



**CITY OF BOULDER
PLANNING BOARD MEETING AGENDA**

DATE: February 19, 2015

TIME: 6 p.m.

PLACE: 1777 Broadway, Council Chambers

1. CALL TO ORDER

2. APPROVAL OF MINUTES

The [January 8](#) and [January 22, 2015](#) Planning Board minutes are scheduled for review.

3. PUBLIC PARTICIPATION

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/CONTINUATIONS

A. Call Up: [Kum & Go Store 943 Subdivision \(TEC2014-00040\)](#). Expires **February 23, 2015**.

B. Call Up: [Use Review proposal \(LUR2015-00002\)](#) at 1043 Pearl. Expires **February 26, 2015**.

5. PUBLIC HEARING ITEMS

A. Public hearing and recommendation on the Annexation and Initial Zoning of Residential-Rural 2 (RR-2) of 23 properties and right-of-way in the Old Tale Road Neighborhood (LUR2014-00004) including the following property owners and addresses:

Applicants/Owners:

1165 Old Tale Rd., Macinko Exempt Trust
1193 Old Tale Rd., Cynthia and Charles Anderson
1221 Old Tale Rd., Constance Ekrem
1228 Old Tale Rd., Steven Erickson
1245 Old Tale Rd., Harold and Sherlynn Bruff
1270 Old Tale Rd., Jeffrey and Wendy Mortner
1275 Old Tale Rd., Thomas and Barbara Corson
1305 Old Tale Rd., Monty Moran
1310 Old Tale Rd., Raynard A Hedberg Living Trust
1315 Old Tale Rd., Joanne M Simenson
1325 Old Tale Rd., Sarah Kingdom
1402 Old Tale Rd., Kellie Masterson-Praeger
1409 Old Tale Rd., William Dick III
1412 Old Tale Rd., John and Penelope Bennett
1435 Old Tale Rd., Joyce Peterson Thurmer
1436 Old Tale Rd., Thomas Perry
1457 Old Tale Rd., Cameron Bradley Peterson
1462 Old Tale Rd., Conway and Jacqueline Olmsted
1483 Old Tale Rd., Jason and Jennifer Kiefer
1507 Old Tale Rd., Richard and Jeanie Leddon
1510 Old Tale Rd., Mark and Mary Beth Vellequette
1533 Old Tale Rd., Laurie Duncan-McWethy
1566 Old Tale Rd., Stewart and Robin Elliott

B. Public Hearing and Consideration of recommendations to City Council regarding an ordinance amending Title 9, "Land Use Code" B.R.C. 1981 by amending the building height regulations and requirements for certain areas of the city.

6. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Update on the Housing Boulder community engagement process including Code for America

B. [Outline of Analysis to be prepared for BVCP foundations, review community engagement strategy ideas](#)

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJURNMENT

CITY OF BOULDER PLANNING BOARD MEETING GUIDELINES

CALL TO ORDER

The Board must have a quorum (four members present) before the meeting can be called to order.

AGENDA

The Board may rearrange the order of the Agenda or delete items for good cause. The Board may not add items requiring public notice.

PUBLIC PARTICIPATION

The public is welcome to address the Board (3 minutes* maximum per speaker) during the Public Participation portion of the meeting regarding any item not scheduled for a public hearing. The only items scheduled for a public hearing are those listed under the category PUBLIC HEARING ITEMS on the Agenda. Any exhibits introduced into the record at this time must be provided in quantities of ten (10) to the Board Secretary for distribution to the Board and admission into the record.

DISCUSSION AND STUDY SESSION ITEMS

Discussion and study session items do not require motions of approval or recommendation.

PUBLIC HEARING ITEMS

A Public Hearing item requires a motion and a vote. The general format for hearing of an action item is as follows:

1. Presentations

- a. Staff presentation (5 minutes maximum*)
- b. Applicant presentation (15 minute maximum*). Any exhibits introduced into the record at this time must be provided in quantities of ten (10) to the Board Secretary for distribution to the Board and admission into the record.
- c. Planning Board questioning of staff or applicant for information only.

2. Public Hearing

Each speaker will be allowed an oral presentation (3 minutes maximum*). All speakers wishing to pool their time must be present, and time allotted will be determined by the Chair. No pooled time presentation will be permitted to exceed ten minutes total.

- Time remaining is presented by a Green blinking light that means one minute remains, a Yellow light means 30 seconds remain, and a Red light and beep means time has expired.
- Speakers should introduce themselves, giving name and address. If officially representing a group, homeowners' association, etc., please state that for the record as well.
- Speakers are requested not to repeat items addressed by previous speakers other than to express points of agreement or disagreement. Refrain from reading long documents, and summarize comments wherever possible. Long documents may be submitted and will become a part of the official record.
- Speakers should address the Land Use Regulation criteria and, if possible, reference the rules that the Board uses to decide a case.
- Any exhibits introduced into the record at the hearing must be provided in quantities of ten (10) to the Secretary for distribution to the Board and admission into the record.
- Citizens can send a letter to the Planning staff at 1739 Broadway, Boulder, CO 80302, two weeks before the Planning Board meeting, to be included in the Board packet. Correspondence received after this time will be distributed at the Board meeting.

3. Board Action

- d. Board motion. Motions may take any number of forms. With regard to a specific development proposal, the motion generally is to either approve the project (with or without conditions), to deny it, or to continue the matter to a date certain (generally in order to obtain additional information).
- e. Board discussion. This is undertaken entirely by members of the Board. The applicant, members of the public or city staff participate only if called upon by the Chair.
- f. Board action (the vote). An affirmative vote of at least four members of the Board is required to pass a motion approving any action. If the vote taken results in either a tie, a vote of three to two, or a vote of three to one in favor of approval, the applicant shall be automatically allowed a rehearing upon requesting the same in writing within seven days.

MATTERS FROM THE PLANNING BOARD, DIRECTOR, AND CITY ATTORNEY

Any Planning Board member, the Planning Director, or the City Attorney may introduce before the Board matters which are not included in the formal agenda.

ADJOURNMENT

The Board's goal is that regular meetings adjourn by 10:30 p.m. and that study sessions adjourn by 10:00 p.m. Agenda items will not be commenced after 10:00 p.m. except by majority vote of Board members present.

*The Chair may lengthen or shorten the time allotted as appropriate. If the allotted time is exceeded, the Chair may request that the speaker conclude his or her comments.

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
January 8, 2015
1777 Broadway, Council Chambers

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: <http://www.bouldercolorado.gov/>

PLANNING BOARD MEMBERS PRESENT:

Aaron Brockett, Chair
Bryan Bowen
Crystal Gray
John Gerstle
Leonard May
Liz Payton

PLANNING BOARD MEMBERS ABSENT:

John Putnam

STAFF PRESENT:

D. Driskell, Director of CP&S
Charles Ferro, Development Review Manager for CP&S
Hella Pannewig, Assistant City Attorney
Susan Meissner, Administrative Assistant III
Elaine McLaughlin, Senior Planner
Sloane Wlabert, Planner I
James Hewat, Senior Planner, Historic Preservation
David Thompson, Civil Engineer II- Transportation
Sean Daley, Project Specialist

1. CALL TO ORDER

Chair, **A. Brockett**, declared a quorum at 5:02 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

There were no minutes scheduled for approval

3. PUBLIC PARTICIPATION

No one from the public spoke.

**4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/
CONTINUATIONS**

There were no items.

5. PUBLIC HEARING ITEMS

- A. **Public hearing and consideration of Site and Non-Conforming Use Review case no. LUR2014-00053 for a proposed 1,600 square foot addition to the Evans Scholars House located at 1029 Broadway, an existing non-conforming residential fraternal organization residential use. The addition and building improvements are intended to add study halls, upgrade infrastructure, improve energy performance, add an enclosed stairway to the east end of the structure, add bicycle storage, and improve ADA access to the house. The site has been historically non-conforming as to parking and density. Site Review analysis includes evaluation of the non-conforming parking as a documented parking reduction along with setback and height modifications (currently a non-standard building). Applicant is also proposing to landmark the existing structure and is seeking to establish vested rights.**

Applicant: Rick Burkett
Property Owner: Evans Scholar Foundation

Board Disclosures:

C. Gray disclosed that she sits on the Landmarks board as a non-voting member. She has heard this item through Landmarks, however, she felt she could be impartial.

Staff Presentation:

C. Ferro introduced the item.

E. McLaughlin presented the item to the board.

Board Questions:

E. McLaughlin answered questions from the board.

J. Hewatt answered questions from the board.

Applicant Presentation:

Rick Burkett, the applicant, presented to the board.

Rick Polmear, a representative from Evans Scholars, presented to the board.

Board Questions:

Rick Burkett, the applicant, answered questions from the board.

Public Hearing:

No one from the public spoke.

Board Comments:

- The board generally liked the project and thought that it met the site review criteria for a building exceeding 35 feet.
- L. Payton was pleased that the applicant would landmark the building.

- The Landmarks Design Review Committee reviewed the project four times and provided direction to the applicant to make the addition's roofline and fenestration pattern differ from the original building. While most members agreed with this direction, they thought that the interface between the rooflines was awkward and that the window proportions could be altered to better complement the existing building.
- There was some disagreement as to whether the addition should step back from the facade of the original building slightly to better differentiate the old from the new.
- Consider shortening the eaves of the gambrel roof to align with the existing gambrel roof. The difference in height between the ridge lines is acceptable.
- The board felt comfortable with the requested parking reduction and non-conforming use.
- Some members requested that the applicant return to the Landmarks Design Review Committee for one final consultation. Others did not feel that it was necessary and did not wish to prolong the project further. The applicant volunteered to return to the DRC but did not wish to go in front of the full board.

Motion:

On a motion by **C. Gray**, seconded by **B. Bowen**, the Planning Board voted 6-0 (**J. Putnam** absent) to approve Site and Use Review application # LUR2014-00053 with the conditions listed below and adopting the findings provided in the staff memorandum and its attachments.

L. Payton offered a friendly amendment that was accepted by **C. Gray** and **B. Bowen**, to add the following condition:

Prior to Technical Document Review, the Applicant shall submit revised plans to the Landmarks Board or Design Review Committee thereof, with architectural plans showing modifications to the addition's roof form to a gambrel roof or other solution that achieves a more compatible roof interface on the Broadway facade and window proportions on the Broadway facade that are more compatible with the historic structure. If these revised plans are not approved by the Landmarks Board or Design Review Committee, the plans dated December 18, 2014 shall be considered approved by the Planning Board.

Two motions were proposed that did not pass:

J. Gerstle proposed a friendly amendment to add a condition of approval that the application be sent back to the Landmarks Board Design Review Committee with special consideration of roof and window characteristics. This amendment was not accepted by **C. Gray** or **B. Bowen**.

On an amendment by L. Payton, seconded by L. May, the Planning Board voted 3-3 (J. Putnam absent, A. Brockett, B. Bowen and C. Gray opposed), that prior to Technical Document Review, the Applicant shall submit an application for a Landmark Alteration Certificate subject to approval of the Landmarks Board or Design Review Committee thereof with architectural plans showing modifications to the addition's roof form to a gambrel roof or other solution that achieves a more compatible roof interface on the Broadway facade and window proportions on the Broadway facade that are more compatible with the historic structure. The motion did not pass.

- B. Consideration of a motion to amend the Cunningham Farm Annexation Agreement for the properties located at 350 and 390 Linden Avenue (Lots 1 and 2, Cunningham Farm Subdivision) in order to modify the Conceptual Design Elements and allow for modern architecture. Case #LUR2014-00087.**

Board Disclosures:

J. Gerstle recused himself from this item.

C. Gray disclosed that she saw this as an annexation when she served on City Council.

Staff Presentation:

C. Ferro introduced the item.

S. Walbert presented the item to the board.

Board Questions:

S. Walbert answered questions from the board.

Applicant Presentation:

Becky Rico, an attorney for the applicant, presented the item to the board.

Marcel De Lange, the architect, presented the item to the board.

Board Questions:

Becky Rico, an attorney for the applicant, answered questions from the board.

Marcel De Lange the architect, answered questions from the board.

Terry Britton, the applicant, answered questions from the board.

Public Hearing:

No one from the public spoke.

Board Comments:

- **L. Payton** and **C. Gray** felt that it would be important to add design guidelines to the annexation agreement given its location and potential to affect views from open space trails.

- **L. May, B. Bowen and A. Brockett** did not feel that design guidelines would result in improved architecture and felt that the conditions already attached to the annexation agreement were sufficient.
- **L. Payton** suggested that the design of the house fit with a farmhouse or traditional vernacular to be less obtrusive. Use earth toned colors and natural building materials. She would prefer to avoid a modern aesthetic with large windows and/or reflective surfaces.
- Other members did not feel that it was necessary to dictate the style but would support the prohibition of highly visible or reflective materials.
- **C. Gray and L. Payton** requested adding a condition that building materials be high quality, natural such as brick or stone, and non-reflective. Bright colored surfaces and mirrored windows would not be permitted.

Motion:

On a motion by **A. Brockett**, seconded by **B. Bowen**, the Planning Board voted 5-0 (**J. Putnam** absent, **J. Gerstle** recused) to recommend to City Council approval of the Annexation Agreement Amendment as it is consistent with the overall goals and policies of the Boulder Valley Comprehensive Plan policies pertaining to annexation as well as to the intent of the original Cunningham Farm Annexation package with regards to community benefit, with the addition, that the final item of the Conceptual Design Elements be changed from “allow high-quality materials, including wood, stone, brick, and glass”, to “allow high-quality materials, including wood, stone and brick. Glass shall only be allowed in windows, doors, and skylights”.

C. Gray made a friendly agreement, accepted by **A. Brockett** and **B. Bowen** to prohibit mirrored glass.

5. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

Staff has created a new email newsletter to send updates every 2 weeks. It will serve as a portal to help citizens to access more information on the website and to highlight current planning matters in the community. Staff has compiled 6,000 email addresses of interested parties to date and will send it to other as well.

The board liked the newsletter and thanked staff for their efforts to bring this to fruition.

The City has entered a contract with Code for America to develop better technology tools to support community engagement. The initial focus will be on Housing Boulder.

C. Gray recommended that staff also continue to provide updates in the Daily Camera for people who are less tech-savvy.

D. Driskell explained the history of the P&DS Advisors' Group and answered board questions about the topic.

C. Gray suggested that the city create a similar venue for neighborhoods to provide input.

J. Gerstle thought that noticing the meetings might help to ease the public's concern.

A. Brockett suggested that the minutes of the Advisors' Meetings and/or audio recordings be posted online to provide for more transparency.

L. May recommended that the Planning Board have a representative at the Advisors' Meetings.

C. Gray didn't think that Planning Board members needed to attend and recommended having a meeting on efficiency and process with other boards instead.

L. Payton noted that the trust with the public has been eroded and thought it would be important to be transparent to repair it. Clarify and better define protocols surrounding the meetings.

B. Bowen recommended clarifying the roles through a guest opinion in the Camera. He hoped that the group could stay intact because it serves a good function.

C. Gray noted that applicants have rescheduled items to have a full board. She asked whether it could be possible to appoint interim board members when other members are absent.

6. DEBRIEF MEETING/CALENDAR CHECK

D. Driskell briefed the board on the upcoming planning-related events. City Council will hold a Study Session to discuss the 2015 work plan. The Reve call up will be heard by City Council next week. There will be a housing symposium at eTown Hall on January 26th. City Council will hold a Study Session to discuss the Uni Hill moratorium on January 27th and the Planning Board will discuss it at their meeting on February 5th.

7. ADJOURNMENT

The Planning Board adjourned the meeting at 8:21 p.m.

APPROVED BY

Board Chair

DATE

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
January 22, 2015
1777 Broadway, Council Chambers

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PLANNING BOARD MEMBERS PRESENT:

Aaron Brockett, Chair
Crystal Gray
John Gerstle
Liz Payton
John Putnam

PLANNING BOARD MEMBERS ABSENT:

Bryan Bowen
Leonard May

STAFF PRESENT:

Susan Richstone, Deputy Director of CP&S
Charles Ferro, Development Review Manager for CP&S
Hella Pannewig, Assistant City Attorney
Susan Meissner, Administrative Assistant III
Chandler Van Schaack, Planner II
Sloane Wlabert, Planner I
Marcy Cameron, Planner, Historic Preservation
David Thompson, Civil Engineer II- Transportation
Jeff Hirt, Senior Planner
Sam Assefa, Senior Urban Designer
Kathleen Bracke, GO Boulder
Abbey Shannon, Boulder County Planner

1. CALL TO ORDER

Chair, **A. Brockett**, declared a quorum at 6:08 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

There were no minutes scheduled for approval

3. PUBLIC PARTICIPATION

No one from the public spoke.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/ CONTINUATIONS

- A.** Call Up Item: Site Review Minor Amendment (LUR2014-00031) and Final Plat (TEC2014-00031): Request to subdivide one 32,510 sq. ft. developed lot within the Carrie Subdivision PUD located at 593 Lee Hill Rd. into to three new residential lots. Call-up expires January 23, 2015.

- B.** Call Up Item: Knapp Subdivision (TEC2013-00057): Final Plat to subdivide one 0.5-acre developed lot at 3050 15th St. in the Garden Home Subdivision to create 2 new residential lots: Lot 1 (9,605 s.f.) and Lot 2 (12,176 s.f.). Lot 1 will contain the existing single family home. The call up period expires on January 26, 2015.

C. Van Schaack answered questions from the board. Neither item was called up.

5. PUBLIC HEARING ITEMS

- A. Public hearing and consideration of a Site and Use Review (LUR2014-00057) to construct one new 2,850 square foot, single story Bank of America building with a drive thru facility on the pad site at 1965 28th St. The proposal also includes improvements to the existing parking area serving the pad site as well to the parking area adjacent to the Hazels liquor store. The project site is zoned Business – Regional 1 (BR-1).**

Applicant: Bruce Dierking
Owner: Andre Family Partnership, RLLLP

Staff Presentation:

C. Van Schaack presented the item to the board.

Board Questions:

C. Van Schaack, H. Pannewig and **C. Ferro** answered questions from the board.

Applicant Presentation:

Bruce Dierking, the applicant, presented to the board.

Jim Larson, the architect, presented to the board.

Board Questions:

Bruce Dierking, the applicant, answered questions from the board.

Jim Larson, the architect, answered questions from the board.

Carol Adams, the landscape architect, answered questions from the board.

Ray Ashad, a representative from Ban of America, answered questions from the board.

Public Hearing:

No one from the public spoke.

Board Comments:

- Board members appreciated the improvements to the parking lot to better accommodate pedestrians and cyclists.
- **Gray** liked the applicant's use of landscaping and screening.
- **L. Payton** and **J. Gerstle** recommended that the proposed building be moved to the south; avoid covering the Boulder Slew in the event that the city wishes to daylight it in the future per long range and preservation goals. Safeguard opportunities to maximize open space as the city urbanizes.
- **Brockett** noted that the slew is paved over, also runs under Hazel's and would not make a good open space. There is currently no plan to turn this into a trail or public amenity.
- **J. Putnam** cautioned that requiring the applicant to move the building to the south to avoid the slew area could feel like an exaction; it would make a portion of the property undevelopable.
- Board members generally agreed that the city should discuss its policy regarding drive-through windows. They promote the use of vehicles when the city is trying to encourage other mode share options.
- **Gray, J. Putnam** and **A. Brockett** thought that the design met the current criteria. While they did not generally support drive-thru uses, they supported the application based upon the current regulations and zoning. The site sits within the vehicle-oriented zone of town and the applicant designed the building based on that presumption. Bank of America could be at a competitive disadvantage if it is not allowed to have a drive-thru when other banks in the area have them.
- **L. Payton** and **J. Gerstle** felt that the drive thru use violated the BVCP and the Site Review Criteria; drive-thrus and single occupancy vehicles are discouraged in the plans. They felt that the city must act now to uphold its goals.
- Though current codes prohibit drive-thru typologies for bikes and pedestrians, the board encouraged staff to look at means for addressing this to allow them.

Motion:

On a motion by **J. Putnam**, seconded by **A. Brockett**, the Planning Board voted 3-2 (**J. Gerstle** and **L. Payton** opposed, **L. May** and **B. Bowen** absent) to approve the Site and Use Review application LUR2014-00057, adopting the staff memorandum as findings of fact, including the attached analysis of review criteria, and subject to the recommended conditions of approval.

The motion failed.

On a motion by **L. Payton**, seconded by **J. Gerstle**, the Planning Board voted 2-3 (**C. Gray, A. Brockett** and **J. Putnam** opposed, **L. May** and **B. Bowen** absent) to amend the main motion to

require that the bank building be moved south such that it does not intrude into the long range plan for the Boulder Slough and connections plan, and that the drive-through portion of the building be removed.

The motion to amend failed.

For approval, the application would need four votes in favor and written findings to support the decision. Given that the full board was not in attendance at the hearing, the applicant can elect to return for a rehearing. The request for a rehearing must be made within two weeks of the Planning Board meeting.

B. Public hearing and consideration of a Minor Amendment to an Approved Site Review (LUR2014-00088) for a 1,950 square foot addition to an existing single-family residence partially located in the rear yard setback at 3059 6th St. The project site is zoned Residential - Low 1 (RL-1).

Applicant: Coburn Development Inc.
Owner: Kara Goucher.

Staff Presentation:

C. Ferro introduced the item.
S. Walbert presented the item to the board.

Board Questions:

S. Walbert answered questions from the board.

Applicant Presentation:

Pete Webber, the architect, presented to the board.

Board Questions:

Pete Webber, the architect, answered questions from the board.

Public Hearing:

No one spoke.

Board Comments:

- J. Gerstle had called the item up due to the alley setback. After hearing the presentations by staff and the applicant, he thought the proposal was reasonable and met the review criteria.
- All board members present agreed that the proposal met the review criteria.
- L. Payton sympathized with the owners' needs and desire for a garage but noted that Boulder is losing many small historic structures. She encouraged the owner to celebrate the unique and historical attributes of the property.

- **Gray** appreciated the design and approach to the garage.

Motion:

On a motion by **C. Gray**, seconded by **J. Putnam** the Planning Board voted 5-0 (**B. Bowen** and **L. May** absent) to find that the application for a minor amendment meets the criteria of section 9-2-14(l), B.R.C. 1981, and, therefore, Planning Board approves Land Use Review # LUR2014-00088 incorporating the staff memorandum and associated review criteria as findings of fact and subject to the recommended conditions of approval found in the staff memorandum.

5. MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY

A. Envision East Arapahoe Update and Scenarios Analysis

Staff Presentation:

S. Richstone introduced the item

Staff proposed to City Council that the work plan look at transportation issues and larger scale items, but postpone the bulk of the planning until some of the long range planning has been completed.

L. Ellis presented the item.

Board Comments:

Schedule:

- The board agreed with the proposal to postpone the land use decisions along East Arapahoe given the upcoming Comp Plan update.
- Board members thought it was important to address the medical uses at this time.
- There was some concern that improvements to the pedestrian experience along East Arapahoe could not be achieved now without a larger plan in place for road improvements and land use changes.

Scenarios and Tools:

- **L. Payton** commended the outreach efforts. She cautioned that the surveys may capture some comments twice given that several board members and citizens attended multiple feedback sessions. She thought that people generally liked the transportation improvements.
- The board thought the visualizations of different scenarios were important tools to help the public to better understand their options. They will be helpful in the community dialogue about density.
- Provide a wider variety of scenario choices and show several different options for the same intersections. Reduce the number of pedestrians in the photos; this may be misleading as

several of the proposals may not increase pedestrian traffic to the extent currently depicted.

- If form-based code were implemented along East Arapahoe in the future, visualization tools would be especially helpful and public spaces and areas between buildings could be addressed.
- **J. Putnam** asked that staff consider different, efficient and compelling ways to convey information about densities of employment and residential uses, and create an indicators dashboard noting impacts on greenhouse gas emissions, and other important factors. He also thought that the scenarios to date were too similar; add options that show trade-offs and highlight the pros and cons of the options.
- Assure that up-zoning and changes to the area don't squeeze out art and service industrial uses. Determine how much space for these uses is necessary before the plans are developed. Consider subsidizing these uses if necessary; they are important to the community, contribute to Boulder's sustainability goals and should not be lost.

Medical Office Zoning Options:

- The board members appreciated that new medical uses will be allowed in the hospital area in the near future.
- **A. Brockett** recommended implementing a conditional use overlay zone for the time-being to allow some temporary relief without impeding the development of a more fully developed plan with modified zoning.
- **C. Gray** requested that staff consider limiting medical uses to existing office buildings north of Arapahoe via use review until a larger plan is in place. Be intentional about ground floor uses to encourage pedestrian activity; she did not want to see new developments in the interim that would limit future placemaking efforts.
- **J. Putnam** recommended that staff analyze the potential impacts of displacing existing business. He did not feel it was necessary to limit medical uses to existing buildings at this time. Support businesses in the area related to the medical uses; existing businesses could also potentially benefit from the adjacencies.

6. DEBRIEF MEETING/CALENDAR CHECK

- The February 5th meeting will start at 5 p.m. to allow **D. Driskell** to report on Council Retreat items.
- **S. Richstone** discussed Council's questions related to height exemptions. **D. Driskell** will

talk about this further with the Planning Board on February 5th.

- Council is considering forming a housing process subcommittee with some representatives from Planning Board.
- **A. Brockett** noted that two of the items on the agenda were call-ups. He encouraged board members to ask questions of staff in attendance at the meeting and to ask other board members for input prior to calling an item up. It is possible to have a mini-hearing at that time.
- **Gray** discussed the drive-thru issue. She thought TAB could provide some insights about the role that they play in traffic in the community. **S. Richstone** will ask **K. Bracke** whether this is already being discussed.

7. ADJOURNMENT

The Planning Board adjourned the meeting at 9:48 p.m.

APPROVED BY

Board Chair

DATE

MEMORANDUM

TO: Planning Board
FROM: Chandler Van Schaack, Case Manager
DATE: February 5, 2015
SUBJECT: **Call Up Item:** Kum & Go Store 943 Subdivision (TEC2014-00040): Final Plat for subdivision of one 2.275-acre lot located at 3365 Diagonal Highway into two new lots: Lot 1 (1.798 acres) and Lot 2 (0.477 acres). The call-up period expires **February 23, 2015**.

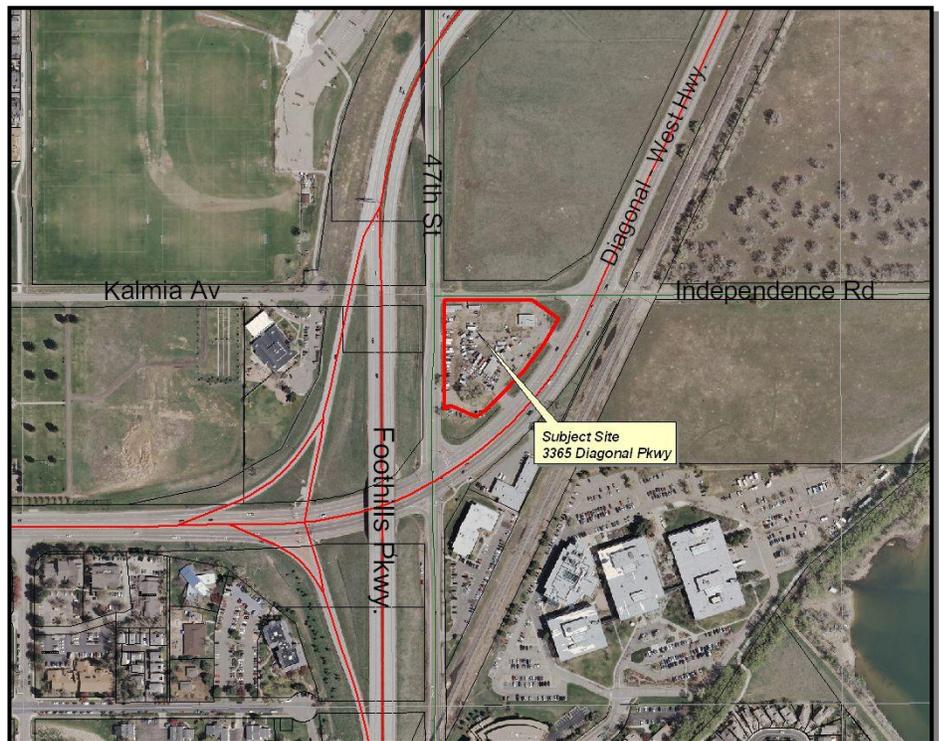
Attached is the disposition for the conditional approval (see [Attachment A](#)) for a review of the Final Plat for the proposed Kum & Go Store 943 Subdivision within the BT-2 (Business – Transitional 2) zoning district. The proposed subdivision implements the previously approved Site and Use Review applications for a new Kum & Go gas station and convenience store (planning board memorandum available [here](#)). As indicated in [Attachment B](#), this approval will result in the subdivision of one existing lot into two new lots: Lot 1 (1.798 acres) and Lot 2 (0.477 acres). Lot 1 will have two access points, one on Independence Rd. and one on Diagonal Highway. The Diagonal Highway access will also serve as a shared access for Lot 2 once it is developed.

Background. The 99,103 square foot (2.275-acre) project site is located at the intersection of Foothills Parkway and Diagonal Highway (see [Figure 1](#)) and is zoned Business Transitional -1 (BT-1), which is defined in the land use code as:

“Transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation, temporary lodging and office uses.” (section 9-5-2(c)(2)(E), B.R.C. 1981).

A [Concept Plan](#) for redevelopment of the subject site was heard by the Planning Board on February 7, 2013. On June 19, 2014, a Site and Use Review was approved for a redevelopment project consisting of subdividing the existing 2.275-acre lot into two lots, with Lot 1 (1.79-acres) to be redeveloped with a 4,992 square foot Kum & Go convenience store and 10-pump fueling station and Lot 2 (0.47-acres) to be left vacant for redevelopment at a later time. The Planning Board packet can be found [here](#). Subdivision of the subject lot was required as a condition of the approval.

Proposed Project. The proposed development consists of subdividing the existing 2.275-acre lot into two lots, with Lot 1 (1.79-acres) to be redeveloped with a new Kum & Go convenience store and 10-pump fueling station and Lot 2 (0.47-acres) to be left vacant for redevelopment at a later time. Refer to [Attachment C](#) for the Final Plat.



Project Analysis. Staff finds that this application is consistent with the intent of the Subdivision standards found in Chapter 9-12, B.R.C. 1981 and meets all applicable Final Plat criteria set forth in section 9-12-8(b), B.R.C. 1981. Staff has reviewed the plat and determined that the proposed subdivision meets all applicable zoning standards as well as the “Standards for Lots and Public Improvements” as set forth in section 9-12-12, B.R.C. 1981 (see [Attachment C](#) for Staff’s Analysis of the Lot Standards for Subdivision).

Public Comment. Required public notice was provided in the form of written notifications to property owners within 600 feet of the subject property. In addition, a public notice sign was posted on the property and therefore, all public notice requirements of section 9-4-3, “*Public Notice Requirements*,” B.R.C. 1981 were met. Staff has not received any comments opposing the proposed development.

Conclusion. This proposal was approved by Planning and Development Services staff on February 9, 2015, and the decision may be called up before Planning Board on or before **February 23, 2015**. There is one Planning Board meeting within the 14-day call up period on **February 19, 2015**. Questions about the project or decision should be directed to Chandler Van Schaack at (303) 441-3137 or vanschaack@bouldercolorado.gov.

Attachments

- A. [Signed Disposition](#)
- B. [Analysis of Review Criteria](#)
- C. [Final Subdivision Plat](#)



CITY OF BOULDER
Community Planning and Sustainability

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
 phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

CITY OF BOULDER PLANNING DEPARTMENT
NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department based on the standards and criteria of the Land Use Regulations as set forth in Section 9-12, B.R.C. 1981, as applied to the proposed development.

DECISION: **Approved with Condition**
 PROJECT NAME: **Kum & Go Store 943 Subdivision**
 DESCRIPTION: **Final Plat to subdivide one 2.275-acre lot into two new lots: Lot 1 (1.798 acres) and Lot 2 (0.477 acres).**
 LOCATION: **3365 Diagonal Hwy.**
 COOR: **N06W02**
 LEGAL DESCRIPTION: **See Attached Exhibit A**
 APPLICANT: **Kum & Go**
 OWNER: **KG Store 943, LLC**
 APPLICATION: **TEC2014-00040**
 ZONING: **BT-1**
 CASE MANAGER: **Chandler Van Schaack**

THIS IS NOT A SITE SPECIFIC DEVELOPMENT PLAN APPROVAL AND NO VESTED PROPERTY RIGHT IS CREATED BY THIS APPROVAL.

Approved On: 2.9.15
 Date

By: 
 David Driskell, Executive Director of Community Planning & Sustainability

This decision may be appealed to the Planning Board by filing an appeal letter with the Planning Department within two weeks of the decision date. If no such appeal is filed, the decision shall be deemed final fourteen days after the date above mentioned.

Appeal to Planning Board expires: 2.23.15

Final Approval Date: 2.24.15

1. The subdivision is approved subject to the terms of the Subdivision Agreement.

EXHIBIT A

LEGAL DESCRIPTION:

A TRACT OF LAND IN THE SW $\frac{1}{4}$ OF THE NW $\frac{1}{4}$ OF SECTION 21, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE WEST LINE OF SAID SECTION 21, FROM WHICH THE SOUTHWEST CORNER OF THE NW $\frac{1}{4}$ OF SAID SECTION BEARS S 0°13' E, 933.3 FEET, THENCE N 0°13' W ALONG THE WEST LINE OF SAID SECTION 21, A DISTANCE OF 361 FEET TO A POINT ON THE SOUTH LINE OF COUNTY ROAD RIGHT OF WAY; THENCE N 89°39' E ALONG THE SOUTH LINE OF SAID COUNTY ROAD, 321.9 FEET TO A POINT ON THE WESTERLY LINE OF HIGHWAY NO. 119; THENCE S 32°29' E, 102.9 FEET; THENCE S 27°44' W, 65.1 FEET; THENCE ALONG A CURVE ON THE NORTHERLY RIGHT OF WAY LINE OF HIGHWAY NO. 119, THE CHORDS OF WHICH ARE: S 33°52' W, 50 FEET; S 36°48' W, 50 FEET; S 39°31' W, 50 FEET; S 42°01' W, 50 FEET; S 44°58' W, 50 FEET; S 47°24' W, 50 FEET; S 50°11' W, 50 FEET; THENCE N 62°30' W, 90.4 FEET TO THE EAST LINE OF THE COUNTY ROAD RIGHT OF WAY; THENCE S 85°43' W, 31.6 FEET, MORE OR LESS, TO THE POINT OF BEGINNING, COUNTY OF BOULDER, STATE OF COLORADO.

Section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981

Section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981 includes all of the substantive regulatory requirements that need to be met in order to have an approvable final plat. The proposed subdivision meets all of the standards set forth in Section 9-12-12, B.R.C. 1981. Below is a summary of the staff findings on each of the standards.

(a) Conditions Required: Except as provided in subsection (b) of this section, subdivision plats shall comply with section 9-9-17, "Solar Access," B.R.C. 1981, and meet the following conditions:

(1) Standards for Lots: Lots meet the following conditions:

(A) Each lot has access to a public street.

Standard met. Lot 1 will have two access points, one off Independence Road and one off Diagonal Highway. The Diagonal Highway access point will be shared with Lot 2 via an access easement to be dedicated through the Final Plat.

(B) Each lot has at least thirty feet of frontage on a public street.

Standard met.

(C) No portion of a lot is narrower than thirty feet.

Standard met.

(D) Lots meet all applicable zoning requirements of this title and section 9-9-17, "Solar Access," B.R.C. 1981.

Standard met. See approved Site Review (LUR2013-000050) for specific development metrics.

(E) Lots with double frontage are avoided, except where necessary to provide separation from major arterials or incompatible land uses or because of the slope of the lot.

Not applicable. The existing lot has frontages on three existing roads. The proposed new Lot 1 will have frontage on Independence Rd., 47th St., and Diagonal Highway, and the proposed Lot 2 will have frontages on 47th St. and Diagonal Highway.

(F) Side lot lines are substantially at right angles or radial to the centerline of streets, whenever feasible.

Standard met.

(G) Corner lots are larger than other lots to accommodate setback requirements of section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981.

Not applicable, as both of the proposed lots will be corner lots.

(H) Residential lots are shaped so as to accommodate a dwelling unit within the setbacks prescribed by the zoning district.

Not applicable, as the proposed lots are not intended for residential development.

(I) Lots shall not be platted on land with a ten percent or greater slope, unstable land, or land with inadequate drainage unless each platted lot has at least one thousand square feet of buildable area, with a minimum dimension of twenty-five feet. The city manager may approve the platting of such land upon finding that acceptable measures, submitted by a registered engineer qualified in the particular field, eliminate or control the problems of instability or inadequate drainage.

Not Applicable, as the subject lot does not contain slopes greater than ten percent, is not unstable, and will provide adequate drainage. Regardless, each lot has at least one thousand square feet of buildable area.

(J) Where a subdivision borders an airport, a railroad right-of-way, a freeway, a major street, or any other major source of noise, the subdivision is designed to reduce noise in residential lots to a reasonable level and to retain limited access to such facilities by such measures as a parallel street, a landscaped buffer area, or lots with increased setbacks.

Not applicable, as the subject property is surrounded on all three sides by major roadways and thus does not have the ability to act as a noise buffer for residential areas.

(K) Each lot contains at least one deciduous street tree of two-inch caliper in residential subdivisions, and each corner lot contains at least one tree for each street upon which the lot fronts, located so as not to interfere with sight distance at driveways and chosen from the list of acceptable trees established by the city manager, unless the subdivision agreement provides that the subdivider will obtain written commitments from subsequent purchasers to plant the required trees.

Standard will be met at time of building permit application.

(L) The subdivider provides permanent survey monuments, range points, and lot pins placed by a Colorado registered land surveyor.

Standard met.

(M) Where an irrigation ditch or channel, natural creek, stream, or other drainage way crosses a subdivision, the subdivider provides an easement sufficient for drainage and maintenance.

Not applicable, as the proposed subdivision is not crossed by any irrigation ditch or channel, natural creek, stream, or other drainage way.

(N) Lots are assigned street numbers by the city manager under the city's established house numbering system, and before final building inspection the subdivider installs numbers clearly visible and made of durable material.

Standard met.

(O) For the purpose of ensuring the potential for utilization of solar energy in the city, the subdivider places streets, lots, open spaces, and buildings so as to maximize the potential for the use of solar energy in accordance with the following solar siting criteria:

Note that the subject lot is located within Solar Access Area III, and thus is not subject to any solar access restrictions per the land use code.

(i) Placement of Open Space and Streets: Open space areas are located wherever practical to protect buildings from shading by other buildings within the development or from buildings on adjacent properties. Topography and other natural features and constraints may justify deviations from this criterion.

Standard met.

(ii) Lot Layout and Building Siting: Lots are oriented and buildings sited in a way which maximizes the solar potential of each principal building. Lots are designed so that it would be easy to site a structure which is unshaded by other nearby structures and so as to allow for owner control of shading. Lots also are designed so that buildings can be sited so as to maximize the solar potential of adjacent properties by minimizing off-site shading.

Standard met.

(iii) Building Form: The shapes of buildings are designed to maximize utilization of solar energy. Existing and proposed buildings shall meet the solar access protection and solar siting requirements of section 9-9-17, "Solar Access," B.R.C. 1981.

Standard met.

(iv) Landscaping: The shading impact of proposed landscaping on adjacent buildings is addressed by the applicant. When a landscape plan is required, the applicant shall indicate the plant type and whether the plant is coniferous or deciduous.

A Landscape Plan was approved as part of the Site Review approval, and a detailed landscape plan that is consistent with the approved plan will be required at time of redevelopment of the new lot.

(2) Transportation Standards for Streets, Alleys, and Sidewalks: Streets, curb and gutters, sidewalks, alleys, and the public rights-of-way therefore, are provided in conformity with the standards in the City of Boulder Design and Construction Standards, and meet the following

conditions:

(A) Streets are aligned to join with planned or existing streets.

Not applicable, as there are no new streets proposed.

(B) Streets are designed to bear a relationship to the topography, minimizing grade, slope, and fill.

Not applicable, as there are no new streets proposed.

(C) There are no dead-end streets without an adequate turnaround and appropriate barriers.

Not applicable, as there are no new streets proposed.

(D) Access to freeway, arterial, or collector street occurs only at intersections approved by the city manager, if the manager finds that the access provides efficient traffic movement and safety for drivers and pedestrians.

Standard met.

(E) A street of only one-half width is not dedicated to or accepted by the city.

Standard met.

(F) When the plat dedicates a street that ends on the plat or is on the perimeter of the plat, the subdivider conveys that last foot of the street on the terminal end or outside border of the plat to the city in fee simple, and it is designated by using an outlet.

Not applicable, as no street is being dedicated to the city through this subdivision.

(G) Streets are provided as prescribed by the Boulder Valley Comprehensive Plan, adopted subcommunity or area plans, or the Transportation Master Plan.

Not applicable, as no street is being dedicated to the city through this subdivision.

(H) Alleys are encouraged and should be provided. If they are provided, they are paved or otherwise appropriately surfaced with a material approved by the city manager for the specific application and location.

Standard met. No new alleys are being constructed as part of this subdivision.

(I) Sidewalks are provided in all subdivisions, unless the city manager determines that no public need exists for sidewalks in a certain location.

Standard met. Sidewalks and bike lanes are provided along the Independence Road and

47th Street for pedestrian access to the site.

(J) Signs for street names (subject to approval of the city manager), directions, and hazards are provided.

Standard met. Existing street signs are already in place.

(K) Traffic control signs are provided, as required by the city manager for control of traffic.

Standard met. New traffic control signs will be required at time of building permit.

(L) Pedestrian crosswalks are provided, as required by the city manager for traffic control and, at a minimum, between streets where the distance between intersecting streets exceeds one thousand feet.

Standard met. No crosswalks will be required.

(M) Bike paths or lanes are provided in conformity with the City of Boulder Comprehensive Plan for bicycle facilities and are dedicated to the city.

Standard met. Sidewalks and bike lanes are provided along the Independence Road and 47th Street for pedestrian access to the site.

(N) Private streets are not permitted.

Standard met. No private streets are being constructed as part of this subdivision.

(3) Standards for Water and Wastewater Improvements: Water and wastewater utilities are provided in conformity with the construction and design standards in the City of Boulder Design and Construction Standards, and meet the following conditions:

(A) Water and sanitary sewer mains are provided as necessary to serve the subdivision.

Standard met.

(B) Easements are provided for city utilities as prescribed by the City of Boulder Design and Construction Standards.

Standard met.

(C) Easements for utilities other than city utilities are provided as required by the applicable private utility.

Standard met.

(D) Newly installed telephone, electric, and cable television lines and other similar utility service are placed underground. Existing utilities are also placed underground unless the

subdivider demonstrates to the manager that the cost substantially outweighs the visual benefit from doing so. But transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts, electric transmission and distribution feeder lines, communication long distance trunk and feeder lines, and other facilities necessarily appurtenant to such facilities and to underground utilities may be placed above ground within dedicated easements or public rights-of-way.

Standard met. All new and existing overhead utilities serving the property will be undergrounded.

(4) Standards for Flood Control and Storm Drainage: Flood control and storm drainage measures are provided as required by the city's master drainage plan and in conformity with the construction and design standards in the City of Boulder Design and Construction Standards, and meet the following conditions:

(A) The measures retain existing vegetation and natural features of the drainageway where consistent with the master drainage plan.

Standard met.

(B) Any land subject to flooding by a one hundred-year flood conforms to the requirements of chapter 11-5, "Storm Water and Flood Management Utility," B.R.C. 1981.

Not applicable. The subject property is not located within a floodplain.

(C) Storm drainage improvements and storm sewers are maintained to collect drainage from the subdivision and convey it off-site into a city right of way or drainage system without adversely affecting adjacent property.

Standard met.

(D) Bridges, culverts, or open drainage channels are provided when required by the flood control utility master drainage plan.

Not applicable.

(E) All subdivisions shall be designed to minimize flood damage.

Not applicable.

(F) All subdivisions shall have public utilities and facilities, including, without limitation, sewer, gas, electrical, and water systems, located and constructed to prevent flood damage.

Not applicable.

(G) All subdivisions shall have adequate drainage provided to reduce exposure to flood damage.

Standard met.

(5) Standards for Fire Protection: Fire protection measures meet the following conditions:

(A) Fire hydrants are provided as required by chapter 10-8, "Fire Prevention Code," B.R.C. 1981.

Standard met.

(B) Fire lanes are provided where necessary to protect the area; an easement at least sixteen feet wide for fire lanes is dedicated to the city, remains free of obstructions, and permits emergency access at all times.

Standard met.

FINAL PLAT
KUM & GO STORE 943 SUBDIVISION
SITUATED IN THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.
SHEET 1 OF 2
TOTAL AREA = 99,103 SQUARE FEET OR 2.275 ACRES

DEDICATION:

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED, BEING THE OWNER OF THAT PARCEL OF LAND SITUATED IN THE CITY OF BOULDER, AND BEING LOCATED IN THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE SIXTH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE N1/16 CORNER OF SECTIONS 21 AND 20 FROM WHICH THE WEST QUARTER CORNER OF SAID SECTION 21 BEARS S00°06'56"E, A DISTANCE OF 1324.09 FEET AS MONUMENTED AND SHOWN HEREON; THENCE S00°06'56"E, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER OF SECTION 21, A DISTANCE OF 30.00 FEET TO THE SOUTHERLY RIGHT-OF-WAY LINE FOR INDEPENDENCE ROAD; THENCE N89°38'31"E, ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 31.60 FEET TO THE EASTERLY RIGHT-OF-WAY LINE FOR 47TH STREET AND THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE FOR INDEPENDENCE ROAD THE FOLLOWING TWO (2) COURSES:

- 1) N89°38'31"E, A DISTANCE OF 290.30' FEET;
2) S32°29'29"E, A DISTANCE OF 102.90' FEET TO THE NORTHWESTERLY RIGHT-OF-WAY LINE FOR DIAGONAL HIGHWAY;

THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE FOR DIAGONAL HIGHWAY THE FOLLOWING EIGHT (8) COURSES:

- 1) S27°43'31"W, A DISTANCE OF 65.10' FEET;
2) S33°51'31"W, A DISTANCE OF 50.00' FEET;
3) S36°47'31"W, A DISTANCE OF 50.00' FEET;
4) S39°30'31"W, A DISTANCE OF 50.00' FEET;
5) S42°00'31"W, A DISTANCE OF 50.00' FEET;
6) S44°57'31"W, A DISTANCE OF 50.00' FEET;
7) S47°23'31"W, A DISTANCE OF 50.00' FEET;
8) S50°10'31"W, A DISTANCE OF 50.00' FEET TO SAID EASTERLY RIGHT-OF-WAY LINE FOR 47TH STREET;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE FOR 47TH STREET THE FOLLOWING TWO (2) COURSES:

- 1) N62°30'29"W, A DISTANCE OF 91.26' FEET;
2) N0°06'56"W, A DISTANCE OF 359.02' FEET TO THE POINT OF BEGINNING;

CONTAINING 99,103 SQ. FT. OR 2.275 ACRES, MORE OR LESS.

HAS CAUSED SAID PROPERTY TO BE LAID OUT, SURVEYED, SUBDIVIDED AND PLATTED UNDER THE NAME OF "KUM & GO STORE 943 SUBDIVISION," A SUBDIVISION IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, AND BY THESE PRESENTS DOES HEREBY GRANT TO THE CITY OF BOULDER THOSE PORTIONS OF REAL PROPERTY DESIGNATED AS "PUBLIC ACCESS EASEMENT" ON THE ACCOMPANYING PLAT AS EASEMENTS FOR PUBLIC INGRESS AND EGRESS, AND FOR THE CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT OF TRANSPORTATION IMPROVEMENTS AND LANDSCAPING AND UTILITIES AND APPURTENANCES THERETO. IT IS EXPRESSLY UNDERSTOOD AND AGREED BY THE UNDERSIGNED THAT ALL EXPENSES AND COSTS INVOLVED IN CONSTRUCTING AND INSTALLING SAID IMPROVEMENTS SHALL BE GUARANTEED AND PAID FOR BY THE SUBDIVIDER OR ARRANGEMENTS MADE BY THE SUBDIVIDER THEREFORE WHICH ARE APPROVED BY THE CITY OF BOULDER, AND SUCH SUMS SHALL NOT BE PAID BY THE CITY OF BOULDER, COLORADO, AND THAT ANY ITEM SO CONSTRUCTED OR INSTALLED AND ACCEPTED BY THE CITY OF BOULDER, COLORADO, SHALL BECOME THE SOLE PROPERTY OF THE CITY OF BOULDER.

THE UNDERSIGNED DOES FURTHER GRANT TO THE CITY OF BOULDER THAT REAL PROPERTY DESIGNATED AS "UTILITY EASEMENT" ON THE ACCOMPANYING PLAT AS AN EASEMENT FOR THE CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT FOR ALL SERVICES, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING: TELEPHONE AND ELECTRIC LINES, WORKS, POLES, UNDERGROUND CABLES, GAS PIPELINES, WATER PIPELINES, SANITARY SEWER LINES, STREET LIGHTS, CULVERTS, HYDRANTS, DRAINAGE DITCHES AND DRAINS AND ALL APPURTENANCES THERETO. IT IS EXPRESSLY UNDERSTOOD AND AGREED BY THE UNDERSIGNED THAT ALL EXPENSES AND COSTS INVOLVED IN CONSTRUCTING AND INSTALLING WATER, PIPELINES AND APPURTENANCES, SANITARY SEWER WORKS AND LINES, GAS SERVICE LINES, ELECTRICAL SERVICE WORKS AND LINES, STORM SEWERS AND DRAINS, STREET LIGHTING, GRADING AND LANDSCAPING, CURBS, GUTTERS, STREET PAVEMENT, SIDEWALKS, AND OTHER SUCH UTILITIES AND SERVICES SHALL BE GUARANTEED AND PAID FOR BY THE SUBDIVIDER OR ARRANGEMENTS MADE BY THE SUBDIVIDER THEREFORE WHICH ARE APPROVED BY THE CITY OF BOULDER, AND SUCH SUMS SHALL NOT BE PAID BY THE CITY OF BOULDER, COLORADO, AND THAT ANY ITEM SO CONSTRUCTED OR INSTALLED AND ACCEPTED BY THE CITY OF BOULDER, COLORADO, SHALL BECOME THE SOLE PROPERTY OF THE CITY OF BOULDER, EXCEPT ITEMS OWNED BY MUNICIPALLY FRANCHISED OR PERMITTED UTILITIES, WHICH ITEMS, WHEN CONSTRUCTED OR INSTALLED, SHALL REMAIN THE PROPERTY OF THE OWNER OR THE PUBLIC UTILITY, AND SHALL NOT BECOME THE PROPERTY OF THE CITY OF BOULDER.

THE UNDERSIGNED DOES FURTHER GRANT TO THE CITY OF BOULDER THAT REAL PROPERTY DESIGNATED AS "DRAINAGE EASEMENT" ON THE ACCOMPANYING PLAT AS AN EASEMENT FOR CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT OF AND DRAINAGE FACILITIES AND STORMWATER DETENTION/WATER QUALITY FACILITIES AND ALL APPURTENANCE THERETO AND FOR VEHICULAR ACCESS BY CITY VEHICLES. IT BEING EXPRESSLY UNDERSTOOD AND AGREED BY THE UNDERSIGNED THAT ALL EXPENSES AND COSTS INVOLVED IN CONSTRUCTING AND INSTALLING THE STORMWATER DETENTION/WATER QUALITY AND DRAINAGE IMPROVEMENTS SHALL BE GUARANTEED AND PAID FOR BY THE SUBDIVIDER OR ARRANGEMENTS MADE BY THE SUBDIVIDER THEREFOR WHICH ARE APPROVED BY THE CITY, AND SUCH SUMS SHALL NOT BE PAID BY THE CITY, AND THAT ANY ITEM SO CONSTRUCTED OR INSTALLED WHEN ACCEPTED BY THE CITY SHALL REMAIN THE PROPERTY AND MAINTENANCE RESPONSIBILITY OF THE SUBDIVIDER AND SHALL NOT BECOME THE PROPERTY OF THE CITY.

FOR THE APPROVAL OF "KUM & GO STORE 943 SUBDIVISION" AND THE DEDICATIONS AND CONDITIONS WHICH APPLY THERETO THIS _____ DAY OF _____, 20____.

KG STORE 943, LLC, AN IOWA LIMITED LIABILITY COMPANY

BY: CHARLES W. CAMPBELL, GENERAL COUNSEL AND SECRETARY

ACKNOWLEDGEMENT:

STATE OF _____)
COUNTY OF _____) SS

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 20____, BY CHARLES W. CAMPBELL, GENERAL COUNSEL AND SECRETARY OF KG STORE 943, LLC, AN IOWA LIMITED LIABILITY COMPANY.

WITNESS MY HAND AND OFFICIAL SEAL.

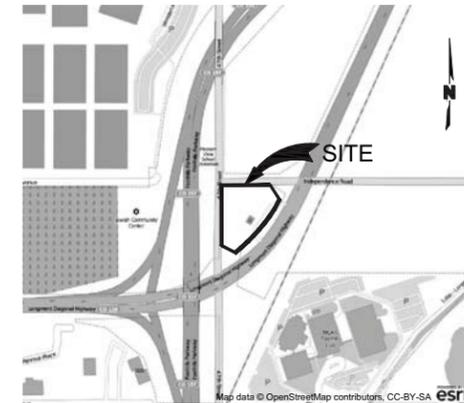
NOTARY PUBLIC _____

MY COMMISSION EXPIRES: _____

GENERAL NOTES:

- 1. FOR ALL INFORMATION REGARDING EASEMENTS, RIGHT-OF-WAY AND TITLE OF RECORD, OLSSON ASSOCIATES RELIED UPON COMMITMENT FOR TITLE INSURANCE ISSUED BY OLD REPUBLIC NATIONAL TITLE INSURANCE COMPANY, ORDER SC70416277.1, EFFECTIVE DATE: JUNE 16, 2014 AT 5:00 P.M., OLSSON ASSOCIATES HAS EXAMINED THE ABOVE REFERENCED TITLE COMMITMENT AS WELL AS EACH INSTRUMENT LISTED THEREON.
2. NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
3. BASIS OF BEARINGS: BEARINGS ARE BASED ON THE WEST LINE OF THE NW1/4 OF SECTION 21 AS HAVING A BEARING OF N00°06'56"W FROM THE W1/4 CORNER BEING MONUMENTED WITH A 3" ALUMINUM CAP TO THE W-N1/16 CORNER BEING ALSO MONUMENTED WITH A 3" ALUMINUM CAP AS SHOWN HEREON.
4. PROJECT BENCHMARK: THE PUBLISHED VALUES OF BOULDER COUNTY PRIMARY MONUMENT CONTROL STATION "B 322 RESET". EL=5508.90' (NAVD88)
5. SITE BENCHMARK: 3" ALUMINUM CAP LOCATED IN THE INTERSECTION OF 47TH STREET AND INDEPENDENCE ROAD. EL=5304.38' (NAVD88)
6. DATE OF SURVEY: 07-17-2012
7. PARCEL APPEARS TO BE IN THE FLIGHT PATH OF BOULDER MUNICIPAL AIRPORT. SMALL ENGINE PLANES AND GLIDERS WERE OBSERVED OVERHEAD DURING THE SURVEY.
8. THE SUBJECT PROPERTY FALLS WITHIN ZONE "X" DESCRIBED AS AREAS DETERMINED TO BE OUTSIDE THE 500-YEAR FLOODPLAIN; ACCORDING TO FEMA FLOOD INSURANCE RATE MAP 08013C0415F WITH AN EFFECTIVE DATE OF JUNE 2, 1995.

LAND USE TABLE
PARCEL SIZE PROPOSED USAGE % OF TOTAL AREA
LOT 1 1.798 ACRES CONVENIENCE STORE WITH FUELING CANOPY 79.02%
LOT 2 0.477 ACRES COMMERCIAL 20.98%



SURVEYOR'S CERTIFICATE:

I, DANA L. SPERLING, A REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT WAS MADE BY ME OR UNDER MY DIRECT SUPERVISION ON THE _____ DAY OF _____, 20____, AND THAT THE ACCOMPANYING MAP ACCURATELY AND PROPERLY SHOWS SAID SUBDIVISION AND SHALL BE KNOWN AS "KUM & GO STORE 943 SUBDIVISION".



DANA L. SPERLING
PROFESSIONAL LAND SURVEYOR
COLORADO LICENSE NO. 38012

APPROVALS:

DIRECTOR OF PLANNING _____

DIRECTOR OF PUBLIC WORKS AND UTILITIES _____

CITY MANAGER'S CERTIFICATE:

IN WITNESS WHEREOF, THE SAID CITY OF BOULDER HAS CAUSED ITS SEAL TO BE HEREUNTO AFFIXED BY ITS CITY MANAGER

THIS _____ DAY OF _____, 20____.

ATTEST:

CITY CLERK _____

CITY MANAGER _____

CLERK AND RECORDER'S CERTIFICATE:

STATE OF COLORADO)
COUNTY OF BOULDER) SS

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT _____ O'CLOCK ____M., THIS ____ DAY OF _____, 20____, AND IS RECORDED AT RECEPTION NUMBER _____

FEE PAID: \$ _____

CLERK AND RECORDER _____

DEPUTY _____



5985 Mallinckrodt Boulevard, Suite 100
Loveland, CO 80538
TEL 970.461.7733 www.olssonassociates.com

Table with 2 columns: REV. NO., REVISIONS DESCRIPTION

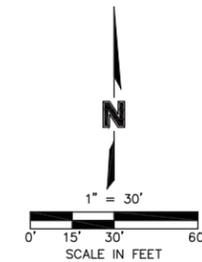
FINAL PLAT
KUM & GO STORE 943 SUBDIVISION
CITY AND COUNTY OF BOULDER, STATE OF COLORADO
BOULDER, COLORADO
2014

drawn by: LMG
checked by: DLS
approved by: DLS
QA/QC by: DLS
project no.: 012-1417
drawing no.: 121417_FPLAT
date: 09.02.2014

USER: lgreer

C:\Temp\AcPublish\7928\121417_FPLAT.dwg
DATE: Sep 11, 2014 10:29am

FINAL PLAT
KUM & GO STORE 943 SUBDIVISION
 SITUATED IN THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE SIXTH PRINCIPAL MERIDIAN,
 CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.
 SHEET 2 OF 2
 TOTAL AREA = 99,103 SQUARE FEET OR 2.275 ACRES



MOLSSON ASSOCIATES
 5285 Midway Boulevard, Suite 100
 Loveland, CO 80538
 TEL 970.461.7733 www.molssonassociates.com



REV. NO.	DATE	REVISIONS DESCRIPTION

REV. NO.	DATE	REVISIONS DESCRIPTION

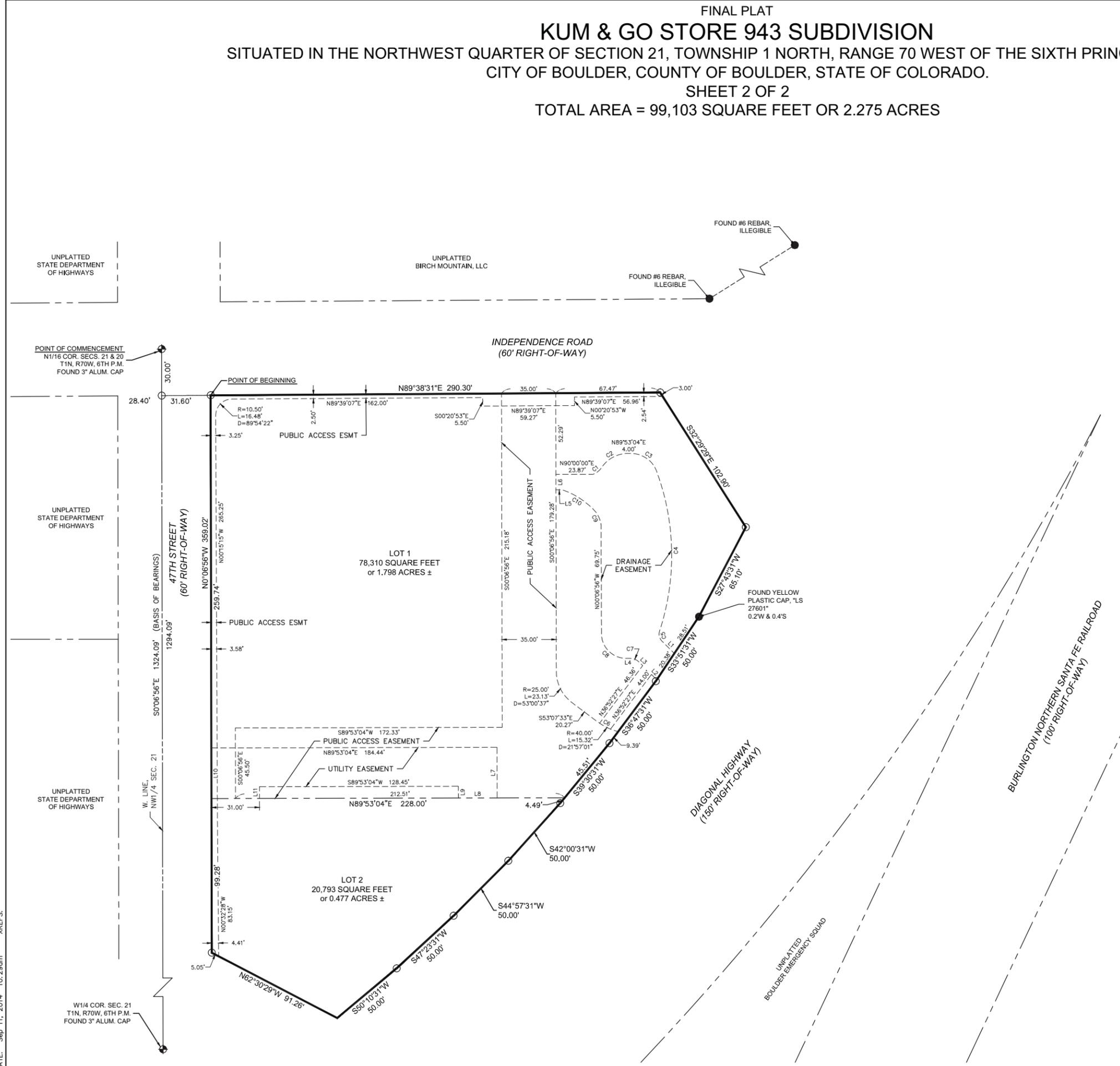
FINAL PLAT
KUM & GO STORE 943 SUBDIVISION
 CITY AND COUNTY OF BOULDER, STATE OF COLORADO
 BOULDER, COLORADO
 2014

drawn by: _____
 checked by: _____
 approved by: _____
 QA/QC by: _____
 project no.: 012-1417
 drawing no.: 121417.FPLAT
 date: 09.02.2014

LINE	DIRECTION	LENGTH
L1	S45°06'56"E	11.58'
L2	S45°06'56"E	4.80'
L3	N45°06'56"W	3.36'
L4	S89°53'04"W	2.54'
L5	S89°53'03"W	4.24'
L6	N00°06'56"W	10.00'
L7	S00°07'04"E	32.58'
L8	S89°53'04"W	25.00'
L9	N00°07'04"W	7.58'
L10	N00°06'56"W	32.58'
L11	S00°06'56"E	7.58'

CURVE	LENGTH	RADIUS	DELTA	CHORD	CHORD
C1	6.78'	10.24'	37°58'18"	N53°17'08"E	6.66'
C2	19.21'	20.82'	52°52'05"	N59°10'48"E	18.54'
C3	19.76'	17.74'	63°49'04"	S55°54'02"E	18.75'
C4	106.39'	155.22'	39°16'15"	S1°10'29"E	104.32'
C5	6.33'	6.51'	55°42'26"	S13°58'26"E	6.08'
C6	8.11'	40.00'	11°36'50"	S61°54'41"E	8.09'
C7	6.28'	8.00'	44°59'59"	N67°36'56"W	6.12'
C8	25.13'	16.00'	90°00'00"	N45°06'56"W	22.63'
C9	11.53'	16.51'	39°59'53"	N25°49'31"W	11.29'
C10	23.90'	52.36'	26°09'05"	N57°44'55"W	23.69'

- LEGEND**
- FOUND MONUMENT AS INDICATED
 - FOUND #5 REBAR W/ YELLOW PLASTIC CAP, PLS 38012
 - ⊕ SECTION CORNER
 - EASEMENT LINE
 - PROPERTY LINE, BOUNDARY
 - PROPERTY LINE, **Agenda Item 4A**
 - SECTION LINE



DWS: C:\Temp\AcPublish\7928\121417.FPLAT.dwg
 DATE: Sep 11, 2014 10:29am XREFS:
 USER: lgreer

MEMORANDUM

TO: Planning Board
FROM: Chandler Van Schaack, Case Manager
DATE: February 19, 2015
SUBJECT: **Call Up Item:** USE REVIEW (LUR2015-00002): Use Review proposal to allow new "Oyster Road" restaurant to replace previous restaurant use at 1043 Pearl in the DT-2 zone district, including a 987 square foot expansion of food and beverage service into the basement which was formerly used as storage.

Background.

1043 Pearl St. is located in Downtown Boulder, immediately west of the Pearl Street Mall within the Downtown-2 (DT-2) zone district. Please refer to **Figure 1** for a Vicinity Map. The DT-2 zone district is defined in section 9-5-2, B.R.C. 1981 as "A transition area between the downtown and the surrounding residential areas where a wide range of retail, office, residential, and public uses are permitted. A balance of new development with the maintenance and renovation of existing buildings is anticipated, and where development and redevelopment consistent with the established historic and urban design character is encouraged." The current use standards found in section 9-6-1, B.R.C. 1981 require a Use Review for "restaurants, brewpubs and taverns that are over 1,500 square feet in floor area" to operate in the DT-2 zone district. The previous restaurant use, Pastavino, was approved through Use Review in 2012.

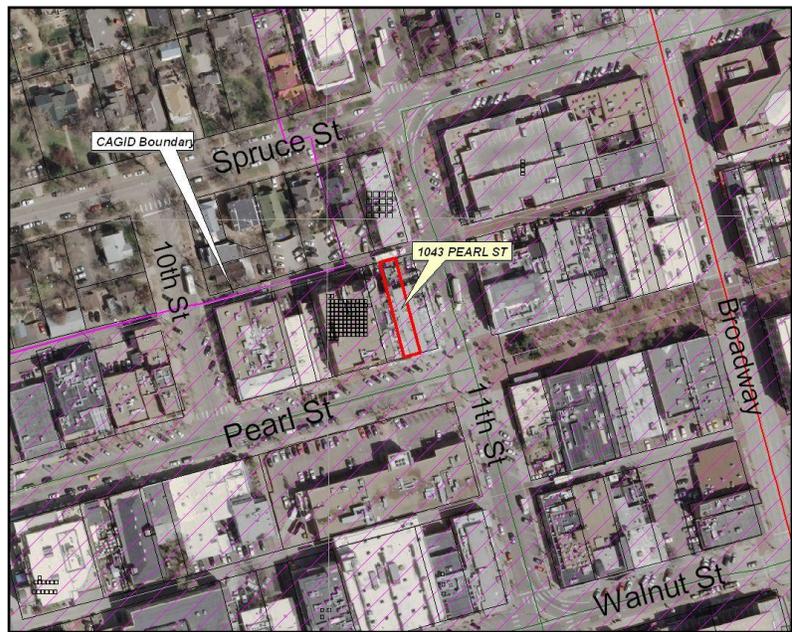


Figure 1: Vicinity Map

The current character of the surrounding area is highly active with a mix of DT-zoned areas containing restaurant, tavern, retail, and other commercial uses to the south, east, and west. The area immediately to the north of the site is zoned RMX-1, and contains a mix of residential, commercial, and retail uses. Pursuant to section 9-9-6, B.R.C. 1981, because the building is located with the Central Area General Improvement District (CAGID) there is no off-street parking requirement. There is ample public parking as well as on-street parking available nearby.

Proposed Project. The applicant is requesting approval of a Use Review to allow for the replacement of the previous 3,210 square foot Pastavino restaurant with a new restaurant, "Oyster Road," including a 987 square foot expansion of food and beverage service into the basement which is currently used as storage. The existing patio area, which consists of two 29 square foot seating areas, one on either side of the main entrance, will remain. The proposed hours of operation are from 10:00 a.m. to 11:00 p.m. seven days per week. Refer to **Attachment C** for *Applicant's Proposed Plan and Management Plan*.

Review Process. The previous restaurant use (Pastavino) was approved through the Use Review process in 2012. The current proposal constitutes an expansion of the previous restaurant use and therefore requires approval of a Use Review application in conformance with the Use Review criteria found in section 9-2-15, B.R.C. 1981. Per section 9-4-2, B.R.C. 1981, applications for Use Review are subject to call up by the Planning Board.

Public Comment. Consistent with section 9-4-3, Public Notice Requirements, B.R.C. 1981, staff provided notification to all property owners within 600 feet of the subject location of the application, and a sign has been posted on the building by the applicant indicating the review requested. Staff fielded questions from two neighbors but has not received any opposition to the proposal. A Good Neighbor Meeting was held by the applicant on February 10, 2015, which one person attended and expressed support of the proposal.

Project Analysis/ Conclusion. Staff finds that this application is consistent with the Use Review criteria found in subsection 9-2-15(e), "*Criteria for Review*," B.R.C. 1981. Refer to **Attachment B** for the complete Use Review analysis. This proposal was approved by Planning and Development Services staff on **February 12, 2015** (see **Attachment A**) and the decision may be called up before Planning Board on or before **February 26, 2015**. There is one Planning Board meeting within the 14-day call up period, on **February 19, 2015**. Questions about the project or decision should be directed to Chandler Van Schaack at (303) 441-3137 or vanschaack@bouldercolorado.gov.

Attachments:

- A. Signed Disposition
- B. Analysis of Use Review Criteria
- C. Applicant's Proposed Plan and Management Plan



CITY OF BOULDER
Community Planning and Sustainability

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
 phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

CITY OF BOULDER PLANNING DEPARTMENT
NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C. 1981, as applied to the proposed development.

DECISION: APPROVED WITH CONDITIONS
PROJECT NAME: Oyster Road Restaurant
DESCRIPTION: USE REVIEW for a new restaurant with outdoor seating within 500 feet of a residential use module to replace a previous restaurant use, including a 987 square foot expansion of food and beverage service into the basement which was formerly used as storage.
LOCATION: 1043 Pearl St.
COOR: N03W06
LEGAL DESCRIPTION: See attached Exhibit A
APPLICANT: Bradford Heap
OWNER: Snyder Family, LLLP
APPLICATION: Use Review, LUR2015-00002
ZONING: DT-2
CASE MANAGER: Chandler Van Schaack
VESTED PROPERTY RIGHT: NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.

FOR CONDITIONS OF APPROVAL, SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

Approved On: 2.12.15
 Date

By:

[Signature]

David Driskell, Executive Director of Community Planning and Sustainability

This decision may be appealed to the Planning Board by filing an appeal letter with the Planning Department within two weeks of the decision date. If no such appeal is filed, the decision shall be deemed final fourteen days after the date above mentioned.

Appeal to Planning Board expires: 2.26.15

Final Approval Date: 2.27.15

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT MUST BE SUBMITTED TO THE PLANNING DEPARTMENT, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING DEPARTMENT APPROVAL AUTOMATICALLY EXPIRES.

Address: 1043 Pearl St.

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the applicant must begin and substantially complete the approved development within three years from the date of final approval. Failure to "substantially complete" (as defined in Section 9-2-12, Boulder Revised Code 1981) the development within three years shall cause this development approval to expire.

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all approved plans** prepared by the Applicant on January 5, 2015 on file in the City of Boulder Planning Department. Further, the Applicant shall ensure that the approved use is operated in compliance with the following restrictions:
 - a. The Applicant shall operate the business in accordance with the Management Plan dated January 27, 2015 which is attached to this Notice of Disposition as Exhibit B, except as may be modified by these conditions of approval.
 - b. Size of the approved use shall be limited to 4,197 square feet, with the patio seating area not to exceed 58 square feet.
 - c. The approved hours of operation are from 10:00 a.m. to 11:00 p.m. Mon. through Wed., and from 9:00 a.m. to 12:00 a.m., Thurs. through Sun.
 - d. Trash and bottles shall not be removed to outside storage (trash) containers between the hours of 10:00 p.m. and 9:00 a.m.
 - e. No outdoor music or entertainment shall be provided after 11:00 p.m.
2. The Applicant **shall not expand or modify the approved use**, except pursuant to subsection 9-2-15(h), B.R.C. 1981.
3. Prior to a building permit application, the Applicant shall **obtain a right-of-way lease** pursuant to section 8-6-6, B.R.C. 1981 for the proposed outdoor seating areas, as shown on the approved plans, that project into the public right-of-way.
4. This approval is **limited to Bradford Heap**, the owner of the restaurant. Any changes in ownership shall be subject to the review and approval of the Planning Director. The purpose of such review shall be to inform such subsequent user of this space that it will be required to operate the restaurant in compliance with the terms of this approval.
5. Upon the execution of development agreement required by section 9-2-9, B.R.C., 1981, this approval **supersedes the conditions of approval** contained in Exhibit A (Planning Department Notice of Disposition dated October 15, 2012) to the Development Agreement recorded in the Office of the Boulder County Clerk and Recorder on April 8, 2013 as Reception No. 03303185.

EXHIBIT A

LEGAL DESCRIPTION

A PORTION OF THE WEST ½ OF LOT 12, BLOCK 97, ORIGINAL TOWN OF BOULDER, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO AS ORIGINALLY RECORDED JUNE 20, 1868 IN PLAT BOOK A, PAGE 1 AND RE-RECORDED IN PLAT BOOK 2, PAGE 31 OF THE BOULDER COUNTY CLERK AND RECORDER'S OFFICE, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST ½ OF LOT 12 EXCEPT FOR THE FOLLOWING DESCRIBED PARCEL:
COMMENCING AT THE NW CORNER OF SAID LOT 12, BLOCK 97, ORIGINAL TOWN OF BOULDER;
THENCE ALONG THE NORTH LINE OF SAID LOT A DISTANCE OF 22 FEET TO THE POINT OF BEGINNING; THENCE SOUTH AND PARALLEL TO THE WEST LINE OF SAID LOT A DISTANCE OF 40 FEET; THENCE EAST AND PARALLEL TO THE NORTH LINE OF SAID LOT A DISTANCE OF 3 FEET; THENCE NORTH AND PARALLEL TO THE WEST LINE OF SAID LOT A DISTANCE OF 40 FEET; THENCE WEST ALONG THE NORTH LINE OF SAID LOT A DISTANCE OF 3 FEET TO THE POINT OF BEGINNING.

SAID PROPERTY ENCOMPASSES 3383 SQUARE FEET OR 0.0777 ACRES, MORE OR LESS.

EXHIBIT B

1043 Pearl St Management Plan

January 27th, 2015

Background: Giving Boulder's west end another option for fresh fish, our kitchen executes classic dishes to perfection using only the best, organic and fresh ingredients, locally sourced, and direct from the fishermen. To complement the menu, we've carefully selected a distinguished variety of wines, including a biodynamic selection, from reputable vineyards around the world.

1043 Pearl Street has been a restaurant for many years. We would like to transfer a 58 square foot sidewalk seating area similar to the ones at the adjacent restaurants serving food and drink outdoors.

Hours of operation will be from 10 am to 11 pm daily.

Clients will be arriving at 10 AM To 11 PM and departing anywhere from a half an hour 2 hours after their arrival.

Parking: Employees will be encouraged to use alternative modes of transportation. We will instruct staff who drive to park in City of Boulder covered parking lots and not in the surrounding neighborhood.

Deliveries are made behind the restaurant and will not be affected by the sidewalk seating.

Trash and Recycling will be picked up in the alley on the north side of the building. Glass recycling will be emptied before 10pm to reduce noise impact on the neighbors to the north.

Noise: Background music may be played on the patio at low volume levels during regular hours of operation.

Cleanliness of the right away

We sweep the patio and right-of-way in front of the restaurant on a daily basis.

Drug and Alcohol Policy: We will undergo stringent training and establish alcohol policies congruent with the Boulder Police Department and other state-certified guidelines for safe and controlled consumption of alcohol on the premises by patrons at least 21 years of age.

To discourage loitering we will help the subjects who are loitering to move to a better area if they become an nuisance to our clients. If that doesn't work we'll call the police.

Neighborhood Outreach and methods of future communication: The owners may be reached by email. Bradford Heap's email is brad.saltbistro@gmail.com. Carol Vilate's email is carolvilate@gmail.com

Methods of dispute resolution with the surrounding neighborhood: We will uphold its performance as a good neighbor and strive to prevent any disputes. Should a dispute with the surrounding neighborhood arise, the owner or manager will participate in discussions and find resolutions to the problems cited. An employee meeting will then be scheduled to implement the solutions. Irreconcilable differences will be handled first through mediation, then arbitration, then court proceedings as necessary.

Case #: LUR2015-00002

Project Name: Oyster Road Use Review

Date: February 19, 2015

USE REVIEW CRITERIA

Criteria for Review: No use review application will be approved unless the approving agency finds all of the following:

Y (1) **Consistency with Zoning and Non-Conformity:** The use is consistent with the purpose of the zoning district as set forth in [Section 9-5-21\(c\)](#), "Zoning Districts Purposes," B.R.C. 1981, except in the case of a non-conforming use;

The subject site is located within the DT-2 zone district, which has a D3 use module. The DT-2 zone is defined in section 9-5-2(c)(3)(B), B.R.C. 1981 as:

"A transition area between the downtown and the surrounding residential areas where a wide range of retail, office, residential, and public uses are permitted. A balance of new development with the maintenance and renovation of existing buildings is anticipated, and where development and redevelopment consistent with the established historic and urban design character is encouraged."

Pursuant to the use standards for the zone district, "Restaurants, brewpubs and taverns that are: over 1,500 square feet in floor area, outside of the University Hill general improvement district; over 4,000 square feet within the University Hill general improvement district; or which close after 11:00 p.m." are allowed pursuant to a Use Review.

The subject space has been a restaurant for over 30 years, formerly Juanita's and most recently Pastavino, from 2012 to the present. The space is surrounded on both sides by other restaurant and tavern uses, and is located just off the Pear Street Mall, where a variety of restaurant and retail uses exist.

Y (2) **Rationale:** The use either:

Y (A) Provides direct service or convenience to or reduces adverse impacts to the surrounding uses or neighborhood;

The proposed restaurant would provide a direct service to the surrounding neighborhood, and will reduce the impacts associated with the previous restaurant use. In terms of providing a service, there has been a restaurant use serving the surrounding neighborhood from the subject location for over 30 years. The restaurant space sits in the middle of a string of very popular restaurants located just off the Pearl Street Mall, all of which currently also have outdoor seating of some kind. The proposed restaurant will continue to provide a direct service to the neighborhood similar to the restaurant uses that have historically been located in

the subject space, and will expand the seating area by 987 square feet in order to provide additional space for customers.

N/A (B) Provides a compatible transition between higher intensity and lower intensity uses;

Not Applicable.

N/A (C) Is necessary to foster a specific city policy, as expressed in the Boulder Valley Comprehensive Plan, including, without limitation, historic preservation, moderate income housing, residential and non-residential mixed uses in appropriate locations, and group living arrangements for special populations; or

Not Applicable.

N/A (D) Is an existing legal non-conforming use or a change thereto that is permitted under subsection (e) of this section;

Not Applicable.

Y (3) Compatibility: The location, size, design, and operating characteristics of the proposed development or change to an existing development are such that the use will be reasonably compatible with and have minimal negative impact on the use of nearby properties or for residential uses in industrial zoning districts, the proposed development reasonably mitigates the potential negative impacts from nearby properties;

Overall, following the proposed changes to the location, size, design, and operating characteristics of the proposed use will continue to be compatible with and have minimal negative impacts on the use of nearby properties. As mentioned above, the subject space has contained restaurant uses for over 30 years. The proposed change to the existing restaurant use is the addition of 987 square feet of food and beverage service into the basement which was formerly used as storage, for a total floor area of 4,197 square feet. While the basement floor area is existing, it was not included in the seating area for the previous restaurant use; therefore, the proposal to add seating to this area is considered an expansion of the previously approved use. Aside from the added basement seating, no changes to the size of the restaurant are proposed. The existing 58 square foot patio seating area is proposed to be maintained. As mentioned above, the existing restaurant sits amidst several other restaurant uses, many of which currently have outdoor seating (both of the restaurants adjacent to the subject building on the east and west currently have outdoor patios), so maintaining the outdoor seating for this space would not have any noticeable impacts. In addition, the current proposal modifies the hours of operation slightly, from the previous hours of 11:00 am to 12:00 a.m., seven days per week, to new hours from 10:00 a.m. to 11:00 p.m., Mon. – Wed., and 9:00 a.m. to 12:00 a.m., Thurs. – Sun. Given the earlier closing times earlier in the week and no extension of closing time on the weekends, the overall impacts of the proposed use will be equal to or lesser than the previous restaurant.

Y (4) Infrastructure: As compared to development permitted under [Section 9-6-1](#), "Schedule of Permitted Uses of Land," B.R.C. 1981, in the zone, or as compared to the existing level of impact of a non-conforming use, the proposed development will not significantly adversely affect the infrastructure of the surrounding area, including, without limitation, water, wastewater, and storm drainage utilities and streets;

All of the necessary infrastructure to serve the proposed use is already in place. The proposed expansion will not significantly adversely affect the infrastructure of the surrounding area.

Y (5) Character of Area: The use will not change the predominant character of the surrounding area; and

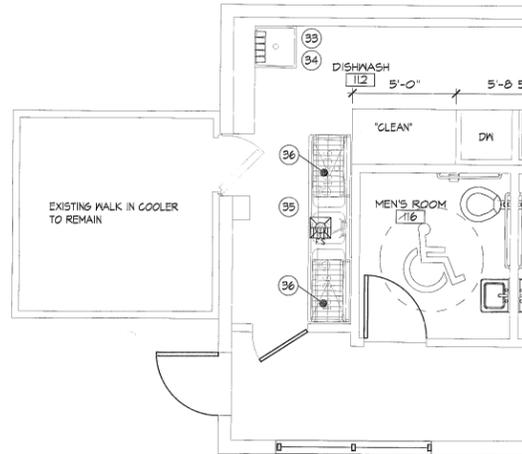
The character of the surrounding area can be defined as a mix of retail, restaurant and office uses, with residential uses nearby to the north and west. Pearl Street between 9th and the Mall is a burgeoning restaurant district, with several fine dining establishments as well as casual dining and bar establishments. Nearly every existing restaurant along Pearl Street in the immediate vicinity currently provides outdoor seating. Considering this as well as the fact that the subject space has been a restaurant for over 30 years (formerly Juanita's, then Pastavino), the addition of 987 square feet of basement seating, when combined with the earlier weekday closing times, will not change the surrounding area in any way but rather will be in keeping with the already vibrant and active urban character.

N/A (6) Conversion of Dwelling Units to Non-Residential Uses: There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts set forth in [Subsection 9-5-2\(c\)\(1\)\(a\)](#), B.R.C. 1981, to non-residential uses that are allowed pursuant to a use review, or through the change of one non-conforming use to another non-conforming use. The presumption against such a conversion may be overcome by a finding that the use to be approved serves another compelling social, human services, governmental, or recreational need in the community including, without limitation, a use for a day care center, park, religious assembly, social service use, benevolent organization use, art or craft studio space, museum, or an educational use.

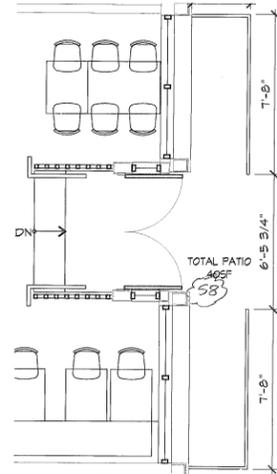
Not Applicable, as the subject site is not located in a residential zone district.



PLAN NORTH
 1 EQUIPMENT PLAN CONTINUED
 A1.1 1/4" = 1'-0"

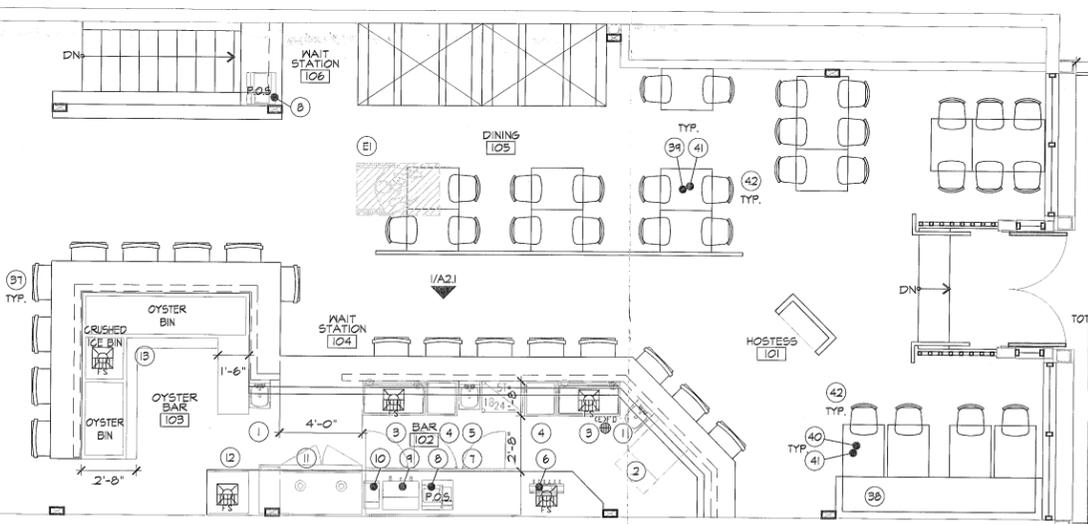
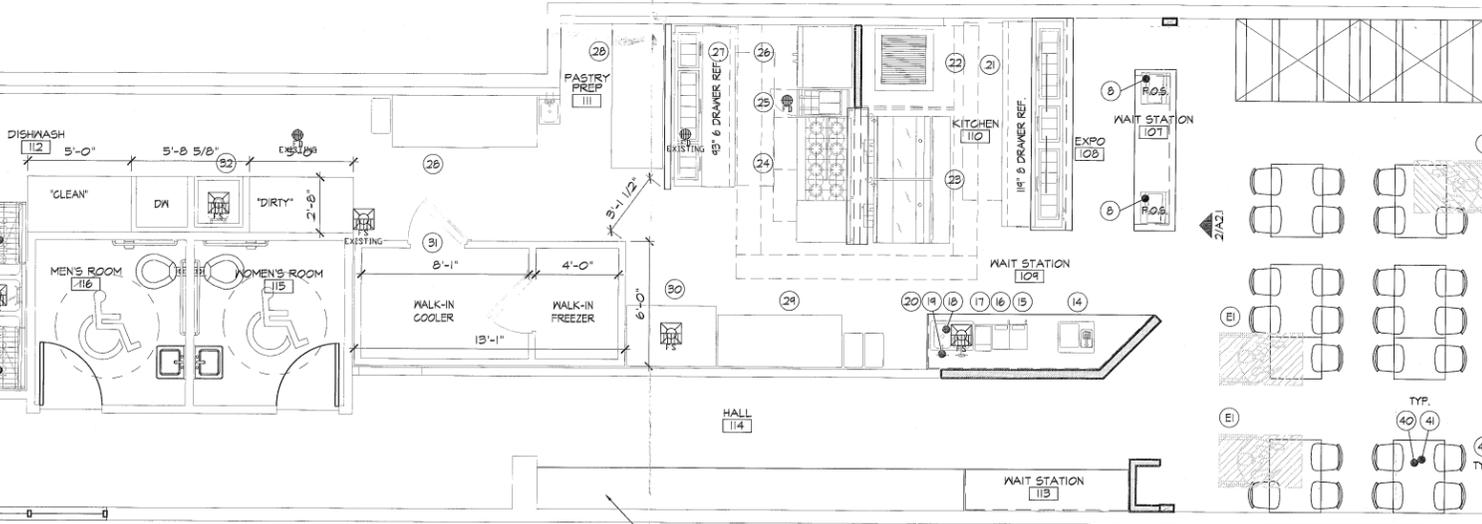


PLAN NORTH
 3 PATIO PLAN
 A1.1 1/4" = 1'-0"



MARK	QTY	ITEM	MANUFACTURER	MODEL	DESCRIPTION/NOTES	CASTERS	DIM. (WxD)	HEIGHT	PROVIDED	INSTALLED
1	2	Hand Sink	Tundra	11546	Wall Mount Hand Sink - 12" W x 12" H x 16" D	-	-	-	Owner	G.C.
*2	1	Dish Machine	Auto-Chlor	UB4	Dish Machine	-	-	-	Vendor	Vendor
*3	2	Ice Bin	Glostender	BA-36-CPIO	Underbar Ice Bin	-	-	-	Owner	G.C.
4	2	Drink Well	-	-	Drink Well - 18" W x 20" D	-	-	-	Vendor	G.C.
5	1	Dump Sink	-	-	Wall Mount Dump Sink - 12" W x 12" H x 16" D	-	-	-	Owner	G.C.
*6	1	Draft Beer System	Tundra	11546	Draft Beer System	-	-	-	Owner	G.C.
*11	1	Underbar Refrigeration	True	TBB-46-S-LD	Underbar Refrigeration, Glass Swing Doors Stainless Steel Back Bar Cooler	-	-	-	Owner	G.C.
8	4	Point of Sale	-	-	Point of Sale	-	-	-	Vendor	Vendor
9	1	Espresso Machine	Rancilio	Epoca EI	Espresso Machine Group 1	-	-	-	Owner	G.C.
10	1	Espresso Grinder	Mazzer	Super Jolly Grinder	Espresso Grinder	-	-	-	Owner	G.C.
*11	1	Water Dispenser	Micro Matix	MFD58M	Dual Temperature Water Dispenser	-	-	-	Owner	G.C.
*12	1	Ice Maker	Scottsman	AIE424	Self Contained Undercounter Flake Ice Machine	-	-	-	Owner	G.C.
*13	1	Oyster Bar	-	-	Custom Stainless Oyster Bar Station	-	-	-	Owner	G.C.
14	1	Water Filler Station	Supreme Metal	D24X5IBL	Drop-In Glass Filler Station w/ Ice Bin	-	-	-	Owner	G.C.
15	1	Coffee Brewer	Fetco	GBS-2031e	Coffee Brewer	-	-	-	Owner	G.C.
16	1	Tea Brewer	Fetco	GBS-2031e	Tea Brewer	-	-	-	Owner	G.C.
17	1	Coffee Grinder	Bunn	61	Coffee Grinder	-	-	-	Owner	G.C.
18	1	Drop In Sink	Vollrath	1021-H	Drop In Sink, Double Bowl, 14" W x 10" D x 10" deep, 3 1/2" drain, S.S.	-	-	-	Owner	G.C.
19	2	Double Point Faucet	Fisher	316	Faucet, Deck Mounted Dual Control, 1/2" Rigid Gooseneck Spout, 1/2" inlet	-	-	-	Owner	G.C.
20	1	Lever Waste	Tundra	11246	Lever Waste Valve with Overturn Assembly, 126PM Drain Rate	-	-	-	Owner	G.C.
21	1	Food Prep Table	True	TFP-1140-B	6 Drawer Pizza Prep Table	X	-	-	Owner	G.C.
22	1	Wood Broiler	J&R	Wood Shon Broiler	Wood Burning Broiler	X	-	-	Owner	G.C.
23	1	French Top Range	Southbend	F32A Grad	French Top Range w/ Convection Oven, Gas	-	-	-	Owner	G.C.
24	1	B Burner Range	-	-	12" W x 36" D B Burner Range w/ Convection Oven, Gas	-	-	-	Owner	G.C.
25	1	Fryer	Imperial	IFS-40	Fryer, Gas	-	-	-	Owner	G.C.
26	1	Convection Oven	Rational	Control Oven	Convection Oven	-	-	-	Owner	G.C.
27	1	Food Prep Table	True	TFP-432-B	6 Drawer Pizza Prep Table	X	-	-	Owner	G.C.
28	2	S.S. Mark Top Table	John Boos	516-308455K	S.S. Mark Top Table	-	-	-	Owner	G.C.
29	1	S.S. Mark Top Table	John Boos	516-301255K	S.S. Mark Top Table	-	-	-	Owner	G.C.
*30	1	Ice Machine	-	-	Existing Ice Machine	-	-	-	Owner	G.C.
31	1	Walk In Cooler / Freezer	-	-	Walk In Cooler / Walk In Freezer, Self Contained	-	-	-	Owner	G.C.
*32	1	Custom Dishwash Area	Auto-Chlor	-	Custom Dishwash Area and Dishwash Machine	-	-	-	Vendor	Vendor
33	1	Mop Sink	Stern Williams	MTB-2424	24" x 24" Mop Sink	-	-	-	Owner	G.C.
34	1	Cleaning System	Vendor	-	by vendor	-	-	-	Vendor	G.C.
*35	1	3 Comp Sink	John Boos	3B18244-2024	3 Comp Sink w/ 18" x 24" Bowl and 24" L & R Drainboard	-	-	-	Owner	G.C.
36	2	Wall Shelving	Nexel	-	Wire Wall Shelving - Brite, 18" x 36"	-	-	-	Owner	G.C.

2 EQUIPMENT SCHEDULE
 A1.1 1/4" = 1'-0"



PLAN NORTH
 1 EQUIPMENT PLAN
 A1.1 1/4" = 1'-0"

GENERAL SHEET NOTES:
 1. ALL ROOF PENETRATIONS SHALL BE COORDINATED WITH LANDLORD AND LANDLORD'S ROOFING CONTRACTOR.
 2. ALL ROOF EQUIPMENT SHALL BE SCREENED IN ACCORDANCE WITH MASTER DEVELOPMENT PLAN REQUIREMENTS.
 3. SEE FOOD SERVICE DRAWINGS FOR ALL KITCHEN EQUIPMENT DETAILS, SPECIFICATIONS AND SCHEDULES

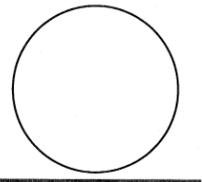
EQUIPMENT PLAN KEY NOTES:
 (E) DESIGNATED H.C. SEATING AREAS.

NOTICE: DUTY OF COOPERATION
 Release of these plans contemplates further cooperation among the owner, his contractor and the architect. Design and construction are complex. Although the architect and his consultants have performed their services with due care and diligence, they cannot guarantee perfection. Communication is imperfect, and every contingency cannot be anticipated. Any ambiguity or discrepancy discovered by the use of these plans shall be reported immediately to the architect. Failure to notify the architect compounds misunderstanding and increases construction costs. A failure to cooperate by a simple notice to the architect shall relieve the architect from responsibility for all consequences. Changes made from the plans without consent of the architect are unauthorized, and shall relieve the architect of responsibility for all consequences arising out of such changes.

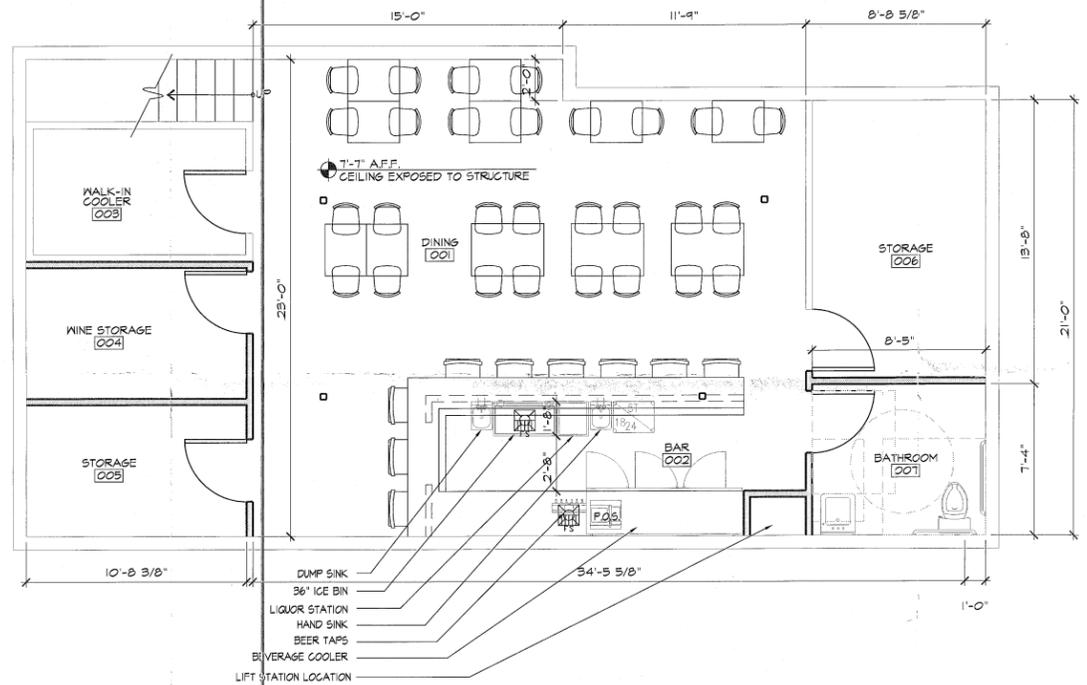
JOB NO: 201405
 DRAWN: MJS
 CHECKED: MJS
 DATE: 12.15 USE REVIEW
 REVISED:

EQUIPMENT PLAN / SCHEDULE

A1.1



OYSTER/FISH HOUSE
 1043 PEARL STREET
 BOULDER, COLORADO 80302



PLAN NORTH
 BASEMENT EQUIPMENT PLAN
 1/4" = 1'-0"

NOTICE: DUTY OF COOPERATION
 Release of these plans contemplates further cooperation among the owner, his contractor and the architect. Design and construction are complex. Although the architect and his consultants have performed their services with due care and diligence, they cannot guarantee perfection. Communication is imperfect, and every contingency cannot be anticipated. Any ambiguity or discrepancy discovered by the use of these plans shall be reported immediately to the architect. Failure to notify the architect compounds misunderstanding and increases construction costs. A failure to cooperate by a simple notice to the architect shall relieve the architect from responsibility for all consequences. Changes made from the plans without consent of the architect are unauthorized, and shall relieve the architect of responsibility for all consequences arising out of such changes.

JOB NO: 201405
 DRAWN: MJS
 CHECKED: MJS
 DATE: 15.15 USE REVIEW
 REVISED:

BASEMENT EQUIPMENT PLAN / SCHEDULE
 SD1.1

CITY OF BOULDER
PLANNING BOARD AGENDA ITEM
MEETING DATE: February 19, 2015

AGENDA TITLE:

Public hearing and recommendation on the Annexation and Initial Zoning of Residential-Rural 2 (RR-2) of 23 properties and right-of-way in the Old Tale Road Neighborhood (LUR2014-00004) including the following property owners and addresses:

Applicants/Owners:

1165 Old Tale Rd., Macinko Exempt Trust
1193 Old Tale Rd., Cynthia and Charles Anderson
1221 Old Tale Rd., Constance Ekrem
1228 Old Tale Rd., Steven Erickson
1245 Old Tale Rd., Harold and Sherlynn Bruff
1270 Old Tale Rd., Jeffrey and Wendy Mortner
1275 Old Tale Rd., Thomas and Barbara Corson
1305 Old Tale Rd., Monty Moran
1310 Old Tale Rd., Raynard A Hedberg Living Trust
1315 Old Tale Rd., Joanne M Simenson
1325 Old Tale Rd., Sarah Kingdom
1402 Old Tale Rd., Kellie Masterson-Praeger
1409 Old Tale Rd., William Dick III
1412 Old Tale Rd., John and Penelope Bennett
1435 Old Tale Rd., Joyce Peterson Thurmer
1436 Old Tale Rd., Thomas Perry
1457 Old Tale Rd., Cameron Bradley Peterson
1462 Old Tale Rd., Conway and Jacqueline Olmsted
1483 Old Tale Rd., Jason and Jennifer Kiefer
1507 Old Tale Rd., Richard and Jeanie Leddon
1510 Old Tale Rd., Mark and Mary Beth Vellequette
1533 Old Tale Rd., Laurie Duncan-McWethy
1566 Old Tale Rd., Stewart and Robin Elliott

REQUESTING DEPARTMENT:

Community Planning and Sustainability:

David Driskell, Executive Director
Susan Richstone, Deputy Director
Chris Meschuk, Flood Recovery Coordinator – Community Services
Bev Johnson, Annexation Project Manager

OBJECTIVE:

1. Hear staff and applicant presentations
2. Hold public hearing
3. Planning Board discussion and recommendations to City Council on the Annexation and Initial Zoning of 23 properties and right-of-way in the Old Tale Road neighborhood.

SUMMARY:

Twenty-three landowners along Old Tale Road are requesting Annexation and Initial Zoning of Residential Rural – 2 (RR-2), consistent with the Boulder Valley Comprehensive Plan (BVCP) land use designation of Very Low Residential (See [Attachment A](#) for a list of the size and land use designations of the properties). Old Tale Road and a portion of McSorley Road are also included in the proposed annexation. The total annexation area is 25.53 ac (see Annexation Map in [Attachment B](#)).

The purpose of the annexation is to allow the construction of city water mains in the street and connection of the properties to city water services. After the September 2013 floods, several landowners in Area II who had been impacted by the floods, contacted the city about connecting to city water and sewer. In response, the city developed an annexation package with special financial incentives and offered it to approximately 160 landowners. Seven properties were annexed (two in August 2014 and five in January 2015) under this package.

In August 2014, the city received state grant funds for the installation of utility infrastructure in Area II flood-impacted neighborhoods. Landowners along Old Tale Road expressed the most interest in annexing so the city is working with that neighborhood on annexation and the construction of water main infrastructure. All the properties along Old Tale Road are currently on individual wells. Twenty-one of the annexing properties currently have city wastewater services. Two of the properties are on on-site wastewater systems (septic) and will connect to city sewer after annexation.

The subject properties range from approximately 0.66 to 1.20 acres in size and are each developed with a single family detached home. Upon annexation, none of the properties within the neighborhood will have subdivision potential based on the existing Boulder Valley Comprehensive Plan (BVCP) land use designation and proposed zoning designation of Rural Residential – 2 (RR-2).

KEY ISSUES:

1. Is the proposed annexation consistent with State of Colorado statutes pertaining to the annexation of a property into the City of Boulder?
2. Is the proposed annexation consistent with the BVCP?

BACKGROUND:

After the September 2013 flood, the city was contacted by a number of Area II property owners outside the city limits with concerns about their wells and on-site wastewater systems (OWS) and interest in connecting to the city water and wastewater systems. As part of the Dec. 3, 2013 City Council briefing on the flood, staff presented options for helping impacted residents by facilitating annexation and connection to city utilities. Council members expressed support for helping flood-impacted landowners by creating incentives for annexation and also indicated that landowners should pay their share of costs. The detailed package of incentives was presented to Council through an information packet in March 2014.

In Spring 2014, staff moved forward with the project by making an offer to approximately 160 property owners in Area II enclaves and neighborhoods adjacent to the city. Seven properties were annexed as part of the first two phases of the project. The first phase included annexation of two single family residential properties by emergency ordinance on Aug. 5, 2014. The second phase included annexation of five residential properties on Jan. 20, 2015.

In August 2014, the city received a grant from the Colorado Department of Public Health and Environment (CDPHE) for \$1,000,000 to construct water and sewer infrastructure in one of three neighborhoods (Githens Acres, Old Tale Road or Cherryvale Road) which currently lack complete utility infrastructure. The grant funds were authorized by the state legislature (House Bill 1002) to assist communities in recovering from the September 2013 flood. Under the conditions of the grant, the city must obligate this money by June 2015, and expend all funds by June 2016.

Property owners in the three neighborhoods lacking adequate infrastructure were sent letters informing them of the grant award and the potential cost savings for annexation. The letter to homeowners included a survey to determine how many property owners would be interested in annexing if the cost was reduced due to the new grant funding. Based on the survey results, the Old Tale Road neighborhood was selected for the annexation project.

The Old Tale Road neighborhood is located in the South Boulder Creek floodplain. During the September 2013 flood, water spilled from South Boulder Creek into the neighborhood, impacting both homes and property. Water inundation from the flood impacted every property in the neighborhood. A small portion of Old Tale Road was damaged by flood waters. In October 2013 the city began receiving phone calls from Old Tale Road residents inquiring about annexation and connection to city water due to contamination of their drinking wells. Of the 28 parcels along Old Tale Road, 23 filed for FEMA Individual Assistance for a National Flood Insurance Program (NFIP) claim.

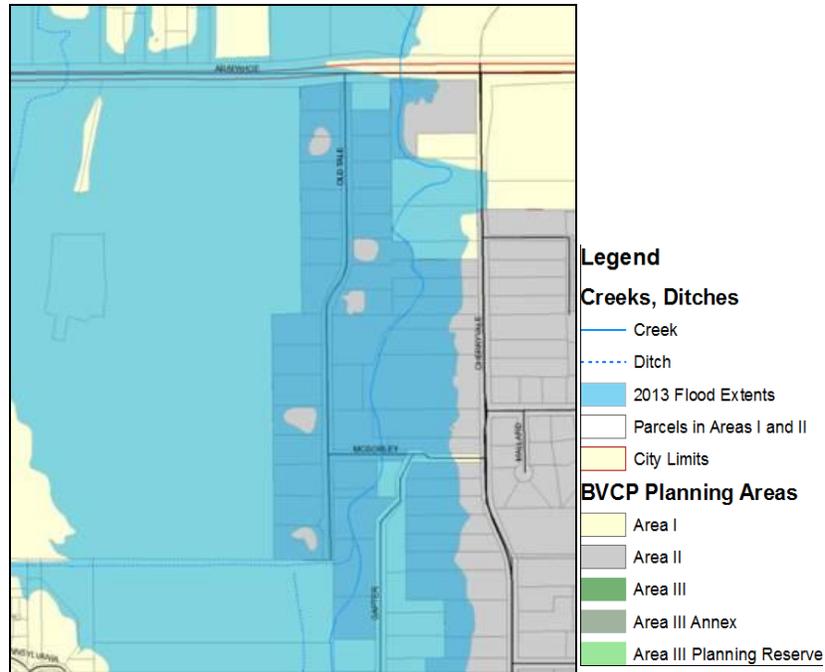


Figure 1: Extent of Flooding in the Old Tale Road Neighborhood

A neighborhood meeting was held with several of the landowners in December 2014. At that meeting, staff presented sample annexation agreements and reviewed the conditions of annexation with the attendees. The process and schedule for annexation was also presented and discussed. Staff explained that the annexation process would have to move quickly in order to meet the conditions of the grant to obligate the funds by June 2015.

The conditions of annexation that were discussed with the neighborhood included the following (Please see [Attachment E](#) for a sample of the annexation agreement) :

1. The cost of the water main construction and road improvements would be funded by the grant money.
2. The city will waive the annexation administration fee (\$6,580 per property) and finance all of the costs related to water and wastewater utility connection (10-year financing plan).
3. Landowners choosing to annex have three options for connection to utilities:
 - a. Connect to city utilities shortly after annexation and pay the city back in full;
 - b. Connect to city utilities shortly after annexation and finance all connection costs through the city; or
 - c. Annex now and defer connection and payment to some future time.
4. The city will lock in all the fees at 2014 rates for landowners choosing Options A or B if the process remains on schedule.
5. The city will waive all Development Excise Taxes (cost varies depending on age of the original new home) and Housing Excise Taxes (\$0.23 per house square foot).
6. Landowners will pay all costs associated with water and sewer (where applicable) connection as well as stormwater and flood plant investment fees.

7. Landowners will petition for inclusion in the Northern Colorado Water Conservancy District.
8. Property owners along creeks will be required to dedicate a flood maintenance easement of 60 feet along either side of the centerline of a major drainageway (**Attachment F**).
9. Property owners with ditches or ditch laterals on their property will be required to dedicate easements along either side of the centerline of the lateral for the purpose of maintaining ditch water conveyance (**Attachment G**).

EXISTING CONTEXT:

The Old Tale Road neighborhood is located along the eastern edge of the city limits to the east of the Flatirons Golf Course and immediately south of Arapahoe Road (see Figure 2 below). The neighborhood is part of the Canterbury Acres Subdivision and most of the homes were originally built in the 1960s and early 1970s.

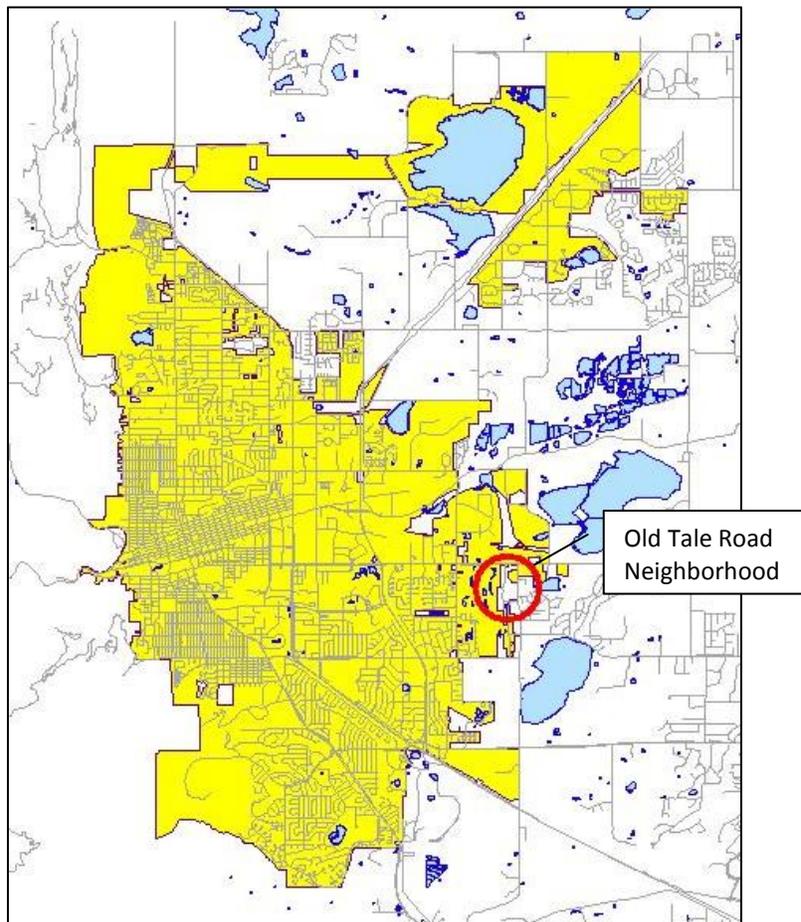


Figure 2: Location of Old Tale Road Neighborhood (City limits in yellow)

The annexation will include 23 properties, all of Old Tale Road and a portion of McSorley Road, (see Figure 3 below). Six properties along Old Tale Road are not part of the annexation. One property adjacent to Arapahoe Road is already in the city limits. Three properties near Arapahoe

Road are remaining in the county and will become enclaves as a result of the road and neighborhood annexation. In addition, a property located on Cherryvale Road at Arapahoe Road will also become an enclave as a result of the annexation.

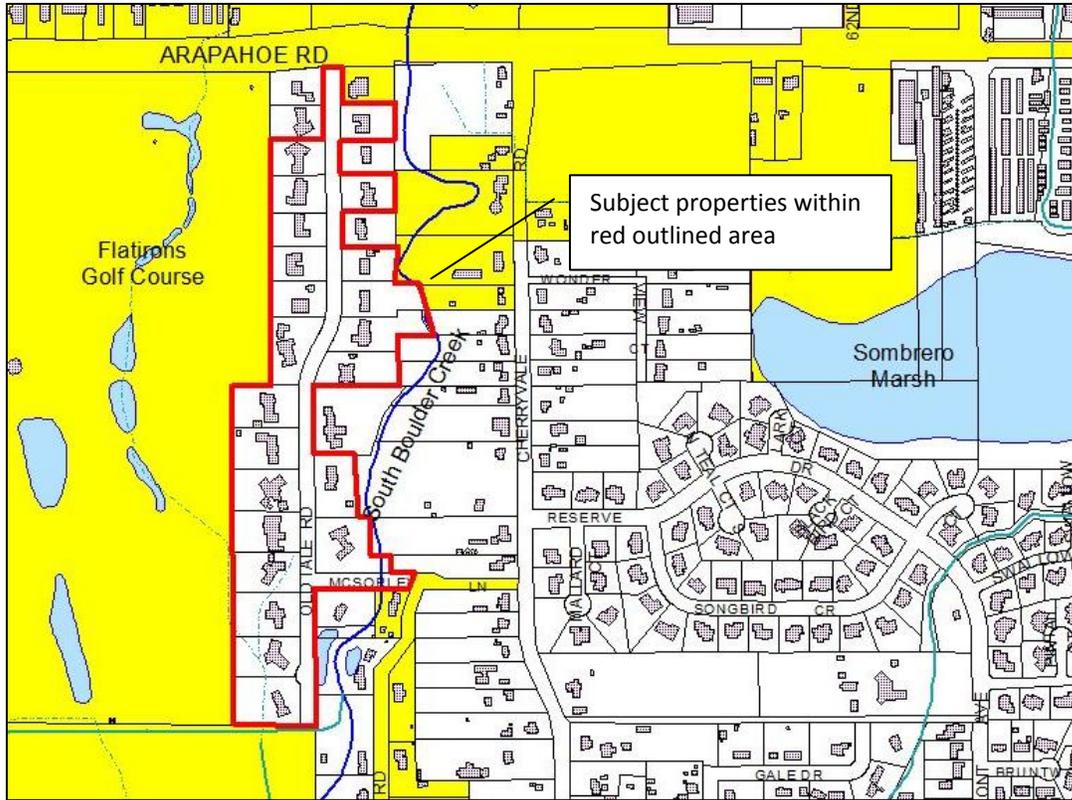


Figure 3: Old Tale Road Neighborhood Context (City limits in yellow)

The subject properties are all designated as Very Low Density Residential on the Boulder Valley Comprehensive Plan land use map. Very Low Density Residential land use allows for up to two residential units per acre. The proposed zoning of Residential-Rural 2 (which allows one dwelling unit per 30,000 sq. ft. of property) is consistent with this land use designation.

Several parcels in the annexation area have an Open Space—Other land use designation over a portion of the parcel in or near the South Boulder Creek drainageway (see Figure 4 below). This designation was given to certain private properties prior to 1981, that the city and county would like to preserve the natural qualities of through various preservation methods including but not limited to intergovernmental agreements, dedications or acquisitions. In the case of the subject properties, the OS-O designation is intended to help preserve the natural qualities of the drainageway and to prevent further encroachment on the wetlands and floodplain. The city’s land use goals with this designation will be met through the dedication of flood maintenance easements on these properties. Once in the city, these properties will also be subject to the city’s floodplain and wetland protection ordinances.



Figure 4: Old Tale Road – Land Use Designations

Current Utilities

A city sewer main currently exists in Old Tale Road and 21 of the 23 subject properties are currently connected to the city’s wastewater system. The landowner of 1228 Old Tale Rd. will connect to city sewer as well as city water, however, the landowner of 1435 Old Tale Rd. is deferring connection to both utilities until a later time.

Floodplain Conditions

All of the properties and most of the homes are within the 100-year floodplain of South Boulder Creek (see Figure 5 below). One home (1270 Old Tale Rd.) is within the conveyance flood zone and one home (1228 Old Tale Rd.) is located in the high hazard flood zone of the creek. Once in the city, the property owner of 1228 Old Tale Rd. will be unable to expand, enlarge, or make substantial modifications to his home (Boulder Revised Code, Subsection 9-3-5d).

Eight properties are affected by the city’s flood maintenance easement requirement because of their proximity to South Boulder Creek. The owners of these properties have all agreed to dedicate a flood maintenance easement over the portion of their property within 60 feet of either side of the centerline of the creek. Under the conditions of the easement agreement, existing structures currently located within the easement area will be allowed to remain on the property, however, the landowner may not add new structures within the easement area.

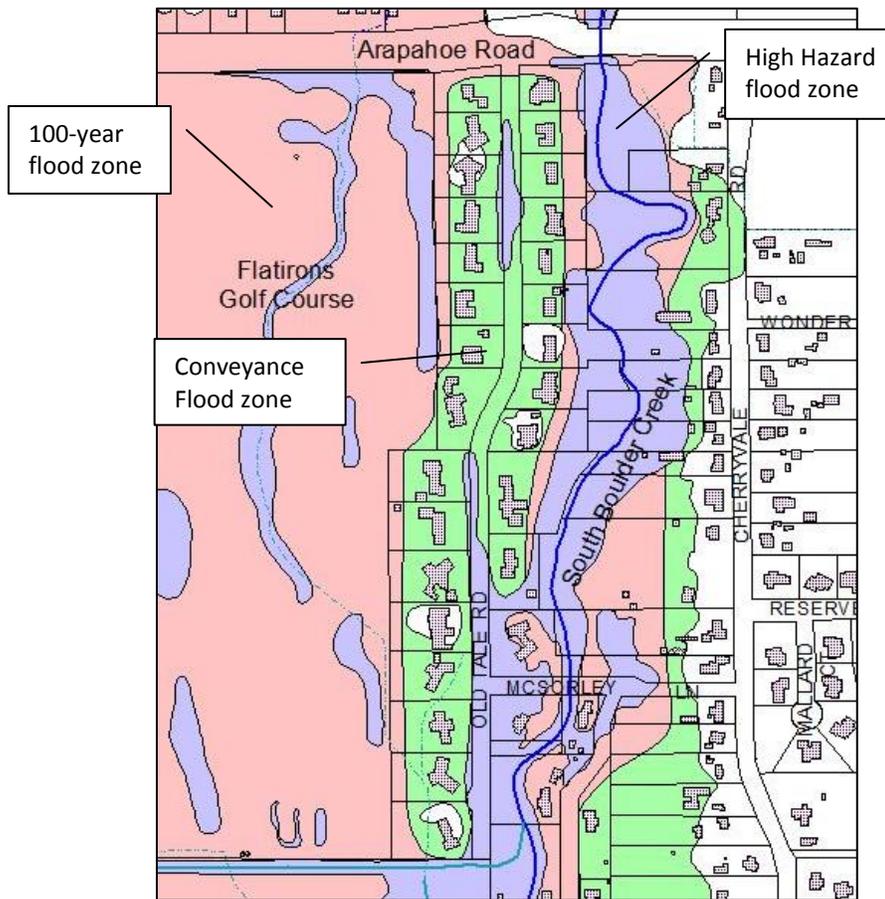


Figure 5: Old Tale Road Neighborhood – Flood Zone Designations

Future Development Potential

All of the parcels are developed as a single family residential home. None of the subject properties have the potential to subdivide or add additional units under the proposed zoning of RR-2.

Ditches and Ditch Rights

None of the subject properties have associated ditch rights. However, the Howard Ditch lateral, which feeds some of the irrigation ponds on the Flatirons Golf Course runs through three of the properties (see Figure 6 below) (The lateral on 1245 Old Tale Rd. no longer exists). The landowners have all agreed to dedication of a 12 foot wide easement along the lateral on their properties.

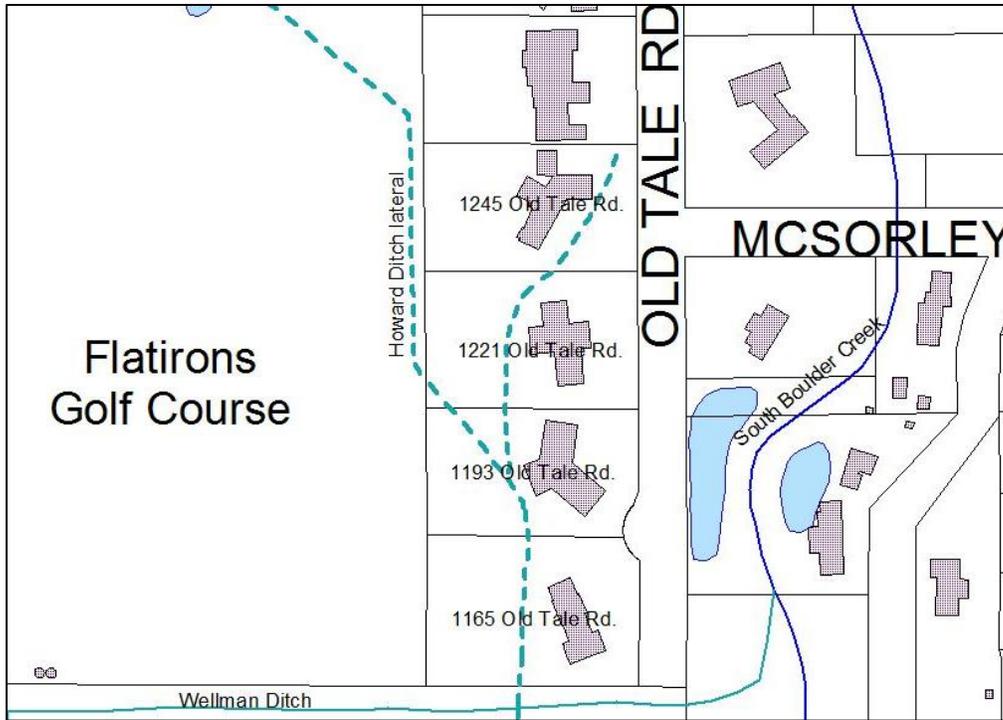


Figure 6: Howard Ditch Lateral Location

ANALYSIS:

Annexations must comply with the Municipal Annexation Act of 1965, section 31-12-101, *et. seq.*, Colorado Revised Statutes (C.R.S.). At the city level, annexations are guided by the BVCP (Sections 1.18 and 1.24), which provides the land use framework and general annexation principles.

In 2002, City Council endorsed a set of guidelines for negotiating annexation agreements with landowners of mostly developed residential properties in Area II (**Attachment C**). The purpose of the guidelines was to clarify the city’s expectations and provide consistency in single family residential annexations. The guidelines have been the primary reference for the city in these types of annexations over the past 14 years.

Pertinent to the Old Tale Road neighborhood annexation, the guidelines state that the city has a strong desire to annex residential areas in Area II where there are potential environmental and health issues associated with well and septic systems. Furthermore, the guidelines refine BVCP Policy 1.25 by specifically outlining which properties or neighborhoods will be asked to provide community benefit upon annexation and what form of community benefit may be requested by the city. The guidelines and the BVCP specify that community benefit should only be applied to properties with additional development potential. None of the properties along Old Tale Road have additional development potential, therefore, the property owners have not been asked to provide community benefit in the form of a contribution to the Housing Trust Fund.

1. Is the proposed annexation consistent with state statutes pertaining to the annexation of a property into the City of Boulder?

Staff has reviewed the annexation petitions for compliance with sections 31-12-104, 31-12-105, 31-12-106, and 31-12-107 C.R.S., as applicable, and finds the applications are each consistent with the statutory requirements.

All of the subject properties are developed with a single residential dwelling unit. The annexation as proposed (see annexation map in **Attachment B**) meets the eligibility requirement of having at least 1/6 contiguity with the city limits.

Consistent with state law, the landowners of more than 50 percent of the area to be annexed, excluding public streets, have petitioned to annex. Each such petition was filed with the City Clerk. None of the properties proposed to be annexed are included in another annexation proceeding involving a municipality other than the City of Boulder.

Wastewater services are available to serve all of the properties (21 of the 23 properties are currently connected to city sewer). Water services are currently not available. Annexation of Old Tale Road, however, will enable the city to construct water infrastructure in the road and make those services available to all properties.

None of the subject properties are in the municipal subdistrict of the Northern Colorado Water Conservancy District (NCWCD). Petitions for inclusion in the district and subdistrict have been filed with the NCWCD office.

The subject properties would continue to be served by the Boulder Valley School District.

Finally, these annexations do not have the effect of extending the municipal boundary more than three miles in any direction from any point of the City of Boulder's boundary in any one year.

2. Is the proposed annexation consistent with the Boulder Valley Comprehensive Plan?

Land Use Designation. The proposed zoning of RR-2 for the properties is consistent with the BVCP land use designation of Very Low Density Residential.

BVCP Policies

Annexation of land must be consistent with the following policies shown in *bold italic*, with consistency of the proposed annexation following:

1.18 Growth Requirements. The overall effect of urban growth must add significant value to the community, improving quality of life. The city will require development and redevelopment as a whole to provide significant community benefits and to maintain or

improve environmental quality as a precondition for further housing and community growth.

The area to be annexed is substantially developed and the proposed zoning would not allow for subdivision or addition of dwelling units to the existing lots. The community, environmental, and public health quality will be enhanced with the annexation of these properties, with the connection to city water and sewer services.

1.24 Annexation. The applicable policies (a, b, c and e) in regard to annexation to be pursued by the city are:

a) Annexation will be required before adequate facilities and services are furnished.

Wastewater services are currently available to all the properties. The proposed annexation will enable the city to construct water mains, and each property must be annexed before city water services will be furnished to each respective property.

b) The city will actively pursue annexation of county enclaves, Area II properties along the western boundary, and other fully developed Area II properties. County enclave means an unincorporated area of land entirely contained within the outer boundary of the city. Terms of annexation will be based on the amount of development potential as described in (c), (d), and (e) of this policy.

All properties are Area II properties that are fully developed.

c) Annexation of existing substantially developed areas will be offered in a manner and on terms and conditions that respect existing lifestyles and densities. The city will expect these areas to be brought to city standards only where necessary to protect the health and safety of the residents of the subject area or of the city. The city, in developing annexation plans of reasonable cost, may phase new facilities and services. The county, which now has jurisdiction over these areas, will be a supportive partner with the city in annexation efforts to the extent the county supports the terms and conditions being proposed.

The proposed zoning (RR-2) of the properties will reflect the existing development pattern most respective of the existing lifestyle and density of this neighborhood. Upon annexation, 18 of the 23 properties will connect to city water as per city standards and discontinue use of well for domestic water purposes. The annexation agreement will allow continued use of well water for outdoor irrigation.

Boulder County has supported the city in the annexation of this and other Area II neighborhoods.

e) Annexation of substantially developed properties that allows for some additional residential units or commercial square footage will be required to demonstrate

community benefit commensurate with their impacts. Further, annexations that resolve an issue of public health without creating additional development impacts should be encouraged.

All of the subject properties are fully developed and none will have additional development potential once annexed to the city.

PUBLIC COMMENT AND PROCESS:

Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject properties and a sign posted on the property for at least 10 days. All notice requirements of section 9-4-3, B.R.C. 1981, have been met.

STAFF FINDINGS AND RECOMMENDATION:

1. Staff finds the proposed annexations to be consistent with State statutes.
2. Staff finds the proposed annexations and initial zoning classifications to be consistent with the BVCP.

Staff recommends that Planning Board:

Recommend to City Council approval of the proposed annexation of 23 properties and right-of-way in the Old Tale Road neighborhood subject to the annexation conditions in the respective annexation agreements attached to the staff memorandum and approval of an initial zoning for the properties of RR-2.

Approved By:



David Driskell, Executive Director

Department of Community Planning and Sustainability

ATTACHMENTS:

- Attachment A: [Property Information](#)
- Attachment B: [Annexation Map](#)
- Attachment C: [City of Boulder Guidelines for Annexation Agreements](#)
- Attachment D: [Applicants' Annexation Petitions](#)
- Attachment E: [Sample Annexation Agreement](#)
- Attachment F: [Sample Flood Maintenance Easement Agreement](#)
- Attachment G: [Sample Ditch Lateral Easement Agreement](#)

**Old Tale Road Neighborhood Annexation
Property Information**

Location: 1165 Old Tale Rd.
Owner: Macinko Exempt Trust dated October 4, 1989
Size of Tract: 1.15 ac
BVCP land use designation: Very Low Residential/Open Space-Other

Location: 1193 Old Tale Rd.
Owner: Cynthia and Charles Anderson
Size of Tract: 0.96 ac
BVCP land use designation: Very Low Residential

Location: 1221 Old Tale Rd.
Owner: Constance Ekrem
Size of Tract: 1.06 ac
BVCP land use designation: Very Low Residential

Location: 1228 Old Tale Rd
Owner: Steven Erickson
Size of Tract: 0.83 ac
BVCP land use designation: Very Low Residential/Open Space-Other

Location: 1245 Old Tale Rd.
Owner: Harold and Sherlynn Bruff
Size of Tract: 0.98 ac
BVCP land use designation: Very Low Residential

Location: 1270 Old Tale Rd.
Owner: Jeffrey and Wendy Mortner
Size of Tract: 1.20 ac
BVCP land use designation: Very Low Residential/Open Space-Other

Location: 1275 Old Tale Rd.
Owner: Thomas and Barbara Corson
Size of Tract: 0.99 ac
BVCP land use designation: Very Low Residential

Location: 1305 Old Tale Rd.
Owner: Monty Moran
Size of Tract: 1.04 ac
BVCP land use designation: Very Low Residential

Location: 1310 Old Tale Rd.
Owner: Raynard A Hedberg Living Trust
Size of Tract: 0.92 ac
BVCP land use designation: Very Low Residential/Open Space-Other

Location: 1315 Old Tale Rd.
Owner: Joanne M Simenson
Size of Tract: 0.99 ac
BVCP land use designation: Very Low Residential

Location: 1325 Old Tale Rd.
Owner: Sarah Kingdom
Size of Tract: 1.05 ac
BVCP land use designation: Very Low Residential

Location: 1402 Old Tale Rd.
Owner: Kellie Masterson-Praeger
Size of Tract: 0.98 ac
BVCP land use designation: Very Low Residential/Open Space-Other

Location: 1409 Old Tale Rd.
Owner: William Dick III
Size of Tract: 0.97 ac
BVCP land use designation: Very Low Residential

Location: 1412 Old Tale Rd.
Owner: John and Penelope Bennett
Size of Tract: 1.03 ac
BVCP land use designation: Very Low Residential/Open Space-Other

Location: 1435 Old Tale Rd.
Owner: Joyce Peterson Thurmer
Size of Tract: 0.71 ac
BVCP land use designation: Very Low Residential

Location: 1436 Old Tale Rd.
Owner: Thomas Perry
Size of Tract: 0.94 ac
BVCP land use designation: Very Low Residential/Open Space-Other

Location: 1457 Old Tale Rd.
Owner: Cameron Bradley Peterson
Size of Tract: 0.72 ac
BVCP land use designation: Very Low Residential

Location: 1462 Old Tale Rd.,
Owner: Conway and Jacqueline Olmsted
Size of Tract: 0.66 ac
BVCP land use designation: Very Low Residential/Open Space-Other

Location: 1483 Old Tale Rd.
Owner: Jason and Jennifer Kiefer
Size of Tract: 0.66 ac
BVCP land use designation: Very Low Residential

Location: 1507 Old Tale Rd.
Owner: Richard and Jeanie Leddon
Size of Tract: 0.77 ac
BVCP land use designation: Very Low Residential

Location: 1510 Old Tale Rd.
Owner: Mark and Mary Beth Vellequette
Size of Tract: 0.71 ac
BVCP land use designation: Very Low Residential

Location: 1533 Old Tale Rd.
Owner: Laurie Duncan-McWethy
Size of Tract: 0.71 ac
BVCP land use designation: Very Low Residential

Location: 1566 Old Tale Rd.
Owner: Stewart and Robin Elliott
Size of Tract: 0.68 ac
BVCP land use designation: Very Low Residential/Open Space-Other

Attachment B

ANNEXATION MAP

LOTS 1-6 INCLUSIVE, LOT 9, LOT 12, LOTS 14-16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, LOTS 1-8 INCLUSIVE, LOTS 10-12 INCLUSIVE, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 3

TOTAL AREA = 1,121,068 SQ FT, OR 25.74 ACRES, MORE OR LESS

Parcel Description

ALL OF LOTS 1-6 INCLUSIVE, LOT 9, LOT 12, LOTS 14-16 INCLUSIVE, CANTERBURY ACRES AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON MAY 16, 1963, AT RECEPTION NO. 90726458, LOT 10A, CANTERBURY ACRES REPLAT A AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON JULY 29, 1981, AT RECEPTION NO. 456852, LOT 11B, CANTERBURY ACRES REPLAT B AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON APRIL 7, 1992, AT RECEPTION NO. 1174140, LOTS 1-8 INCLUSIVE AND LOTS 10-12 INCLUSIVE, MCSORLEY'S SUBDIVISION AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON MARCH 12, 1958, AT RECEPTION NO. 90608845, AND PORTIONS OF OLD TALE ROAD AND MCSORLEY LANE, ALL LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING A WESTERLY LINE OF SAID CANTERBURY ACRES TO BEAR NORTH 00°19'30" WEST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

BEGINNING AT THE CENTER QUARTER CORNER OF SAID SECTION 34;

THENCE ALONG THE SOUTHERLY LINE OF SAID MCSORLEY'S SUBDIVISION, NORTH 90°00'00" WEST, A DISTANCE OF 328.32 FEET TO THE SOUTHWEST CORNER OF SAID LOT 8, MCSORLEY'S SUBDIVISION;

THENCE ALONG THE WESTERLY LINE OF SAID LOTS 1-8, MCSORLEY'S SUBDIVISION, NORTH 00°19'30" WEST, A DISTANCE OF 1327.40 FEET TO THE NORTHWEST CORNER OF SAID LOT 1;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT 1, NORTH 89°54'10" EAST, A DISTANCE OF 163.86 FEET TO THE SOUTHWEST CORNER OF LOT 1, SAID CANTERBURY ACRES;

THENCE ALONG THE WESTERLY LINE OF SAID LOTS 1-6 INCLUSIVE, CANTERBURY ACRES THE FOLLOWING FIVE (5) COURSES:

NORTH 00°19'30" WEST, A DISTANCE OF 712.00 FEET;

THENCE NORTH 89°40'30" EAST, A DISTANCE OF 8.00 FEET;

THENCE NORTH 00°19'30" WEST, A DISTANCE OF 27.00 FEET;

THENCE SOUTH 89°40'30" WEST, A DISTANCE OF 8.00 FEET;

THENCE NORTH 00°19'30" WEST, A DISTANCE OF 243.41 FEET TO THE NORTHWEST CORNER OF SAID LOT 6, CANTERBURY ACRES;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT 6, NORTH 89°40'30" EAST, A DISTANCE OF 220.00 FEET TO A POINT ON THE WESTERLY RIGHT-OF-WAY LINE OF SAID OLD TALE ROAD;

THENCE ALONG SAID WESTERLY RIGHT-OF-WAY LINE, NORTH 00°19'30" WEST, A DISTANCE OF 291.02 FEET TO A POINT ON THE SOUTHERLY RIGHT-OF-WAY LINE OF ARAPAHOE ROAD;

THENCE ALONG SAID SOUTHERLY RIGHT-OF-WAY LINE, NORTH 89°53'20" EAST, A DISTANCE OF 60.00 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF SAID OLD TALE ROAD;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 150.80 FEET TO THE NORTHWEST CORNER OF LOT 16, SAID CANTERBURY ACRES;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT 16, NORTH 89°40'30" EAST, A DISTANCE OF 214.46 FEET TO THE NORTHEAST CORNER OF SAID LOT 16;

THENCE ALONG THE EASTERLY LINE OF SAID LOTS 14-16 INCLUSIVE, CANTERBURY ACRES, SOUTH 00°19'30" EAST, A DISTANCE OF 420.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 14, CANTERBURY ACRES;

THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 14, SOUTH 89°40'30" WEST, A DISTANCE OF 214.46 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF OLD TALE ROAD;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 140.00 FEET TO THE NORTHWEST CORNER OF SAID SAID LOT 12, CANTERBURY ACRES;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT 12, NORTH 89°40'30" EAST, A DISTANCE OF 214.46 FEET TO THE NORTHEAST CORNER OF SAID LOT 12;

THENCE ALONG THE EASTERLY LINES OF SAID LOT 12, SAID LOT 11B AND SAID LOT 10A, THE FOLLOWING SEVEN (7) COURSE:

SOUTH 00°19'30" EAST, A DISTANCE OF 160.00 FEET;

THENCE NORTH 89°53'20" EAST, A DISTANCE OF 81.50 FEET;

THENCE SOUTH 35°00'00" EAST, A DISTANCE OF 28.00 FEET;

THENCE SOUTH 22°30'00" EAST, A DISTANCE OF 41.32 FEET;

THENCE SOUTH 10°30'00" EAST, A DISTANCE OF 39.47 FEET;

THENCE SOUTH 00°40'45" WEST, A DISTANCE OF 41.28 FEET;

THENCE SOUTH 32°58'25" EAST, A DISTANCE OF 69.92 FEET TO THE MOST EASTERLY CORNER OF SAID LOT 10A;

THENCE ALONG THE SOUTHERLY LINES OF SAID LOT 10A AND ALONG THE EASTERLY LINE OF SAID LOT 9, THE FOLLOWING TWO (2) COURSES:

SOUTH 89°53'20" WEST, A DISTANCE OF 157.00 FEET;

THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 200.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9;

THENCE ALONG THE SOUTHERLY LINE OF SAID CANTERBURY ACRES, SOUTH 89°53'20" WEST, A DISTANCE OF 330.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9 AND A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF OLD TALE ROAD;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, SOUTH 00°19'30" WEST, A DISTANCE OF 4.29 FEET TO THE NORTH SIXTEENTH CORNER OF SAID SECTION 34 AND THE NORTHWEST CORNER OF LOT 9, SAID MCSORLEY'S SUBDIVISION;

THENCE ALONG THE WESTERLY LINE OF SAID LOT 9, SOUTH 00°19'30" EAST, A DISTANCE OF 258.82 FEET TO THE NORTHWEST CORNER OF SAID LOT 10;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT 10, NORTH 90°00'00" EAST, A DISTANCE OF 163.73 FEET TO THE NORTHEAST CORNER OF SAID LOT 10;

THENCE ALONG THE EASTERLY LINE OF SAID LOT 10, SOUTH 00°19'30" EAST, A DISTANCE OF 258.25 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 11;

THENCE ALONG THE NORTHERLY LINE OF SAID LOT 11, NORTH 90°00'00" EAST, A DISTANCE OF 62.44 FEET TO THE NORTHEAST CORNER OF SAID LOT 11;

THENCE ALONG THE EASTERLY LINES OF SAID LOT 11, THE FOLLOWING THREE (3) COURSES:

SOUTH 00°19'30" EAST, A DISTANCE OF 145.00 FEET;

THENCE NORTH 90°00'00" EAST, A DISTANCE OF 75.00 FEET;

THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 65.00 FEET TO THE SOUTHWESTERLY CORNER OF LOT 13, SAID MCSORLEY'S SUBDIVISION;

THENCE ALONG THE SOUTHERLY LINES OF SAID LOT 13, THE FOLLOWING TWO (2) COURSES: NORTH 90°00'00" EAST, A DISTANCE OF 199.94 FEET;

THENCE SOUTH 60°00'00" EAST, A DISTANCE OF 48.74 FEET TO A POINT ON THE NORTHERLY LINE OF THE ANNEXATION ORDINANCE NO. 774, AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON AUGUST 25, 2010, AT RECEPTION NO. 03094116;

THENCE ALONG THE NORTHERLY LINES OF SAID ANNEXATION ORDINANCE, THE FOLLOWING THREE (3) COURSES:

SOUTH 89°56'00" WEST, A DISTANCE OF 130.41 FEET;

THENCE SOUTH 30°49'30" WEST, A DISTANCE OF 41.31 FEET;

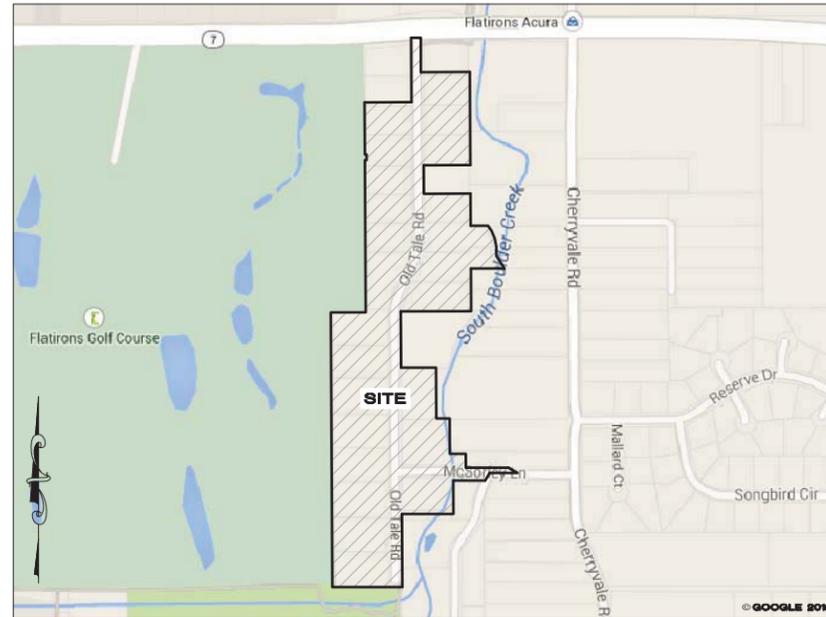
THENCE NORTH 90°00'00" WEST, A DISTANCE OF 150.00 FEET TO THE NORTHWESTERLY CORNER OF SAID ANNEXATION ORDINANCE;

THENCE ALONG THE WESTERLY LINE OF SAID ANNEXATION ORDINANCE, SOUTH 00°19'30" EAST, A DISTANCE OF 156.40 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12, MCSORLEY'S SUBDIVISION;

THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 12, NORTH 90°00'00" WEST, A DISTANCE OF 241.40 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF OLD TALE ROAD;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 384.49 FEET TO THE POINT OF BEGINNING;

SAID DESCRIBED TRACT CONTAINING 1,121,068 SQ. FT. OR 25.74 ACRES, MORE OR LESS.



Vicinity Map
NOT TO SCALE

Notes

1. THIS ANNEXATION MAP WAS PREPARED WITHOUT THE BENEFIT OF A CURRENT TITLE COMMITMENT OR BINDER. RIGHTS-OF-WAY DISCOVERED IN THE COURSE OF OUR INVESTIGATION ARE SHOWN HEREON. IT IS RECOMMENDED THAT THE CLIENT OBTAIN A CURRENT TITLE COMMITMENT OR BINDER.
2. ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS MAP WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
3. THE PURPOSE OF THIS MAP IS TO GRAPHICALLY PORTRAY THE RELATIONSHIP OF THE LAND PROPOSED FOR ANNEXATION TO THE CURRENT CITY OF BOULDER LIMITS.
4. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT AND/OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE C.R.S. SEC 18-4-508. WHOEVER WILLFULLY DESTROYS, DEFACES, CHANGES, OR REMOVES TO ANOTHER PLACE ANY SECTION CORNER, QUARTER-SECTION CORNER, OR MEANDER POST, ON ANY GOVERNMENT LINE OF SURVEY, OR WILLFULLY CUTS DOWN ANY WITNESS TREE OR ANY TREE BLAZED TO MARK THE LINE OF A GOVERNMENT SURVEY, OR WILLFULLY DEFACES, CHANGES, OR REMOVES ANY MONUMENT OR BENCH MARK OF ANY GOVERNMENT SURVEY, SHALL BE FINED UNDER THIS TITLE OR IMPRISONED NOT MORE THAN SIX MONTHS, OR BOTH. 18 U.S.C. § 1858.
5. THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

Contiguity

TOTAL PERIMETER.....8,276.90'
1/6TH PERIMETER.....1,379.48'
CONTIGUOUS TO CITY LIMITS.....4,279.28'

Surveyor's Certificate

I, JOHN B. GUYTON, A DULY REGISTERED LAND SURVEYOR, LICENSED IN THE STATE OF COLORADO, HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS ANNEXATION MAP OF THE ABOVE DESCRIBED LAND WAS PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE ON JANUARY 14, 2015 AND THAT AT LEAST 1/6TH OF THE TOTAL PERIMETER OF THAT LAND TO BE ANNEXED IS CONTIGUOUS TO THE EXISTING CITY OF BOULDER LIMITS.

JOHN B. GUYTON
COLORADO P.L.S. #16406
CHAIRMAN/CEO, FLATIRONS, INC.

REVISION	DATE
1 - Removed 1486 Old Tale Rd	1-14-2015
2 - Added to portion of Old Tale Road	1-14-2015
3	
4	
5	
6	
7	
8	

ANNEXATION MAP
PREPARED FOR
CITY OF BOULDER
COPYRIGHT 2015 FLATIRONS, INC.

Flatirons, Inc.
Surveying, Engineering & Geomatics
www.FlatironsInc.com
3825 IRIS AVE. STE. 395 3660 DOWNING ST.
BOULDER, CO 80307 PH: (303) 443-7001 DENVER, CO 80205
665 FOURTH AVE. PH: (303) 776-1753 PH: (303) 443-9830 PH: (303) 936-6997
LONGMONT, CO 80501 PH: (303) 776-4355 FAX: (303) 443-9830



JOB NUMBER:
14-65,019
DATE:
1-15-2015
DRAWN BY:
E. PRESCOTT
CHECKED BY:
WW/JZC/JK

SHEET 1 OF 3

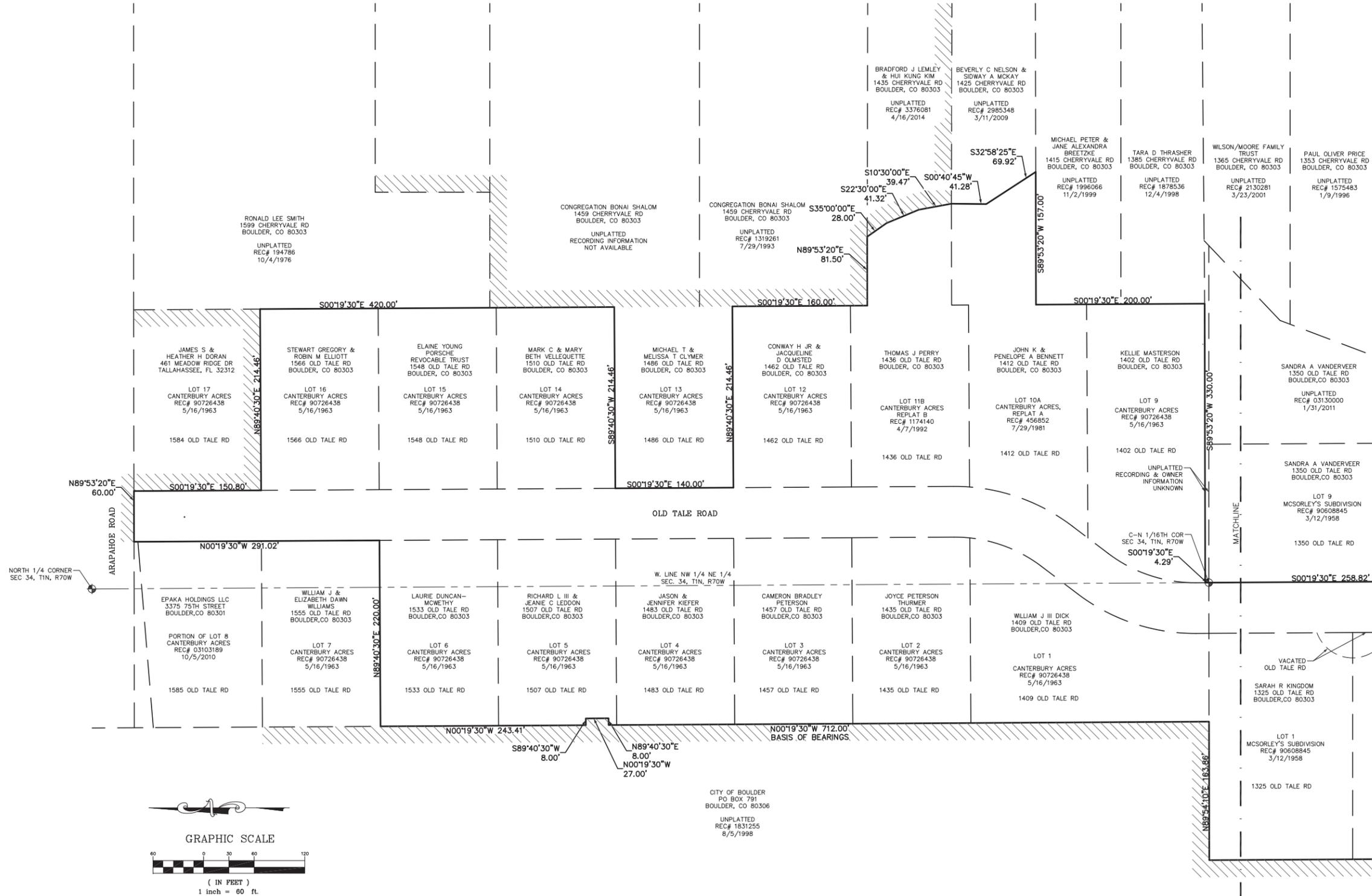
BY: EPRESCOTT FILE: 65019-ANNEX-C13.DWG DATE: 2/5/2015 10:31 AM

ANNEXATION MAP

LOTS 1-6 INCLUSIVE, LOT 9, LOT 12, LOTS 14-16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, LOTS 1-8 INCLUSIVE, LOTS 10-12 INCLUSIVE, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 3

Legend
 CURRENT LIMITS OF THE CITY OF BOULDER



CITY OF BOULDER
 PO BOX 791
 BOULDER, CO 80306
 UNPLATTED
 REC# 1831255
 8/5/1998

REVISION	DATE
1 - Removed 1486 Old Tale Rd	1-28-2015
2 - Added to portion of Old Tale Road	2-12-2015 EP
3	
4	
5	
6	
7	
8	

ANNEXATION MAP
 PREPARED FOR
CITY OF BOULDER
 COPYRIGHT 2015 FLATIRON, INC.

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 www.FlatironInc.com
 655 FOURTH AVE
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3660 DOWNING ST
 BOULDER, CO 80301
 UNIT E
 DENVER, CO 80205
 PH: (303) 443-7001
 PH: (303) 443-9830
 PH: (303) 936-6997



JOB NUMBER:
 14-65,019
 DATE:
 1-15-2015
 DRAWN BY:
 E. PRESCOTT
 CHECKED BY:
 WW/JZC/JK

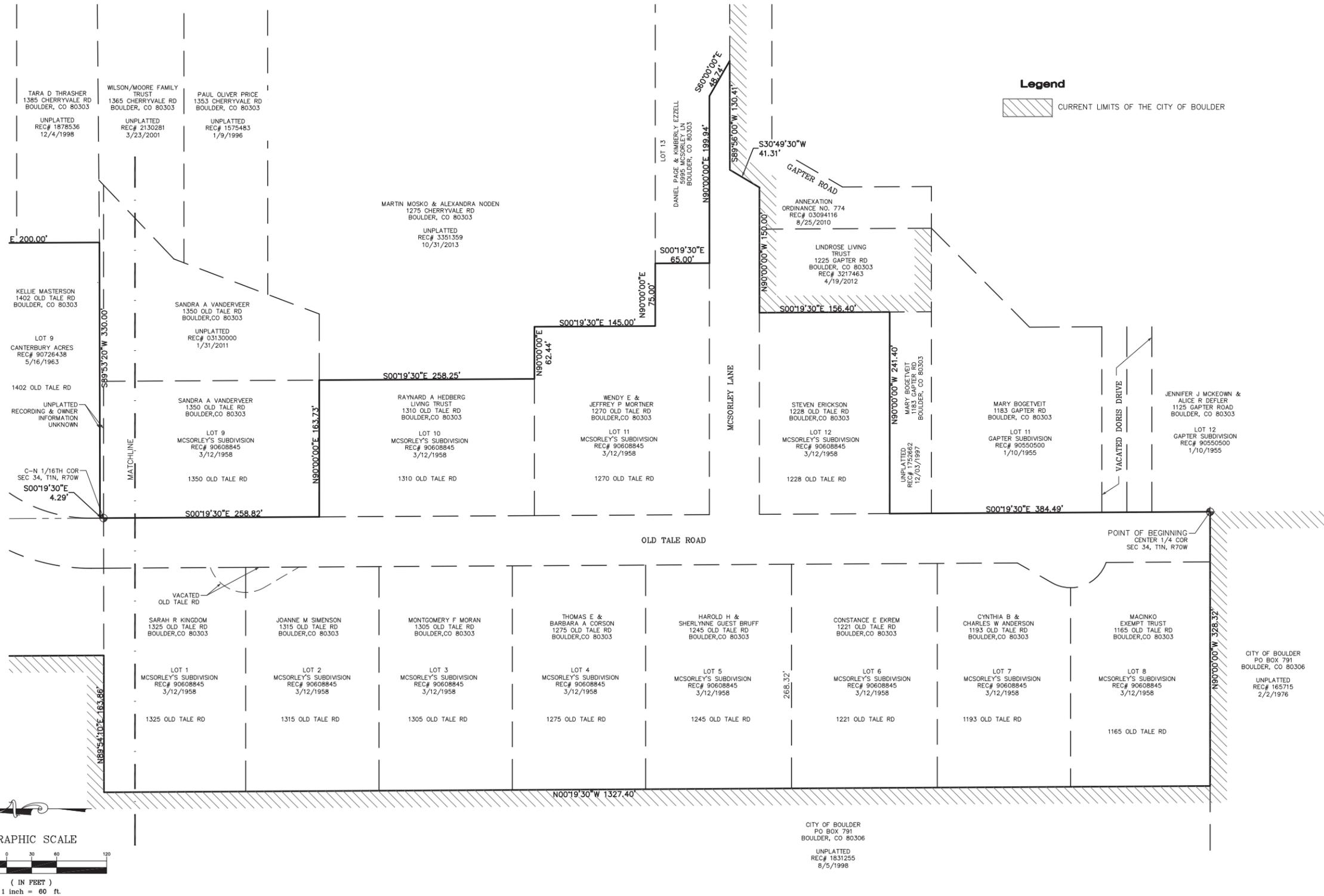
SHEET 2 OF 3

BY:EPRESCOTT; FILE:60019-ANNEX-C13.DWG; DATE:2/5/2015 10:32 AM

ANNEXATION MAP

LOTS 1-6 INCLUSIVE, LOT 9, LOT 12, LOTS 14-16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, LOTS 1-8 INCLUSIVE, LOTS 10-12 INCLUSIVE, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 3 OF 3



REVISION	DATE
1 - Removed 1486 Old Tale Rd	1-28-2015
2 - Added to portion of Old Tale Road	2-12-2015 EP
3	
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ANNEXATION MAP
 PREPARED FOR
 CITY OF BOULDER
 COPYRIGHT 2015 FLATIRON, INC.

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JOB NUMBER:
 14-65,019
 DATE:
 1-15-2015
 DRAWN BY:
 E. PRESCOTT
 CHECKED BY:
 WW/JZC/JK

SHEET 3 OF 3

City of Boulder
Guidelines for Annexation Agreements
-Individual Annexations of Mostly Developed Residential Properties
in Area II-

June 25, 2002

I. Background:

The purpose of these guidelines is to provide general direction for negotiating annexation agreements with individual landowners of mostly developed residential properties in Area II. They are intended to clarify city expectations in individual annexations. These guidelines have been endorsed by Planning Board and City Council and are a reference for city staff, landowners, Planning Board and City Council in future individual annexation negotiations. The Boulder Valley Comprehensive Plan provides a framework for annexation and urban service provision. With the 2001 update to the BVCP, Annexation Policy 1.25 was amended to provide more clarity about annexations. The amendments to the policy included the following:

- Direction for the city to actively pursue annexation of county enclaves, Area II properties along the western boundary, and other mostly developed Area II properties;
- Direction to the county to attach great weight to the city's input on development in enclaves and developed Area II lands and to place emphasis on conforming to the city's standards in these areas; and
- A policy that developed parcels proposed for annexation that are seeking no greater density or building size should not be required to provide the same level of community benefit as vacant parcels until more development of the parcel is applied for.

In order to reduce the negative impacts of new development in the Boulder Valley, the BVCP states that the city shall annex Area II land with significant development or redevelopment potential only on a very limited basis. Such annexations will be supported only if the annexation provides a special opportunity to the city or community benefit.

These guidelines apply primarily to mostly developed residential properties in Area II. In most of these cases, the city would not request a community benefit with the annexation. However, a few of the properties that are currently developed in the county may have further development potential once annexed into the city. These guidelines further refine the BVCP Policy 1.25 by specifically outlining which properties will be asked to provide community benefit upon annexation and what form of community benefit may be requested by the city.

II. General Principles of Individual Annexations of Mostly Developed Residential Properties:

- A. In terms of the city's interests, the benefits of annexing mostly developed residential properties in Area II outweigh the costs.
- B. The city has a strong desire to annex many of the residential properties in Area II because of the potential environmental and health issues associated with well and septic systems.
- C. The basic fees associated with annexation (plant investment and impact fees) should not be reduced for individual property owners seeking annexation (although financing and payback may be negotiated).
- D. The city has a legal obligation under state law to annex enclaves at the request of the property owner without terms and conditions beyond those required through existing ordinances.
- E. The city may apply additional terms and conditions to enclaves only through negotiation with the property owner. (Use caution when applying community benefit).

III. Principles of Applying City Community Benefit Policy:

- A. Community benefit should only be applied to properties with additional development potential.
- B. For the purposes of these guidelines, additional development potential includes the ability to subdivide the property and/or build at least one additional unit on the property. Additional development potential **does not** include the ability to add on to an existing house or to replace an old house with a new one (scrape-offs).
- C. Although emphasis is placed on affordable housing, community benefit is not restricted to housing. An affordable housing benefit should be balanced with other benefits such as land or property dedications (landmarking, flood and open space easements) or other restrictions that help meet BVCP goals.
- D. The city should strive for consistency in applying the affordable housing requirement to properties with additional development potential. In areas where new affordable units are appropriate (Crestview East), restrictions should be placed on the affordability of the new units. In areas where new affordable units are not appropriate or feasible, (Gould Subdivision, 55th St. enclaves), the applicant should be requested to pay two times the cash contribution in-lieu of providing on-site affordable housing.

IV. Framework for Basic Annexation Conditions for All Properties:

- A. Inclusion in the Boulder Municipal Subdistrict and the Northern Colorado Water Conservancy District.
- B. Assessment for waterline and sanitary sewer along street frontage (either existing or to be constructed).
- C. Development Excise Tax (DET).

- D. Storm Water and Flood Management Utility Plant Investment fees.
- E. Water and Wastewater Utility Plant Investment Fee.
- F. Dedication to the city of right-of-way for streets, alleys, water mains, and/or fire hydrants.
- G. Agreement to participate in their pro rata share of any future right-of-way improvements (paving, roadbase, curb, gutter, landscaping, sidewalks, bicycle and pedestrian path connections).
- H. Properties with Silver Lake Ditch rights: The city would ask the property owner to sell all interests in the ditch company to the city.
- I. Properties with other ditch rights: The city would ask for the Afirst Right of Refusal@ for any ditch rights associated with the property.

V. Application of Community Benefit

A. Guidelines for properties within the flood conveyance zone or with an open space or natural ecosystem land use designations.

- 1. The city would request dedication of an open space conservation easement for any portion of the site with a BVCP Open Space or Natural Ecosystem land use designation.
- 2. The city would request dedication to the city of a stormwater and floodplain easement for any portion of the site located within the flood conveyance zone.

B. Guidelines for properties with additional development potential.

The guidelines below are based on the definition of development potential as the potential for a property to be subdivided or for additional units to be built on the property. Although the terms of the community benefit requirement may be negotiated on a case-by-case basis, the following are the general guidelines for requesting community benefit:

- 1. A community benefit requirement in the form of two times the cash in-lieu contribution as set forth in the city's inclusionary zoning ordinance to the Housing Trust Fund would be negotiated with property owners in ER and RR zones.
- 2. For properties in LR and MR zones, a condition would be negotiated that a certain percentage of any new dwelling units be made permanently affordable to various income groups (see specific guidelines for each property group below).
- 3. For enclaves, the affordable housing request should be consistent with similar annexations in the area (see specific guidelines for each property group below).
- 4. For edge properties, the cash-in-lieu requested would be two times that required under the inclusionary zoning ordinance.

C. Guidelines for specific property areas.

1. Enclave – Crestview East

- a. All properties:
 - Request that the applicant demonstrate compliance with the North Boulder Subcommunity Plan Design Guidelines upon redevelopment or other applicable developed zoning district standards.
- b. Properties along Fourmile Canyon Creek:
 - Attempt to secure through negotiation, dedication of conservation, trail, and floodplain and drainage utility easements to the city to meet the objectives of the Greenways Master Plan and the Stormwater and Flood Management Utility.
- c. Properties with subdivision potential – split MR/LR zoning:
 - 50% of any newly constructed units should be permanently affordable to low and middle income households.
- d. Properties with subdivision potential – split LR/ER zones:
 - 25% of any newly constructed units should be permanently affordable to middle income households; and
 - Market rate units permitted on site should pay twice the applicable cash-in-lieu amount required by inclusionary zoning provisions.
- e. Properties with subdivision potential – ER zones:
 - Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city’s inclusionary zoning ordinance for each new dwelling unit (prior to building permit).

2. Enclave – Githens Acres and other miscellaneous North Boulder enclave properties.

- a. All properties:
 - Request that the applicant demonstrates compliance with the North Boulder Subcommunity Plan Design Guidelines upon redevelopment or other applicable developed zoning district standards.
- b. Properties along Fourmile Canyon Creek:
 - Attempt to secure through negotiation, dedication of conservation, trail, and floodplain and drainage utility

easements to the city to meet the objectives of the Greenways Master Plan.

3. Enclave – Pennsylvania Ave.

- a. Three properties along the Wellman Canal (5255, 5303, and 5101):
- Attempt to secure through negotiation, dedication of a trail easement to the city to meet the objectives of the city’s Transportation Master Plan.
- b. For all properties:
- Request payment for share of sidewalk improvements along Pennsylvania Ave.

4. Enclave – 55th St.

- a. Property with an MR land use designation (1415 55th St.):
If zoned LR-D,
- Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city’s inclusionary zoning ordinance for each new dwelling unit. (at the time of building permit) or;
 - Any newly constructed units must be permanently affordable to middle income households.
- If zoned MR-D,
- 50% of any newly constructed units must be permanently affordable to low and middle income households.
- b. Properties with an LR land use designation and further development potential (994, 836, 830 55th St. and 5495 Baseline Rd.):
- Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city’s inclusionary zoning ordinance for each new dwelling unit (at the time of building permit).

5. Gould Subdivision

- a. Three properties with additional development potential (2840 Jay Rd., 2818 Jay Rd., 4040 28th St.):
- Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city’s inclusionary zoning ordinance for each new dwelling unit.

6. Western Edge

- a. Two properties with a VLR land use designation and development potential (0 Linden Dr., and 3650 4th St.):
- Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city's inclusionary zoning ordinance for each new dwelling unit. (at the time of subdivision).
- b. Properties at 3365 4th St., 3047 3rd St., 2975 3rd St., and 2835 3rd St.:
- An open space conservation easement, for the portion of the property that is west of the ABlue Line," should be dedicated to the city.

7. Old Tale Rd./Cherryvale Rd.

- a. Properties along South Boulder Creek:
- Attempt to secure through negotiation, dedication of conservation, trail, and floodplain and drainage utility easements to the city to meet the objectives of the Greenways Master Plan and the Stormwater and Flood Management Utility.

Attachment D

Attachment E:

CITY OF BOULDER
CITY ATTORNEY'S OFFICE
CENTRAL RECORDS

2014 DEC -8 AM 10:44

ANNEXATION PETITION
Submit with your application.

Annexation Information

Location of property to be annexed: Old Tale Road Neighborhood

Legal Description: _____

Size of property: 24 properties Requested Zoning: RR

Impact Report

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

Districts

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

- | | |
|--|---|
| <input checked="" type="checkbox"/> Boulder Valley School District | <input type="checkbox"/> Left Hand Water District |
| <input type="checkbox"/> St. Vrain School District | <input type="checkbox"/> Other (list) |
| <input type="checkbox"/> Boulder Rural fire District | _____ |
| <input type="checkbox"/> Cherryvale Fire District | _____ |

Property Owners

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

1. _____
2. _____
3. _____
4. _____

ANNEXATION PETITION

Signature of petitioners requesting annexation of property to the city of Boulder, Colorado

Date of signature of each petitioner

Mailing address of each petitioner

Description of property included within the area proposed for annexation owned by each person signing this petition. (Attach separate sheet, if necessary).

Sarah R. Kingdon	11/20/2014	1193 Old Tale Rd.	Lot 1 + PT VAC ST McSorleys
Sybil Anderson	11/20/2014	1193 Old Tale Rd.	Lot 7 + S15 FT LOT 6 McSorley son
Jeanne Amerson	11/20/2014	1315 Old Tale	Lot 2 McSorleys + PT Vac St
Kellie Masterson	11/25/2014	1402 Old Tale Rd.	Lot 9 Canterbury Acres
Barbara Cowan	11-25-2014	1275 Old Tale Rd	Lot 4 McSorleys
Tom Cowan	11-25-2014	1275 Old Tale Rd	Lot 4 McSorleys
Laurie Duncan-Milwith	11-26-2014	1533 Old Tale Rd.	Lot 4 McSorleys
Bud Williams	11/26/14	1555 Old Tale Rd	Lot 7 Canterbury Acres
Jacqueline O'Shea	11/25/14	1462 Old Tale Rd	Lot 12 Canterbury Acres
Whitney	11/30/2014	1305 Old Tale Rd.	Lot 3 McSorleys

ANNEXATION PETITION

Signature of petitioners requesting annexation of property to the city of Boulder, Colorado

Date of signature of each petitioner

Mailing address of each petitioner

Description of property included within the area proposed for annexation owned by each person signing this petition. (Attach separate sheet, if necessary).

1. Muri J. Chapman 11-19-14 1486 Old Tale Rd. LOT 13 CANTERBURY ACRES
2. William J. Chapman 11-19-14 1486 Old Tale Rd. LOT 13 CANTERBURY ACRES
3. Elizabeth Chapman 11-19-14 1228 Old Tale Rd. Lot 12 McSorley's
4. Constance Mearns 11-19-14 1165 Old Tale Rd lot 8 Mc Sorley
5. Mary Ellen Druick 11-19-14 1409 Old Tale Rd Part 1 Canterbury Acres
6. Duane P. Dummer 11-19-14 1435 Old Tale Rd Lot 2 Canterbury Acres
7. Harold W. Druick 11-19-14 1245 Old Tale Rd Lot 5 McSorley
8. Charles Druick 11-19-14 1220 Old Tale Rd Lot 11 McSorley
9. John W. Druick 11-19-14 1220 Old Tale Rd Lot 11 McSorley
10. Harriet A. Druick 11-19-14 1310 Old Tale Rd Lot 10 McSorley
11. [Signature] 11/19/14 1483 Old Tale Rd Lot 4 Canterbury Acres

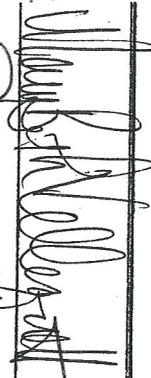
ANNEXATION PETITION

Signature of petitioners requesting annexation of property to the city of Boulder, Colorado

Date of signature of each petitioner

Mailing address of each petitioner

Description of property included within the area proposed for annexation owned by each person signing this petition. (Attach separate sheet, if necessary).

12.		11/19/2014	1500 Old Tale Rd.	Lot 14, Canterbury Acres
13.		11/19/2014	15600 Tale Dr	Lot 16, Canterbury Acres
14.		11/19/2014	1412 Old Tale Rd	Lot 10A "Rep lot 11"
15.		11/19/14	1412 Old Tale Rd.	Lot 10A Canterbury Acres, Rep lot A
16.		11/19/14	1436 Old Tale Rd	Lot 11B Canterbury Acres, Rep lot B
17.		11/19/14	1457 Old Tale Rd	Lot 3 Canterbury Acres
18.		11/19/14	1507 Old Tale Rd	Lot 5 Canterbury Acres
19.				
20.				
21.				
22.				

CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

RICHARD LEDDON

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



Circulator

Subscribed and sworn to before me this 15th day of December, A.D. 20 14.

Witness my hand and official seal. My commission expires: 11/8/2017.

**EDY A. URKEN
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134070410
MY COMMISSION EXPIRES 11/08/2017**



Notary Public

CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

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

Circulator

Subscribed and sworn to before me this _____ day of _____, A.D. 20 _____.

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

For Administrative Purposes Only
 Property Address: ADDRESS
 Grantors: NAMES
 Grantee: City of Boulder, Colorado
 Case#: _____

ANNEXATION AGREEMENT

This Annexation Agreement (“Agreement”), made this ____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the “City”), and NAMES (the “Applicants”). The City and the Applicants are referred to as the “Parties.”

RECITALS

WHEREAS, the Parties recite the following facts related to the annexation of the property described in this Agreement to the City of Boulder:

A. The Applicants are the owners of the property generally known as ADDRESS and more particularly described as LEGAL DESCRIPTION (the “Property”).

B. The Applicants are interested in obtaining approval from the City of the annexation of the Property in order to provide adequate urban services to the Property.

C. The Parties anticipate that annexation with an initial zoning designation of Residential - Rural 2 (RR-2) is consistent with the Boulder Valley Comprehensive Plan.

D. The Old Tale Road Area Map is the area shown on **Exhibit A** (“Old Tale Road Area”). The annexation of the Property is a part of a larger annexation of properties within the Old Tale Road Area. This annexation of the Property is being coordinated with the annexation of other properties in the Old Tale Road Area.

E. In order to assist the Applicants in annexing into the City, the City is providing an annexation package that includes a method for financing the water and sewer connection fees (to the extent applicable) and a waiver of certain fees and taxes which includes the annexation application fee and the development excise tax and the housing excise tax.

F. The Applicants and the City intend to maintain and preserve the rural character of the neighborhood. The City will construct a water main within Old Tale Road and McSorley Road (“Water Main”). After the installation of this Water Main, the City will rebuild Old Tale Road and McSorley Road where the City installed the Water Main according to “Rural Residential Street Standards,” set forth in Section 2.09(D)(3) of the City of Boulder *Design and Construction Standards*, with the exception of sidewalks, drainage swales and streetlights which will not be installed as a condition of this annexation.

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicants in order to protect the public health, safety, and welfare and prevent the

placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

1. Definitions. The Parties agree that terms used in this Agreement will have the following meanings:

“Redevelopment” shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or an increase in the number of the plumbing fixtures.
2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicants shall do the following:
 - A. Annexation Agreement. The Applicants will sign this Agreement.
 - B. Title Work. The Applicants will provide the City with title work current to within 30 days of signing this Agreement.
 - C. Written Descriptions. The Applicants shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.
 - D. Northern Colorado Water Conservancy District (“NCWCD”). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicants will file the applicable applications for inclusion.
 - E. Easement Dedications. To the extent the Property is located within 60 feet from the centerline of the South Boulder Creek, the Applicants shall dedicate to the City, at no cost, the following easements:
 - a. A flood control easement from 60 feet on either side of the centerline of South Boulder Creek as shown on **Exhibit B**. The easement shall be in a form acceptable to the City Manager. The easement will exclude any principal building containing a dwelling unit on the lot within the flood control easement area that is existing at the time of annexation. *[DELETE IF NOT APPLICABLE]*

b. The Applicants shall convey to the City, at no cost, the following:

i. A ditch easement in the form shown on the attached **Exhibit B**.
[DELETE IF NOT APPLICABLE]

F. Notice of Intent to Connect to City's Water and Wastewater Utility. If the Applicants choose Option #C as described under Paragraph 4 below, the Applicants shall submit, on a form acceptable to the City Manager, a notice of intent to connect to the City's water and/or wastewater utility, as applicable, at a later time. Such notice will be recorded with the Boulder County Clerk and Recorder's Office in order to put subsequent purchasers on notice of the requirement to later connect to the City's utility systems, certifying as follows:

The notice will include that the Property is subject to certain terms and conditions of this Annexation Agreement, and that said obligations will run with the land. [DELETE IF NOT APPLICABLE]

3. Connection Requirements. Prior to connection to the Water Main and sanitary sewer main, the Applicants shall:

A. Submit an application to connect to the Water Main and sanitary sewer main that meets the requirements of Chapters 11-1 and 11-2, B.R.C. 1981.

B. Pay all applicable fees and charges associated with a service line connection to the Water Main and sanitary sewer main, including but not limited to right-of way permit fees and the fees listed in Subparagraph 3.D. below.

C. Construct the individual service lines that will connect the Applicants' existing residence to the Water Main and sanitary sewer main.

D. Pay any fees and assessments, including but not limited to the following:

Water Tap, Meter, Permit and Inspection Fee	\$XXX
Water PIF	\$XXX
Sewer Permit, Inspection and Tap Fee	\$XXX
Wastewater PIF	\$XXX
Stormwater and Flood PIF	\$XXX
Total	\$XXX

E. Execute a Promissory Note and Deed of Trust, if Applicants selected Payment Option #B, as described under Paragraph 4.B.(i) below. [DELETE IF NOT APPLICABLE]

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicants select **Option #A/B/C** set forth below.

- A. Option #A: Payment in Full. The Applicants shall connect to the Water Main and sanitary sewer main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main and sanitary sewer main provided the Applicants demonstrate reasonable diligence to comply with the 180-day deadline and good cause for the extension.
- B. Option #B: Payment Plan. The Applicants shall connect to the Water Main and sanitary sewer main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of Paragraph 3 above except that the costs, fees and any assessments described in Paragraph 3 shall be paid in accordance with the terms of the following payment plan:
- i. Prior to connection to the Water Main and sanitary sewer main, the Applicants shall execute a Promissory Note and a Deed of Trust securing said Note and encumbering the Applicants' Property in the principal amount to cover the amounts set forth in Paragraph 3 above. The Note will have a simple interest rate of 3.25 percent per annum, payable in 10 annual installments of principal and interest beginning at the time of connection to both the City water and sewer systems.
- The City Manager may, in her discretion, approve a different time for connection to the Water Main and sanitary sewer main provided the Applicants demonstrate reasonable diligence to comply with the 180-day deadline and good cause for the extension. The City Manager, in her discretion, may approve for good cause a different time for payment of the first of the 10 annual installments of principal and interest.
- C. Option #C: Future Connection. The Applicants shall connect to the Water Main and sanitary sewer main at a time later than what is specified in Option #A and #B above, but no later than the time when 1) the Applicants' on-site wastewater system fails or is declared unsafe, or the Applicants are otherwise required to stop using the on-site wastewater system by the Boulder County Health Department or the State of Colorado; or 2) at the time Applicants' Property is sold; or 3) at the time of Redevelopment of Applicants' Property, whichever occurs first. At the respective time and prior to the Applicants' connection to the Water Main and sanitary sewer main, the Applicants will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.
5. City of Boulder Design and Construction Standards. Any other public improvements that are required to be constructed by the terms of this Agreement shall be constructed in accordance with the requirements of the City of Boulder *Design and Construction Standards* applicable at the time of construction, and shall be subject to the review, approval and acceptance of the City Manager.

6. Use of Existing Wells. The City agrees not to prohibit the Applicants from using existing wells for irrigation purposes, even if the Property is served by the City’s water utility. Under no circumstances may existing wells be used for domestic water purposes once the Applicants have connected to the City’s water utility. No person is allowed to make any cross connections between a well and the City’s municipal water utility. The Parties agree that there shall not be any type of connection between any well and the City water system serving the Property.
7. Applicants Responsible for Legal Disconnection of On-site Wastewater System. If the Applicants decide to continue to use an existing on-site wastewater system, the Applicants agree that the Applicants will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City’s sanitary sewer main, the Applicants are required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.
8. Historic Drainage. The Applicants agree to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.
9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicants agree not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.
10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit C**. Section 9-10-3, “Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses,” B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicants and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City’s life safety codes. *[DELETE IF NO NONCONFORMING USES EXIST]*

OR

Existing, nonstandard buildings and/or nonconforming uses will be allowed to continue to be occupied and operated in the City of Boulder. Only those nonstandard buildings and/or nonconforming uses for which the Applicants have provided a written description that is received by the City in accordance with Paragraph 2.C above will be considered legal. The Applicants and the City agree that this section shall not be construed to permit the Property

to constitute a nuisance or to cause a hazard under the City's life safety codes. *[DELETE IF NONCONFORMING USES EXIST]*

11. Removal of Wood Roof Coverings. If any structures on the Property have wood roof coverings, the Applicants agree to submit a building permit application within two years of the effective date of the annexation ordinance to remove or cause to be removed all wood roof covering materials and to replace the removed roofing with approved roof covering materials which conform to the City of Boulder Building Code. Said removal and replacement of the wood roof covering materials must be completed within three years of the effective date of the annexation ordinance.
12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.
13. Waiver of Vested Rights. The Applicants hereby waive any statutory vested rights that may have accrued under County jurisdiction that have not been perfected as common law vested rights. The Applicants acknowledge that nothing in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.
14. Dedications. The Applicants acknowledge that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.
15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicants shall provide an original of this Agreement signed by Applicants, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicants. The Applicants agree that they will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.
16. No Encumbrances. The Applicants agree that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicants shall neither convey ownership nor further encumber the Applicants' Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicants agree not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.
17. Breach of Agreement. In the event the Applicants breach or fail to perform any required action, or fails to pay any fee specified, under this Agreement or under any document that

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

18. Failure to Annex. This Agreement and any document executed pursuant hereto shall be null and void and of no consequence in the event that the Property is not annexed into the City.
19. Future Interests. This Agreement and the covenants set forth herein shall run with the land and be binding upon the Applicant, the Applicant's heirs, successors, and assigns and all persons who may hereafter acquire an interest in the Property, or any part thereof. If it shall be determined that this Agreement contains an interest in land, that interest shall vest, if at all, within the lives of the undersigned plus 20 years and 364 days.
20. Right to Withdraw. The Applicants retain the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicants' right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicants withdraw from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicants. The City agrees, within 30 days of a request by the Applicants after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicants submitted pursuant to this Agreement to the City.
21. Flood Control Easement Conditions.
 - A. The City will allow existing accessory structures identified on **Exhibit D** to remain within the Flood Control Easement Area until removed, destroyed, demolished, or relocated.
 - B. The City can require removal of pre-existing accessory buildings if such buildings are required to implement a specific flood mitigation project.

Applicant:

By: _____
NAMES

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this _____ day of _____, 2015, by NAMES.

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

[SEAL]

Notary Public

CITY OF BOULDER:

By: _____
Jane S. Brautigam, City Manager

ATTEST:

City Clerk

Approved as to form:

City Attorney's Office

Date: _____

EXHIBITS:

- A: Old Tale Area Map
- B: Ditch / Flood Control Easement *[delete if needed and as applicable]*
- C: Written Description of Nonstandard or Nonconforming Structures *[if applicable]*
- D: List of accessory structures in flood easement area *[if applicable]*

For Administrative Purposes Only
Property Address: ADDRESS
Grantors: NAMES
Grantee: City of Boulder, Colorado
Case#: _____

ANNEXATION AGREEMENT

This Annexation Agreement (“Agreement”), made this ____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the “City”), and NAMES (the “Applicants”). The City and the Applicants are referred to as the “Parties.”

RECITALS

WHEREAS, the Parties recite the following facts related to the annexation of the property described in this Agreement to the City of Boulder:

A. The Applicants are the owners of the property generally known as ADDRESS and more particularly described as DESCRIPTION (the “Property”).

B. The Applicants are interested in obtaining approval from the City of the annexation of the Property in order to provide adequate urban services to the Property.

C. The Parties anticipate that annexation with an initial zoning designation of Residential - Rural 2 (RR-2) is consistent with the Boulder Valley Comprehensive Plan.

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F. The Applicants and the City intend to maintain and preserve the rural character of the neighborhood. The City will construct a water main within Old Tale Road and McSorley Road (“Water Main”). After the installation of this Water Main, the City will rebuild Old Tale Road and McSorley Road where the City installed the Water Main according to “Rural Residential Street Standards,” set forth in Section 2.09(D)(3) of the City of Boulder *Design and Construction Standards*, with the exception of sidewalks, drainage swales and streetlights which will not be installed as a condition of this annexation.

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicants in order to protect the public health, safety, and welfare and prevent the

placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

1. Definitions. The Parties agree that terms used in this Agreement will have the following meanings:

“Redevelopment” shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or an increase in the number of the plumbing fixtures.
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 - E. Easement Dedications. To the extent the Property is located within 60 feet from the centerline of the South Boulder Creek, the Applicants shall dedicate to the City, at no cost, the following easements:
 - a. A flood control easement from 60 feet on either side of the centerline of South Boulder Creek as shown on **Exhibit B**. The easement shall be in a form acceptable to the City Manager. The easement will exclude any principal building containing a dwelling unit on the lot within the flood control easement area that is existing at the time of annexation. *[DELETE IF NOT APPLICABLE]*

b. The Applicant shall convey to the City, at no cost, the following:

i. A ditch easement in the form shown on the attached **Exhibit B.***[DELETE IF NOT APPLICABLE]*

F. Notice of Intent to Connect to City's Water Utility. If the Applicants choose Option #C as described under Paragraph 4 below, the Applicants shall submit, on a form acceptable to the City Manager, a notice of intent to connect to the City's water utility at a later time. Such notice will be recorded with the Boulder County Clerk and Recorder's Office in order to put subsequent purchasers on notice of the requirement to later connect to the City's utility systems, certifying as follows:

The notice will include that the Property is subject to certain terms and conditions of this Annexation Agreement, and that said obligations will run with the land. *[DELETE IF NOT APPLICABLE]*

3. Connection Requirements. Prior to connection to the Water Main, the Applicants shall:

A. Submit an application to connect to the Water Main that meets the requirements of Chapters 11-1, B.R.C. 1981.

B. Pay all applicable fees and charges associated with a service line connection to the Water Main, including but not limited to right-of way permit fees and the fees listed in Subparagraph 3.D below.

C. Construct the individual service line that will connect the Applicants' existing residence to the Water Main.

D. Pay any fees and assessments, including but not limited to the following:

Water Tap, Meter, Permit and Inspection Fee	\$ XXX
Water PIF	\$XXX
Stormwater and Flood PIF	\$XXX
Total	\$XXX

E. Execute a Promissory Note and Deed of Trust, if Applicants selected Payment Option #B, as described under Paragraph 4.B(i) below. *[DELETE IF NOT APPLICABLE]*

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicants select **Option #A/B/C** set forth below.

A. Option #A: Payment in Full. The Applicants shall connect to the Water Main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for

connection to the Water Main provided the Applicants demonstrate reasonable diligence to comply with the 180-day deadline and good cause for the extension.

B. Option #B: Payment Plan. The Applicants shall connect to the Water Main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of Paragraph 3 above except that the costs, fees and any assessments described in Paragraph 3 shall be paid in accordance with the terms of the following payment plan:

i. Prior to connection to the Water Main, the Applicants shall execute a Promissory Note and a Deed of Trust securing said Note and encumbering the Applicants' Property in the principal amount to cover the amounts set forth in Paragraph 3 above. The Note will have a simple interest rate of 3.25 percent per annum, payable in 10 annual installments of principal and interest beginning at the time of connection to the Water System.

The City Manager may, in her discretion, approve a different time for connection to the Water Main provided the Applicants demonstrate reasonable diligence to comply with the 180-day deadline and good cause for the extension. The City Manager, in her discretion, may approve for good cause a different time for payment of the first of the 10 annual installments of principal and interest.

C. Option #C: Future Connection. The Applicants shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than at the time of Redevelopment of Applicants' Property. At that time and prior to the Applicants' connection to the Water Main, the Applicants will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

5. City of Boulder Design and Construction Standards. Any other public improvements that are required to be constructed by the terms of this Agreement shall be constructed in accordance with the requirements of the City of Boulder *Design and Construction Standards* applicable at the time of construction, and shall be subject to the review, approval and acceptance of the City Manager.

6. Use of Existing Wells. The City agrees not to prohibit the Applicants from using existing wells for irrigation purposes, even if the Property is served by the City's water utility. Under no circumstances may existing wells be used for domestic water purposes once the Applicants have connected to the City's water utility. No person is allowed to make any cross connections between a well and the City's municipal water utility. The Parties agree that there shall not be any type of connection between any well and the City water system serving the Property.

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with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City’s sanitary sewer main, the Applicants are required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

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OR

Existing, nonstandard buildings and/or nonconforming uses will be allowed to continue to be occupied and operated in the City of Boulder. Only those nonstandard buildings and/or nonconforming uses for which the Applicants have provided a written description that is received by the City in accordance with Paragraph 2.C above will be considered legal. The Applicants and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City’s life safety codes. *[DELETE IF NONCONFORMING USES EXIST]*

11. Removal of Wood Roof Coverings. If any structures on the Property have wood roof coverings, the Applicants agree to submit a building permit application within two years of the effective date of the annexation ordinance to remove or cause to be removed all wood roof covering materials and to replace the removed roofing with approved roof covering materials which conform to the City of Boulder Building Code. Said removal and replacement of the wood roof covering materials must be completed within three years of the effective date of the annexation ordinance.

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.
13. Waiver of Vested Rights. The Applicants hereby waive any statutory vested rights that may have accrued under County jurisdiction that have not been perfected as common law vested rights. The Applicants acknowledge that nothing in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.
14. Dedications. The Applicants acknowledge that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.
15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicants shall provide an original of this Agreement signed by Applicants, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicants. The Applicants agree that they will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.
16. No Encumbrances. The Applicants agree that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicants shall neither convey ownership nor further encumber the Applicants' Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicants agree not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.
17. Breach of Agreement. In the event the Applicants breach or fail to perform any required action, or fails to pay any fee specified, under this Agreement or under any document that may also be required to be executed pursuant to this Agreement, the Applicants acknowledge that the City may take all reasonable actions to cure the breach, including but not limited to the filing of an action for specific performance of the obligations herein described. In the event the Applicants fail to pay any monies due under this Agreement or under any document that may also be required to be executed pursuant to this Agreement or fails to perform any affirmative obligation hereunder or under any document that may also be required to be executed pursuant to this Agreement, the Applicants agree that the City may collect the monies due in the manner provided for in Section 2-2-12, B.R.C. 1981, as amended, as if the said monies were due and owing pursuant to a duly adopted ordinance of the City or may perform the obligation on behalf of the Applicants and collect its costs in the manner herein provided. The Applicants agrees to waive any rights

they may have under Section 31-20-105, C.R.S., based on the City's lack of an enabling ordinance authorizing collection of this specific debt, or acknowledges that the adoption of the annexation ordinance is such enabling ordinance.

18. Failure to Annex. This Agreement and any document executed pursuant hereto shall be null and void and of no consequence in the event that the Property is not annexed into the City.

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

20. Right to Withdraw. The Applicants retain the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicants' right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicants withdraw from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicants. The City agrees, within 30 days of a request by the Applicants after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicants submitted pursuant to this Agreement to the City.

21. Flood Control Easement Conditions.

A. The City will allow existing accessory structures identified on **Exhibit D** to remain within the Flood Control Easement Area until removed, destroyed, demolished, or relocated.

B. The City can require removal of pre-existing accessory buildings if such buildings are required to implement a specific flood mitigation project.

C. The Applicants shall neither construct any new buildings nor rebuild or reconstruct any pre-existing accessory buildings within the Flood Control Easement Area.

[DELETE IF NOT APPLICABLE AND USE THE PARAGRAPH BELOW]

Flood Control Easement Conditions. The Applicants acknowledge that no accessory structures currently exist within the Flood Control Easement Area. The Applicants shall not construct any new buildings within the Flood Control Easement Area.

22. 2014 Fee Schedule. If the Applicants agree to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in

CITY OF BOULDER:

By: _____
Jane S. Brautigam, City Manager

ATTEST:

City Clerk

Approved as to form:

City Attorney's Office

Date: _____

EXHIBITS:

- A: Old Tale Area Map
- B: Ditch / Flood Control Easement *[delete if needed and as applicable]*
- C: Written Description of Nonstandard or Nonconforming Structures *[if applicable]*
- D: List of accessory structures in flood easement area *[if applicable]*

For Administrative Purposes Only
Property Address: _____
Grantors: _____
Grantee: City of Boulder, Colorado
Case#: _____

GRANT OF FLOOD CONTROL EASEMENT

_____ (“Grantors”), whose address is _____, for \$1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city (the “City”), whose address is 1777 Broadway, Boulder, Colorado 80302, a flood control easement for the purpose of drainage conveyance and control of flood waters and installation and maintenance of improvements necessary to ensure conveyance as determined by the Grantee, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached

Grantors, for {himself|herself|itself} and for {his|her|its} heirs, successors, agents, lessees, and assigns, do hereby covenant and agree that no permanent structure or improvement shall be placed on said easement by {himself|herself|itself} or {his|her|its} heirs, successors or assigns, and that said use of such easement shall not otherwise be obstructed or interfered with.

Grantors warrant {his|her|its} ability to grant and convey this easement.

The terms of this easement shall run with the land and shall be binding upon and inure to the benefit of the Grantors, {his|her|its} heirs, agents, lessees and assigns, and all other successors to {him|her|it} in interest and shall continue as a servitude running in perpetuity with the property described above.

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed as of this ___ day of _____, 2015.

GRANTORS:

By: _____

[NOTARY BLOCK FOLLOWS]

Attachment G:

For Administrative Purposes Only

Property Address: _____

Case#: _____

GRANT OF DITCH EASEMENT

_____, a _____ limited liability company ("Grantor"), whose address is _____, for \$1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city, (the "City"), whose address is 1777 Broadway, Boulder, Colorado 80302, an easement for the installation, construction, repair, maintenance and reconstruction of a drainage ditch (or lateral) and channel improvements and appurtenances thereto, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached

Grantor, for itself and for its successors, agents, lessees, and assigns, does hereby covenant and agree that no permanent structure or improvement shall be placed on said easement by itself or its successors or assigns, and that said use of such easement shall not otherwise be obstructed or interfered with. Notwithstanding the above, the Grantor shall have the right to install, at Grantor's own risk, up to two bridges within the easement to cross the ditch provided the bridges do not interfere with the water flow or otherwise unreasonably interfere with the City's use of the easement. The City shall not be liable for any damages, liabilities, or costs that may occur to or arise in connection with the bridges and shall not be responsible for any repair or reconstruction of the bridges.

Grantor warrants its ability to grant and convey this easement.

The terms of this easement shall run with the land and shall be binding upon and inure to the benefit of the Grantor, its agents, lessees and assigns, and all other successors to it in interest and shall continue as a servitude running in perpetuity with the property described above.

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed as of this ___ day of _____, 20__.

GRANTOR:
(Name of LLC)

By: _____
Name: _____
Title: _____

**CITY OF BOUL
PLANNING BOARD AGENDA ITEM**

MEETING DATE: February 19, 2014

AGENDA TITLE: Public hearing to consider a recommendation to City Council regarding Ordinance No. 8028 amending the building height regulations and requirements of Title 9, "Land Use Code" B.R.C. 1981 for certain areas of the city.

REQUESTING DEPARTMENTS:

David Driskell, Executive Director of Community Planning and Sustainability (CP&S)
Susan Richstone, Deputy Director of CP&S
Charles Ferro, Development Review Manager, CP&S

OBJECTIVES:

1. Hear staff presentation
2. Public Hearing
3. Review of and recommendation to CC on proposed changes to the Land Use Code

EXECUTIVE SUMMARY

On Jan. 20, 2015, City Council voted to unanimously approve first reading of an ordinance that would limit the regulatory authority to grant height modifications in the city. The proposed ordinance (found in [Attachment A](#)) is intended to address the community concern that height modifications may currently be considered on any property in the city through Site Review. It would reinforce the community vision of an urban form that only allows higher intensity and taller buildings in select, transit-rich areas, which have been vetted and approved through a planning process such as an area plan or other public process. New development and Site Review applications could still be considered in all areas, and Site Review would still be required for many projects per the code.

The staff memorandum for second reading of the ordinance to City Council is found in [Attachment A](#) along with the draft ordinance #8028. The first reading materials can be found in [Attachment B](#). At the first reading hearing, City Council asked several questions of staff, which are addressed in the 'Analysis' section of the memorandum found in [Attachment A](#). The 'Analysis' section also includes a discussion of some of the changes made to the ordinance based on direction from council.

STAFF RECOMMENDATION (MOTION LANGUAGE)

Staff recommends that Planning Board recommend approval of Ordinance No. 8028 to the City Council amending the building height regulations and requirements of Title 9, "Land Use Code" B.R.C. 1981 for certain areas of the city.

[Attachment A: Preliminary staff memorandum of recommendation & draft Ordinance #8028](#)

[Attachment B: First reading materials from the Jan. 20, 2015 City Council meeting.](#)



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: February 26, 2015

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 8028 amending the building height regulations and requirements of Title 9, “Land Use Code” B.R.C. 1981 for certain areas of the city.

PRESENTER/S

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

EXECUTIVE SUMMARY

On Jan. 20, 2015, City Council considered on first reading an ordinance that would limit height modifications in the city. The proposed ordinance is intended to address the community concern that height modifications may be considered on all properties in the city through Site Review. It would reinforce the community vision of an urban form that only allows higher intensity and taller buildings in select, transit-rich areas, which have been vetted and approved through a planning process such as an area plan or other public process. New development and Site Review applications could still be considered in all areas, and site review would still be required for many projects per the code.

On Feb. 19, 2015, Planning Board considered the proposed ordinance and (TO BE COMPLETED AFTER THE PLANNING BOARD MEETING).

The proposed ordinance is found in **Attachment A** and would limit to specific areas and situations, the eligibility to have buildings that could exceed the by-right height limits through the existing Site Review process. City Council voted to approve the draft ordinance on first reading (not as an emergency measure) and asked several questions of staff, which are addressed in the ‘Analysis’ section of the memorandum. The ‘Analysis’

section also includes a discussion of some of the changes made to the ordinance based on the direction from council.

ANALYSIS

The intent of the ordinance is to allow consideration of height modifications through Site Review only in those areas with a clearly defined, approved vision for future development and in other specific circumstances. This would limit the height of new development to the by-right height (based on current zoning) in the remainder of the city.

First reading questions

On Jan. 20th, City Council asked the following questions at first reading with each followed by the staff response:

1) Should Reve be included in the exempted area?

Yes. Based on City Council's discussion on Jan. 20, 2015 and the fact that the proposed development has undergone two Concept Plan reviews with the Planning Board and a Concept Plan call up with the City Council, staff recommends that Reve be included in the exempted area along with Phase I of the Transit Village Area.

2) Provide the history and background of the height referendum for the 29th St. Mall.

*In 1998, voters approved a ballot initiative (see **Attachment B**) that would allow heights greater than 55' in the 29th Street Mall Area. Since the site is so large, the city's methodology for calculating height (measuring to a single low point) resulted in very low building heights across the site.*

3) Should Frasier Meadows be included in the exempted area?

Yes. Based on the flood impacts that occurred on the Frasier Meadows property at 4950 Thunderbird Ln. in Sept. of 2013, staff finds that it is reasonable to include the property in the exempted area to allow flexibility in redeveloping portions of the site outside of the floodway. Staff has been working closely with Frasier Meadows staff in flood mitigation on the site, permitting for damages caused by the flood and preliminary discussions related to a potential master plan for the site.

4) Should the Boulder Valley Regional Center (BVRC) be included in the exempted area (especially if it is considered one of our main activity centers in the BVCP)?

Staff does not recommend including the entire BVRC. While the BVRC has adopted design guidelines, the underlying zoning has not been reviewed or updated since the 1980's. Being that the BVRC is such a large area, staff finds

*that it's not appropriate to include the entire subarea. However, City Council may consider whether to include portions of the BVRC (major transit corridors along 28th & 30th, etc.). Since all of the following areas are located along high frequency transit corridors, do not have significant neighborhood interfaces, and are considered core areas of intensity within the BVRC, the specific areas that staff believes would make the most sense to include are (see **Attachment C** for a map):*

- *28th Street Frontage from Taft to Spruce*
- *30th Street Frontage from Arapahoe to the northern BVRC boundary near Spruce St.*
- *Arapahoe from Folsom to the eastern BVRC boundary near 33rd St.*
- *Pearl from Folsom to the eastern BVRC boundary near Junction Place*
- *The entire Twenty Ninth Street Center*

5) What process would apply to the “one offs” like the Boulder Community Health (BCH) campuses or should they be included in the exempted area?

If properties outside of the exempted areas were for some reason found to be appropriate sites for additional height, City Council can always exercise their legislative authority for “one off” properties and amend the ordinance.

*Based on the fact that the Mapleton and Broadway hospital sites were purpose built for hospital uses, staff finds it appropriate to include both sites in the exempted area to preserve options for adaptive reuse of the existing building stock. City Council may also consider including exempting all areas of the city zoned Public (P). This would include all city owned facilities (police & fire stations, parks, the Civic Area, all hospital properties, the Federal labs, CU, the airport, etc.) in order to preserve flexibility. It is also worth noting that in the past, upgrades to emergency operations antennae have required height modifications. These facilities are typically located on city-owned properties in areas zoned P; therefore, staff would recommend preserving the ability to consider additional height in the P zones. (See **Attachment D** for a map of properties within the city zoned P).*

6) How would we pilot a form based code with the proposed height limitations in place?

The proposed height limitations would not impact a form based code pilot. Victor Dover in his Jan. 15, 2015 letter recommended exploring a pilot in areas that would be exempt from the proposed height limitations (such as Boulder Junction, Downtown, Gunbarrel Town Center, University Hill and North Boulder).

7) Will the proposed height restrictions result in more by-right projects? Is that a positive outcome?

It is possible that more by-right projects could result; however, the city's code is designed to encourage projects to undergo the Site Review process based on the property size and building square footage thresholds. It should also be noted that properties outside of the height exemption area will be able to apply for other modifications to the code, (setbacks, parking, etc.) just not height.

8) At second reading please include maps indicating and outlining those properties with development and/or redevelopment potential within the proposed areas for exclusion from this ordinance that may request height exemptions.

While staff cannot predict all areas where redevelopment will occur, below is a list of known potential redevelopment sites.

DT-4 & DT-5: (see Attachment E)

- 1900 Broadway - Wells Fargo Site*
- 1300 Canyon / 1770 13th St. - Atrium Building / City Parking Lot*
- 1420 Canyon - Former Rob's Music*
- 1750 15th St. - Liquor mart*
- 1913 Broadway - Bank*
- 900 Walnut - Civic Pad Site*
- 1460 & 1480 Canyon - Bank and Gas Station Properties*
- 1300 Walnut - Bank*

Boulder Junction: (see Attachment F)

- 3390 Valmont Rd - S'PARK Development*
- 2490 Junction Pl. - The Commons*
- NEC 30th & Pearl - Former Pollard Site / City Owned Site*
- 3200 Bluff - Air Gas*
- 2751 30th - Boulder RV Center Property*

Gunbarrel: (see Attachment G)

- Entire Subarea*

North Boulder: (see Attachment H)

- 4750 Broadway - North Boulder Armory Site*

Uni Hill: (see Attachment I)

- 1313 Broadway - Bovas Site*
- 1155 Pleasant & 14th St. UHGID Parking lots*
- Broadway & Pennsylvania - CU Owned Parking lot*
- 1111 Broadway - Colorado Bookstore*
- 1275 13th - Everyday Market & Gas Station*

Industrial Zones:

-Multiple potential redevelopment sites along East Arapahoe and near 63rd & Butte Mill.

9) Are there any other properties that straddle the included and excluded areas?

*Yes, only the western $\frac{3}{4}$ of the NoBo Armory site would be exempt (the portion zoned MU-1). The eastern portion of the site zoned RMX-2 would not be eligible to request height modifications (see **Attachment J**).*

10) Did staff consider the Armory on North Broadway as a potential site for the form based code pilot? Why or why not?

No. Since the property has already undergone multiple neighborhood meetings, Concept Plan review and has been discussed by City Council, staff did not consider the site for a form based code pilot since so much direction has already been provided to the applicant.

11) Would areas outside the proposed areas of exclusion risk redevelopment based on a suburban land use form?

It is possible. The proposed ordinance only impacts height. No other development standards would be affected or amended.

Proposed Ordinance:

As previously stated, the above-listed areas and circumstances do not represent an automatic approval for a proposed height exemption. All developments proposed in these areas or circumstances would remain subject to appropriate review processes and in light of all current city regulatory criteria.

The key provisions of the proposed ordinance include:

- It would not apply to applications for building permit submitted on or prior to January 21, 2015 or to site review approvals for height modifications as of the same date. Pending and complete site review applications (i.e., site review applications already submitted to the city or schedule for planning board consideration) that are requesting additional height in areas that would not permit such height under the proposed ordinance may continue through the site review process under current height review regulations.
- Additional areas may be added to the map and additional situations added through amendment of the ordinance at a future date if desired.
- The ordinance would expire on April 19, 2017.

STAFF RECOMMENDATION

Suggested Motion Language:

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

motion:

Motion to adopt Ordinance No. 8028 adopt Ordinance No. 8028 amending the building height regulations and requirements of Title 9, "Land Use Code" B.R.C. 1981 for certain areas of the city.

ATTACHMENTS

- A: Ordinance No. 8028
- B: Ordinance No. 6013
- C: Map of Potential areas of Exemption in the Boulder Valley Regional Center
- D: Map of areas Zoned Public
- E: Map of Potential Redevelopment Sites in the Downtown 4 & 5 Zones
- F: Map of Potential Redevelopment Sites in Boulder Junction
- G: Map of Potential Redevelopment Sites in Gunbarrel
- H: Map of Potential Redevelopment Sites in North Boulder
- I: Map of Potential Redevelopment Sites in University Hill
- J: Map of Potential Redevelopment Site in North Boulder that straddles the proposed exemption boundary

ORDINANCE NO. 8028

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE" B.R.C. 1981 BY AMENDING THE BUILDING HEIGHT REGULATIONS AND REQUIREMENTS FOR CERTAIN AREAS OF THE CITY; AND SETTING FORTH RELATED DETAILS.

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

Section 1. The City Council finds and recites the following facts leading to the adoption of interim development regulations related to the height of buildings.

a. The city values its built environment, as is reflected in the Boulder Valley Comprehensive Plan. 2010 BVCP, pages 18 to 32.

b. The voter approved a height limit for buildings no greater than 55 feet in 1971.

c. City Charter Section 84 provides the purposes of the height limitation, which applies to buildings at 55 feet and below.

d. The Boulder Revised Code allows buildings to be constructed up to 55 feet in all zoning districts, subject to a site review approval.

e. Increasingly, more buildings are being approved at heights up to 55 feet in multiple areas of the community.

f. The city council intends to limit the areas where buildings can be up to 55 feet to those areas where previous planning efforts have resulted in the adoption of a plan or clear policy intent that supports more intensive forms of development or in instances where important community values are implemented or site topography may result in height-compliance hardship.

g. The council intends to study other areas in the community where buildings that exceed the underlying permitted or conditional height may be appropriate.

h. The City Council determined that it is in the interest of the public health safety and welfare to consider whether existing zoning standards will result in development consistent with the goals and policies of the Boulder Valley Comprehensive Plan.

Section 2. Paragraphs 9-2-14 (c)(1) is amended and a new paragraph (2) is added and subsequent paragraphs renumbered, to read:

9-2-14 Site Review.

...

1 (c) Modifications to Development Standards: The following development standards of
2 B.R.C. 1981 may be modified under the site review process set forth in this section:

3 (1) 9-7-1, "Schedule of Form and Bulk Standards" and standards referred to in that
4 section except for the floor area requirements and the maximum height or conditional
5 height for principal buildings or uses, except as permitted in paragraph (c)(2) below.

6 (2) The maximum height or conditional height for principal buildings or uses may be
7 modified in any of the following circumstances:

8 (A) For building or uses designated in Appendix J "Areas Where Height
9 Modifications May Be Considered."

10 (B) Industrial General, Industrial Service, and Industrial Manufacturing districts
11 if the building has two or fewer stories.

12 (C) In all zoning districts, if the height modification is to allow the greater of two
13 stories or the maximum number of stories permitted in Section 9-7-1 in a
14 building and the height modification is necessary because of the topography
15 of the site.

16 (D) In all zoning districts if at least fifty percent of the floor area of the building
17 is used for units that meet the requirements for permanently affordable units
18 in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981.¹

19 Section 3. The council adopts Attachment A, titled, "Appendix J to Title 9 - Areas Where
20 Height Modifications May Be Considered," as an amendment to Title 9, "Land Use Code,"
21 B.R.C. 1981.

22 Section 4. The provisions of this ordinance will expire on April 19, 2017. The council
23 intends that this ordinance will expire, be amended, or replaced with subsequent legislation after
24 further study of appropriate building heights in the city.

25 Section 5. This ordinance shall apply to all building permits or land use approvals for
which an application is made on January 21, 2015 or thereafter, unless specifically exempted.
Building permit applications for a development that received a site review approval for height
that exceeds the permitted height on or prior to January 21, 2015 may apply for and receive
building permits that are necessary to construct the approved development.

¹ The provisions adopted pursuant to Ordinance No. 8028 expire on April 19, 2017.

1 Section 6. Complete site review applications that have been submitted to the city prior to
2 January 21, 2015 that request additional height in areas that would not permit such height under
3 this ordinance will be permitted to continue through the process under the height regulations in
4 place at the time such application is made. Such applicants shall be required to pursue such
5 development approvals and meet all requirements deadlines set by the city manager and the
6 Boulder Revised Code. Pending developments may apply for and receive building permits that
7 are necessary to construct the approved development.

8 Section 7. For the limited purposes of this ordinance, the city council suspends the
9 provisions of Subsection 9-1-5(a), “Amendments and Effect of Pending Amendments,” B.R.C.
10 1981 for the limited purpose of adopting this ordinance.

11 Section 8. If any section paragraph clause or provision of this ordinance shall for any
12 reason be held to be invalid or unenforceable such decision shall not affect any of the remaining
13 provisions of this ordinance.

14 Section 9. This ordinance is necessary to protect the public health, safety, and welfare of
15 the residents of the city, and covers matters of local concern.

16 Section 10. The city council deems it appropriate that this ordinance be published by title
17 only and orders that copies of this ordinance be made available in the office of the city clerk for
18 public inspection and acquisition.
19
20
21
22
23
24
25

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY
2 TITLE ONLY this 20th day of January, 2015.

3
4 _____
Attest: Mayor

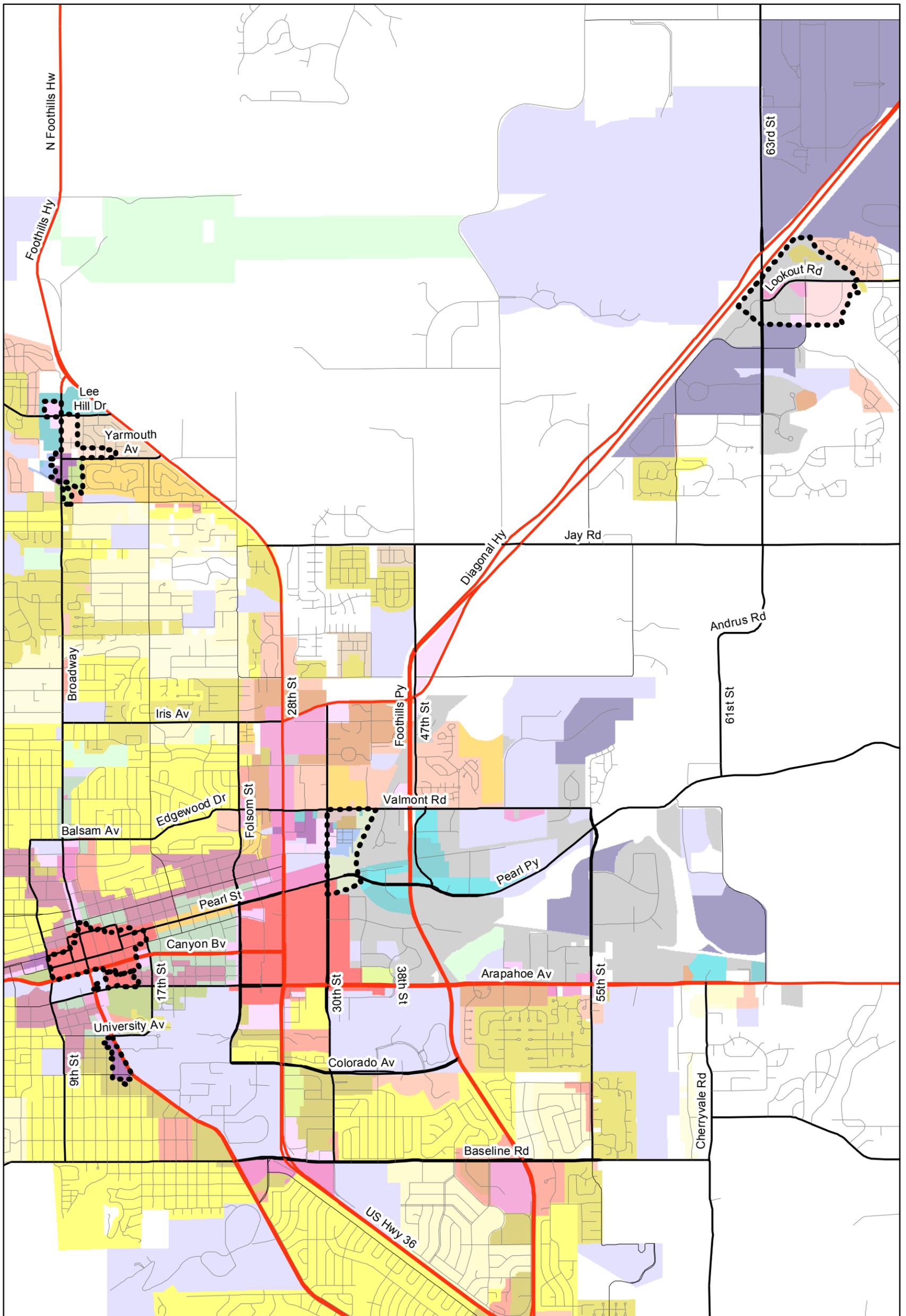
5
6 _____
7 City Clerk

8
9
10 READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED
11 PUBLISHED BY TITLE ONLY this __ day of _____, 2015.

12
13
14 _____
Attest: Mayor

15
16 _____
17 City Clerk

Appendix J to Title 9 – Areas Where Height Modifications May be Considered



 Areas Where Height Modifications May be Considered



ORDINANCE NO. 6013

AN ORDINANCE SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY OF BOULDER AT A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, THE 3RD DAY OF NOVEMBER, 1998, THE QUESTION OF AMENDING SECTION 84 OF THE BOULDER CITY CHARTER REGARDING THE DEFINITION OF HEIGHT FOR A PORTION OF THE AREA KNOWN AS BOULDER CROSSROADS; SETTING FORTH THE BALLOT TITLE; AND PROVIDING FURTHER DETAILS IN RELATION TO THE FOREGOING.

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

Section 1. A special municipal election is hereby called to be held in the various precincts and at the polling places of the City of Boulder, County of Boulder and State of Colorado, on Tuesday, the 3rd day of November, 1998, between the hours of 7:00 a.m. and 7:00 p.m.

Section 2. At said election, there shall be submitted to the electors of the City of Boulder entitled by law to vote thereon the question of making the following addition to Section 84 of the City Charter: (material to be added to the Charter is shown in bold, uppercase type):

Section 84. Height Limit.

All buildings and other structures throughout the city shall be limited to a height not exceeding fifty-five feet. This height limit shall not apply to spires, belfries, cupolas, or domes not used for human occupancy, nor to silos, parapet walls, cornices without windows, antennas, chimneys, ventilators, skylights, or other necessary mechanical appurtenances usually carried above the roof level so long as they do not take up more than twenty-five percent of the roof area, nor to light poles at government owned recreation facilities, nor to light and traffic signal poles in the right-of-way, nor to service and transmission line electrical utility poles. "Height" means the vertical distance from the lowest point within twenty-five feet of the tallest side of the structure to the uppermost point of the roof.

The purposes of this height limitation are to promote the health, safety, and general welfare of the community; to secure safety from fire, panic, wind turbulence, and

other dangers; to provide adequate light and air to abutting properties and the neighborhood; to prevent the overcrowding of land; to avoid undue concentration of population; to prevent the encroachment of privacy; to lessen traffic congestion in the streets; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to insure personal safety by encouraging intensive use at the sidewalk level; to encourage the most appropriate use of land; to conserve and enhance property values; to preserve the integrity and character of established neighborhoods; to preserve scenic views of the mountain backdrop, which are a unique asset to the community and provide a distinctive character and setting for the city and which provide an attraction to tourists, visitors, and students of the University of Colorado; and to protect a public investment of over three million dollars in the mountain backdrop.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SECTION 84, THE FOLLOWING PROVISIONS SHALL APPLY SOLELY TO THAT PORTION OF THE AREA KNOWN AS BOULDER CROSSROADS WHICH IS DELINEATED BY (i) THE NORTHERN BOUNDARY LINE OF ARAPAHOE AVENUE, (ii) THE SOUTHERN BOUNDARY LINE OF CANYON BOULEVARD AS EXTENDED EASTWARD TO 30TH STREET, (iii) THE EASTERN BOUNDARY LINE OF 28TH STREET, AND (iv) THE WESTERN BOUNDARY LINE OF 30TH STREET:

SUBJECT TO APPROVAL THROUGH THE DEVELOPMENT REVIEW PROCESS, "HEIGHT" SHALL BE DEFINED AS THE VERTICAL DISTANCE MEASURED FROM THE FEDERAL EMERGENCY MANAGEMENT AGENCY'S FLOOD PROTECTION ELEVATION AT 28TH STREET OF 5,288 FEET, AS DETERMINED IN ACCORDANCE WITH THE NORTH AMERICA VERTICAL DATUM OF 1988, TO A PLANE ABOVE SUCH ELEVATION.

The official ballot punch card and the official absentee ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure:

QUESTION NO. _____

**REGARDING THE DEFINITION OF HEIGHT FOR A PORTION OF
THE AREA KNOWN AS BOULDER CROSSROADS**

Subject to approval through the development review process, shall Section 84 of the City Charter be amended to allow Boulder Crossroads to define height for a portion of the area known as Boulder Crossroads which is delineated by (i) the northern boundary line of Arapahoe Avenue,

(ii) the southern boundary line of Canyon Boulevard as extended eastward to 30th Street, (iii) the eastern boundary line of 28th Street, and (iv) the western boundary line of 30th Street, as the vertical distance measured from the Federal Emergency Management Agency's flood protection elevation at 28th Street and Arapahoe Avenue of 5,288 feet, as determined in accordance with the North American Vertical Datum of 1988, to a plane above such elevation?

For the measure _____ Against the measure _____

Section 3. If a majority of all the votes cast at the election on the measure submitted shall be for the measure, the measure shall be deemed to have passed and shall be effective upon passage.

Section 4. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, the Boulder Revised Code, 1981, and this ordinance, and all contrary provisions of the statutes of the State of Colorado are hereby superseded.

Section 5. The city clerk of the City of Boulder shall give public notice of the election in the manner required by law for Charter amendments.

Section 6. The notice of the election shall include the ballot title.

Section 7. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance.

Section 8. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 9. This ordinance is necessary to protect the public health, safety and welfare of the residents of the city, and covers matters of local concern.

Section 10. The council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE

ONLY this 4th day of August, 1998.



Mayor

Attest:



City Clerk on behalf of the
Director of Finance and Record

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE

ONLY this 18th day of August, 1998.



Mayor

Attest:



City Clerk on behalf of the
Director of Finance and Record

READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY

TITLE ONLY this 1st day of September, 1998.



Mayor

Attest:



City Clerk on behalf of the
Director of Finance and Record

ORDINANCE NO. 6013

STATE OF COLORADO)
COUNTY OF BOULDER) SS.:
CITY OF BOULDER)

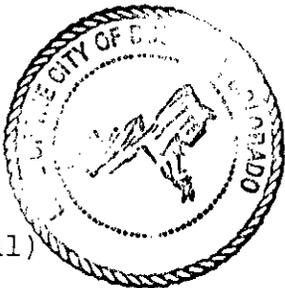
CERTIFICATE

I, Alisa D. Lewis, City Clerk of said City in the County and State aforesaid, do hereby certify that the foregoing ordinance was introduced, read on first reading at a regular meeting of the City Council thereof held on the 4th day of August, 1998, and that afterwards, to-wit: on the 6th day of August, 1998, I caused the same to be published (by title only) in the official paper of said City (the same being a paper of general circulation published in said city), and that said publication was made ten days before the passage of said ordinance.

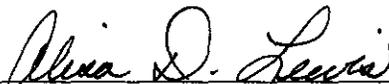
I hereby certify that the foregoing ordinance was afterwards duly and regularly read and amended by the City Council of said City on second reading at a regular meeting thereof held on the 18th day of August, 1998, and that thereafter, to-wit: on the 20th day of August, 1998, I caused the same to be published (by title only) in the official paper of said city.

I hereby certify that the foregoing ordinance was afterwards duly and regularly read, passed and adopted as amended, by the City Council of said City on third reading at a regular meeting thereof held on the 1st day of September, 1998, and that thereafter, to-wit: on the 4th day of September, 1998, I caused the same to be published (by title only) in the official paper of said city.

WITNESS my hand and the seal of said City of Boulder hereto affixed, this 8th day of September, 1998.



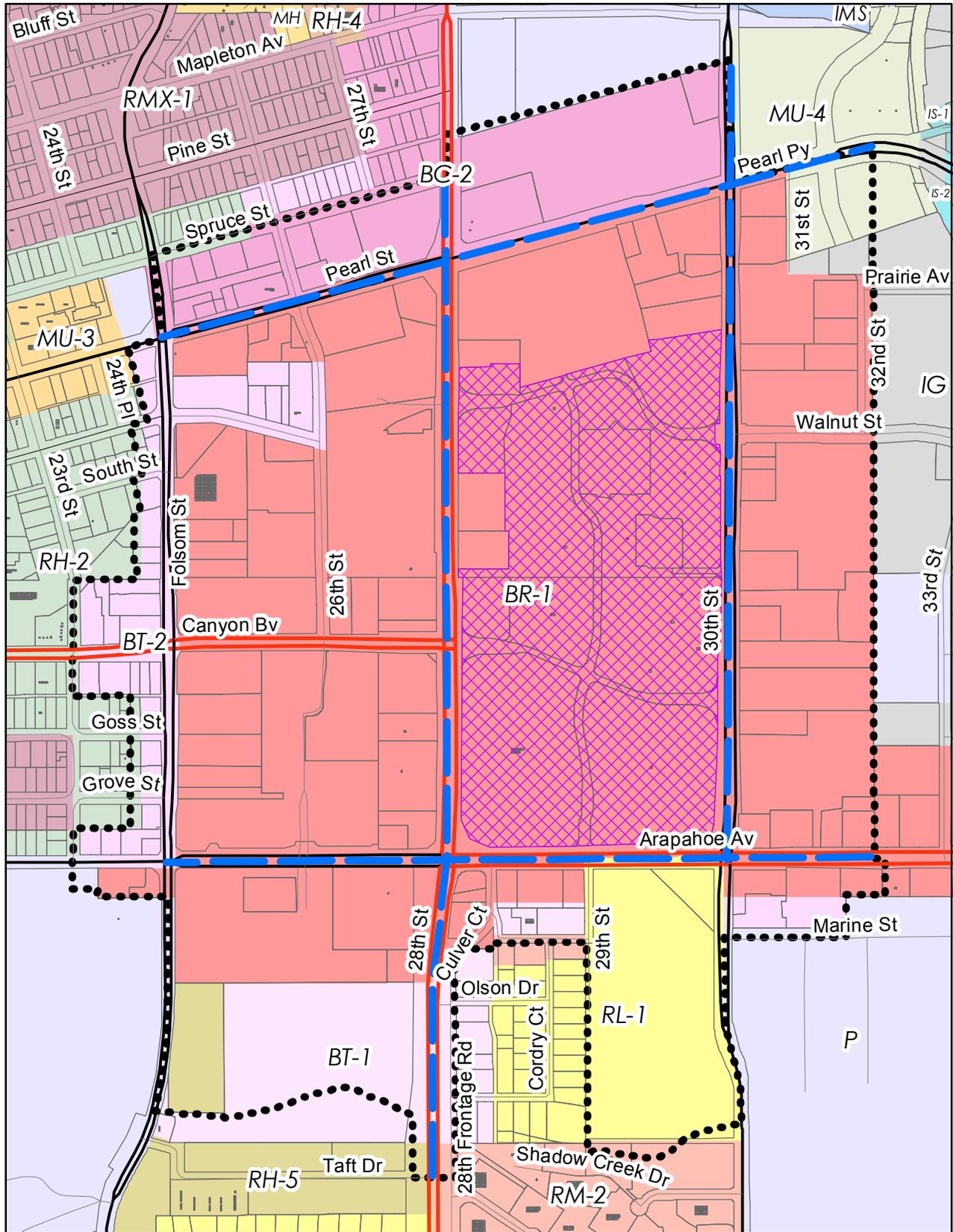
(Seal)



Alisa D. Lewis
City Clerk

cert3.ord

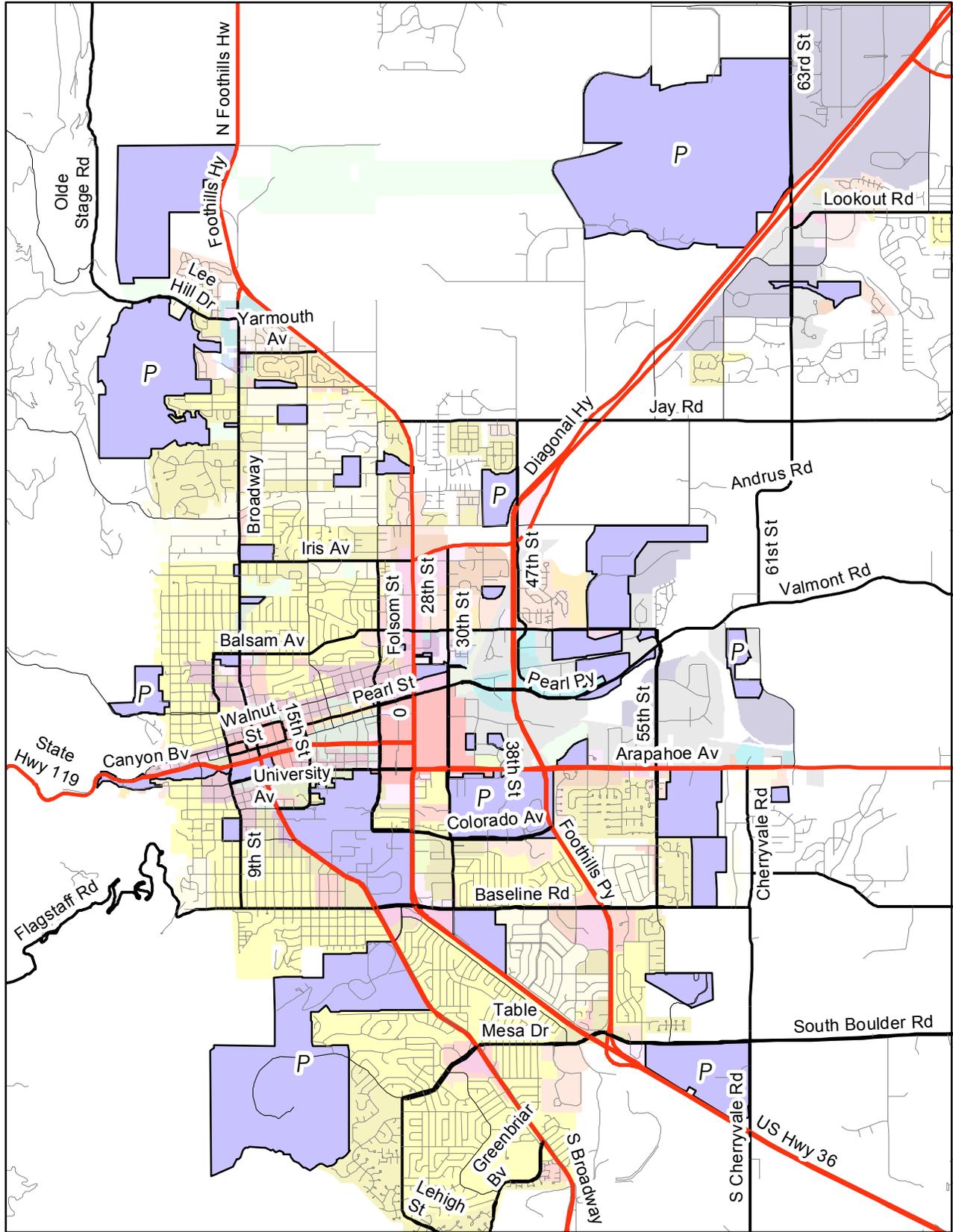
Boulder Valley Regional Center



-  Twenty Ninth Street Mall
-  Street Frontage Areas
-  Boulder Valley Regional Center



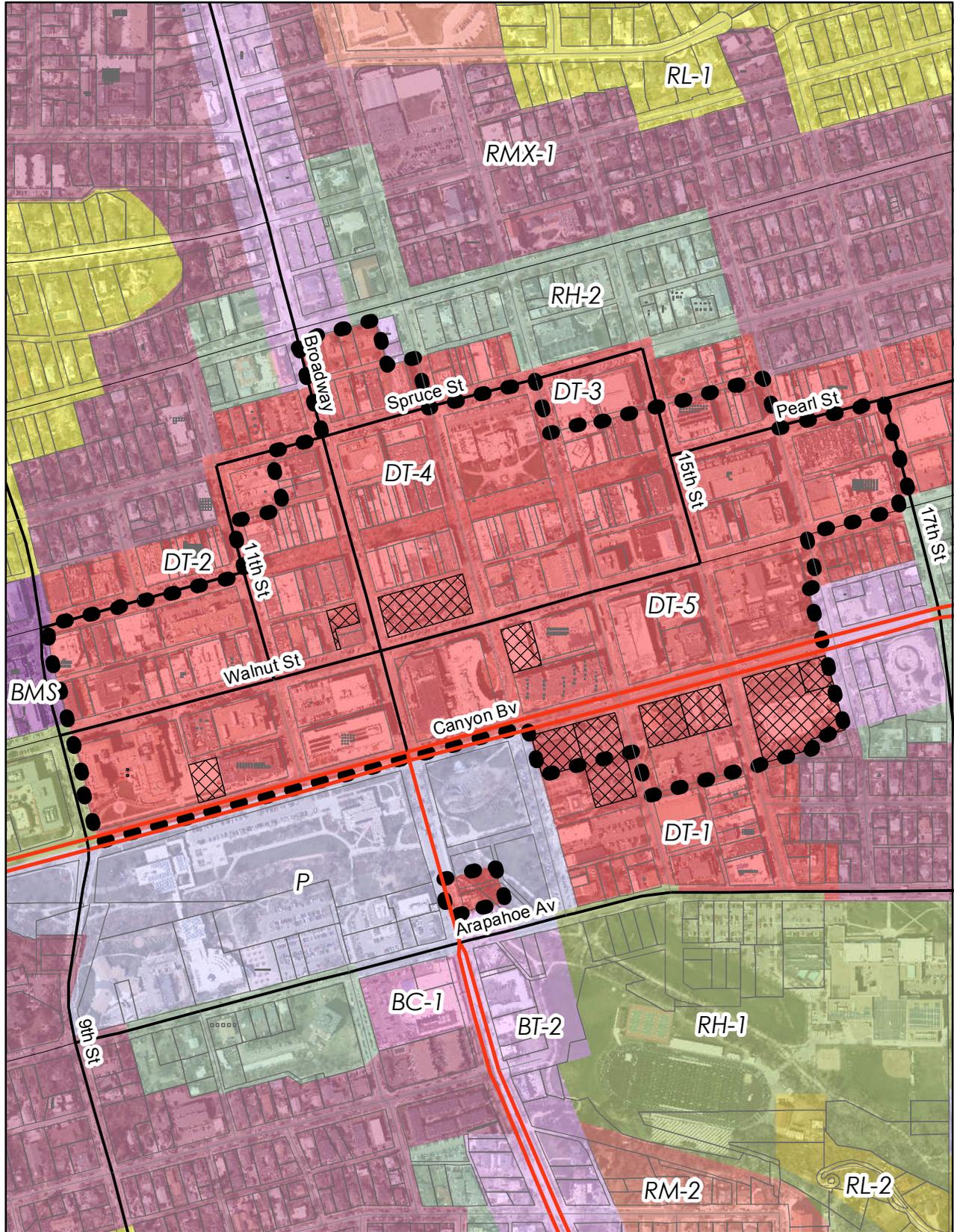
Public Zoning Districts



Public Zoning Districts



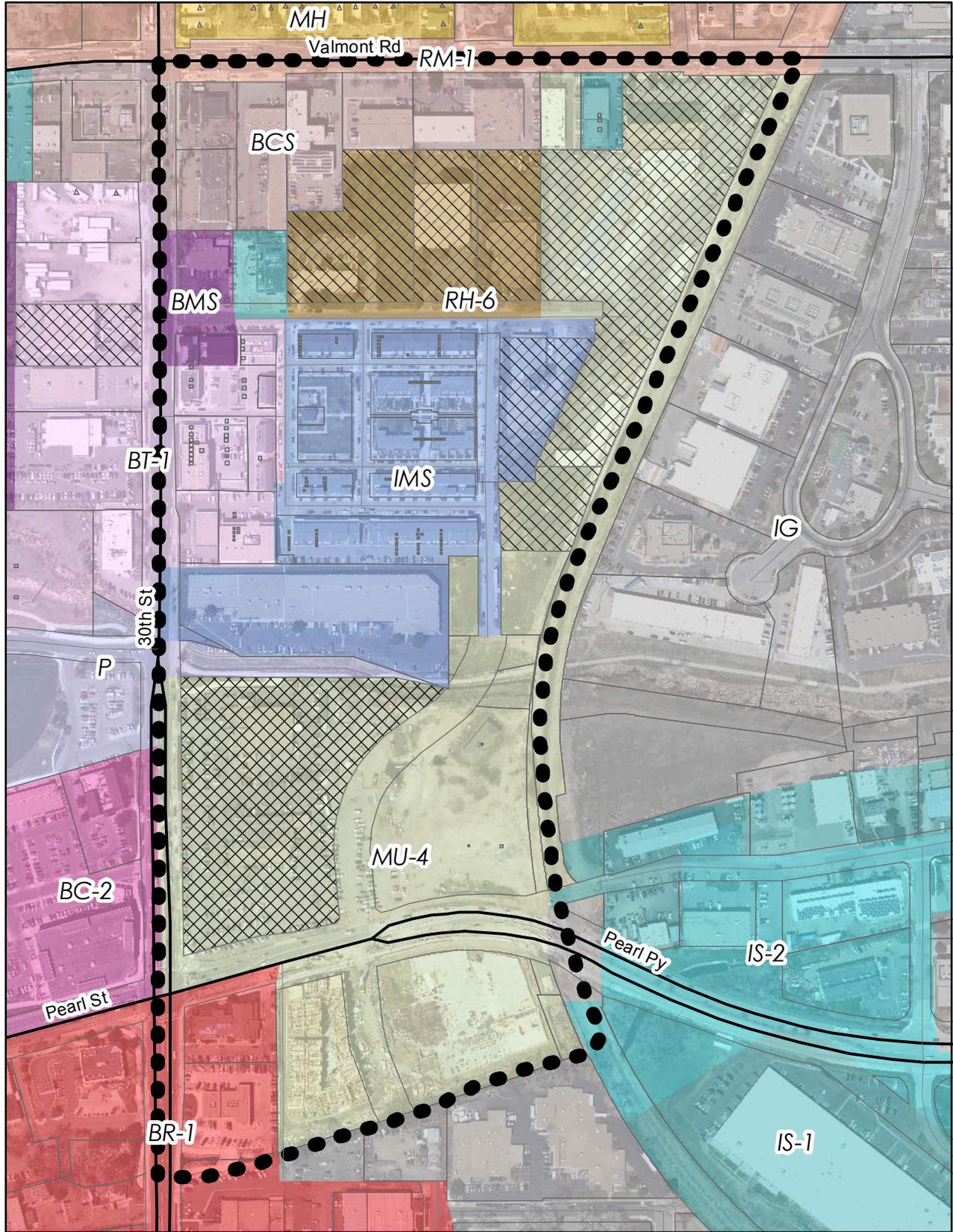
Downtown (DT-4 and DT-5)



-  Known Potential Redevelopment Sites
-  Areas Where Height Modifications May be Considered



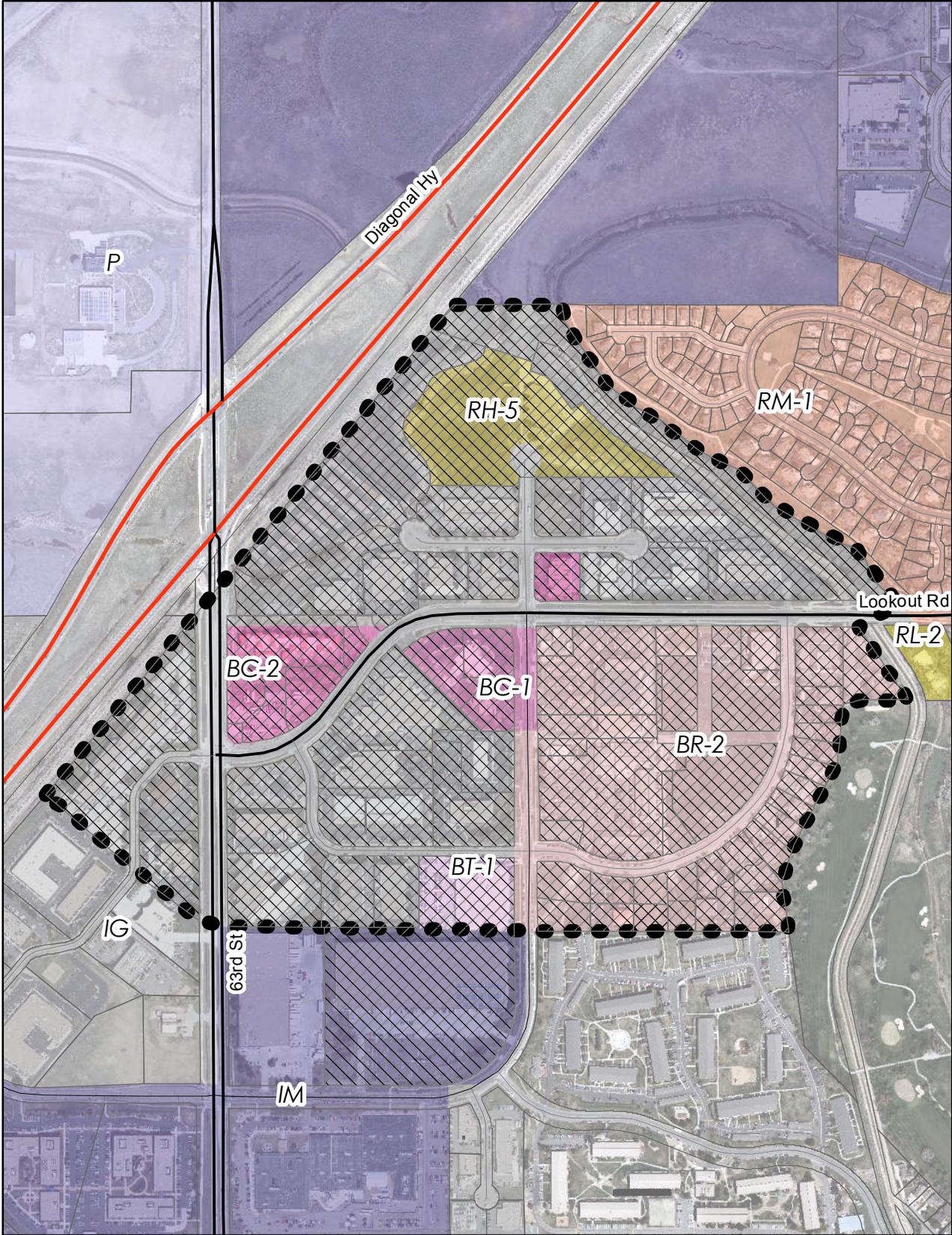
Boulder Junction



-  Known Potential Redevelopment Sites
-  Areas Where Height Modifications May be Considered



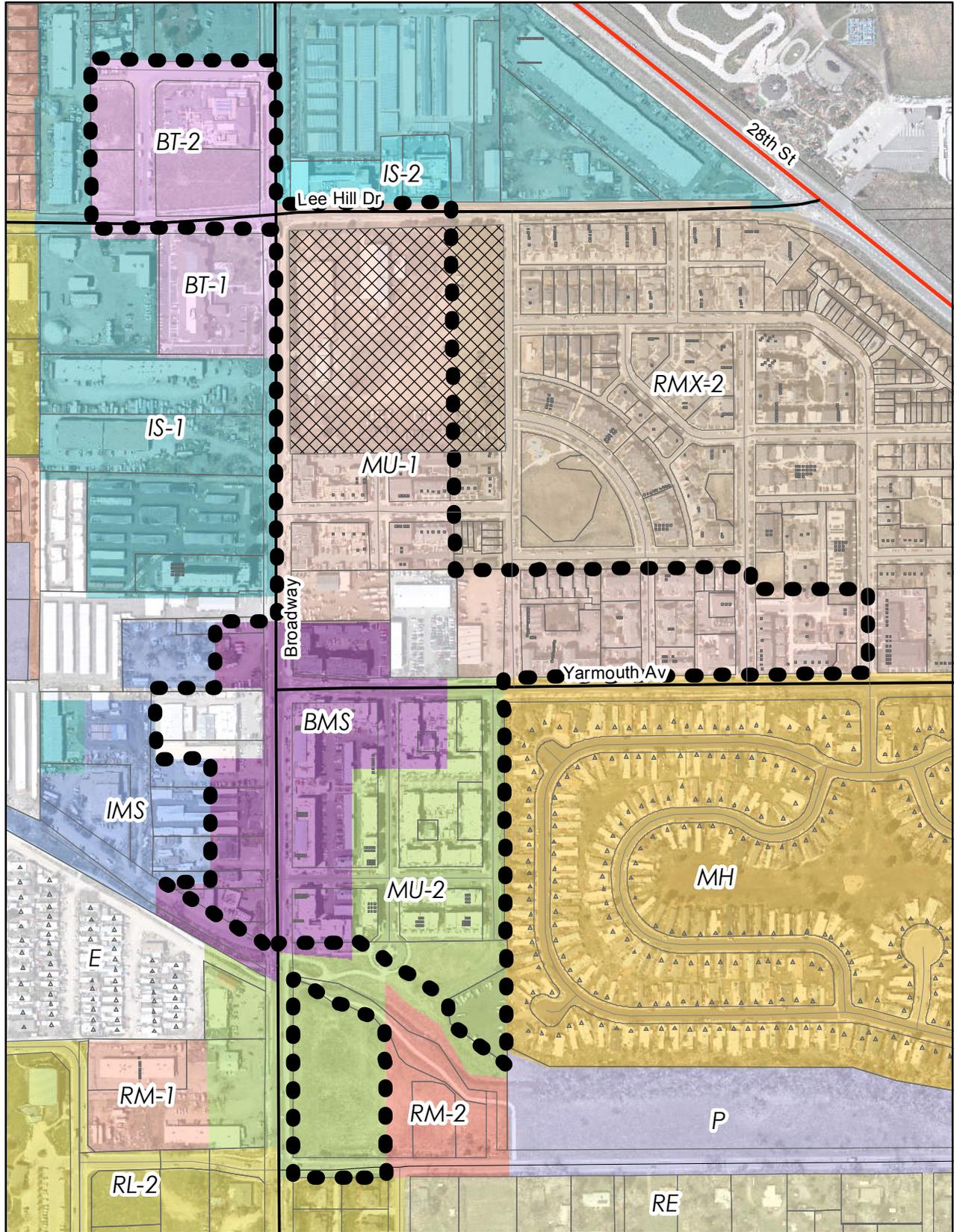
Gunbarrel Subcommunity



-  Known Potential Redevelopment Sites
-  Areas Where Height Modifications May be Considered



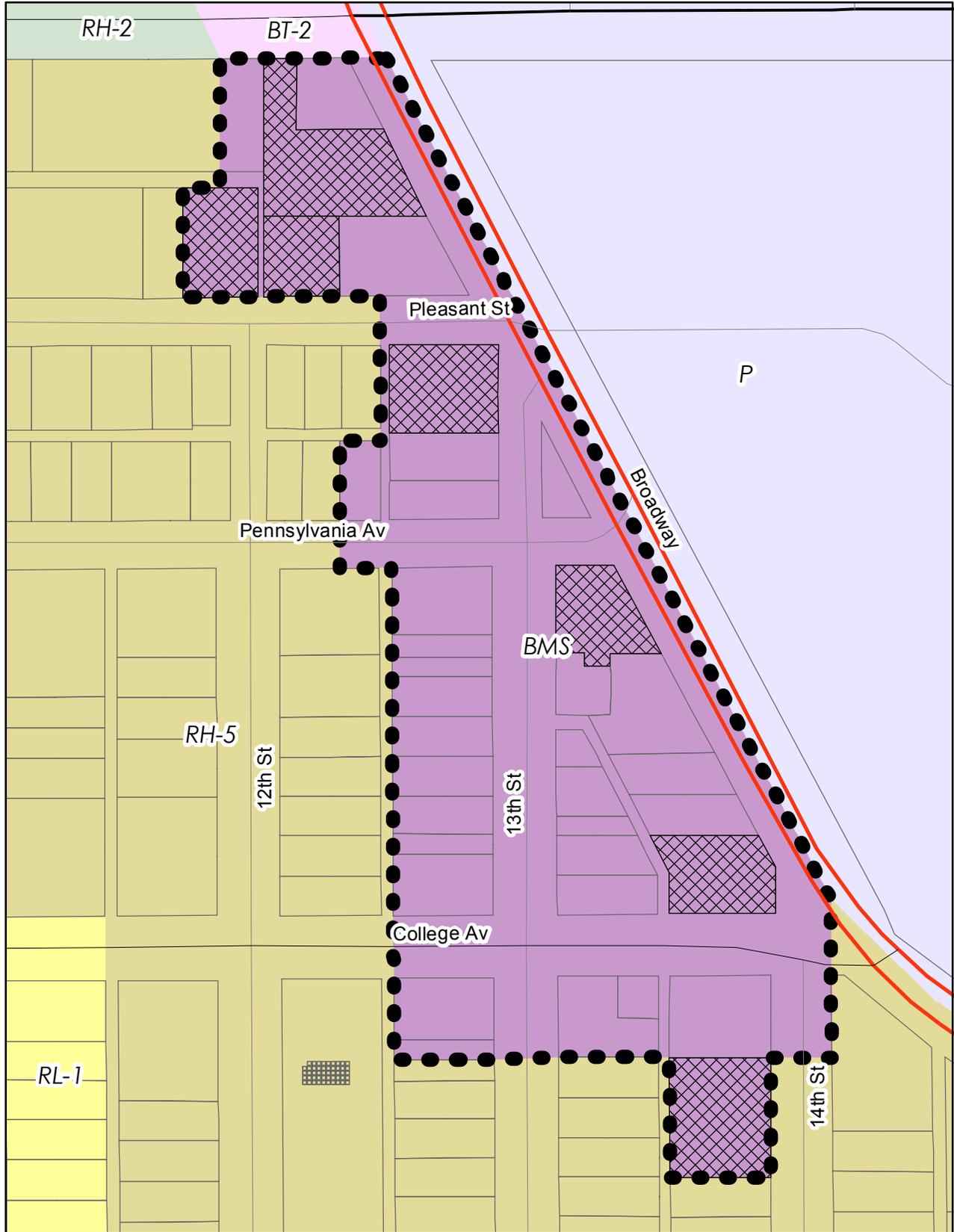
North Boulder



-  Known Potential Redevelopment Sites
-  Areas Where Height Modifications May be Considered



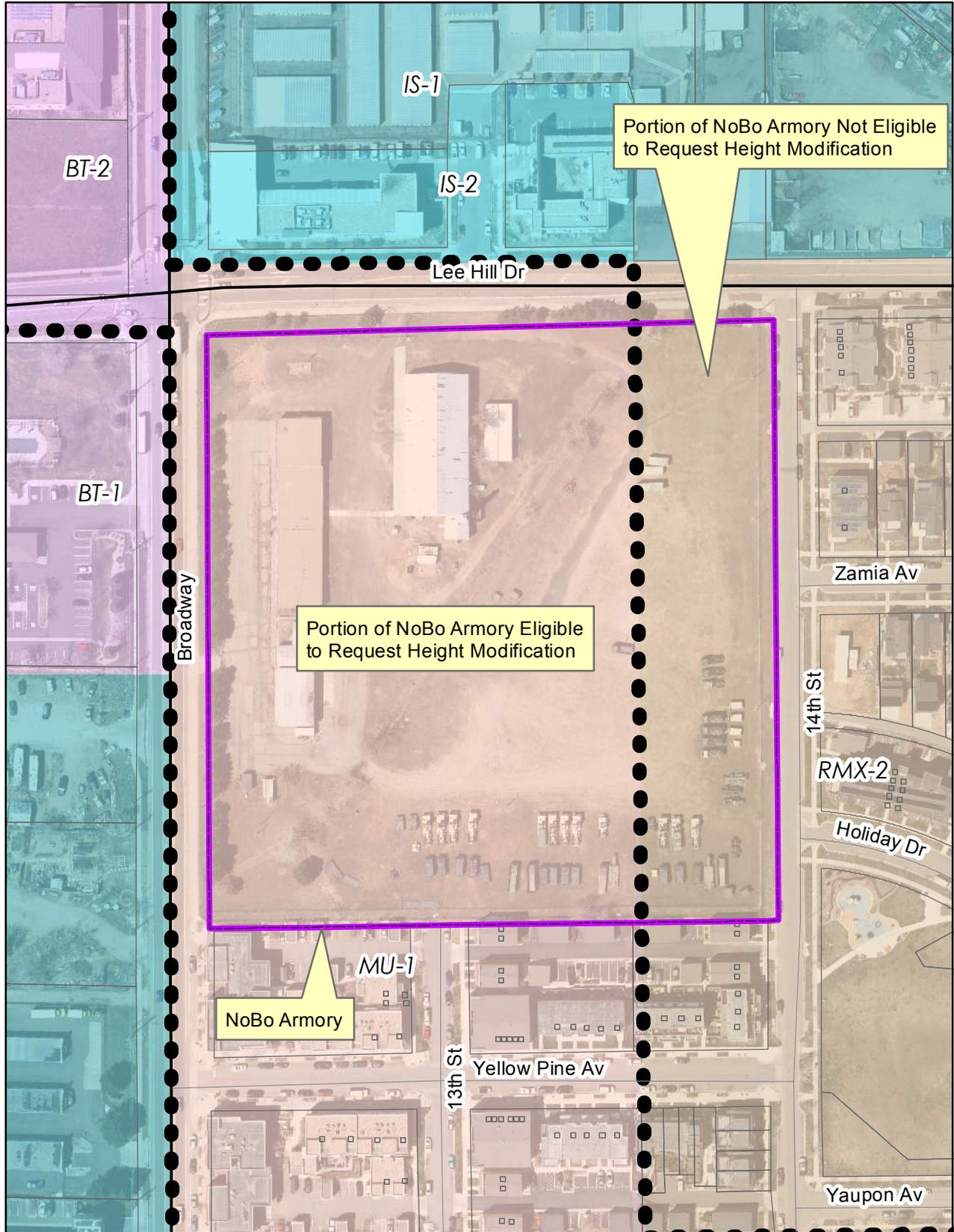
University Hill



-  Known Potential Redevelopment Sites
-  Areas Where Height Modifications May be Considered



NoBo Armory



 NoBo Armory Site

 Areas Where Height Modifications May be Considered





**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: January 20, 2015

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only two ordinances as follows: An ordinance amending Title 9, “Land Use Code” B.R.C. 1981 by amending the building height regulations and requirements for certain areas of the city or in the alternative, an ordinance with identical terms to be adopted by emergency.

PRESENTER/S

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

The proposed ordinances (Attachments A and B) would limit to specific areas and situations the eligibility to have buildings that could exceed the by-right height limits through the existing site review process. Attachment A provides for introduction on first reading. Attachment B is identical but would allow for introduction and approval as an emergency measure. The intent is to allow consideration of height modifications through site review only in those areas with a clearly defined, approved vision for future development and in other specific circumstances. This would limit the height of new development to the by-right height (based on current zoning) in the remainder of the city.

Areas and situations proposed to be eligible for height modifications include:

1. Boulder Junction, Downtown, University Hill commercial district, portions of North Boulder along Broadway, and the Gunbarrel Town Center (see proposed map in Attachment A).
2. Industrial zoning districts if the building has two or fewer stories (where height may be necessary to accommodate the specific nature of the industrial use).

3. Relief from steep topographic conditions on a site.
4. Projects where at least 50% of the floor area of the building is comprised of permanently affordable housing meeting the requirements of the city's Inclusionary Housing Ordinance.

Importantly, the above-listed situations do not represent an automatic approval for a proposed height exemption. All developments proposed in these areas or circumstances would remain subject to appropriate review processes and in light of all current city regulatory criteria.

The key provisions of each alternative proposed ordinance include:

- It would not apply to applications for building permit submitted on or prior to January 21, 2015 or to site review approvals for height modifications as of the same date. Pending and complete site review applications (i.e., site review applications already submitted to the city or schedule for planning board consideration) that are requesting additional height in areas that would not permit such height under the proposed ordinance may continue through the site review process under current height review regulations.
- Additional areas may be added to the map and additional situations added through amendment of the ordinance at a future date.
- The ordinance would expire on April 19, 2017.

The proposed ordinances are intended to address the community concern that height modifications may be considered on all properties in the city through site review. It would reinforce the community vision of an urban form that only allows higher intensity and taller buildings in select, transit-rich areas which have been vetted and approved through a planning process such as an area plan or other public process. New development and site review applications could still be considered in all areas, and site review would still be required for many projects per the code.

Under the city's code, the thresholds for site review are based on property or building sizes. The requirements vary by zone district and while site review is required in many instances, it can also be requested if minimum thresholds are met. The benefit of undergoing a site review is that modifications from the development code can be requested. A complete list of thresholds for site review can be found in [Section 9-2-14b\)\(1\), B.R.C. 1981](#). While height would be restricted under these proposed measures in certain areas of the city, it would still be possible to request modifications to several other development standards including setbacks, parking, landscaping standards, fencing requirements, etc. A complete list of development standards that can be modified through the site review process can be found in [Section 9-2-14\(c\), B.R.C., 1981](#)

Staff recommends that council consider introduction of this proposal on first reading with final adoption through the normal legislative process. Staff is aware, however, that some council members believe that it is important for this provision to be effective immediately. Accordingly, staff has provided an alternative measure to allow for adoption by emergency.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion introduce on first reading and order published by title only an ordinance amending Title 9, "Land Use Code" B.R.C. 1981 by amending the building height regulations and requirements for certain areas of the city.

Or in the alternative

Motion introduce, order published by title only and adopt as an emergency measure an ordinance amending Title 9, "Land Use Code" B.R.C. 1981 by amending the building height regulations and requirements for certain areas of the city.

Staff is working to prepare additional analysis to inform council's decision on this item.

ATTACHMENTS

- A: Ordinance No. 8028 - Option 1
- B: Ordinance No. 8028 - Option 2 (by emergency)

ORDINANCE NO. 8028

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE" B.R.C. 1981 BY AMENDING THE BUILDING HEIGHT REGULATIONS AND REQUIREMENTS FOR CERTAIN AREAS OF THE CITY; AND SETTING FORTH RELATED DETAILS.

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

Section 1. The City Council finds and recites the following facts leading to the adoption of interim development regulations related to the height of buildings.

a. The city values its built environment, as is reflected in the Boulder Valley Comprehensive Plan. 2010 BVCP, pages 18 to 32.

b. The voter approved a height limit for buildings no greater than 55 feet in 1971.

c. City Charter Section 84 provides the purposes of the height limitation, which applies to buildings at 55 feet and below.

d. The Boulder Revised Code allows buildings to be constructed up to 55 feet in all zoning districts, subject to a site review approval.

e. Increasingly, more buildings are being approved at heights up to 55 feet in multiple areas of the community.

f. The city council intends to limit the areas where buildings can be up to 55 feet to those areas where previous planning efforts have resulted in the adoption of a plan or clear policy intent that supports more intensive forms of development or in instances where important community values are implemented or site topography may result in height-compliance hardship.

g. The council intends to study other areas in the community where buildings that exceed the underlying permitted or conditional height may be appropriate.

h. The City Council determined that it is in the interest of the public health safety and welfare to consider whether existing zoning standards will result in development consistent with the goals and policies of the Boulder Valley Comprehensive Plan.

Section 2. Paragraphs 9-2-14 (c)(1) is amended and a new paragraph (2) is added and subsequent paragraphs renumbered, to read:

9-2-14 Site Review.

...

1 (c) Modifications to Development Standards: The following development standards of
2 B.R.C. 1981 may be modified under the site review process set forth in this section:

3 (1) 9-7-1, "Schedule of Form and Bulk Standards" and standards referred to in that
4 section except for the floor area requirements and the maximum height or conditional
5 height for principal buildings or uses, except as permitted in paragraph (c)(2) below.

6 (2) The maximum height or conditional height for principal buildings or uses may be
7 modified in any of the following circumstances:

8 (A) For building or uses designated in Appendix J "Areas Where Height
9 Modifications May Be Considered."

10 (B) Industrial General, Industrial Service, and Industrial Manufacturing districts
11 if the building has two or fewer stories.

12 (C) In all zoning districts, if the height modification is to allow the greater of two
13 stories or the maximum number of stories permitted in Section 9-7-1 in a
14 building and the height modification is necessary because of the topography
15 of the site.

16 (D) In all zoning districts if at least fifty percent of the floor area of the building
17 is used for units that meet the requirements for permanently affordable units
18 in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981.¹

19 Section 3. The council adopts Attachment A, titled, "Appendix J to Title 9 - Areas Where
20 Height Modifications May Be Considered," as an amendment to Title 9, "Land Use Code,"
21 B.R.C. 1981.

22 Section 4. The provisions of this ordinance will expire on April 19, 2017. The council
23 intends that this ordinance will expire, be amended, or replaced with subsequent legislation after
24 further study of appropriate building heights in the city.

25 Section 5. This ordinance shall apply to all building permits or land use approvals for
which an application is made on January 21, 2015 or thereafter, unless specifically exempted.
Building permit applications for a development that received a site review approval for height
that exceeds the permitted height on or prior to January 21, 2015 may apply for and receive
building permits that are necessary to construct the approved development.

¹ The provisions adopted pursuant to Ordinance No. 8028 expire on April 19, 2017.

1 Section 6. Complete site review applications that have been submitted to the city prior to
2 January 21, 2015 that request additional height in areas that would not permit such height under
3 this ordinance will be permitted to continue through the process under the height regulations in
4 place at the time such application is made. Such applicants shall be required to pursue such
5 development approvals and meet all requirements deadlines set by the city manager and the
6 Boulder Revised Code. Pending developments may apply for and receive building permits that
7 are necessary to construct the approved development.

8 Section 7. For the limited purposes of this ordinance, the city council suspends the
9 provisions of Subsection 9-1-5(a), “Amendments and Effect of Pending Amendments,” B.R.C.
10 1981 for the limited purpose of adopting this ordinance.

11 Section 8. If any section paragraph clause or provision of this ordinance shall for any
12 reason be held to be invalid or unenforceable such decision shall not affect any of the remaining
13 provisions of this ordinance.

14 Section 9. This ordinance is necessary to protect the public health, safety, and welfare of
15 the residents of the city, and covers matters of local concern.

16 Section 10. The city council deems it appropriate that this ordinance be published by title
17 only and orders that copies of this ordinance be made available in the office of the city clerk for
18 public inspection and acquisition.
19
20
21
22
23
24
25

1 INTRODUCTION, READ ON FIRST READING, AND ORDERED PUBLISHED BY

2 TITLE ONLY this 20th day of January, 2015.

4 _____
Mayor

5 Attest:

6 _____
7 City Clerk

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

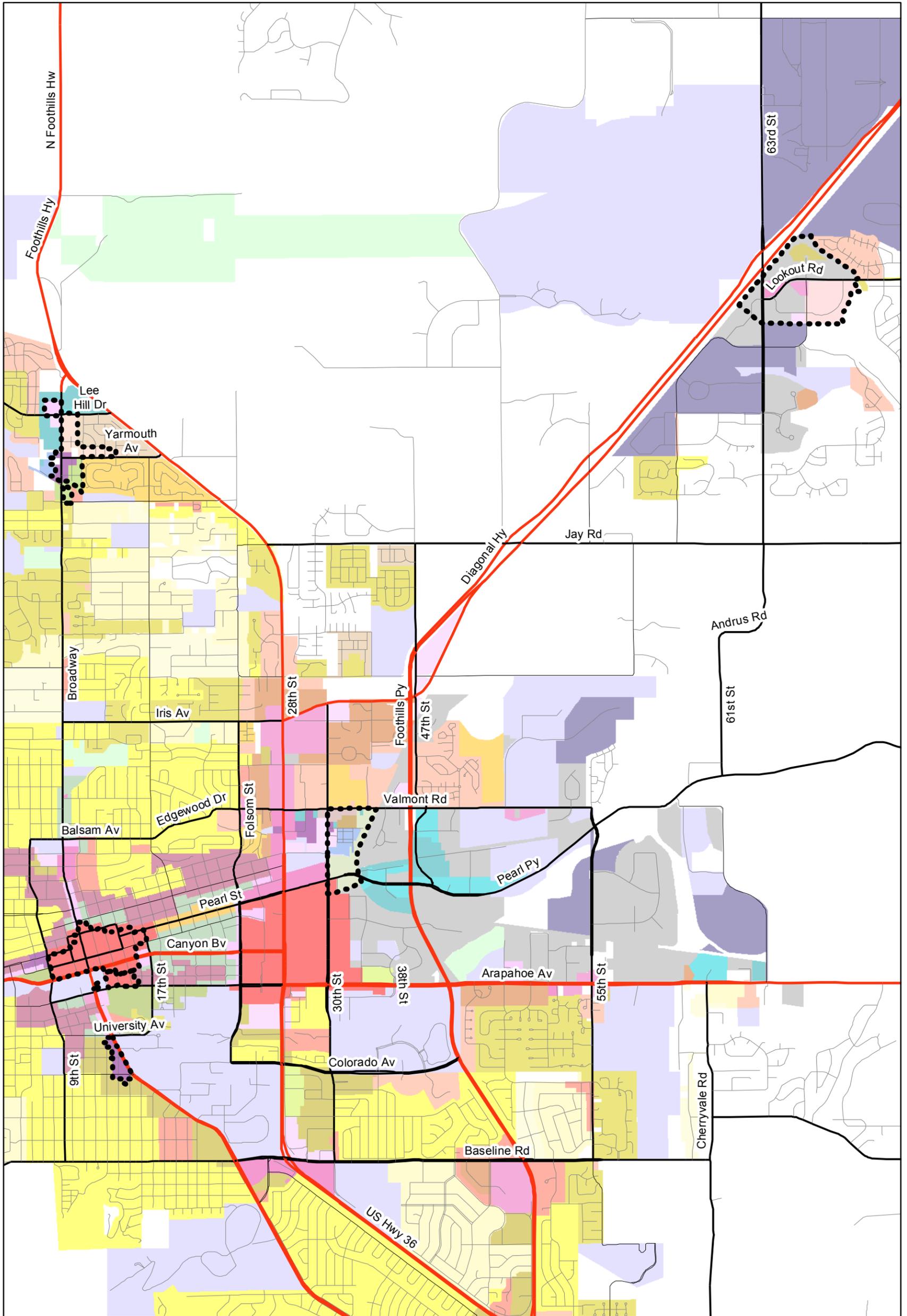
11 PUBLISHED BY TITLE ONLY this 3rd day of February, 2015.

14 _____
Mayor

15 Attest:

16 _____
17 City Clerk

Appendix J to Title 9 – Areas Where Height Modifications May be Considered



 Areas Where Height Modifications May be Considered



ORDINANCE NO. 8028

AN EMERGENCY ORDINANCE AMENDING TITLE 9, "LAND USE CODE" B.R.C. 1981 BY AMENDING THE BUILDING HEIGHT REGULATIONS AND REQUIREMENTS FOR CERTAIN AREAS OF THE CITY; AND SETTING FORTH RELATED DETAILS.

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

Section 1. The City Council finds and recites the following facts leading to the adoption of interim development regulations related to the height of buildings.

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- c. City Charter Section 84 provides the purposes of the height limitation, which applies to buildings at 55 feet and below.
- d. The Boulder Revised Code allows buildings to be constructed up to 55 feet in all zoning districts, subject to a site review approval.
- e. Increasingly, more buildings are being approved at heights up to 55 feet in multiple areas of the community.
- f. The city council intends to limit the areas where buildings can be up to 55 feet to those areas where previous planning efforts have resulted in the adoption of a plan or clear policy intent that supports more intensive forms of development or in instances where important community values are implemented or site topography may result in height-compliance hardship.
- g. The council intends to study other areas in the community where buildings that exceed the underlying permitted or conditional height may be appropriate.
- h. The City Council determined that it is in the interest of the public health safety and welfare to consider whether existing zoning standards will result in development consistent with the goals and policies of the Boulder Valley Comprehensive Plan.

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16 (D) In all zoning districts if at least fifty percent of the floor area of the building
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18 in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981.¹

19 Section 3. The council adopts Attachment A, titled, "Appendix J to Title 9 - Areas Where
20 Height Modifications May Be Considered," as an amendment to Title 9, "Land Use Code,"
21 B.R.C. 1981.

22 Section 4. The provisions of this ordinance will expire on April 19, 2017. The council
23 intends that this ordinance will expire, be amended, or replaced with subsequent legislation after
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25 Section 5. This ordinance shall apply to all building permits or land use approvals for
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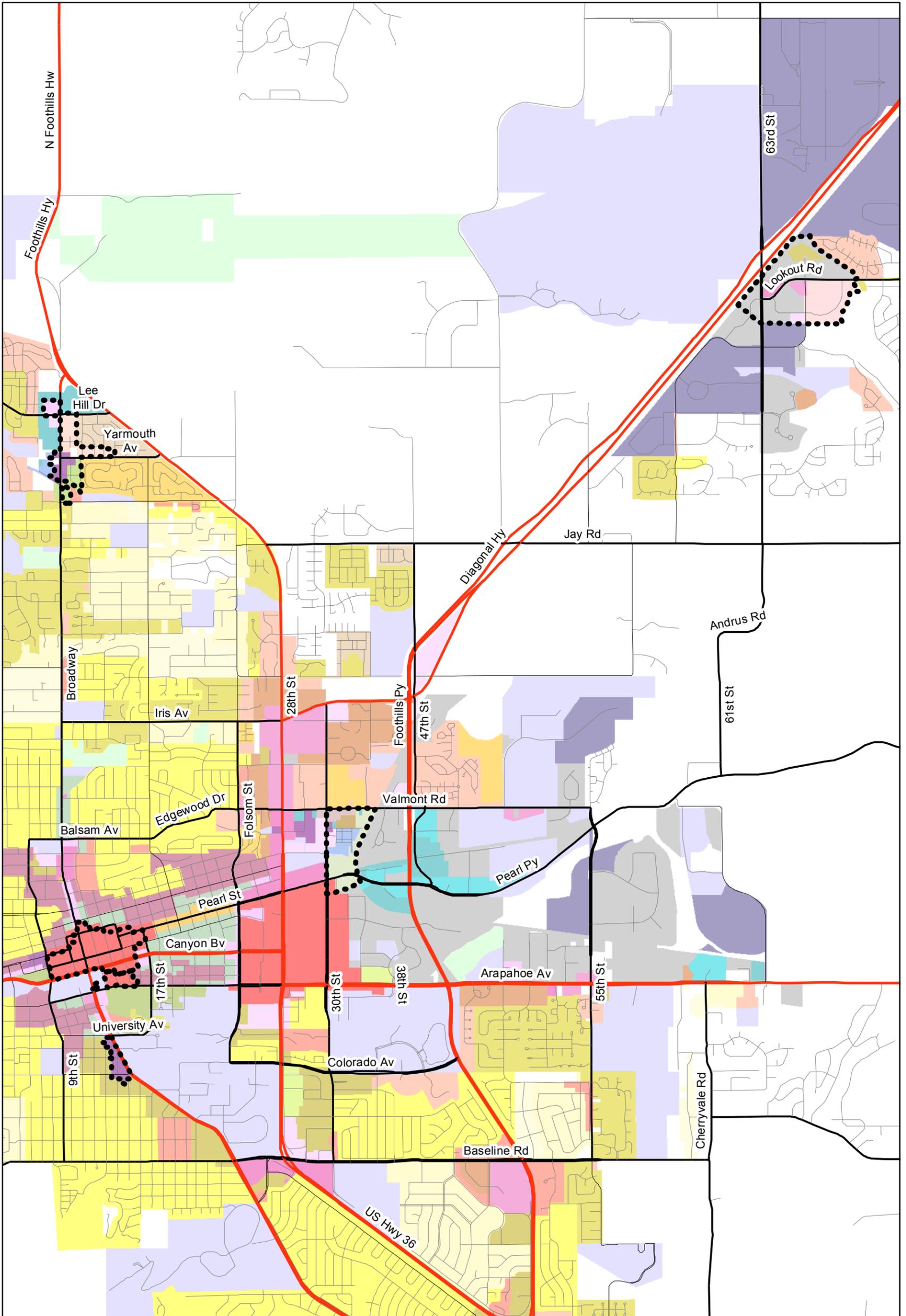
8 Section 7. For the limited purposes of this ordinance, the city council suspends the
9 provisions of Subsection 9-1-5(a), “Amendments and Effect of Pending Amendments,” B.R.C.
10 1981 for the limited purpose of adopting this ordinance.

11 Section 8. If any section paragraph clause or provision of this ordinance shall for any
12 reason be held to be invalid or unenforceable such decision shall not affect any of the remaining
13 provisions of this ordinance.

14 Section 9. The immediate passage of this ordinance is necessary for the preservation of
15 the public peace health or property. The council declares this to be an emergency measure due to
16 the need to prevent inappropriate development, to pause to consider next steps, and to consider
17 development of zoning regulations that implement the Boulder Valley Comprehensive Plan and
18 other polices of the city. Therefore this ordinance is hereby declared to be an emergency measure
19 and as such shall be in full force and effect upon its passage.

20 Section 10. This ordinance is necessary to protect the public health, safety, and welfare
21 of the residents of the city, and covers matters of local concern.
22
23
24
25

Appendix J to Title 9 – Areas Where Height Modifications May be Considered



 Areas Where Height Modifications May be Considered



**CITY OF BOULDER
PLANNING BOARD ITEM UNDER MATTERS**

MEETING DATE: February 19, 2015

AGENDA TITLE:

Boulder Valley Comprehensive Plan 2015 Update – Preliminary Work Plan, Community Engagement Ideas, and 2015 Schedule

REQUESTING STAFF:

David Driskell, Executive Director, Community Planning & Sustainability (CP&S)
Susan Richstone, Deputy Director, CP&S
Lesli Ellis, Comprehensive Planning Manager, CP&S
Courtland Hyser, Senior Planner, CP&S
Jeff Hirt, Planner II, CP&S
Jean Gatza, Planner II, CP&S
Greg Guibert, Chief Resilience Officer, CP&S

OBJECTIVE:

Provide an outline for the Boulder Valley Comprehensive Plan (BVCP) 2015 work plan, focused on Phase 1 Foundations and community engagement, and get input from Planning Board to further refine.

PURPOSE

The purpose of this packet and agenda item is to provide a briefing to the Planning Board on the early phases for the BVCP 2015 Update and obtain the board’s feedback on the tasks to be completed. Next steps include setting up opportunities for the community to assist with development of the Community Engagement Plan and to continue technical foundations work.

QUESTIONS FOR PLANNING BOARD

1. Does Planning Board have feedback to refine the initial Ideas for the Community Engagement Plan (**Attachment A**)?
2. Does Planning Board have feedback to further refine and prioritize tasks for BVCP foundations work plan as noted in the outline (**Attachment B**)?

BACKGROUND

The Boulder Valley Comprehensive Plan (BVCP) is adopted jointly by the City of Boulder (“city”) (Planning Board and City Council) and Boulder County “county” (County Commissioners and Planning Commission) in their legislative capacities. A link to the 2010 plan and maps is located at www.bouldervalleycompplan.net. The BVCP is updated periodically to respond to changed circumstances or evolving community needs and priorities. The plan is framed as the overarching policy guide for the community that is implemented by departmental strategic/master plans (over 20), subcommunity and area plans, Priority Based Budgeting, the Capital Improvements Program, and Development Standards and Zoning. The Land Use Code and zoning is largely instrumental in guiding development to achieve plan goals consistent with the land use map.

Previous packets described the 2015 Boulder Valley Comprehensive Plan (BVCP) update assessment and scoping process and summarized the consultant assessment of the 2010 Boulder Valley Comprehensive Plan:

- [Dec. 18, 2014](#) - Planning Board Agenda Item
- [Dec. 16, 2014](#) – City Council Information Packet (also contains summaries of the Nov. 3, 2015 – Joint Study Session with the Board of County Commissioners and Planning Commission and the Oct. 14, 2014 Study Session with the City Council and Planning Board).

At the Annual retreat, January 23 and 24, City Council discussed the citywide 2015 work plan and gave staff direction to move forward with the Foundations work for the BVCP and conduct the official public involvement later in 2015 with the plan adoption occurring in 2016.

The December draft of the consultant’s Boulder Valley Comprehensive Plan Assessment is located online: [here](#). The consultant is finalizing the report to reflect recent input, including to:

1. Add topic of “Expanded Community Engagement” to the Key Themes section, with cross-reference to “Recommendations for Community Engagement” Section contained in Work Plan and Community Engagement Recommendations section of report.
2. Expand recommendations about Urban Form and Future Land Use Plan to include more detail about approach to “Place-Based Plan”; conduct more research to include more best practice examples, including process of developing such plans, as available.
3. Update Community Engagement Recommendations to correlate with Attachment A.
4. Update Work Plan recommendations to correlate more closely to the updated outline (Attachment B).

The final report will be added to the project website next month.

Planning Board Discussion on Dec. 18 – Summary

In December, 2014, Planning Board provided feedback regarding the project process, neighborhood engagement and other diverse ways to include people, and outcomes (e.g., form based code, land use map updates, and metrics). The approved meeting summary is located [here](#).

Initial Ideas for Community Engagement Plan

Over the next few months, the City will complete a Community Engagement Plan for the BVCP update, with the aim of including diverse perspectives, being transparent, providing helpful information, and providing multiple opportunities for community dialogue while remaining focused on critical issues as defined by the community. The city and county will also aim to coordinate the BVCP engagement with other initiatives such as housing, climate, and resilience outreach. Some additional ideas that reflect feedback so far are outlined in [Attachment A](#). Policy discussions with the community will begin in spring/summer of 2015 and through 2016, however through June, activities and events to develop the Community Engagement Plan will include:

- Continue to improve project web page and access to relevant information: **www.BoulderValleyCompPlan.net** (with link to/from county’s web page)
- Potentially host online Skype or Webinars for people to provide ideas for the Community Engagement Plan. (Mar. 2015)

- Coordinate with Code for America process/housing strategy to pilot new tools and define neighborhoods and conduct neighborhood engagement. (ongoing)
- Coordinate with city's newly hired neighborhood liaison (March/April 2015)
- Develop a timeline and information about Boulder's history of planning to foster better understanding of the BVCP and its history.
- Working with established organizations, host a forum to invite ideas around the engagement plan and key issues. (April or May 2015)

Foundations Technical Work – (through June, 2015)

Attachment B includes an outline of the four phased work plan with focus on technical foundations work (in addition to developing the Community Engagement Plan). In sum, technical work to be completed in the first two quarters of 2015 includes:

1. **Update 2015 “Profiles”** – community profile and housing, last updated in 2014.
2. **Prepare Trends Snapshot.**
3. **Prepare forecasts for 2040 (25 years)** – update citywide forecasts for housing and employment and prepare summary analysis of Residential Growth Management Study.
4. **Prepare map inventory maps/subcommunity and neighborhood maps and info graphics** to document conditions.
5. **Identify factors related to areas of stability/change.**
6. **Begin Land Use Map and Area I, II, III map clean up** – to clarify for parcels, identify inconsistencies with zoning, and identifying suggestions for improving the descriptions and definitions.
7. **Review Master Plans** and update summary section of plan as needed.
8. **Prepare 3d urban form tools** – identify purpose and intent and best ways to convey urban form information for use in community dialogue about urban form.
9. **Identify Initial Accomplishments and Challenges.**

Additionally, Phase 1 tasks include:

10. **Survey Measurable Objectives/Metrics.**
11. **Prepare Resilience Diagnostic.**

NEXT STEPS

Feb. 24, 2015	Brief discussion of work plan at City Council Study Session
Mar. 31, 2015	Council Study Session – Planning topics and review of preliminary BVCP technical work and tools
Apr. 16, 2015	Planning Board review of preliminary BVCP technical work and tools
Apr/May (tbd)	Community event – technical tools and issues
June 9, 2015	Council Study Session – final technical work.

ATTACHMENT(S)

- A. Initial Ideas for Community Engagement Plan**
- B. Work Plan Outline (Focused on Phase 1 Foundations Work)**
- C. 2015 Planning Timeline – Q1 and Q2**

A—Boulder Valley Comprehensive Plan (BVCP) 2015 Update – Initial Ideas for Community Engagement Plan

Work in Progress - 02/13/15

All phases for the plan update will entail extensive community dialogue and engagement. The plan update will be complete in 2016. See draft “Work Plan Outline”.

Engagement Objectives:

Include diverse perspectives. Provide relevant information. Remain focused on critical issues as identified by the community. Have a civil conversation. Listen. Be transparent. Provide multiple ways for people to feel included, including small groups and neighborhoods and focused geographic areas within the community. Use input to inform approaches. Strengthen community partnerships.

1—BVCP will be guided and approved by: City Council and Planning Board. County Commissioners and Planning Commission (periodic joint meetings).

2—Involving Boards and Commissions:

- Planning Board (approval body)

City and county boards with potential input role:

- Arts Commission
- Boulder Design Advisory Board
- Downtown Management
- Environmental Advisory Board

- Health (County)
- Human Relations
- Landmarks Preservation
- Library Commission
- Parks and Recreation / Parks, Open Space
- Senior Community
- Transportation
- Water Resources
- Youth

3—Partnering with Established Organizations that may lead in convening full community and building relationships (alphabetical):

- Better Boulder
- Boulder Chamber
- Boulder Tomorrow
- Consortium of Cities
- Downtown Boulder
- Growing Up Boulder
- Historic Boulder, Inc.
- Human Services organizations
- Open Boulder
- Plan Boulder County
- Sierra Club
- *OTHER ENVIRONMENTAL, SOCIAL, ECONOMIC ORGANIZATIONS TO BE ADDED.*

4—Working with Neighborhoods: Including HOAs, neighborhood representatives who contacted the city, renters, coordination with new neighborhood liaison, etc. Coordinate with Code for America Partnership project to improve identification of neighborhoods, online engagement. Host meetings in different parts of the community and Boulder Valley.

5—Using Multiple Ways to Engage Boulder Valley:

A few types of engagement or events include:

1. **Skype Meetings and webinars with community groups and neighbors (early 2015).** Potentially host several meetings to ask people about best ways to engage the community and their neighborhood in the plan update.
2. **Hands-on Meetings with Dialogue:** Fewer traditional meetings and open houses; instead forums co-hosted by others, well-designed and facilitated, charrettes that foster dialogue and build understanding.
3. **Videos and Channel 8,** especially for intriguing kick off that captures the community’s imagination and encourages participation.
4. **Web-based:** Online social engagement – dialogues and surveys (e.g., Inspire Boulder, Facebook, surveys, etc.). Current webpage is: www.bouldervalleycompplan.net, with link from county’ BVCP web page, and vice versa. Code for America is trying new tools such as “Click that Hood” to define neighborhoods.
5. **Mobile planning** (e.g., a plan van/food truck, or bikes around town, scannable codes directing people to web or asking for direct ideas and input). City is submitting a grant application to the Knight Foundation to do this type of engagement that would support multiple disciplines (e.g., arts, resilience, planning).
6. **Piggyback** onto other events and places where people are (e.g., group meetings, farmers’ market, festivals or events, new tech meet ups, Ignite, at work, senior centers, school events, places of worship).
7. **Portable meetings** (e.g., “Meeting in a Box” types of approaches) with information that can be used by neighborhoods to address planning questions and work on planning issues.

6—With Committee Input:

1. **Process committee:** Provides ideas to make process transparent, informative, and democratic. May include members of council, Planning Board, and county representatives from BOCC and the Planning Commission.
2. **Technical committee(s):** May include other agencies or departments with data or info to share (e.g., BVSD, CU, City/County resource managers, Human Services, etc.) and to provide feedback on technical accuracy of information (not policy direction).

B—Boulder Valley Comprehensive Plan (BVCP) 2015 Update – Work Plan Outline (Focused on Phase 1 Foundations Work)

Goal: A smart, open engaging process focused on critical issues.

Work in Progress - 02/13/15

The Boulder Valley Comprehensive Plan (BVCP) is adopted jointly by the City of Boulder (“city”) (Planning Board and City Council) and Boulder County “county” (County Commissioners and Planning Commission) in their legislative capacities. A link to the 2010 plan and maps is located at www.bouldervalleycompplan.net. The BVCP is updated periodically to respond to changed circumstances or evolving community needs and priorities. In 2015, the plan is due for its major five year update.

What Preparatory Work was Completed in late 2014/January 2015?

- City provide background information for joint study sessions of the City Council and Planning Board (Oct. 14, 2014) and Board of County Commissioners and Planning Commission (Nov. 3, 2014).
- Additionally, a consultant team (Clarion Associates/Godschalk) prepared an assessment of the 2010 Plan to provide ideas about how communities make their plans strategic and effective. The report is one piece of information to assist with the community dialogue. The draft report is [here](#). It will be finalized in March.
- The project web page provides up to date information. [Link here](#).
- City Council solidified their priorities for the 2015 work plan during their Annual retreat. The Integrated Planning Timeline, updated on Feb. 10, outlines the projects and relationship of the BVCP with other projects, including Housing Boulder and the Resilience Strategy.

Preliminary Timeline and What to Expect in Early 2015

Initially, four phases are proposed -- each with extensive community dialogue and engagement. The plan update will be complete in 2016.

- 1. Foundations and Community Engagement Plan (through June 2015)**
- 2. Issues Scoping with Community (through June 2015)**
- 3. Analyze and Update Plan Policies and Maps (Begins summer 2015 - through early 2016)**
- 4. Prepare Draft Plan for Adoption, Extend IGA (mid 2016)**

With follow up: Code reform and implementation

More opportunities for the community to participate in shaping the Community Engagement Plan will occur in early 2015. Additionally, as part of Phase 2 the city and county will work with the community to identify plan issues and finalize a focused scope of work. City and county staff are working together to prepare a more detailed work plan and schedule, but more detailed tasks by phase are identified in the outline that follows.

Phase 1 – Foundations / Snapshot of Community and Community Engagement Plan

Phase 1 is proposed to consist of the following tasks:

1. **Develop a Community Engagement Plan.** Engagement for BVCP will be coordinated with neighborhood liaison and other city initiatives. To finalize an inclusive engagement plan, the city proposes the following steps prior to its completion. (See “Initial Ideas for Community Engagement.”)
 - a. Continue to improve project web page and add contact information. Provide by-weekly updates for planning events and projects and Planning Board meetings City Council agendas.
 - b. Potentially host webinar/Skype meetings with community members to ask about best ways to engage individuals, neighborhoods, groups, and organizations and to coordinate with other projects happening at the neighborhood level. (Mar. 2015, TBD.)
 - c. Work with established organizations to co-host BVCP forum(s) in the spring
 - d. Coordinate with Code for America engagement and Housing Boulder. See [CFA Partnership](#) webpage.
 - e. Develop a timeline and information (video) about Boulder’s history of planning to foster better understanding of the BVCP for community events and the web.
 - f. Finalize the Community Engagement Plan to set the stage for a community launch and the next phases of the BVCP update.
2. **Foundations technical work to be used during community engagement** will focus on:
 - a. **2015 “Profile” Update.** The housing and community profiles were last updated in 2014 and will be updated in early 2015.
 - b. **Prepare Trends Snapshot.**
 - Building from the format used in 2010, identify and examine key trends (e.g., Boulder Past, Present, Future) and topics that will influence the city such as national and regional growth, demographic shifts, household composition, housing and job demand, land capacity, resource limitations, etc. Present data and information in clear, compelling maps and graphics, possibly by subcommunity.
 - Possibly organize report information as cross-cutting topics, potentially by sustainability categories (e.g., safe community, healthy/socially thriving, livable community, etc.).
 - c. **Prepare 2040 Forecasts (next 25 years).**
 - Update forecasts (residential, non-residential) mapped citywide and by geographic areas of city (e.g., 9 subcommunities).
 - Build from 2010 forecast methodology, possibly using CommunityVIZ, and identify necessary categories that may assist with other work such as commercial linkage fees.
 - Prepare brief summary analysis of Residential Growth Management System.
 - d. **Prepare Map Inventory Updates.** Update maps, tools and info-graphic approach to presenting data, including but not limited to:
 - Update to subcommunities and neighborhoods maps as appropriate
 - Update 15-minute neighborhood assessment tool
 - Floodplains and current wetlands inventory
 - Parks, schools, and other public facilities
 - Boulder Valley Natural Ecosystems map update

- Hazards map update
 - Transportation connections and transit corridors plan
 - Utilities map updates
 - Trails, greenways, and open space updates
 - Major institutions, ownership
 - Current land uses and density
- e. **Identify factors that may help identify stability/change areas.** Using updated map(s) and other data, prepare preliminary assessment factors relating to stability/maturity vs. areas of change for use in later community dialogue.
- f. **Begin Land Use Map/Area map clean up and analysis.**
- Begin clean up of existing Land Use Map and Area I, II, III maps to better align data with parcel boundaries. Identify where land use is unclear or uncertain that may need to be considered as part of the map update (Phase 2).
 - Prepare analysis of Land Use Map descriptions identifying inconsistencies or ambiguity with intent or zoning districts.
- g. **Review Master Plans/Summaries.** Identify policy directions or data from master plans and subcommunity and area plans that might be relevant for previous tasks or discussions in Phase 2. Update summaries as necessary to reflect current plans.
- h. **Prepare 3d urban form tool for use in community dialogue about urban form.**
- Using the updated land use map, prepare land capacity mapping that conveys information about urban form based on current land use and zoning, three-dimensionally.
- i. **Identify Initial Accomplishments and Challenges (to be finalized in Phase 2 after further community input).**
- Identify what the community has accomplished (e.g., land use mix and urban patterns, growth management, neighborhoods, resource conservation, design and public spaces, services and infrastructure, historic preservation, infill and redevelopment).
 - Identify remaining challenges and opportunities (e.g., how will the city accommodate future lifestyle shifts? How will the city address infrastructure needs?)
3. **Measurable Objectives/Metrics.** Survey existing measurable objectives in use at the city from master plans, budget process, etc.
4. **Resilience Diagnostic.** Resilience analysis and diagnostic happens in tandem. *(See section on next page.)*

Phase 2 – Issues Focus

Phase 2 builds on Phase 1, and will entail extensive community engagement to accomplish the following:

- **Identify Issues.** With community, identify areas of focus for the plan update, building on the work completed in the consultant assessment, joint study sessions of the city and county, and foundations technical work.
- **Initiate Community Engagement.** Engage the community regarding the completed technical analysis (e.g., trends, challenges and opportunities), and identify priority issues topics to explore.
- **Confirm Issues:** Based on community input, refine and confirm issues.

- **Refine Accomplishments and Challenges.**
- **Refine Scope.** Refine overall scope of work and schedule of meetings.

Phase 3 – Analyze / Update Policies and Maps

Phase 3 builds on previous phases, and will entail extensive community engagement to accomplish:

- **Verify Vision.** With community, verify parts of the vision that are still valid. What new ideas should be added, using consultant report and input from the city and county joint study sessions as a way to help frame an initial set of issues. Revamp format to make the vision more accessible and user friendly. Consider adding illustrative map (e.g., from 2000 plan).
- **Formulate Policy Options.** Based on community input, determine options.
- **Land Use/Urban Form.** Invite and initiate land use map changes and prepare analysis. Prepare 3D form based plans as relevant for certain areas of city. Improve land use descriptions to make consistent with zoning and considering other factors such as land use/transportation relationships and services and infrastructure.
- **Analyze choices.** Prepare analysis of key choices -- policy and map based
- **Add Metrics.** Depending on analysis in Phase 1 and input, add plan metrics.
- **Resilience Strategy.** Ongoing.

Phase 4 – Prepare Draft Plan for Adoption. Update IGA.

(Note: Detail about this phase will be added after Phase 1 is complete)

Phase 4 builds on previous phases, also with extensive community engagement to address:

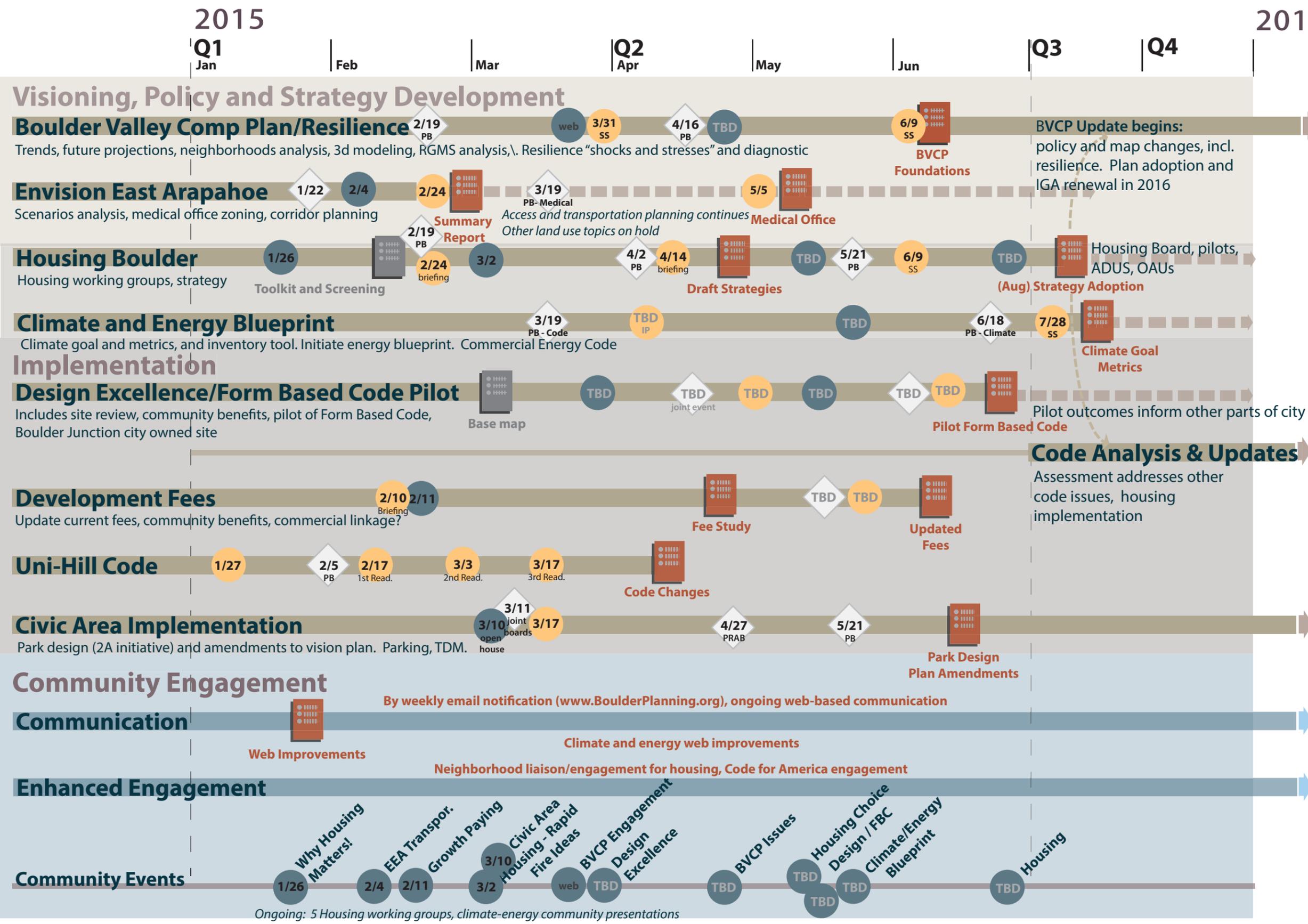
- **Develop Actions and Strategies.** Identify strategies to achieve plan (e.g., priority actions, addressing priorities, necessary actions, how city will pay for what community wants, monitoring tools and indicators to continually renew the plan?
- **Prepare Draft Plan.** Develop draft plan update.
- **Adopt Plan.** Prepare and bring plan for adoption.
- **Extend the Intergovernmental Agreement (IGA)** between the City of Boulder and Boulder County for the purpose of coordinated planning and land regulation. Current IGA expires on Dec. 31, 2017.

Resilience Strategy

In parallel, the city is undertaking the Resilience Strategy to increase the community’s resilience, which gives the community a unique opportunity to assess its resilience strengths and weaknesses considering local and regional multi-faceted resilience topics. Early steps in the Resilience Strategy that overlap with Phases 1 and 2 of the BVCP work plan include:

1. Identify Resilience Perceptions
2. Map stakeholder network (i.e., Stakeholder Engagement Plan)
3. Develop City Context Document
4. Prepare Resilience Diagnostic of Shocks and Stresses
5. Prepare Actions Inventory to identify actions underway

2015 Planning Timeline - Q1 & Q2



Q1 & Q2 - Proposed Outcomes:

- COMMUNICATIONS & ENGAGEMENT**
 - Web and notification improvements
 - Code for America
 - Overall community and neighborhood engagement plan
 - Climate/Energy Blueprint convenes
- VISION, POLICY, STRATEGY**
 - BVCP foundation work: projections, trends 3d modeling, metrics, RGMS analysis
 - East Arapahoe Scenario Analysis/Report
 - Housing Toolkit, ideas, screening criteria
 - Draft Housing Strategies
- IMPLEMENTATION**
 - Uni-Hill Code Revisions
 - Medical Office Zoning (East Arap)
 - Form Based Code pilot
 - Development fee(s) study, and possible updated fees
- OTHER**
 - Climate inventory

Key

- City Council
- Boards and Commissions
PB = Planning Board, BDAB = Design Advisory Board
 PRAB = Parks & Rec., EAB = Environmental,
 TAB = Transportation
- Community Event
- Outcome
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Other planning projects not shown or on separate schedule: Access Management and Parking Strategy (AMPS), TMP Implementation, VRBOs, Chautauqua, Zero Waste