summit Companies facility and the 7-11 store. In the event the Summit Companies facility shall fail or refuse to commence retail activity by August 1, 2014, within Lot 5 of the Subdivision, Developer acknowledges that the economic activity (and, thus, the public benefit)

upon which the Town has relied in undertaking the Public Improvements will not come to pass as represented by Developer. The parties further acknowledge that, in such event, the Town will suffer damages, which damages will be practically impossible to prove with sufficient certainty in the event of litigation. Accordingly, Developer agrees in the event that Summit Companies shall fail to commence retail activity upon Lot 5 by June 15, 2014, the Developer will reimburse the Town in the total amount paid by the Town for Public Improvements pursuant to the Agreement ("Reimbursement Amount"). Such reimbursement shall be payable in full at such time as Developer or the owner of any property within the Subdivision seeks any Town approval of whatever nature (including but not limited to site plan approvals and building permit approvals) for any location within the Subdivision, or by February 29, 2016, whichever occurs sooner. Such reimbursement shall be deemed liquidated damages for the Town's losses associated with the loss of the public benefit upon which this Agreement is based.

In consideration for this Amendment and notwithstanding any other terms herein, the Reimbursement Amount shall bear interest from the date the Town first makes payment upon the first payment request on the Town's First Payment Date through the "Summit Companies Opening Date", as that term is used in the Agreement, as amended by this Third Amendment, at a rate derived in accordance with the following formula:

Annual rate of interest = the Town's rate of return for its pooled investments during calendar year 2013, plus four percent (4%).

Such interest shall be paid by Developer in the form of a check or draft on or before the "Summit Companies Opening Date", as that term is used in the Agreement, as amended by this Third Amendment. In the event Developer fails to pay interest when due as required in this sub-paragraph, the rate of interest will be adjusted to a rate equal to the Town's rate of return for its pooled investments during calendar year 2013, plus eight percent (8%), which rate shall apply from the "Summit Companies Opening Date", as that term is used in the Agreement, as amended by this Third Amendment, until paid in full.

Further, in the event the Covenant is for any reason invalidated or declared unenforceable for any reason, the Developer will reimburse the Town in the total amount paid by the Town for Public Improvements pursuant to this Agreement, plus interest from the Town's First Payment Date until paid in full as determined by the formula set forth in this paragraph 23. Such reimbursement, together with interest calculated as set forth above in this paragraph 23 shall be payable at such time as Developer or the owner of any property within the Subdivision seeks any Town approvals (including but not limited to site plan approvals and building permit approvals) for any location within the Subdivision, or by February 29, 2016, whichever occurs sooner. Such reimbursement shall be deemed liquidated damages

for the Town's losses associated with the loss of the public benefit upon which this Agreement is based.

The Town's right to reimbursement, together with interest due thereupon, under this Paragraph 23 shall constitute a lien upon all real property situated within the Subdivision.

Subject to the requirements of this sub-paragraph, the Town will release its lien upon any lot or tract within the Subdivision in the event any such lot or tract within the Subdivision is sold by Developer prior to the Town's receipt of full reimbursement to which it is entitled under this paragraph 23. The Town's obligation to release its lien rights with respect to any such lot or tract will arise as follows:

In the event that the Town is entitled only to collection of the Assignment of Project Improvement Fee Revenue ("PIF Assignment") as described in paragraph 22 (*i.e.*, the Summit and Verdad facilities open for business as required herein, and the PIF Covenant is not invalidated), the Town will upon request execute and deliver to Developer a Request for Partial Release of Deed of Trust with respect to each lot or tract within the Subdivision sold by Developer during the pendency of the PIF Assignment. Developer will pay all costs associated with the preparation, review and recordation of any Request for Partial Release of Deed of Trust executed under this sub-paragraph. Developer agrees that it will not present any Request for Partial Release of Deed of Trust to the Public Trustee until Developer has executed and delivered to the Town a Further Assignment of PIF Revenue in favor of the Town with respect to each lot or tract for which partial release of the Town's lien is requested. Any Further Assignment of PIF Revenue executed pursuant to this sub-paragraph shall be in a form approved by the Town. The purpose of each such Further Assignment of PIF Revenue shall be to provide further security for the Town's right to collect under the PIF Assignment, and shall expire upon the Town's collection of all PIF Revenue to which the Town is entitled under the PIF Assignment. The Developer shall be responsible for all costs associated with preparation, review and recordation of any Further Assignment of PIF Revenue required pursuant to this sub-paragraph.

In the event the Town is entitled to collect the Reimbursement Amount as liquidated damages as described in this paragraph 23 (*i.e.*, Summit Companies fails to commence retail activity by the deadlines set forth herein, or the PIF Covenant is invalidated for any reason), the Town shall be under no obligation to release its lien rights with respect to any lot or tract until the Town receives full payment of the Reimbursement Amount.

Except as set forth herein, all terms of the Agreement, First Amendment and Second Amendment shall remain in full force and effect.

TOWN OF WINDSOR, COLORADO

By: _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk

DEVELOPER:

Eagle Crossing Windsor, LLC, a Colorado Limited Liability Company

By: _____
Martin Lind, President

LAWRENCE JONES CUSTER GRASMICK LLP

MEMORANDUM

Date: April 23, 2014
To: Windsor Town Board
From: LJCG; BCG
Re: 2014 Water right filing for Kyger Reservoir

We have prepared a resolution for consideration by the Town to appropriate a 2014 junior water storage right for Kyger Reservoir and authorize filing an application with the water court to adjudicate the water right. This resolution will evidence the Town's intent to appropriate a water right for Kyger Reservoir and authorize Town staff and consultants to prosecute the application for the water right.

The purpose of the application is to obtain a 2014 priority date to fill and refill Kyger Reservoir with water to subsequently use for all municipal uses, augmentation uses, agricultural uses, industrial uses, irrigation, fire suppression, dust suppression and emergency response. The water stored under that 2014 priority could be used by the Town for the aforementioned uses either directly from the reservoir or via delivery to the Cache la Poudre River for augmentation. Furthermore, the water right can be added to the augmentation plan decreed for the wells used to irrigate the Town's parks in Case No. 02CW301 as an augmentation source. Currently, the Town utilizes water stored in Kern Reservoir and certain water derived from shares in the Loudon Irrigation Company via a trade with the Weld County School District RE-4 pursuant to a 2012 agreement with the School in that augmentation plan.

In addition to obtaining a 2014 priority date, obtaining a decreed water right gives the Town standing to protect the right to fill Kyger Reservoir from injury which may occur due to claims made by others in subsequent water court cases.

The application provides for filling Kyger Reservoir up to 1300 acre feet with one refill. Diversions from the Cache la Poudre River would be from the Headgate of the No. 2 Canal at a rate of 20 cfs and via a new pump station or other diversion structure to be constructed by the Town on the north bank of the Cache la Poudre River at a location above Kyger Reservoir.

This 2014 water right will be used by the Town along with the other water rights in its portfolio to provide water for the Town's uses as part of its integrated system. We recommend the Town file an application for a 2014 water storage right in Kyger Reservoir.

TOWN OF WINDSOR

RESOLUTION NO. 2014-22

A RESOLUTION TO APPROPRIATE WATER RIGHTS FOR KYGER RESERVOIR AND APPROVING FILING OF AN APPLICATION FOR WATER STORAGE RIGHTS IN KYGER RESERVOIR WITH THE DIVISION 1 WATER COURT

WHEREAS, the Town of Windsor (hereinafter, "Town"), a home rule municipal corporation, pursuant to Colorado statute is vested with the authority of administering affairs of the Town; and

WHEREAS, the Town is in need of a water storage facility to help meet the Town's current and future water needs; and

WHEREAS, the Town has entered into an agreement dated July 8, 2013 with River Bluffs Ventures, LLC, a Colorado Limited Liability Company, to purchase the Kyger Reservoir (aka "Kyger Pit") as a water storage vessel for water rights the Town owns, leases or may appropriate and adjudicate; and

WHEREAS, the Town has acquired title to the Kyger Reservoir pursuant to the aforementioned agreement; and

WHEREAS, the Colorado Division of Reclamation, Mining, Safety has approved Kyger Reservoir as a legally suitable water storage vessel; and

WHEREAS, the liner installed in Kyger Reservoir to allow it to be used as a storage reservoir has been approved by the Colorado State Engineer's office on January 24, 2014; and

WHEREAS, the Town desires to utilize the Kyger Reservoir to store water for all municipal uses, augmentation uses, agricultural uses, industrial uses, irrigation, fire suppression, dust suppression and emergency response and to appropriate a water right for Kyger Reservoir for those uses.

WHEREAS, in order to facilitate the operations and management of the Town's water resources within the Kyger Property, an application for water storage rights has been recommended by the Town's water attorney; and

WHEREAS, after review, the Town deems it advisable to approve the filing of the Kyger Reservoir Water Storage Right with the Division 1 Water Court; and

WHEREAS, by this Resolution, the Town Board wishes to authorize the appropriation of water rights and the filing of an application for water storage rights in the Kyger Reservoir.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

1. The Board authorizes the filing of a Division One Water Court application to adjudicate absolute and conditional water storage rights for the Kyger Reservoir, located in SE1/4 of Section 13, T6N, R68W of 6th P.M. the amount of 1300 acre feet with a right to refill for all municipal uses, augmentation uses, agricultural uses, industrial uses, irrigation, fire suppression, dust suppression and emergency response.

2. The points of diversion will be from the Cache la Poudre River via the Headgate for the Greeley No. 2 Canal which is located in the SE ¼ of the NE ¼ of Section 11, T6N, R68W of 6th P.M. at a rate of 20 cfs and via a pump station or other type of diversion to be located on the north bank of the Cache la Poudre River in the S ½ of Section 13, T6N, R68W of 6th P.M. at a rate of 20 cfs.
3. The Town Manager is hereby authorized to execute the said Application for Water Storage Rights in Kyger Reservoir.
4. The Town's Water Attorney is authorized to draft and file the Application for Water Storage Rights in Kyger Reservoir with the Water Court, Water Division No. One and to take such actions as are necessary to prosecute and adjudicate said storage rights.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 28th day of April, 2014.

TOWN OF WINDSOR, COLORADO

By: _____
John Vasquez, Mayor

ATTEST:

Patti Garcia, Town Clerk



MEMORANDUM

Date: April 28, 2014
To: Mayor and Town Board
Via: Kelly Arnold, Town Manager
From: Patti Garcia, Town Clerk/Assistant to Town Manager
Re: Rescheduling of May 26, 2014 meeting to Tuesday, May 27, 2014
Item #: B.4.

Background / Discussion:

Due to the observance of the Memorial Day holiday on May 26, 2014, the regular meeting is being postponed to Tuesday, May 27, 2014. Three land use applications will be ready for Town Board consideration; a simple majority vote will be required in order to approve the applications.

TOWN OF WINDSOR

RESOLUTION 2014-23

BEING A RESOLUTION APPOINTING ROBERT BISHOP-COTNER TO SERVE AS THE MAYOR *PRO TEM* OF THE TOWN OF WINDSOR, COLORADO, AND EXPRESSING GRATITUDE TO FORMER MAYOR *PRO TEM* KRISTIE MELENDEZ.

WHEREAS, the Town of Windsor's Home Rule Charter Section 3.2 (C) provides for the appointment, term of office and duties of the Mayor *Pro Tem*; and

WHEREAS, the former Mayor *Pro Tem*'s term of office has expired; and

WHEREAS, in order to assure the orderly conduct of Town Board business, the Town Board has considered its membership and has concluded that Robert Bishop-Cotner meets the qualifications and should be appointed to serve as the Mayor *Pro Tem*.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

1. Town Board Member Robert Bishop-Cotner is appointed the Mayor *Pro Tem* for a period of two (2) years or until the expiration of his current term of office, whichever occurs first.
2. Mr. Bishop-Cotner shall perform the duties of the Mayor when the Mayor is absent or is otherwise unable to perform the responsibilities of Mayor.
3. The Town Board offers its gratitude to former Mayor *Pro Tem*, Kristie Melendez, for her dedicated service to the Town in this capacity.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted by a two-thirds (2/3) majority vote of all members of the Town Board in office on this 28th day of April, 2014.

TOWN OF WINDSOR, COLORADO

John Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk

TOWN OF WINDSOR

RESOLUTION NO. 2014-24

A RESOLUTION APPOINTING AND AFFIRMING LOCAL BOARD AND COMMISSION SERVICE BY CURRENT TOWN BOARD MEMBERS

WHEREAS, the Windsor Town Board is privileged to share its members with various boards, commissions and authorities, all of which serve the interests of the Town and its citizens; and

WHEREAS, the April, 2014, municipal election resulted in the election of three Town Board members, each of whom has expressed a desire to serve as board and commission liaisons; and

WHEREAS, the power to make appointments of Town Board members to board and commission positions is vested in the Mayor.

NOW, THEREFORE, the following board and commission appointments are recognized:

1. Planning Commission liaison: None appointed at this time; liaison position will be eliminated by amendment to *Windsor Municipal Code* § 2-7-10.
2. Parks, Recreation and Culture Advisory Board liaison: Christian Morgan
3. Cache la Poudre Trail Authority representative: Myles Baker
4. Water and Sewer Board liaison: Myles Baker
5. Chamber of Commerce representative: Kristie Melendez
6. North Front Range Metropolitan Planning Organization representative: John S. Vazquez, with Robert Bishop-Cotner serving as an alternate.
7. Historic Preservation Commission liaison: Robert Bishop-Cotner
8. Tree Board liaison: Ivan Adams
9. Windsor Housing Authority appointee: John S. Vazquez
10. Clearview Library Board liaison: Jeremy Rose
11. Student Advisory Leadership Team (SALT) representative: Ivan Adams
12. Downtown Development Authority liaison: Kristie Melendez
13. Great Western Trail Authority appointee: Christian Morgan

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 28th day of April, 2014.

TOWN OF WINDSOR, COLORADO

By _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk

TOWN OF WINDSOR

ORDINANCE NO. 2014-1472

AN ORDINANCE REPEALING, AMENDING AND READOPTING CERTAIN PORTIONS OF THE *WINDSOR MUNICIPAL CODE* WITH RESPECT TO THE UNIFORM ADMINISTRATION OF THE MAXIMUM FINE IMPOSED UPON PERSONS CONVICTED OF VIOLATIONS BY THE TOWN OF WINDSOR MUNICIPAL COURT

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipal corporation, with all powers and authority vested by Colorado law; and

WHEREAS, the Town’s Municipal Court is a Qualified Court of Record pursuant to Title 13, Article 10 of the Colorado Revised Statutes; and

WHEREAS, by Ordinance No. 2014-1470, the Town Board approved an increase in the maximum fine for municipal violations from \$1,000.00 to \$2,650.00, adjusted annually by the rate of inflation; and

WHEREAS, the Town Board has been advised to amend related provisions of the *Windsor Municipal Code*, to assure uniformity of administration in those cases in which a fine in excess of the former maximum is imposed; and

WHEREAS, the Town Board wishes to bring uniformity to the imposition of fines in excess of the former maximum for all violations of the *Windsor Municipal Code*.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

Section 1. Section 1-4-20 (b) of the *Windsor Municipal Code* is repealed and readopted to read as follows:

In addition to the aforesaid fine, the Municipal Judge shall add thereto a surcharge in the amount of seven dollars (\$7.00) for each ordinance violation, but the total fine imposed under Subsections (a) and (b) of this Section may not exceed the maximum fine established in sub-section (a) of this Section. All proceeds generated by the surcharge under this Subsection shall be paid into a separate account of the Town, fifty percent (50%) of which shall be used for the purpose of funding the participation of the Town in the Weld County Drug Task Force, and the remaining fifty percent (50%) of which shall be deposited to a Town Methamphetamine Remediation Fund (MRF) account, with such MRF funds being dedicated to defraying the cost of methamphetamine laboratory remediation costs incurred by the Town. The balance in the MRF fund shall not exceed fifty thousand dollars (\$50,000.00); any excess accumulation in the MRF fund shall be

reallocated for the purpose of funding the Town's participation in the Weld County Drug Task Force. Any reduction of the MRF fund caused by payment of Town methamphetamine laboratory remediation expenses will be restored through subsequent allocations to assure an ongoing target balance of fifty thousand dollars (\$50,000.00). Should any funding called for hereunder be or become unnecessary for any reason, the surcharge will continue and be used for the purpose of law enforcement training, administration and/or acquisition of equipment.

Section 2. Section 1-4-30 of the *Windsor Municipal Code* is hereby repealed, amended and readopted to read as follows:

Every person who, at the time of commission of the offense, was at least ten (10) but not yet eighteen (18) years of age, and who is subsequently convicted of or pleads guilty or nolo contendere to, a violation of any provision of this Chapter, shall be punished by a fine of not more than the maximum fine established pursuant to Section 1-4-20 (a) of this Code per violation or count. Any voluntary plea of guilty or nolo contendere to the original charge or to a lesser or substituted charge shall subject the person so pleading to all fines and/or penalties applicable to the original charge.

Introduced, passed on first reading and ordered published this 14th day of April, 2014.

TOWN OF WINDSOR, COLORADO

John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk

Passed on second reading, and ordered published this 28th day of April, 2014.

TOWN OF WINDSOR, COLORADO

John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk



MEMORANDUM

Date: April 28, 2014
To: Mayor and Town Board
Via: Kelly Arnold, Town Manager
Joseph P. Plummer, AICP, Director of Planning
From: Scott Ballstadt, AICP, Chief Planner
Subject: Public Hearing - Ordinance No. 2014-1473 Amending Chapter 16 of the Windsor Municipal Code for the purpose of adopting regulations for accessory dwelling units in residential zoning districts within the Town of Windsor – Second Reading
Item #: C.4

Discussion:

The Planning Commission and Town Board discussed Accessory Dwelling Units (ADUs) at multiple work sessions and, ultimately, the Town Board directed staff to prepare the enclosed ordinance for consideration.

ADUs have become an increasingly popular concept in recent years due to a wide variety of factors. ADUs are considered an efficient “infill” development as they typically utilize existing water, sewer and street infrastructure. Additionally, declining household size; aging population; affordable housing options; and rental income for elderly or young homeowners are all examples of reasons why communities allow ADUs. Demand for accessory dwelling units is expected to increase in the immediate future as the baby boomer generation retires and a variety of housing options are needed.

Several jurisdictions in Colorado have adopted ADU regulations, including Fort Collins, Loveland, Longmont, Grand Junction, Boulder, Golden, Arvada, among others. The enclosed draft ordinance is modeled after the City of Arvada’s ordinance pertaining to ADUs and is intended to ensure that an ADU is compatible with the surrounding neighborhood and to mitigate potential issues. The enclosed ordinance addresses issues such as minimum and maximum size of an ADU, maximum number of occupants, parking requirements and design requirements.

Community Input

Following direction from the April 14, 2014 Town Board meeting, staff created a page on the Town’s website dedicated to ADUs and also emailed notice of this meeting, a copy of the ordinance and informational materials to the metro district and HOA contact lists on file. Only one metro district representative responded and they indicated that they had no concerns with the ordinance.

The Town also received the enclosed March 6, 2014 letter from Mr. Paul W. Harder, President of Harder Building and Development, Inc. in favor of the ordinance and the one minor change proposed by Mr. Harder has been incorporated into the ordinance.

Conformance with Comprehensive Plan: Accessory dwelling units are consistent with the following Housing Goals and Policies of the Comprehensive Plan:

Goals:

1. Promote an adequate supply and variety of safe and economically achievable housing products to meet the current and future needs of the community.
2. Maintain housing that represents a diversity of style, density and price to meet the needs of Windsor residents.

Policies:

10. Encourage infill development of suitable vacant lots within the Town while considering density, zoning, and compatibility of surrounding land uses.
11. Encourage and facilitate the development of housing which offers alternative choices in lifestyle such as townhouses, apartments and condominiums.

Conformance with Vision 2025: Accessory dwelling units are consistent with Vision 2025 Housing Quality and Diversity Goal 1: "Provide choices for housing in town, not just single family homes."

Relationship to Strategic Plan: Accessory dwelling units are consistent with Strategic Plan Vision #5: "Windsor residents enjoy a friendly community with housing opportunities, choices for leisure, cultural activities, recreation and mobility for all"

Recommendation: Approval of ordinance on second reading

Notification:

- Notice of March 19, 2014 Planning Commission public hearing published in March 7, 2014 Greeley Tribune
- Notice of April 14, 2014 Town Board public hearing published in March 7, 2014 Greeley Tribune
- Notice of both public hearings posted on Town website March 7, 2014
- Notice of April 28, 2014 Town Board meeting, ordinance and informational materials were emailed to metro district and HOA contact lists on April 16, 2014
- A page on the Town's website regarding ADUs was created and a related press release was issued on April 16, 2014

Attachments:

Ordinance
March 19, 2014 Planning Commission minutes excerpt
Paul W. Harder, Harder Building and Development, Inc. 3/6/14 letter
Matrix comparing ADU regulations in neighboring jurisdictions
Draft ADU application packet

pc: Mr. Paul W. Harder, Harder Building and Development, Inc.
Mr. Jason Kingery, property owner

TOWN OF WINDSOR, COLORADO

ORDINANCE NO. 2014-1473

AN ORDINANCE AMENDING CHAPTER 16 OF THE *WINDSOR MUNICIPAL CODE* FOR THE PURPOSE OF ADOPTING REGULATIONS FOR ACCESSORY DWELLING UNITS IN RESIDENTIAL ZONING DISTRICTS WITHIN THE TOWN OF WINDSOR, COLORADO

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality, with all powers and authority vested under Colorado law; and

WHEREAS, the Town has in place a comprehensive system of land use regulations, including zoning requirements applicable to identified zoning districts within the Town; and

WHEREAS, the Town’s zoning districts include limitations on the number of permitted dwelling units on a given lot or parcel in those zoning districts in which single-family residential uses are permitted uses by right; and

WHEREAS, the evolution of sound land use planning and the need to accommodate residential uses of greater intensity calls for the Town to consider reasonable regulations allowing for the development of Accessory Dwelling Units (“ADU’s”) as a permitted accessory use within single-family lots, where appropriate; and

WHEREAS, the Town’s Planning Department has made recommendations to the Planning Commission and Town Board, which recommendations have been reviewed and considered in arriving at the terms of the within Ordinance; and

WHEREAS, the Town Board has given due consideration to the anticipated impacts of greater residential density, including traffic, parking, fire safety and public infrastructure; and

WHEREAS, the Town Board believes that the within Ordinance strikes a reasonable balance between the need for available housing alternatives and the public interest in preventing over-crowding, congestion and public safety concerns; and

WHEREAS, the Town Board wishes to amend the *Windsor Municipal Code* as set forth herein for the purpose of allowing ADU’s, subject to reasonable land use requirements.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO, AS FOLLOWS:

Section 1. Chapter 16 of the *Windsor Municipal Code* shall be amended by the addition of a new Article XXXIII, which shall read as follows:

**ARTICLE XXXIII
ACCESSORY DWELLING UNITS**

Sec. 16-33-10. Statement of Intent.

The intent of this Article is to provide for accessory dwelling uses in areas within which single-family detached residential uses are permitted, while protecting the public health, safety and welfare through reasonable limitations on size, occupancy, density, and parking associated with such uses.

Sec. 16-33-20. General provisions.

Accessory Dwelling Units shall be permitted as an accessory use in conjunction with all single family detached dwellings in all zoning districts which permit single-family dwelling units as a permitted use, subject to the following conditions:

- (a) **Compliance with Development Standards and Building Codes.** Every Accessory Dwelling Unit shall meet the same development standards applicable to the principal dwelling unit. In addition, every Accessory Dwelling Unit shall meet all applicable municipal codes, building codes, residential codes, fire codes, and property maintenance codes. The application of these codes may render some property ineligible for Accessory Dwelling Unit approval.
- (b) **Compliance with Restrictive Covenants.** If the parcel upon which an Accessory Dwelling Unit is proposed falls within the jurisdiction of a homeowners' association or similar covenant-based property owners' association, the requirements of this Article shall be considered minimum requirements. Any such association shall have the right to lawfully adopt more stringent standards for Accessory Dwelling Units, including the outright prohibition of Accessory Dwelling Units, for any parcel within the regulatory authority of such association.
- (c) **Parking.** One (1) off-street parking space shall be required for an Accessory Dwelling Unit, which parking space shall be in addition to any parking otherwise required for the principle dwelling unit. The parking space required under this Section may be established in tandem with other required parking spaces. The parking space required under this Section shall be paved with asphalt or concrete.
- (d) **Accessory Dwelling Unit Size and Configuration.** Except as modified in sub-section 5 below, the living space of the Accessory Dwelling Unit shall be no larger than the living space of the principal dwelling unit on the subject lot or parcel, and shall not in any event exceed nine-

hundred fifty (950) square feet. No Accessory Dwelling Unit shall be less than five-hundred (500) square feet, and all Accessory Dwelling Units shall be designed and configured as either studio, or one bedroom, or two bedroom units. Square footage calculations, as contained herein, exclude any related garage, porch or similar area.

- (e) **Unit Size Exception.** The limitations of sub-section 4 above shall not apply to Accessory Dwelling Units located within the footprint of an existing home as long as the living space of the Accessory Dwelling Unit is not larger than 50% of the entire principal dwelling unit, including the basement. For example, if a home has one-thousand (1,000) square foot of living space within the basement, an Accessory Dwelling Unit could be established in this space if the principal dwelling also contains at least one-thousand (1,000) square feet of living space.
- (f) **Unit Occupancy.** No more than two (2) persons shall occupy an Accessory Dwelling Unit.
- (g) **Number of Accessory Dwelling Units per Lot or Parcel.** Only one Accessory Dwelling Unit shall be allowed for each lot or parcel.
- (h) **Owner Occupancy.** The property owner, as reflected in the books and records of the County Clerk and Recorder, must occupy either the principal dwelling unit or Accessory Dwelling Unit. In the case of a corporation, limited liability company, trust or other owner entity, owner occupancy by a natural person shall be established by resolution or other formal declaration by the entity.
- (i) **Existing Development on Lot.**
 - 1. **Certificate of Occupancy Required.** A single-family dwelling shall exist as the principal use on the lot or parcel, or shall be constructed in conjunction with the Accessory Dwelling Unit. A certificate of occupancy for an Accessory Dwelling Unit will only be granted after a certificate of occupancy has been granted to the principal dwelling unit on the lot or parcel.
 - 2. **Legal Nonconformity.** Nothing herein shall be construed to render lawful any dwelling unit in use which, at the time of its establishment, was not lawful. Nothing herein shall require adherence to the requirements of this Article as applied to any dwelling unit which, at the time of its establishment, was lawful, unless such dwelling unit is proposed for expansion, modification or use different than that taking place at the time of the adoption of this Article.
 - 3. **Utility Service Requirements.** With the exception of telephone, television, electrical and internet service, Accessory Dwelling Units must be served through the utility services of the principal dwelling unit and shall not have separate services.

4. **Limitations on Garage-space Accessory Dwelling Units.** Garage space dedicated for use in conjunction with an ADU shall not exceed two-hundred fifty (250) square feet.
5. **Prohibited Accessory Dwelling Units.** Mobile homes, travel trailers and recreational vehicles shall be prohibited for use as an Accessory Dwelling Unit.
6. **Minimum Lot Size.** No Accessory Dwelling Unit shall be permitted on a lot or parcel consisting of less than six-thousand (6,000) square feet.

Sec. 16-33-30. Types of Accessory Dwelling Units.

The following designations shall identify three (3) distinct types of Accessory Dwelling Units:

- (a) **Type I:** An Accessory Dwelling Unit which is detached from the principal dwelling unit and considered a separate dwelling unit under the Residential Code.
- (b) **Type II:** An Accessory Dwelling Unit located inside a single family dwelling whose occupants and the occupants of the principal dwelling unit do not live together as a single household unit. Type II Accessory Dwelling Units typically have a separate access from the principal dwelling unit. In this case, both the Accessory Dwelling Unit and the principal dwelling unit to which it is accessory are considered separate dwelling units under the Residential Code.
- (c) **Type III:** An Accessory Dwelling Unit located inside a single family dwelling whose occupants and the occupants of the principal dwelling unit live together as a single household unit and which is not locked off from the principal dwelling unit. In this case, the Accessory Dwelling Unit and principal dwelling unit shall be considered part of one (1) dwelling unit under the Residential Code.

Sec. 16-33-40. Design-related limitations, provisions.

Each Accessory Dwelling Unit proposed for any location shall be approved in the form of a site plan, which shall, in addition to any other required contents, contain the following:

- (a) **Design.** To preserve the appearance of the single-family dwelling, Accessory Dwelling Units shall be designed in the following manner:
 1. The design of the Accessory Dwelling Unit shall be compatible with the design of the principal dwelling unit by use of similar style, exterior wall materials, window types, door and window trims, roofing materials and roof pitch and colors.

2. If the entrance to the Accessory Dwelling Unit is visible from an adjacent street, it shall be designed in a manner as to be clearly subordinate to the entrance of the principal dwelling.
3. Windows which face an adjoining residential property shall be designed to protect the privacy of neighbors.

(b) **Outdoor Areas.** The site plan shall provide accessible outdoor space and landscaping for both the Accessory Dwelling Unit and the principal dwelling unit. The parking area required under Section 16-33-20 (c) shall be paved with asphalt or concrete.

Sec. 16-33-50. Home Occupations.

Home occupations may take place within any Accessory Dwelling Unit approved or lawful pursuant to this Article. However, home occupations taking place in any Accessory Dwelling Unit shall comply in all respects with the requirements of Chapter 16, Article X of this Code.

Section 16-33-60. Recorded Declaration of Restrictions Required.

As a condition of Accessory Dwelling Unit approval and condition of any building permit issued for or within an Accessory Dwelling Unit, the property owner shall record a declaration of restrictions with the Clerk and Recorder of the county in which the property is located. Such declaration of restrictions shall be in the form approved and maintained by the Zoning Official, and shall state that:

- (a) The Declarant (at least one, if more than one) shall reside on the Property and such Property shall be the primary and permanent dwelling place of Declarant, excluding temporary absences and temporary stays elsewhere, and said Property shall be and remain Declarant's place of legal residence
- (b) Ownership of the Accessory Dwelling Unit shall not be transferred separately from the principal dwelling unit, nor shall the lot or parcel upon which the Accessory Dwelling Unit is situated be subdivided.
- (c) The Accessory Dwelling Unit shall be restricted to the approved size, and shall not be expanded. Any modification of the approved Accessory Dwelling Unit site plan shall first be approved by the Town of Windsor.
- (d) The Certificate of Occupancy for the Accessory Dwelling Unit shall be in effect only so long as either the principal residence, or the Accessory Dwelling Unit, is occupied by the owner of record as a principal dwelling unit as required by Section 16-33-20 (h) above.

- (e) If the Accessory Dwelling Unit is approved as Type III, the Accessory Dwelling Unit shall not be locked off from the principal dwelling unit unless, prior to such action, the property owner has applied for and received approval for a change of designation to a Type II Accessory Dwelling Unit.
- (f) The above restrictions are binding upon any successor in ownership of the property.
- (g) Non-compliance with the declaration of restrictions may subject both the owner of the property and any Accessory Dwelling Unit occupant(s) to criminal prosecution and civil remedies, including but not limited to injunctive relief. The owner of the Property shall be liable for all Town expenses associated with civil remedies sought by the Town in association with the declaration of restrictions. The failure of the Town to pursue civil or criminal remedies shall not be deemed a waiver of any violations or noncompliance.
- (h) The declaration of restrictions shall lapse upon removal of the Accessory Dwelling Unit. To effect this intent, and upon verification of such removal, the Town shall execute documentation confirming release of the deed restriction. The property owner shall record the Town-executed documentation releasing the declaration of restrictions. The property owner shall pay all required recording fees, and shall provide satisfactory written evidence that such recording was successfully completed.
- (i) The declaration of restrictions, shall be perpetual and constitute covenants running with the land. The declaration of restrictions shall be binding upon the property owner, and the heirs, successors and assigns of the property owner, and all persons claiming under them.
- (j) Neither the declaration of restrictions, nor any of the specifics set forth or incorporated therein, shall be amended, terminated, or modified in any way without the written consent of the Town of Windsor, filed with the Clerk and Recorder of the county in which the property is located.

Sec. 16-33-70. Procedure for Accessory Dwelling Unit Approval.

The approval of each Accessory Dwelling Unit shall be governed by the following procedures:

- (a) The property owner shall file an application for approval with the Planning Department upon such forms as may be approved by the Zoning Official. Upon completion of Planning Department review, the Zoning Official shall either approve the application as presented, deny the application as presented or approve the application with conditions. The Zoning Official shall base the determination and any conditions upon the express requirements and limitations of this Article.

(b) Any applicant aggrieved by the Zoning Official's determination pursuant to this Section shall have a right to appeal to the Board of Adjustment as provided in Sections 16-6-40 and 16-6-50 of this Code.

(c) The determination of the Board of Adjustment pursuant to this Section shall be deemed final agency action for purposes of judicial review.

Section 2. *Windsor Municipal Code* Section 16-8-40 (b) is hereby repealed, amended and re-adopted to read as follows:

One (1) building per lot. Except as otherwise provided for multifamily dwellings, accessory dwelling units, and planned unit developments, only one (1) principal residence structure shall be permitted on a lot

Introduced, passed on first reading, and ordered published this 14th day of April, 2014.

TOWN OF WINDSOR, COLORADO

By _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk

Introduced, passed on second reading, and ordered published this 28th day of April, 2014.

TOWN OF WINDSOR, COLORADO

By _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk

Mr. Scheffel asked for clarification to “change in height.” Mr. Ballstadt noted the change in the size of the advertising materials may result in a shorter overall height, and Ms. White added that the sign structure will not be changed.

Mr. Cox inquired if the signs, being bio-degradable will deteriorate over time. Ms. White responded this material is vinyl-like and is becoming an industry standard, adding that the ECO Poster will not deteriorate while on the billboard. Mr. Window added typically the posters are changed no less than annually.

Mr. Frelund asked for a second reading of staff recommendations. Mr. Ballstadt reiterated those recommendations for Commissioners. Mr. Schick inquired if the applicant is amenable to staff recommendations/conditions. Ms. White responded they are.

Mr. Tallon moved to approve the proposed change in material to permit ECO Posters and related fastening mechanism to reduce the size of the existing billboards, thus reducing the size of the nonconforming signs subject to the following: With the possible exception of reducing the overall height of the subject four signs, no other characteristics or use of the nonconforming signs such as lighting, structure, color or other aspects shall be changed, adding nothing herein shall be construed as a waiver of other restrictions on off-premises advertising including, but not limited to, restrictions on electronic or digital display methods as presented in the staff recommendation. Mr. Frelund seconded the motion. Roll call on the vote resulted as follows: Yeas – Gale Schick, Steve Scheffel, Robert Frank, Victor Tallon, Ken Gerlach, David Cox, Wayne Frelund; Nays – None. Motion carried.

2. Public Hearing - Ordinance Amending Chapter 16 of the Windsor Municipal Code for the purpose of adopting regulations for accessory dwelling units in residential zoning districts within the Town of Windsor – S. Ballstadt

Mr. Ballstadt began by stating at the direction of the Planning Commission, staff initiated research and worked with the Town Attorney to prepare the enclosed draft ordinance adopting regulations for Accessory Dwelling Units (ADUs). He reminded Commissioners that the Planning Commission and Town Board discussed ADUs at work sessions on June 6, 2013, September 18, 2013, September 23, 2013, December 2, 2013 and a joint work session of both boards on July 22, 2013. Ultimately, the Town Board directed staff to prepare an ordinance for consideration.

Mr. Ballstadt went on to explain ADUs have become an increasingly popular concept in recent years due to a wide variety of factors. ADUs are considered an efficient “infill” development as they typically utilize existing water, sewer and street infrastructure. Additionally, declining household size; aging population; affordable housing options; and rental income for elderly or young homeowners are all examples of reasons why communities allow ADUs. He stated demand for accessory dwelling units is expected to increase in the immediate future as the baby boomer generation retires and a variety of housing options are needed.

Mr. Ballstadt explained several jurisdictions in Colorado have adopted ADU regulations, including Fort Collins, Loveland, Longmont, Grand Junction, Boulder, Golden, Arvada, among others. He pointed out the enclosed draft ordinance is modeled after the City of Arvada’s ordinance pertaining to ADUs and is intended to ensure that an ADU is compatible with the surrounding neighborhood and to mitigate potential issues.

Mr. Ballstadt went on to clarify the ordinance addresses issues such as minimum and maximum size of an ADU, maximum number of occupants, parking requirements and design requirements.

The ordinance has been revised in response to the Town Board and Planning Commission comments as discussed at work sessions including:

- **Existing ADUs.** The ordinance specifically refers to legal nonconformity and clarifies that any existing, legal nonconforming ADU would not be subject to the new regulations. However, it also clarifies that any existing ADU that is not lawful will not be rendered lawful with the passage of this ordinance, adding all new ADU's would have to be in compliance.
- **Home Occupations in the ADU.** Although the Arvada example and previous draft ordinance prohibited home occupations from taking place in the ADU, the revised ordinance will allow for home occupations within the ADU, subject to compliance with the home occupation requirements of Chapter 16, Article X of the Municipal Code.
- **Utilities serving the ADU.** ADUs are required to be served through the same water and sanitary sewer services of the principal dwelling unit. In addition, the two structures must remain on the same lot, subdivision will not be allowed.
- **Paved parking.** The ordinance requires an additional off-street parking space paved with asphalt or concrete for each ADU to address the concern that gravel parking areas may be proposed to meet the off-street parking requirement.
- **Size of the ADU.** The minimum square footage of the ADU has been increased from a minimum of 200 square feet to 500 square feet and, per community input, staff is recommending that the maximum square footage be increased to 950 square feet. All ADU's will be reviewed and approved through an abbreviated site plan process.

Mr. Ballstadt summarized comments and concerns expressed during the community input process. He shared a letter from Mr. Paul Harder asking Commissioners to consider a larger maximum square footage than the proposed 800 square feet limit for ADU's. Mr. Harder suggested a 950 square foot maximum for ADU's. Mr. Ballstadt pointed out that some jurisdictions allow ADU's larger in size than the 800 square feet proposed in the draft Ordinance. He stated staff agrees that 950 square feet is a reasonable proposal and recommends that this change be incorporated into the Ordinance.

Mr. Schinner inquired if two as the maximum number of residents per ADU is realistic; if pre-manufactured homes would be allowed; if Type 1 ADU's were rentable; if visibility from an adjacent street is limited to public streets, and what the definition of a street is; should all the residential zoning districts be listed; and must there be an existing residence on the lot before building the ADU?

Mr. Ballstadt responded:

- ADU's will not be allowed without a principal dwelling unit already in place – in order to have an accessory dwelling unit, there first needs to be a principal dwelling unit on the property
- ADU's will be allowed in any zoning district that allows single-family dwelling units
- Visible entrances to the ADU would need to be subordinate to the entrance to the primary dwelling unit i.e. less prominent, and since the ordinance does not specify public or private street, it is implied that the reference is from any street
- The intent is that an ADU can be rented
- The standard definition of mobile homes would apply and would not eliminate manufactured homes from compliance
- The number of occupants varies in other jurisdictions, and overcrowding should be avoided.
- He added this Ordinance would not supersede restrictions set by HOA's.

Commissioners stated defining public or private streets is not necessary, but should apply to any adjacent street.

Mr. Tallon moved to close the public hearing. Mr. Frank seconded the motion. Roll call on the vote resulted as follows: Yeas – Gale Schick, Steve Scheffel, Robert Frank, Victor Tallon, Ken Gerlach, David Cox, Wayne Frelund; Nays – None. Motion carried.

3. Ordinance Amending Chapter 16 of the Windsor Municipal Code for the purpose of adopting regulations for accessory dwelling units in residential zoning districts within the Town of Windsor – S. Ballstadt

Mr. Ballstadt stated staff recommends that the Planning Commission forward to the Town Board a recommendation of approval of the proposed ordinance with the aforementioned revision to Section 16-33-20(4) to allow for a maximum ADU size of 950 square feet.

Mr. Schick revisited Mr. Schinner's questions. Mr. Ballstadt suggested removal of any references to rentals, Commissioners concurred.

Mr. Ballstadt noted that staff worked with the Town Attorney on this Ordinance, and there was no intent to eliminate manufactured housing structures so long as they comply with the applicable codes. Mr. Tallon interjected mobile homes require specialty fixtures and infrastructure, asking if the intent is to present similar architecture with the primary structure. Mr. Ballstadt stated that the ADU architecture needs to compliment the principal dwelling and added that ADU's will not be feasible on some properties due to lot size constraints, architectural requirements, and many other factors.

Mr. Frelund stressed compliance with building and fire code standards, regardless of whether or not the structure is a manufactured structure, and SAFEbuilt should make those determinations. Commissioners would like clarification of the definitions of mobile and manufactured homes. Mr. Plummer interjected anything that is not specifically stated in the Code could under certain circumstances be allowed. Mr. Ballstadt followed by stating that mobile homes and manufactured homes are defined in the code and other regulations and there is nothing in the proposed ordinance that would circumvent any building code requirements. Mr. Ballstadt further stated that SAFEbuilt and the fire district reviewed the ordinance and all ADUs will need to meet all building and fire codes and if they cannot meet those codes, the ADU will not be approved. Mr. Ballstadt also stated that, rather than including redundant building and fire code requirements in the ordinance, it is better for the ordinance to reference those codes so that, as building and fire codes are updated over time, the ADU ordinance will not contain dated conflicting requirements.

Regarding the number of occupants, Commissioners felt comfortable with two, but an increase could be addressed in the future if it becomes an issue. Mr. Frelund stated he believes that will come before the Commission at some time in the future, but the consensus was to leave the maximum number of occupants at two. Mr. Cox inquired if this would impact Public Works based upon capacity. Mr. Ballstadt noted neither Public Works nor Engineering have concerns regarding this proposal. Mr. Cox also inquired if the Post Office is capable of handling the increase in demand. Mr. Ballstadt noted that has not yet been discussed.

Mr. Frelund asked if building the ADU could precede construction of the primary residence if a time-frame on that construction is attached. Mr. Schick noted not all circumstances can be built into the Ordinance, but the language included would cover 90% of the situations that could arise. Mr. Tallon added additional considerations could be reviewed in the future if necessary.

Mr. Cox asked if access to the ADU could be from an existing alley. Mr. Ballstadt noted the ordinance does not prohibit alley access.

Mr. Scheffel asked if there would be a public notice requirement and whether any public input had been received. Mr. Ballstadt responded that all of the aforementioned work sessions were public meetings and notice had been published for the public hearing on this meeting agenda and only Mr. Harder and his clients have made comments.

Mr. Frank inquired if “public street” and “dedicated street” is the same. Mr. Ballstadt responded a dedicated right-of-way is generally considered a public street. Mr. Plummer suggested changing the reference to “any” street. Mr. Schick indicated that further clarification is not necessary and the ordinance is fine as written.

Mr. Cox inquired if the Postmaster would be contacted prior to sending this item to the Town Board for review. Mr. Plummer clarified the process of addressing structures is handled administratively by staff, and any problems that would arise would be handled in a similar manner.

Mr. Tallon moved to forward a recommendation of approval of the proposed ordinance, revised to allow for a maximum ADU size of 950 square feet, and with removal of the references to “rental”, to the Town Board. Mr. Frank seconded the motion. Roll call on the vote resulted as follows: Yeas – Gale Schick, Steve Scheffel, Robert Frank, Victor Tallon, Ken Gerlach, David Cox, Wayne Frelund; Nays – None. Motion carried.

Mr. Schick thanked staff for all their hard work on this topic.

D. COMMUNICATIONS

1. Communications from the Planning Commission

Mr. Frelund thanked Mr. Harder for being in attendance at this meeting and for providing input on this process.

Mr. Gerlach reported he will be out of town until May 10, but will be available via email. Mr. Plummer reminded Mr. Gerlach his term will expire at the end of March, and he will send the application packet via email should Mr. Gerlach wish to re-apply.

Mr. Frank will not be available to attend the April 2 or May 7 meetings.

2. Communications from the Town Board liaison

Mr. Thompson had no communications.

3. Communications from the staff

Mr. Plummer inquired if clarification of who the recommending body will be for issues that come before the Commission – Planning Commission or Town Board – would be helpful. Commissioners felt that it would. Mr. Plummer will include that in future information.

Mr. Plummer also reported an RFP for a demographics and housing study has been submitted and a consultant will be chosen in the near future. Four consultants will be interviewed. Mr. Plummer thanked Mr. Frelund and Mr. Thompson for their participation in the screening process. There will be a work session scheduled in the near future.

Mr. Plummer also reported that the proposed development fee increases were reviewed and approved by Resolution by the Town Board.

E. ADJOURN

Mr. Tallon moved to adjourn; Mr. Frank seconded the motion. All members voted yes. The meeting was adjourned at 8:17 p.m.


Deputy Town Clerk

Harder Building and Development, Inc.

Scott Ballstadt, Chief Planner
Town of Windsor

March 6, 2014

Scott,

Thanks for the opportunity to comment on the new ADU Ordinance that the Town of Windsor is proposing. I am currently working on a project located at 718 Walnut St. in Windsor and my clients have the desire to build a separate living quarters on the property. The proposed ADU Ordinance would allow them this possibility.

I have attached a preliminary floor plan for the ADU structure that my clients would like to build. As you can see it is a very efficient plan of 906 sq.ft. and this leads me to my request. My clients and myself would like to propose that the ADU Ordinance would allow an ADU of up to 950 sq.ft. I feel that this would give landowners the flexibility to maximize their property without going overboard. Of course each request for an ADU would have many different factors involved and the Ordinance address these. Size is one of these factors and is probably the most important from the landowners perspective.

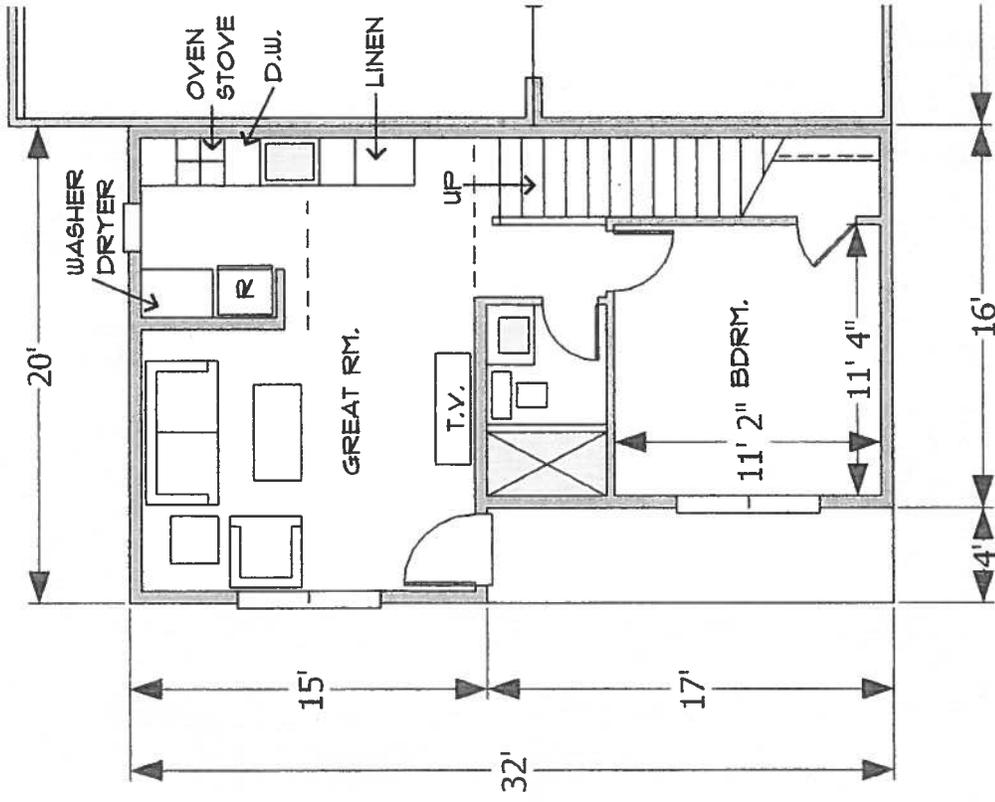
Again, thank you for the opportunity to interject my perspective on this matter. My clients and I look forward to the adoption of this ordinance and would offer our time and perspective during this process if needed.

Sincerely,



Paul W. Harder, President
Harder Building and Development, Inc.

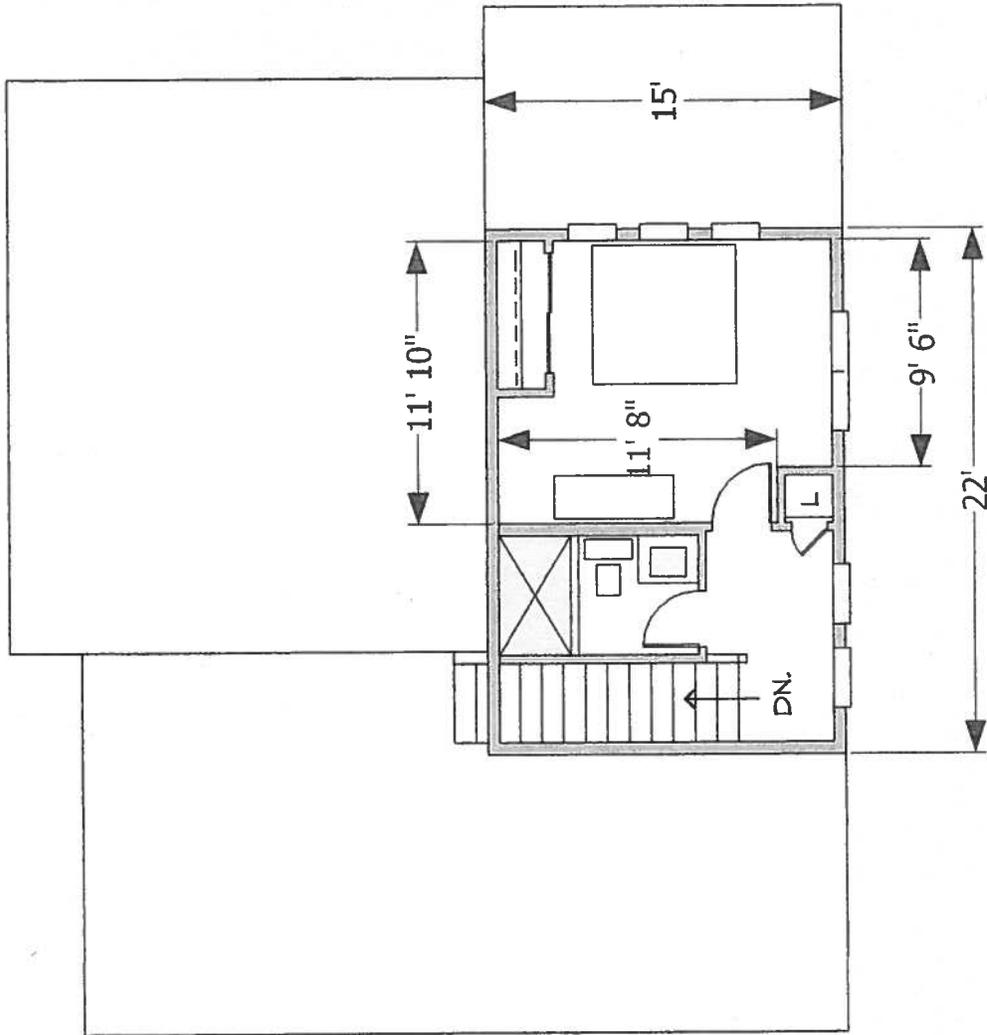
5164 Shavano Court, Windsor, CO 80550 Ph. 970.539.0825
Email: pwhpdh9@mesanetworks.net



GUEST HOUSE

5T2 MAIN
330 UPPER

902 SQ.FT.



UPPER FLOOR 1/8"=1'-0"

Comparison of Various Accessory Dwelling Unit (ADU) Requirements

ADU Requirement	Fort Collins	Loveland	Boulder	Arvada	Denver	Golden	Grand Junction
Square Footage of ADU	Maximum 600 SF in Old Town region Other zones pursuant to the regulations within that zoning district*	Minimum 500 SF Maximum 750 SF	Minimum 300 SF Maximum 1/3 of total floor area of principle dwelling unit	Principal dwelling unit 1,000 SF or more, detached ADU no larger than 40% or 800 SF; Principal dwelling unit less than 1,000 SF, detached ADU no larger than 400 SF; Limited to 50% if located within the footprint of the principal dwelling unit	Principal dwelling unit 6,000 SF or less, ADU no larger than 650 SF; Principal dwelling unit 6,001 – 7,000 SF, ADU no larger than 864 SF; Principal dwelling unit more than 7,000 SF, ADU no larger than 1,000 SF; Minimum 200 SF/ occupant	For principal dwelling unit 1,000 SF or more, ADU no larger than 50% or 800 SF; For principal dwelling unit less than 1,000 SF, ADU no larger than 500 SF	700 SF or 50% of primary residence floor area
Minimum Lot Size necessary for an ADU	N/A Meets minimum lot size of applicable zone districts and type of ADU*	10,000 SF unless approved through special review	6,000 SF or greater	N/A Meets minimum lot size of applicable zone districts	N/A Meets minimum lot size of applicable zone districts	7,000 SF 5,000-7,000 through special planning review Less than 5,000 through variance	3,000 SF
Parking Required	Defers to the zone and type of dwelling unit*	None where street is 28' or greater in width	One off-street space/unit	One on site dedicated to ADU	None	One on site dedicated to ADU	One off-street space/unit
Architecture Required	N/A	Same architectural style, materials & color as principal residence	Same architectural style, materials & color as principal residence	Same architectural style, materials & color as principal residence	Comparable architectural style, materials & color as principal residence	Same architectural style, materials & color as principal residence	Same architectural style, materials & color as principal residence
Zoning Allowing ADUs	Residential Districts	Residential Districts Through Approval of Special Review	The following single-family zones: RL-1; RL-2; RE; RR-1; RR-2; A; P	All single-family detached dwelling in residential zone districts	The following single-family zones: S-SU-F1; S-TH-2.5; S-MU-3,-5,-8,-12,-20; E-SU-D1; E-SU-D1x, -G1; E-TU-B, -C;E-TH-2.5; E-MU-2.5; U-SU-A1, -B1, -C1, -E1, -H1; U-SU-A2, -B2, -C2; U-TU-B, -C; U-TU-B2; U-RH-2.5; U-RH-3A; G-RH-3; G-MU-3, -5; G-MU-8, -12, -20; G-RO-3, -5	The following single-household detached dwellings: R-E; R-1; R-1A; R-2; R-3	The following residential and mixed use districts: R-R; R-E; R-1; R-2; R-4; R-5; R-8; R-12; R-O; B-2
Owner Occupancy	N/A	Required	Required	Required	Required	Required	Required, except in the R-8; R-12; R-O; B-2 zones
Occupancy Limit	Per the City's definition of family and Building/Fire Code	N/A	Maximum 2 persons	Maximum 2 persons in 600 SF or less; Maximum 3 persons 600 SF or more	Per the City's definition of family and Building/Fire Code	Maximum 3 persons	Per the City's definition of family and Building/Fire Code
Recorded Document	N/A	N/A Special Review	Declaration of Use required to be recorded prior to issuance of building permit	Declaration of Covenants, Deed to be recorded prior to issuance of building permit Conditions & Restrictions to be recorded prior to issuance of building permit	None	ADU Deed Restriction to be recorded prior to issuance of building permit	None
Public Notice Required	Yes, if detached in rear of lot in Old Town region and any new duplex	Yes Nbhd Meeting	Yes	N/A	No	No Use by Right	No
Removal of ADU	Treated as a typical single family dwelling unit that requires demolition permit	Rescind the Special Review	Upon permit expiration or revocation, portions of ADU can be required to be removed	N/A	N/A	It is determined to no longer be a living unit (removal of stove) Remove Deed Restriction	N/A

ADU Requirement	Fort Collins	Loveland	Boulder	Arvada	Denver	Golden	Grand Junction
Detached ADU Allowed	Yes*	Yes	Yes	Yes	Yes	Yes	Yes
Attached ADU Allowed	Yes*	Yes	Yes	Yes	Yes	Yes	Yes
Age Restrictions	None	None	None	None	None	None	None
Familial Restrictions	None	Yes	None	None	None	None	None

*Fort Collins does not use the term ADU. Two detached units may be allowed in all detached single family zones, pursuant to the zoning code regulations for that specific zone (ex. If a 6,000 SF Lot is required for a single family dwelling unit, then a 12,000 SF Lot is required for two single family dwelling units). Two attached units are considered a duplex and must meet the requirements in the code for a duplex dwelling unit.



ACCESSORY DWELLING UNIT PACKET

TOWN OF WINDSOR
301 Walnut Street
Windsor, CO 80550

Office: 970-674-2415
Fax: 970-674-2456
www.windsorgov.com

Attached is a checklist and application form for an Accessory Dwelling Unit (ADU) application. It is used to apply for an ADU in a residential district on a single family residential lot, and requires full compliance with the conditions of the Town of Windsor's Municipal Code, as well as all applicable building codes. **Please allow a period of 2-4 weeks for processing.**

IMPORTANT: Private neighborhood covenants may apply and restrict your ability to construct an Accessory Dwelling Unit. The Town requires written approval from said association prior as part of the ADU Application materials. It is the responsibility of the property owner to determine if there are any covenants that may apply to and/or restrict an Accessory Dwelling Unit. The Town is not liable for any action that a property owner takes in contradiction to applicable neighborhood covenants.

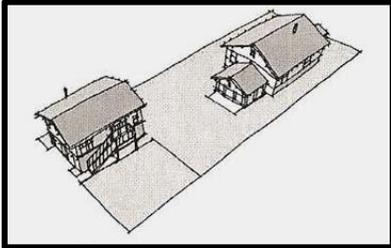
Please follow these steps in making your application:

1. Complete the ADU permit application packet, including all required documentation.
2. Attach a site plan (see example in packet), prepared by a Colorado Licensed Surveyor or Engineer showing:
 - Existing zoning and all uses adjacent to property;
 - Location of proposed ADU, the entrance and outdoor space;
 - Location and measurements of principal house and garage;
 - Location of all utilities and easements;
 - Lot size and lot coverage;
 - Front, rear and side setbacks;
 - Designated off street parking space for ADU;
 - Square footage of the home, garage and the ADU (separately);
 - Maximum number of people to reside in the ADU.
3. Include photos of the existing dwelling and building elevations of the proposed ADU.
4. Submit the completed ADU packet to the Planning Department. All required information shall be submitted electronically (PDF).
5. Once the above items are completed and submitted, the Planning Department will review the materials for completeness and distribute to the Town's Development Review Committee (DRC). The DRC is comprised of staff from all reviewing departments.
6. DRC staff will review the plans by the established review deadline and provide any comments or questions to the applicant to address.
7. Prior to final approval by Town staff, the applicant shall complete, have recorded with the clerk and recorder of the applicable county, and submit to the Planning Department the Declaration of Covenants (attached to this packet). Staff will notify the applicant when to execute said document.
8. When staff review is complete and all conditions are satisfied, the Planning Department will notify the applicant when the ADU application is approved.
9. Once an ADU application is approved, the Town may issue a Building Permit.

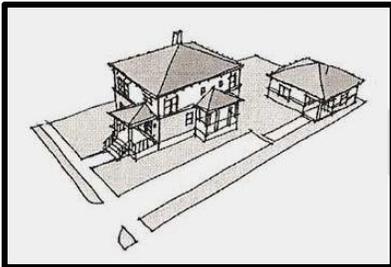
Accessory Dwelling Unit Types

Type I

An Accessory Dwelling Unit which is detached from the principal dwelling



Type I – detached ADU with alley access



Type I – detached ADU with front loaded access off the street

Type II

An Accessory Dwelling Unit with the following characteristics:

- Located inside a single family dwelling, or
- Attached to a single family dwelling.
- Whose occupants and the occupants of the principal dwelling do not live together as a single household unit.
- Typically have a separate access from the principal dwelling.
- Is locked off from the principal dwelling.

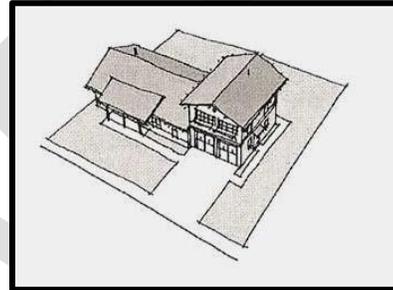
Both Type I and II Accessory Dwelling Units are considered a separate dwelling unit under the building code. All ADUs shall be required to meet all building and fire codes.

Type III

An Accessory Dwelling Unit with the following characteristics:

- Located inside a single family dwelling, or
- Attached to a single family dwelling.
- Whose occupants and the occupants of the principal dwelling live together as a single household unit.
- Is not locked off from the principal dwelling.

A Type III Accessory Dwelling Unit and principal dwelling shall be considered part of one dwelling unit under the building code.



Type II or III – attached ADU addition over a garage



ACCESSORY DWELLING UNIT CHECKLIST

TOWN OF WINDSOR
301 Walnut Street
Windsor, CO 80550

Office: 970-674-2415
Fax: 970-674-2456
www.windsorgov.com

(Please see Town of Windsor [Fee Schedule](#) for Application Fees)

TO BE COMPLETED BY APPLICANT

The following checklist is intended to provide an outline for applicants to ensure a complete submittal and to avoid processing delays due to inadequate information. Accessory Dwelling Unit (ADU) applications shall include all items listed in the following checklist. If an item is not checked as included in the submittal, a detailed narrative statement outlining reasons why the item has not been submitted shall be included. Lack of such statement or required item shall constitute an incomplete submittal and shall be rejected by the Town. Please see Chapter 16, Article ##### of the Town of Windsor Municipal Code (Code) for complete application requirements and regulations of an ADU. An ADU permit can only be granted after all conditions, listed below, are checked and initialed by a Planner.

Owner's Name: _____

Owner's Address: _____

SUBMITTAL REQUIREMENTS FOR AN ACCESSORY DWELLING UNIT APPLICATION:

Planning Checklist	Applicant Checklist	
_____	_____	• Conformance to the Town of Windsor Municipal Code.
_____	_____	• Narrative. A detailed narrative description for the ADU.
_____	_____	• A completed Accessory Dwelling Unit application with all applicable signatures. If signed by the authorized representative, written evidence of such authorization signed by the property owner shall also be submitted.
_____	_____	• ADU application fee consistent with the Town of Windsor Fee Schedule.
_____	_____	• Deed Restriction. A copy of the current recorded deed.
_____	_____	• Existing Development on Lot. A single-family dwelling must exist as a principal dwelling unit on the lot or be constructed in conjunction with the ADU. A certificate of occupancy will only be granted to an ADU after it has been granted to the principal dwelling unit.
_____	_____	• Site Plan. [Reference the attached sample site plan for an ADU]
_____	_____	• Design. ADUs shall be compatible with the design of the principal dwelling unit. Photos of the principal home shall be provided along with proposed elevations of the ADU (front and side elevations).
_____	_____	• If the parcel upon which the ADU is proposed falls within the jurisdiction of a homeowners' association or similar covenant-based property owners' association, this application shall include written approval of the ADU from said association. If the parcel upon which the ADU is proposed does not fall within the jurisdiction of such an association, the application shall include a written statement verifying such.



ACCESSORY DWELLING UNIT APPLICATION

TOWN OF WINDSOR
301 Walnut Street
Windsor, CO 80550

Office: 970-674-2415
Fax: 970-674-2456
www.windsorgov.com

TO BE COMPLETED BY APPLICANT

Accessory Dwelling Unit applications shall include all items listed in the application submittal checklist and the Town of Windsor Municipal Code (Code). The Town of Windsor Planning Department reserves the right to reject incomplete submittals. Please see the Code for submittal requirements.

PROPERTY OWNER (APPLICANT)
Owner's Name(s): _____
Company: _____
Address: _____
Primary Phone #: _____ Secondary Phone #: _____
Fax #: _____ Email: _____

OWNER'S AUTHORIZED REPRESENTATIVE:
Representative's Name: _____
Company: _____
Address: _____
Primary Phone #: _____ Secondary Phone #: _____
Fax #: _____ Email: _____

All correspondence will only be sent to the owner's authorized representative. It is the sole responsibility of the representative to distribute correspondence to the owner and other applicable parties, i.e. engineers, architects, surveyors, attorneys, consultants, etc.

I hereby depose and state under the penalties of perjury that all statements, proposals, and/or plans submitted with or contained within the application are true and correct to the best of my knowledge.

Submitted this _____ day of _____, 20 _____

Applicant (please print)

Applicant's Representative (if any)

Applicant's Signature

Applicant's Representative Signature

TO BE COMPLETED BY APPLICANT

(Type or print in black ink)

Detached ADU _____ Attached ADU _____

Principle Dwelling Unit Address _____

Property Zoning _____

Lot _____ Block _____ Subdivision _____ Filing _____

Owner _____

Address _____

Phone _____ County _____

Contractor _____ License Number _____

Lot Width _____ Depth _____ Area _____ Lot Coverage (%) _____

Square Footage Of:

Lot _____ Principal Home _____ Fronts on (N/S/E/W) _____

Proposed ADU _____ Remaining Open Space _____

Garage(s) _____ Decks &/or Patios _____

Proposed ADU Maximum Residents: _____

Set Backs From Property Line (Circle Front):

Corner Lot? _____

North _____ South _____ East _____ West _____

Type of Heating System:

Forced Air _____ Hot Water _____ Radiant _____ Other _____

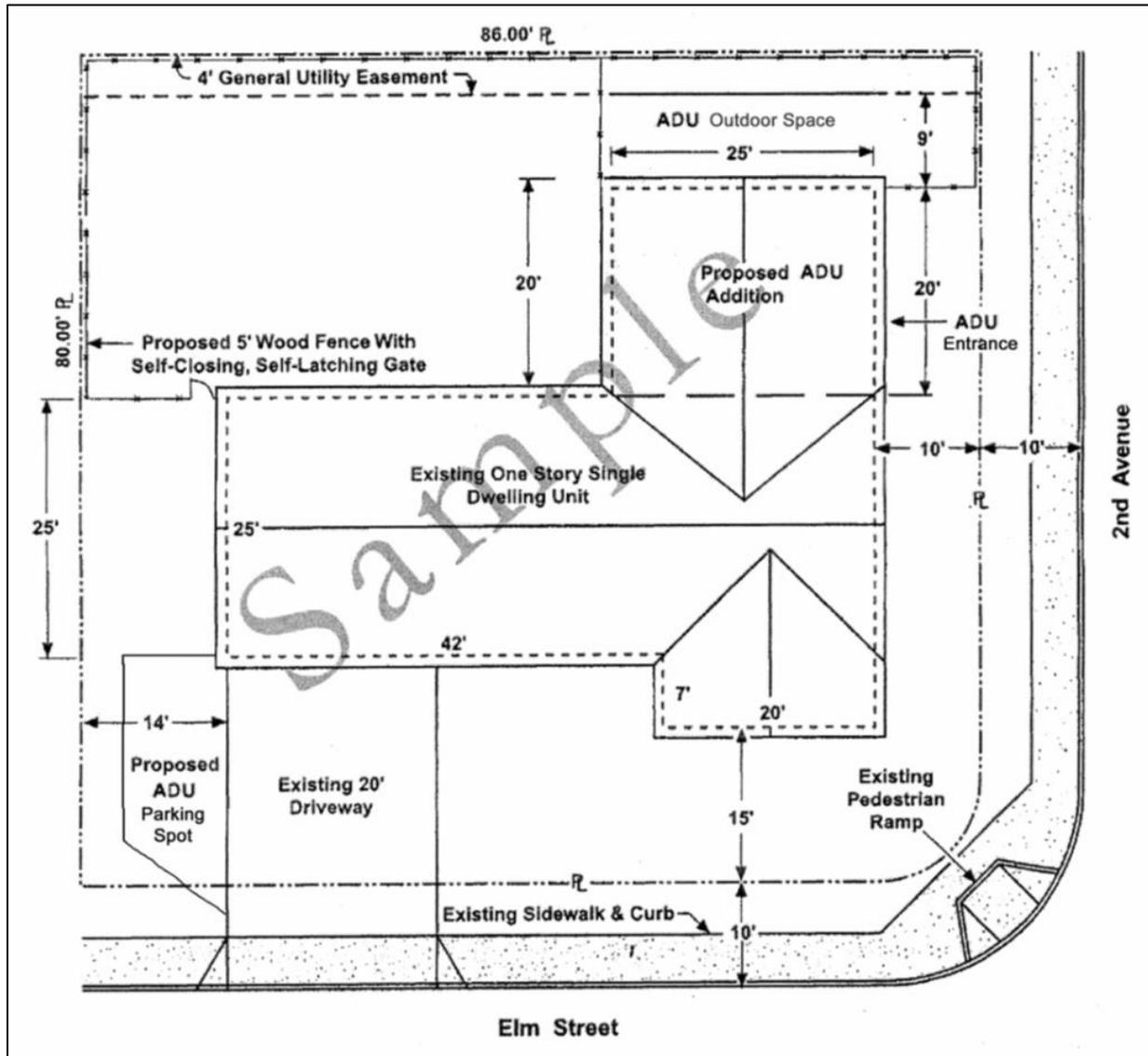
Heating System BTU _____ EFF % _____

Corridor Plan if applicable: _____

Historic Landmark (National, State or Local) if applicable: _____

Historic District if applicable: _____

Sample Site Plan for an ADU



When there is a change of use for a building, it is treated as a new building and must be upgraded to current code requirements for the proposed use, and a Certificate of Occupancy must be obtained. For an ADU each dwelling unit shall comply with the minimum life safety requirements adopted by the Town at the time of application. Both units shall comply with the all current adopted ordinances and Building Code.

Site Plan Submittal Documents

- Plans & elevations (including existing building) with structurals and floor plans
- Plot plans – 8 ½" x 11" or 11" x 17" max (on separate sheet from plans)
- Basement structural floor design and ventilation if needed
- Foundation plans, wet stamped by Colorado Engineer
- Heat calculations - one for each unit ACCA compliant Manual J and D
- Fixture count sheet
- Soils report

**NOTICE: THIS INSTRUMENT AFFECTS THE USE AND DEVELOPMENT
OF
THE REAL PROPERTY DESCRIBED HEREIN**

**DECLARATION OF RESTRICTIVE COVENANTS
PURSUANT TO WINDSOR MUNICIPAL CODE CHAPTER 16, ARTICLE XXXIII**

This Declaration of Restrictive Covenants (“Declaration”) is made and presented on this ____ day of _____, 20 __, by the undersigned Declarant.

WHEREAS, Declarant is the owner of certain real property (“Property”) located in the Town of Windsor, County of _____, State of Colorado legally described as follows:

and

WHEREAS, Declarant has applied to and received approval from the Town of Windsor Planning Department for an Accessory Dwelling Unit (“ADU”) within the Property pursuant to Chapter 16, Article XXXIII of the Windsor Municipal Code; and

WHEREAS, Declarant desires to enhance the quality, value, desirability and attractiveness of the Property, and to ensure compliance with all applicable provisions of the Windsor Municipal Code pertaining to Accessory Dwelling Units.

NOW THEREFORE, Declarant hereby voluntarily declares that the Property shall be owned, held, transferred, conveyed, sold, leased, rented, pledged, encumbered, used, occupied, maintained, altered and improved subject to the following covenants, conditions, restrictions, and other provisions set forth herein, all of which shall run with the title to such right , title or interest in the Property, or any part thereof:

1. The Declarant (at least one, if more than one) shall reside on the Property and such Property shall be the primary and permanent dwelling place of Declarant, excluding temporary absences and temporary stays elsewhere, and said Property shall be and remain Declarant’s place of legal residence.
2. Ownership of the ADU shall not be transferred separately from the principal dwelling unit, nor shall the Property be subdivided.
3. The ADU shall be restricted to the approved size, and shall not be expanded. Any modification of the approved ADU site plan shall first be approved by the Town of Windsor.
4. The Certificate of Occupancy for the ADU shall be in effect only so long as either the principal residence, or the ADU, is occupied by the owner of record as a principal dwelling unit as required by Section 16-33-20 (h) of the Windsor Municipal Code.

5. If the ADU is approved as a Type III ADU under Section 16-33-30 of the Windsor Municipal Code, the ADU shall not be locked off from the principal dwelling unit unless, prior to such action, the property owner has applied for and received approval for a change of designation to a Type II ADU.
6. The above restrictions are binding upon any successor in ownership of the Property.
7. Noncompliance with this Declaration may subject both the owner of the Property and any ADU occupant(s), to criminal prosecution and all civil remedies, including but not limited to injunctive relief. The owner of the Property shall be liable for all Town expenses associated with civil remedies sought by the Town in association with this Declaration. The failure of the Town to pursue civil or criminal remedies shall not be deemed a waiver of any violations or noncompliance.
8. This Declaration shall lapse upon removal of the ADU. To effect this intent, and upon verification of such removal, the Town shall execute documentation confirming release of this Declaration. The Property owner shall record the Town-executed documentation releasing this Declaration. The Property owner shall pay all required recording fees, and shall provide satisfactory written evidence that such recording was successfully completed.
9. This Declaration shall be perpetual and constitute covenants running with the land. This Declaration shall be binding upon the Property owner, the heirs, successors and assigns of the Property owner, and all persons claiming under them.
10. Neither this Declaration, nor any of the specifics set forth or incorporated herein, shall be amended, terminated, or modified in any way without the written consent of the Town of Windsor, filed with the Clerk and Recorder of the county in which the Property is located.

DECLARANT:

Printed Name:

Printed Name:



MEMORANDUM

Date: April 28, 2014
To: Mayor and Town Board
Via: Kelly Arnold, Town Manager
Joseph P. Plummer, AICP, Director of Planning
From: Scott Ballstadt, AICP, Chief Planner
Subject: Resolution 2014-25 Approving and Adopting a Development –related Fee Pertaining to the Review of Applications for Accessory Dwelling Units in the Town of Windsor, Colorado
Item #: 5

Discussion:

As it may be seen from the previous agenda item, Ordinance No. 2014-1473 has been scheduled for second reading for the purpose of adopting regulations for accessory dwelling units (ADUs) to be constructed in Windsor.

Since Windsor has not had ADU regulations in the past, the Town has never adopted a development review fee for ADU applications. Staff is recommending that a development review fee of \$300 be adopted for ADU applications, based upon the following criteria.

- Projected costs associated with reviewing ADU applications appear will be similar to the costs associated with processing applications for Lot Line Adjustments, and the Town’s development review fee for Lot Line Adjustments is \$300. (Please note that staff did not recommend increasing the \$300 Lot Line Adjustment fee with the previous development fee adjustments earlier this year since this fee is associated more with an individual resident or lot, as is going to be the case with ADU applications.)
- As it may be seen from the enclosed email, Josh has researched ADU application fees of other communities. As is may also be seen, the \$300 fee that is being proposed is similar to those of other jurisdictions, with the fees of the other jurisdictions varying from \$200 to \$575 and/or as a percentage of overall building permit fees.
- Due to construction costs determining overall building permit fees, staff would recommend that a flat fee – in this case the proposed fee of \$300 – be adopted so that this fee will be consistent for all ADU applications and not fluctuate from one ADU application to another since construction costs will constantly change for each individual ADU. Additionally, flat fees are also more user-friendly for citizens to review and understand as well as for staff to administer.

Recommendation: Approval of Resolution 2014-25 as presented.

Attachments: April 4, 2014 email
Resolution 2014-25

From: Josh Olhava
Sent: Friday, April 04, 2014 2:03 PM
To: Joe Plummer
Cc: Scott Ballstadt; Peggy Tremelling
Subject: ADU application fees

All,

Findings with the ADU research. I reviewed fee schedules and talked to staff that were available to come up with the following.

Fort Collins - \$200.00 + (There were other fees associated since Fort Collins reviews as either a duplex or two detached SF units)
Loveland - \$575.00
Boulder - \$420.00 (\$168.00 fee to Transfer ADU)
Arvada - Charged through the Building Permit using the 65% Plan Review Fee
Golden - Appears that fees are calculated based on Building Permit
Denver - Based on Valuation and 'other fees'; also tied to Building Permit
Grand Junction – Appears that fees are calculated based on Building Permit

Josh Olhava

Associate Planner
Town of Windsor | Planning
Dir: 970-674-2409 | www.windsorgov.com

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TOWN OF WINDSOR, COLORADO

RESOLUTION NO. 2014 – 25

A RESOLUTION APPROVING AND ADOPTING A DEVELOPMENT-RELATED FEE PERTAINING TO THE REVIEW OF APPLICATIONS FOR ACCESSORY DWELLING UNITS IN THE TOWN WINDSOR, COLORADO

WHEREAS, the Town of Windsor (“Town”) is a Colorado home rule municipality with all powers and authority vested by Colorado law; and

WHEREAS, by Ordinance No. 2014-1473, the Town Board has approved the establishment of Accessory Dwelling Units (ADUs) in certain residential areas of the Town upon application to the Town; and

WHEREAS, the administration and monitoring of ADUs will require the dedication of staff time, the cost of which has been evaluated by the Director of Planning; and

WHEREAS, in order to defray the anticipated cost of ADU administration and monitoring, the Town Board believes it appropriate to establish a fee for all persons seeking ADU approval.

NOW, THEREFORE, be it resolved by the Town Board for the Town of Windsor, Colorado, as follows:

1. Each application for Town approval of an Accessory Dwelling Unit shall be assessed a fee of \$300.00, which shall be due at the time of application.
2. The fee established herein shall remain in effect until such time as the Town Board takes official action to modify the fee.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 28th day of April, 2014.

TOWN OF WINDSOR, COLORADO

By: _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk



MEMORANDUM

Date: April 28, 2014
To: Mayor and Town Board
Via: Kelly Arnold, Town Manager
Joseph P. Plummer, AICP, Director of Planning
From: Scott Ballstadt, AICP, Chief Planner
Subject: Public Hearing - Conditional Use Grant for Temporary Recycled Asphalt Parking in the Central Business CB zoning district – A portion of Lot 22, Burlington Subdivision and a portion of Lot 5, Town of Windsor Subdivision
Location: North side of Main Street between 4th Street and 5th Street (north of alley)
Item #s: C.6 and C.7

Discussion:

The applicant, the Windsor Downtown Development Authority (DDA), represented by Mr. Bob Winter, Chairman of the Windsor DDA, is proposing to install a recycled asphalt surface on the subject property to temporarily accommodate parking for events at Boardwalk Park. The subject property has been informally used for such parking in the past, however, the property was recently acquired by the DDA and the proposed recycled asphalt will upgrade the property for this temporary use.

Section 16-10-30(3) of the Municipal Code states, "All parking lots which are designed to be used for employee parking, visitor parking, customer parking and tenant parking ... shall be paved with asphalt or concrete." While the code does not allow permanent parking lots to be surfaced with recycled asphalt, this temporary condition will be a positive improvement.

A conditional use grant is required in this situation as the proposed use is not a use allowed by right in any zoning district per Section 16-7-10 of the Municipal Code:

Section 16-7-10. Intent of conditional use grants. The conditional use classification is intended to allow consideration of uses which are unique in nature or character, although not specifically included as uses by right in any specific zoning districts. It is the specific intent of this Article to prohibit the granting of conditional uses in any zone when such use is allowed as a use by right in any other zone.

The following is a listing of the criteria for conditional use grants and a summary of the information received.

Section 16-7-50. Standards and requirements for conditional use grants.

(a) Approval of a conditional use grant shall be based on the evaluation of such factors as the following:

- 1. The character and the quality of the area in which the use will be located.** The subject property is undeveloped property off the alley north of the Main Street businesses between 4th and 5th Streets. The property is currently used by citizens and visitors for parking although it does not meet the requirements of Section 16-10-30(3).

The DDA recently acquired the property and anticipates that the lots will be developed for retail/residential use in the future following appropriate Town approvals.

2. **The physical appearance of the use, including suitability of architectural and landscaping treatment.** The subject property is undeveloped.
3. **Appropriate location of the building or buildings on the lot.** There are no existing or proposed buildings on the property.
4. **Adequate provision of parking, loading and circulation facilities.** The proposed temporary recycled asphalt will be an improvement over the current and past conditions.
5. **Potential effect of the use upon off-site vehicular and pedestrian traffic circulation, with particular reference to potential traffic congestion.** The property has been used for overflow parking for special events held in Boardwalk Park in the past. The proposed temporary recycled asphalt will be an improvement over the current and past conditions.
6. **Potential effect of the use on storm drainage in the area.** The application materials indicate that storm drainage will be channeled to the east to the inlet located in the concrete parking area and will drain to the detention pond to the north. The applicant will work with the Town's Engineering and Public Works Departments to ensure that drainage is adequately addressed.
7. **Adequacy of planting screens where necessary.** No planting screens are proposed with this temporary proposal.
8. **Provision of operational controls where necessary to avoid hazardous conditions or eliminate potential air or water pollutants or other noxious influences.** It is anticipated that the temporary parking will not produce any hazardous conditions or pollutants.
9. **The general compatibility of the proposed use with the area in which it is to be located.** The area is located off the alley at the rear of the Main Street businesses between 4th and 5th Streets. The property is currently used by citizens and visitors for parking although it does not meet the requirements of Section 16-10-30(3). The proposed temporary recycled asphalt will be an improvement over the current and past conditions and will continue to provide temporary parking for Town-hosted events in Boardwalk Park.

Conformance with Comprehensive Plan: The Comprehensive Plan does not address conditional use grants.

Conformance with Vision 2025: The Vision 2025 document does not address conditional use grants.

Relationship to Strategic Plan: The Strategic Plan does not address conditional use grants.

Recommendation: At their April 16, 2014 meeting, the Planning Commission voted to forward to the Town Board a recommendation of approval of the conditional use grant subject to the following conditions, and staff concurs with this recommendation:

- (1) The parking lot shall be properly maintained and accommodate adequate areas for circulation and movement of emergency vehicles.
- (2) The duration of the temporary parking use shall not exceed five (5) years from the date of Town Board approval as proposed in the conditional use grant application materials.

Notification:

- April 4, 2014 - notice of April 16, 2014 Planning Commission public hearing and April 28, 2014 Town Board public hearing published in Greeley Tribune
- April 4, 2014 - notice of both public hearings posted on Town website
- March 31, 2014 - sign posted on the property
- April 2, 2014 - applicant letter to property owners within 100-feet

Neighborhood Meeting(s): N/A

Attachments: application materials
draft 4/16/14 Planning Commission minutes
slides

pc: Bob Winter, Chairman, Windsor Downtown Development Authority
Patti Garcia, Town Clerk

TOWN OF WINDSOR PLANNING DEPARTMENT

APPLICATION FOR CONDITIONAL USE

**TOWN OF WINDSOR
301 WALNUT STREET
WINDSOR, CO 80550**

Office: (970) 674-2415
Fax: (970) 674-2456
www.windsorgov.com



For office use only:	
DATE: _____	BY: _____
Project ID _____	
#: _____	
Zoning: _____	

TO BE COMPLETED BY APPLICANT: (Type or print in black ink)

Street Address*: 418 Ash Street & Burlington Subdivision, Lot 22 Lot: _____ Block: _____

Subdivision: Windsor Town Subdivision, Lot 5, Parcel 080716311022 & Burlington, Lot 22, Parcel 080716300003

*****Conditional Use Grant approval is only valid for the applicant(s) who receive the original approval and is not transferable to subsequent occupants of the property.*****

*Describe the non conforming use or home occupation. Include activity description, average number of clients, need for parking, hours of operation, size of area to be used, justification of continuance of non conforming use and result of any communication with neighbors. (use back or additional sheets if necessary)

See page 2

Windsor Municipal Code Section 16-7 and Section 16-31 <http://www.colocode.com/windsorpdf16.html>

- Legible, accurate drawings (drawn to an appropriate scale, which cannot be smaller than 1"=30') and specifications necessary for the property consideration of this grant shall be submitted with this application.
- Conditional use grant evaluation criteria are detailed in Windsor Municipal Code Section 16-7-50.
- Notification requirements are detailed in Windsor Municipal Code Section 16-31.

*Present use of land:	<u>Vacant commercial land</u>	Size: <u>1 acre</u>
*Present use of structure:	_____	Size: _____
*Proposed use of land:	<u>Parking lot</u>	Size: <u>1 acre</u>
*Proposed use of structure:	_____	Size: _____

If granted this conditional use grant, I/We the undersigned, agree to comply with the Code of the Town of Windsor, Colorado and any other stipulations as determined by the Town Board. I hereby depose and state under penalties of perjury that all statements and proposal submitted within this application are true and correct to the best of my knowledge.

Submitted this 20th day of March, 20 14

Patti Garcia

Applicant (please print)

Applicant's Signature

Windsor Downtown Development Authority

Property Owner* (please print)

Property Owner's Signature*

970 674 2404

Phone (daytime) **Fax**

970 674 2404 970 674 2456

Phone* (daytime) **Fax***

pgarcia@windsorgov.com

Email

pgarcia@windsorgov.com

Email*

Applicant's Representative (if any) Name _____
 Phone _____ Fax _____ Email _____

* indicates required fields
 Revised 12/24/2013

Project Description:

In order to accommodate the events at Boardwalk Park and in the downtown area, the Windsor Downtown Development Authority (DDA) is requesting that a conditional use grant be approved for a parking lot located in the DDA-owned lots north of Main Street between 4th & 5th Streets. The lot is currently being used by citizens and visitors for parking and it does not meet the requirements of Section 16-10-30(3), Off street parking requirements; Surfacing.

This request is for temporary use of a parking lot not to exceed five years as the DDA anticipates the lots to be developed for retail/residential use in the near future.

The DDA proposes the installation of re-used asphalt material on the gravel surface of the lot. Storm drainage is to be channeled to the east to the inlet located in the concrete parking area and drain to the north and fill the retention pond.

The site will be used similar to the current use but will meet the requirements for off-street parking. The highest use will be during the summer events at Boardwalk Park and Farmer's Market.

Sec. 16-10-30. Off-street parking requirements.

(3) Surfacing. All parking lots which are designed to be used for employee parking, visitor parking, customer parking and tenant parking, and all interior drives connecting such parking lots, which are designated for multifamily uses, business uses, commercial uses, industrial uses, offices and places of assembly shall be paved with asphalt or concrete. In addition, all parking lots must also conform to all of the following requirements:

- a. Be striped so as to identify each parking space;
- b. Conform to all of the Town's landscaping guidelines and requirements;
- c. Be constructed to allow for proper drainage;
- d. Be designed so as to prevent vehicles from having to back into a public or private street; and
- e. No point of ingress or egress shall be allowed to be any closer than twenty-five (25) feet of any right-of-way line of any intersecting street or alley.



Minutes

A. CALL TO ORDER

Vice Chair Tallon called the regular meeting of the Windsor Planning Commission to order on April 16, 2014 at 7:00 p.m.

1. Roll Call

The following Planning Commission members were present:

Steve Scheffel
Victor Tallon
David Cox
Wayne Frelund
Charles Schinner

Alternate

Absent

Gale Schick
Robert Frank
Ken Gerlach

Also Present: Director of Planning

Joe Plummer

2. Review of Agenda by the Planning Commission and Addition of Items of New Business to the Agenda for Consideration by the Planning Commission

Mr. Frelund moved to approve the agenda as presented. Mr. Cox seconded the motion. Roll call on the vote resulted as follows: Yeas - Steve Scheffel, Victor Tallon, Charles Schinner, David Cox, Wayne Frelund; Nays - None. Motion carried.

3. Public Invited to be Heard
There was no public comment.

B. CONSENT CALENDAR

1. Approval of the minutes of April 2, 2014

Mr. Frelund moved to approve the minutes of the April 2, 2014 meeting as presented. Mr. Cox seconded the motion. Roll call on the vote resulted as follows: Yeas - Steve Scheffel, Victor Tallon, Charles Schinner, David Cox, Wayne Frelund; Nays - None. Motion carried.

C. BOARD ACTION

NOTE: The official record of this evening's proceedings shall include the application, staff memos and recommendations, packet materials and supporting documents, and all testimony received.

1. Public Hearing - Conditional Use Grant for temporary gravel parking in the Central Business (CB) zoning district located on a portion of Lots 21 and 22, Burlington Subdivision and a portion of Lot 5, Town of Windsor Subdivision - Dan Stauss, Vice Chairman, Windsor Downtown Development Authority, applicant - S. Ballstadt

Mr. Ballstadt began his presentation by stating the applicant, the Windsor Downtown Development Authority (DDA), represented by Mr. Dan Stauss, Vice Chairman of the Windsor DDA, is proposing to install a recycled asphalt surface on the subject property to temporarily accommodate parking. The subject property has been informally used for such parking in the past, however, the property was recently acquired by the DDA and the proposed recycled asphalt will upgrade the property for this temporary use.

Mr. Ballstadt went on to explain Section 16-10-30(3) of the Municipal Code states, "All parking lots which are designed to be used for employee parking, visitor parking, customer parking and tenant parking ... shall be paved with asphalt or concrete." While the code does not allow permanent parking lots to be surfaced with recycled asphalt, this temporary condition will be a positive improvement. Mr. Ballstadt added a conditional use grant is required in this situation as the proposed use is not a use allowed by right in any zoning district per Section 16-7-10 of the Municipal Code. He then reviewed the notification process for the public hearing and the Code and standards for conditional use grants, noting the DDA is working through long term plans for the area, calling this an interim use.

Dan Stauss, Vice Chair of the DDA approached the podium stating the DDA plans to further develop the property in the future. He reviewed drainage and dust issues experienced currently.

Mr. Frelund moved to close the Public Hearing. Mr. Cox seconded the motion. Roll call on the vote resulted as follows: Yeas – Steve Scheffel, Victor Tallon, Charles Schinner, David Cox, Wayne Frelund; Nays – None. Motion carried.

2. Recommendation to Town Board – Conditional Use Grant for temporary gravel parking in the Central Business (CB) zoning district located on a portion of Lots 21 and 22, Burlington Subdivision and a portion of Lot 5, Town of Windsor Subdivision – Dan Stauss, Vice Chairman, Windsor Downtown Development Authority, applicant – S. Ballstadt

Mr. Frelund moved to approve the Conditional Use Grant for temporary gravel parking in the Central Business (CB) zoning district as presented. Mr. Cox seconded the motion.

Mr. Ballstadt concluded his presentation by stating staff recommends that the Planning Commission forward to the Town Board a recommendation of approval of the conditional use grant subject to the following conditions:

- (1) The parking lot shall be properly maintained and accommodate adequate areas for circulation and movement of emergency vehicles.
- (2) The duration of the temporary parking use shall not exceed five (5) years from the date of Town Board approval as proposed in the conditional use grant application materials.

Mr. Tallon called this proposal a major plus for the area. Mr. Frelund asked if drainage has been addressed at this location. Mr. Ballstadt replied that the DDA is working with the Public Works Department to ensure that the site drains properly. Mr. Schinner inquired if there will be delineation making acceptable parking clear to patrons in the area. Mr. Ballstadt explained the geographic characteristics of the area and the drainage swale between the parking area and the railroad tracks. Mr. Frelund reiterated Public Works must consider drainage prior to laying the temporary asphalt.

Mr. Cox asked why parking was allowed previously. Mr. Ballstadt clarified the property was previously private property and the previous owner allowed parking at times, but the parcel is now owned by the DDA and they wish to make temporary improvements. He added future plans for permanent development will include a complete site plan and landscaping. Mr. Cox drew similarities with other parking situations within the town, stating concern with possible inequities. Mr. Ballstadt added that other areas have yielded citizen complaints and the Town followed up accordingly in those areas. Mr. Cox also asked if the area is not paved within 5 years, will it come back to the Commission for review. Mr. Ballstadt answered that any extension request from the DDA would come before the Planning Commission. Mr. Scheffel inquired as to the timeframe for completing the project. Mr. Ballstadt noted the DDA will begin as soon as possible.

Roll call on the vote resulted as follows: Yeas – Steve Scheffel, Victor Tallon, Charles Schinner, David Cox, Wayne Frelund; Nays – None. Motion carried.

D. COMMUNICATIONS

1. Communications from the Planning Commission

Mr. Cox stated safety concerns regarding a crosswalk on 15th Street in the area between Family Tire and King Soopers, noting it is very dark, and suggested some kind of lighting in the area. Mr. Ballstadt responded he will follow up with the Engineering Department.

Mr. Tallon inquired when agendas will be available for the upcoming APA conference. Mr. Plummer responded he will have them by early next week. He clarified times and locations for notices received by Commissioners.

2. Communications from the Town Board liaison
A new Town Board liaison has not yet been appointed.

3. Communications from the staff
Mr. Plummer reviewed seating of new Town Board members at the most recent Town Board meeting.

E. ADJOURN

Upon a motion duly made and seconded, the meeting was adjourned at 7:25 p.m.



Conditional Use Grant for Temporary Recycled Asphalt Parking in the Central Business CB Zoning District

Scott Ballstadt, AICP

April 28, 2014

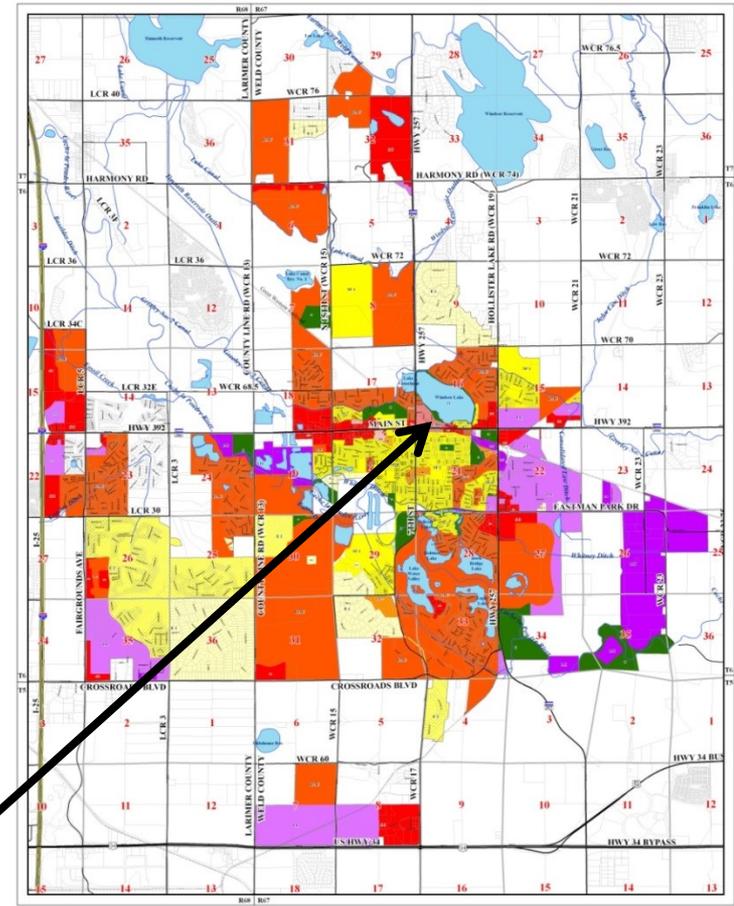
Town Board

C.6 & C.7

Zoning



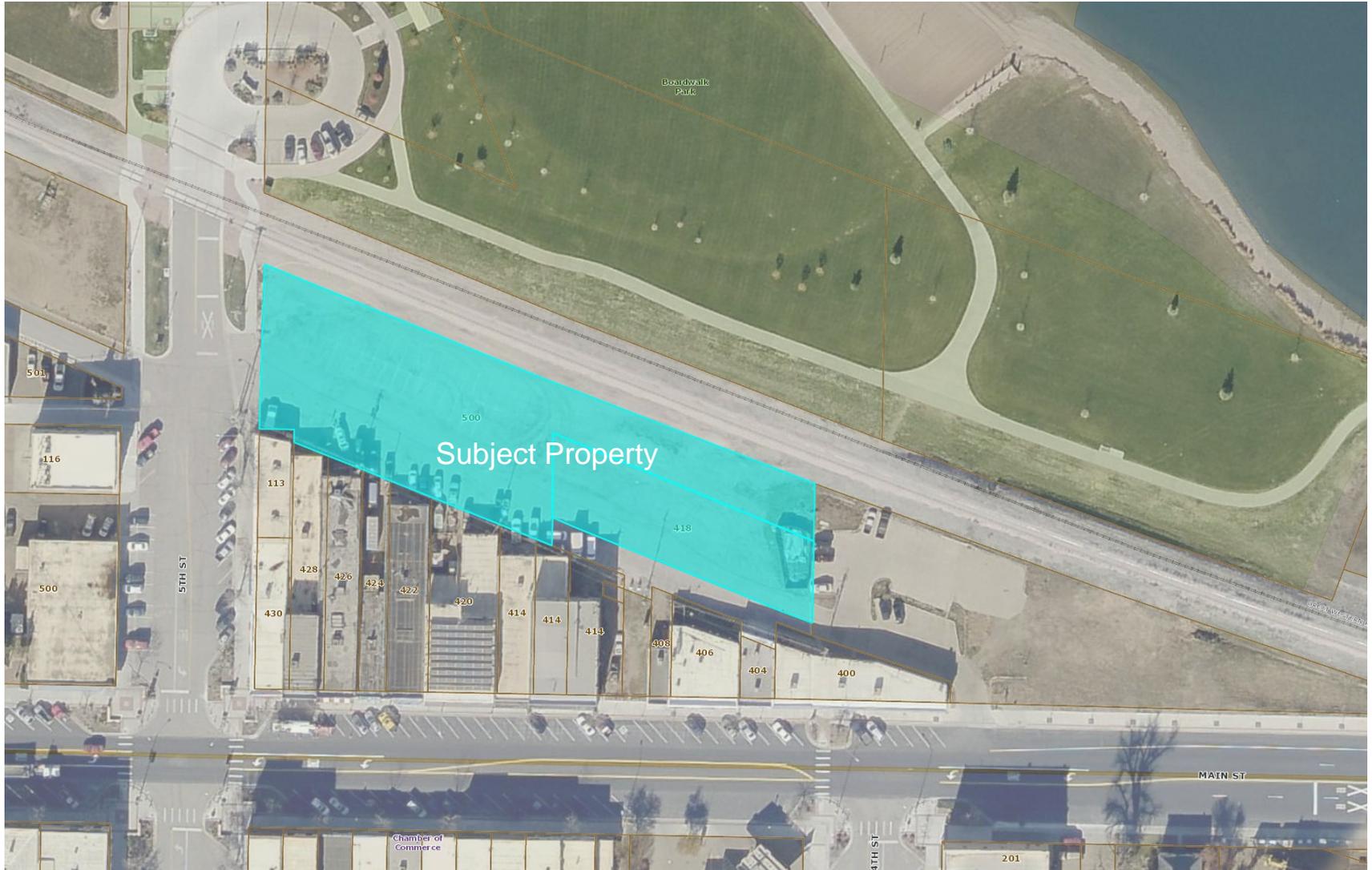
Subject Property



LEGEND

E-1 Low Density Estate	MF-2 High Density Multi-Family Residential	PUD Planned Unit Development
E-2 High Density Estate	RMU Residential Mixed Use	I-L Limited Industrial
SF-1 Single Family Residential	CBD Central Business District	I-H Heavy Industrial
SF-2 Single Family Attached Residential	NC Neighborhood Commercial	O Recreation and Open Space
MF-1 Multi-Family Residential	GC and GC-PUD General Commercial	

Subject Property





Conditional Use Grant

Article VII of Chapter 16 of the Municipal Code outlines the intent of the Conditional Use Grant process, including:

Sec. 16-7-10. Intent of conditional use grants.

“The conditional use classification is intended to allow consideration of uses which are unique in nature or character and, except as otherwise specifically provided in this Chapter, not specifically included as uses by right in any specific zoning districts. It is the specific intent of this Article, except as otherwise specifically provided in this Chapter, to prohibit the granting of conditional uses in any zone when such use is allowed as a use by right in any other zone.”



Windsor Municipal Code

Sec. 16-10-30. Off-street parking requirements.

Off-street parking space shall be provided for buildings and uses as hereinafter specified:

(3) Surfacing. All parking lots which are designed to be used for employee parking, visitor parking, customer parking and tenant parking, and all interior drives connecting such parking lots, which are designated for multifamily uses, business uses, commercial uses, industrial uses, offices and places of assembly **shall be paved with asphalt or concrete.** (emphasis added)

Notification

- Notice of public hearings was posted on the Town's website on 4/4/14
- Sign posted on the property on 3/31/14
- Notice of public hearings was published in the newspaper on 4/4/14
- Letters were mailed to surrounding property owners within 100-feet on 4/2/14

Notification Area





Conditional Use Grant

Recommendation:

At their April 16, 2014 meeting, the Planning Commission voted to forward to the Town Board a recommendation of approval of the conditional use grant subject to the following conditions, and staff concurs with this recommendation:

1. The parking lot shall be properly maintained and accommodate adequate areas for circulation and movement of emergency vehicles.
2. The duration of the temporary parking use shall not exceed five (5) years from the date of Town Board approval as proposed in the conditional use grant application materials.



Conditional Use Grant

Staff requests that the following be entered into the record:

- Application materials
- Staff memorandum and supporting documents
- Recommendation



MEMORANDUM

Date: April 28, 2014
To: Mayor and Town Board
Via: Kelly Arnold, Town Manager
From: Patti Garcia, Town Clerk/Assistant to Town Manager
Re: Reimbursement Request by Windsor Downtown Development Authority
Item #: C.8.

Background / Discussion:

The Windsor Downtown Development Authority (DDA) is requesting a reimbursement of the Conditional Use Grant (CUG) application fee of \$207. The CUG request is for a temporary gravel parking lot for the DDA owned properties on the north side of Main Street between 4th and 5th Streets; this is being considered by the Town Board on April 28, 2014.

The vacant lot has been used in the past for "unofficial" event parking in the Boardwalk Park/DDA area but approval of the CUG will allow the DDA to bring the lot up to the Town of Windsor standards for public use. The previous landowner had charged the Town up to \$500 for use of the lot for summer events; the DDA will not be charging the Town as the board members believe the attraction of citizens and visitors to the summer events supports the goals and vision of both the Town and the DDA.

Financial Impact:

Reimbursement request of \$207 for the Conditional Use Grant application fee.

Relationship to Strategic Plan:

Goal 2.A. Support the Downtown Development Authority



MEMORANDUM

Date: April 28, 2014
To: Mayor and Town Board
Via: Kelly Arnold, Town Manager
From: Patti Garcia, Town Clerk/Assistant to Town Manager
Re: Request for Commitment of Underground Electric Funds for Development Purposes
Item #: C.9.

Background / Discussion:

The Windsor Downtown Development Authority (DDA) is requesting that the Town Board commit to using the town's Underground Electric Funds towards the redevelopment of the DDA owned property north of Main Street between 4th and 5th Streets. The DDA would like assurance that the Town Board will prioritize the Underground Electric Fund for this use and if another use of the funds comes before the redevelopment project, the DDA would be advised. This type of commitment will help the DDA provide assurances to any future developer that the undergrounding project is a priority.

Financial Impact:

Xcel has notified the Town that the Underground Electric Fund has a current balance of \$261,574 with the ability to borrow ahead three years for a total of \$338,238. The estimate received from Xcel in November, 2013 was \$152,000 to complete the undergrounding project.

Relationship to Strategic Plan:

Goal 2.A. Support the Downtown Development Authority

2014 MONTHLY FINANCIAL REPORT

Special points of interest:

- Highest March sales tax collection on record at \$475,974.
- Single Family Residential (SFR) building permits total 48 through March. This is down from the March 2013 number of 119.
- 55 new business licenses were issued in March, 25 of which were sales tax vendors.

Highlights and Comments

- * We recorded our highest gross sales tax collection for the single month of March.
- * March 2014 year-to-date gross sales tax increased 33.13% over March 2013.
- * Construction use tax through March is 57.77% behind 2013.
- * Year-to-date total revenue through March exceeded expenditures by roughly \$400,000.



Progress on WCR 21 Bridge

Progress continues on the WCR 21 Bridge replacement at the Greeley No. 2 Canal. The bridge is expected to be complete mid-June.

Inside this issue:

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Items of Interest

- As of March 4, 2014, the Town is the owner of the Kyger property.
- Visit us at www.windsorgov.com and look for live streaming of Town Board and Planning Commission meetings.

Sales, Use and Property Tax Update**March 2014**

Benchmark =25%	Sales Tax	Construction Use Tax	Property Tax	Combined
Budget 2014	\$5,944,547	\$1,749,737	\$4,146,285	\$11,840,569
Actual 2014	\$2,194,063	\$250,578	\$1,497,869	\$3,942,510
% of Budget	36.91%	14.32%	36.13%	33.30%
Actual Through March 2013	\$1,648,115	\$593,331	\$1,156,568	\$3,398,014
Change From Prior Year	33.13%	-57.77%	29.51%	16.02%

Ideally through the third month of the year you would like to see 25% collection rate on your annual budget number. We have reached that benchmark in two of the three tax categories.

At this point last year we had collected \$1.1M in property taxes, or 28.2% of the annual budget. We are ahead of that pace this year.

Building Permit Chart**March 2014**

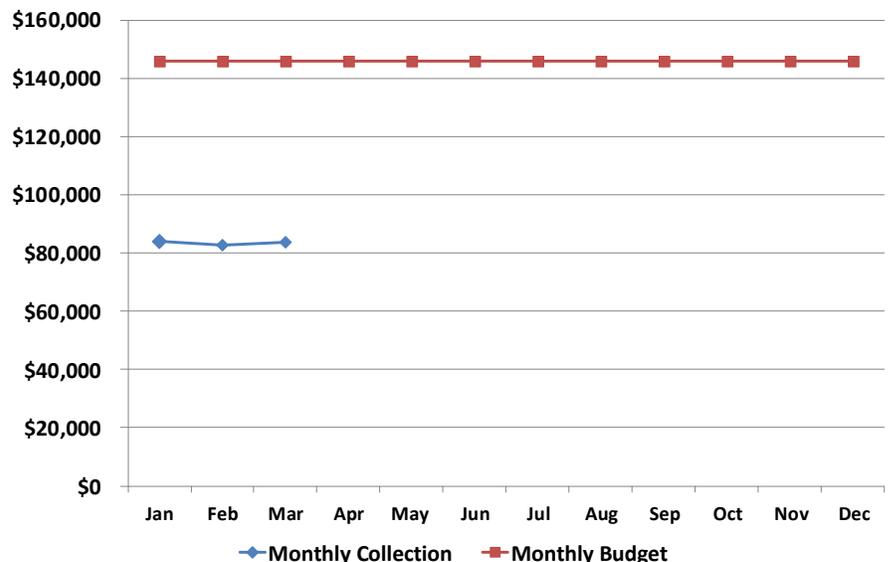
	SFR	Commercial	Industrial	Total
Through March 2014	48	2	0	50
Through March 2013	119	1	11	131
% change from prior year				-61.83%
2014 Budget Permit Total				373
% of 2014 Budget				13.40%

Building Permits and Construction Use Tax

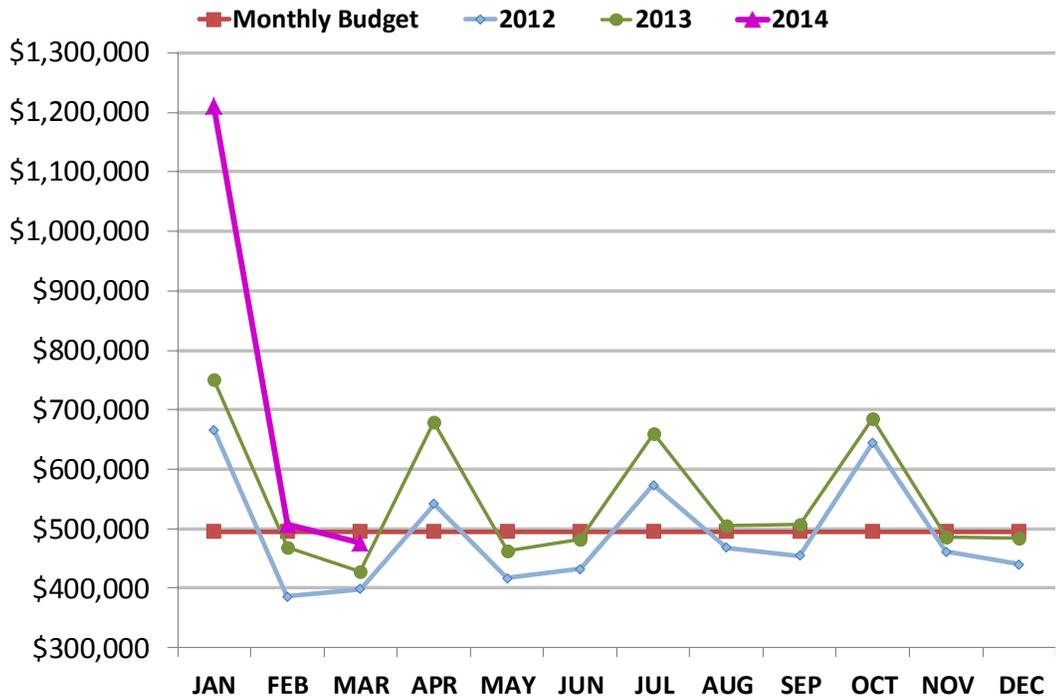
We are showing a 61.83% decrease in number of permits as compared to March 2013. We issued 48 SFR permits through March 2014 as compared to 119 through March of 2013.

Construction use tax is below our required monthly collection for the third consecutive month.

We will monitor this trend as it relates to our Capital Improvement Plan, as to whether the lower number of building permits will require an alteration in our project schedule.

Construction Use Tax Collections

Sales Tax Collections in Dollars



Gross Sales tax collections for March 2014 were approximately \$48,000 higher than March 2013.

March Facts

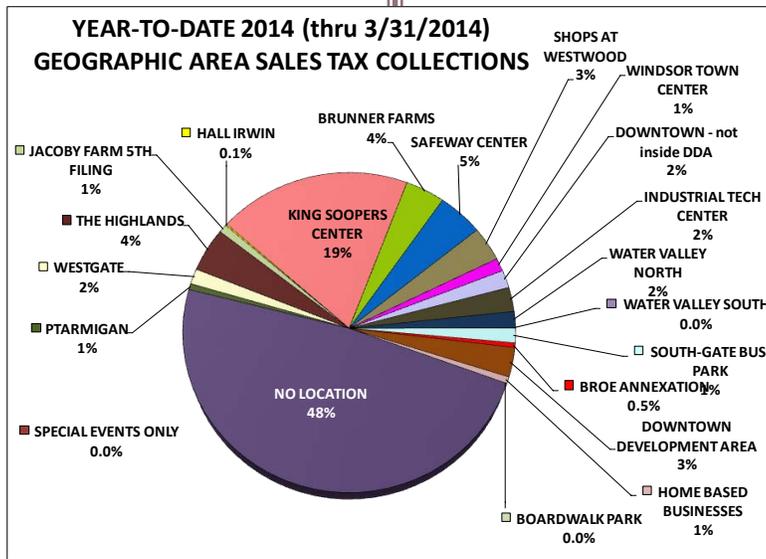
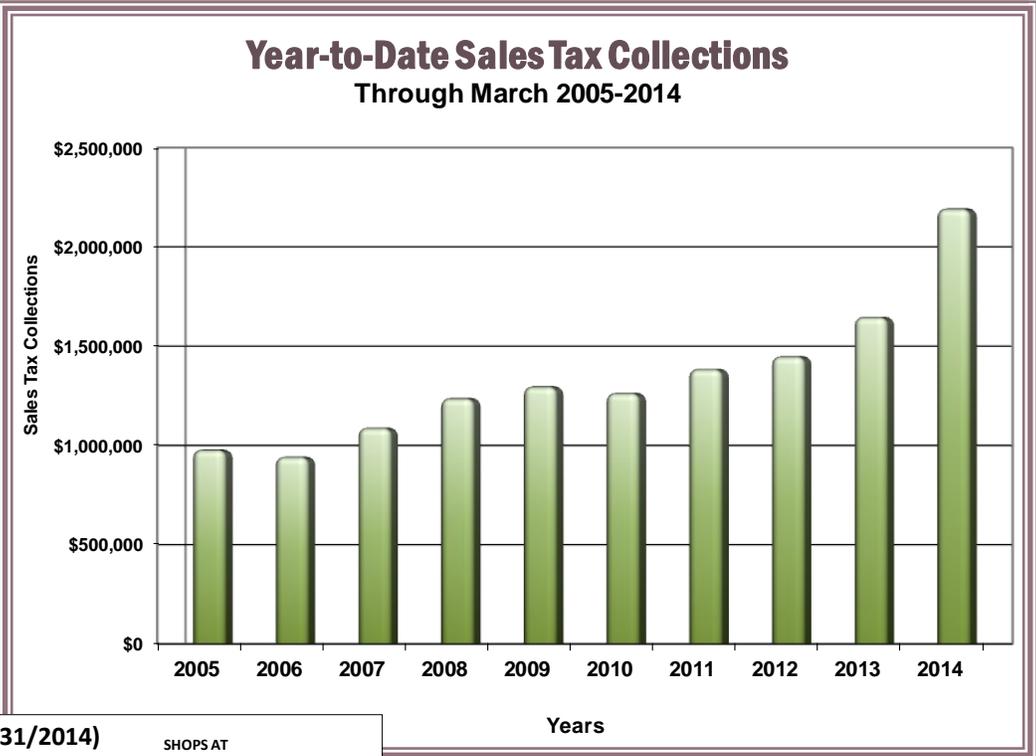
March is a “single collection” month, meaning that the collections are for sales made in February. February and March are historically our lowest collection months, but both February and March were the highest on record and above or close to our monthly budget collection requirement.

We did not receive any voluntary compliance or audit payments in March, adding strength to the positive indicator of higher collections than last year.

Looking Forward

We budgeted \$6M in sales tax for 2014, making our average monthly collection requirement \$500,000. We were slightly below that mark for the first time this year. We are still in good shape moving into the summer and out of our historically weakest collection months. This is an indicator that bodes well for the rest of 2014. Surpassing our sales tax collection target will aid our slow start in construction use tax.

Through March we have collected \$2.2M in sales tax. This is roughly \$550,000 higher than 2013.



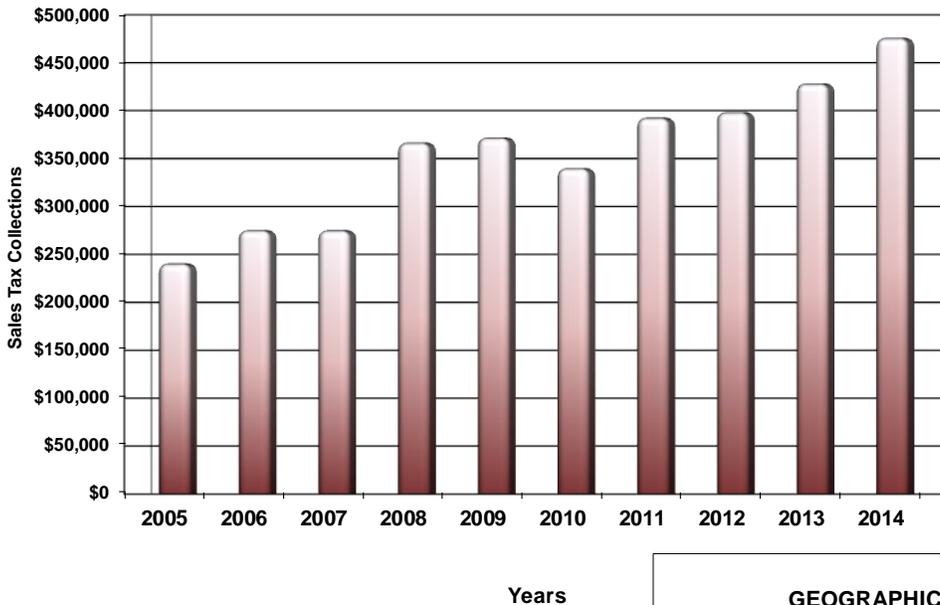
Our sales tax base is still anchored through groceries and utilities.

Year-to-Date Sales Tax

Our sales tax base has not changed a great deal over the past decade, with groceries and utilities leading our industry sectors in sales tax collection. Some of this increase can be attributed to an overall increase in prices and cost of living.

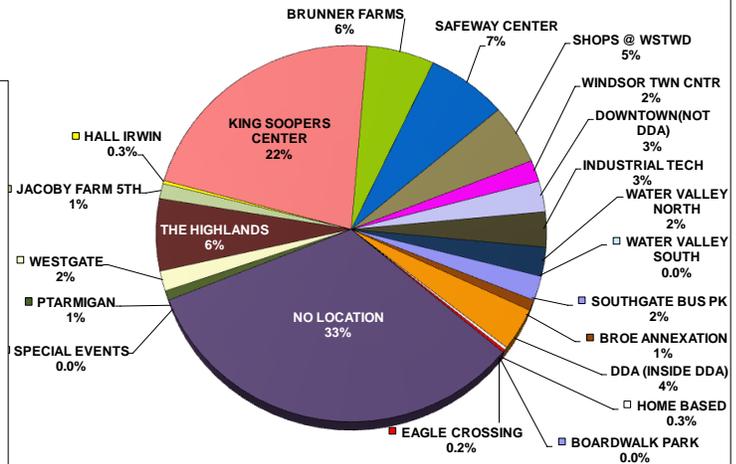
- Groceries, utilities and auto parts all increased collections over March 2013.
- Our current year to date collections through March of \$2,194,063 are higher than the entire year of collections for 2002.

Sales Tax Collections Month of March 2005-2014



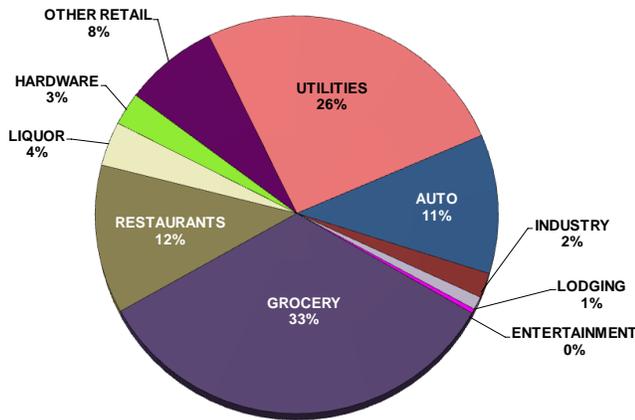
In March 2014, we have collected \$475,974 in sales tax.

MARCH 2014 GEOGRAPHIC AREA SALES TAX COLLECTIONS



MARCH 2014

(This graph IS NOT inclusive of all tax payers)



Geographic area chart now shows a breakdown between the DDA and the rest of the Downtown

Monthly Sales Tax

- March gross collections of \$475,974 were 11.09% higher than March 2013. March 2014 was the highest March collection on record.
- Our sales tax base is necessity driven, as demonstrated in the pie graph above. Necessities of food, utilities and automobiles comprised 82% of our March sales tax collections.
- The King Soopers Center leads the way in collections by business with a physical presence in Windsor.
- The DDA collections were down roughly \$1,300 over March 2013.
- The new 7 Eleven store at crossroads remitted their first sales tax return in March.

All Funds Expense Chart

March 2014

Benchmark =25%

General Government	Current Month	YTD Actual	2014 Budget	% of Budget
General Fund	\$972,102	\$3,200,561	\$12,716,127	25%
Special Revenue	\$64,870	\$218,962	\$2,439,201	9%
Internal Service	\$249,044	\$638,981	\$3,104,165	21%
Other Entities(WBA)	\$12,090	\$36,270	\$145,080	25%
Sub Total Gen Govt Operations	\$1,298,106	\$4,094,774	\$18,404,573	22%
Enterprise Funds				
Water-Operations	\$173,756	\$572,018	\$3,467,536	16%
Sewer-Operations	\$71,627	\$367,320	\$1,361,463	27%
Drainage-Operations	\$36,678	\$95,748	\$402,276	24%
Sub Total Enterprise Operations	\$282,061	\$1,035,086	\$5,231,275	20%
Operations Total	\$1,580,167	\$5,129,860	\$23,635,848	22%

plus transfers to CIF and Non-Potable for loan

Operations expenditures are on track as a whole. The Sewer fund is slightly ahead of the monthly budget pace.

General Govt Capital	Current Month	YTD Actual	2014 Budget	% of Budget
Capital Improvement Fund	\$220,557	\$326,105	\$5,339,148	6%
Enterprise Fund Capital				
Water	\$2,753,032	\$2,839,250	\$7,134,081	40%
Sewer	\$1,944	\$1,944	\$743,298	0%
Drainage	\$17,474	\$24,036	\$1,894,231	1%
Sub Total Enterprise Capital	\$2,772,450	\$2,865,230	\$9,771,610	29%
Capital Total	\$2,993,007	\$3,191,335	\$15,110,758	21%
Total Budget	\$4,573,174	\$8,321,195	\$38,746,606	21%

Through March, operating and capital expenditures combined to equal 21% of the 2014 Budget.

All Funds Expenditures

We are where we always are at this time of year. We are behind our general capital benchmark but slightly ahead in the enterprise capital expenditures. This is driven mostly by the purchase of the Kyger property in early March.

The sewer fund operations are ahead of the monthly pace due to the semi annual bond payment made in February. This is a large payment that skews the monthly pace. These funds will even out as the year progresses.

We will need to monitor our capital expenditures for possible adjustments if the number of building permits maintains the trend of the first quarter of the year. That trend, meaning lower than projected issuance in building permits.

General Fund Expense Chart

Department	Current Month	YTD Actual	2014 Budget	% of Budget	
410	Town Clerk/Customer Service	\$43,382	\$148,297	\$612,550	24.2%
411	Mayor & Board	\$58,714	\$134,608	\$477,796	28.2%
412	Municipal Court	\$37	\$3,258	\$19,930	16.3%
413	Town Manager	\$24,334	\$81,584	\$322,910	25.3%
415	Finance	\$56,891	\$159,344	\$606,852	26.3%
416	Human Resources	\$34,086	\$97,457	\$409,870	23.8%
418	Legal Services	\$29,254	\$80,694	\$329,869	24.5%
419	Planning & Zoning	\$49,757	\$150,560	\$610,990	24.6%
420	Economic Development	\$10,551	\$58,258	\$193,297	30.1%
421	Police	\$220,627	\$794,961	\$2,853,407	27.9%
428	Recycling	\$2,507	\$5,591	\$42,770	13.1%
429	Streets	\$72,767	\$231,796	\$1,009,692	23.0%
430	Public Works	\$29,807	\$114,653	\$430,818	26.6%
431	Engineering	\$47,173	\$172,476	\$618,026	27.9%
432	Cemetery	\$6,743	\$25,510	\$118,590	21.5%
433	Community Events	\$8,884	\$16,259	\$113,566	14.3%
450	Forestry	\$18,207	\$71,137	\$324,531	21.9%
451	Recreation Programs	\$125,589	\$414,667	\$1,708,136	24.3%
452	Pool/Aquatics	\$1,506	\$18,839	\$186,568	10.1%
454	Parks	\$81,968	\$277,546	\$1,206,005	23.0%
455	Safety/Loss Control	\$1,195	\$1,195	\$16,760	7.1%
456	Art & Heritage	\$28,367	\$73,882	\$264,560	27.9%
457	Town Hall	\$19,756	\$67,989	\$238,634	28.5%
Total General Fund Operations	\$972,102	\$3,200,561	\$12,716,127	25.2%	

General Fund Expenditures

The general fund operations are beginning to even out as we move into the second quarter.

June operations will most likely put us back ahead of the monthly pace as we gear up on operations for the summer by adding more seasonal employees.

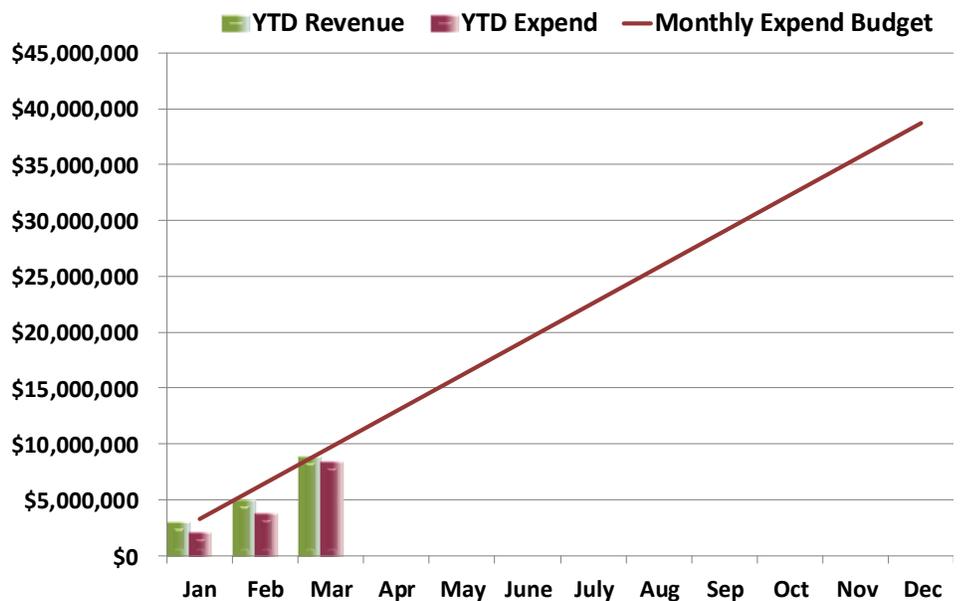
Revenue and Expenditure

The chart on the right shows monthly revenue compared to monthly expenditure as well as a trend line showing the total 2014 budget expended equally over twelve months.

Our monthly budgeted total expenditures equal \$3,228,884. In March we collected \$3,777,120 in total revenue. The chart on the right reflects our actual results through March.

March YTD revenue total exceeded expenditures by roughly \$400,000.

Combined Revenue and Expenditures



Our Vision:

WINDSOR'S hometown feel fosters an energetic COMMUNITY SPIRIT AND PRIDE that makes our town a special place in Northern Colorado.

WINDSOR has a VIBRANT DOWNTOWN AND LAKE which is a community focal point and destination.

WINDSOR has a STRONG LOCAL ECONOMY with diverse business sectors that provide jobs and services for residents.

WINDSOR promotes quality development through MANAGED GROWTH.

WINDSOR residents enjoy a friendly community with HOUSING OPPORTUNITIES, CHOICES for LEISURE, CULTURAL ACTIVITIES, and RECREATION, and MOBILITY for all.

WINDSOR is a GOOD ENVIRONMENTAL STEWARD.



2014 Monthly Financial Report

Town of Windsor
301 Walnut Street
Windsor, CO 80550
Phone: 970-674-2400
Fax: 970-674-2456

The 2014 Budget continues to focus on fiscal responsibility while building a long-term sustainable community through strategic investments and emphasizing the maintenance of existing infrastructure. In order to achieve these goals, the 2014 Budget emphasizes the importance of funding the key day-to-day tools that lead to success. These tools are employees, technology, and providing services most highly rated by citizens.

The Town of WINDSOR strengthens community through the fiscally responsible and equitable delivery of services, support of hometown pride, and encourages resident involvement.

We're on the Web

www.windsorgov.com

Town of Windsor, Colorado

PLANNING

April 1, 2014



This presentation was prepared as part of our audit, has consequential limitations, is restricted to those charged with governance and, if appropriate, management, and is not intended and should not be used by anyone other than those specified parties.

Randy Watkins, Partner
Tyra Litzau, Senior Manager





April 1, 2014

To the Honorable Mayor and Town Board
Town of Windsor, Colorado
301 Walnut Street
Windsor, Colorado 80550

Professional standards require us to communicate with you regarding matters related to the financial statement audit that are, in our professional judgment, significant and relevant to your responsibilities in overseeing the financial reporting process. This report provides an overview of our plan for the audit of the financial statements of the Town of Windsor, Colorado (the "Town") as of and for the year ending December 31, 2013, including a summary of our overall objectives for the audit, and the nature, scope, and timing of the planned audit work and any other permitted services requested by the Town, as pre-approved by those charged with governance.

We are pleased to be of service to the Town. Should you desire further information regarding these matters, we will be happy to meet with you at your convenience.

Respectfully,

Anton Collins Mitchell LLP

DISCUSSION OUTLINE

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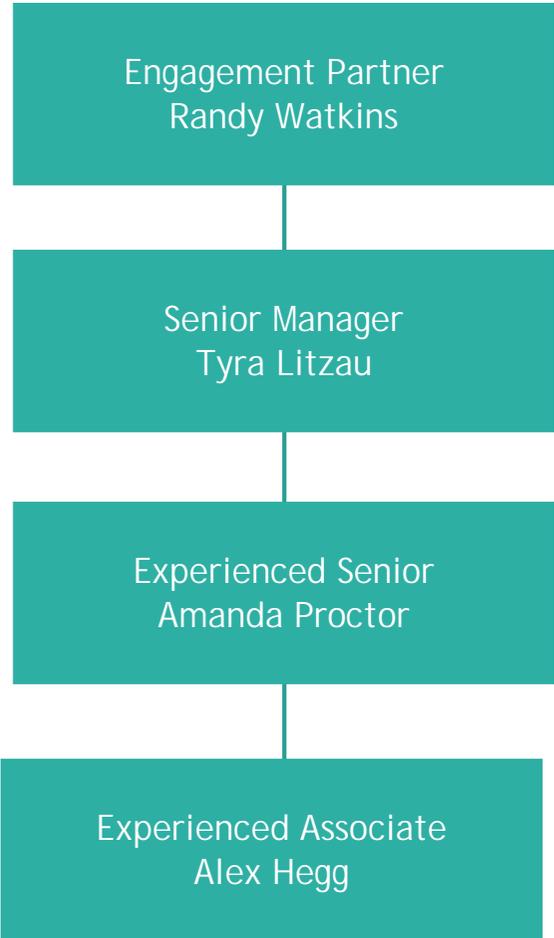
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INTRODUCTION AND CLIENT SERVICE TEAM

Our engagement team is listed in the organization chart below. As a matter of policy at Anton Collins Mitchell LLP (“ACM”), we attempt to provide continuity of service to our clients to the greatest extent possible. Where engagement team rotation is necessary, we will discuss this matter with those charged with governance and determine the appropriate new individual(s) to be assigned to the engagement based on particular experience, expertise, and engagement needs. We would be happy to discuss this matter further with those charged with governance.



MANAGEMENT'S RESPONSIBILITIES

Management is responsible for preparing, with the oversight of those charged with governance, the financial statements and disclosures in conformity with accounting principles generally accepted in the United States of America ("GAAP") as of December 31, 2013. Management's responsibilities also include the following:

- Establish and maintain effective internal control over financial reporting and proper accounting records.
- Identify and ensure compliance with relevant laws and regulations.
- Safeguard the Town's assets.
- Select appropriate accounting principles.
- Use reasonable judgments and accounting estimates.
- Complete a GAAP disclosure checklist to ensure there are no significant financial statement disclosure deficiencies.
- Make all financial records and related information available to ACM.
- Record material audit adjustments and affirm to ACM that the impact of uncorrected misstatements is immaterial to the financial statements taken as a whole.
- Provide ACM with a letter confirming representations made during the audit.

ENGAGEMENT OBJECTIVES

The following documents our objectives with respect to the audit of the annual financial statements of the Town as of and for the year ending December 31, 2013.

- Plan and perform an audit to obtain reasonable assurance about whether the financial statements are free of material misstatements, whether caused by error or fraud. An audit in accordance with auditing standards generally accepted in the United States of America does not provide absolute assurance relative to or any guarantee of the accuracy of the financial statements and is subject to the inherent risk that errors or fraud, if they exist, may not be detected.
- Obtain a sufficient understanding of the Town's internal control to plan the audit of the financial statements. However, such understanding is required for the purpose of determining our audit procedures and not to provide any assurance concerning such internal control. We will also consider internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance and to test and report on internal control over compliance in accordance with OMB Circular A-133.
- As part of obtaining reasonable assurance about whether the Town's financial statements are free of material misstatement, we will perform tests of its compliance with certain provisions of laws, regulations, contracts, and grants, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions is not an objective of our audit. Also in accordance with OMB Circular A-133, we will examine, on a test basis, evidence about the Town's compliance with the types of compliance requirements described in the "U.S. Office of Management and Budget (OMB) Circular A-133 Compliance Supplement" applicable to each of its major federal programs for the purpose of expressing an opinion on the Town's compliance with those requirements. While our audit will provide a reasonable basis for our opinion, it will not provide a legal determination on the Town's compliance with those requirements.
- Communicate our responsibilities in relation to the audit and establish an understanding of the terms of the engagement, including our engagement letter to you (refer to our engagement letter previously reviewed and approved by those charged with governance).
- Provide an overview of the overall audit strategy and planned scope and timing of the audit.
- Inquire of those charged with governance about risks of material misstatement, including fraud risks, and whether those charged with governance are aware of other matters that may be relevant to the audit such as violations or possible violations of laws or regulations and complaints or concerns raised regarding accounting or auditing matters.
- Consult regarding accounting and reporting matters as needed throughout the year.
- Communicate with management and those charged with governance regarding significant deficiencies and material weaknesses identified during our audit and other timely observations that are significant and relevant to the financial reporting process.

- Read information in other documents containing the Town's audited financial statements. As we will perform only limited procedures on this information, we cannot and do not offer an opinion or any other form of assurance on such information. However, in accordance with professional standards, we will read the information included by the Town and consider whether such information, or the manner of its presentation, is materially consistent with its presentation in the financial statements. Our responsibility also includes calling to management's attention any information that we believe is a material misstatement of fact.
- Work with management towards timely issuance of financial statements.
- Maintain our independence with respect to the Town.
- Ensure that those charged with governance are kept appropriately informed in a timely manner of the Town's financial reporting matters; comply with professional standards as to communications with those charged with governance.

OVERALL AUDIT STRATEGY – PLANNED SCOPE

Overall, our audit strategy is to focus on higher risk areas of material misstatement (whether due to error or fraud) and other areas of concern for management and those charged with governance.

Our audit strategy includes consideration of:

- Prior year audit results along with interim results, including discussions with management and those charged with governance regarding the Town's operations, business activities, and risks.
- Inherent risk within the Town (i.e., the susceptibility of the financial statements to material error or fraud) before recognizing the effectiveness of the control systems.
- A continual assessment of materiality thresholds based upon qualitative and quantitative factors affecting the Town.
- Recent developments within the industry, regulatory environment, and general economic conditions.
- Recently issued and effective accounting and financial reporting guidance.
- The Town's significant accounting policies and procedures, including those requiring significant management judgments and estimates and those related to significant unusual transactions.
- The control environment, risk management and monitoring processes, and the possibility that the control systems and procedures may fail to prevent or detect a material error or fraud. We will place reliance on internal controls, where applicable, in determining the degree of detailed substantive testing required.
- Information about systems and the computer environment in which financial records and related systems operate.
- Based upon our initial assessment, our audit will require a primarily substantive approach, as this approach will likely be the most efficient. The primary areas of focus in our overall audit effort will include:
 - Fraud risk
 - Ensuring proper safeguards against misappropriation of cash
 - Internal control over financial reporting
 - Revenue recognition - Revenues recognized from property and sales/use tax, intergovernmental grants/contributions and charges for services
 - Capital assets
 - Long-term liabilities
 - Compliance with applicable state and local regulations and requirements
 - Compliance with federal grant requirements in accordance with OMB Circular A-133
 - Evaluation of Going Concern

OVERALL AUDIT TIMELINE

The following represents our anticipated schedule with regard to our audit of the annual financial statements of the Town:

	Dec	Apr	May	Jun
Periodic Meetings and Discussions With Management	✓	✓	✓	✓
Understand the Business	✓			
Assess Overall Controls	✓			
Determine Nature and Extent of Testing	✓			
Planning Communications with Those Charged with Governance		✓		
Tests of Controls	✓	✓		
Substantive Testing (Interim and Final Phases)	✓	✓		
Wrap-Up Meeting with Those Charged with Governance				✓
Review of Draft Financial Statements			✓	✓
Release of Final Financial Statements and Opinion				✓

INDEPENDENCE COMMUNICATION

Our engagement letter to you dated November 15, 2013, describes our responsibilities in accordance with professional standards and certain regulatory authorities with regard to independence and the performance of our services. This letter also stipulates the responsibilities of the Town with respect to independence as agreed to by the Town. Please refer to that letter for further information.

SIGNIFICANT ACCOUNTING AND REPORTING MATTERS

In June 2012, the Governmental Accounting Standards Board (“GASB”) issued a new standard that fundamentally changes how state and local governments account for the cost of pension benefits in their financial statements. GASB Standard No. 68, “Accounting and Financial Reporting for Pensions” will be effective for the Town for fiscal year ended December 31, 2015. The effect of the new standard is limited to employers offering defined benefit plans. The Town has a defined benefit plan relating to the Town’s sworn police officers; this plan is administered by the Colorado Fire and Police Pension Association (“FPPA”). The FPPA plan is a cost-sharing, multiple-employer defined benefit plan. The following provides a brief overview of a summary of the employer provisions relating to this standard:

- Net pension liability (asset), pension expense, and pension deferred outflows of resources and deferred inflows of resources will be required to be determined as of the measurement date. The measurement date can be no earlier than the end of the employer’s prior fiscal year. The net pension liability (asset) and pension deferred outflows of resources and deferred inflows of resources will be reported on the Statement of Net Position and the pension expense will be reported on the Statement of Activities.
- Employers participating in cost-sharing, multiple-employer plans will report their proportionate share of the collective amounts for the plan as a whole.
- Changes in net pension liability will be recognized as pension expense or reported as deferred outflows/inflows of resources depending on the nature of change.
- The methods and assumptions that are used to determine the actuarial information for GAAP reporting purposes will change.
- Disclosures in the footnotes and required supplementary information in the financial statements will be expanded.

We plan to develop templates and tools to provide to our clients in order to assist with some of the requirements of the new standards. We are available to discuss in greater detail the specifics of the above items and will continue to share information as it becomes available.

AC'SENSE PROGRAM

Ac'senseSM is a BDO program designed to assist those charged with governance (including audit committees, boards of directors and financial executives) of both public and private companies in keeping up-to-date on the latest corporate governance and financial reporting developments.

The program is multi-faceted and consists of complimentary CPE-worthy webinars and self-study courses covering both broad and specific topics of interest, publications, and links to various BDO and external resources. Visit <http://www.bdo.com/acsense/>.

AC'SENSE WEBINARS

Our webinar programs are presented by our firm technical experts and comprise both short-form and longer-form webinars on a variety of "hot" topics of interest, such as "Compensation Risk," "Fair Value Matters," "Business Combinations," "Applying New Revenue Recognition Rules," "Ethics and the Corporate Board," and many others. In addition, we host several series including our "Quarterly Technical Updates" and "International Financial Reporting Standards" on financial accounting and reporting matters as well as "Focus on Fraud."

Our webinars are complimentary and are generally applicable for audit committees, board members, management, finance and compliance professionals of both public companies and private companies. In addition, most webinars and archives are worthy of Continuing Professional Education (CPE) credit. Please visit our website <http://www.bdo.com/acsense/> for further information on upcoming and archived webinars.

EFFECTIVE AUDIT COMMITTEES IN THE EVER CHANGING MARKETPLACE

The focus of BDO's governance initiatives is to provide those charged with governance with essential, relevant information through clear and concise executive summary-type communications. In this spirit, we have created the [Effective Audit Committees in the Ever Changing Marketplace](#) publication as a practical guide to forming and running an effective audit committee. Within this publication, we provide answers to certain frequently asked questions (FAQs) centering on the WHYs, WHOs, WHATs, WHENs and HOWs of audit committees. More specifically, these FAQs summarize the common functions and responsibilities of audit committees and seek to provide insights and perspective as to how to optimize audit committee effectiveness. Our vision has been shaped by our own experiences with our clients and interpretations of the specific recommendations, guidelines, and rules of the SEC; the stock exchanges; the Public Company Accounting Oversight Board (PCAOB); the American Institute of Certified Public Accountants (AICPA); and the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees, sponsored by the New York Stock Exchange and the National Association of Securities Dealers.

Throughout this publication, we focus on some of the more challenging aspects facing audit committees. To that end, in addition to our commentary, we have included links and references to other relevant BDO practice aids and tools as well as certain valuable external resources. The guide and practice aids are available at: <http://www.bdo.com/acsense/effective.aspx>.

BDO AND ACM RESOURCES

ACM is an independent member of the BDO Seidman, LLC Alliance, which provides us access to some of the best resources available on a national level, including technical resources, software, training, and publications.

BDO is a national professional services firm providing assurance, tax, financial advisory and consulting services to a wide range of publicly traded and privately held companies. Guided by core values including competence, honesty and integrity, professionalism, dedication, responsibility and accountability for 100 years, we have provided quality service and leadership through the active involvement of our most experienced and committed professionals.

The firm serves clients through 40 offices and more than 400 independent alliance firm locations nationwide. As an independent Member Firm of BDO International Limited, BDO serves multinational clients through a global network of 1,082 offices in 119 countries. BDO USA, LLP, a Delaware limited liability partnership, is the U.S. member of BDO International Limited, a UK company limited by guarantee, and forms part of the international BDO network of independent member firms. BDO is the brand name for the BDO network and for each of the BDO Member Firms. For further information, please refer to <http://www.bdo.com/about/>.

Below is a summary of just some of the many resources BDO makes available at no additional charge to our clients. To subscribe to BDO publications, please use our RSS (Really Simple Syndication) Feeds or complete registration at BDO's Subscription Center at <https://subscriptions.bdo.com/>.

BDO KNOWS FINANCIAL REPORTING LETTERS AND FLASH REPORTS

Our BDO Knows financial reporting newsletters address significant financial reporting developments, relating to both public and private businesses that occur throughout the year. In addition, our Flash reports are intended to highlight certain financial reporting developments in a timely and brief "flash" format.

TAX ALERTS AND NEWSLETTERS

BDO's National Tax Organization (NTO) provides a multitude of alerts and newsletters spanning considerations involving expatriate, federal, state and local jurisdictions and includes such areas as compensation and benefits, and credits and incentives. NTO further provides Tax Seminars/Webinars on a variety of topics, whose archives are readily available to clients and contacts.

INDUSTRY PUBLICATIONS

ACM and BDO's industry publications are numerous and span the sectors of high technology, retail and consumer products, not-for-profit and real estate.

For a complete listing of services, publications, archives of various webinars and events and other information regarding BDO and ACM, please visit: <http://www.acmlp.com/Publications.html> for further information.