



**PUBLIC HEARING FORMAT**  
**7:00 P.M., TUESDAY, JULY 12, 2016**

Receive Input on the Merits of Text Amendment Application ZA-16-3, Submitted by Steven Westbay, Director of Community Development, Proposing to Amend Sections 1, Administration (1.7K. Density) and 8, Variances (8.1C. Dimensional Standards Variances Authorized), the Text Amendment also Corrects Minor Typographical Errors within the City of Gunnison Land Development Code.

- I. **Mayor Open Public Hearing**  
Open Public Hearing and State the time, date, location, and name of those in attendance – City Council, City Attorney, Acting City Manager, City Clerk, Community Development Director, Finance Director and \_\_\_\_\_.
- II. **State Reason for Public Hearing - Mayor**  
To receive input on the merits of Text Amendment Application ZA-16-3, Submitted by Steven Westbay, Director of Community Development, Proposing to Amend Sections 1, Administration (1.7K. Density) and 8, Variances (8.1C. Dimensional Standards Variances Authorized), and to Correct Minor Typographical Errors within the City of Gunnison Land Development Code.
- III. **Proof of Publication - City Clerk**
- IV. **Applicant/City Staff Comments/Recommendation – Community Development Director Steven Westbay**
- V. **Public Comment**  
Anyone wishing to comment – pro or con - on the Text Amendment Application ZA-16-3 to come forward and comment for the record.
- VI. **Enter letters, emails or other written comments received from the public into the record - City Clerk**
- VII. **Call for any final comments – when hearing none, Mayor Close the Public Hearing.**

**CITY OF GUNNISON CITY COUNCIL  
NOTICE OF PUBLIC HEARING**

**TO WHOM IT MAY CONCERN:**

**PLEASE TAKE NOTE THAT**, pursuant to Sections 6.7 and 10.3F of the *City of Gunnison Land Development Code*, a public hearing will be held at the hour of 7:00 PM on the 12th day of July, 2016, in the City Council Chambers, Gunnison Municipal Building, 201 West Virginia Avenue, Gunnison, Colorado, on the merits of Text Amendment application, ZA 16-3, proposing to amend Sections 1, Administration (1.7.K. Density) and 8, Variances (8.1.C. Dimensional Standards Variances Authorized). The Text Amendment also corrects minor typographical errors within the *City of Gunnison Land Development Code*,

**AT WHICH TIME AND PLACE** you may attend and give testimony, if you so desire.

**CITY OF GUNNISON  
CITY COUNCIL**

/s/ Gail A. Davidson  
City Clerk

TO: City Council  
FROM: Community Development Staff  
DATE: July 1, 2016  
RE: Text Amendment to the *LDC*

A Text Amendment has been initiated by Steve Westbay, Community Development Director to amend to amend Sections 1, Administration (1.7.K. Density) and 8, Variances (8.1.C. Dimensional Standards Variances Authorized) within the *Land Development Code (LDC)*.

Text Amendment requests must comply with established criteria to address the compatibility with the City's *Master Plan*; the purposes of the *LDC*; and preserve the health, safety and orderly development of the community.

The Planning and Zoning Commission held a public hearing on June 22, 2016 regarding this request. Commission members supported the proposed amendments and unanimously voted to recommend approval of this Text Amendment.

The Council packet contains the staff report with the Commission recommendation and the draft ordinance.

STAFF REPORT  
Text Amendment to the *Land Development Code*

TO: Planning and Zoning Commission  
FROM: Community Development Staff  
DATE: June 22, 2016  
RE: ZA 16-3, Text Amendment to the *Land Development Code*

**CODE PROVISIONS**

The *Land Development Code (LDC)*, Section 10.3 specifies that a text amendment to the *LDC* be reviewed by the City of Gunnison Planning and Zoning Commission (Commission) at a public hearing after 15 days public notice. The Commission establishes a recommendation to City Council to approve, approve with conditions, deny or remand the application back to the applicant with instructions for modification. City Council shall consider the recommendation of the Commission at a public hearing and shall, by ordinance, approve, deny or remand the application back to the applicant with instructions for modification or additional information.

A Text Amendment may be initiated by City Council, the Planning and Zoning Commission, the Community Development Director, a resident of the city, an owner of a business within the city, or any person who holds a recognized interest in real property within the city.

**APPLICATION**

The applicant for this Text Amendment is Steven Westbay, the City of Gunnison Community Development Director. The application proposes to amend Sections 1, Administration (1.7.K. Density) and 8, Variances (8.1.C. Dimensional Standards Variances Authorized).

**PROPOSED AMENDMENT**

Proposed amendments include the following:

**Section 1.7 K. Density:**

3. When applying a density standard to the net land area of a parcel, ~~all~~ resulting fractions with 0.65 or lower shall be rounded down to the lower whole number and resulting fractions that are 0.66 or higher shall be rounded up to the higher whole number.

**Section 8.1 General:**

**C. Dimensional Standards Variances Authorized.** Variance from the dimensional standards of the underlying zone district shall be authorized only for minimum lot area, maximum height, minimum floor area, minimum building width, maximum lot coverage, minimum setbacks, maximum setbacks, parking requirements, minimum landscape area, and buffer width.

## STAFF REPORT

### Text Amendment to the *Land Development Code*

#### DEPARTMENTAL COMMENTS

Building Official: No issue.

Fire Marshal: No issue.

Parks and Recreation Department: No issue.

Police Department: No issue.

Public Works Director: No issue.

City Engineer: No issue.

Water and Sewer Superintendent: No issue.

Electric Superintendent: No issue.

City Attorney, Kathy Fogo: No issue.

#### STAFF OBSERVATIONS

1. The proposed Text Amendment requests amendments to Sections 1.7.K. Density and 8.1.C. Dimensional Standards Variances Authorized within the *Land Development Code*.
2. The amendment proposes a change to the density calculation rounding and the addition of minimum lot area to variances to provide flexibility.
3. The proposed amendments protect the health, safety and welfare of the community.

#### REVIEW STANDARDS FOR TEXT AMENDMENTS

*LDC* Section 6.8 C., states that “...an application that fails to comply with any applicable review standard shall be denied.” The *LDC* Section 10.5 states that “...an application for an amendment to the text of this *Land Development Code* shall comply with the following four standards:”

**A. Consistent with Purposes.** The proposed amendment shall be consistent with the purposes of this *Land Development Code*.

**No Conflict.** Purposes of the *LDC* are cited in Section 15.10.030 and include the following headings:

1. *Establish Development Standards* for the review of all proposed development in the City.
- 2) *Protect Quality of Life* by promoting the community’s general health, safety and welfare.
- 3) *Establish Review Process* that is clear, consistent, predictable and efficient.
- 4) *Provide for Orderly Development* of the City that is well-ordered and safe.
- 5) *Conserve Property Values* and respect interests of property owners and citizens.

The proposed amendment fulfills the purpose of the *LDC*. The amendment addresses needed modifications within the *LDC*.

**B. No Conflict with Other Provisions.** The proposed amendment shall not conflict with any other applicable provisions of this *Land Development Code*, or shall repeal or amend provisions of this *Land Development Code* which are inconsistent, unreasonable or out-of-date.

**No Conflict:** The proposed text amendment does not conflict with any sections of the *LDC*.

**C. Consistent with Master Plan.** The proposed amendment shall be consistent with the *Master Plan*, or shall implement a new portion of the *Master Plan*, or shall implement portions of the *Master Plan* which have proven difficult to achieve under the existing provisions of this *Land Development Code*.

STAFF REPORT  
Text Amendment to the *Land Development Code*

**No Conflict:** The proposed text amendment is consistent with the *City of Gunnison Master Plan*.

**D. Public Health, Safety and Welfare.** The proposed amendment shall preserve the public health, safety, general welfare and environment and contribute to the orderly development of the City.

**No Conflict:** The proposed amendment is intended to preserve the public health, safety and general welfare of the community.

**RECOMMENDATION**

During the Planning and Zoning Commission meeting held on June 22, 2016, Commissioner Niemeyer moved, Commissioner Tocke seconded, and the Planning and Zoning Commission voted to recommend APPROVAL, to City Council of Zoning Amendment application ZA 16-3, for a Text Amendment to modify Sections 1, Administration (1.7.K. Density) and 8, Variances (8.1.C. Dimensional Standards Variances Authorized) with the *LDC*, based on the following findings of fact:

1. The Planning and Zoning Commission finds that the record of this action includes the application contents on file with the City of Gunnison; all comments entered into the Public Hearing record; and provisions of the *City of Gunnison Land Development Code* and the *City of Gunnison Master Plan*.
2. The Planning and Zoning Commission finds that the amendment provides reasonable flexibility within the *LDC*.
3. The Planning and Zoning Commission finds that proposed amendments clarifies the administrative direction within the *LDC*.
4. The Planning and Zoning Commission finds that this Text Amendment application complies with the review standards for Text Amendments (*LDC*, Section 10.5).
5. The Planning and Zoning Commission finds that based on the record of the application proceedings, approval of this Text Amendment protects the community's health, safety and welfare.



To: City Council  
CC: City Manager Mark Achen  
From: City Clerk Gail Davidson  
Date: July 7, 2016  
RE: Consent Agenda

City Council:

You will note the Regular Session agenda contains a Consent Agenda. This type of agenda item allows City Council to approve, by a single motion, second and vote, matters that have already been discussed by the entire Council or matters that are considered routine or non-controversial. A Consent Agenda allows for the meeting to proceed in a more efficient and timely manner. The agenda items will not be separately discussed unless a Councilor, City Staff, or a citizen requests an item be removed be discussed separately. Items removed from the Consent Agenda will then be considered under New Business.

When a motion is made to approve the Consent Agenda, the Councilor making the motion should, for the record, include the list of the Consent Agenda items being considered in the vote. Please let me know if you have any questions regarding the Consent Agenda process.

Thank you, Gail

**Action Requested of Council:**

Motion, second and vote to approve the Consent Agenda as presented with the following items:

- Minutes of June 28, 2016, Regular Session Meeting
- Action on City Council Commission, Boards and Committees Assignments

**JUNE 28, 2016**

**CITY OF GUNNISON COUNCIL**

**7:00 P.M.**

**REGULAR SESSION MEETING MINUTES**

The City Council Regular Session meeting was called to order at 7:00 P.M., by Mayor Hagan with Councilors Sovick, Drexel, Morrison and Schwartz present along with City Attorney Fogo, Interim City Manager Achen, City Clerk Davidson, Finance Director Cowan, Police Chief Keith Robinson, Community Development Director Westbay, Parks & Recreation Director Ampietro, several citizens and the press. A Council quorum was present.

**PUBLIC HEARING**

**7:00 P.M.**

**Receive Input on Retail Marijuana Store License Application from The Pot Shop LLC dba The Pot Shop, 905B N. Main Street, Gunnison, Colorado.**

Mayor Hagan opened the Public Hearing and stated the time is now 7:00 P.M. on Tuesday, June 28, 2016, in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison, Colorado and the purpose of this Public Hearing is to receive public input on the Retail Marijuana Store License Application from The Pot Shop LLC dba The Pot Shop, 905B N Main Street in Gunnison, Colorado.

Present at the Public Hearing are myself, Mayor Richard Hagan, City Councilors Andy Sovick, Robert Drexel, Leia Morrison and Matt Schwartz, City Attorney Kathy Fogo, Interim City Manager Mark Achen, City Clerk Gail Davidson, Finance Director Ben Cowan, Community Development Director Steve Westbay, Police Chief Keith Robinson, Parks & Recreation Director Dam Ampietro, the applicant and some citizens. Mayor Hagan asked the applicant to identify himself. Mr. Jonathan Billingsley did so.

Mayor Hagan called for proof of publication. City Clerk Davidson stated a copy of the published notice was included in their packets and the affidavit of publication will be included in the City's official files.

The Mayor called for the determination of the neighborhood regarding this application. City Clerk Davidson stated the neighborhood is defined as the property within the City limits of the City of Gunnison.

Mayor Hagan called for Staff comments and recommendations. City Clerk Davidson stated City Council approved and adopted Marijuana Establishment rules and regulations. These are found in the Gunnison Municipal Code (GMC) and the City of Gunnison *Land Development Code (LDC)*. To operate a Marijuana Establishment in the City, a license from both the State of Colorado and the City of Gunnison must be obtained. The City application and licensing regulations are outlined in GMC Section 8.40. The Pot Shop LLC, dba The Pot Shop, 905B N. Main Street, Gunnison, CO 81230, completed and submitted the required State Marijuana Enforcement Division (MED) and the City of Gunnison Marijuana Establishment License Application forms for a retail marijuana store to be located at 905B N. Main Street, in Gunnison. 100% Principal in the LLC is: Jonathan Billingsley, 130 Tawanka Trail, Gunnison, CO 81230. The proposed store location property is owned by Bennett Acquisitions LLC, Deven Bennett Principal. The property owner's consent to the submission of the application for a Marijuana Establishment on the premises notarized form was included in the application. The proposed store location is within the allowed zoning district for a retail marijuana store establishment within the City. The Pot Shop LLC has paid the City-required license and application fees.

The State MED submitted their completed forms back to the City within the required seven days of their submission. Once the State Application forms were received, they were forwarded onto the Police, Finance, City Clerk, Public Works, and Community Development Departments, as well as to the City Attorney for review. A copy of the City of Gunnison Departmental Approvals form is included in the Public Hearing information packet. The results of that review include:

- Clerk's Department: the required complete application was filed including the property owner consent forms. All City-required fees have been paid. The City has received a copy of the conditional State-approved Retail Marijuana Store License.
- The Finance Department has issued a City Sales Tax License and has provided sales tax remittance information to the applicant.
- The Police Department has completed local background checks and investigations on the applicant LLC Principal – Jonathan Billingsley.
- The Public Works Department has not identified any compliance issues with the City Utility Codes.

- The Community Development Department has received their internal Marijuana Site Development Application and has reviewed the application for compliance with the provisions of the City of Gunnison *Land Development Code* regarding allowed location, signage, control of marijuana-related odors, hours of operation, and City-adopted building standards. The CD Department has issued their retail marijuana establishment permit with the following conditions:
  - The Marijuana establishment shall comply with all provisions, standards and regulations of the *Land Development Code* and all relevant building, mechanical and fire codes adopted by the City.
  - A mechanical source capture and exhaust system shall be installed and subject to inspection and approval by the Building Official.
  - The licensed retail marijuana establishment premises shall be equipped with a carbon monoxide detector.
  - A minimum of 3 exterior parking spaces with one handicap accessible space shall be dedicated to this retail Marijuana establishment operation.
  - Building occupancy for the licensed retail marijuana establishment shall be subject to final inspection and approval by the Building Official, Fire Marshal and Community Development Director.

City Council set the Public Hearing for this evening, 7:00 P.M., Tuesday, June 28, 2016, the premises was posted with the required Public Hearing notice poster, and the public hearing notice was published as required in the Gunnison Country Times Newspaper.

City Staff has heard verbal concerns about the proposed location of this Establishment next to a Liquor Licensed Establishment, the Powerstop. City Staff, as well as the applicant, contacted the Colorado State Marijuana Enforcement Division and there is no regulations prohibiting this adjacent location. In addition, verbal concerns have been made concerning the proximity to the church located west of the proposed establishment. Again, there are no State or City prohibitions for this location. Therefore, based on the review and investigations of the Retail Marijuana Store Establishment license application for compliance with City regulations, City Staff recommends approval of The Pot Shop LLC, dba The Pot Shop, 905B N Main Street in Gunnison, with the stated conditions.

Mayor Hagan called for the applicant's testimony. Mr. John Billingsley came forward and addressed Council. He has submitted a petition of citizens requesting the application be approved at that location. Mr. Billingsley stated that there will be no entrance immediately from the existing deck. The deck will be reworked to eliminate that proximity. There will also be a secure rear entrance to the building that will have on-street parking on Wisconsin as well. There will be two dedicated parking spots in front of the store. Mr. Billingsley also stated that he will have dedicated appointment times for some of his customers as well. Council thanked Mr. Billingsley for his comments.

Mayor Hagan called for any comments in favor of the application. There were no comments. Mayor Hagan then called for any comments in opposition of the application. There were no comments. The Mayor asked if any letters, emails or other comments from the public were received regarding the application. City Clerk Davidson stated that other than the verbal comments already mentioned, no written comments were received. Mayor Hagan called for any other comments on the application and hearing none, closed the Public Hearing at 7:10 P.M.

**Consent Agenda:**

**The listing under "CONSENT AGENDA" is a group of items, which Council has already reviewed, to be acted on with a single motion or vote. This agenda is designed to expedite the handling of limited routine matters by Council. The Mayor will ask if any Councilor or Citizen wishes to have any specific item removed from the Consent Agenda and acted upon individually.**

**Minutes of June 14, 2016, Special Session Meeting;  
Action to Accept Amended City Employee Handbook;  
Action to Accept Amended City Standby Policy;**

**Action to Accept Amended Disciplinary Guidelines;  
Approval of Amendment to Gunnison Chamber of Commerce MOA; and  
Direct Staff to Pursue GOCO Grant for Char-Mar Park Upgrade.**

Mayor Hagan asked if anyone would like any item removed from the Consent Agenda. Councilor Schwartz asked that consideration of the City Employee Handbook be removed from the Consent Agenda for separate consideration.

Councilor Drexel read the items on the Consent Agenda then moved and Councilor Morrison seconded the motion to approve the Consent Agenda as amended.

Roll call vote, yes: Sovick, Drexel, Hagan, Morrison, Schwartz. So carried.

Roll call vote, no: None.

**Action to Accept Amended Employee Handbook**

Councilor Schwartz stated he had a couple of wording changes to the Employee Handbook. In Section 8.2, he would like to make the wording clearer by removing “of regular full time, part-time and temporary employees” and add “of current employees” after the words “of relatives”. In the Acknowledgment of Receipt, in the 2<sup>nd</sup> paragraph he wants to add “City Council or” before City Manager in the second line and again in the 4<sup>th</sup> line. Council agreed with the suggested changes.

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the Employee Handbook as newly amended this evening.

Roll call vote, yes: Drexel, Hagan, Morrison, Schwartz, Sovick. So carried.

Roll call vote, no: None.

**Consideration of Minutes:**

**Minutes of May 24, 2016, Regular Session Meeting.**

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the minutes of the May 24, 2016, Regular Session Meeting, as presented.

Roll call vote, yes: Hagan, Morrison, Schwartz, Drexel. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Sovick. He was not in attendance at the meeting.

**Minutes of May 25, 2016, Special Session Meeting.**

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the minutes of the May 25, 2016, Special Session Meeting, as presented.

Roll call vote, yes: Morrison, Schwartz, Drexel, Hagan. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Sovick. He was not in attendance at the meeting.

**Minutes of May 27, 2016, Special Session Meeting.**

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the minutes of the May 27, 2016, Special Session Meeting, as presented.

Roll call vote, yes: Drexel, Hagan, Morrison. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Schwartz, Sovick. They were not in attendance at the meeting.

**Minutes of June 13, 2016, Special Session Meeting.**

Councilor Morrison moved and Councilor Drexel seconded the motion to approve the minutes of the June 13, 2016, Special Session Meeting, as presented.

Roll call vote, yes: Drexel, Hagan, Morrison, Schwartz. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Sovick. He was not in attendance at the meeting.

**Minutes of June 15, 2016, Special Session Meeting.**

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the minutes of the June 15, 2016, Special Session Meeting, as presented.

Roll call vote, yes: Drexel, Hagan, Morrison, Schwartz. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Sovick. He was not in attendance at the meeting.

**Minutes of June 21, 2016, Special Session Meeting**

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the minutes of the June 21, 2016, Special Session Meeting, as presented.

Roll call vote, yes: Hagan, Morrison, Schwartz, Drexel. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Sovick. He was not in attendance at the meeting.

**Pre-Scheduled Citizens:** None.

**New Business:**

**Action on The Pot Shop LLC Retail Marijuana Store License Application.**

Councilor Schwartz moved and Councilor Morrison seconded the motion that the Retail Marijuana Store License for The Pot Shop, LLC dba The Pot Shop, 905B N. Main Street, Gunnison, Colorado, 81230, be approved based on the following findings and with the following conditions:

**FINDINGS:**

- (1) There has not been a denial of an application at the same location, on the grounds that the reasonable requirements of the neighborhood were satisfied by the existing establishment.
- (2) It appears from the evidence submitted with the application that the applicant is entitled to possession of the premises where the license is proposed to be exercised.
- (3) Selling Retail Marijuana and Allowed Retail Marijuana-Associated Products, as proposed in the application, is not in violation of the zoning, fire, building, technical, and other applicable codes of the City of Gunnison or the laws of the State of Colorado.
- (4) The building where the application proposes to sell Retail Marijuana and allowed marijuana-associated products does not appear to be within 1000 feet of any public, charter, or parochial school, daycare school, center or home, the principal campus of any college, university or seminary, or mental health facilities.
- (5) Within the City Limits where Retail Marijuana and Marijuana associated products are proposed to be sold, there are the following existing other licensed marijuana establishment:  
8 – Retail Marijuana Stores
- (6) Based on the petitions of adult inhabitants of the City of Gunnison, the license applied for will meet the desires of the adult inhabitants of the City of Gunnison.
- (7) All fees necessary for the application have been paid.

**CONDITIONS:**

- (1) The Marijuana establishment shall comply with all provisions, standards and regulations of the *Land Development Code* and all relevant building, mechanical and fire codes adopted by the City.
- (2) A mechanical source capture and exhaust system shall be installed and subject to inspection and approval by the Building Official.
- (3) The licensed retail marijuana establishment premises shall be equipped with a carbon monoxide detector.
- (4) A minimum of 3 exterior parking spaces with one handicap accessible space shall be dedicated to this retail Marijuana establishment operation.
- (5) Building occupancy for the licensed retail marijuana establishment shall be subject to final inspection and approval by the Building Official, Fire Marshal and Community Development Director.

Roll call vote, yes: Schwartz, Sovick, Hagan, Morrison. Motion carried.

Roll call vote, no: Drexel.

**Action on High Alpine Brewing Company Water Line Request.**

Discussion ensued. Interim City Manager Achen informed Council that Finance Director Cowan looked into setting up a revolving loan fund of some kind for this type of request. In his research, both the City Charter and the State Constitution prohibit municipalities to loan money. Certain types of districts generally do this type of business improvement loan. City Attorney Fogo addressed Council's liability if they approved the water connection with the adjacent business. Council would be covered by the Governmental Immunity Act. They wouldn't be covered if they knowingly and wantonly approved an action that caused harm.

Councilor Drexel mentioned he had talked with both the owners of the High Alpine Brewing Company and Region 10 staff members regarding potential methods to get funding to cover the installation of the water line. That may be the best way to proceed. No Council action was taken on the request.

**Action on Award of 2016 Slurry Seal Contract to Intermountain Slurry Seal in an Amount not to exceed \$150,000 and Action on 80% Labor Waiver.**

Councilor Morrison moved and Councilor Drexel seconded the motion to approve the Contract for the 2016 Slurry Seal project to Intermountain Slurry Seal in an amount not to exceed \$150,000 and to approve the 80% Labor Waiver for the project.

Roll call vote, yes: Sovick, Drexel, Hagan, Morrison, Schwartz. So carried.

Roll call vote, no: None.

**Action to Award 2016 Small Bucket Truck Purchase to Terex in an Amount not to exceed \$101,825.00**

Councilor Schwartz moved and Councilor Morrison seconded the motion to award the 2016 small bucket truck purchase to Terex, in an amount not to exceed \$101,825.00.

Roll call vote, yes: Drexel, Hagan, Morrison, Schwartz, Sovick. So carried.

Roll call vote, no: None.

**Resolutions and Ordinances:**

**Resolution No 7, Series 2016, Re: Employee Hiring/Nepotism.**

Councilor Schwartz introduced Resolution No. 7, Series 2016, and it was read by title only by the City Attorney.

Councilor Schwartz moved and Councilor Morrison seconded the motion that Resolution No. 7, Series 2016, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, PROVIDING CONSENT TO THE HIRING OF RELATED PERSONS IN DEFINED CIRCUMSTANCES.**

Roll call vote, yes: Hagan, Morrison, Schwartz, Ferguson, Drexel. So carried.

Roll call vote no: None.

**Ordinance No. 7, Series 2016; Re: Amending Municipal Code Section 4.10 Municipal Court, 2nd Reading.** Councilor Drexel introduced Ordinance No. 7, Series 2016, and it was read by title only by the City Attorney.

Councilor Drexel moved and Councilor Morrison seconded the motion that Ordinance No. 7, Series 2016, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AMENDING TITLE 4 JUDICIARY, CHAPTER 4.10 MUNICIPAL COURT, SECTION 4.10.040 MUNICIPAL COURT CLERK**, be introduced, read, passed and adopted on second and final reading this 28<sup>th</sup> day of June, 2016.

Roll call vote, yes: Morrison, Schwartz, Sovick, Drexel, Hagan. So carried.

Roll call vote, no: None.

**Executive Session: Pursuant to C.R.S. §24-6-402(4)(e) the purpose of which is for determining positions relative to matters that may be subject of negotiations; developing strategies for negotiations; and instructing negotiators. Not open to the public.**

Councilor Drexel moved and Councilor Schwartz seconded the motion to go into Executive Session the purpose of which is pursuant to C.R.S. §24-6-402(4)(e) for determining positions relative to matters that may be subject of negotiations; developing strategies for negotiations; and instructing negotiators.

Roll call vote, yes: Schwartz, Sovick, Drexel, Hagan, Morrison. So carried

Roll call vote, no: None.

Council went into Executive Session at 7:48 P.M.

Council returned to open Regular Session. Mayor Hagan stated the following: the time is now 8:11 P.M., and the Executive Session has been concluded. The participants for the Executive

Session were himself, Mayor Richard Hagan, Mayor Pro Tem Robert Drexel, Councilor Leia Morrison, Councilor Matt Schwartz, Councilor Andy Sovick, City Attorney Kathy Fogo, Interim City Manager Mark Achen, City Clerk Gail Davidson, Finance Director Ben Cowan, and City Manager Applicant Russ Forrest. For the record, if any person who participated in the Executive Session believes that any substantial discussion of any matters not included in the motion to go into executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record. No comments were made.

**Action to Appoint City Manager.**

Councilor Schwartz moved and Councilor Morrison seconded the motion to appoint Russ Forrest as City Manager with an effective date in 60 days or sooner if it can be arranged.

Roll call vote, yes: Sovick, Drexel, Hagan, Morrison, Schwartz. So carried.

Roll call vote, no: None.

**Action on City Manager Employment Contract**

Councilor Drexel moved and Councilor Sovick seconded the motion to approve the City Manager Employment Contract with Russ Forrest as written by City Attorney Kathy Fogo.

Roll call vote, yes: Drexel, Hagan, Morrison, Schwartz, Sovick. So carried.

Roll call vote, no: None.

**Action to Appoint "Gap" City Manager**

City Attorney Fogo stated that "Gap" is not an official term but the City Charter requires a full City Manager be appointed within 180 days from the resignation of the previous manger, and since Russ Forrest is unable to start work for approximately 60 days, there is a gap in the appointment timeline.

Councilor Schwartz moved and Councilor Drexel seconded the motion to approve the City Manager Employment Contract with Mark Achen for two months or until Russ Forrest is able to assume the City Manager duties.

Roll call vote, yes: Hagan, Morrison, Schwartz, Sovick, Drexel. So carried.

Roll call vote, no: None.

Council thanked Mark Achen for his willingness to stay on board during the transition period.

**Action on "Gap" City Manager Employment Contract.** City Attorney Fogo stated that Mark will continue to receive the same level of housing allowance for the next two months and the other provisions will remain the same.

Councilor Schwartz moved and Councilor Drexel seconded the motion to approve the City Manager Employment Contract with Mark Achen to be in place until Russ Forrest assumes the duties of City Manager.

Roll call vote, yes: Morrison, Schwartz, Sovick, Drexel, Hagan. So carried.

Roll call vote, no: None.

**Reports:**

**City Attorney Kathleen Fogo:** nothing to report.

**Interim City Manager Mark Achen:** Interim City Manager Achen reported on the following: sewer slip lining as started. Citizens in the affected areas will be notified and asked to minimize water usage for 4 to 5 hours to allow for the new pipe to cure; the electric car charging station will be located in the City Hall parking lot in the spaces closest to the sidewalk by the existing utility pole; this will minimize cost with available services already in place; he has been doing ride-alongs with each of the Public Works Superintendents gaining information to help with the new Public Works Director selection process; that process will probably take 5 to 6 months; and the criminal process to recoup the \$20,000 down payment on the Legion Park restroom has not been productive thus far. The City Attorney and Staff will continue to pursue the refund.

**Acting City Manager/City Clerk Gail Davidson: Semi-Annual Department Report.** Informed Council her report was included in their packets. She reviewed a couple of points and asked Council if they had any questions. There were none.

**Police Chief Robinson:** gave Council a quick overview of the stop sign placement that is taking place around town. The changeover is due to on-going complains over the years of people not yielding both in vehicles and on bikes. Councilor Sovick stated he thought the yield signs give a small town feel and wondered why change them out if they were working. Police Chief stated that while there are not a lot of accidents reported he still gets a lot of complaints over the years about the yield signs. Councilor Sovick stated yield signs are easier for biking. City Attorney Fogo mentioned in the new Model Traffic Code there is a provision allowing bicyclists to roll through a stop sign if there is no on-coming traffic, much like a yield sign. The City is looking at adopting the updated MTC in the future. A brief discussion ensued on signs.

**Western State Colorado University Student Liaison:** absent until fall semester.

**Non-Scheduled Citizens:** None.

**City Council Discussion, Meeting Reports, Items for Work Session:**

**Councilor Schwartz:** reported on the following: he attended the CML Conference last week and one session reviewed the legislative session and bills that were passed; the legislative session also discussed two propositions for the November ballot, Amendment T and Amendment 69; and he also attended the Town-Gown session. Councilor Schwartz then asked that a formal mentorship program for new councilmembers be placed on a future work session agenda. City Clerk Davidson said she would do so.

**Councilor Morrison:** reported she too attended the CML Conference and will give her report and the next Council meeting.

**Councilor Drexel:** reported he will attend the Region 10 meeting on Thursday, and attended the Gunnison Valley Housing Foundation meeting. That group discussed a 2 acre parcel in CB South that could possibly be used for a housing project. The GVHF is working on their policies.

**Councilor Sovick:** had nothing to report.

**Mayor Hagan:** reported he attended the CML Conference and will report at a future meeting as well. He attended the Upper Gunnison Water meeting last night where they seated new and returning Board Members. The Blue Mesa Reservoir water level is 15' higher than expected at this time but run-off is dropping. Taylor Park Reservoir is within 7' of full.

**Adjournment:** Mayor Hagan called for any further discussion from Council, Staff or the public, and hearing none, adjourned the Regular Session meeting at 9:03 P.M.

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Mayor

---

City Clerk

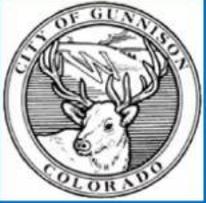
To: City Council  
From: City Clerk Gail Davidson  
Date: July 6, 2016  
Re: Boards/Commission Assignment

Councilors:

As discussed at the Work Session meeting on July 5<sup>th</sup>, here are the Boards, Committees and Commission assignments for City Council. If Council is comfortable with these positions, this will be included on the consent agenda for the July 12<sup>th</sup> Regular Session. Thank you.

**City Council Boards/Commissions/Committee Assignments – amended 7/05/2016**

- Planning & Zoning Commission - Schwartz
- Region 10 Board - Drexel
- CML Policy Board - Schwartz
- Firemen's Pension Board (2) – Drexel & Sovick
- City Group Health Plan Trustees - Morrison
- City Investment Policy Board - Schwartz
- BPAC – Bicycle & Pedestrian Advisory Committee - Morrison
- Gunnison Trails Commission - Sovick
- Gunnison Valley Regional Housing Authority – Hagan & Citizen Ellen Harriman
- Gunnison Valley Housing Foundation - Drexel
- Gunnison Rural Transportation Authority Board (2) – Schwartz & Hagan
- WSCU President's Advisory Council - Drexel
- Gunnison Chamber Advisory Committee - Morrison
- Gunnison Chamber Visitors Center Advisory Committee – Schwartz
- Parks & Recreation Advisory Committee - Schwartz
- Community Builders Task Force – Morrison & Schwartz
- Gunnison Arts Center Advisory Council - Sovick
- Gunnison Memorial Scholarship Committee – Drexel
- Municipal Court Liaisons (2) – Hagan & Drexel
- Parks & Recreation Advisory Committee - Schwartz



# Gunnison Complete Streets



May 26<sup>th</sup>, 2016  
Community Workshop



Have you been involved?



WESTERN  
FILMMAKERS  
DOCUMENT  
QUAKE  
DEVASTATION  
ROUNDUP B1

# GUNNISON COUNTY TIMES

50¢  
Vol. 124, No. 37  
Thursday,  
September 10,  
2015

SPORTS B11 | ROUNDUP B1 | OPINION A14-A15, A19 | CLASSIFIEDS A16-A18 | OBITUARIES A3 | ONLINE: GUNNISONTIMES.COM

## WORKSHOP FOR SAFER STREETS



Attendees mark problems they see with the current configuration of Tomichi Avenue.

## Drawing out new ideas

PHOTO AND WORDS  
BY WILL SHOEMAKER

**M**arkers scribbled  
Macross Man Street.  
Citizens marched all  
over Tomichi Avenue.

Mind you, this was all within the confines of the Fred Field Multi-purpose Building in Gunnison, and the marking and marching were only on maps.

The city hosted a workshop this past Thursday to solicit feedback from residents of all ages on possible improvements to highway corridors. The meeting was the first step of an initiative aimed at improving safety for pedestrians, bicyclists and

motorists.

Groups each cited their gripes with a specific portion of the city's current configuration — tacking markers to large aerial print-outs. The maps were then placed on the floor, as the larger audience gathered around, and each group walked the model corridors from end to end, explaining their observations. The three dozen attendees also were offered a glimpse of other communities' solutions — and given a chance to rate them.

Thursday's workshop was facilitated by consulting firm Fox Tuttle Hernandez Transportation Group. The end goal is the development of a "complete streets" plan in conjunction with the Colorado Department of Transportation (CDOT) that could result in funding from the state agency.

# Have you been involved?

inside

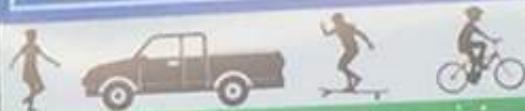
CHOICE PASS OPEN FOR  
ENROLLMENT

NEW IDEAS FOR FUNDING  
GUNNISON RIDING

**COMING SOON**  
**HIGH ALPINE BREWING CO.**



**GUNNISON**  
**SAFE STREETS**

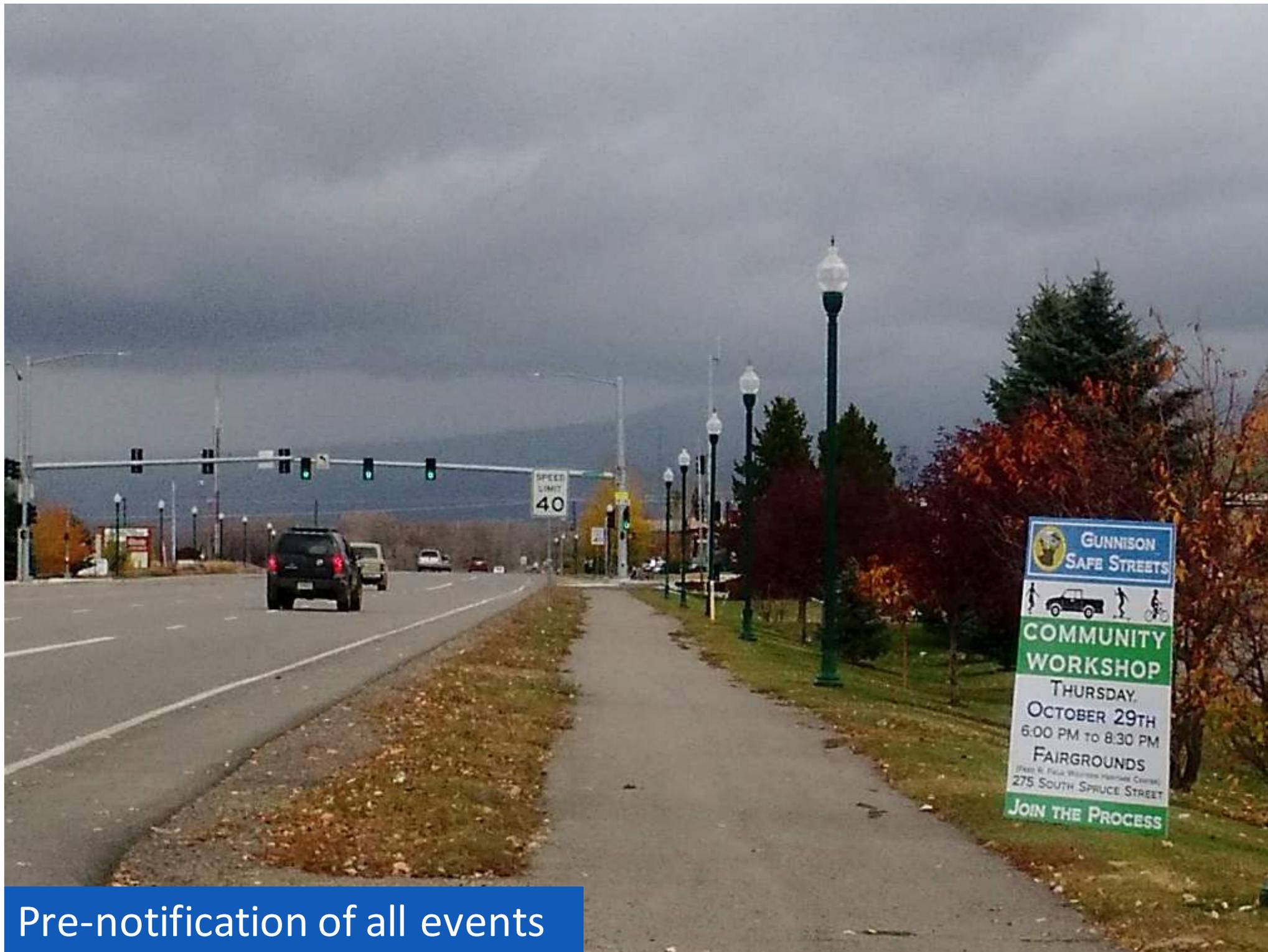


**COMMUNITY**  
**WORKSHOP**

**THURSDAY,**  
**SEPTEMBER 3RD**  
**6:00 PM TO 8:30 PM**  
**FAIRGROUNDS**  
(FRED R. FIELD WESTERN HERITAGE CENTER)  
**275 SOUTH SPRUCE STREET**

**JOIN THE PROCESS**

Pre-notification of all events



Pre-notification of all events



Pre-notification of all events

# September & October Workshop Summary

5 hours of ideas

6 Breakout sessions

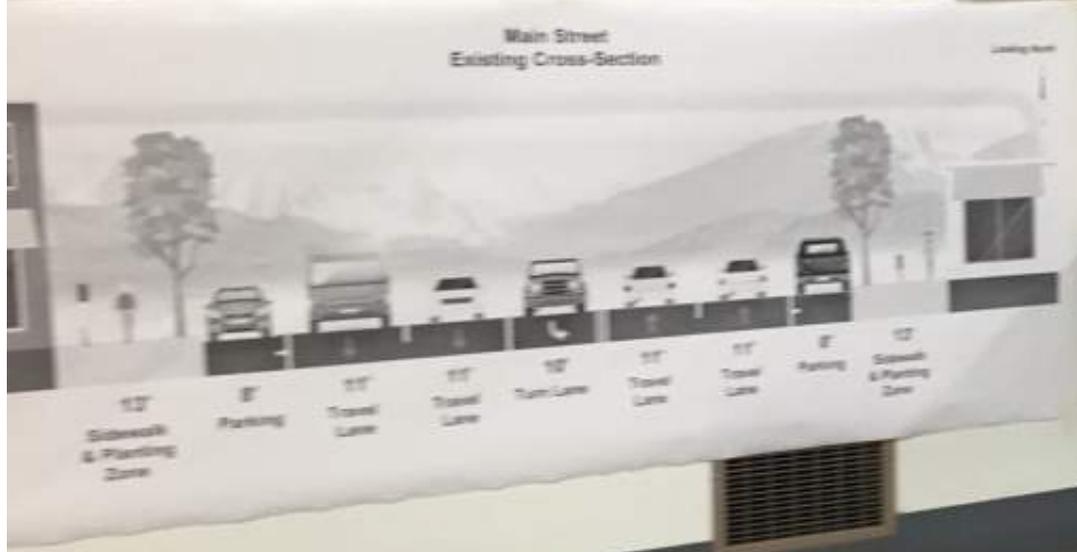
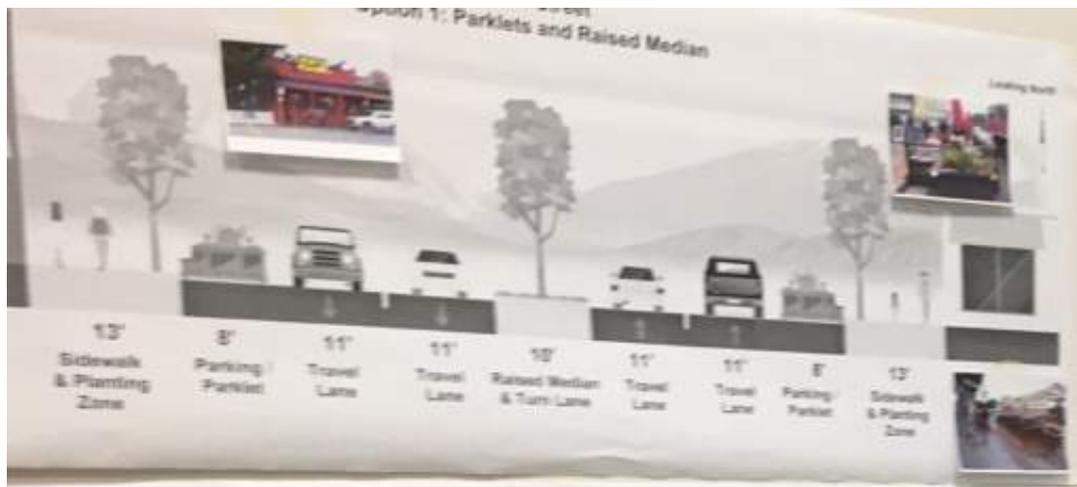
100 total participants

+500 comments

850 photo comments

15 Right of Way games

ee



Kids ride bikes in meetings



The community worked together to redesign Tomichi



They collaboratively worked with elected officials



The community selected a preferred alternative



Let's keep "the Gunny" in Gunnison



You don't fear change...you embrace it.



You don't fear change...you embrace it.



Brave and GREAT drivers (not Front Rangers)



WESTERN STATE  
COLORADO UNIVERSITY



You are Smart and Open Minded

# You Ranch, Ride, and Recreate



You care about the future of Gunnison





You respect other's ideas and values



**What have you told us?**



Love's  
375 387

SPEED  
LIMIT  
35

SPORTSMAN'S  
LIQUOR  
BEER-WINE

CATTLEMAN'S DAYS  
PENOLETON 7018 28.99  
C-HIS LIT #19.99  
COYOTE GOOD #24





SICS for  
clothing sto

NO BICYCLES,  
ROLLERBLADES, OR  
SKATEBOARDS  
ON SIDEWALK

Colorado Board



BUCKY MOUNTAIN SAFETY SYSTEM

Haggar ♦ Wolverine  
Nautica ♦ Pe



This image cannot currently be displayed.

GUNNISON BREWERY

Local Brews  
on Tap!

Sunny Patio

Happy Hour 4-6









blokleen

DRINK CALM  
KEEP CALM

What kind of footprint  
do you want  
to leave behind?

MATE.COM  
SPORT DRINKS  
SOLD  
HERE!

REDUCE STRESS  
CALM  
NATURAL CALM

...nison, Colorado

Please Use  
THESE DOOR  
←

...the  
...night  
...and it will  
...take care  
...of you.

gunni co-op ... quarters





**BASICS** *for* **MEN**  
a clothing store

Haggar • Wolverine • Van Heusen  
Nautica • Pendleton



NO PARKING  
IN FRONT OF  
BUS STOP

NO PARKING  
IN FRONT OF  
BUS STOP











Love this,  
shows the  
world we  
are an  
open for  
biz  
community



PLACES  
(SPACE)

Liquor



opens space up  
for people to  
be downtown

WHY?



# 98% support for “green” medians



# 85% support for parklets



85% support for more “places” to sit and talk



# 90% support for colored crosswalks



# 98% support for signalized mid-block crossings



80% support for some type of protected bike lanes



# Don't Build: Medians that are ugly



# Don't Build: Temporary "tests"



# Don't Build: Flagged crosswalks



# Don't Build: Wide zebra crosswalks



# Don't Build: Unprotected bike lanes





Right of Way Game Results



# Tomichi Corridor Results

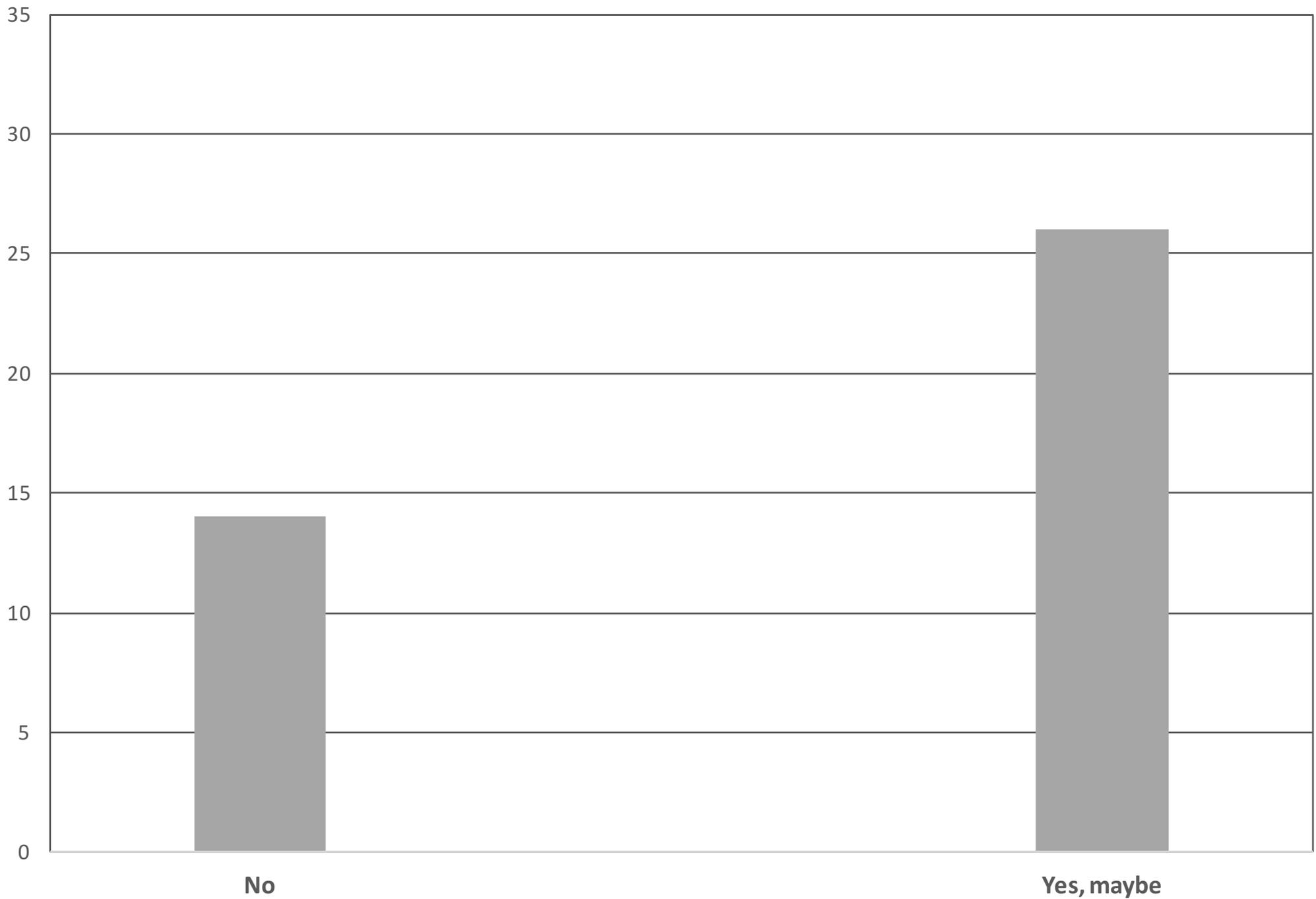
## 6 options submitted

- 100% kept parking
- 100% had raised medians with turn lanes
- 66% had protected bike lanes
- 50% added tree lawns
- 50% utilized narrower travel lanes
- 0% deleted travel lanes



Workshop #2: Alternatives

# OPTION #2: PARKING PROTECTED ON TOMICHI



# Tomichi Corridor Existing

*Looking West*

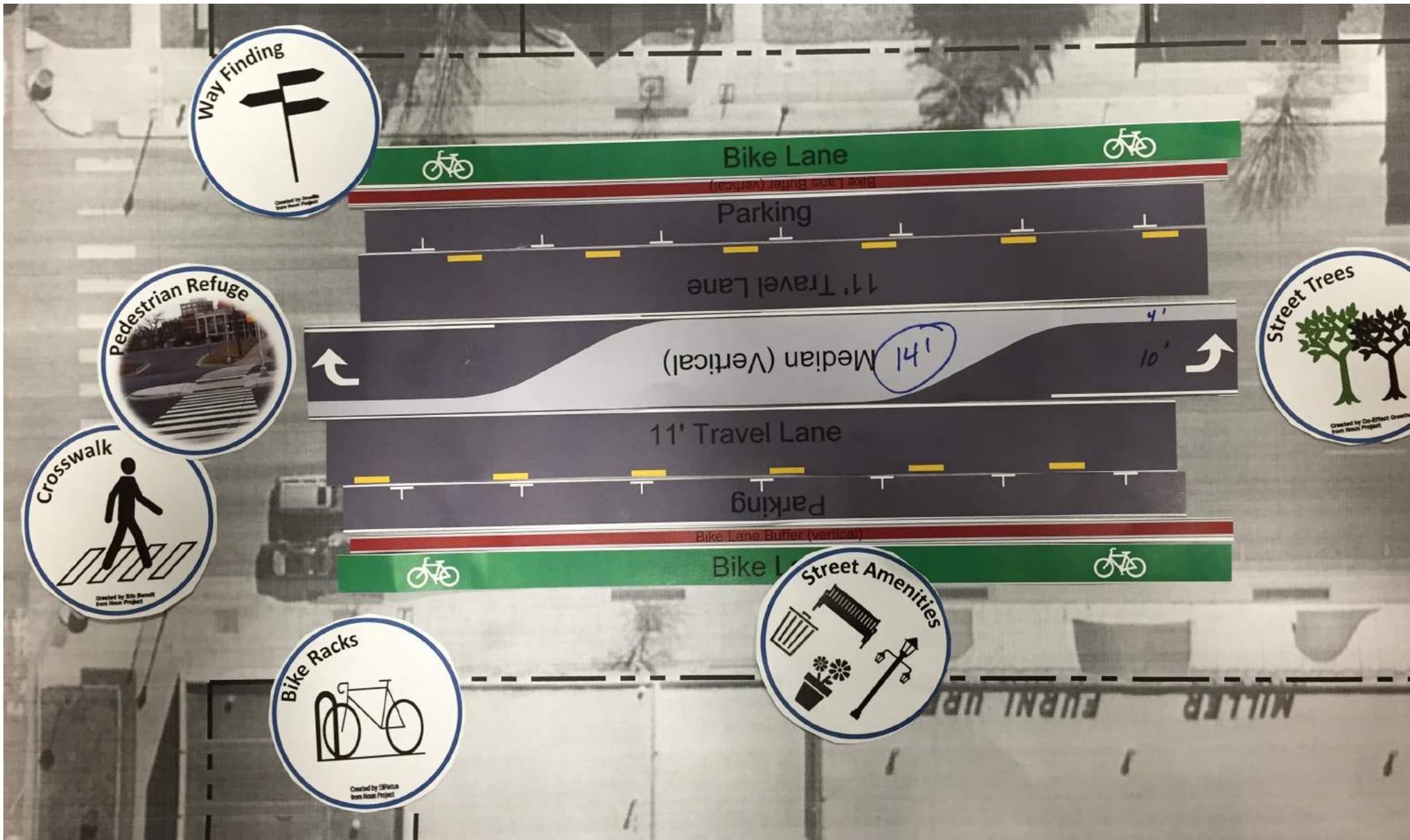


# Tomichi Complete Street

*Looking West*



# Main Corridor Results



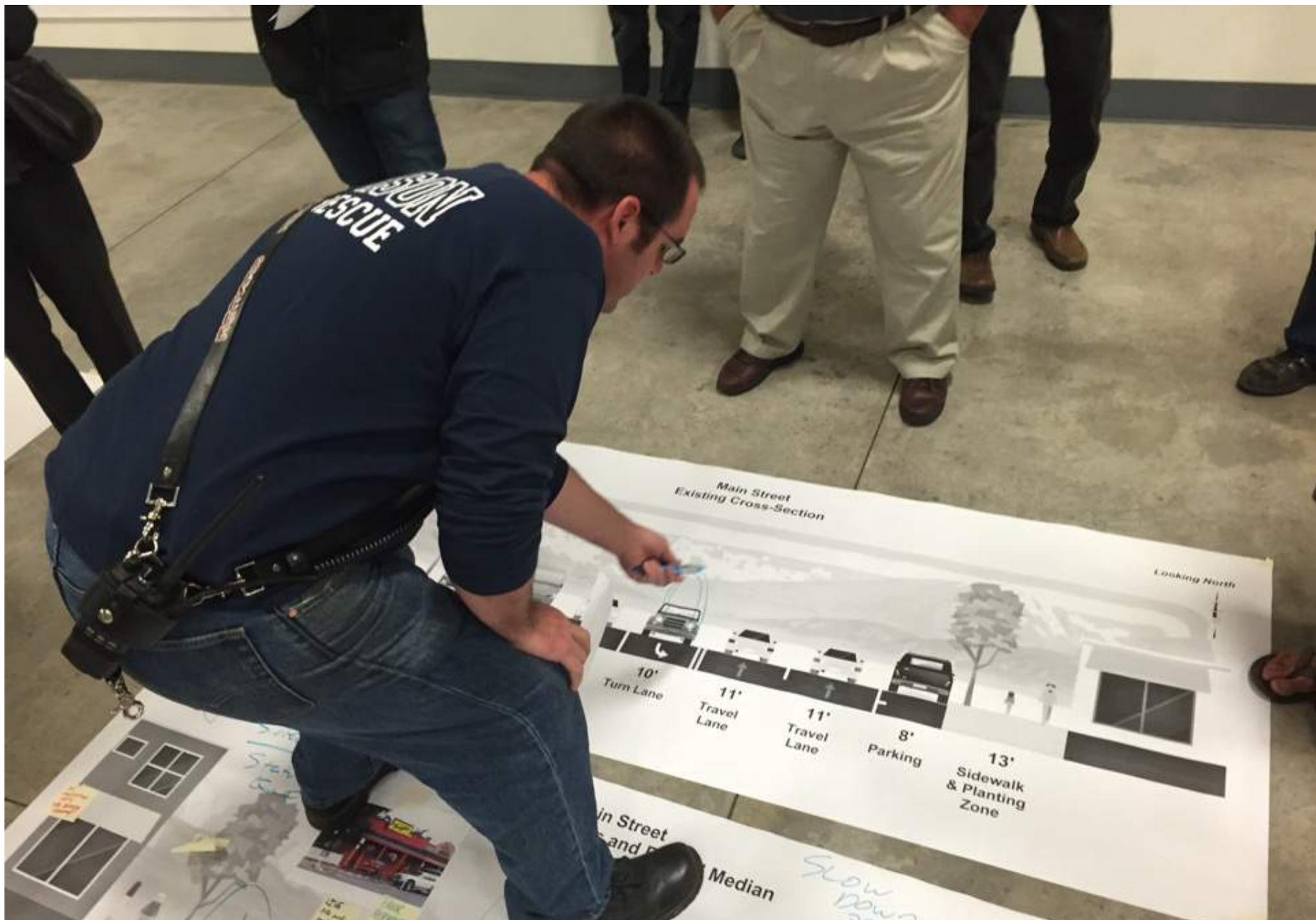
# Main Corridor Results

## 9 options submitted

- 100% kept parking
- 100% had raised medians with turn lanes
- 67% had protected bike lanes
- 45% added tree lawns
- 45% deleted travel lanes
- 33% had “no change”
- 33% utilized narrower travel lanes

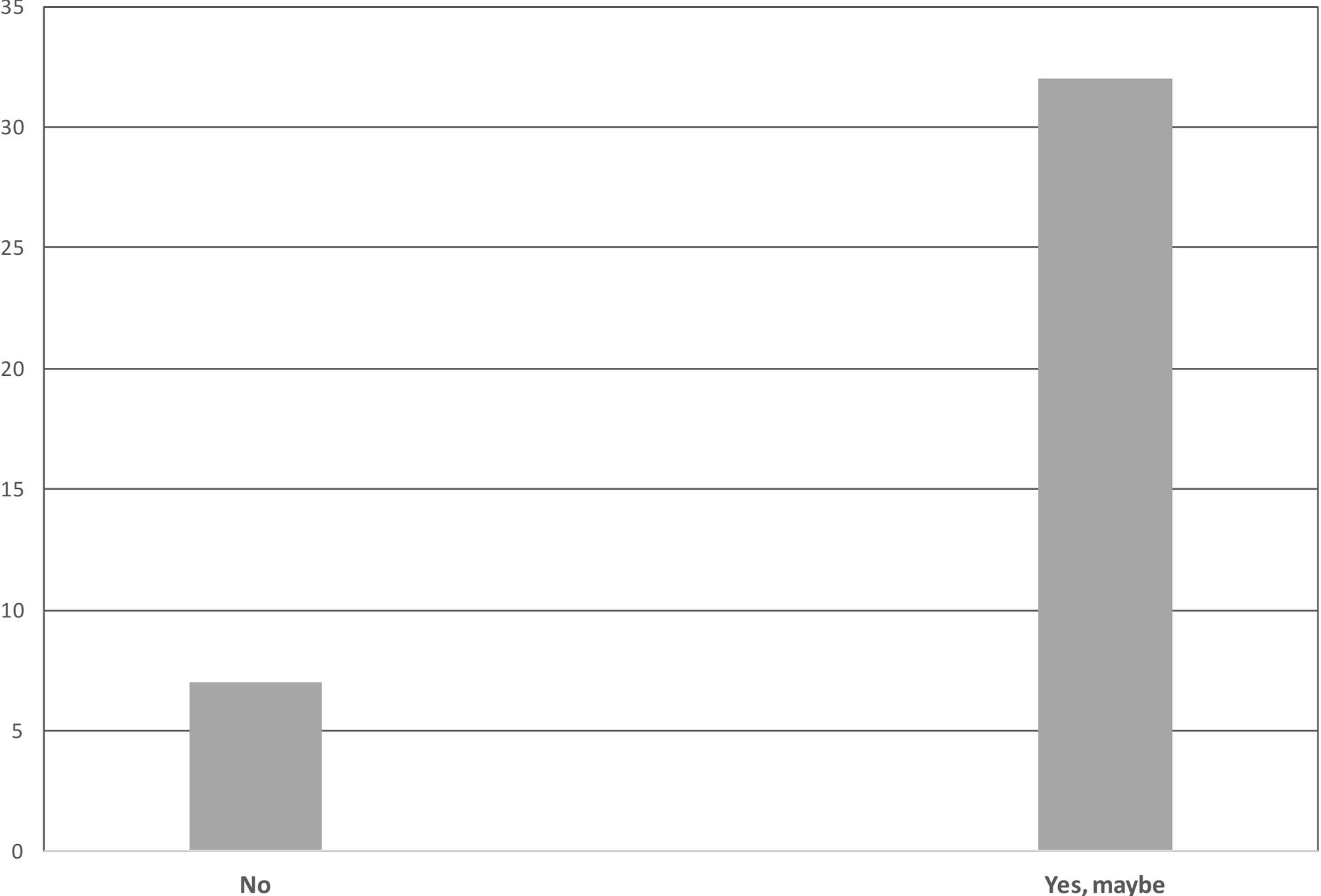


They commented on preliminary options

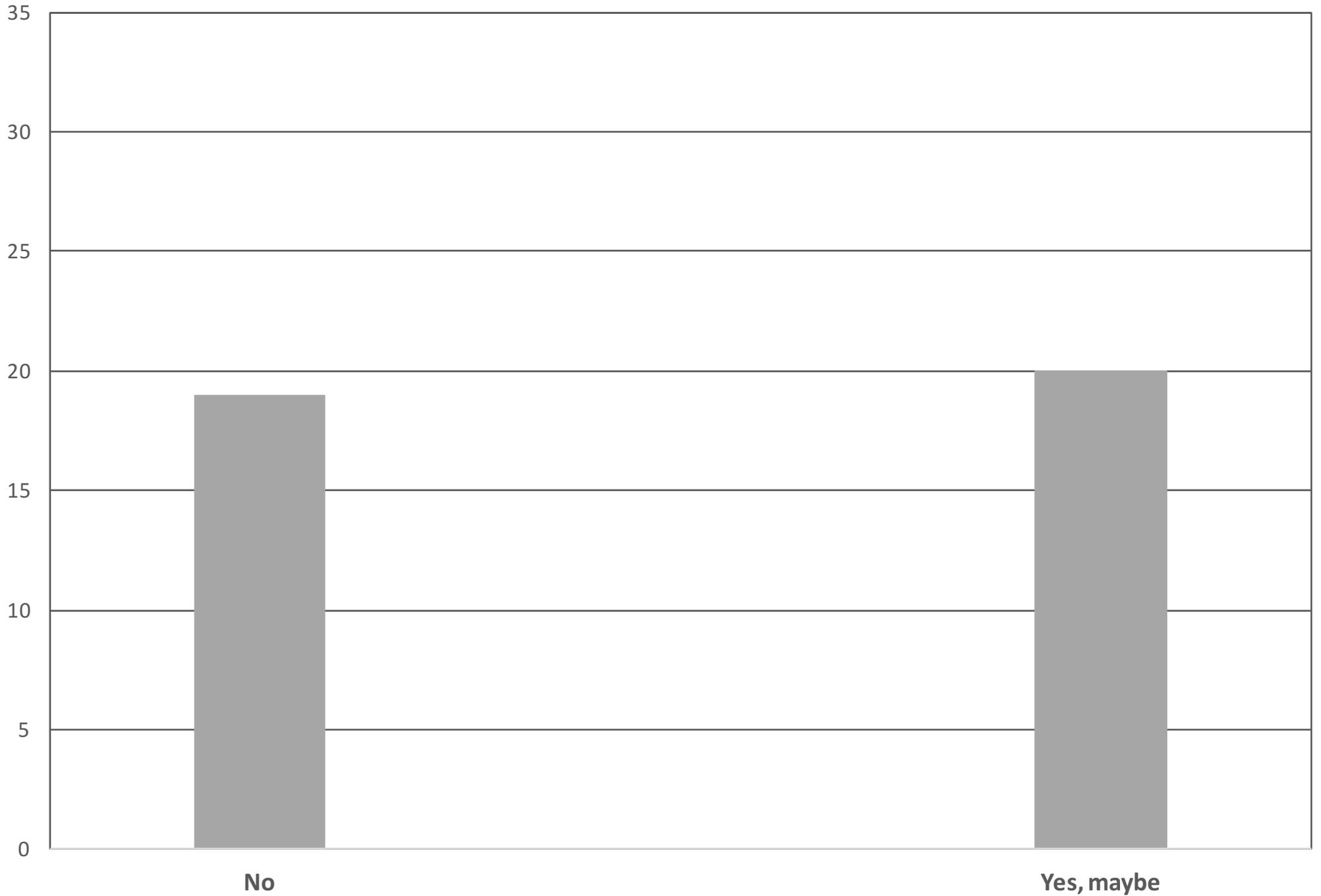


Gunnison Fire & Rescue participated in the design process

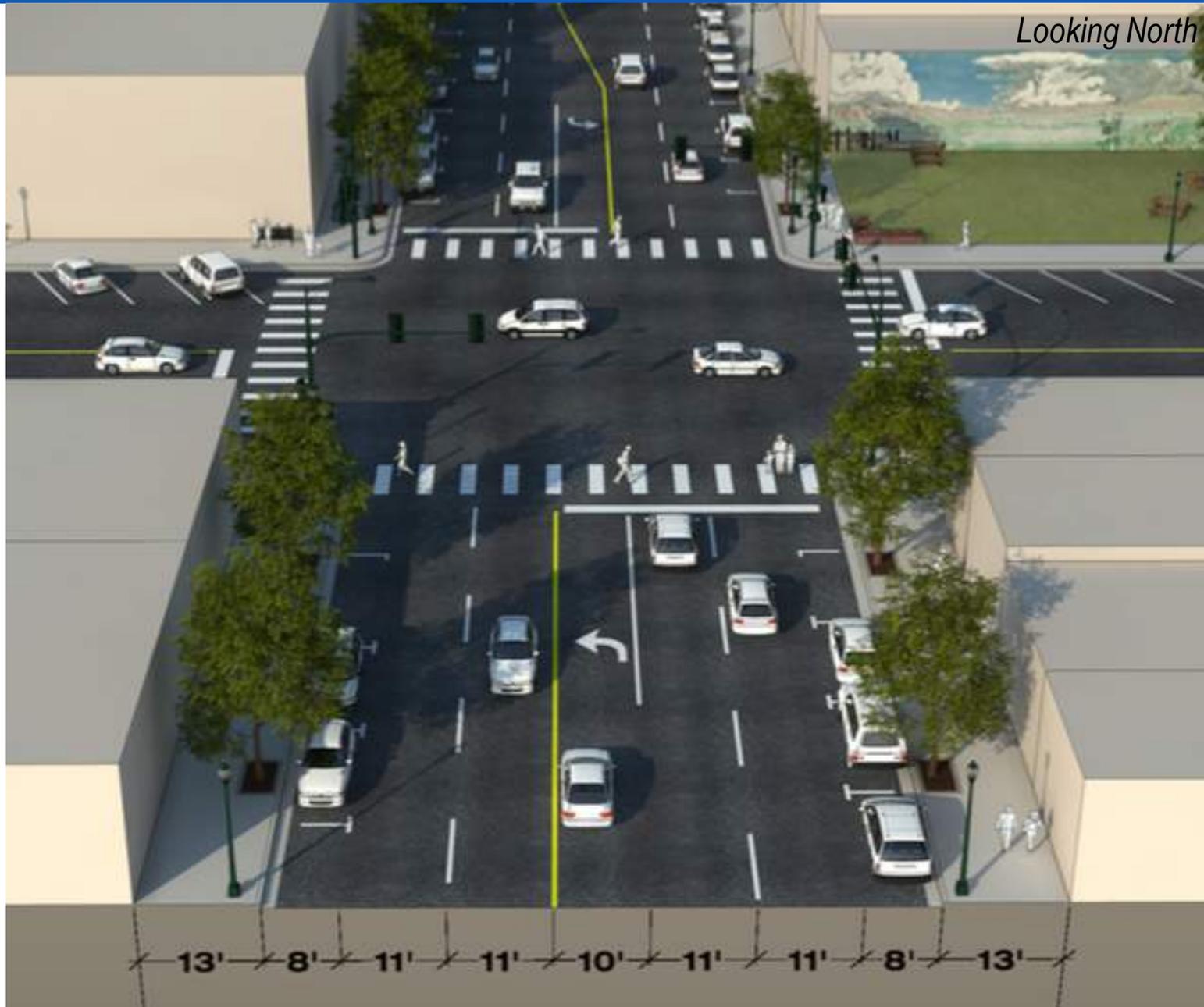
# OPTION #1: MEDIANS AND PARKLETS ON MAIN



# OPTION #2: PROTECTED BIKE LANES ON MAIN



# Main Corridor Existing



# Main Complete Street







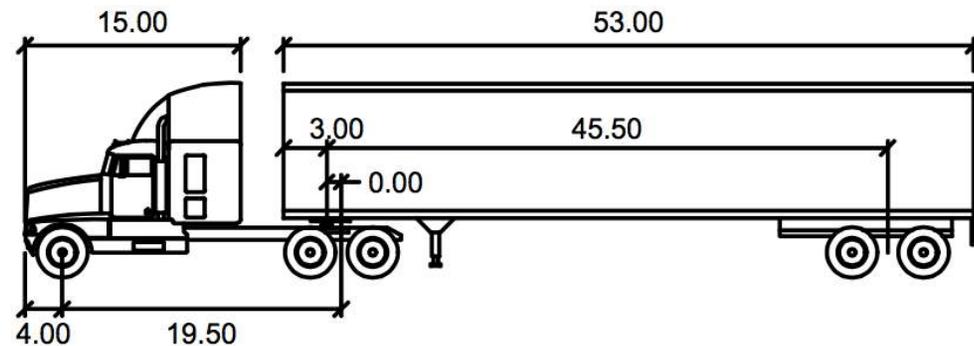
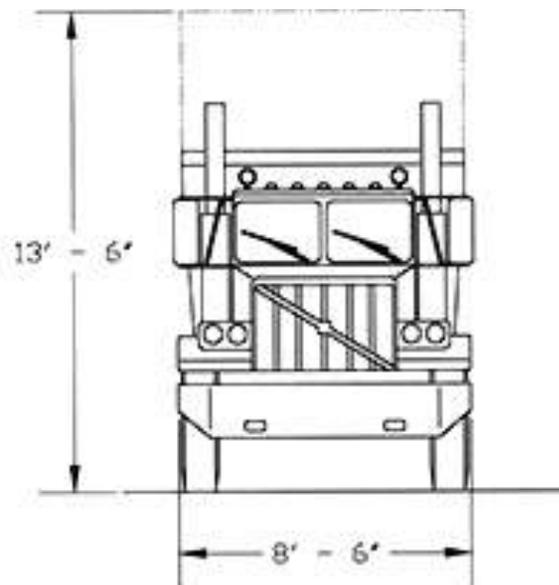
# 5 Frequently Asked Questions

M I G

FOX TUTTLE HERNANDEZ  
TRANSPORTATION GROUP

# #1 Accommodates Trucks

- Meets federal highway requirements with 11' travel lanes and large truck turn accommodation at intersections
  - Tomichi Ave has 600 daily trucks (8% of all traffic)
  - 85 truck turning video interactions observed
  - Truck traffic is mostly traveling in east-west direction
  - Most trucks turning at Main are less than 50' long



WB-67

Tractor Width  
Trailer Width  
Tractor Track  
Trailer Track

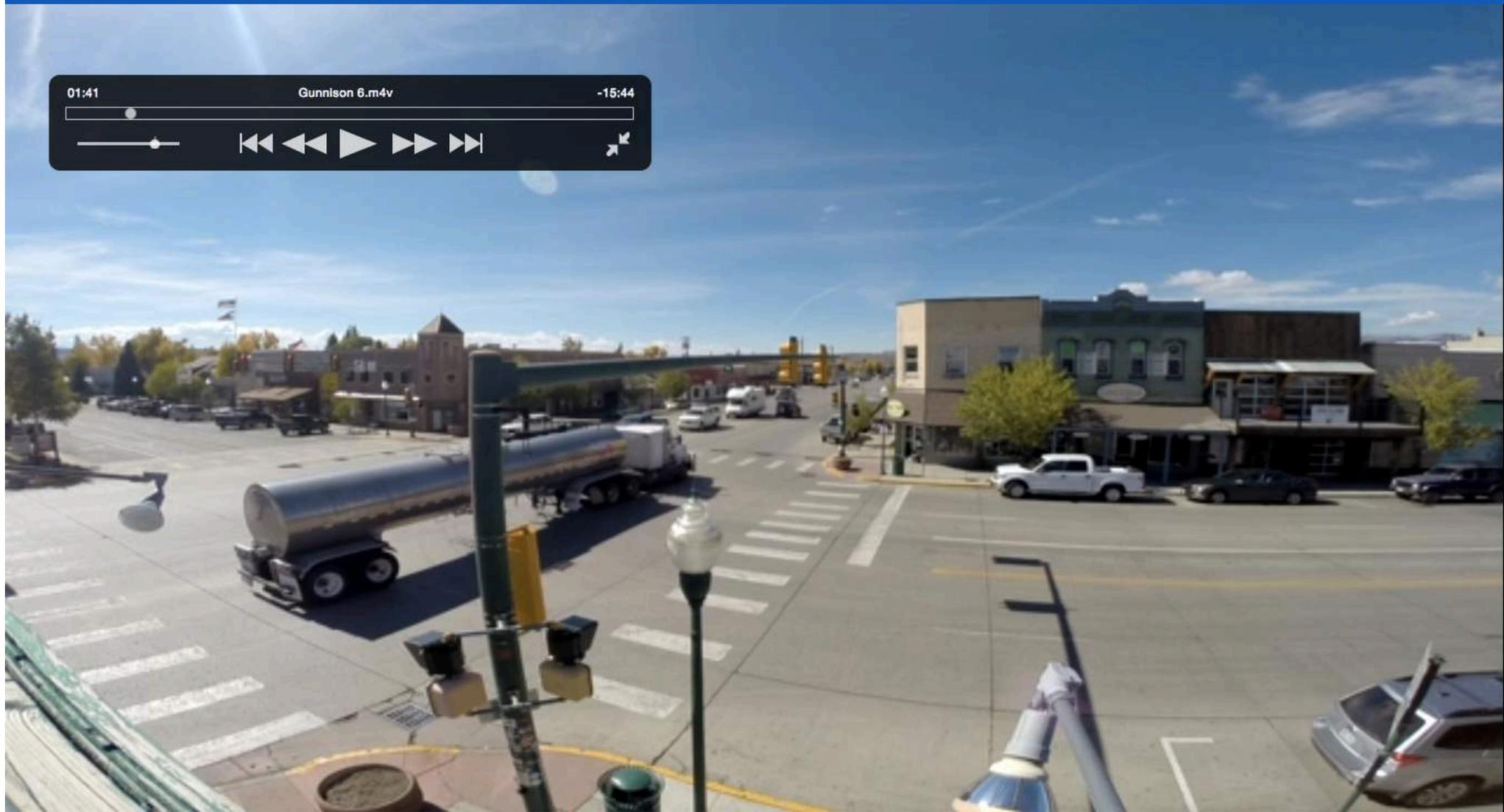
feet

: 8.00  
: 8.50  
: 8.00  
: 8.50

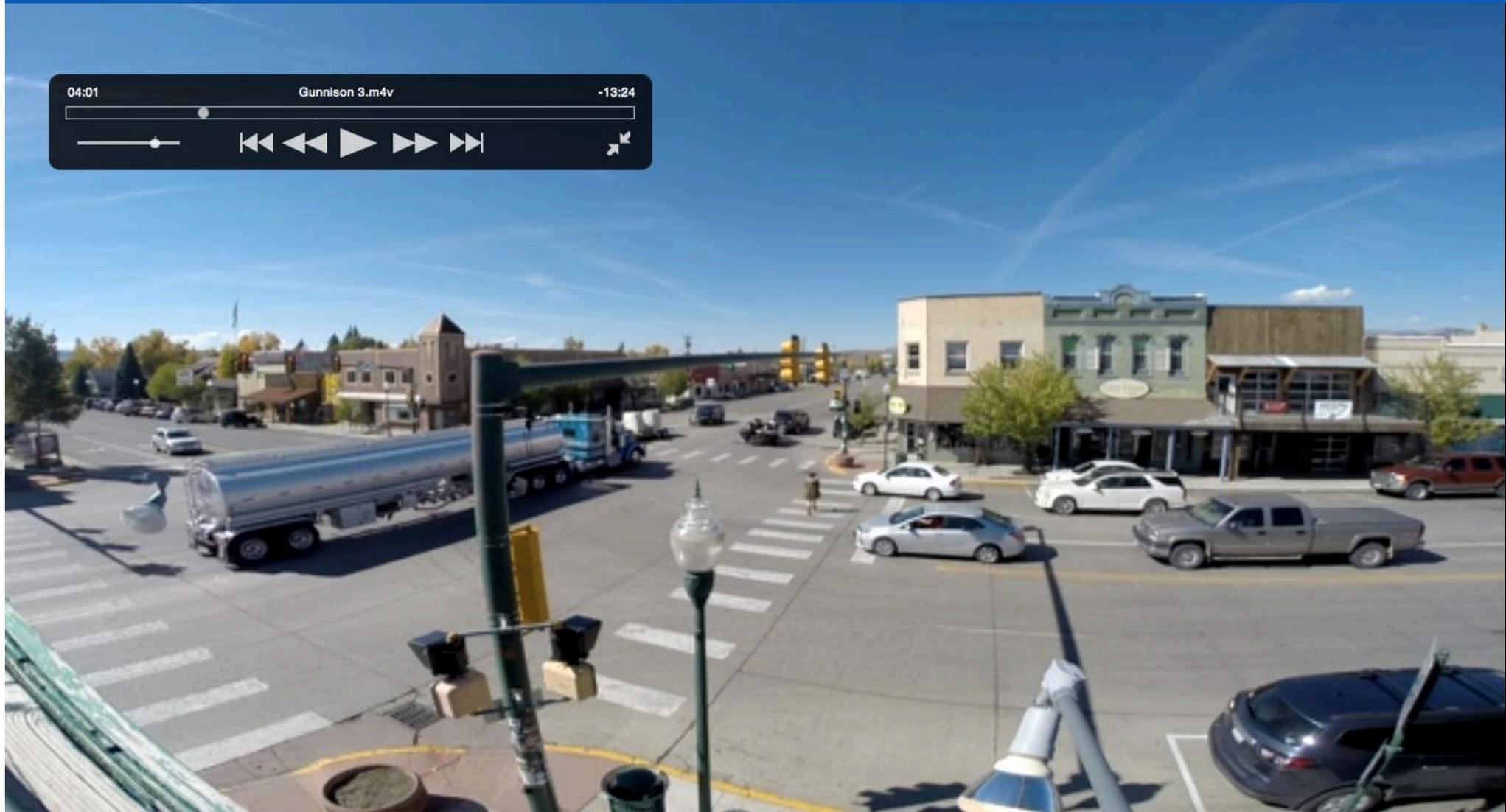
Lock to Lock Time  
Steering Angle  
Articulating Angle

: 6.0  
: 28.4  
: 75.0

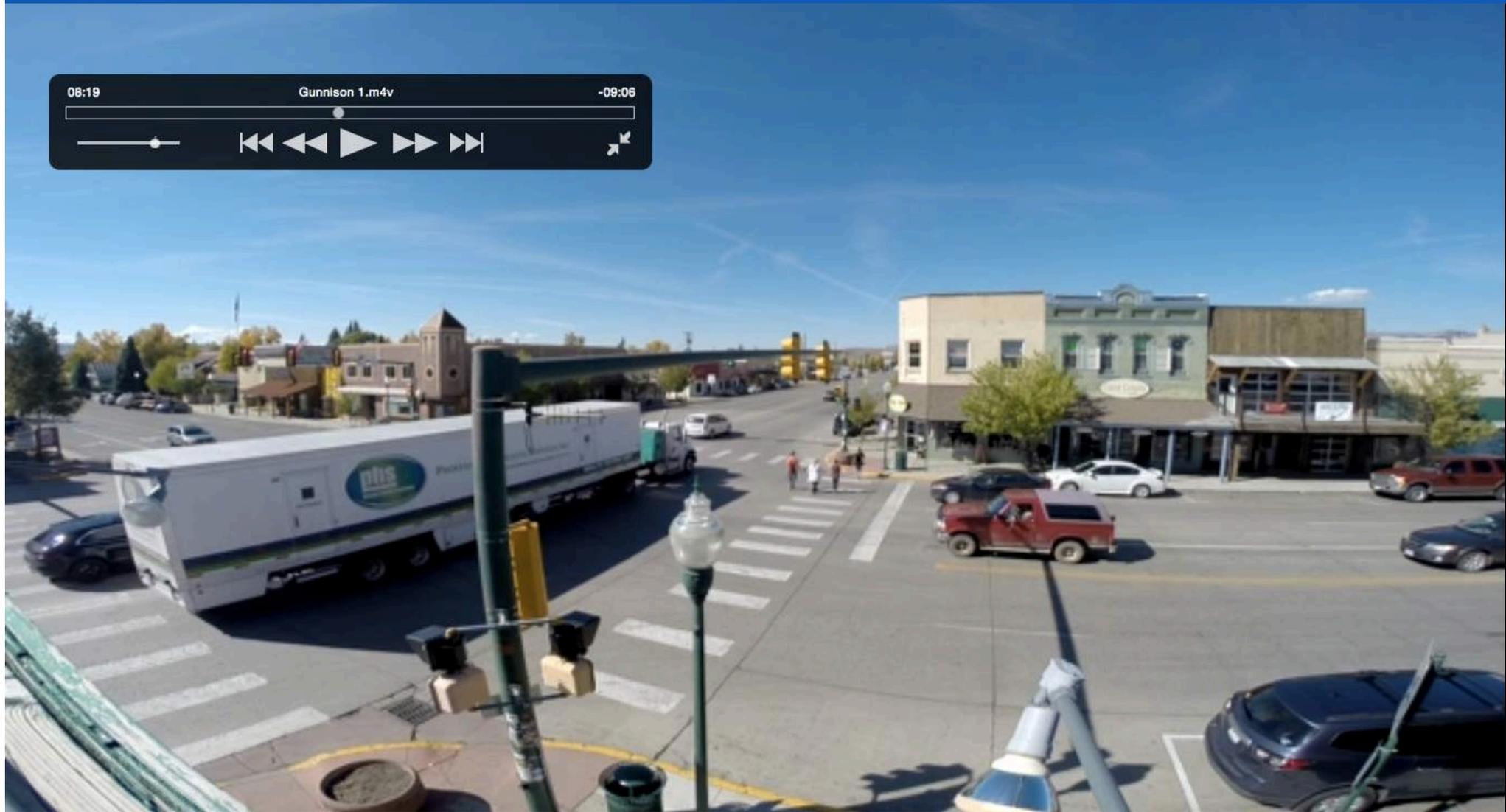
# #1 Accommodates Trucks



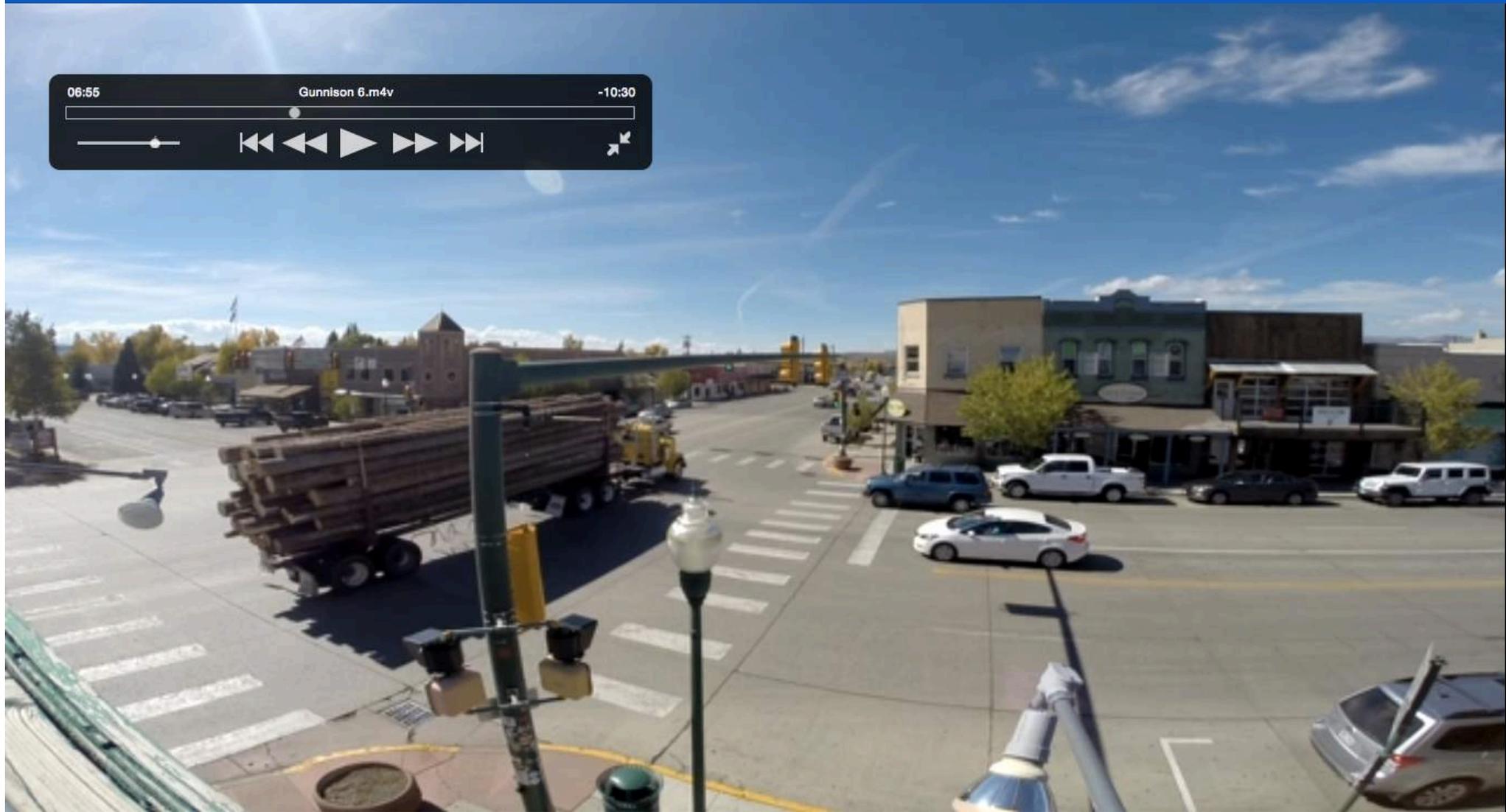
# #1 Accommodates Trucks



# #1 Accommodates Trucks



# #1 Accommodates Trucks



# #1 Accommodates Trucks



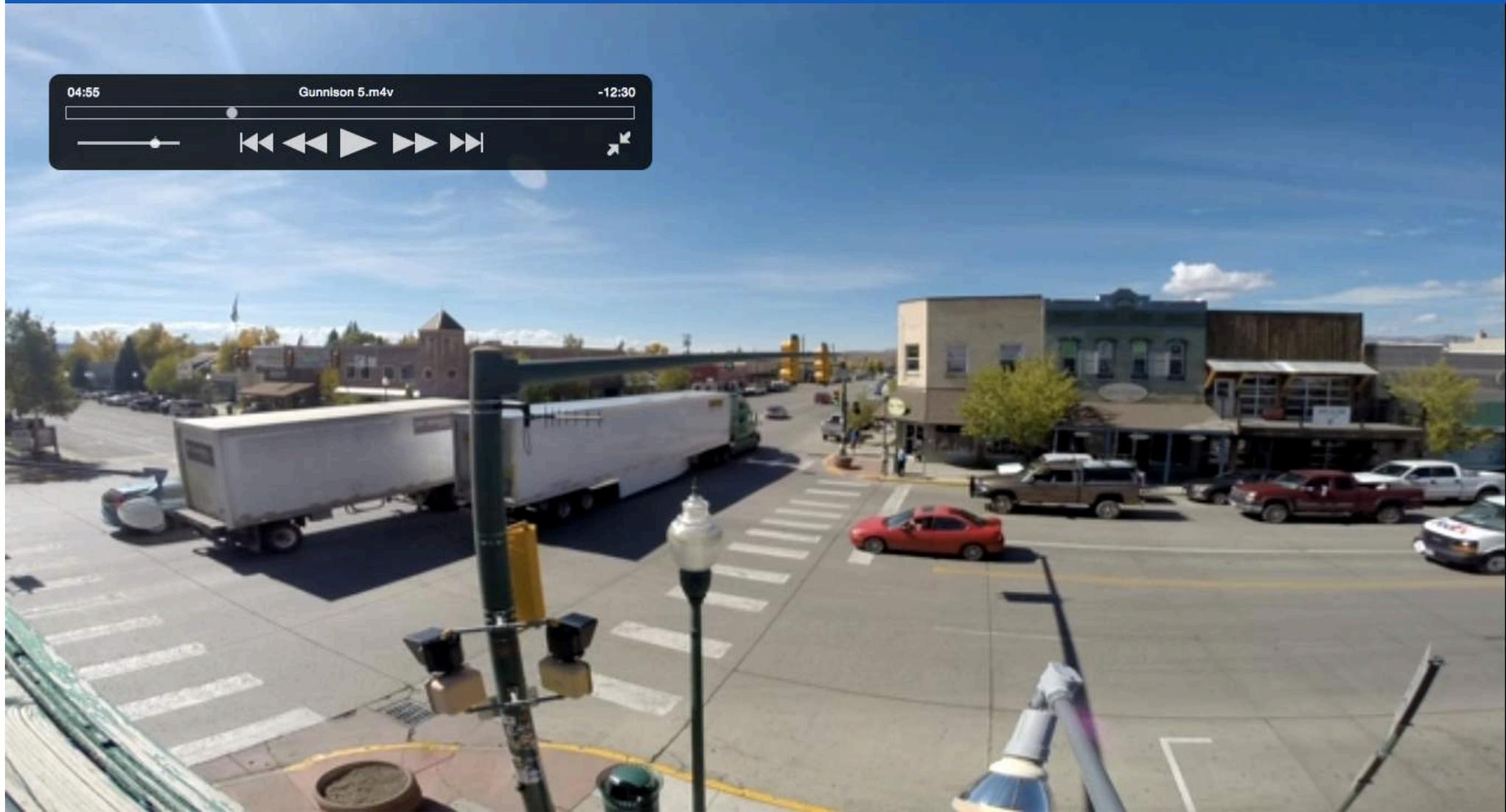
# #1 Accommodates Trucks



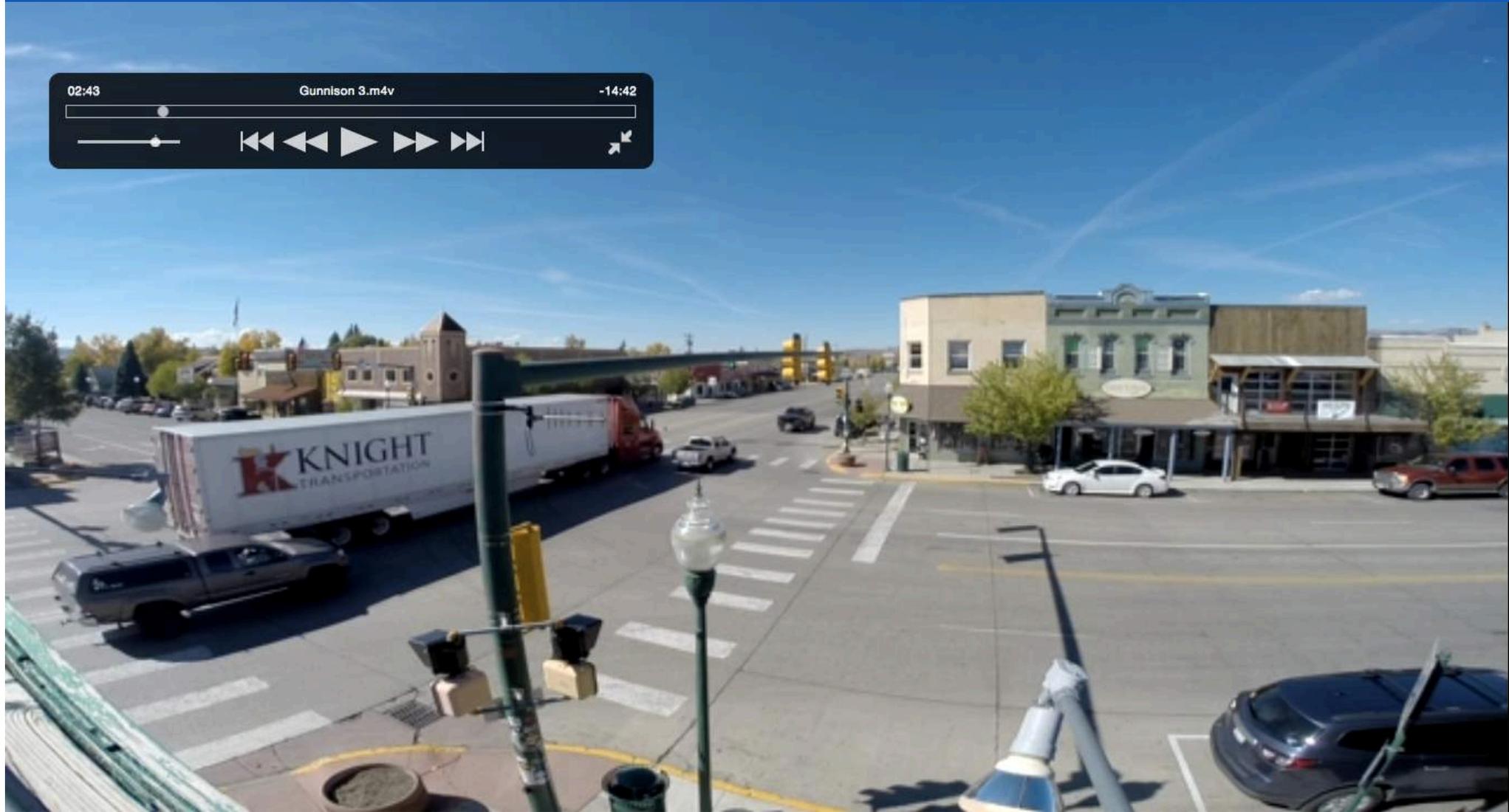
# #1 Accommodates Trucks



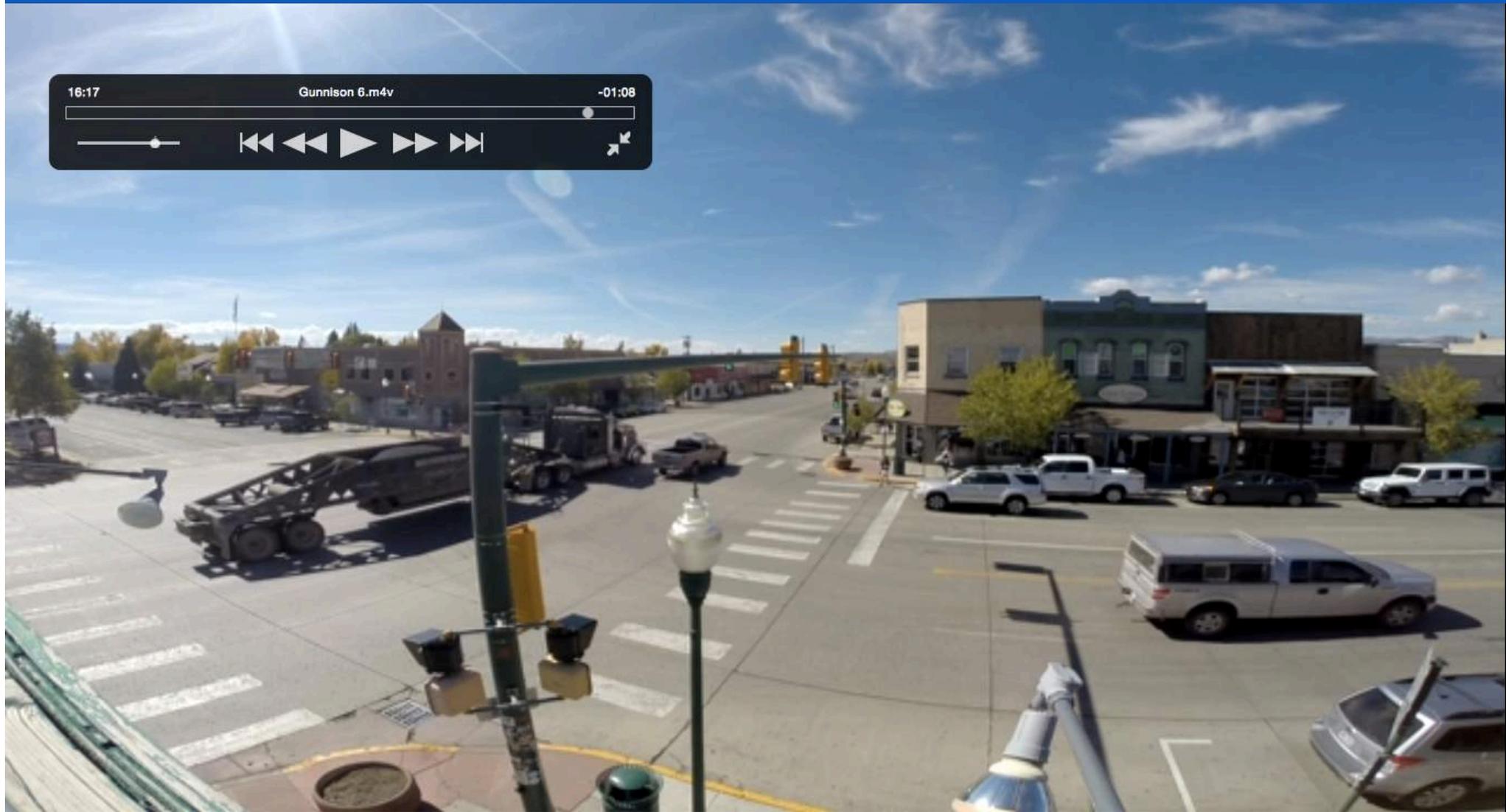
# #1 Accommodates Trucks



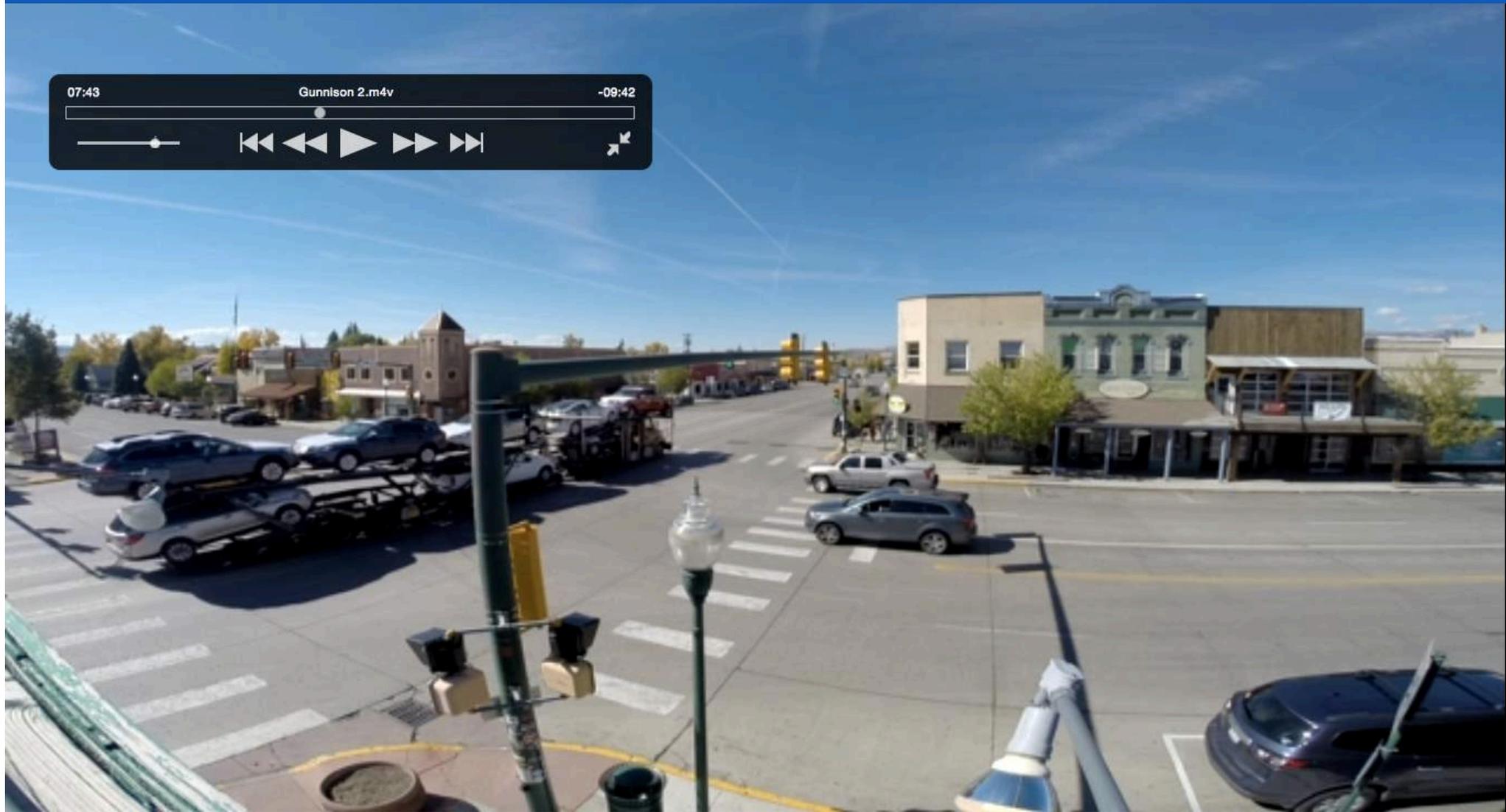
# #1 Accommodates Trucks



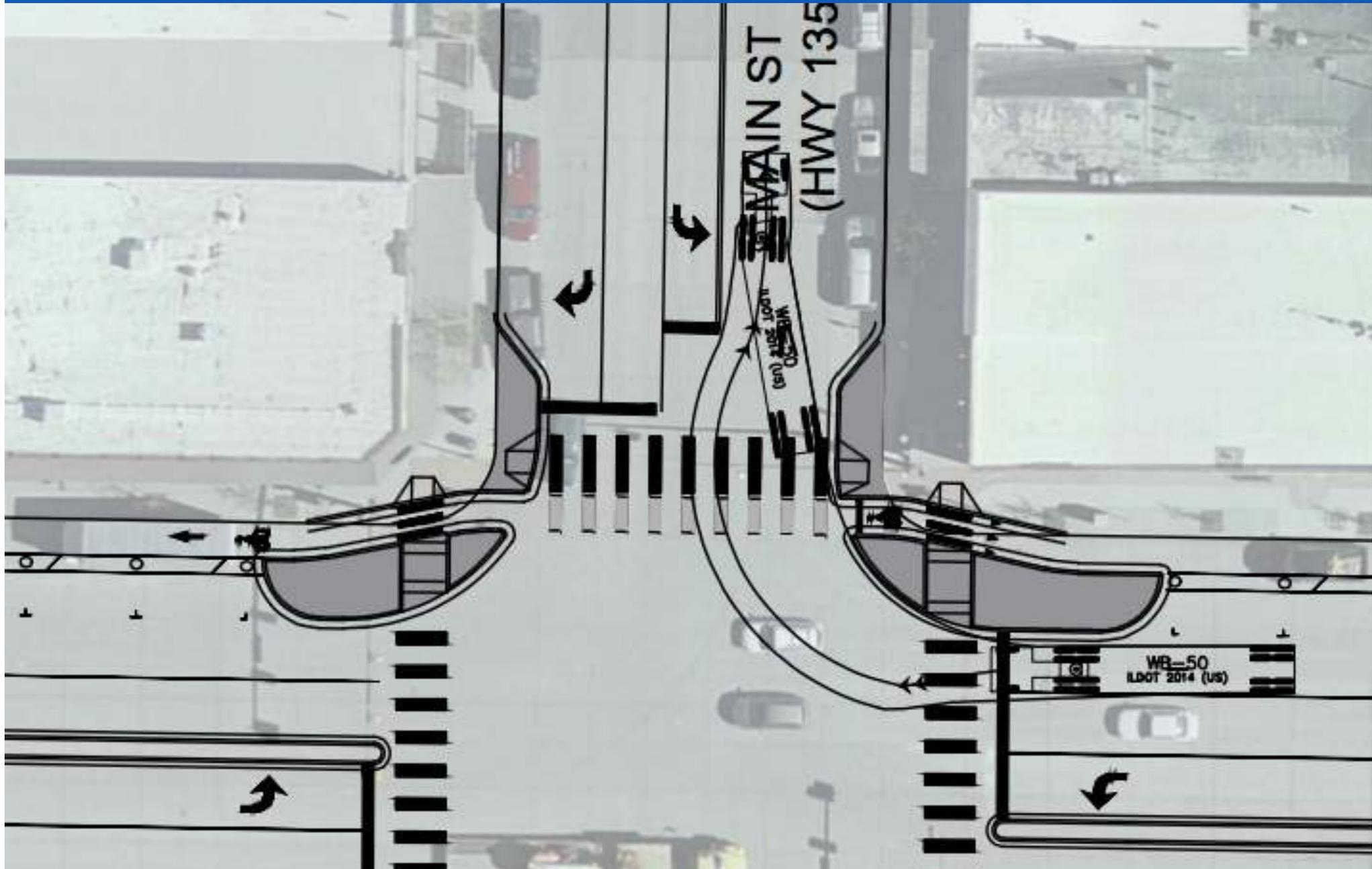
# #1 Accommodates Trucks



# #1 Accommodates Trucks



# #1 Accommodates Trucks



# #1 Accommodates Trucks



# #1 Accommodates Trucks



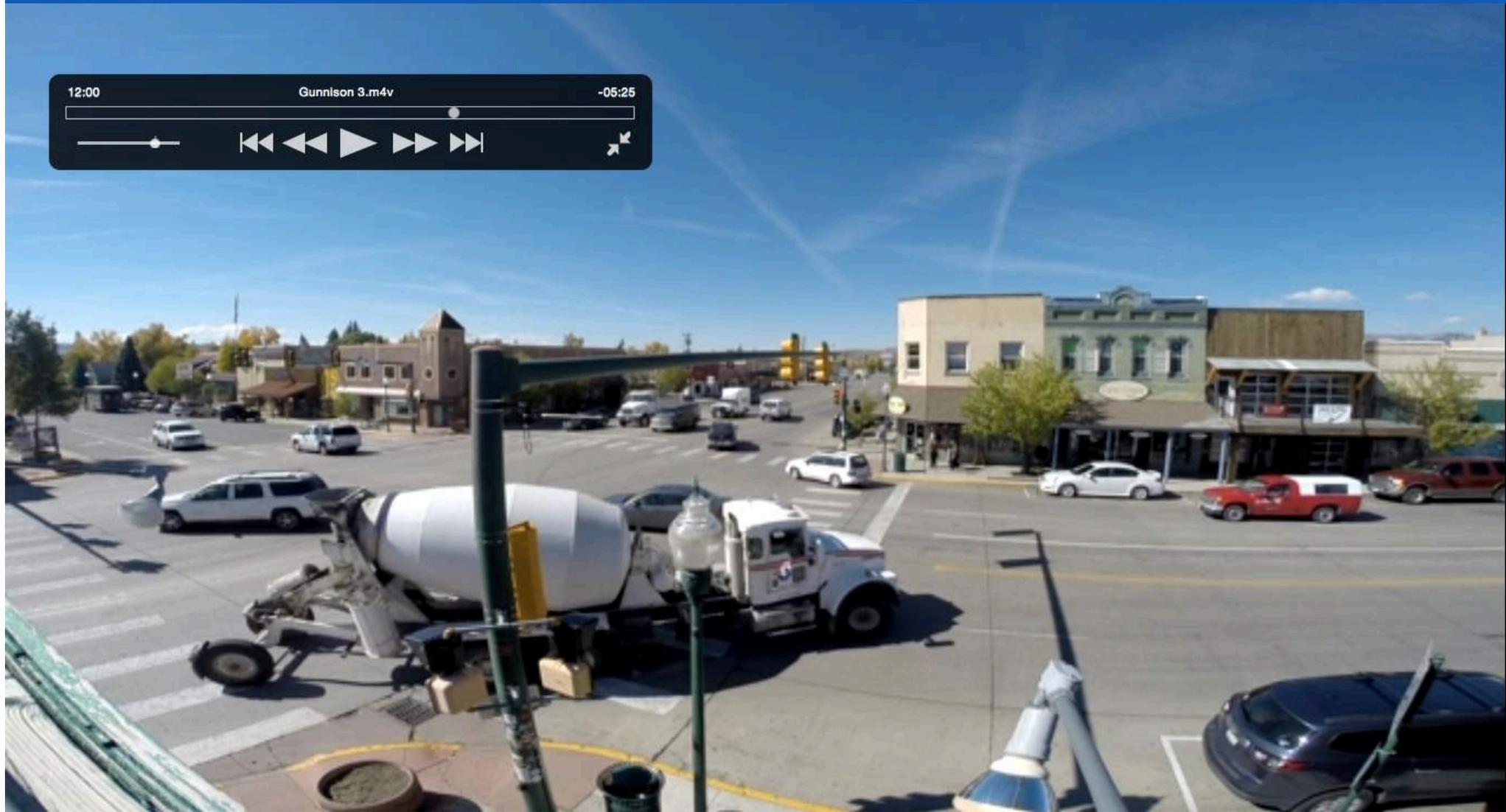
# #1 Accommodates Trucks



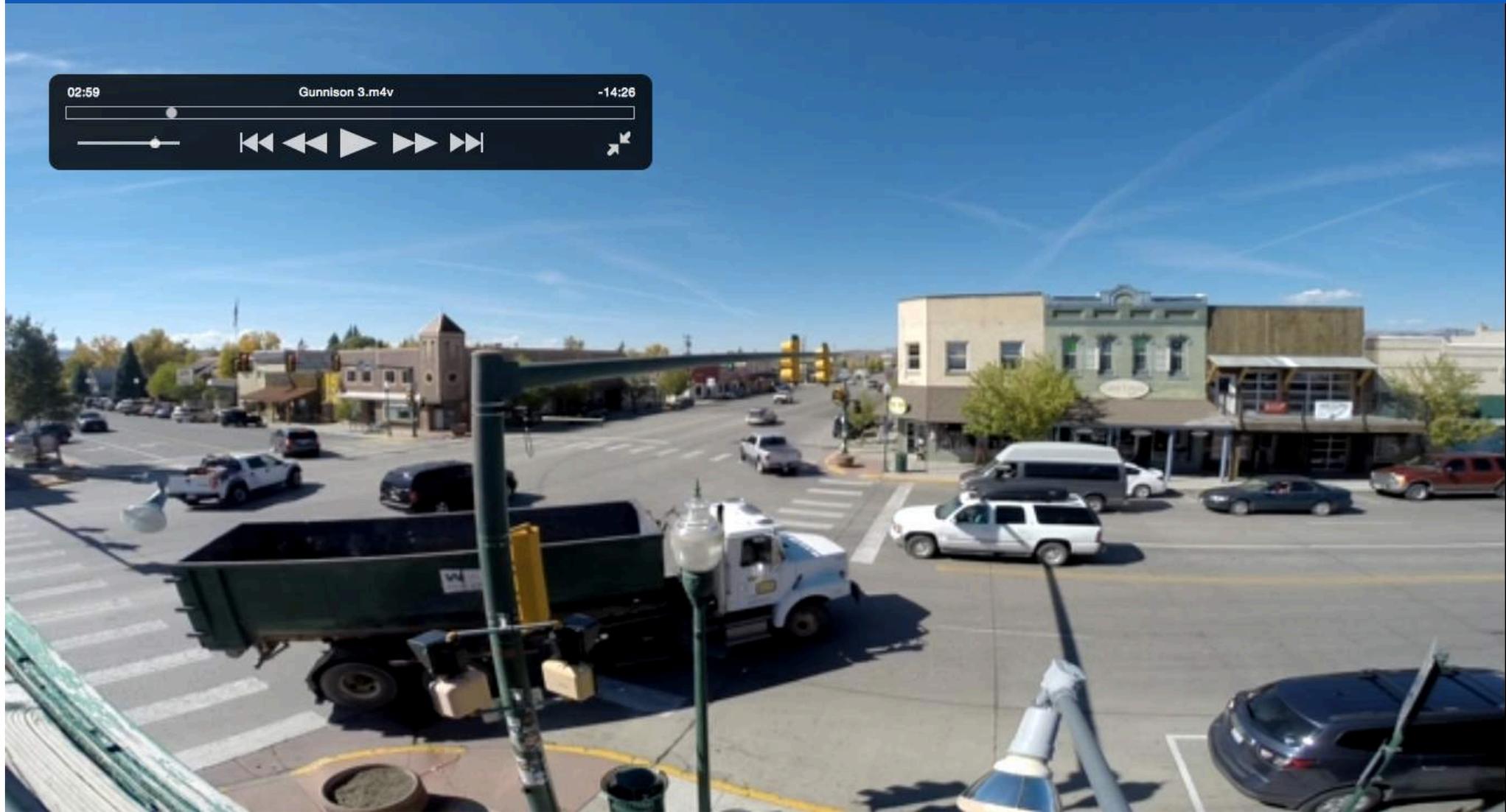
# #1 Accommodates Trucks



# #1 Accommodates Trucks



# #1 Accommodates Trucks



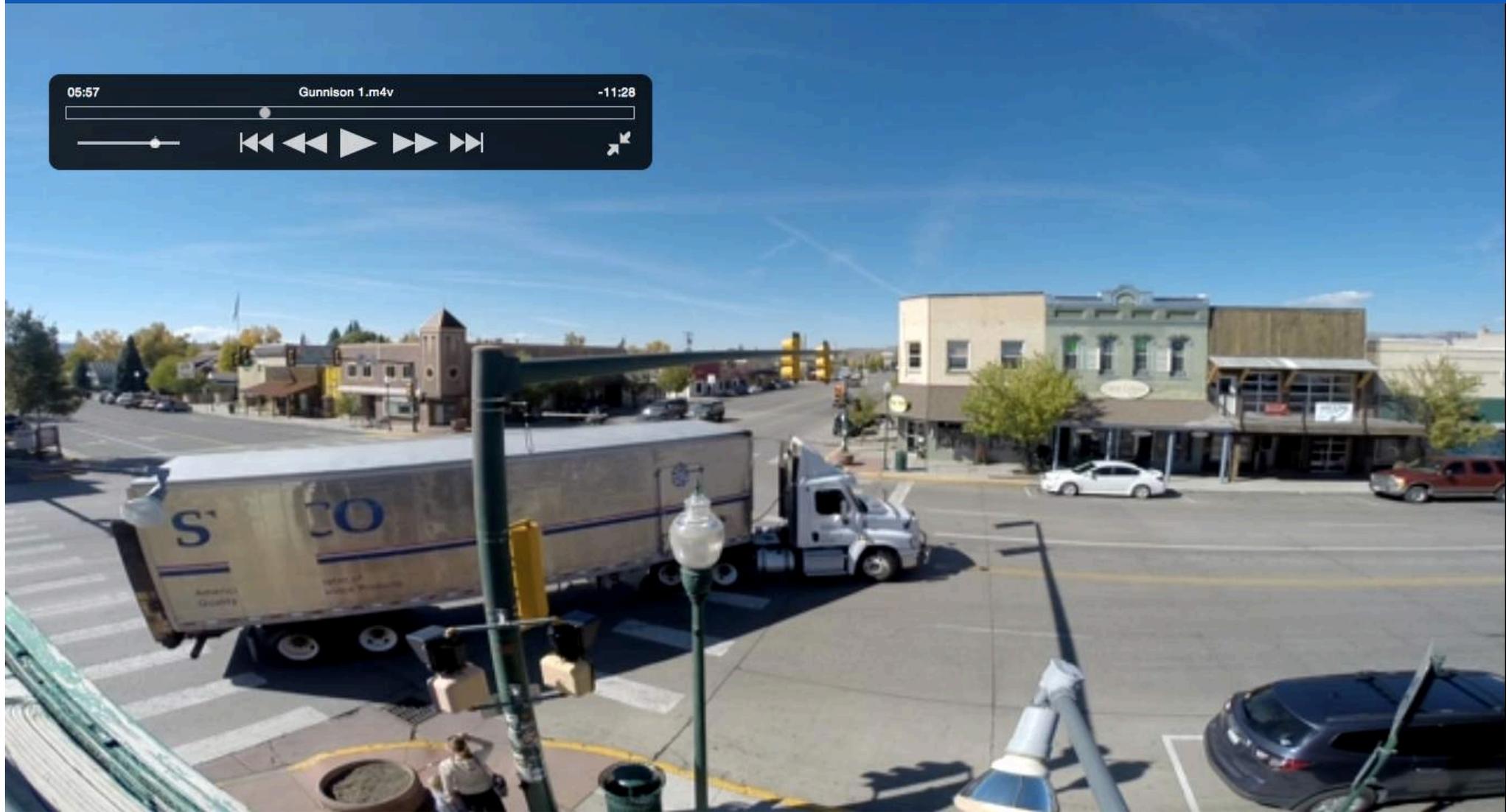
# #1 Accommodates Trucks



# #1 Accommodates Trucks



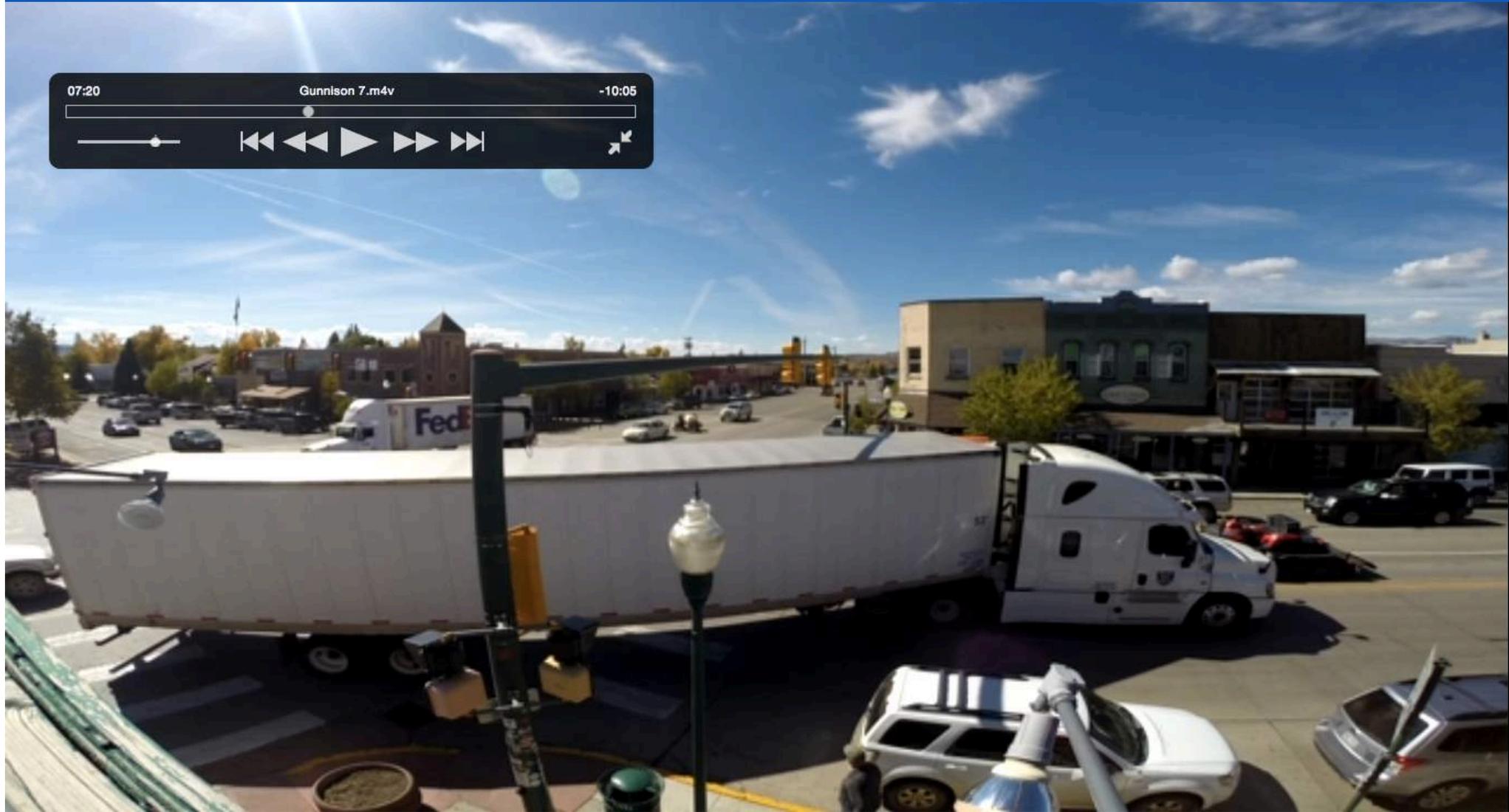
# #1 Accommodates Trucks



# #1 Accommodates Trucks



# #1 Accommodates Trucks



# #2 All designs can be plowed



# #2 All designs can be plowed



# #2 All designs can be plowed



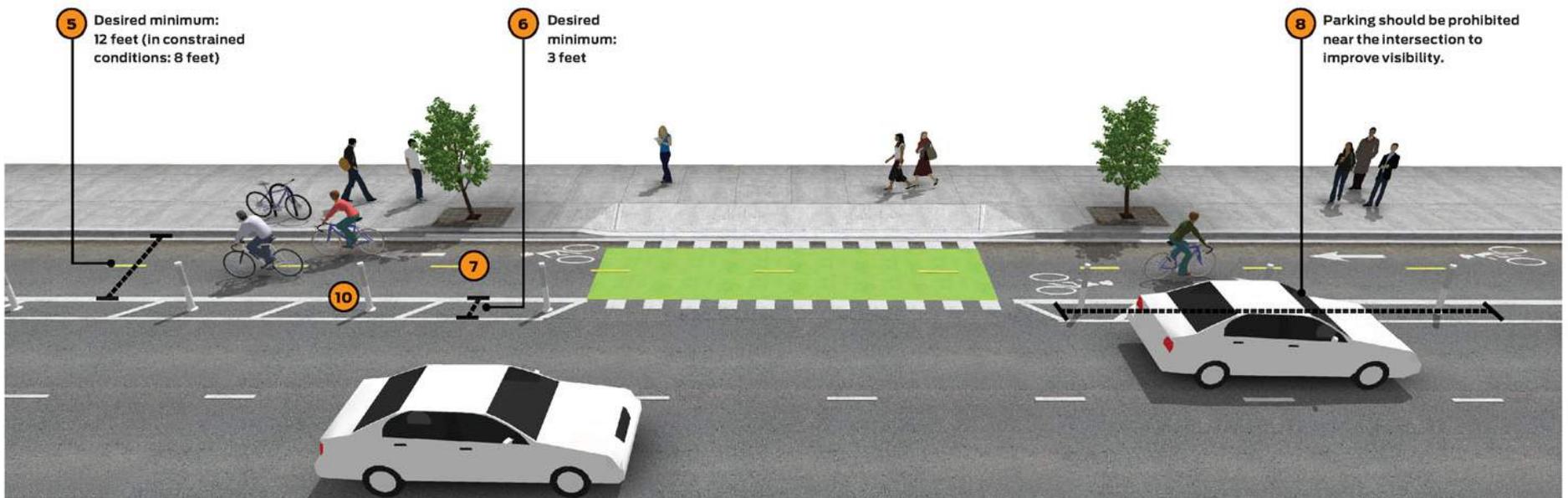
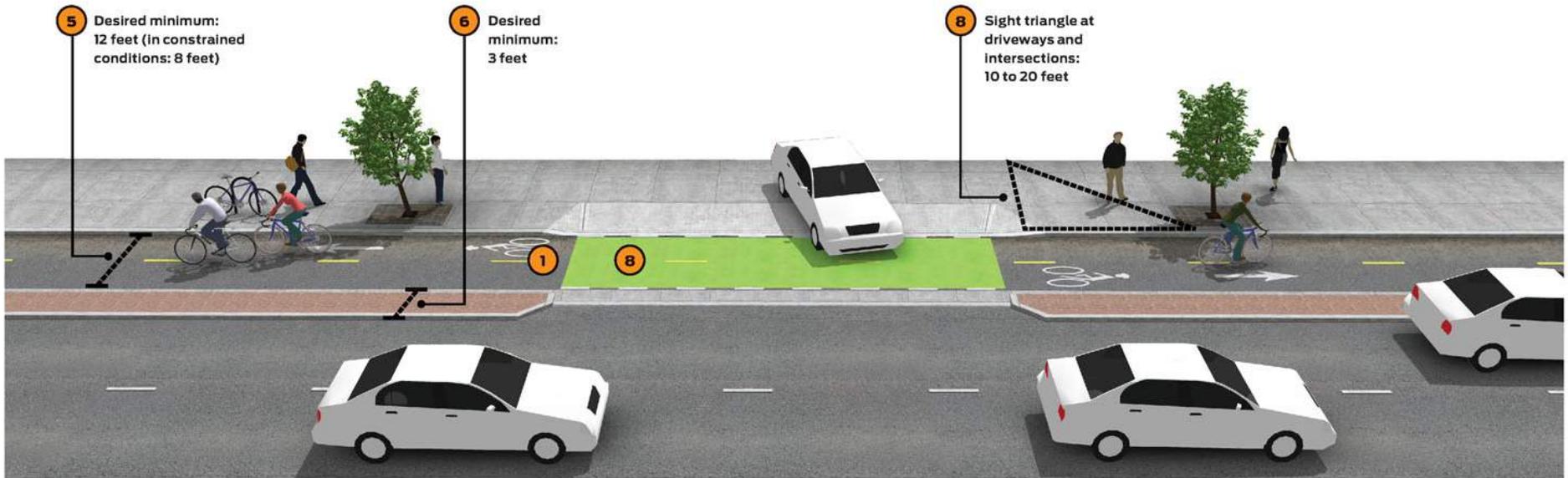
# #2 All designs can be plowed



# #2 All designs can be plowed



# #3 Parking changes for Safety



# #3 Parking changes for Safety

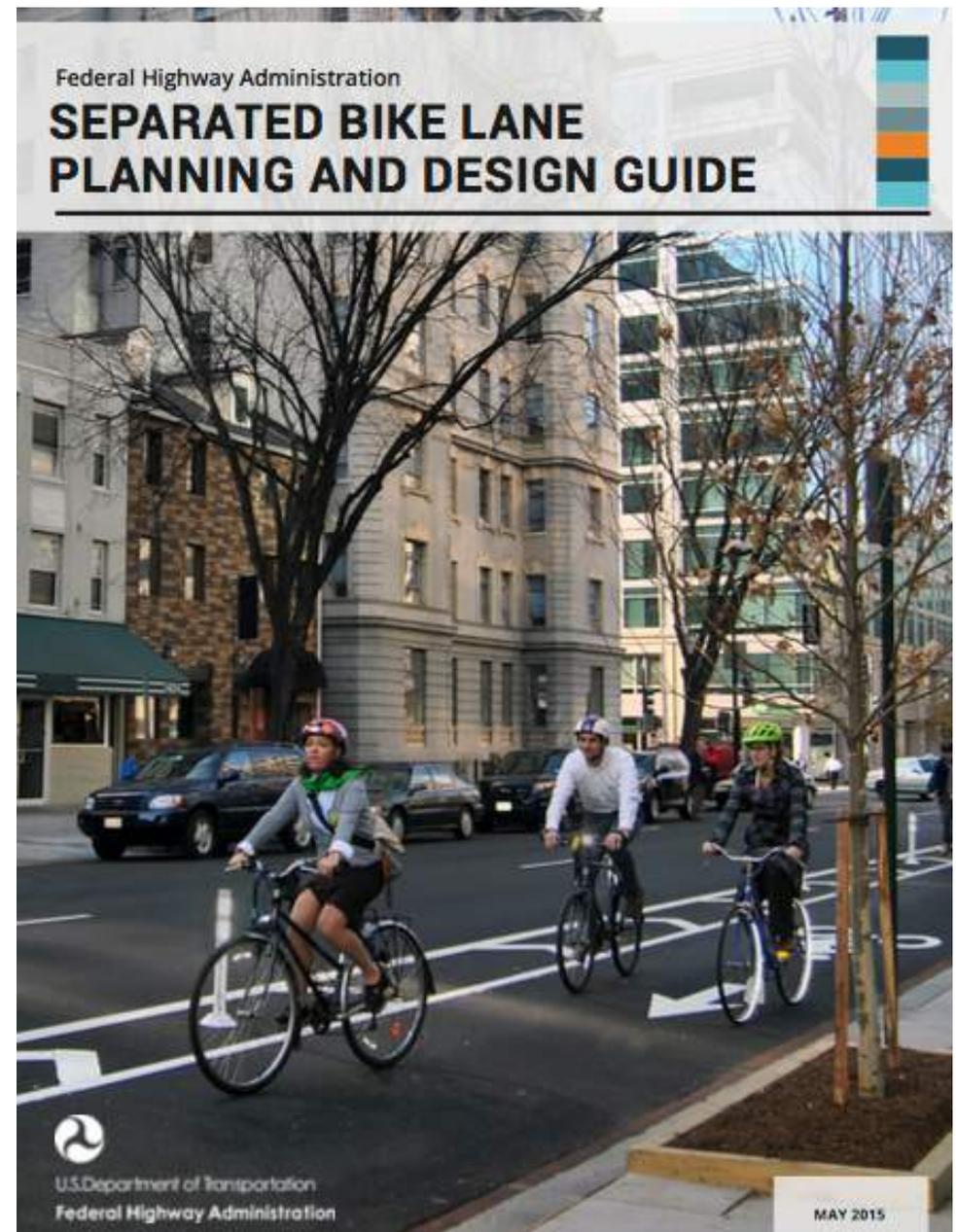
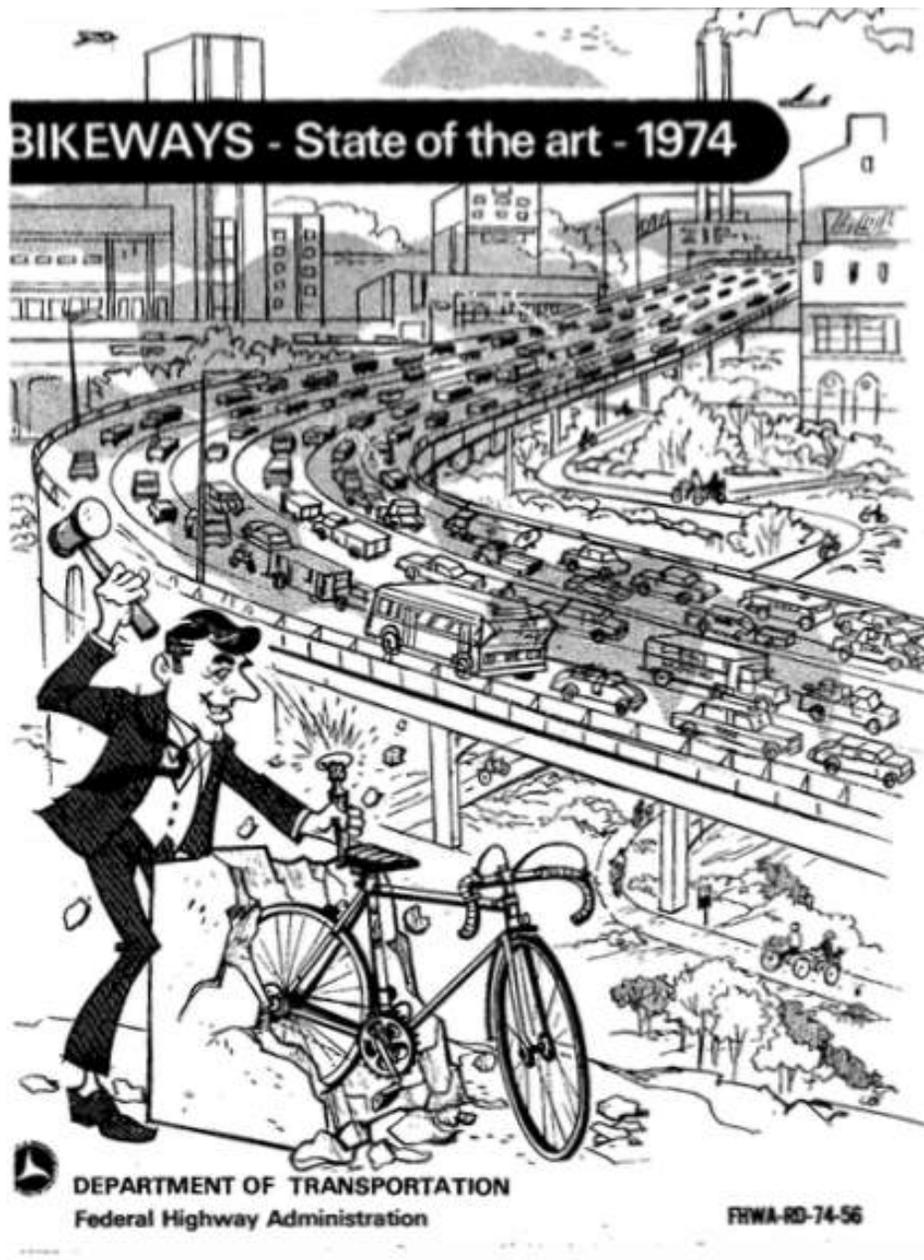


# #3 Parking changes for Safety

	Existing spaces In Tomichi Corridor	Existing spaces per block on Tomichi	Spaces Removed for Safety with Protected Bike Lanes (per block)	Spaces Removed for Safety with Protected Bike Lanes (corridor)
Tomichi On- street parking	226	17	- 5	- 73
Side-street parking	223	16	- 0	- 0
Off-street parking	730	52	-0	-0
<b>TOTALS</b>	<b>1,189</b>	<b>85</b>	<b>-5</b>	<b>-73*</b>

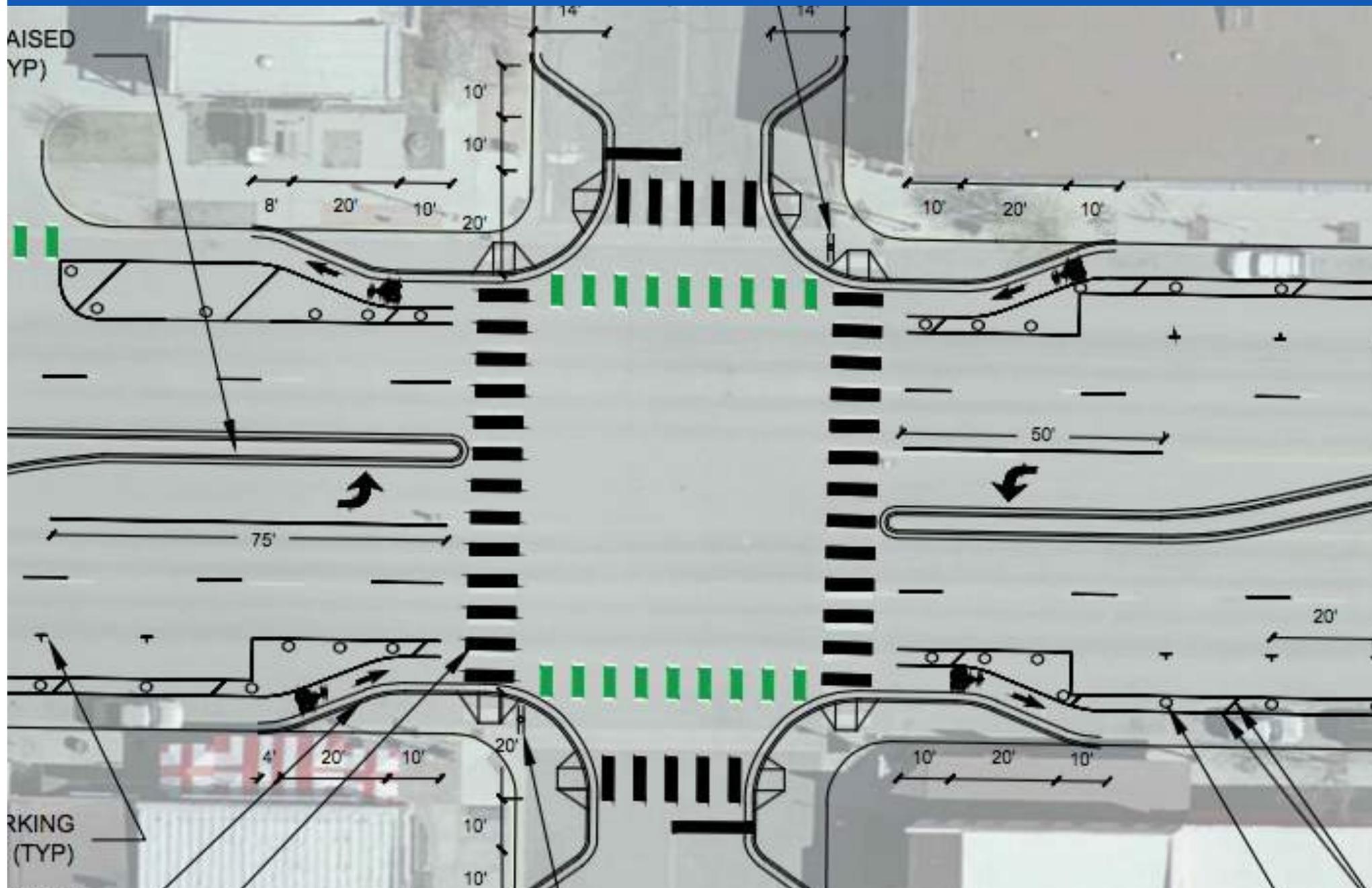
\*6% of the total corridor spaces

# #4 Meets FHWA/CDOT standards





# #4 Meets FHWA/CDOT standards



# #5 Safety/Education/Enforcement



SEATTLE-98-1

## WHERE DO I PARK?

**DON'T BLOCK THE BIKE LANE**

**DON'T BLOCK DRIVEWAYS**

**PARK TO THE LEFT OF THE BIKE LANE**

**SDOT**  
Seattle Department of Transportation

[www.seattle.gov/transportation/broadwaypbl.htm](http://www.seattle.gov/transportation/broadwaypbl.htm)

# #5 Safety/Education/Enforcement

**WHETHER YOU'RE WALKING, BICYCLING, OR DRIVING, ALWAYS FOLLOW TRAFFIC LAWS.**



## WHEN YOU ARE WALKING:

- **1** Don't block or stand in the cycle track
- **2** Don't walk along in the cycle track
- **3** Watch for people on bicycles before crossing the cycle track, even if you have the right-of-way
- Cross street only on walk signal; otherwise, people on bicycles likely have a green light and right-of-way

## WHEN YOU ARE BICYCLING:

- **3** Watch for people walking, especially at intersections
- **4** Yield to people walking at unsignaled crosswalks
- **5** Watch for people exiting parked cars
- **6** Watch for crossing vehicle traffic at intersections, even if you have the right-of-way
- Give an audible signal when passing other people on bicycles, and pass only on the left
- Signal your intentions
- **7 TWO-STAGE TURN QUEUES**  
Use the boxes when you want to turn left (maneuver is optional)  
Upon reaching the green box, position yourself and your bicycle in the box facing

## WHEN YOU ARE DRIVING:

- **5** Watch for people on bicycles before opening your door
- Park only in designated spaces outside of the cycle track
- **6** When turning, yield to people walking and bicycling
- Signal your intentions
- **7 TWO-STAGE TURN QUEUES**  
Stay behind the green box while waiting at the red light  
If someone bicycling enters into the box, they have priority at the intersection  
When the light turns green, wait until you cross the intersection to pass any bicycle traffic, and then do so only when safe
- **8** When approaching two-way cycle tracks





# Gunnison Complete Streets

M I G

FOX TUTTLE HERNANDEZ  
TRANSPORTATION GROUP



May 26<sup>th</sup>, 2016

Community Workshop #3 Summary

# Workshop #3 By The Numbers

- 221 workshop participants
- 635 written comments on Tomichi design
- 178 polling ballots on Tomichi design
- 518 polling dots on Main Street Design
- 86 comments on Main Street Design





Workshop #3 Presentation



Workshop #3 Comment Stations



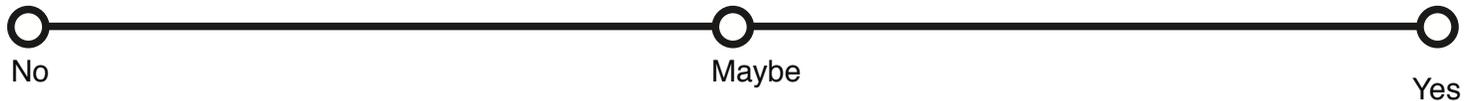
Workshop #3 Comment Stations

# Tomichi Complete Street Polling

*Statement #1: I participated in a prior workshop.*



*Statement #2: I support the installation of the Tomichi Complete Street Project.*



***If No or Maybe:*** *I would be willing to support it with some minor changes.*



***If Yes:*** *I would be willing to sign the letter of support to the CDOT director.*



*Statement #3: This project will improve the quality of life in Gunnison.*

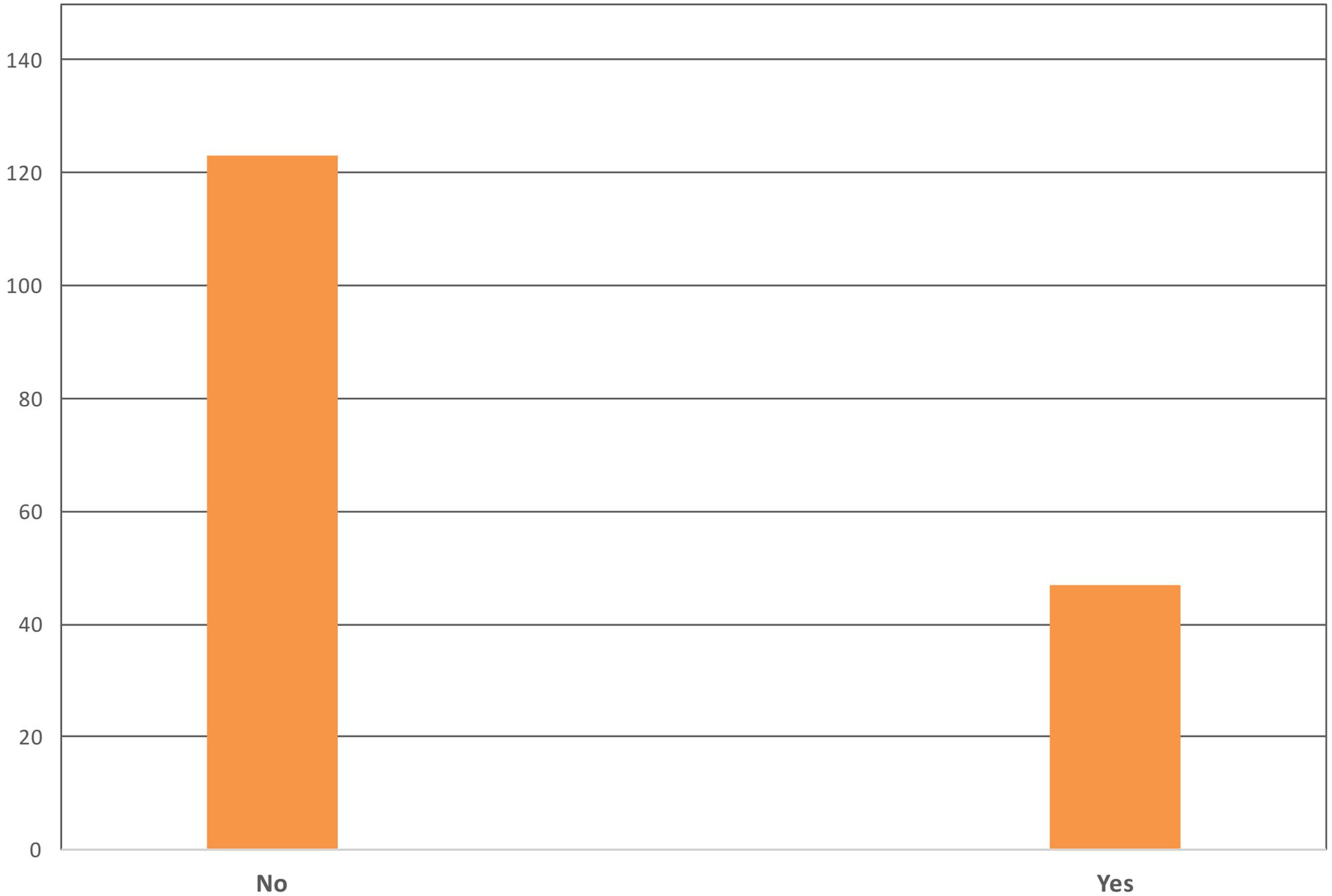


*Statement #4: This project should be implemented ASAP with CDOT funding.*

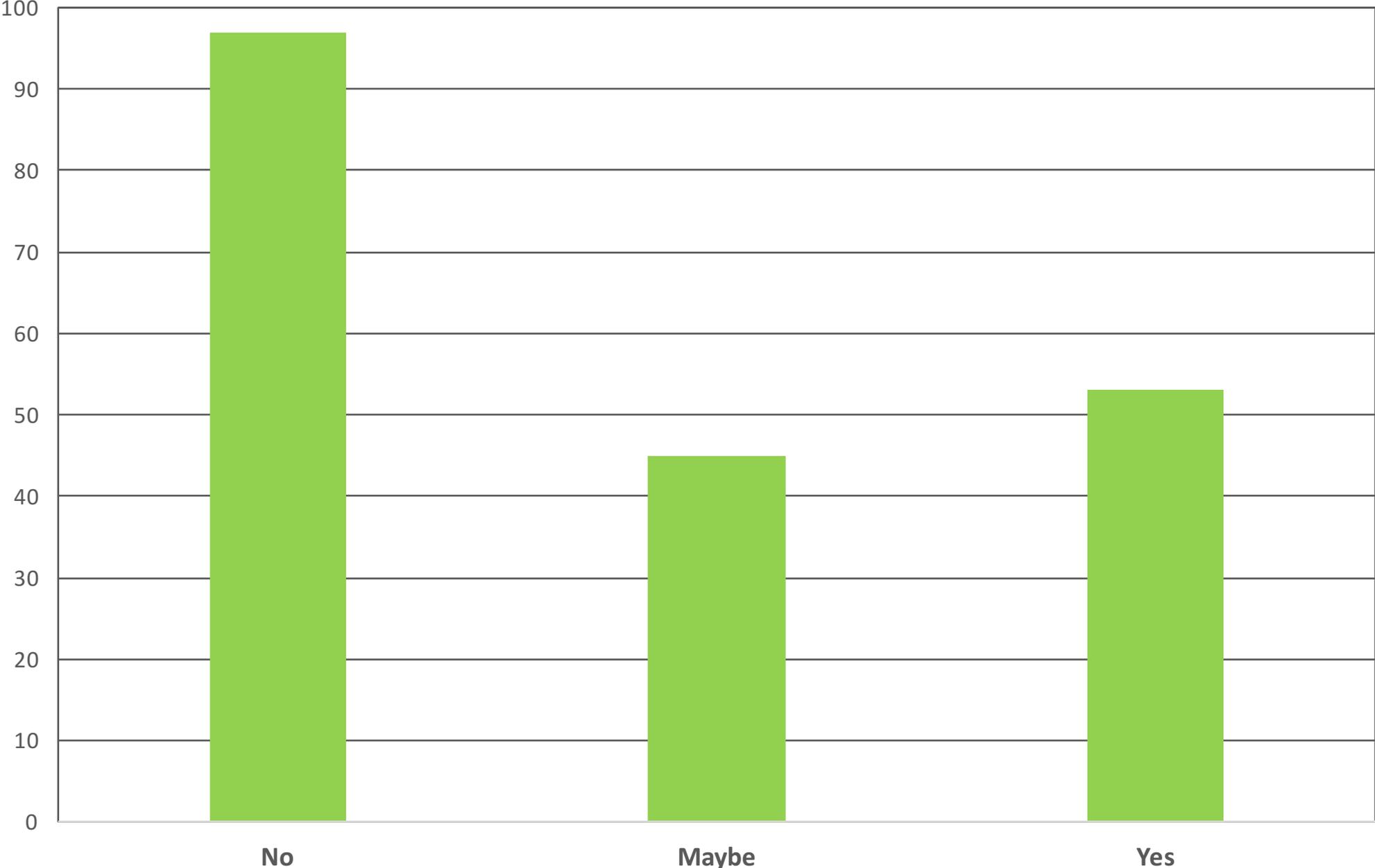


*Comments or Proposed Changes Below:*

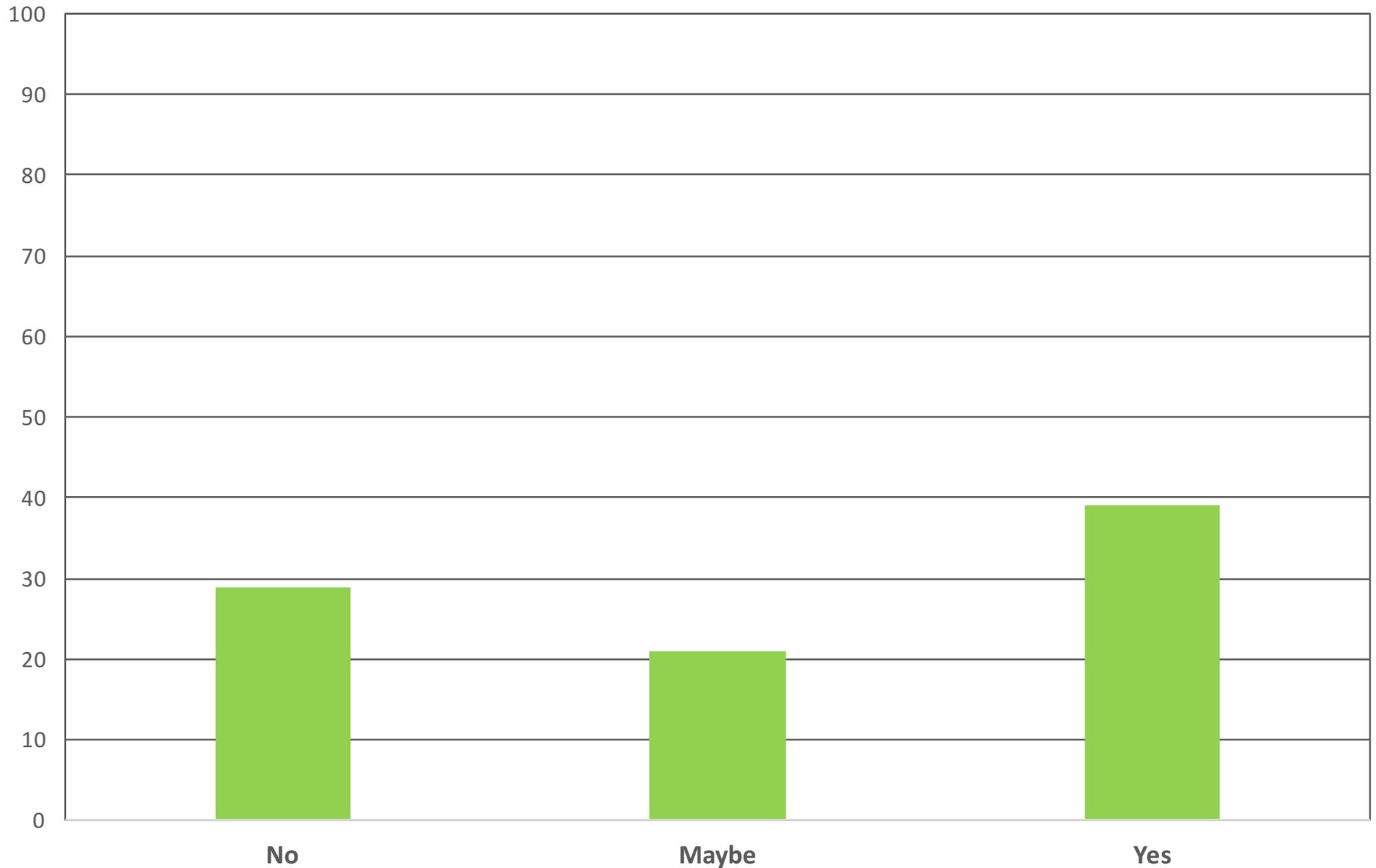
# 1. I participated in a prior workshop



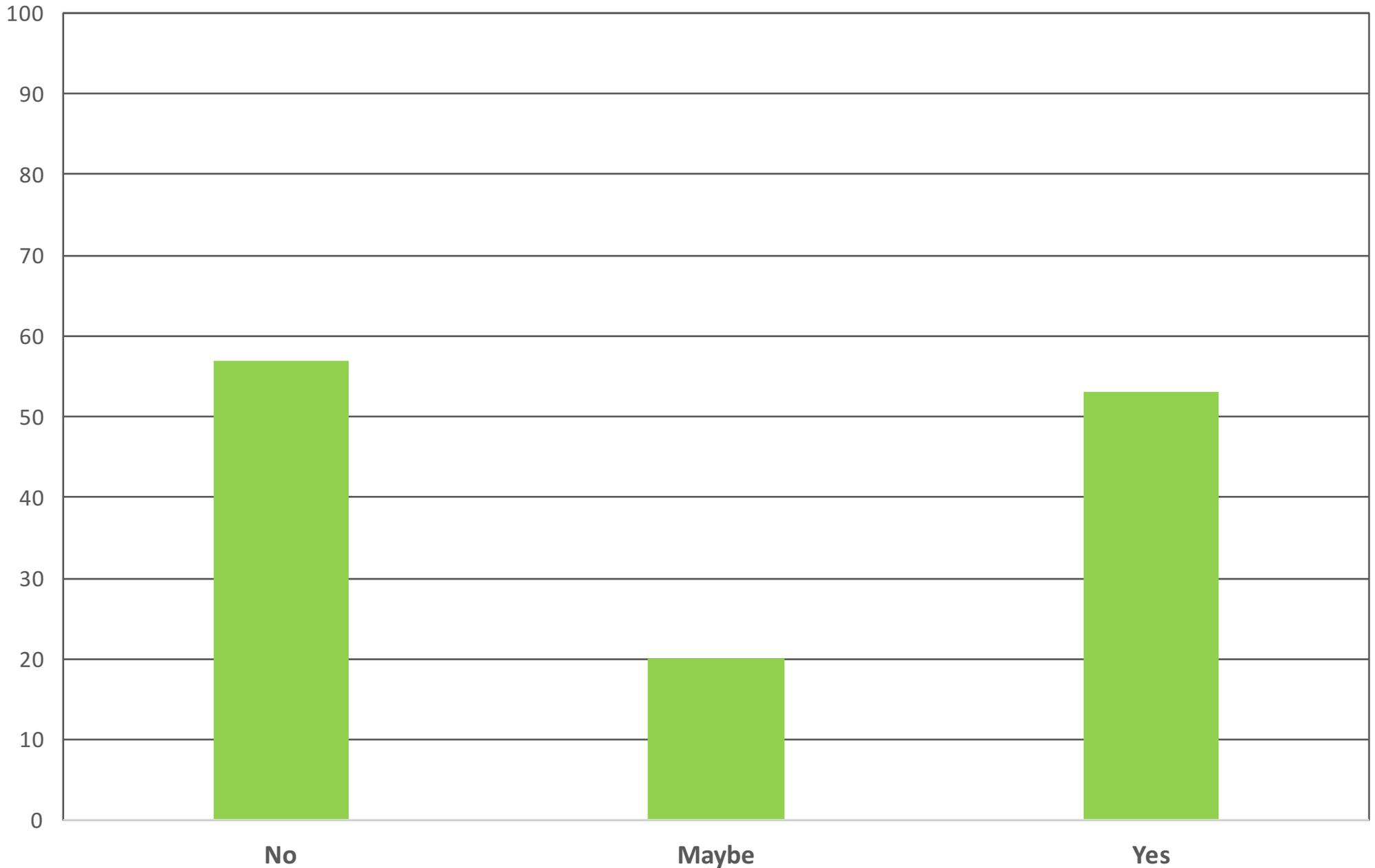
# 2. I support the installation of the Tomichi Complete Street Project



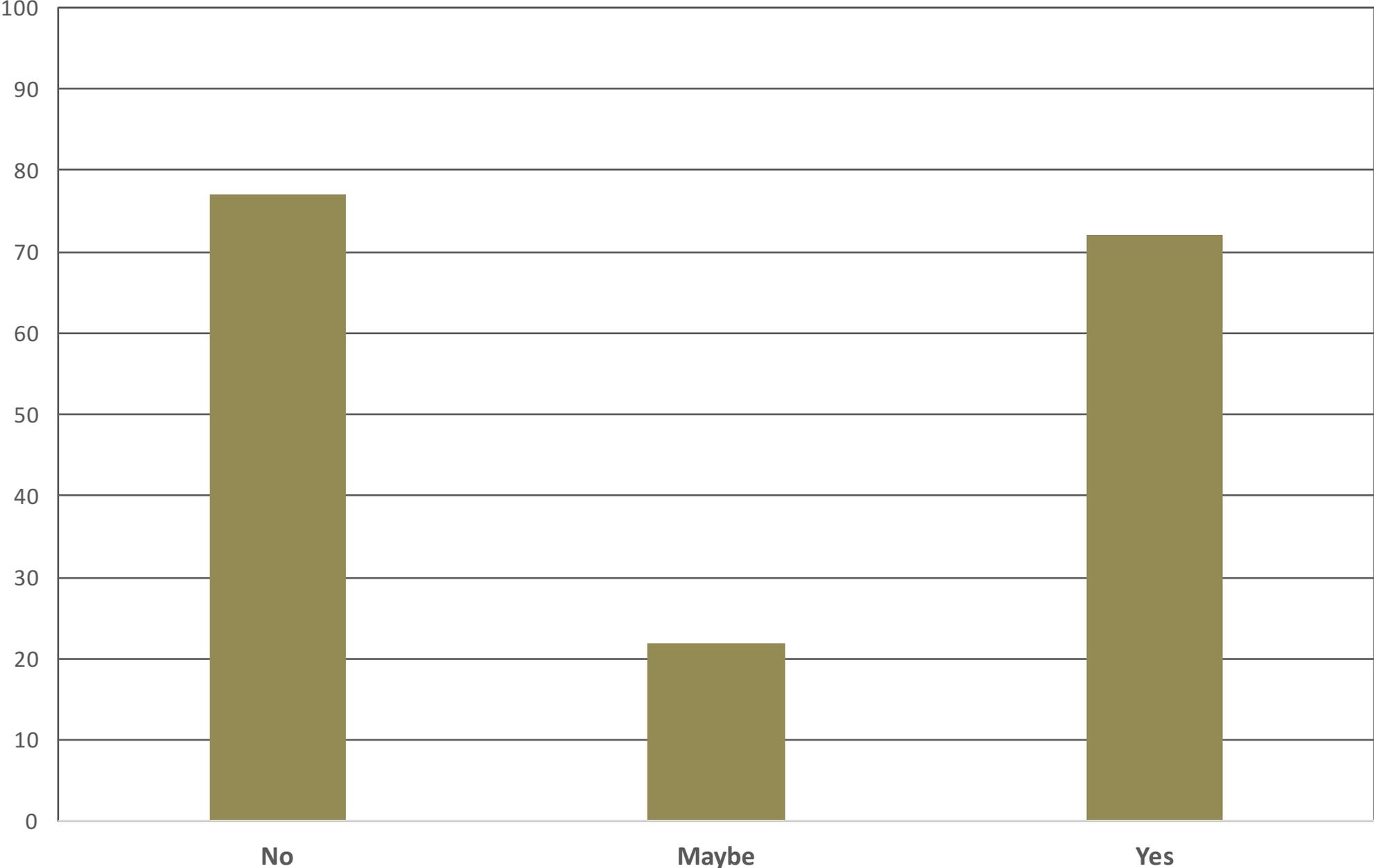
# I would be willing to support it with minor changes



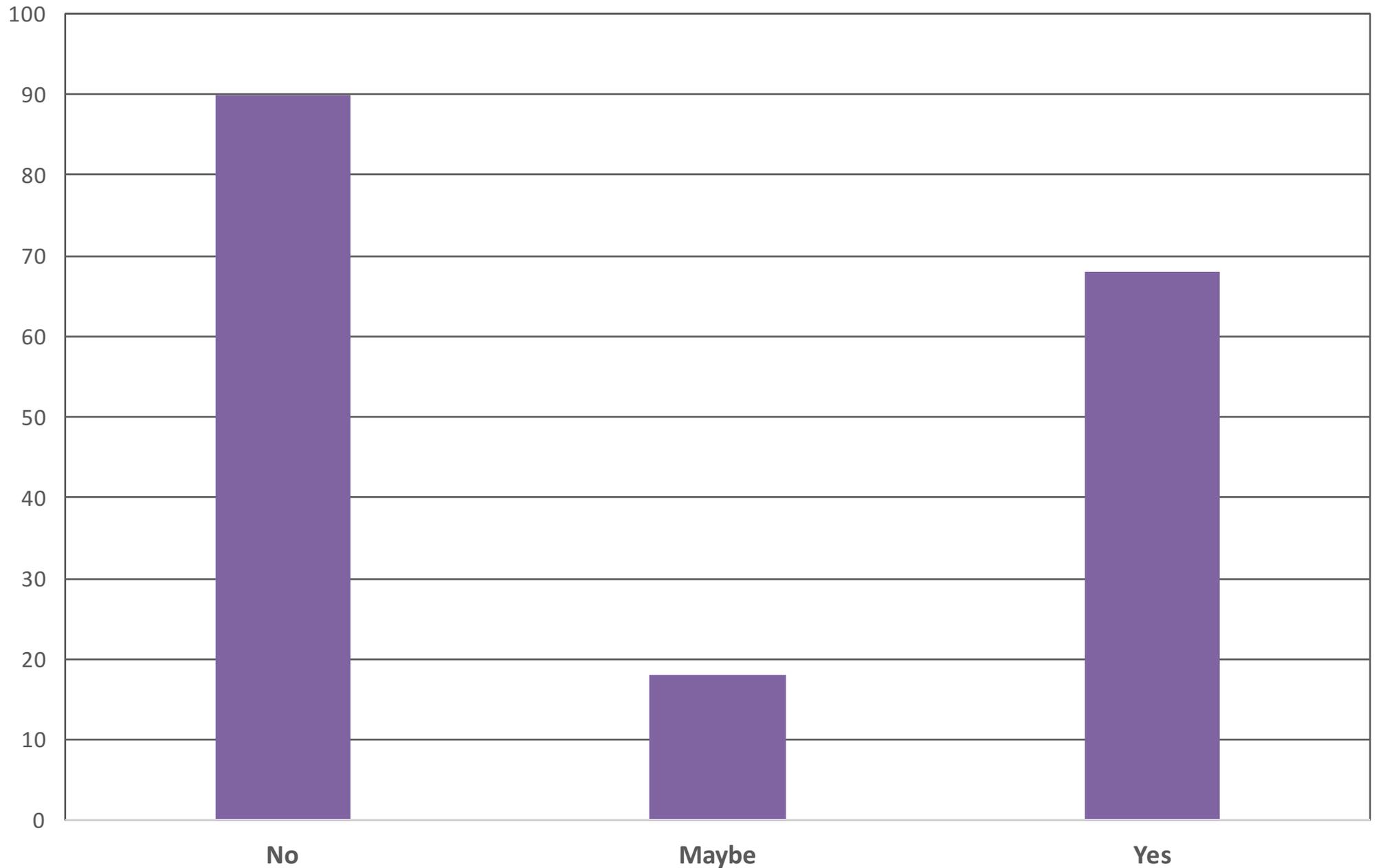
# I would be willing to sign the letter of support to the CDOT director



### 3. This project will improve the quality of life in Gunnison

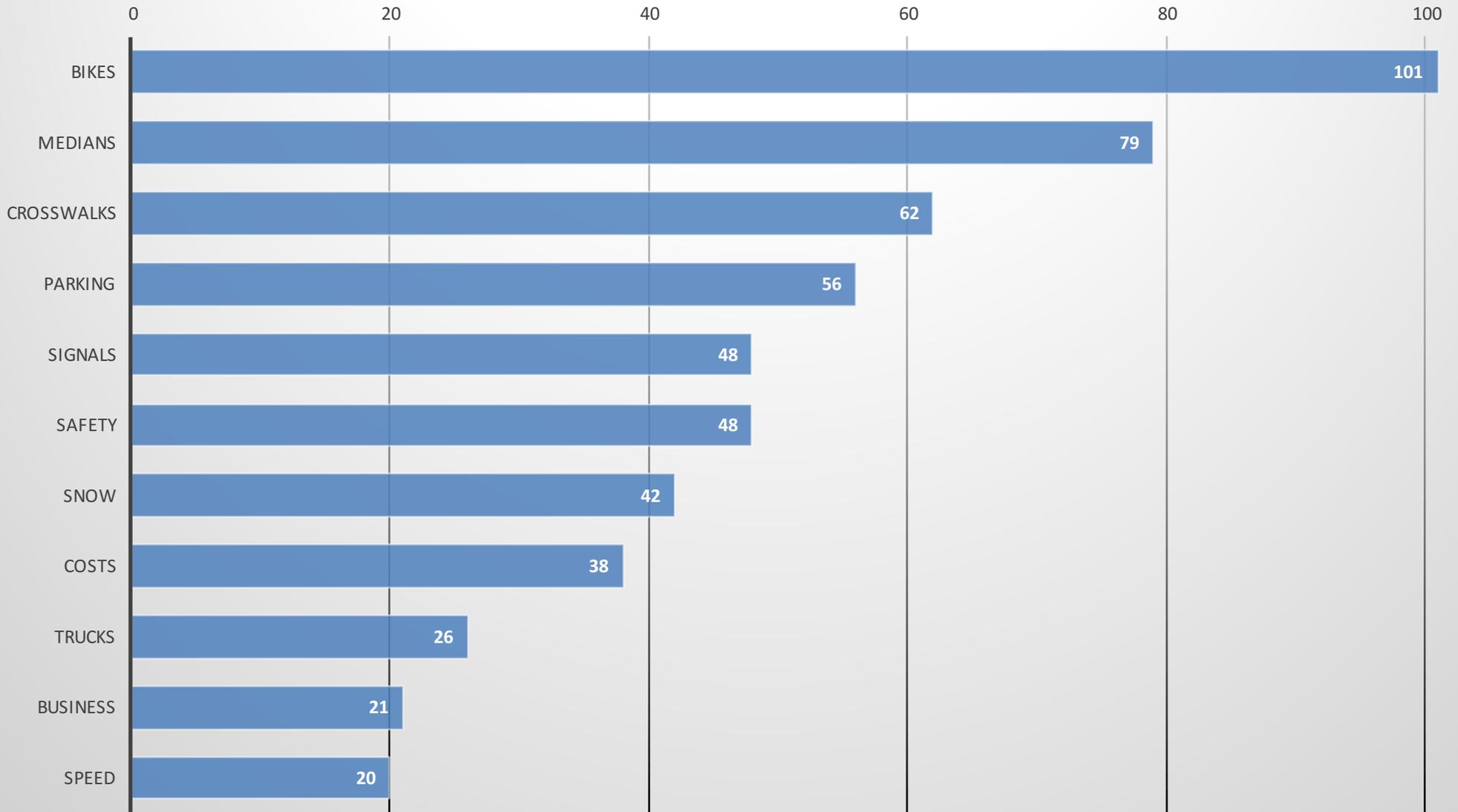


## 4. This project should be implemented ASAP with CDOT funding





## Tomichi Complete Street Station Summary - (541 total)



Workshop #3 Tomichi Comment Stations

Blue = Good for Main Street

Yellow = not sure

Red = Not right for Main Street

**PROPOSED CONDITIONS - Section Model**

24' 8' 11' 11' 8' 24' 96'

**AERIAL MAP - Plan Location Diagram**

GEORGIA AVE  
VIRGINIA AVE

**MAIN STREET LIGHTING and WAYFINDING OPTIONS**

**INSTRUCTIONS**  
Do you like some of these images? Place a **green dot** in the box below in the image. Dislike the image? Place a **red dot** instead.

**Additional comments?**  
Place your sticky notes here!

*Handwritten notes:*  
- "IT ALL SWEETS!!"  
- "I like this image because it has a map and a globe and it's a good way to find your way around."  
- "We have more important things than signs and maps on the street."  
- "I like this image because it has a map and a globe and it's a good way to find your way around."  
- "I like this image because it has a map and a globe and it's a good way to find your way around."

# Workshop #3 Main Street Lighting and Wayfinding

Blue = Good for Main Street

Yellow = not sure

Red = Not right for Main Street

**PROPOSED CONDITIONS - Section Model**

**AERIAL MAP - Plan Location Diagram**

**MAIN STREET SEATING and GATHERING OPTIONS**

**INSTRUCTION**  
Do you like some of these images? Place a green dot in the box below in the image. Dislike the image? Place a red dot instead.

**Additional comments?**  
Place your sticky notes here!

*Extra cost for maintenance*

*I like the layout! It would make it easier*

*More aesthetic elements in seating*

**FCM TUTTLE HERNANDEZ**

# Workshop #3 Main Street Seating and Gathering

Blue = Good for Main Street

Yellow = not sure

Red = Not right for Main Street

**CONDITIONS - Section Model**

**AERIAL MAP - Plan Location Diagram**

**MAIN STREET LANDSCAPE DESIGN OPTIONS**

**INSTRUCTIONS**  
Do you like some of these images? Place a **green dot** in the box below in the image. Dislike the image? Place a **red dot** instead.

**Additional comments?**  
Place your sticky notes here!

Blue - ✓  
Red - ☹️  
Yellow - neutral

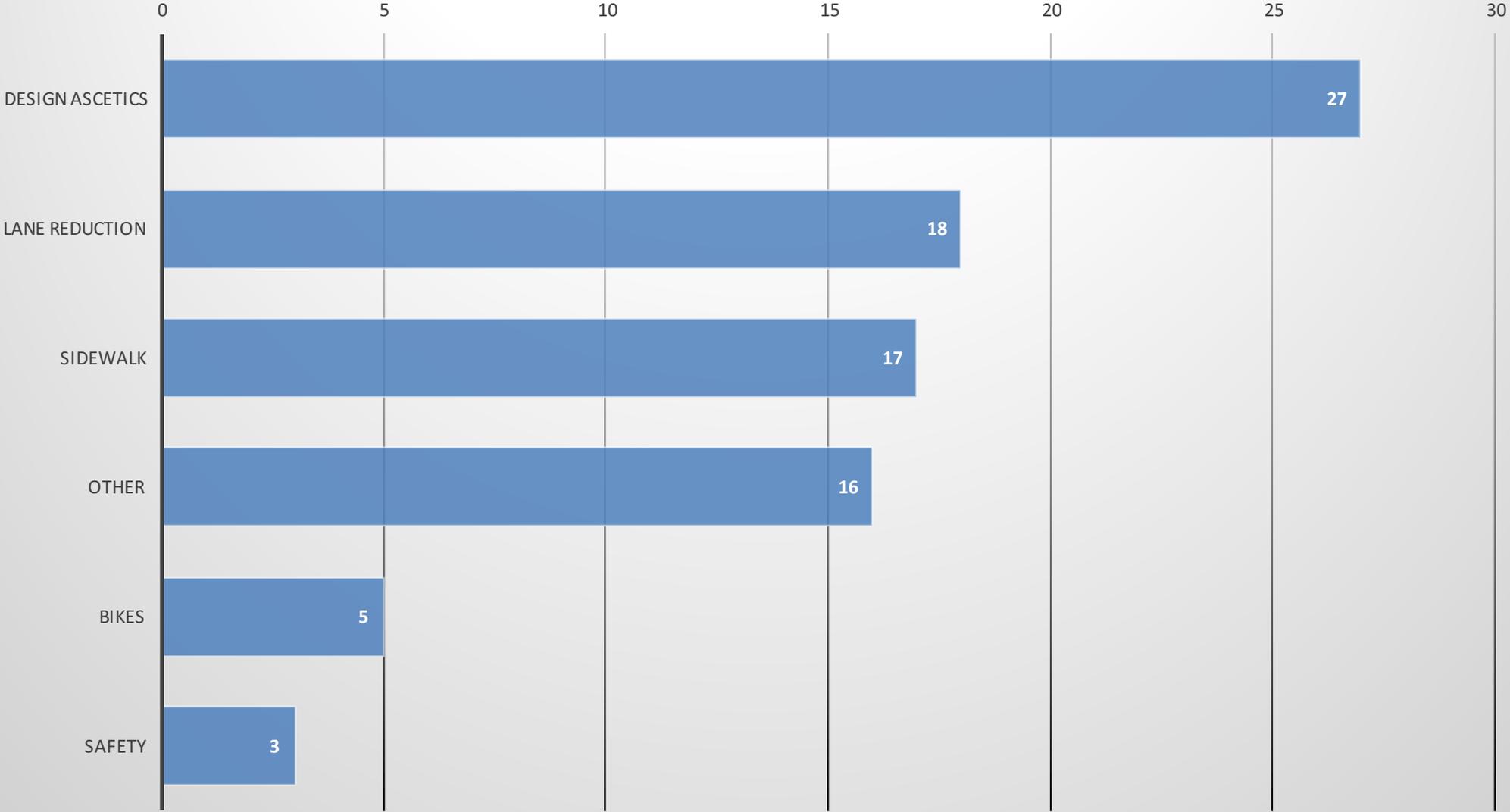
**FOI TITTLE HERNANDEZ**  
PLANNING YEAR 20, 2017

**STICKY NOTES:**  
- "Need more" (on Virginia Ave section model)  
- "Landscape must be accessible" (on sidewalk section model)  
- "we need more space on sidewalks" (on sidewalk section model)  
- "Low wall, blocks, trees, plant" (on sidewalk image)  
- "Keep in mind how water is handled" (on paved area image)  
- "Boring more artistic" (on planter box image)  
- "Do not use sidewalk" (on sidewalk image)  
- "Love the creativity" (on crosswalk image)  
- "Cool idea please say 'not yes'" (on circular planter image)

# Workshop #3 Main Street Landscape Design



### Main Street Station Summary - (86 total)



**ORDINANCE NO. 8  
SERIES 2016**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON TO AMEND SECTIONS 1, ADMINISTRATION (1.7.K. DENSITY) AND 8, VARIANCES (8.1.C. DIMENSIONAL STANDARDS VARIANCES AUTHORIZED) WITHIN THE CITY OF GUNNISON LAND DEVELOPMENT CODE.**

**WHEREAS**, the Community Development Director of the City of Gunnison has filed an application with the City of Gunnison, Colorado, seeking approval of a text amendment to the *Land Development Code*; and

**WHEREAS**, the Text Amendment proposes amendments to Section 1, Administration regarding density calculations and Section 8, Variances for Dimensional Standards Variances Authorized; and

**WHEREAS**, the Planning and Zoning Commission of the City of Gunnison, Colorado, held a public hearing on said application pursuant to notice published in accordance with the *Land Development Code* of the City of Gunnison, Colorado, on June 22, 2016; and

**WHEREAS**, Section 10.5 of the *City of Gunnison Land Development Code* states that approval of a text amendment to the *Land Development Code* may only occur if the application meets all the Review Standards for a Text Amendment; and

**WHEREAS**, on June 22, 2016 the Planning and Zoning Commission of the City of Gunnison recommended approval of the Text Amendment application to the City Council based on findings of fact established through the proceedings of record; and

**WHEREAS**, the City Council of the City of Gunnison, Colorado, held a public hearing on the Text Amendment application to the *Land Development Code* on June 12, 2016; and

**WHEREAS**, based upon the application seeking a Text Amendment to the *Land Development Code*, hereinafter described, the evidence presented to the City Council during the public hearing on the application seeking a Text Amendment, and further, based on the recommendation of the Planning and Zoning Commission of the City of Gunnison, Colorado, the City Council hereby finds as follows:

- A. That this Text Amendment application complies with the review standards for Text Amendments (*LDC*, Section 10.5).
- B. That the Text Amendment includes modifications to Sections 1, Administration (1.7.K. Density) and 8, Variances (8.1.C. Dimensional Standards Variances Authorized).
- C. That the amendments provide reasonable flexibility within the *LDC*.
- D. That the amendments clarify staff direction within the *LDC*.
- E. That based on the findings above, the Text Amendment protects the community's health, safety and welfare;

**WHEREAS**, that based on the foregoing findings of the City Council of the City of Gunnison, Colorado, the City Council hereby determines that the Text Amendment to the *Land Development Code*, herein described is in the best interests of the City of Gunnison, Colorado, and its citizens.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUNNISON,  
COLORADO, ORDAINS THAT:**

Sections of the *City of Gunnison Land Development Code* are hereby amended to read as follows:

**Section 1.7 K. Density**

3. When applying a density standard to the net land area of a parcel, resulting fractions with 0.65 or lower shall be rounded down to the lower whole number and resulting fractions that are 0.66 or higher shall be rounded up to the higher whole number.

**Section 8.1 General:**

- C. **Dimensional Standards Variances Authorized.** Variance from the dimensional standards of the underlying zone district shall be authorized only for minimum lot area, maximum height, minimum floor area, minimum building width, maximum lot coverage, minimum setbacks, maximum setbacks, parking requirements, minimum landscape area, and buffer width.

**INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED** this 12th day of July, 2016, on first reading, and introduced, read, passed and adopted on second and final reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Mayor

(SEAL)

ATTEST:

\_\_\_\_\_  
City Clerk

Published in the Gunnison  
Country Times Newspaper  
July 21, 2016

**ORDINANCE NO. 9  
SERIES 2016**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON,  
COLORADO, AMENDING TITLE 5. GENERAL OFFENSES, CHAPTER 5.30,  
NUISANCES, OF THE GUNNISON MUNICIPAL CODE.**

**WHEREAS**, City staff has recommended amendments to Chapter 5.30, Nuisances, of the Gunnison Municipal Code (G.M.C.); and

**WHEREAS**, the current ordinances have not been updated for several years; and

**WHEREAS**, the current ordinances, in some sections, are out of compliance with current state statute; and

**WHEREAS**, the current ordinances do not adequately define or fit current community standards; and

**WHEREAS**, the City Council finds that such changes would benefit the health, safety and welfare of the City's residents and, therefore, is in the City's best interest.

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF GUNNISON,  
COLORADO, ORDAINS THAT:**

Section 1. G.M.C. Title 5. General Offenses, Chapter 5.30. Nuisances, is amended to read as follows:

**5.30.010 Definitions.**

When used in this chapter, the following words shall be interpreted as follows, unless the context indicates otherwise:

- A. "Administrative officer" means the city manager, community development director, building official, fire marshal, member of the police department, neighborhood services officer, city health officer, or their designated representatives.
- B. "Agent" means any person acting on behalf of or in the place of the owner.
- C. "City" means the City of Gunnison, Colorado.
- D. "Inoperative vehicles" means any device which is capable of moving itself, or of being moved, from place to place upon wheels, skids or endless tracks, which by reason of mechanical failure or the absence of any component or part is incapable of being operated as originally intended for a period in excess of 30 days, and shall include all motor vehicles for which registration is required and expired for more than 60 days as required by Colorado Revised Statute. Does not include devices powered or moved solely by human power.
- E. "Litter" means rubbish, waste material, refuse, garbage, trash, debris, excrement, urine, offal composed of animal matter or organic matter. Litter includes the accumulation of a single item type or combination of item types such as or composed of chemicals, chemical compound, petroleum product or compound, automobile part or accessory, tire, wheel, furniture, appliances, paper, cardboard, lid, bottle, cap, carton, wrapper, box, wooden object, plastic object, clothing, cloth, metal object, rubber object, leather object, building material, paint, or glass, which is not useable for the manufactured purpose or stored in a way to protect the item for its intended purpose.
- F. "Occupant" means and includes any person who occupies the whole or a part of a building, premises, or property, whether alone or with others.
- G. "Owner" means the owner of record, as reflected by the records of the office of the county clerk and recorder.

- H. "Public nuisance" is defined to mean any condition or use of property which is dangerous to health, offensive to community and moral standards or is detrimental to the property of others or which causes or tends to cause substantial diminution of the value of or presents a danger to other property in the neighborhood in which such premises are located.
- I. "Visibility" as used in connection with nuisance issues pertain to areas visible at ground level from a neighbor's property or from a public right-of-way.

**5.30.020 Nuisances prohibited.**

- A. It is unlawful for any person to create or maintain, or to knowingly allow or permit the creation or maintenance of, any nuisance as described in this chapter within the city.

Nuisance includes but is not limited to the following:

1. To so negligently conduct any business or use any property so as to create such an offensive smell as may taint the air and render it unwholesome or disagreeable to others in the neighborhood;
2. To throw or deposit, or cause to be thrown or deposited, any offal or any offensive matter, or the carcass of any animal, any animal or human fecal material, any hazardous substance as defined at Section 29-22-101, C.R.S., or other pollutant, in any watercourse, pond, spring, or well, or on land within the city;
3. To suffer or permit any cellar, vault, private drain, pool, sewer, or sink upon any premises to become nauseous, foul, offensive, or injurious to the public health;
4. To allow the growth of vegetation upon any premises or part thereof, or upon the public right-of-way of any street or alley adjacent thereto, when the growth is inconsistent with the current use or development of the property, is overgrown or unsightly in comparison to adjacent properties, or presents a safety risk. Landscaped yards utilizing xeriscape, natural vegetation or landscaping allowed under the City of Gunnison Land Development Code are not considered a nuisance;
5. To allow the cultivation, growth or other prohibited or regulated actions associated with noxious weeds as defined and regulated by City of Gunnison Municipal Code, Title 5, Noxious Weeds;
6. To throw or deposit or allow the accumulation of litter upon any property within the city, except that composting of yard wastes shall be permitted in compost-holding units which meet the following specifications:
  - (a) Does not exceed 125 cubic feet in volume;
  - (b) Shall be constructed of wood, wire, metal, or plastic, excluding plastic bags;
  - (c) May be a stationary or a rotating unit;
  - (d) Shall be located in the rear of the property and shall be screened or fenced so that it is not readily visible;
  - (e) Shall be maintained to minimize odors;
  - (f) Shall not be allowed to attract animals and pest species as defined in Chapter 5.40 or to become a health or safety hazard;
7. To deposit or store or allow to be stored any inoperative vehicles on any property within the city. This provision shall not apply to inoperative vehicles stored within

a building or to storage of such vehicles on property which is zoned for such use in compliance with the City of Gunnison Land Development Code, nor shall this provision apply to vehicles defined as collector's items or parts car; provided, that such vehicles are stored in compliance with Colorado Revised Statute;

8. To permit or allow any property to become or remain infested with, insects, rats, vermin or any pest species as defined in this section. Infestation occurs when the property is inhabited or overrun in numbers or quantities large enough to be harmful, threatening or obnoxious;
9. To place upholstered furniture which is not manufactured for outdoor use in an outdoor area, exposed to the elements, where such furniture is visible to neighbors and passersby in the public right-of-way, or who, being the owner, lessee, or manager of such place, knowingly permits such placement. Upholstered furniture includes chairs, couches and mattresses. Outdoor setting includes any porch, patio or other unenclosed structure where the furniture is exposed to the elements;
10. No noise may be produced which is objectionable due to duration, intermittence, frequency, or shrillness where the source of the noise is caused by operating machinery, engines, or other equipment. Sound levels of noise radiating from a property line at a distance of twenty-five feet or more in excess of the db(A) established for the following time periods and zones shall constitute prima facie evidence that such noise is a public nuisance:

ZONE	7:00 AM to 6:59 PM	7:00 PM to 6:59 AM
Residential	55db(A)	50db(A)
Commercial	60dn(A)	55db(A)
Industrial	80db(A)	75db(A)

(a) This section does not apply to:

1. The operation of aircraft or other activities which are subject to federal law with respect to noise control.
  2. Construction projects shall be subject to the maximum permissible noise levels specified for industrial zones for the period within which construction is to be completed pursuant to any applicable construction permit issued by proper authority or, if no time limitation is imposed, for a reasonable period of time for completion of project.
  3. Emergency repairs, emergency maintenance and snow removal.
11. Anything defined or declared to be a nuisance by any provision of this chapter, City of Gunnison Land Development Code, Title 14 - Technical Codes of the City of Gunnison Municipal Code or statute of the State of Colorado.
  12. Any property defined or declared condemned under the City of Gunnison Land Development Code, Title 14 - Technical Codes of the City of Gunnison Municipal Code or statute of the State of Colorado.
- B. It is unlawful for any person to interfere with or prevent, or attempt to interfere with or prevent, the abatement of any nuisance by an officer or representative of the city pursuant to the provisions of this chapter.

- C. Any person, organization, or entity who makes or causes any nuisance to exist shall be deemed the author of the nuisance. Any person who has possession or control of any private property or premises, whether he is the owner of the property or not, where any nuisance exists or is found, shall be deemed the author of the nuisance. Any person who is the owner of the private property or premises, or an agent for the owner of the private property or premises, who, having received prior notice of the existence of such nuisance, shall fail to remove the thing or things or abate the condition described in such notice, shall be deemed the author of the nuisance. Each and every day during which a nuisance continues shall be deemed a separate offense and shall be prosecutable and punishable as a separate offense.

**5.30.030 Inspection of properties.**

- A. Inspection Authorized. Any administrative officer shall have the power and authority to inspect and examine any public or private property in the city for the purpose of ascertaining the nature and existence of any nuisance.
- B. Right of Entry – Generally. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever any administrative officer has reasonable cause to believe there exists in any building or upon any premises any condition which constitutes a nuisance hereunder, such administrative officer may enter such building or premises at all reasonable times to inspect the same or perform any duty imposed upon him.
  - 1. If, building or premises is occupied, the administrative officer shall present proper credentials and request entry. If entry is refused, the administrative officer shall not enter upon such building or premises without issuance of a search warrant.
  - 2. If, building or premises is unoccupied, the administrative officer shall make a reasonable effort to locate the owner or occupant or other person or persons having charge or control of the building or premises, and upon locating the owner, occupant, or other person or persons, shall present proper credentials and request entry. If entry is refused, the administrative officer shall not enter upon such building or premises without issuance of a search warrant.
  - 3. If, the owner or occupant or other person or persons having charge or control of the building or premises cannot be contacted, a notice shall be posted on the property, for a period of 24 hours, giving notice of the City’s intent to inspect the property or premises. After the 24 hour period with no response, or if entry is denied, the administrative officer shall not enter upon such building or premises without issuance of a search warrant.
- C. Search Warrants. The administrative officer is authorized to apply to the municipal court of the city for issuance of a search warrant pursuant to the Colorado Municipal Court Rules of Procedure. Upon presentation of the search warrant and proper credentials, or possession of the same in the case of an unoccupied building or premises, the administrative officer may then enter into the building or upon the premises using such reasonable force as may be necessary to gain entry.

**5.30.40 Notice and Abatement of Nuisances.**

- A. Notice to Abate. An administrative officer of the city, upon the discovery of any nuisance on public or private property in the city, may notify the owner and/or occupant of the property in writing, requiring the owner and/or occupant of the property to remove and abate from the property the thing or things or condition described as a nuisance within the time specified in the notice.

- B. Time allowed for Abatement. The owner and/or occupant of the property shall be given 7 days, from date of service, within which the thing or things or condition described in the notice as a nuisance shall be removed or abated. Such time for abatement of the nuisance may be increased if it appears to the administrative officer, based on the facts and circumstances known that compliance cannot reasonably be made within seven days, in which case a longer period of time may be given.
- C. Contents of Notice. The notice to abate issued pursuant to the provisions of this section to the owner and/or occupant of property upon which a nuisance was discovered shall contain the following:
1. The address or other description of the property upon which the nuisance was discovered;
  2. The name and address of the owner of the property upon which the nuisance was discovered;
  3. The name and address of the occupant of the property upon which the nuisance was discovered, if known, and if different from the owner;
  4. A description of the thing or things or condition deemed to be a nuisance;
  5. The time in which the thing or things or condition are to be removed or abated from the property;
  6. A statement advising the owner and/or occupant that they may protest the determination of the administrative officer with respect to any matters stated in the notice, by filing a written protest pursuant to GMC 5.30.060 with the municipal court within the time allowed for the removal or abatement of the nuisance described; and
  7. A statement that if the owner and/or occupant fails to comply with directions contained in the written notice or file a written protest thereto in the time allowed, the city may elect to pursue criminal charges, may enter the property, abate the nuisance described therein, and assess the costs thereof to the owner of the property, or may seek any lawful remedies allowed pursuant to GMC, Section 5.30.080.
- D. Service of the Notice. The written notice to abate shall be served by the administrative officer of the city by:
1. Personally delivering a copy of the notice to the owner of the property described in the notice if the owner also resides at the property; or
  2. Personally delivering a copy of the notice to a non-owner occupant or resident of the property described in the notice and mailing a copy of the notice by First Class Mail, return receipt requested, to the last known address of the owner, as reflected in the county real estate records; or
  3. Mailing a copy of the notice by First Class Mail, return receipt requested, to the last known address of the owner of the property described in the notice, as reflected in the county real estate records, if the property is unoccupied, and by posting a copy of the notice in a conspicuous place at the unoccupied property.

4. Service of the notice shall be complete upon the date of personal delivery, upon receipt date reflected in return receipt or ten days after posting property as required herein.
- E. Non-compliance with Notice. If the owner and/or occupant of the property fails or refuses to comply with the directions of the written notice and does not file a written protest to such notice, as provided in GMC 5.30.060, then the administrative officer shall proceed pursuant to GMC, Section 5.30.080, Enforcement and Remedies.

**5.30.050 Recovery of the expense of abatement.**

- A. In the event that the city abates the nuisance pursuant to GMC 5.30.040, the actual costs of the abatement, together with a fee in the amount of \$100.00 or 10 percent of the abatement costs, whichever is greater, shall be assessed upon the property from which such nuisance is abated.
- B. The costs assessed shall be paid to the city's director of finance within 30 days after the director of finance has mailed notice of the assessment of such costs by First Class Mail, return receipt requested, to the owner of the property; provided, however, that if the property is occupied by someone other than the owner, notice of the assessment shall be mailed to both the owner and the occupant. The assessment of costs shall be a lien in the amount assessed against such property until paid, and shall have priority over all other liens, except general taxes and prior special assessments.
- C. If any assessment is not paid within 30 days after the date it is mailed, the director of finance is hereby authorized to certify to the county treasurer a list of all delinquent assessments, giving the name of the owner as it appears in the real estate records of the county, the description of the property sufficient to identify the property upon the records of the county treasurer, and the amount of the assessment. The county treasurer, upon receipt of such list, certified in such form as the treasurer may require, is hereby authorized to place those assessments upon the tax rolls for the current year and to collect those assessments in the same manner as other taxes are collected. (Code 1997 § 5-3-5).

**5.30.060 Protest of notice of abatement.**

- A. The owner, his agent, or the occupant of the property subject to a notice of abatement, within the time stated in such notice for removal of the thing or things or abatement of the condition described therein, may protest the findings of the administrative officer with respect to any matter stated in the notice, by filing a written notice of protest with the municipal court. The municipal court shall deliver a copy of the protest to the city attorney and the administrative officer who issued the notice.
- B. Municipal court shall schedule and conduct a hearing on the protest at the next available court date, but not less than seven days from the date protest is filed. At the hearing, the protesting party and representatives of the city shall appear in person. Both parties may be represented by legal counsel. The parties shall have the right to present evidence and arguments to confront and cross-examine any witness and to oppose any testimony or statement relied upon by an adverse party. The municipal court may receive and consider any evidence which has probative value commonly accepted by reasonable and prudent persons in the conduct of their affairs.
- C. Once the municipal court has scheduled a hearing on the protest, written notice of such hearing shall be mailed to the protesting party and given to the city attorney and administrative officer who signed the notice of abatement. Such notice shall be mailed to the protesting party and given to the city attorney and administrative officer not less than seven days prior to the scheduled hearing.

- D. Upon the filing of a written protest as provided herein, the period of time for removal of the thing or things or abatement of the condition described in the original notice of abatement shall be extended until final disposition of the protest by the municipal court, plus the amount of time granted in the original notice, or as otherwise ordered by the municipal court.

**5.30.070 Emergency Abatement**

Emergency Abatement. Whenever an emergency situation exists in relation to the enforcement of any of the provisions of this chapter, an administrative officer, upon presentation of proper credentials, in the case of an occupied building or property, or possession of the credentials in the case of an unoccupied building or property, may enter into any building or upon any property within the jurisdiction of the city. For purposes of this subsection, an “emergency situation” includes any situation where there is imminent danger of loss of, or injury or damage to, life, limb, or property. The administrative officer may take such action as is necessary to remove the thing or things or abate the condition which creates such emergency. The administrative officer may proceed pursuant to GMC, Section 5.30.080, Enforcement and Remedies, without compliance with the time and warrant restraints provided in GMC, Sections 5.30.030 and 5.30.040.

**5.30.080 Enforcement and remedies.**

- A. In addition to any other remedies that may be available to the city, including the right to maintain an action in any court of record for the prevention, restraining, abatement, or enjoining of any public nuisance, and in addition to any other procedural remedy which may be permitted by this code, the city may enforce the terms of this chapter by any lawful means.
- B. Any violation of GMC, Section 5.30.020 is a misdemeanor.

Section 2. If any section of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or the constitutionality of the remaining portions of the ordinance. The City Council of the City of Gunnison hereby declares that it would have passed this ordinance, and each section thereof, irrespective of the fact that any one or more sections be declared unconstitutional.

**INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED** this 12th day of July, 2016, on first reading, and introduced, read, passed and adopted on second and final reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Mayor

(SEAL)

ATTEST:

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City Clerk

Published in the Gunnison  
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July 21, 2016

**ORDINANCE NO. 10  
SERIES 2016**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AMENDING TITLE 5. GENERAL OFFENSES, BY ADDING CHAPTER 5.50 UNDESIRABLE PLANT MANAGEMENT, AND ADOPTING AN UNDESIRABLE PLANT MANAGEMENT PLAN IN ACCORDANCE WITH THE COLORADO NOXIOUS WEED ACT**

**WHEREAS**, the City of Gunnison, Colorado is a Colorado home-rule municipality; and

**WHEREAS**, Section 35.5.5-101, et seq., of the Colorado Revised Statutes, contains the Colorado Noxious Weed Act; and

**WHEREAS**, pursuant to such Act, the governing body of each municipality in the state shall adopt a noxious weed management plan for all lands within the territorial limits of the municipality; and

**WHEREAS**, the City currently is a party to an intergovernmental agreement with the Board of County Commissioners of Gunnison County regarding undesirable plant management; and

**WHEREAS**, adoption by the City of a noxious weed management plan will both comply with statutory requirements and aid in management and enforcement of noxious weed management; and

**WHEREAS**, the plan to be adopted will benefit the health, safety, and welfare of the City and its inhabitants.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ORDAINS AS FOLLOWS:**

Section 1. Title 5 General Offenses is hereby amended by the addition of Chapter 5.50 – Undesirable Plant Management, to read as follows:

**Chapter 5.50 – Undesirable Plant Management**

**5.50.010 Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. “City council” means the city council of the City of Gunnison, Colorado.
- B. “Alien plant” means a plant species which is not indigenous to the state of Colorado.
- C. “Colorado Noxious Weed Act” means the provisions contained in C.R.S. section 35-5.5-101 et seq.
- D. “Commissioner” means the commissioner of the Colorado Department of Agriculture or designee.
- E. “Department” means the Colorado Department of Agriculture.
- F. “Federal agency” means each agency, bureau or department of the federal government responsible for administering or managing federal land.
- G. “Integrated management” means the planning and implementation of a coordinated program utilizing a variety of methods for management of noxious weeds, the purpose of which is to achieve specified management objectives and promote desirable plant communities. Such methods may include, but are not limited to education, preventive measures, good stewardship, and the following integrated management techniques:

1. Biological management, which means the use of an organism to disrupt the growth of noxious weeds.
  2. Chemical management, which means the use of herbicides or plant growth regulators to disrupt the growth of noxious weeds.
  3. Cultural management, which means methodologies or management practices that favor the growth of desirable plants over noxious weeds, including maintaining an optimum fertility and plant moisture status in an area, planting at optimum density and spatial arrangement in an area, and planting species most suited to an area.
  4. Mechanical management, which means methodologies or management practices that physically disrupt plant growth, including tilling, mowing, burning, flooding, mulching, hand-pulling, hoeing, and grazing.
- H. "Landowner" means any owner of record of state, county, municipal, or private land and includes an owner of any easement, right-of-way or estate in the land.
- I. "Local noxious weed" means any alien plant of local importance that has been declared a noxious weed by the weed advisory board.
- J. "Management" means any activity that prevents a plant from establishing, reproducing, or dispersing itself.
- K. "Management objective" means the specific, desired result of integrated management efforts and includes:
- (1) Eradication, which means reducing the reproductive success of a noxious weed species or specified noxious weed population in largely uninfested regions to zero and permanently eliminating the species or population within a specified period of time. Once all specified weed populations are eliminated or prevented from reproducing, intensive efforts continue until the existing seed bank is exhausted.
  - (2) Containment, which means maintaining an intensively managed buffer zone that separates infested regions, where suppression activities prevail, from largely uninfested regions, where eradication activities prevail.
  - (3) Suppression, which means reducing the vigor of noxious weed populations within an infested region, decreasing the propensity of noxious weed species to spread to surrounding lands, and mitigating the negative effects of noxious weed populations on infested lands. Suppression efforts may employ a wide variety of integrated management techniques.
  - (4) Restoration, which means the removal of noxious weed species and reestablishment of desirable plant communities on lands of significant environmental or agricultural value in order to help restore or maintain said value.
- L. "Management plan" means the City of Gunnison weed management and enforcement plan as developed by the weed advisory board and adopted by the city council.
- M. "Native plant" means a plant species which is indigenous to the State of Colorado.
- N. "Noxious weed" means an alien plant or parts of an alien plant that have been designated by rule by the commissioner or the department as being noxious or any plant that has been declared a local noxious weed by the weed advisory board, and which meets one or more of the following criteria:
- (1) It aggressively invades or is detrimental to economic crops or native plant communities;
  - (2) It is poisonous to livestock;
  - (3) It is a carrier of detrimental insects, diseases or parasites; or
  - (4) The direct or indirect effect of the presence of this plant is detrimental to the environmentally sound management of natural or agricultural ecosystems.

- O. "Person or occupant" means an individual, partnership, corporation, association or federal, state or local government or agency thereof owning, occupying or controlling any land, easement or right-of-way, including any city, county, state or federally owned and controlled highway, drainage or irrigation ditch, spoil bank, borrow pit, gas and oil pipeline, high voltage electrical transmission line, or right-of-way for a canal or lateral.
- P. "Plant growth regulator" means a substance used for controlling or modifying plant growth processes without appreciable phototoxic effect at the dosage applied.
- Q. "State noxious weed" means any noxious weed identified by the commissioner or the department by rule pursuant to the terms and provisions of the Colorado Noxious Weed Act. Such weeds may be referred to herein as "State A List," "State B List" or "State C List" weeds depending upon their designation as such by the commissioner pursuant to the terms of C.R.S. section 35-5.5-108.
- A. List weeds shall mean all populations of noxious weeds in the City of Gunnison that are designated for eradication, either by the commissioner pursuant to the terms of C.R.S. section 35-5.5-108 or by local designation by the weed advisory board.
- B. B List weeds shall mean all populations of noxious weeds in the City of Gunnison that are designated for required management, either by the commissioner pursuant to the terms of C.R.S. section 35-5.5-108 or by local designation by the weed advisory board.
- C. C List weeds shall mean all populations of noxious weeds in the City of Gunnison that are designated for recommended management, either by the commissioner pursuant to the terms of C.R.S. section 35-5.5-108 or by local designation by the weed advisory board.
- R. "Undesirable plant" means a noxious plant species that is designated as undesirable by this chapter, the commissioner or by the weed advisory board.
- S. "Undesirable plant management" means the planning and implementation of an integrated program to manage undesirable plant species.
- T. "Weed" means any undesirable plant.
- U. "Weed advisory board" means the individuals appointed by the city council of the City of Gunnison to advise on matters of noxious weed program direction.
- V. "Weed office" means the City of Gunnison weed office. The Gunnison Police Department shall serve as the weed office.

**5.50.020 Duty to manage undesirable plants—Landowner's responsibility.**

It is the duty of all persons to use integrated methods to manage and prevent the spread of all noxious weeds if the plants are likely to be ecologically destructive or aesthetically or materially damaging to neighboring lands.

**5.50.030 Local priority weed list.**

The city council, after consultation with the weed advisory board, may elevate the status of any State B List noxious weed or State C List noxious weed that is located within the City of Gunnison from the State B or C lists to that of an A or B List weed as deemed necessary. The city council, after consultation with the weed advisory board, may also at any time apply to the commissioner for a waiver of compliance with an eradication designation set forth by the commissioner for any particular State A list noxious weed or State B List noxious weed designated for eradication in the City of Gunnison, pursuant to the terms of C.R.S. section 35-5.5-108.5(3)(c). If such a waiver is approved, the noxious weed in question shall be reclassified as either a B or C List weed as may be determined by the city council.

**5.50.040 Designation of additional undesirable plants.**

The city council may designate additional undesirable plants or weeds not otherwise designated as state noxious weeds for eradication or management within the City of Gunnison pursuant to the

terms of C.R.S. section 35-5.5-108(3), after a public hearing with thirty (30) days prior notice to the public.

**5.50.050 Review of the annual City of Gunnison weed management plan.**

The weed advisory board has, pursuant to the direction of the city council, originally developed the management plan, and will review such management plan on an annual basis for any desirable changes or adjustments to such plan and shall report to the city council on such basis with any recommended changes or adjustments. As part of such review, the weed advisory board will review the list of noxious weeds to consider additional weeds and to prioritize control efforts. The management plan must be renewed and approved by the city council not less than once every three (3) years, but nothing shall prevent the city council from approving any interim changes or adjustments to the management plan in any interim years. The weed office shall maintain the management plan and the priority weed list and make them available to the general public.

**5.50.060 Importation and cultivation.**

Persons are prohibited from importing seeds, propagative plant parts or live plants and cultivating any noxious weed within the City of Gunnison, and any such person doing so shall be fully prosecutable pursuant to the terms of C.R.S. section 35-5.5-104.5.

**5.50.070 Administering agency.**

The city council shall provide for the administration and enforcement of the management plan authorized by this article through the use of agents, delegates or employees, and may hire additional staff or provide for the performance of all or part of the management plan through outside contract. The primary duty and responsibility of administering the management plan is hereby delegated to the weed office, and the weed office shall be the city council's primary agent in enforcement and administration thereof. Any agent, delegate, employee, staff or contractor applying or recommending the use of chemical control methods shall be licensed by the department for such application or recommendation. Costs associated with administering or enforcing the management plan shall be paid from the general fund of the City.

**5.50.080 Weed advisory board.**

The city council has appointed the weed advisory board from landowners, other interested individuals living in the vicinity of the city, and the weed advisory board shall have all of the authority and powers set forth herein as well as all of the authority and powers set forth in C.R.S. section 35-5.5-107. The city council shall be entitled to appoint ex-officio members, as in their sole discretion they shall determine.

**5.50.090 Identification and inspection of noxious weeds—Methods of identification.**

(a) Private and Public Lands.

(1) The weed office, acting as agent, delegate, or staff of the city council, shall have the right to enter upon any premises, lands, or places whether public or private, during reasonable business hours for the purpose of inspecting for the existence of noxious weed infestations, when at least one of the following has occurred:

- a. The landowner or occupant has requested an inspection;
- b. A neighboring landowner or occupant has reported a suspected noxious weed infestation and requested an inspection;
- c. An authorized agent of the city council has made a visual inspection from a public right-of-way or area and has reason to believe that a noxious weed infestation exists; or
- d. A weed office agent has inspected a current aerial satellite map of the property and determined there is reason to believe that a noxious weed infestation exists.

(b) Where entry onto private premises is required to investigate the existence of noxious weeds, on-site inspections may be scheduled at any reasonable time upon the landowner or occupant's consent. No entry onto such lands shall be permitted unless one of the following occurs: (1) verbal permission to inspect the property is granted by the landowner or occupant of said property, or (2) such landowner or occupant is notified of such pending inspection by certified mail at least ten (10) days prior to such inspection. If after notification landowner or occupant fails to respond within ten (10) days to the request to inspect the premises or otherwise

denies access to the inspector, the inspector may seek an inspection warrant issued by the City of Gunnison municipal court having jurisdiction over the land pursuant to the provisions of C.R.S. section 35-5.5-109(2)(b) or 35-5.5-108.5(5)(b)(I).

**5.50.100 Notice of presence of noxious weeds—Notice letter.**

(a) Private Lands.

(1) Upon a discovery of the presence of noxious weeds on private premises, the weed office, acting as agent, delegate, or staff of the city council has the authority to notify the landowner or occupant of the presence of noxious weeds. The notice from the weed office includes the following:

- a. The property inspection date;
- b. The landowner and/or occupant of record;
- c. The property tax ID number or legal description of the property, and/or aerial map;
- d. The noxious weeds to be managed;
- e. If the noxious weeds are weeds designated for eradication pursuant to designation as List A weeds, identification of eradication as the required management objective;
- f. Advisement to the landowner or occupant to commence either eradication of the noxious weeds within five (5) days or management of the noxious weeds within ten (10) days after receipt of notice or submit an acceptable plan and schedule for the completion of the plan for compliance;
- g. Identification of the integrated weed management techniques presented by the commissioner for eradication or the best available control methods of integrated management;
- h. The options of notice compliance;
- i. The consequences for non-compliance with the notice, an offer of weed office consultation in management plan development, and notice of landowner and/or occupant's right to request a hearing before the arbitration panel;
- j. Statement that weed office will seek an inspection warrant (right of entry) from the City of Gunnison municipal court having jurisdiction over the land, to enter property and manage identified noxious weeds unless landowner and/or occupant complies with notice, submits an acceptable plan and schedule for completion of the plan or submits a written request for a hearing before the arbitration panel within ten (10) days.

(b) Public Lands.

(1) The weed office, acting as agent, delegate, or staff of the city council, may give notice to any state board, department, or agency that administers or supervises state lands within the City of Gunnison, to manage noxious weeds on its land and naming them.

(2) Such notice shall specify the best available method(s) of integrated management and will include the same information as itemized in 5.50.100(a).

**5.50.110 Duty to consult.**

Where possible, the weed office shall consult with the affected landowner, occupant, state board, department or agency in the development of a plan for the management of noxious weeds on the premises or lands.

**5.50.120 Eradication and management of weeds—Landowner, occupant or public agency response.**

(a) A landowner, occupant or state board, department or agency receiving notification of the presence of noxious weeds pursuant to section 5.50.100 above shall respond within a reasonable time after receipt thereof, but in no event to exceed five (5) days if eradication is ordered and ten (10) days if management is ordered, by any of the following:

- (1) Complying with the terms of the notification.
- (2) Acknowledging the terms of the notification and submitting an acceptable plan and schedule for the completion of the plan for compliance.

(3) If only management is ordered, requesting an arbitration panel to determine the final management plan. The panel shall be selected by the city council, through its delegates, agents, and employees, and shall include:

- a. A weed management specialist or weed scientist;
- b. A landowner of similar land in City of Gunnison; and
- c. A third member chosen by agreement of the first two panel members;
- d. The landowner or occupant is entitled to challenge any one member of the panel, and the city council, through its delegates, agents and employees shall name a new panel member from the same category.

Costs for the arbitration panel shall be paid by the requesting landowner or occupant. The decision of the arbitration panel shall be final.

**5.50.130 Enforcement—Direct action by City to manage weeds.**

In the event that the landowner, occupant or state board, department or agency fails to comply with any notice to eradicate or manage the identified weeds or implement the plan developed by the arbitration panel, the weed office shall provide for and compel the eradication or management of such weeds in any manner deemed necessary by the weed office and in compliance with the provisions of C.R.S. section 35-5-108.5, 35-5.5-109(5) or 35-5-110(3).

**5.50.140 Restrictions.**

No eradication or management of noxious weeds on private property shall occur without applying the same or greater management measures to any land or rights-of-way owned by the City or administered by the city council that are adjacent to the private property.

**5.50.150 Assessment of costs for treatment and eradication of noxious weeds—Private lands.**

If the city council, or its agents and employees, provide for and/or compel the management or eradication of noxious weeds on private lands, the city council is entitled to recover certain costs.

**5.50.160 Recoverable costs/method of collection—Management.**

- (a) If the city council compels and provides for the management of noxious weeds pursuant to the provisions of C.R.S. section 35-5-109, the city council is entitled to assess the whole cost thereof, including up to twenty (20) percent for inspection and other incidental costs in connection therewith, upon the lot or tract of land where the noxious weeds are located.
- (b) Such assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.
- (c) Such assessment may be certified to the Gunnison County treasurer for the collection of taxes.
- (d) Any funds collected shall be deposited in the city's weed fund or any similar fund.

**5.50.170 Recoverable costs/method of collection—Eradication of List A species.**

- (a) If the city council compels and provides for the eradication of noxious weeds pursuant to their classification as List A weeds, the city council is entitled to assess the whole cost of eradicating such weeds, including up to one hundred (100) percent of inspection, eradication and other incidental costs in connection therewith, upon the lot or tract of land where the noxious weeds are located.
- (b) Such assessment shall be a lien against each lot or tract of land until paid and shall have priority over all other liens except general taxes and prior special assessments.
- (c) Such assessment may be certified to the Gunnison County treasurer for the collection of taxes.
- (d) Any funds collected shall be deposited in the city's weed fund or any similar fund.

**5.50.180 Landowner or occupant protest.**

- (a) The weed office shall send a "payment notice/potential lien assessment" letter by certified and regular mail to the landowner or occupant prior to any assessment on landowner or occupant's property.

(b) Landowner or occupant shall be given thirty (30) days from the date on the payment notice/potential lien assessment letter to respond.

(1) In the event landowner or occupant fails to respond to the letter within the prescribed thirty (30) days, the weed office shall assess a lien on landowner or occupant's property and may certify such lien to the Gunnison County treasurer.

(2) If the landowner or occupant responds within the prescribed thirty (30) days and disputes the amount of the assessment, he or she is entitled to be heard before the City of Gunnison weed advisory board as to his or her concerns.

**5.50.190 Assessment of costs—Hearing.**

(a) The landowner or occupant, or an attorney on his or her behalf, will be allowed to present testimony to the weed advisory board as to why they should not assess a lien on landowner or occupant's property for the costs outlined in the payment notice/potential lien assessment letter.

(b) A member of the weed office will need to be present at the hearing to provide evidence favoring the imposition of a lien on landowner or occupant's property.

(c) The weed office must show that prior to compelling the management of noxious weeds on landowner and/or occupant's property the weed office applied the same or greater management measures to any land or rights-of-way owned by the City or administered by the city council that are adjacent to the private property pursuant to section 5.50.140 of this Code.

(d) The weed office must show that the level of management called for in the notice or the management plan developed by the arbitration panel has been successfully achieved pursuant to section 14-34 of this Code.

(e) The weed advisory board may either grant or deny the lien assessment or continue the matter to a subsequent date certain.

(f) If the weed advisory board grants the lien assessment, the resolution for certification of assessed costs as granted by the city council is filed with the county treasurer's office.

**5.50.200 Limitations.**

The weed advisory board shall not assess the cost of providing for or compelling the management of noxious weeds on private property until the level of management called for in the notice or the management plan developed by the arbitration panel has been completed.

**5.50.210 Recoverable costs/method of collection—Public lands.**

(a) Any expenses incurred by the city council in the undertaking of the eradication or management of noxious weeds on public lands shall be a proper charge against such state board, department, or agency that has jurisdiction over the lands.

(b) An agreement for the reimbursement of such expenses shall be reached within two (2) weeks after the date such an expense is submitted to such state board, department or agency, such agreement to be set forth in writing.

(c) If an agreement is not reached or the charge is not immediately paid, such charge shall be submitted to the controller, who shall treat such amount as an encumbrance on the budget of the state board, department or agency involved or such charge may be recovered in any court with jurisdiction over such lands.

**5.50.220 Scheduling and hearing.**

The state board, department, or agency owning or occupying said public lands is afforded the same scheduling and hearing protections as provided to landowners or occupants of private lands under sections 5.50.180 and 5.50.190 of this Code.

**5.50.230 Miscellaneous—Additional provisions.**

(a) The city council, through its delegates, agents, and employees, shall have the right to enter upon any premises, lands or places, whether public or private, during reasonable business hours for the purposes of ensuring compliance with any of the above requirements concerning noxious weed management and any other local requirements.

(b) No agent, employee, or delegate of the city council shall have a civil cause of action against a landowner or occupant for personal injury or property damage incurred while on public or private land for purposes consistent with the above requirements except when the landowner or occupant willfully or deliberately caused such damages.

(c) It shall be the duty of the city council to confirm that all public roads, public highways, public rights-of-way, and any easements appurtenant thereto, under its jurisdiction, are in compliance with C.R.S. section 35-5.5-101, et seq., and any violations thereof shall be the financial responsibility of the appropriate local governing body or state board, department, or agency.

**5.50.240 Cooperation with federal and state agencies.**

The city council may enter into cooperative agreements with federal, county and state agencies for the integrated management of undesirable plants within their respective territorial jurisdictions.

**5.50.250 Public nuisance—Abatement.**

All undesirable plants at any and all stages thereof, their carriers, and any and all premises, plants and things infested or exposed to infestation may be declared to be a public nuisance by the city council. Once declared, such nuisances shall be subject to all laws and remedies relating to the prevention and abatement of nuisances. The city council, in a summary manner or otherwise, may take such action, including removal and destruction, with reference to such nuisance as in its discretion appears necessary. The remedies of this section shall be in addition to all other remedies provided by law.

Section 2. If any section of this ordinance is, for any reason, held to be invalid or unconstitutional, such decision shall not affect the validity or the constitutionality of the remaining portions of the ordinance. The County Council of the City of Gunnison hereby declares that it would have passed this ordinance, and each section thereof, irrespective of the fact that any one or more sections be declared unconstitutional.

**INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED** this 12<sup>th</sup> day of July, 2016, on first reading, and introduced, read, passed and adopted on second and final reading this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

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Richard Hagan, Mayor

(SEAL)

ATTEST:

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Gail Davidson, City Clerk

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