



**CITY OF BOULDER
PLANNING BOARD MEETING AGENDA**

DATE: August 6, 2015

TIME: 5 p.m.

PLACE: 909 Arapahoe Ave., West Senior Center

1. CALL TO ORDER

2. APPROVAL OF MINUTES

3. PUBLIC PARTICIPATION

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

A. [Call Up Item: Wetland Permit \(LUR2015-00068\)](#)

Flood Damaged Trail Repairs and Re-routes.

This decision may be called up before Planning Board on or before August 6, 2015.

B. [Call Up Item: Boulder Residence Inn Subdivision \(TEC2015-00011\)](#) located at 2550 Canyon Blvd.: Final Plat to replat the existing Village Shopping Center Subdivision into two lots: one encompassing the approved Boulder Residence Inn (1.65 acres) and the other for the remaining property within the Village Shopping Center (14.85 acres). The call up period expires on August 6, 2015.

C. [Call Up Item: USE REVIEW \(LUR2015-00034\)](#): Conversion of the existing Sterling University Peaks Apartment building located at 2985 E. Aurora Ave. with 96, two-bedroom dwelling units to 192 Efficiency Living Units (ELUs) located in the Residential High – 5 (RH-5) zoning district.

5. PUBLIC HEARING ITEMS

A. [Public hearing and consideration of Annexation and Initial Zoning \(case no. LUR2015-00029\)](#) for the property located at 236 Pearl Street and a portion of the property at 250 Pearl Street. The proposal includes a request for annexation with an initial zoning of Residential Mixed - 1 (RMX-1).

Property Owners: Edward Borg (236 Pearl) and Nancy L. Vinson and Karen S. Klenzendorf (250 Pearl)

Applicant: Stephen Sparn

B. [Public hearing and consideration of a USE REVIEW \(LUR2015-00060\)](#) for a new tavern with outdoor seating area over 300 square feet in size to be operated in conjunction with “Boulder Food Park” mobile food vehicle sales at 2775 Valmont Rd. in the Business Community One (BC-1) zone district. Proposal includes a request for a 25% parking reduction to allow for 50 vehicle parking spaces to be provided on-site where 66 are required.

Applicant: Jeff Check of Coburn Development for Boulder Food Park

Owner: Stephen D. Tebo

C. Public hearing and consideration of a recommendation to City Council on the proposed 2016-2021 Capital Improvement Program (CIP).

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

- A. Information Item: Civic Area Master Plan** Changes Since the May 21, 2015 Planning Board Hearing

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

For more information call (303) 441-1880. Board packets are available after 4 p.m. Friday prior to the meeting, online at www.bouldercolorado.gov, at the Boulder Public Main Library's Reference Desk, or at the Planning and Development Services Center, located at 1739 Broadway, third floor.

**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 (10 minutes maximum*)
- b. Applicant presentation (10 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.

MEMORANDUM

TO: Planning Board

FROM: Jessica Stevens, Civil Engineer II

DATE: July 21, 2015

SUBJECT: **Call Up Item:** Wetland Permit (LUR2015-00068)
Flood Damaged Trail Repairs and Re-routes

This decision may be called up before Planning Board on or before **August 6, 2015**

A wetland permit was approved by Public Works Development Review staff on July 21, 2015 for repairs to hiking and multi-use trails on the City of Boulder Open Space and Mountain Parks Department (OSMP) managed lands which were damaged during the September 2013 flood event.

OSMP has applied for a standard wetland permit to complete repairs and re-routes of damaged trail segments including the lower portions of the Towhee and Homestead Trails, the lower section of the Long Canyon Trail, the upper half of the Bear Canyon Trail and the Bear Peak West Ridge Trail where it crosses the Bear Canyon drainage. Since the flood event, OSMP has been repairing, and in some cases re-routing flood damaged trails across the OSMP-managed land system in an effort to keep the trails open. As a consequence of keeping the trails open, visitors have been creating social trails around flood damaged trail sections. Some of these social trails occur in highly sensitive wetland and riparian habitat. OSMP is proposing a continuation of repair work to the flood damaged trail system.

The trail improvements will temporarily impact 3380 square feet of buffer zone area. Permanent impacts include 224 square feet within the wetlands and 4980 square feet within the buffer area. OSMP has proposed to re-route several trails which are currently located within the wetland in an effort to achieve the project goal of offering a high quality visitor experience on a physically sustainable trail system, while protecting the area's natural resources. OSMP will restore wetland function to portions of the pre-flood trail system which will be re-routed as part of the trail re-route project. Wetland mitigation has been proposed at a ratio of 10:1 for the wetland areas.

The wetland permit was approved by Public Works Development Review staff on July 21, 2015 and the decision may be called up before Planning Board on or before August 6, 2015. There is one Planning Board meeting within the 14 day call up period on **August 6, 2015**. A copy of the wetland permit is attached.

Questions about the project should be directed to, Jessica Stevens at 303-441-3121 or by e-mail at stevensj@bouldercolorado.gov.

Attachments:

- A. [Wetland Permit](#)
- B. [Vicinity Map](#)



CITY OF BOULDER
Planning and Development Services

1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
 phone 303-441-1880 • fax 303-441-4241 • web boulderplandevop.net

Wetland Permit

Date Issued: 7/21/2015 **Expiration Date: July 20, 2018**
 (Pursuant to Subsection 9-3-9(k), B.R.C. 1981)

Permit Number: LUR2015-00068

Contact Information

MARIANNE GIOLITTO
 66 S. CHERRYVALE RD
 BOULDER, CO 80303

Project Information

Location: 650 BASELINE RD
Legal Description: E 1/2 SEC 2 & ALL SEC 1-1S-71 LESS E 1/2 NE 1/4 880 AC M/L
Description of Work: Flood damaged trail repairs, re-routes, and restoration.

Conditions of Approval

- The proposed project/activity is approved on the basis that it satisfies applicable requirements of Chapter 9-3-9, "Wetlands Protection," Boulder Revised Code 1981. Other wetland requirements as set forth in Chapter 9-3-9 which are not specifically outlined in the conditions of approval below remain applicable to this project/activity.
- The applicant shall obtain a site inspection and approval from the City of Boulder Floodplain and Wetlands Administrator upon completion of the project.
- Best management practices shall be applied to all phases of the project and shall conform to the requirements of the "City of Boulder Wetlands Protection Program: Best Management Practices" adopted July, 1995; and "City of Boulder Wetlands Protection Program: Best Management Practices - Revegetation Rules" adopted July, 1998.
- The wetland mitigation site shall be monitored annually for five years. Monitoring reports shall be submitted to the city of Boulder Planning and Development Services prior to December 1st of each year. If it is determined that the mitigation is not successful, then corrective measures will need to be established and implemented to ensure a successful wetland mitigation project.
- The following success criteria shall be used for the wetland mitigation:
 There is little to no physical evidence of visitor use of hte restored trails
 At least 80% native vegetative cover or comparable to percent cover of vegetation adjacent to the restored trail
 Invasive species on the Colorado Noxious Weed Inventory list -A shall be 100% eradicated.
 Invasive species on the Colorado Noxious Weed Inventory list -B shall encompass no more than 10% of the total cover of the restoration area.
 Tree and shrub survival shall be 100%.
- The improvements shall be constructed to minimize and mitigate impacts to the existing wetlands in conformance with the conditions of the City of Boulder Wetland Permit issued for this project.
- Prior to the commencing construction at the Homestead/Towhee trail, OSMP shall provide a copy of the approval from the U.S. Fish and Wildlife Service to the Floodplain and Wetland Administrator.

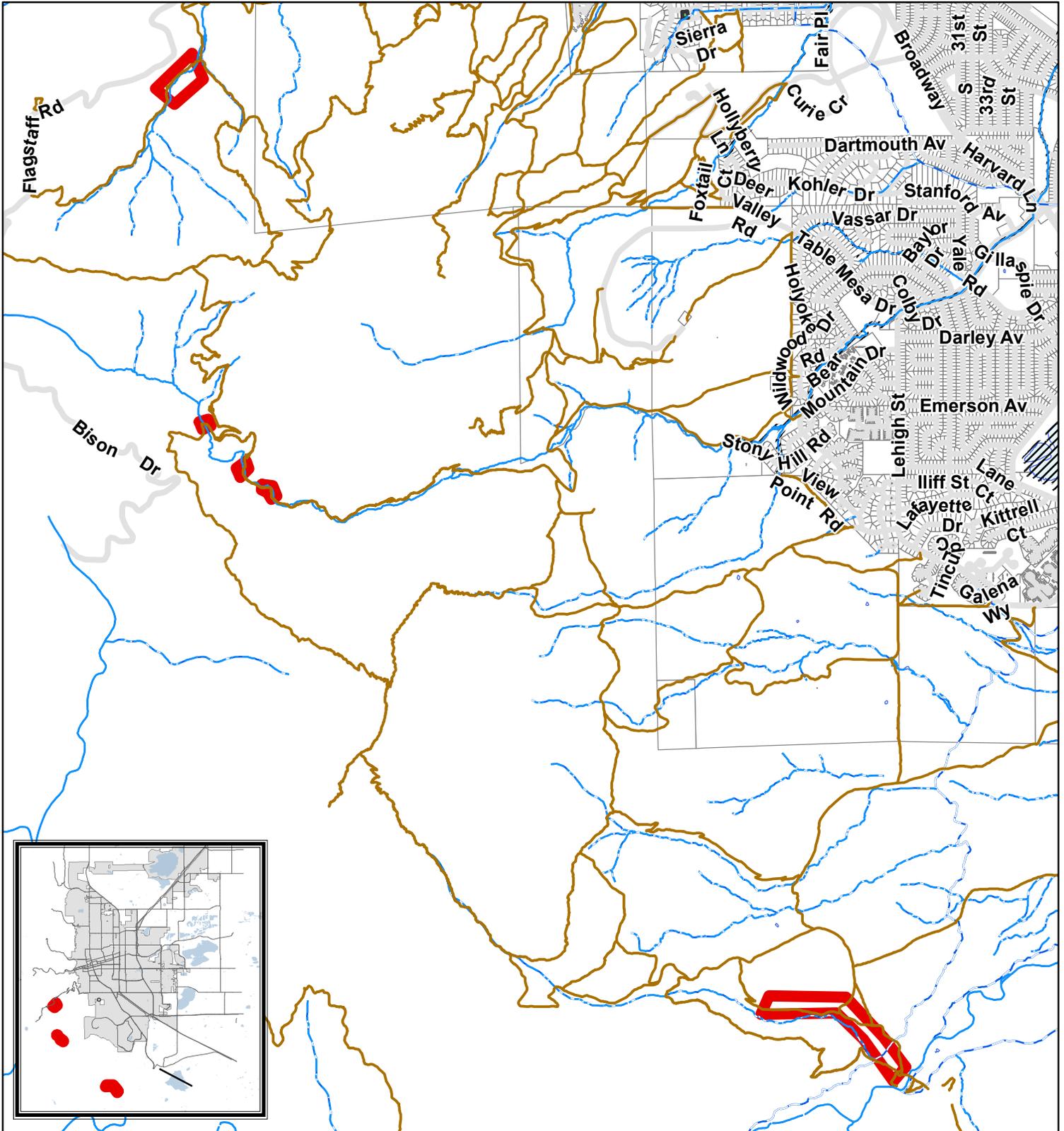
- Prior to the commencing construction within the Towhee trail wetland, OSMP shall provide a copy of the jurisdictional determination/approval from the U.S. Army Corps of Engineers to the Floodplain and Wetland Administrator.

Inspections

To schedule an inspection, call 303-441-3280 and refer to your permit number (LUR2015-00068).

- Wetland Mitigation Inspection
- Wetland Mitigation 2nd Year
- Wetland Mitigation 3rd Year
- Wetland Mitigation 4th Year
- Final Wetland Mitigation Insp

City of Boulder Vicinity Map



Location: *Open Space and Mountain Parks Trail System*

Review Type: *Standard Wetland Review*

Review Number: *LUR2015-00068*

Applicant: *City of Boulder Open Space and Mountain Parks*



1 inch = 2,618 feet

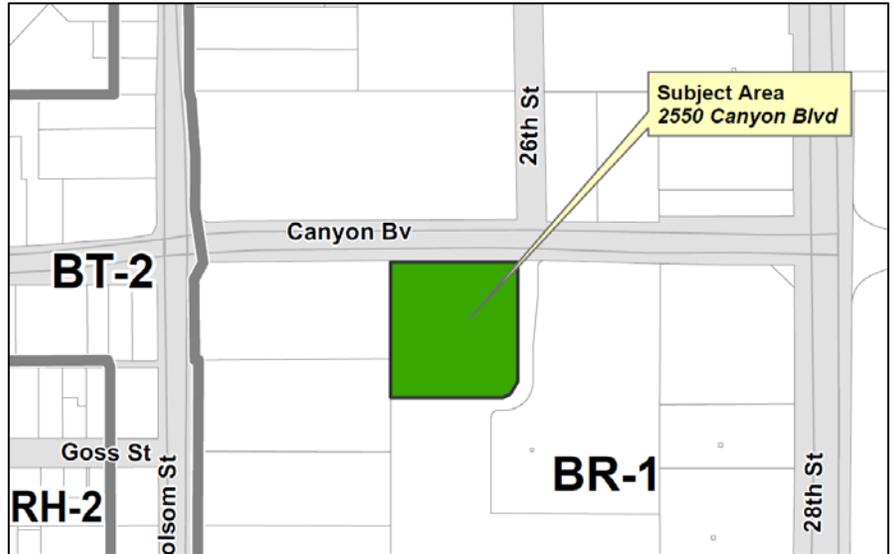


The information depicted on this map is provided as graphical representation only. The City of Boulder provides no warranty, expressed or implied, as to the accuracy and/or completeness of the information contained hereon.

MEMORANDUM

TO: Planning Board
FROM: Elaine McLaughlin, Case Manager
DATE: July 23, 2015
SUBJECT: **Call Up Item:** Boulder Residence Inn Subdivision (TEC2015-00011) located at 2550 Canyon Blvd.: Final Plat to replat the existing Village Shopping Center Subdivision into two lots: one encompassing the approved Boulder Residence Inn (1.65 acres) and the other for the remaining property within the Village Shopping Center (14.85 acres). The call up period expires on August 6, 2015.

Attached is the disposition for the conditional approval (see [Attachment A](#)) for a review of the Final Plat for the proposed Boulder Residence Inn Subdivision (formerly the Village Shopping Center Subdivision) is located within the BR-1 (Business Regional - 1) zoning district. As indicated in [Attachment B](#), this approval will result in the replat of the existing Village Shopping Center Subdivision into two commercial lots: Lot 1 (1.68 acres or 72,048 square feet) will contain the approved Residence Inn Hotel and Lot 2 (14.85 acres or 646,822 square feet) will contain the Village Shopping Center.



The subdivision is the result of the planned redevelopment of an existing parking lot into the Boulder Residence Inn, a four story hotel approved by the Planning Board on July 17, 2014. The site review includes plans for the hotel, along with streetscape enhancements along Canyon Boulevard and the private roadway of 26th Street.

Proposed Subdivision:

The entire subdivision totals 16.5 acres or 718,870 square feet. The final plat illustrates a subdivision of the existing Village Shopping Center Subdivision into two lots along with dedication of several public access and utility easements, as summarized below:

Lot 1 Commercial Use (Residence Inn Hotel)	Lot 2 Commercial Use (Village Shopping Center)
1.65 Acres	14.85 Acres

Analysis Conclusion:

Staff finds that this application meets the Final Plat for Subdivision criteria set forth in Subsection 9-12-8(b), B.R.C. 1981 and the lot standard criteria set forth in Subsection 9-12-12(a)(1), B.R.C. 1981 "Standards for Lots and Public Improvements." Therefore, the final plat was approved by Planning and Development Services staff on **July 23, 2015** and the decision may be called up before Planning Board on or before **August 6, 2015**. There is one Planning Board meeting within the 14-day call up period on **August 6, 2015**. Questions about the project or decision should be directed to Elaine McLaughlin at (303) 441-4130 or mclaughline@bouldercolorado.gov.

Public Comment and Process:

The required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property and a sign posted on the property for at least 10 days. All notice requirements of Section 9-4-2, B.R.C. 1981 have been met. There were no public comments received.

Attachments:

- A: [City of Boulder Planning Department Notice of Disposition](#)
- B: [Final Plat](#)



CITY OF BOULDER
Community Planning & Sustainability

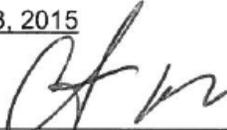
1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web

CITY OF BOULDER PLANNING DEPARTMENT
NOTICE OF DISPOSITION

DECISION:	APPROVED
PROJECT NAME:	RESIDENCE INN AT VILLAGE SHPG CTR
DESCRIPTION:	TEC Doc. submittal (Final Plat) in association with LUR2013-00057
LOCATION:	2550 CANYON BL
COOR:	N03W04
LEGAL DESCRIPTION:	Refer to Exhibit A
APPLICANT:	Bill Martinic
OWNER:	GRI VILLAGE LLC
APPLICATION:	TEC2015-00011 Subdivision/Final Plat
ZONING:	BR-1
CASE MANAGER:	Elaine McLaughlin

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

Approved on: July 23, 2015
Date

By: 
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: August 6, 2015

CONDITIONS OF APPROVAL

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

Exhibit A: Legal Description

LEGAL DESCRIPTION

THAT PORTION OF THE SW1/4 OF THE SW1/4 OF SECTION 29, T1N, R70W OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SW1/4 OF THE SW1/4, OF SAID SECTION 29;
THENCE S00°10'00"E, 351.83 FEET ALONG THE WEST LINE OF THE SW1/4 OF THE SW1/4;
THENCE N89°55'20"E, 64.93 FEET TO THE EAST LINE OF THAT PARCEL CONVEYED TO THE CITY OF BOULDER BY RULE AND ORDER UNDER CIVIL ACTION NO. 82CV0740 RECORDED AUGUST 12, 1984 ON FILM 1316 AT RECEPTION NO. 639578, AND THE TRUE POINT OF BEGINNING.

THENCE N89°55'20" E, 375.07 FEET ALONG THE SOUTHERLY LINE OF THAT "PARCEL 1" AS DESCRIBED IN WARRANTY DEEDS RECORDED ON JUNE 1, 1988 AS RECEPTION NOS. 0921241 AND 0921242 IN THE RECORDS OF BOULDER COUNTY; THENCE S00°10'00"E, 188.58 FEET ALONG THE WESTERLY LINE OF SAID PARCEL 1;
THENCE S89°55'20"W, 386.00 FEET ALONG THE NORTHERLY LINE OF SAID PARCEL 1 TO THE EAST LINE OF SAID RULE AND ORDER;
THENCE N00°10'00"W, 169.54 FEET ALONG THE EAST LINE OF SAID RULE AND ORDER TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST;
THENCE NORTHEASTERLY, 22.46 FEET ALONG THE EAST LINE OF SAID RULE AND ORDER AND ALONG THE ARC OF SAID CURVE, SAID CURVE HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 42°54'08" AND A CHORD THAT BEARS N29°42'43" E, 21.94 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH

THAT PORTION OF THE SW 1/4 OF THE SW 1/4 OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., AND ALL OF HARDEN PLACE, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 29 FROM WHICH THE NORTHWEST CORNER OF THE SW 1/4 OF THE SW 1/4 OF SAID SECTION 29 BEARS NORTH 00°10'00" WEST, 1322.59 FEET;
THENCE NORTH 89°55'30" EAST, 990.00 FEET ALONG THE SOUTH LINE OF THE SW 1/4 OF SAID SECTION 29; THENCE NORTH 00°10'00" WEST,

30.00 FEET PARALLEL WITH THE WEST LINE OF THE SW 1/4 OF SAID SECTION 29;
THENCE NORTH 00°04'30" WEST, 26.00 FEET AT RIGHT ANGLES TO THE SOUTH LINE OF THE SW 1/4 OF SAID SECTION 29 TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING NORTH 00°04'30" WEST, 408.66 FEET AT RIGHT ANGLES TO THE SOUTH LINE OF THE SW 1/4 OF SAID SECTION 29;
THENCE NORTH 89°54'00" WEST, 341.06 FEET;
THENCE NORTH 00°06'00" EAST, 199.95 FEET TO A POINT OF CURVE TO THE RIGHT;

THENCE NORTHEASTERLY, 17.28 FEET ALONG THE ARC OF SAID CURVE TO A POINT TANGENT, SAID ARC HAVING A RADIUS OF 11.00 FEET, A CENTRAL ANGLE OF 90°00'00" AND BEING SUBTENDED BY A CHORD THAT BEARS NORTH 45°06'00" EAST, 15.56 FEET; THENCE SOUTH 89°54'00" EAST, 13.00 FEET TO A POINT OF CURVE TO THE LEFT;
THENCE NORTHEASTERLY, 90.55 FEET ALONG SAID ARC OF SAID CURVE TO A POINT TANGENT, SAID ARC HAVING A RADIUS OF 58.00 FEET, A CENTRAL ANGLE OF 89°27'00" AND BEING SUBTENDED BY A CHORD THAT BEARS NORTH 45°22'30" EAST, 81.63 FEET; THENCE NORTH 00°39'00" EAST, 70.25 FEET;

THENCE NORTH 05°34'00" EAST, 102.52 FEET;
THENCE NORTH 01°21'00" EAST, 55.31 FEET TO A POINT OF CURVE TO THE RIGHT;

THENCE NORTHEASTERLY, 12.04 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST, SAID ARC HAVING A RADIUS OF 27.50 FEET, A CENTRAL ANGLE OF 25°05'42" AND BEING SUBTENDED BY A CHORD THAT BEARS NORTH 13°53'51" EAST, 11.95 FEET;

THENCE NORTH 88°40'30" WEST, 96.79 FEET;
THENCE SOUTH 89°51'24" WEST, 609.21 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF CANYON BOULEVARD AS DESCRIBED IN DEED RECORDED IN BOOK 1265 AT PAGE 27 OF THE RECORDS OF BOULDER COUNTY, COLORADO;

THENCE SOUTH 80°37'30" WEST, 12.69 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID CANYON BOULEVARD TO THE EAST LINE OF THE WEST 30.00 FEET OF THE SW 1/4 OF SAID SECTION 29;

THENCE SOUTH 00°10'00" EAST, 1.83 FEET ALONG THE EAST LINE OF THE WEST 30.00 FEET OF THE SW 1/4 OF SAID SECTION 29 TO THE NORTH LINE OF THAT TRACT OF LAND AS DESCRIBED IN WARRANTY DEED RECORDED IN BOOK 155 AT PAGE 9 OF THE RECORDS OF BOULDER COUNTY, COLORADO;

THENCE NORTH 89°55'20" EAST, 410.00 FEET ALONG THE NORTH LINE OF THAT TRACT OF LAND AS DESCRIBED IN BOOK 155 AT PAGE 9 TO THE NORTHEAST CORNER THEREOF;

THENCE SOUTH 00°10'00" EAST, 188.58 FEET ALONG THE EAST LINE OF THAT TRACT OF LAND AS DESCRIBED IN SAID BOOK 155 AT PAGE 9 TO THE SOUTHEAST CORNER THEREOF;

THENCE SOUTH 89°55'20" WEST, 382.00 FEET ALONG THE SOUTH LINE OF THAT TRACT OF LAND AS DESCRIBED IN SAID BOOK 155 AT PAGE 9;

THENCE SOUTH 01 °24'40" WEST, 131.90 FEET; THENCE SOUTH 00°31'30" WEST, 308.00 FEET; THENCE SOUTH 03°16'30" WEST, 81.00 FEET; THENCE SOUTH 1 2°31 '30" WEST, 71.83 FEET TO THE EAST LINE OF THE WEST 30.00 FEET OF THE SW 1/4 OF SAID SECTION 29; THENCE SOUTH 00°10'00" EAST, 131.39 FEET ALONG THE EAST LINE OF THE WEST 30.00 FEET OF THE SW 1/4 OF SAID SECTION 29; THENCE NORTH 89°55'30" EAST, 7.60 FEET; THENCE SOUTH 61°15'51" EAST, 34.24 FEET; THENCE NORTH 89°55'30" EAST, 112.50 FEET; THENCE NORTH 30°45'46" EAST, 39.02 FEET; THENCE NORTH 89°55'30" EAST, 32.00 FEET; THENCE SOUTH 27°05'16" EAST, 28.62 FEET; THENCE NORTH 89°55'30" EAST, 290.00 FEET; THENCE NORTH 82°48'00" EAST, 56.44 FEET; THENCE NORTH 1 5°52'1 3" EAST, 18.20 FEET; THENCE NORTH 89°55'30" EAST, 84.00 FEET TO A POINT ON A CURVE TO THE LEFT HAVING A RADIUS OF 24.50 FEET, A DELTA ANGLE OF 90°00'00" AND A CHORD BEARING SOUTH 45°04'30" EAST, 34.65 FEET; THENCE ALONG THE ARC OF SAID CURVE, 38.48 FEET TO THE POINT OF TANGENCY; THENCE NORTH 89°55'30" EAST, 245.50 FEET; THENCE NORTH 70°49'53" EAST, 13.76 FEET; THENCE NORTH 89°55'30" EAST, 26.95 FEET TO THE TRUE POINT OF BEGINNING.

KNOW ALL MEN BY THESE PRESENTS THAT THE UNDERSIGNED, BEING THE OWNER OF THAT REAL PROPERTY SITUATED IN BOULDER COUNTY, COLORADO AND BEING A PART OF THE SW 1/4 OF THE SW 1/4 OF SECTION 29, T1N, R70W OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

LEGAL DESCRIPTION THAT PORTION OF THE SW 1/4 OF THE SW 1/4 OF SECTION 29, T1N, R70W OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE SW 1/4 OF THE SW 1/4 OF SAID SECTION 29; THENCE S00°10'00"E, 351.83 FEET ALONG THE WEST LINE OF THE SW 1/4 OF THE SW 1/4; THENCE N89°55'20"E, 64.93 FEET TO THE EAST LINE OF THAT PARCEL, CONVEYED TO THE CITY OF BOULDER BY RULE AND ORDER UNDER CIVIL ACTION NO. 82CV0740 RECORDED AUGUST 12, 1984 ON FILM 1316 AT RECEPTION NO. 639878, AND THE TRUE POINT OF BEGINNING.

THENCE N89°55'20"E, 375.07 FEET ALONG THE SOUTHERLY LINE OF THAT PARCEL, 1" AS DESCRIBED IN WARRANTY DEEDS RECORDED ON JUNE 1, 1968 AS RECEPTION NOS. 0921241 AND 0921242 IN THE RECORDS OF BOULDER COUNTY; THENCE S00°10'00"E, 188.58 FEET ALONG THE WESTERLY LINE OF SAID PARCEL 1;

THENCE S89°55'20"W, 386.00 FEET ALONG THE NORTHERLY LINE OF SAID PARCEL 1 TO THE EAST LINE OF SAID RULE AND ORDER;

THENCE N00°10'00"W, 169.54 FEET ALONG THE EAST LINE OF SAID RULE AND ORDER TO THE BEGINNING OF A CURVE CONCAVE TO THE SOUTHEAST;

THENCE NORTHEASTERLY, 22.46 FEET ALONG THE EAST LINE OF SAID RULE AND ORDER AND ALONG THE ARC OF SAID CURVE, SAID CURVE HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 42°54'08" AND A CHORD THAT BEARS N29°42'43"E, 21.94 FEET TO THE TRUE POINT OF BEGINNING.

TOGETHER WITH THAT PORTION OF THE SW 1/4 OF THE SW 1/4 OF SECTION 29, T1N, R70W OF THE 6TH P.M., AND ALL OF HARDEN PLACE, IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 29 FROM WHICH THE NORTHWEST CORNER OF THE SW 1/4 OF THE SW 1/4 OF SAID SECTION 29 BEARS N00°10'00"W, 1322.59 FEET; THENCE N89°55'20"E, 660.00 FEET ALONG THE SOUTH LINE OF THE SW 1/4 OF SAID SECTION 29; THENCE N00°10'00"W, 30.00 FEET PARALLEL WITH THE WEST LINE OF THE SW 1/4 OF SAID SECTION 29; THENCE N00°04'30"W, 28.00 FEET AT RIGHT ANGLES TO THE SOUTH LINE OF THE SW 1/4 OF SAID SECTION 29 TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING N00°04'30"W, 408.66 FEET AT RIGHT ANGLES TO THE SOUTH LINE OF THE SW 1/4 OF SAID SECTION 29;

THENCE N89°54'00"W, 341.08 FEET;

THENCE N00°06'00"E, 199.95 FEET TO A POINT OF CURVE TO THE RIGHT;

THENCE NORTHEASTERLY, 17.28 FEET ALONG THE ARC OF SAID CURVE TO POINT TANGENT, SAID ARC HAVING A RADIUS OF 11.00 FEET, A CENTRAL ANGLE OF 90°00'00" AND BEING SUBSTITUTED BY A CHORD THAT BEARS N45°06'00"E, 15.56 FEET;

THENCE S89°54'00"E, 13.00 FEET TO A POINT OF CURVE TO THE LEFT;

THENCE NORTHEASTERLY, 90.55 FEET ALONG SAID ARC OF SAID CURVE TO A POINT TANGENT, SAID ARC HAVING A RADIUS OF 58.00 FEET, A CENTRAL ANGLE OF 89°27'00" AND BEING SUBSTITUTED BY A CHORD THAT BEARS N45°22'30"E, 81.63 FEET;

THENCE N00°39'00"E, 70.25 FEET;

THENCE N05°34'00"E, 102.52 FEET;

THENCE N07°21'00"E, 55.31 FEET TO A POINT OF CURVE TO THE RIGHT;

THENCE NORTHEASTERLY, 12.04 FEET ALONG THE ARC OF A CURVE CONCAVE TO THE SOUTHEAST, SAID ARC HAVING A RADIUS OF 27.50 FEET, A CENTRAL ANGLE OF 20°00'42" AND BEING SUBSTITUTED BY A CHORD THAT BEARS N13°53'51"E, 11.95 FEET;

THENCE N86°40'30"W, 96.79 FEET;

THENCE S89°51'24"W, 609.21 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF CANYON BOULEVARD AS DESCRIBED IN DEED RECORDED IN BOOK 1265 AT PAGE 27 OF THE RECORDS OF BOULDER COUNTY, COLORADO;

THENCE S80°37'30"W, 12.69 FEET ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID CANYON BOULEVARD TO THE EAST LINE OF THE WEST 30.00 FEET OF THE SW 1/4 OF SAID SECTION 29;

THENCE S00°10'00"E, 1.83 FEET ALONG THE EAST LINE OF THE WEST 30.00 FEET OF THE SW 1/4 OF SAID SECTION 29 TO THE NORTH LINE OF THAT TRACT OF LAND AS DESCRIBED IN WARRANTY DEED RECORDED IN BOOK 155 AT PAGE 9 OF THE RECORDS OF BOULDER COUNTY, COLORADO;

THENCE N89°55'20"E, 410.00 FEET ALONG THE NORTH LINE OF THAT TRACT OF LAND AS DESCRIBED IN BOOK 155 AT PAGE 9 TO THE NORTHEAST CORNER THEREOF;

THENCE S00°10'00"E, 188.58 FEET ALONG THE EAST LINE OF THAT TRACT OF LAND AS DESCRIBED IN SAID BOOK 155 AT PAGE 9 TO THE SOUTHEAST CORNER THEREOF;

THENCE S89°55'20"W, 382.00 FEET ALONG THE SOUTH LINE OF THAT TRACT OF LAND AS DESCRIBED IN SAID BOOK 155 AT PAGE 9;

THENCE S07°24'40"W, 131.90 FEET;

THENCE S00°31'30"W, 308.00 FEET

THENCE S03°16'30"W, 81.00 FEET;

THENCE S12°31'30"W, 71.83 FEET TO THE EAST LINE OF THE WEST 30.00 FEET OF THE SW 1/4 OF SAID SECTION 29;

THENCE S00°10'00"E, 131.39 FEET ALONG THE EAST LINE OF THE WEST 30.00 FEET OF THE SW 1/4 OF SAID SECTION 29;

THENCE N89°55'30"E, 7.60 FEET;

THENCE S61°15'51"E, 34.24 FEET;

THENCE N89°55'30"E, 112.50 FEET;

THENCE N30°45'48"E, 39.02 FEET;

THENCE N89°55'30"E, 32.00 FEET;

THENCE S27°05'16"E, 28.62 FEET;

THENCE N89°55'30"E, 290.00 FEET;

THENCE N82°48'00"E, 56.44 FEET;

THENCE N15°52'13"E, 18.20 FEET;

THENCE N89°55'30"E, 84.00 FEET TO A POINT ON A CURVE TO THE LEFT HAVING A RADIUS OF 24.50 FEET, A DELTA ANGLE OF 90°00'00" AND A CHORD BEARING S45°04'30"E, 34.65 FEET;

THENCE ALONG THE ARC OF SAID CURVE, 38.48 FEET TO THE POINT OF TANGENCY;

THENCE N89°55'30"E, 245.50 FEET;

THENCE N70°49'53"E, 13.78 FEET;

THENCE N89°55'30"E, 26.95 FEET TO THE TRUE POINT OF BEGINNING

FINAL PLAT BOULDER RESIDENCE INN SUBDIVISION A SUBDIVISION LOCATED IN THE SW 1/4 OF SECTION 29, T1N, R70W OF THE 6TH P.M. CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO AREA = 16.503 ACRES SHEET 1 OF 2



VICINITY MAP N.T.S.

HAS CAUSED SAID PROPERTY TO BE Laid OUT, SURVEYED, SUBDIVIDED AND PLATED UNDER THE NAME OF "BOULDER RESIDENCE INN SUBDIVISION", A SUBDIVISION IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.

THE UNDERSIGNED DOES FURTHER 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 THEREON. 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 THEREFOR 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 THOSE PORTIONS OF REAL PROPERTY DESIGNATED AS "UTILITY EASEMENT" ON THE ACCOMPANYING PLAT AS EASEMENTS 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 THEREON. 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 THEREFOR 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 AND UTILITY EASEMENT" ON THE ACCOMPANYING PLAT AS AN EASEMENT FOR DRAINAGE CONVEYANCE AND STRIVES TO CONTAIN STORM RUN-OFF FROM THE SUBDIVISION, AND FOR THE CONSTRUCTION, INSTALLATION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT OF UTILITIES, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING: CULVERTS, DRAINAGE DITCHES AND DRAINS, FLOOD CONTROL IMPROVEMENTS AND ALL APPURTENANCES THEREON. IT BEING EXPRESSLY UNDERSTOOD AND AGREED BY THE UNDERSIGNED THAT ALL EXPENSES AND COSTS INVOLVED IN CONSTRUCTING AND INSTALLING THE DRAINAGE IMPROVEMENTS AND OTHER SUCH UTILITIES AND SERVICES 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.

THE UNDERSIGNED DOES FURTHER GRANT TO THE CITY OF BOULDER THOSE PORTIONS OF SAID REAL PROPERTY DESIGNATED ON THE ACCOMPANYING PLAT AS "NO BUILD EASEMENT" AS EASEMENTS FOR THE BENEFIT OF LOT 2. WITHIN SAID EASEMENTS NO STRUCTURES SHALL BE ERRECTED TO ENSURE THAT THE BUILDINGS IN THE SUBDIVISION MEET LIFE SAFETY STANDARDS. SAID EASEMENT SHALL AUTOMATICALLY EXTINGUISH IF ALL BUILDINGS NEAR OR IN THE "NO BUILD EASEMENTS" BUILDING D AND BUILDING H MEET LIFE SAFETY STANDARDS THROUGH AN ALTERNATIVE METHOD THAT IS APPROVED BY THE CITY MANAGER OF THE CITY OF BOULDER.

FOR THE APPROVAL OF "BOULDER RESIDENCE INN SUBDIVISION" AND THE DEDICATIONS AND CONDITIONS WHICH APPLY THERETO THIS 19 DAY OF July, 2019.

GRV VILLAGE L.P., A DELAWARE LIMITED PARTNERSHIP

BY: GRV VILLAGE MANAGEMENT LLC, A COLORADO LIMITED LIABILITY COMPANY, ITS GENERAL PARTNER

BY: GART PROPERTIES LLC, A COLORADO LIMITED LIABILITY COMPANY, ITS MANAGER

BY: Thomas A. Gart, Manager

STATE OF COLORADO } SS. COUNTY OF DENVER

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 19 DAY OF July, 2019, BY THOMAS A. GART, MANAGER OF GART PROPERTIES LLC, MANAGER OF GRV VILLAGE MANAGEMENT LLC, GENERAL PARTNER OF GRV VILLAGE L.P.

WITNESS MY HAND AND OFFICIAL SEAL.

MY COMMISSION EXPIRES: 12/31/2020

PATRICIA A. GARRETT, NOTARY PUBLIC, STATE OF COLORADO

(REAL) NOTARY PUBLIC

GENERAL NOTES

- 1. THE BASIS OF BEARINGS IS THE EASTERLY LINE OF THE SUBJECT PROPERTY, BEING MONUMENTED AS SHOWN HEREON, WITH THE LINE ASSUMED TO BEAR N00°04'30"W.
2. FOUND 2" ALUMINUM CAPS STAMPED 'DB & CO. LS 27275' AT ALL EXTERIOR BOUNDARY CORNERS OF THE SUBJECT PROPERTY UNLESS OTHERWISE NOTED.
3. DREXEL, BARRELL & CO. RELED UPON TITLE COMMITMENT NO. NCS-662668-CO, ISSUED BY FIRST AMERICAN TITLE INSURANCE COMPANY, WITH AN EFFECTIVE DATE OF APRIL 1, 2014 FOR ALL INFORMATION REGARDING THE LEGAL DESCRIPTION, EASEMENTS AND RIGHTS-OF-WAYS.
4. ALL REFERENCES TO BOOKS, PAGES, MAPS AND RECEPTION NUMBERS ARE PUBLIC DOCUMENTS ON FILE WITH THE CLERK AND RECORDER OF BOULDER COUNTY, STATE OF COLORADO.
5. PREPARED BY: DREXEL, BARRELL & CO., 1800 38TH STREET, BOULDER, CO 80301, 303-442-4338
6. NOTICE: IN ACCORDANCE WITH CRS 13-90-105, 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.

SURVEYOR'S CERTIFICATE

I, MATHEW E. SELDERS, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, HEREBY CERTIFY THAT THIS PLAT OF BOULDER RESIDENCE INN SUBDIVISION TRULY AND CORRECTLY REPRESENTS THE RESULTS OF A SURVEY MADE UNDER MY DIRECT RESPONSIBILITY, SUPERVISION AND CHECKING, AND THIS PLAT HAS BEEN PREPARED IN ACCORDANCE WITH COLORADO STATE LAW.



MATHEW E. SELDERS, COLORADO LICENSED PROFESSIONAL LAND SURVEYOR NO. 27275

APPROVALS

Director of Planning and Director of Public Works and Utilities signatures.

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 19 DAY OF July, 2019.

ATTEST:

CITY CLERK and CITY MANAGER lines.

CLERK AND RECORDER'S CERTIFICATE

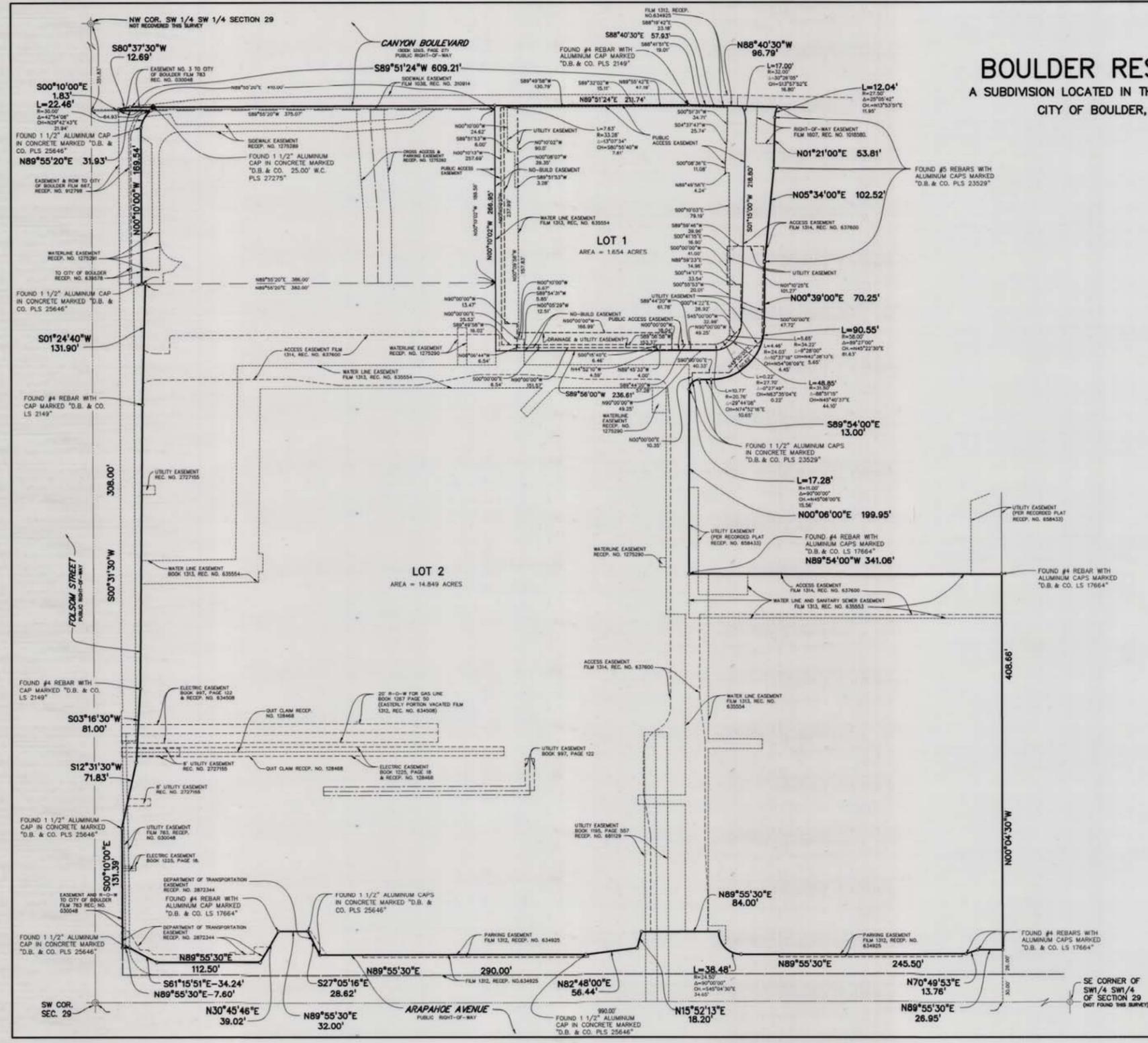
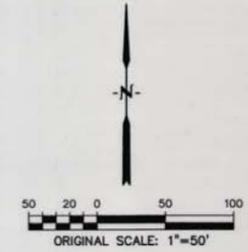
STATE OF COLORADO) SS. COUNTY OF BOULDER

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT 10:00 O'CLOCK A.M. THIS 19 DAY OF July, 2019, AND IS RECORDED AT RECEPTION # AND FEES PAID: \$

CLERK AND RECORDER and DEPUTY lines.

FINAL PLAT BOULDER RESIDENCE INN SUBDIVISION

A SUBDIVISION LOCATED IN THE SW1/4 OF SECTION 29, T1N, R70W OF THE 6TH P.M.
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO
AREA = 16.503 ACRES
SHEET 2 OF 2



B101-87A

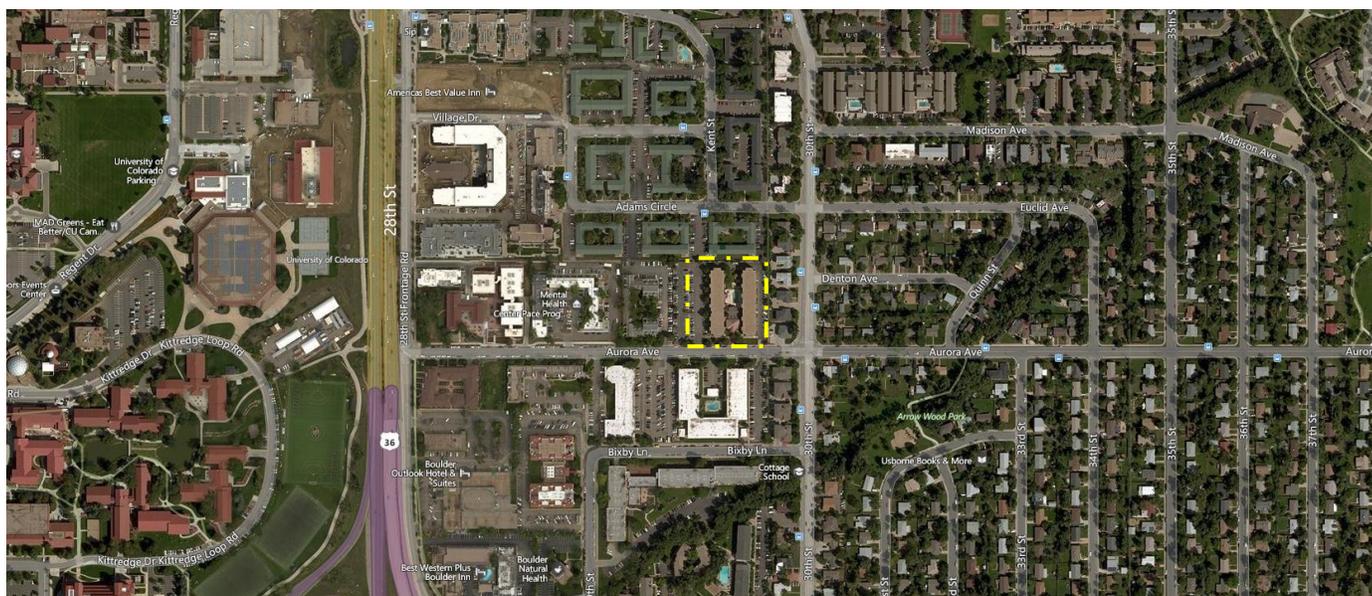
MEMORANDUM

TO: Planning Board
FROM: Elaine McLaughlin Case Manager
DATE: July 27, 2015
SUBJECT: Call Up Item: USE REVIEW (LUR2015-00034): Conversion of the existing Sterling University Peaks Apartment building located at 2985 E. Aurora Ave. with 96, two-bedroom dwelling units to 192 Efficiency Living Units (ELUs) located in the Residential High – 5 (RH-5) zoning district.

Attached is a Notice of Disposition for Use Review approved by staff and subject to call-up consideration by the Planning Board. The application was **approved** by staff on **July 27, 2015** and the decision may be called up before Planning Board on or before **Aug. 10, 2015**. There is one Planning Board hearing scheduled during the required 14 day call-up period on **Aug. 6, 2015**.

Background.

The existing apartment building is located one half block east of 28th Street on Aurora Avenue, location shown below in Figure 1, is considered a “non-conforming use” because the use of the site was developed prior to the current zoning standards and therefore does not meet the parking and residential density requirements of today. The proposed conversion of the units to efficiency living units constitutes an expansion of a nonconforming use, which is defined below, since it will add dwelling units. The added units are planned to be smaller one-bedroom units, rather than two bedroom units so that the occupancy would remain the same.



An efficiency living unit is defined in the land use code (9-16, B.R.C.1981) as “a dwelling unit that contains a bathroom and kitchen and does not exceed a maximum floor area hundred seventy five square feet.” Two ELUs are equivalent to one dwelling unit per the land use code section 9-8-7, B.R.C. 1981.

The project site is zoned Residential - High 5 (RH-5), which is defined as “High density residential areas primarily used for a variety of types of attached residential units, including without limitation, apartment

buildings, and where complementary uses may be allowed” (section 9-5-2(c)(1)(F), B.R.C. 1981).

The subject property was developed in 1964 as a 96-unit apartment complex (University Towers) prior to the intensity standards adopted for the RH-5 zoning district. As a result, the site and building are considered to be non-conforming and non-standard.

A Nonconforming Use Review (#UR-98-6) was approved on April 17, 1998 for the addition of 1,500 square feet to the common area and lobby, which was then referred to as the Buffalo Apartments. The use review approval included landscaping and parking area improvements to the site, including screening of the parking area from Aurora Avenue. That approval included a reduction in the number of parking spaces to 137. That approval also was the first to document the non-conforming use of the site. The 2.40 acre site is considered non-conforming due to the following conditions:

- Density: the minimum lot area per dwelling unit is not met (by-right standard: 1,600 square feet per dwelling unit = 65 dwelling units where 96 units exist today with 192 occupants);
- Density: the number of dwelling units per acre is not met (by right standard: 27.2 dwelling units per acre = 65 dwelling units where 96 dwelling units exist today with 192 occupants);
- Open space: the minimum open space per dwelling unit is 600 square feet per dwelling unit or 57,600 square feet total where there is 25,355 square feet of open space on the site;
- Parking: There are 136 parking spaces existing with 144 required for 96 dwelling units
- Non Standard Building Height: the maximum height for principal buildings permitted is 35 feet and three stories in the RH-5 zoning district where the building is four stories.

Project Proposal.

The applicant intends to convert the existing two-bedroom apartments into small one-bedroom apartments (efficiency living units).

Review Process.

Because the proposal is for conversion to ELUs that will add dwelling units, the proposed project constitutes an expansion of a nonconforming use.

“Expansion of nonconforming use means any change or modification to a nonconforming use that constitutes:

- (1) An increase in the occupancy, floor area, required parking, traffic generation, outdoor storage, or visual, noise, or air pollution;*
- (2) Any change in the operational characteristics which may increase the impacts or create adverse impacts to the surrounding area including, without limitation, the hours of operation, noise, or the number of employees;*
- (3) The addition of bedrooms to a dwelling unit, except a single-family detached dwelling unit; or*
- (4) The addition of one or more dwelling units.”*

Nonconforming uses may be upgraded or expanded under [section 9-2-15](#), “Use Review,” if the change would not adversely affect the traffic and the environment of the surrounding area or if the change would reduce the degree of the nonconformity or improve the appearance of the structure or site without increasing the degree of nonconformity. The proposal must meet the criteria for use review in [subsection 9-2-15\(e\)](#) and the additional criteria for modifications to nonconforming uses in [subsection 9-2-15\(f\)](#).

Analysis. Staff finds that the application satisfies the Use Review criteria pursuant to subsection 9-2-15(e), “*Criteria for Review*,” B.R.C. 1981, and the Nonconforming Use Review criteria pursuant to subsection 9-2-15(f), “*Additional Criteria for Modifications to Nonconforming Uses*,” B.R.C. 1981. Refer to **Attachment B** for the complete Use Review criteria analysis. The occupancy of the site is proposed to remain the same as the existing occupancy. Given that the non-conforming density will remain on the site as is existing today (192 occupants), and that the site is located within an RH-5 zoning district where there are a number of university student rentals, the expansion of the non-conforming use in terms of number of dwelling units with equivalent occupancy will be compatible in the context. In addition, with the existing non-conforming parking, the applicant is proposing to restripe the parking area such that four spaces would be the net increase in parking: from 136 today to 140 spaces. This would reduce the degree of non-conformity for parking.

Public Comment. Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property and a sign posted on the property for at least 10 days. All notice requirements of section 9-4-3, “*Public Notice Requirements*,” B.R.C. 1981 have been met. There were no comments received about the proposed conversion of units.

Conclusion. Staff finds that the proposed project meets the relevant criteria of section 9-2-15, “Use Review,” B.R.C. 1981 (refer to **Attachment B**). The proposal was **approved** by staff on **July 27, 2015** and the decision may be called up before Planning Board on or before **August 10, 2015**. There is one Planning Board hearing scheduled during the required 14 day call-up period on **August 6, 2015**. Questions about the project or decision should be directed to the Case Manager, Elaine McLaughlin at (303) 441-4130 or at mclaughline@bouldercolorado.gov

Attachments:

- A. [Signed Disposition](#)
- B. [Analysis of Use Review Criteria](#)
- C. [Applicant’s Proposed Plans](#)



**CITY OF BOULDER
Community Planning & 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: **STERLING UNIVERSITY PEAKS APARTMENTS**
DESCRIPTION: **NON-CONFORMING USE REVIEW to convert 96 dwelling units to 192 Efficiency Living Units for Sterling University Peaks Apartments.**

LOCATION: **2985 E AURORA AVE.**
COORD: **N01W04**
LEGAL DESCRIPTION: **See Exhibit A Attached**
APPLICANT: **Erin Bagnall**
OWNER: **Crack Shot LLC; Sterling University Peaks LLC; White Fox LLC; Marletta Properties Two Holdings LLC;**

APPLICATION: **Use Review, LUR2015-00034**
ZONING: **RH-5**
CASE MANAGER: **Elaine McLaughlin**
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: JULY 27, 2015
Date

By: 
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: August 10, 2015

Final Approval Date: August 11, 2015

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND FINAL PLANS FOR CITY SIGNATURE MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS, IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING DEPARTMENT APPROVAL AUTOMATICALLY EXPIRES.

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) the development within three years shall cause this development approval to expire.

CONDITIONS OF APPROVAL

1. The Applicant shall be responsible for ensuring that the **development shall be in compliance with all plans prepared by the Applicant on July 6, 2015** on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval.
2. The Applicant **shall not expand or modify the approved use**, except pursuant to subsection 9-2-15(h), B.R.C. 1981.
3. The Applicant shall **comply with all previous conditions** contained in any previous approvals, except to the extent that any previous conditions may be modified by this approval, including, but not limited to, the following: the Development Agreement recorded at Reception No. 1825255 on July 20, 1998 in the Boulder County Clerk and Recorder's Office on November 7, 2012.

Exhibit A: Legal Description

All that land situated in the State of Colorado, County of Boulder, City of Boulder and described as follows:

Parcel A:

The East 250.00 feet of the South $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 32, Township 1 North, Range 70 West of the 6th Principal Meridian, except the Southerly 30.00 feet thereof, County of Boulder, State of Colorado.

Parcel B:

The West 97.00 feet of the East 347.00 feet of the South $\frac{1}{2}$ of the South $\frac{1}{2}$ of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 32, Township 1 North, Range 70 West of the 6th Principal Meridian, except the Southerly 30.00 feet thereof, County of Boulder, State of Colorado

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

 √ **(1) Consistency with Zoning and Non-Conformity:** The use is consistent with the purpose of the zoning district as set forth in [Section 9-5-2\(c\)](#), "Zoning Districts Purposes," B.R.C. 1981, except in the case of a non-conforming use;

The project site is zoned Residential - High 5 (RH-5), which is defined as "High density residential areas primarily used for a variety of types of attached residential units, including without limitation, apartment buildings, and where complementary uses may be allowed" (section 9-5-2)(c)(1)(F), B.R.C. 1981).

 √ **(2) Rationale:** The use either:

 n/a **(A) Provides direct service or convenience to or reduces adverse impacts to the surrounding uses or neighborhood;**

 n/a **(B) Provides a compatible transition between higher intensity and lower intensity uses;**

 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**

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

The existing development is considered a "non-conforming use" because the use of the site was developed prior to the current zoning standards and does not meet the parking and residential density requirements of today. The proposed conversion of the units to efficiency living units constitutes an expansion of a nonconforming use, which is defined below, since it will add dwelling units. An efficiency living unit is defined in the land use code (9-16, B.R.C.1981) as "a dwelling unit that contains a bathroom and kitchen and does not exceed a maximum floor area hundred seventy five square feet." Two ELUs are equivalent to one dwelling unit per the land use code section 9-8-7, B.R.C. 1981.

 √ **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;

The occupancy of the site is proposed to remain the same as the existing occupancy. Given that the non-conforming density will remain on the site as is, and that the site is located within an RH-5 zoning district where there are a number of university student rentals, the expansion of the non-conforming use in terms of number of dwelling units with equivalent occupancy will be compatible in the context.

 √ **(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;*

The occupancy on the site will remain the same from the existing to the proposed, and therefore there are no impacts to infrastructure.

√ (5) **Character of Area:** The use will not change the predominant character of the surrounding area or the character established by adopted design guidelines or plans for the area;

The change in occupancy from two bedroom units to efficiency living units will not change the character of the area, a high density zoning district that currently has a number of apartment buildings primarily rented to university students.

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 application is not a conversion of residential to non-residential

9-2-15 (f) Additional Criteria for Modifications to Nonconforming Uses: No application for a change to a nonconforming use shall be granted unless all of the following criteria are met in addition to the criteria set forth above:

√ (1) **Reasonable Measures Required:** The applicant has undertaken all reasonable measures to reduce or alleviate the effects of the nonconformity upon the surrounding area, including, without limitation, objectionable conditions, glare, adverse visual impacts, noise pollution, air emissions, vehicular traffic, storage of equipment, materials and refuse, and on-street parking, so that the change will not adversely affect the surrounding area.

With the occupancy of the site remaining the same, the provision of four additional parking spaces and bike parking will assist in reducing the effects of the non-conforming parking and is considered a reasonable measure given the limits of the parking area.

√ (2) **Reduction in Nonconformity/Improvement of Appearance:** The proposed change or expansion will either reduce the degree of nonconformity of the use or improve the physical appearance of the structure or the site without increasing the degree of nonconformity.

The proposed conversion of each two bedroom units to two efficiency living units will not change the density on the site and the parking will remain non-conforming. In addition, the applicant provided a field inventory that substantiates the use of the parking lot being typically under parked. However, the applicant will restripe the parking with the net outcome being four additional parking spaces, from 136 existing to 140 provided. This reduces the degree of non-conformity.

In addition, the proposed TDM includes the provision of 432 bike parking spaces on the site, including

336 long term bike spaces inside storage areas of the building and provision of bike storage within each unit; along with 96 short term spaces on site to bring the project above current standards which require 384 bike spaces on the site: a provision of 96 more bike parking spaces than are required.

- n/a (3) **Compliance with this Title/Exceptions:** The proposed change in use complies with all of the requirements of this title:
- (A) **Except for a change of a nonconforming use to another nonconforming use; and**
Not applicable, it is an expansion of a non-conforming use, not a change from one non-conforming use to another non-conforming use.
- (B) **Unless a variance to the setback requirements has been granted pursuant to section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or the setback has been varied through the application of the requirements of section 9-2-14, "Site Review," B.R.C. 1981.**
Not applicable

- √ (4) **Cannot Reasonably Be Made Conforming:** The existing building or lot cannot reasonably be utilized or made to conform to the requirements of chapter 9-6, "Use Standards," 9-7, "Form and Bulk Standards," 9-8, "Intensity Standards," or 9-9, "Development Standards," B.R.C. 1981.
The site cannot be made conforming without redeveloping the site. The existing buildings have operated as non-conforming for decades and have not created impacts.

- n/a (5) **No Increase in Floor Area Over Ten Percent:** The change or expansion will not result in a cumulative increase in floor area of more than ten percent of the existing floor area.
There is no increase in floor area proposed.

- n/a (6) **Approving Authority May Grant Zoning Variances:** The approving authority may grant the variances permitted by subsection 9-2-3(d), B.R.C. 1981, upon finding that the criteria set forth in subsection 9-2-3(h), B.R.C. 1981, have been met.
Not applicable

Per Land Use Code 9-10-3 (c), B.R.C. 1981, the following criteria are required to be met for changes to non-conforming uses:

- n/a (1) **Nonconforming Changes to Conforming Use Prohibited:** No conforming use may be changed to a nonconforming use, notwithstanding the fact that some of the features of the lot or building are nonstandard, or the parking is nonconforming.

Not applicable. This application is not for a conforming use changing to nonconforming.

- n/a (2) **Standards for Changes to Nonconforming Uses:** The city manager will grant a request for a change of use, which is the replacement of one nonconforming use with another, if the modified or new use does not constitute an expansion of a nonconforming use. Any other change of use that constitutes expansion of a nonconforming use must be reviewed under procedures of section 9-2-15, "Use Review," B.R.C. 1981.

The proposed project is not for a change in use as the site will remain multi-family residential.

n/a (3) **Nonconforming Only as to Parking: The city manager will grant a request to change a use that is nonconforming only because of an inadequate amount of parking to any conforming use allowed in the underlying zoning district upon a finding that the new use will have an equivalent or less parking requirement than the use being replaced.**

Not applicable. The site holds non-conforming parking, open space and density. And the building is non-standard as to height.



MEMORANDUM

To: Charles Ferro, Land Use Review Manager - CITY OF BOULDER
Sloane Walbert, Case Manager
From: Erin Bagnall - SOPHER SPARN ARCHITECTS LLC
Project: 2985 AURORA AVENUE
Date: 6 April 2015

Re: NON CONFORMING USE REVIEW-WRITTEN STATEMENT

SUMMARY

Project intent

To modify an existing apartment complex at the property address, such that the 96 2-bedroom units, are converted into 192 Efficiency Living Units on a 2-for-1 basis. It is the applicant's intention to do this without any significant modifications to the exterior of the project, to the project's size, intensity of use, setbacks or any other significant characteristic that might affect the property's classification as a pre-existing non-conforming density within the RH-5 zone. The applicant would like to bisect the existing 2 bedroom units with a 1 hr rated, 50 STC demising wall. The newly created units would be ± 430 SF.

Site Conditions



The 2.4-acre property is located west of the intersection of Aurora & 30th Street, and has for many years served the rental student housing market. Changes proposed to the property, being almost fully internal to the structure, makes almost no change to the property in a manner that might affect neighboring parcels.

Adjacent Properties

- West of the site and south across the street –large scaled multi-unit residential structures, generally serving the rental student market.
- North – Smaller scaled multi-family student rental conversion structures.
- East – Smaller scaled multi-family student rental conversion structures; possibly some owner occupied residents as well.

Existing Zoning Conditions



The site is currently zoned RH-5, as is all of the surrounding properties on both Aurora to the east and west, as are the properties backing to the site on the northern property line. Therefore, all properties adjacent to the site either have comparable densities as this site, or are zoned to achieve comparable densities (nonconformance not withstanding).

To the west of the site and within the same superblock is the RH-6 zone of multi-unit student oriented residential structures. To the east across 30th Street, the density scales down to single-family residential zoning.

All properties to the north, west and south reflect the intensity of activity of the Aurora RH-5 corridor, both in the scale of the structures and the intensity of use that their zoning designation allows. The RH-5 zone limits development to 27.2 DU/acre. The site is ±2.4-acres and in its current configuration is nonconforming in various aspects.

Building Organization and Usage

The property currently consists of two 4-story masonry structures and an intervening single story common facility and associated parking and outdoor areas (see attached ALTA Land Survey). The buildings generally sit on the eastern half of the site with common indoor and outdoor spaces between the buildings. The majority of parking is to the west of the structures, with some diagonal parking on the eastern property line.

In each of the 4-story blocks are 48 2-bedroom, 2 bath units (six units on either side of a corridor, on each of four floors). Refer to SHT. A1.0 for Typical Level Floor Plan.

General Description of the Proposed Renovation

Each existing unit has a central independent living/dining/kitchen space that is between the 2-bedrooms (Refer to Sht. A1.0 for Typical Level Floor Plan) totaling ±860sf. The applicant is intending to split the existing 2-bedroom units in the east/west direction along the central axis, thereby splitting the living/dining/kitchen zone of the unit, and then removing the wall separating the bedroom zone from the newly created social zone of the unit.

The existing kitchens would be replaced with two independent kitchens, one for each half of the former 2-bedroom unit, and thereby creating two separate Efficiency Living Units from current configuration, without adding any area to the unit or the building as a whole. Each of the new ELU's will be around 430sf. Please refer to Sht. A1.0 for Proposed Typical Level Floor Plan.

There are no changes proposed that would...

- modify the existing intensity of use on the site, including the addition of bedrooms or rooms that can be construed to be converted into bedrooms
- change the perimeter of the building footprint and the floor area
- exceed the cost of 20% of the building's property value
- change the existing use.

Impacts of Proposed Changes

Unit Count

- Since the new units will not exceed 475sf, they meet the definition of an Efficiency Living Unit. Therefore two ELU's = one dwelling unit, and therefore there will be no increase to the number of dwelling units on site. A maximum of 96 DUs would yield a maximum of 192 ELUs, and there is no increase in the intensity of use on site. There is no increase in the population anticipated
- No impact.

Parking

- Currently there are 136 spaces including 2 handicapped spaces. Preliminary examination of space size indicates that they may not meet the standards width, length or backup in all cases (in particular, the diagonal parking zone on the east side of the site).
- Under current parking requirements with 96 2-bedroom units, 1.5 spaces area required for each 2-bedroom

unit, or a total of 144 spaces. Property is minimally nonconforming in terms of existing dwelling units, in terms of quantity.

- As ELUs, the facility would require 1 parking space per DU, or 192 spaces. Under the proposed plan there will be 140 conforming spaces, an **increase** to the conformity of the parking. The 140 spaces will require a 27% parking reduction, supportable by the TDM plan attached. The applicant has also made an effort to increase the conformity of the parking lot landscaping.
- Given that the property is within one block of four major bus routes, and it sits on a city bike route and links to multiple routes within a block of the site, we feel the parking reduction is justifiable.
- There is no impact on the current parking requirement, given that the numbers of cars needed should not increase, and bike and bus access are readily available to residents (via the 209, the Bound, the HX and the S). See attached TDM Table 2 for field inventory numbers. The existing site is not over-parked, there will be no change in density on the site, so the parking demand should remain the same.

Open Space

- minimum open space of 600sf/dwelling unit over 96 units would require 57,600 sf of useable open space. Property is therefore non-conforming.

Affordable Housing

- We have been informed by Michelle Allen of HHS that even though there are no new dwelling units associated with this change from a Land Use perspective, from an Affordable Housing perspective, if all units were converted, this would constitute 96 new dwelling units, and therefore a contribution of 20% of those additional ±430 sf units (19 micro units) needs to be exacted with this change.

Site Utilities

- It is our understanding that there are currently 2-2" water lines serving the building. The plumbing load is expected to increase due to doubling the number of kitchen sinks, plus the potential incremental load increases that are still being contemplated (the possibility of adding dishwashers and washer/dryers at a future date). A new 3" or 4" domestic meter and vault must be set.

Existing Structure's Assessed Value

The city currently has on record, an assessed value for the property of \$6,764,300 (per County Assessor's website). The City's website shows that multiple improvements have been made to the property that are carried in public record. However, Chris Toebe of Land Use staff did not feel that the majority of the changes on file should be counted cumulatively against the nonconformance limitations noted above, since they weren't construction related. There was one however, at ±\$50,000 (addition to common area?) that might count, still leaving a significant amount left for current renovations. This leaves ±\$6.7 million of valuation against which thresholds for the various Land Use Code compliance issues are measured.

The site is considered non-conforming due to the following conditions:

- Density because the number of dwelling units per acre is not met (96 units where 65 units are permitted by-right)
- Open space because the minimum open space per dwelling unit does not appear to be provided; 600 square feet per dwelling unit or 57,600 square feet total is required;
- Parking because the required parking is not provided on site; 144 spaces are required and 136 are provided resulting in a 6 percent parking deficiency; and
- Height because the maximum height for principal buildings is 35 feet and 3 stories where the building is 4 stories (height is unknown).

Criteria

Consistency with Zoning and Non-conformity. The use is consistent with the purpose of the zoning district as set forth in Section 9-5-2, "Zoning Districts Established", B.R.C. 1981, except in the case of a non-conforming use;

The project site is zoned Residential - High 5 (RH-5), which is defined as "High density residential areas primarily used for a variety of types of attached residential units, including without limitation, apartment buildings, and where complementary uses may be allowed" (section 9-5-2(c)(1)(F), B.R.C. 1981).

Reduction in Non-Conformity / Improvement of Appearance: The proposed change or expansion will either reduce the degree of non-conformity of the use or improve the physical appearance of the structure or the site without increasing the degree of non-conformity;

The proposed project will decrease the non-conformity of the site by the following:

- **Parking-** Although the applicant will need to ask for a 27% parking reduction with the proposed changes, it should be noted that there will be an increase in the amount of parking provided on site **and** the conformity of the parking spaces. The existing site provides 136 non-conforming parking spaces. The proposed project will reorganize and restripe the entire lot, providing 4 additional spaces that conform to parking standards. The proposed change will not affect the density of the site. There will be no change in bed count, therefore it is reasonable to assume that parking/traffic will not be affected. A parking count of the existing site shows there is ample parking provided for the current residents (see attached TDM Table 2), so the proposed addition of parking should be considered an improvement in the non-conformity of the use. In addition to parking improvements for cars, the applicant is proposing to add **407** bike parking spaces to the site to bring the project **above** current standards. In addition to long term parking provided within the building in designated areas, each new unit will have a bike rack within the unit. The long term parking count proposed will be 15% over the required current standards. The applicant feels that the aggressive TDM provided and the improvements to the site parking will result in a decrease in the non-conformity of the site.
- **Landscape-** The applicant has worked hard to improve the interior parking lot landscaping on site. With the increase in parking required the applicant feels that it has arrived at a solution that allows for important landscape improvements. Landscape improvements include parking lot screening on the west side of the site, additional interior parking lot landscape, street trees, and screening the parking lot from the street.
- **Access-** The existing site has three curb cuts for access to Aurora Ave. The applicant's proposal will remove one of curb cuts on the west site, creating an internal parking loop. By keeping the remaining curb cuts the fire access to the site is maintained. Although not triggered by this review, the applicant will also introduce a N/S sidewalk through the site pursuant of the City connections plan goals.

PROJECT TEAM:

OWNER / DEVELOPER:

MATT JOHNKE
1630 30th Street #A303
BOULDER, CO 80501
303-589-8500

ARCHITECT:

SOPHER SPARN ARCHITECTS LLC
1731 15TH STREET, SUITE 250
BOULDER, CO 80502
303-442-4422
CONTACT: ERIN BAGNALL

CIVIL ENGINEER:

THE SANITAS GROUP
801 MAIN STREET, SUITE 210
LOUISVILLE, CO 80027
303-981-9298
CONTACT: LESLIE EWY

LANDSCAPE ARCHITECT:

NATURES DESIGN ASSOCIATES, LLC
15674 INDIANA GULCH ROAD
JAMESTOWN, CO 80455
303-459-3333
CONTACT: BECKY MARTINEK

TRAFFIC CONSULTANT:

LSC TRANSPORTATION CONSULTANTS, INC
1889 YORK STREET
DENVER, CO 80206
303-333-1105
CONTACT: CHRIS MCGRANAHAN

SHEET INDEX:

0.0 GENERAL INFORMATION

LANDSCAPE DRAWINGS:

L-1 LANDSCAPE PLAN
L-2 LANDSCAPE PLAN

ARCHITECTURAL DRAWINGS:

A0.0 SITE PLAN
A1.1 TYPICAL FLOOR PLANS

PROJECT INFORMATION

PROJECT ADDRESS:

2985 AURORA AVE
BOULDER, COLORADO

OWNER / DEVELOPER:

MATT JOHNKE
1630 30th Street #A303
BOULDER, CO 80501
303-589-8500

LEGAL DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 32, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO



VICINITY MAP



NOT TO SCALE

1



SOPHER SPARN
ARCHITECTS LLC

SOPHERSPARN.COM

2985 Aurora

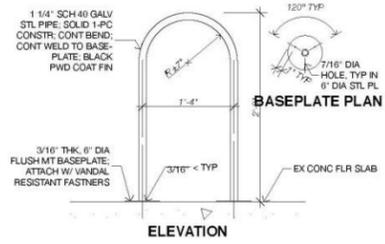
Boulder, Colorado 80503
NON-CONFORMING USE REVIEW

GENERAL INFORMATION

N.C. USE REVIEW 6
APRIL 2015
N.C. USE REVIEW
RESUBMITTAL 1
26 MAY 2015
N.C. USE REVIEW
RESUBMITTAL 2
6 JULY 2015

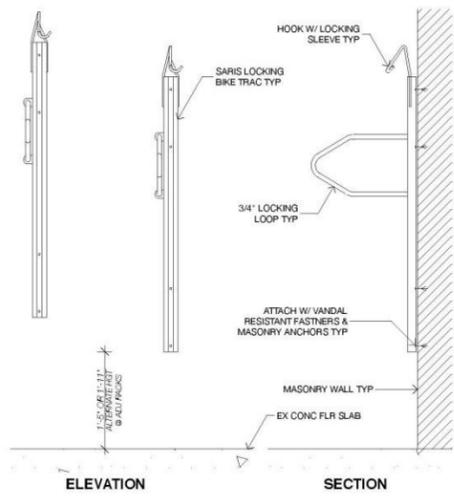
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BY: SSA
JOB: 2985 AURORA



D-01 BIKE RACK-FLOOR MOUNTED

SCALE: 3/4" = 1'-0"



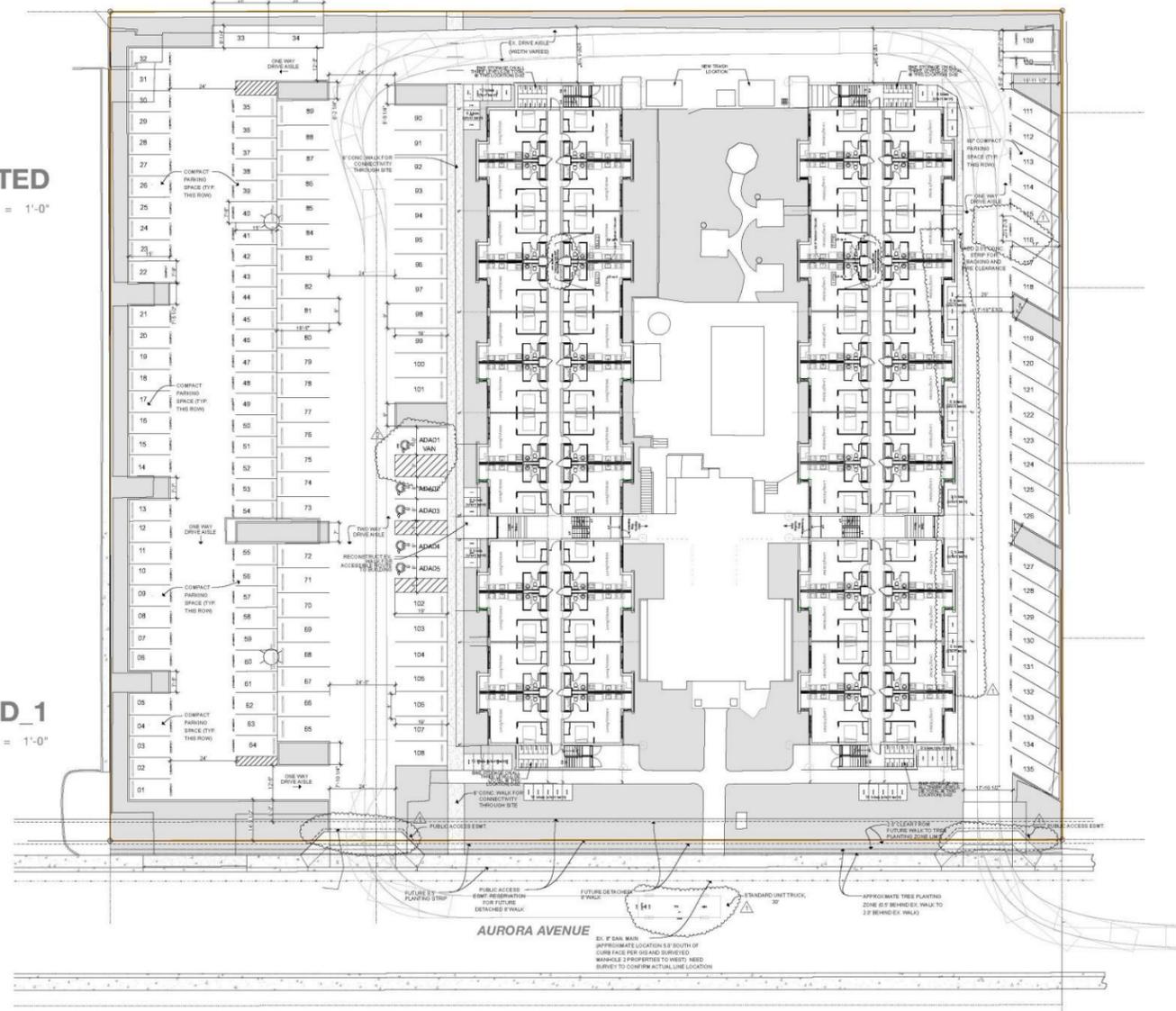
D-02 BIKE RACK-WALL MOUNTED_1

SCALE: 3/4" = 1'-0"

PARKING COUNTS	
EXISTING PARKING (all non conforming)	136
PROPOSED PARKING	
STANDARD	46
COMPACT	89
HANDICAP	5
TOTAL PARKING	140
*parking required per B.R.C 9-9-6 Table 9-2 (efficiency units=1 space per DU)	192
reduction requested	27%

64% of total parking

BIKE PARKING	
EXISTING PARKING	25
PROPOSED BIKE PARKING	
LONG TERM	336
SHORT TERM	86
TOTAL BIKE PARKING	432
*parking required per B.R.C 9-9-6 Table 9-8 (swelling units=2 bike spaces per DU)	384



PROPOSED SITE PLAN

SCALE: 1" = 30'



2985 Aurora
Boulder, Colorado 80303
NON CONFORMING USE REVIEW

SITE PLAN

N.C. USE REVIEW 6
APRIL 2015
N.C. USE REVIEW
RESUBMITTAL
26 MAY 2015
N.C. USE REVIEW
RESUBMITTAL
6 JULY 2015

A0.0

BY: SSA
JOB: 2985 AURORA



TOTAL USABLE OPEN SPACE:
25,355 SF

OPEN SPACE PLAN

SCALE: 1" = 30'



SOPHERSPARN
ARCHITECTS LLC

SOPHERSPARN.COM

2985 Aurora
Boulder, Colorado 80303
NON CONFORMING USE REVIEW

OPEN SPACE

N.C. USE REVIEW 6
APRIL 2015
N.C. USE REVIEW
RESUBMITTAL
26 MAY 2015
N.C. USE REVIEW
RESUBMITTAL
6 JULY 2015

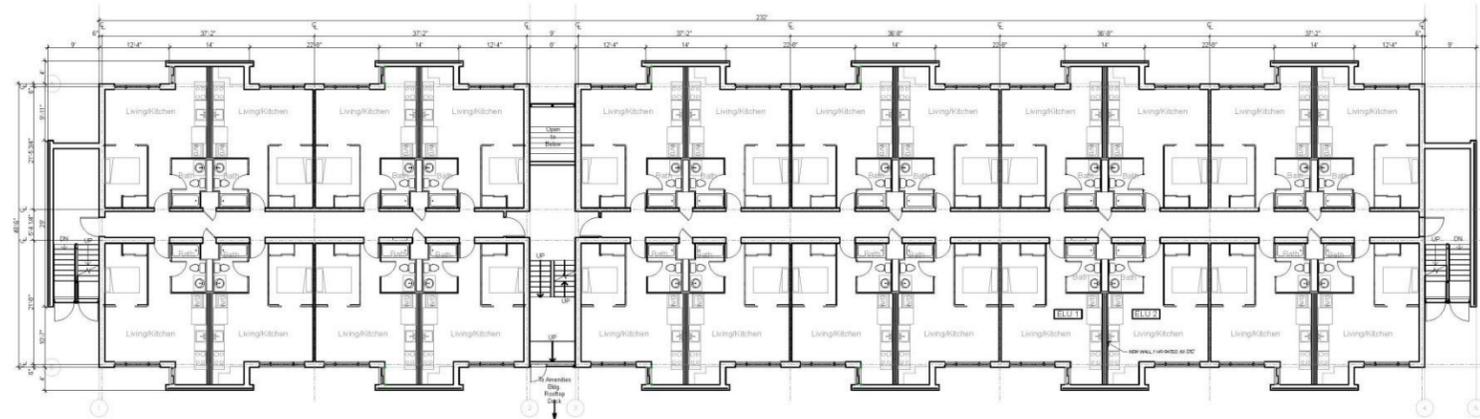
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BY: SSA
JOB: 2985 AURORA



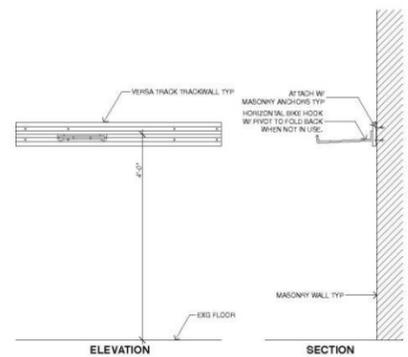
EXISTING BUILDING FLOOR PLAN TYP.

SCALE: 1/16" = 1'-0"

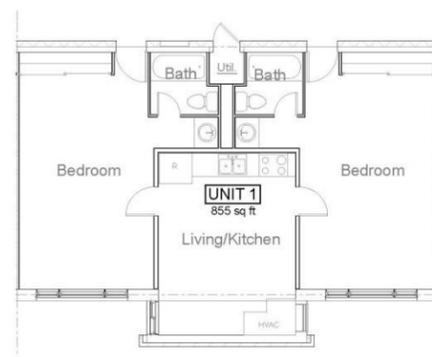


PROPOSED BUILDING FLOOR PLAN TYP.

SCALE: 1/16" = 1'-0"

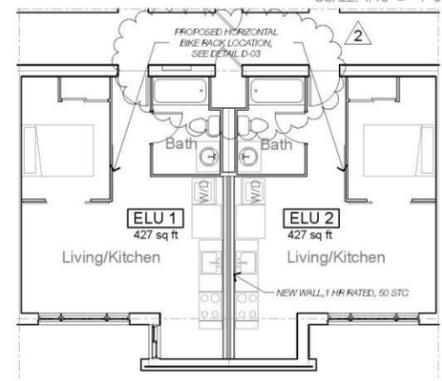


D-03 WALL MOUNTED BIKE RACK



EXISTING UNIT PLAN TYP.

SCALE: 1/8" = 1'-0"



PROPOSED ELU PLAN TYP.

SCALE: 1/8" = 1'-0"



2985 Aurora
Boulder, Colorado 80303
NON CONFORMING USE REVIEW

TYPICAL FLOOR PLANS

N.C. USE REVIEW 6 APRIL 2015
N.C. USE REVIEW RESUBMITTAL 26 MAY 2015
N.C. USE REVIEW RESUBMITTAL 6 JULY 2015

A1.0

BY: SSA
JOB: 2985 AURORA

CITY OF BOULDER
PLANNING BOARD AGENDA ITEM
MEETING DATE: August 6, 2015

AGENDA TITLE: Public hearing and Planning Board recommendation on **Annexation and Initial Zoning (case no. LUR2015-00029) for the property located at 236 Pearl Street and a portion of the property at 250 Pearl Street.** The proposal includes a request for annexation with an initial zoning of Residential Mixed - 1 (RMX-1) and Business-Transitional 2 (BT-2), respectively.

Property Owners: William L. and Carole F. Cassio (236 Pearl) and GKN Family LLP (250 Pearl)
Applicant: Stephen Sparn

REQUESTING DEPARTMENT:

Community Planning and Sustainability:

David Driskell, Executive Director
Susan Richstone, Deputy Director
Charles Ferro, Land Use Review Manager
Elaine McLaughlin, Senior Planner

OBJECTIVE:

Define the steps for Planning Board consideration of this request:

1. Hear applicant and staff presentations
2. Hold public hearing
3. Planning Board discussion
4. Planning Board recommendations to City Council on the Annexation and Initial Zoning of Residential Mixed – 1 (RMX-1) for 236 Pearl St. and Business Transition – 2 (BT-2) for 250 Pearl St.

SUMMARY:

The applicant is requesting Annexation and Initial Zoning of Residential Mixed – 1 (RMX-1) and Business-Transitional 2 (BT-2), consistent with the Boulder Valley Comprehensive Plan for the property located at 236 and 250 Pearl respectively. The annexation request will follow the annexation procedures in the Municipal Annexation Act of 1965 (Section 31-12-101 *et seq.*, C.R.S.).

Project Name: 236 Pearl and a portion of 250 Pearl Street Annexation and Initial Zoning Request
Location: 236 Pearl and a portion of 250 Pearl Street.
Size of Tract: 15,282 sq. ft. (0.35 acres) combined
Zoning: Boulder County Enclave (E) and proposed city zoning designation of Residential Mixed – 1 (RMX-1) and Business-Transitional 2 (BT-2)
Comprehensive Plan: Mixed Density Residential (MXR) and Transitional Business (TB)

KEY ISSUES:

Staff has identified the following key issues regarding the annexation petition and has provided responses below in the “Analysis” section of this memo.

Key Issue 1: Is the proposed annexation consistent with State statutes and city policy pertaining to the annexation of a property into the City of Boulder?

Key Issue 2: Is the proposed annexation consistent with the Boulder Valley Comprehensive Plan (BVCP)?

Key Issue 3: Is the initial zoning of Residential Mixed – 1 (RMX-1) and Business Transition – 2 (BT-2) respectively, consistent with the BVCP Land Use Designations?

Key Issue 4: Are the requests for a reduced setback on the front and interior side lots proposed for 236 Pearl consistent with the BVCP Land Use and surrounding context?

BACKGROUND:

The site of the proposed annexation is an enclave located in west Boulder, roughly mid-block between 2nd and 3rd streets fronting on Pearl Street and consists of two separate properties and property ownership groups. The majority of the property located at 250 Pearl Street was annexed during the pre-World War II era, with the exception of a small triangular portion at the northwestern corner of the property shown in Figure 1. The request for annexation of the property at 236 Pearl adjacent to the triangular portion of 250 Pearl prompted the discussion to also annex the small portion to avoid an unusual enclave condition.

The area contained within the triangular portion of 250 Pearl Street is virtually entirely encompassed by Sunshine Creek and the High Hazard Flood Zone which is the area of the floodplain with the fastest, deepest flows shown in purple shading Figure 2. A portion of 236 Pearl Street also has this condition on the southeast corner of the property. Per section 9-3-5 B.R.C. 1981, no new human occupied structures and no new parking areas for motor vehicles can be located in the high hazard zone. There are also regulatory wetlands coincident with the purple shaded area in Figure 2. These wetlands are classified as low functioning and have a 25' buffer regulatory area (purple line) surrounding them. New structures are prohibited in the wetlands but are allowed within the buffer area if the proper wetlands permits are obtained per section 9-3-9 B.R.C. 1981. The Floodplain and Wetland Map is presented in Figure 2.



Figure 1: Location of Subject Enclave Properties



Figure 2: Floodplain and Wetland Map

As the applicant noted in their written statement, the site is located on the far west end of Pearl Street in a location that is fairly quiet with low traffic volumes. It's located in close proximity to Settler's Park (at the terminus of Pearl Street and the Boulder Creek Bike Path, and there is an existing RTD bus stop located

adjacent to the site. The site 236 Pearl Site is occupied by a one story structure and the current owner operates a realty business with eight free-standing sheds that house items associated with the realty business. Two of the buildings were constructed in 1963 and have been altered over time and because of that the buildings were not found to hold historic significance. There are no structures within the triangular portion of 250 Pearl Street. The owner of 236 Pearl Street intends to remove the existing structures, subdivide the property into two lots and construct a duplex straddling the property. The property owners will live in one side of the duplex, and their caregivers will reside in the other side of the duplex.

Two of the existing structures on the 236 Pearl St. site: small frame sheds, upon annexation, would be considered nonstandard as they do not meet minimum setback requirements for the rear yard setback pursuant to Section 9-7, "Form and Bulk Standards," B.R.C. 1981; one is approximately 10 feet from the rear property line and the other is approximately 12 feet; where a 25 foot rear yard setback is required. Refer to Figure 3, which illustrates an Improvement Survey of the property illustrating the existing buildings on the site. Demolition of the non-standard structures would be required upon annexation and prior to building permit application for the new structures and final plat for the subdivision.

Annexation of Enclaves. Colorado State Statutes and the Boulder Valley Comprehensive Plan Policy 1.24 (b) provide policies for annexation of enclaves. Key Issue 1, found later in the document, provides an analysis of the proposed annexation with the state and local policies. As stated in BVCP policy 1.24(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."

In addition, the Guidelines for Annexation Agreements were endorsed by City Council and Planning Board in 2002 and provide policy guidelines for specific development parameters and community benefit practices that are applicable to properties requesting annexation. Refer to [Attachment A](#).

Land Use and Zoning. The existing BVCP Land Use Designation for the 236 Pearl Street property is Mixed Density Residential; and for the 250 Pearl triangular portion is Transitional Business. The BVCP Land Use Map is presented in Figure 3. The proposed initial zoning would be consistent with the land use map of Residential Mixed -1(RMX-1) and Business Transition – 2 (BT-2) respectively. The existing zoning map is presented in Figure 4. Refer to Key Issue 3, found later in the document, for consistency of the proposed initial zoning with the BVCP Land Uses.

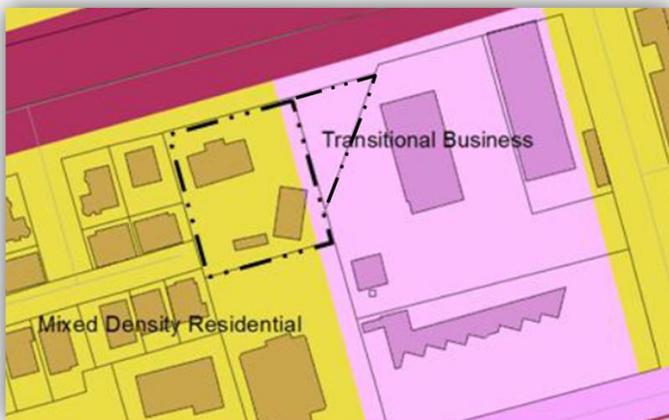


Figure 3: BVCP Land Use



Figure 4: Existing Surrounding Zoning

The properties became enclaves over time as the majority of the property at 250 Pearl Street was annexed pre-World War II and the properties to the west and south of 236 Pearl were annexed in the 1970s. The property directly west was redeveloped as a Planned Unit Development (PUD). The properties to the north were annexed during the 1980s and were also redeveloped through a PUD process. Figure 5 illustrates the annexations over time surrounding the property.



Figure 5: Surrounding Annexations over Time

ANNEXATION REQUEST

The applicant is requesting annexation into the City of Boulder with an initial zoning of RMX-1 for 236 Pearl and BT-2 for 250 Pearl Street as shown in Figure 6, Proposed Zoning. There are no plans to redevelop the small triangular parcel on 250 Pearl Street as that portion of the property is encompassed by Sunshine Creek and high hazard flood boundaries. As a part of the Annexation Agreement, staff is requiring a Flood Control Easement over the entire Flood Boundary. On 236 Pearl Street, upon annexation and initial zoning approval, the applicant intends to subdivide the 13,849 square foot property into two lots and construct a duplex that would straddle the property line as shown in Figure 7 on the following page. The property owners anticipate living within one side of the duplex, with their caregivers residing in the other side of the duplex.



Figure 6: Proposed Initial Zoning

Because the size of the property is not eligible for Site Review, through annexation the applicant is requesting a 2.5 foot front yard setback reduction from 15 feet to 12.5 feet and a zero lot line interior side yard setback to construct the duplex and create a separate lot area for each side of the duplex.

The applicant has illustrated their proposed subdivision (under separate review) with requests to modify certain setbacks as shown in Figure 7 on the following page. Note that the only modifications to the land use code are the zero lot line and the 12.5 foot setback for the front yard, shown with the numbered call outs highlighted in orange. The applicant is also requesting a five foot side yard setback on the eastern

**REQUESTED VARIATIONS FROM LAND USE REGULATIONS
TO BE INCLUDED IN ANNEXATION**

- 1 12'4" front yard setback requested per averaging the four residential homes to the West
- 2 Zero sideyard setback requested between lots
- 3 Two curb cuts
- 4 10'0" sideyard setback requested at the East and 5'0" sideyard setback requested at the West, 15'0" combined



Contextual Site Image

Not to Scale

June 9, 2015

1731 15th Street | Suite 250 | Boulder, CO 80302 | 303.442.4422 | www.sophersparn.com



Figure 8: Requested Setback Modifications in Context

ANALYSIS:

<p>1. Is the proposed annexation consistent with State statutes and City of Boulder policy pertaining to the annexation of a property into the City of Boulder?</p>
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The proposed annexation complies with applicable state annexation requirements regarding the annexation of an enclave. The Municipal Annexation Act provides that a municipality may annex an enclave if the area has been entirely contained within the outer boundaries of the municipality for a period of three or more years per §31-12-106(1), C.R.S. This area became an enclave when the city annexed the residential areas west and south of the site in the 1970s and the area north in the 1980s and the area east in the pre-World War II era, see Figure 5 above. No part of the municipal boundary surrounding the enclave consists of public rights-of-ways that has no municipal territory immediately adjacent to the right-of-way opposite to the enclave. All municipal territory surrounding the enclave that was annexed since December 19, 1990, was annexed in compliance with section 30 of article II Colorado constitution. Therefore, this area meets the statutory requirements and is eligible for annexation as an enclave.

The agreements signed under this approach to the annexation constitute a “memorandum of agreement or escrow arrangements voluntarily made by and between the municipality and owner or more land owners.” under Section 31-12-112(2), C.R.S. These agreements allow the city and signing property owners to be assured of the contractual arrangements associated with the annexation without constituting additional “terms and conditions,” which would otherwise require an annexation election. This type of agreement is authorized for unilateral annexations by Section 31-12-106(4), C.R.S.

State Statutes for Annexation

Following is an analysis of the requirements for annexation with State Annexation Law (31-12-101 et seq., C.R.S.).

(1) Minimum Required Contiguity: At least one-sixth of the perimeter of the area to be annexed shall be contiguous to the city limits.

The properties are considered an enclave, surrounded by the city jurisdiction.

(2) Annexation by Petition: A petition must be presented by more than half of the landowners owning more than fifty percent of the area to be annexed. For enclaves and municipally owned property, the City may take the initiative without petition.

Petitions were submitted by the applicant.

(3) Annexation by Election: Under certain conditions, an election may be held by the property owners and registered electors within the area to be annexed.

Not applicable.

An analysis of the proposed annexation under the requirements for unilateral annexation under State Annexation Law (31-12-106.1, C.R.S.) is as follows:

1) Annexation of enclaves. When any unincorporated area is entirely contained within the

boundaries of a municipality, the governing body may by ordinance annex such territory to the municipality in accordance with [section 30 \(1\) \(c\) of article II of the state constitution](#), but without complying with [section 31-12-104](#), [31-12-105](#), [31-12-108](#), or [31-12-109](#), if said area has been so surrounded for a period of not less than three years; except that notice of the proposed annexation ordinance shall be given by publication as provided by [section 31-12-108 \(2\)](#) for notices of annexation petitions, and resolutions initiating annexation proceedings, but no public hearing on the proposed annexation ordinance shall be required, and the first publication of notice shall be at least thirty days prior to the adoption of the ordinance.

The unincorporated properties of 236 and a portion of 250 Pearl are fully contained within the boundaries of the City of Boulder and have been so surrounded for a period of not less than three years. The site became an enclave with the annexation of the properties to the north in the 1980s. Refer to Figure 5 above.

(1.1) Exception to annexation of enclaves.

(a) No enclave may be annexed pursuant to subsection (1) of this section if:

- (I) Any part of the municipal boundary or territory surrounding such enclave consists at the time of the annexation of the enclave of public rights-of-way, including streets and alleys, that are not immediately adjacent to the municipality on the side of the right-of-way opposite to the enclave; or**

Not applicable; the site is immediate adjacent to the municipality

- (II) Any part of the territory surrounding the enclave was annexed to the municipality since December 19, 1980, without compliance with [section 30 of article II of the state constitution](#).**

Not applicable.

(b) In the case of an enclave the population of which exceeds one hundred persons according to the most recent United States census and that contains more than fifty acres, the enclave shall not be annexed pursuant to subsection (1) of this section unless the governing body of the annexing municipality has:

- (I) Created an annexation transition committee composed of nine members, five of whom shall reside, operate a business, or own real property within the enclave, two of whom shall represent the annexing municipality, and two of whom shall represent one or more counties in which the enclave is situated; and**

Not applicable.

- (II) Published notice of the creation and existence of the committee, together with its regular mail, electronic mail, or telephonic contact information, in the same manner as provided by [section 31-12-108 \(2\)](#) for notices of annexation petitions and resolutions initiating annexation proceedings.**

Not applicable.

(c) The duties of the annexation transition committee required by paragraph (b) of this subsection (1.1) shall be to:

(I) Serve as a means of communication between or among the annexing municipality, one or more counties within which the enclave is situated, and the persons who reside, operate a business, or own real property within the enclave regarding any public meetings on the proposed annexation; and

Not applicable.

(II) Provide a mechanism by which persons who reside, operate a business, or own real property within the enclave may communicate, whether by electronic mail, telephonic communication, regular mail, or public meetings, with the annexing municipality or any counties within which the enclave is situated regarding the proposed annexation.

Not applicable.

(2) (Deleted by amendment, L. 97, p. 995, § 2, effective May 27, 1997.)

(3) Annexation of unincorporated municipally owned land. When the municipality is the sole owner of the area that it desires to annex, which area is eligible for annexation in accordance with [section 30 \(1\) \(c\) of article II of the state constitution](#) and [sections 31-12-104 \(1\) \(a\)](#) and [31-12-105](#), the governing body may by ordinance annex said area to the municipality without notice and hearing as provided in [sections 31-12-108](#) and [31-12-109](#). The annexing ordinance shall state that the area proposed to be annexed is owned by the annexing municipality and is not solely a public street or right-of-way.

Not applicable.

(4) Additional terms and conditions on the annexation. Additional terms or conditions may be imposed by the governing body in accordance with [section 31-12-112](#).

Terms of annexation are enumerated in the Draft Annexation Agreements, found in [Attachment E](#), which constitutes memorandum of agreement voluntarily made between the City and the applicants consistent with section 31-12-112, C.R.S.

City of Boulder Annexation Policy

The Annexation of land must be consistent with the BVCP Policy 1.24 shown in ***bold italic***, with consistency of the proposed annexation following:

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

The property is currently served with a domestic water service. As a condition of annexation, any existing structures requiring the use of a waste disposal system shall be connected to the city's wastewater system in accordance with section 11-2-8, B.R.C. 1981 within 180 days of the second reading of the annexation ordinance or the existing structures must be demolished.

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. Applications made to the county for development of enclaves and Area II lands in lieu of annexation will be referred to the city for review and comment. The county will attach great weight to the city's response and may require that the landowner conform to one or more of the city's development standards so that any future annexation into the city will be consistent and compatible with the city's requirements.

The properties are considered to be an enclave (unincorporated area of land entirely contained within the outer boundary of the city) and have been an enclave for over three years. As such, annexation of the properties at 236 and 250 Pearl will follow the proceedings under state statute §31-12-106.1

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 property at 236 Pearl Street is substantially developed and allows for some additional residential units. The small triangular portion of the property located at 250 Pearl Street that is not yet annexed has no additional development potential. It is encumbered by Sunshine Canyon Creek and flood zones that prohibit any development on that triangular parcel.

d) In order to reduce the negative impacts of new development in the Boulder Valley, the city will annex Area II land with significant development or redevelopment potential only if the annexation provides a special opportunity or benefit to the city. For annexation considerations, emphasis will be given to the benefits achieved from the creation of permanently affordable housing. Provision of the following may also be considered a special opportunity or benefit: receiving sites for transferable development rights (TDRs), reduction of future employment projections, land and/or facilities for public purposes over and above that required by the city's land use regulations, environmental preservation, or other amenities determined by the city to be a special opportunity or benefit. Parcels that are proposed for annexation that are already developed and which are seeking no greater density or building size would not be required to assume and provide that same level of community benefit as vacant parcels unless and until such time as an application for greater development is submitted.

Not applicable, the site doesn't have significant development or redevelopment potential. The existing county zoning is Transitional that permits up to nine dwelling units per acre. Development on the property at 236 Pearl Street under existing county zoning would equate to two units; and under annexation and initial zoning of RMX-1, a minimum lot area of 6,000 square feet per dwelling unit equates to a maximum of two units on the property. Therefore, the site is not considered to have significant development potential

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.

Annexation of substantially developed properties with some additional residential units, as is the case with the

annexation of 236 Pearl St., need to demonstrate community benefit consistent with Boulder Valley Comprehensive Plan (BVCP) policies to offset the negative impacts of additional development in the Boulder Valley.

For proposed residential development, emphasis is given to the provision of permanently affordable housing. The policy for western edge properties with limited development potential is that each new dwelling unit contribute two times the cash-in-lieu required by the city's Inclusionary Housing Ordinance. Based on 2015 cash-in-lieu amounts, if the two units are attached each unit would be required to contribute an estimated \$37,323 (2 x \$18,661) based on 2015 cash-in-lieu amounts at the time of building permit issuance. Cash-in-lieu amounts in place when the building permit is issued will apply.

f) There will be no annexation of areas outside the boundaries of the Boulder Valley Planning Area, with the possible exception of annexation of acquired open space.

n/a: site is an enclave and within the boundaries of the Boulder Valley Planning Area.

g) Publicly owned property located in Area III and intended to remain in Area III may be annexed to the city if the property requires less than a full range of urban services or requires inclusion under city jurisdiction for health, welfare and safety reasons.

Not applicable, site is within Planning Area II defined as: are now under county jurisdiction, where annexation to the city can be considered consistent with policies 1.16; 1.18 & 1.24.

h) The Gunbarrel Subcommunity is unique because the majority of residents live in the unincorporated area and because of the shared jurisdiction for planning and service provision among the county, the city, the Gunbarrel Public Improvement District and other special districts. Although interest in voluntary annexation has been limited, the city and county continue to support the eventual annexation of Gunbarrel. If resident interest in annexation does occur in the future, the city and county will negotiate new terms of annexation with the residents.

Not applicable, site is not within Gunbarrel Subcommunity.

3. Is the proposed initial zoning of Residential Mixed – 1 (RMX-1) and Business-Transitional 2 (BT-2)?

The request for an initial zoning of RMX-1 intended for “a variety of single-family, duplexes and multi-family units” per the Land Use Code section 9-5-2(c)(1)(D), B.R.C. 1981 is considered consistent with the BVCP Land Use designation of Mixed Density Residential defined on page 66 of the BVCP as follows,

Additionally, in older downtown neighborhoods that were developed with single family homes but for a time were zoned for higher densities, a variety of housing types and densities are found within a single block. The city's goal is to preserve current neighborhood character and mix of housing types, and not exacerbate traffic and parking problems. Some new housing units may be added. The average density in the downtown neighborhoods designated mixed density is in the medium density range (six to 14 units per acre).”

The proposed duplex unit on the 236 Pearl St. site is in keeping with the definition of the Mixed Density Residential of the BVCP. The proposed duplex is well under the permitted maximum density of six to 14 units per acre and equates to just under two dwelling units per acre.

The initial BT-2 zoning intended for the small triangular (and unannexed) portion of the adjacent property at 250 Pearl Street is also consistent with the Business Transition land use defined in the BVCP on page 67 as, *“These are areas usually zoned for less intensive business uses than in the General Business areas, and often provide a transition to residential areas.”*

While this small portion of the adjacent property can't be utilized for development, the zoning of the site as BT-2 would be consistent with the rest of the property that is already annexed and zoned BT-2. That property has been operating as a business since 1953.

As can be understood from Figure 9 on the following page, the block in which the subject site is located has a varied built character owing to the Residential Mixed – 1 (RMX-1) zoning that surrounds the site. As can be seen, there are a variety of residential units including single family, duplex, and multi-family developments that has been constructed as larger site Planned Unit Developments in years past, along with office buildings that occur along both Pearl Street and Canyon Boulevard in proximity to the site. Adding to the diversity of the built character is the adjacent Business Transition – 2 (BT-2) zoning to the east of 236 Pearl that include an auto repair business, a heating and cooling service, and a self service car wash. Given the varied context and the intent to construct a duplex on the 236 Pearl site staff finds the proposed initial zoning would be consistent with the zoning and built context.

4. Are the requests for a reduced setback on the front and interior side lots proposed for 236 Pearl consistent with the BVCP Land Use and surrounding context?

Regarding the request for setback modifications thorough annexation, staff finds the proposed modifications to be consistent with the context as well. As can be seen in Figures 10 and 11, there is an existing anomaly with the very broad roadway right-of-way on Pearl Street in front of the site. The right of way is 100 feet, and while there's no clear understanding of why it developed with this broad width in this location and not further to the east, in comparison to other areas of town that are also zoned RMX-1 the typical roadway width with similar development character is 50 feet. The request to modify the front yard setback from 15 feet to 12.5 feet, based on the applicant's assessment of the average setback along this broad right of way is a logical request consistent with the BVCP policies. Not only has the existing broad right of way of 100 feet inherently set back development well behind the curb and walkway along this section of Pearl Street, a number of the surrounding residential developments have reduced setbacks through Site Review or PUD processes, as can be seen in Figure 12, found later in the document. Therefore, the reduced front yard setback would not be an anomaly or be out of character for the specific context.

With regard to the request for a zero interior lot line, the request to do so is based upon the applicant's desire to construct a duplex on the 236 Pearl Street site with each unit sitting on its own lot. This too is not atypical for the mixed residential context and is in keeping with the RMX-1 zoning intent for a "variety of single family, duplex and multi-family units.

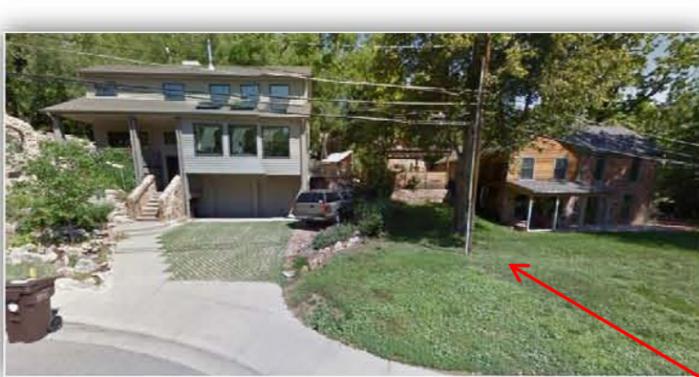


Figure 9: Surrounding Built Context



**Figures 10 (above) and 11 (below):
Comparison of 100 foot Right of Way in front of Site versus typical 50 foot right of way of the RMX-1 zoning district relative to a request for a reduced setback**

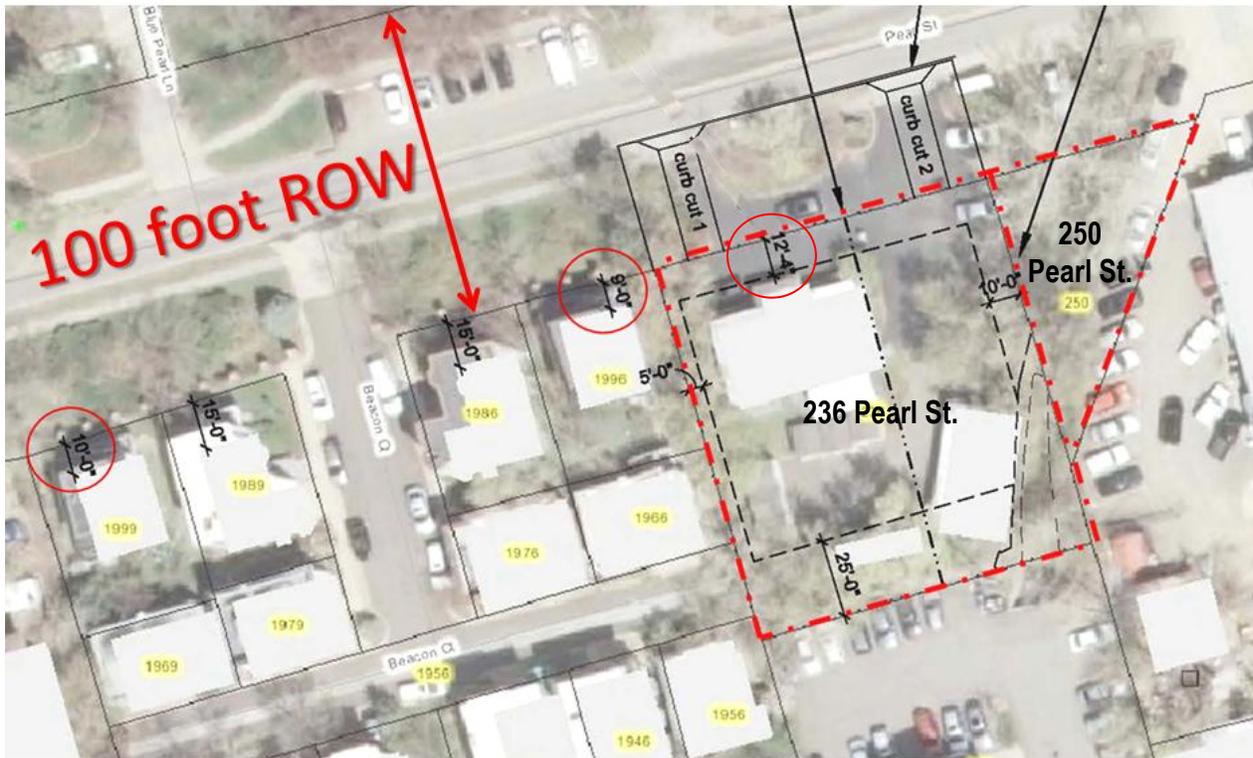


Figure 12: Requested Setback Modifications in Context

PUBLIC COMMENT AND PROCESS:

Required public notice was provided in the form of written notification mailed to all property owners within 600 feet of the subject property, after reinitiation of the proposed annexation application, and a sign posted on the property for at least 10 days. No public comment was received in response to the public notice. However, for the Annexation Feasibility Study, submitted prior to this application, staff received a number of emails that articulated concern about the location of Sunshine Canyon Creek within the properties under consideration for annexation. In the letters, attached herein as [Attachment D](#), neighbors indicated that the creek flooded significantly during the September 2013 floods. They asked that migrations be made as a part of this annexation. While no single property owner has the ability to control regional flooding on their property, upon redevelopment of the property the owners will need to demonstrate that historic flows generated on site will not impact adjacent property owners and that their development meets city engineering regulations that include stormwater management. Further, as a part of the annexation, the applicants will be required to dedicate flood control easements over that portion of the two properties encompassed within the conveyance zone, which will allow the city to be able to work within the drainage way in the future to provide flood mitigation and/or flood repairs.

STAFF FINDINGS AND RECOMMENDATION:

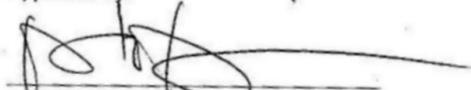
1. Staff finds the proposed annexation to be consistent with State statutes and city policy.
2. Staff finds the proposed annexation to be consistent with the BVCP.

3. Staff finds the application for initial zoning of 236 Pearl Street to Residential Mixed -1 (RMX-1); and that portion of 250 Pearl Street that is currently unannexed to an initial zoning of Business Transition – 2 (BT-2) are consistent with the Boulder Valley Comprehensive Plan land use designations of Mixed Density Residential and Transitional Business respectively and are compatible with surrounding properties.
4. Staff finds the requests for reduced setbacks on the front and interior side lots proposed for 236 Pearl consistent with the BVCP Land Use and surrounding context.

Therefore, staff recommends that Planning Board adopt the following Motion:

*Motion to recommend to City Council approval of the proposed annexation with initial zoning of Residential Mixed – 1 (RMX-1) and Business-Transitional – 2 (BT-2) pertaining to request No. LUR2015-00029, incorporating this staff memorandum as findings of fact, subject to the recommended conditions of approval for these annexations as provided for in the draft annexation agreements in **Attachment E**.*

Approved By:



David Driskell, Executive Director
Department of Community Planning and Sustainability

ATTACHMENTS:

- Attachment A: [City of Boulder Guidelines for Annexation Agreements](#)
- Attachment B: [Annexation Map](#)
- Attachment C: [Applicant's Annexation Petitions](#)
- Attachment D: [Correspondence Received During the Annexation Feasibility Application Review](#)
- Attachment E: [Draft Annexation Agreements](#)

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 "first 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 LR 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 "Blue 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.

Parcel Description

(PREPARED BY FLATIRONS, INC. FOR THE PURPOSE OF THIS ANNEXATION)

PORTIONS OF TRACTS OF LAND LOCATED IN THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH P.M., COMPRISED OF A PORTION OF A PARCEL AS DESCRIBED IN RECEPTION NO. 1254651, DATED JANUARY 6, 1993, AND A PORTION OF THAT PARCEL DESCRIBED IN RECEPTION NO. 1976518, DATED AUGUST 30, 1999, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 4, BEACON SQUARE, RECORDED IN BOULDER COUNTY AT RECEPTION NO. 324339, DATED FEBRUARY 23, 1979; THENCE N75°00'00"E, ALONG THE SOUTH RIGHT OF WAY LINE OF PEARL STREET, SAID POINT ALSO BEING THE SOUTH LINE OF ORDINANCE NO. 4808 DATED FEBRUARY 17, 1984, A DISTANCE OF 156.02 FEET TO THE CENTERLINE OF SUNSHINE CANYON CREEK; THENCE S17°42'35"W, ALONG SAID CENTERLINE, A DISTANCE OF 78.28 FEET TO A POINT ON THE EASTERLY LINE OF SAID RECEPTION NO. 1254651; THENCE S18°00'00"E, ALONG SAID EASTERLY LINE, A DISTANCE OF 57.12 TO THE SOUTHEAST CORNER THEREOF; THENCE S75°00'00"W, ALONG THE SOUTHERLY LINE OF SAID RECEPTION NO. 1254651, A DISTANCE OF 112.50 FEET TO THE SOUTHWEST CORNER THEREOF AND A POINT ON THE EAST LINE OF BEACON SQUARE; THENCE N16°00'00"W, ALONG THE EASTERLY LINE OF SAID BEACON SQUARE, A DISTANCE OF 123.10 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 15,282 SQ.FT. OR 0.35 ACRES, MORE OR LESS.

ANNEXATION MAP

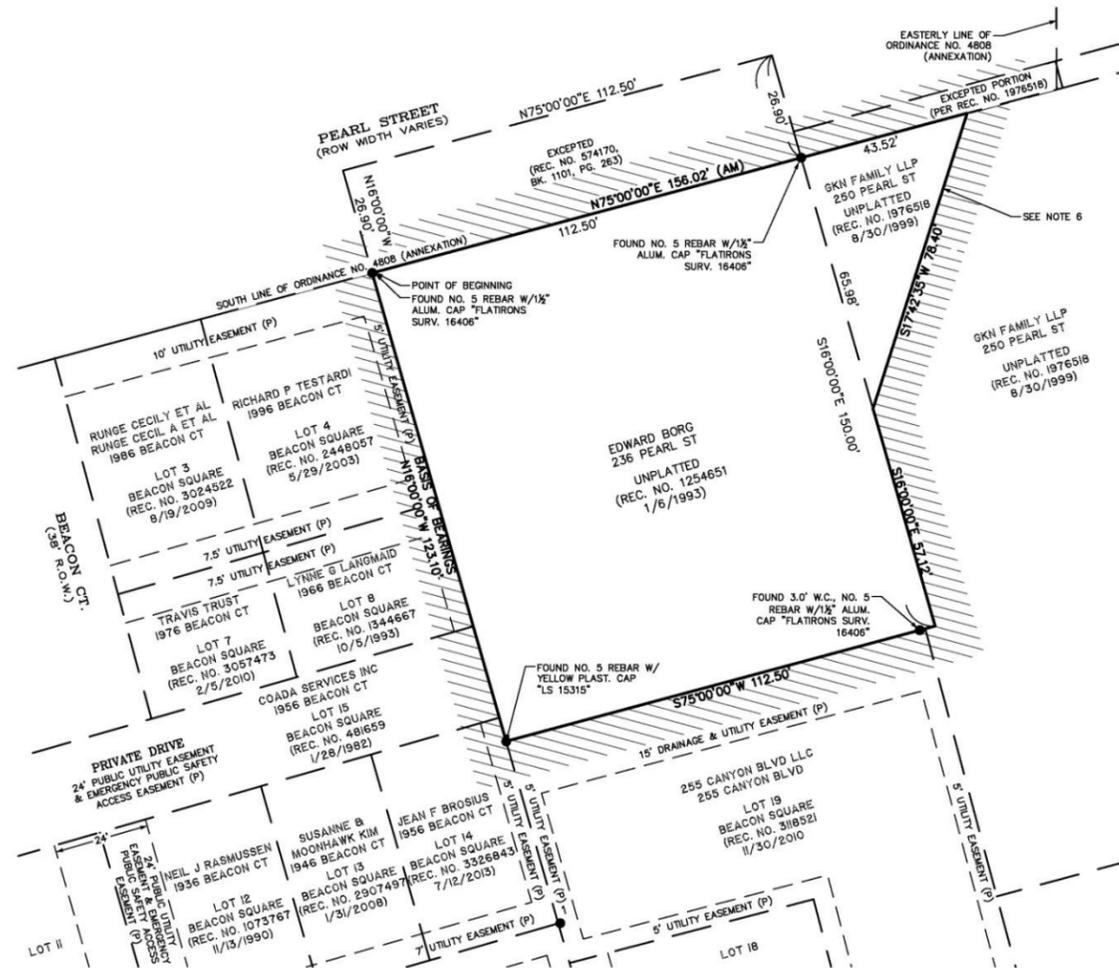
A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH P.M.,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 1

TOTAL AREA = 15,282 SQ FT, OR 0.35 ACRES, MORE OR LESS

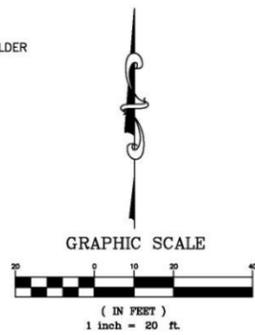


Vicinity Map
SCALE: 1" = 300'



Legend

- CURRENT LIMITS OF THE CITY OF BOULDER
- (P) PER BEACON SQUARE SUBDIVISION



Notes

1. HERITAGE TITLE COMPANY COMMITMENT NO. 451-H0420331-043-DF2, DATED DECEMBER 18, 2014 WAS RELIED UPON FOR RECORDING INFORMATION REGARDING DESCRIPTION OF SUBJECT PARCEL.
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.
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.
6. THE CONTIGUOUS LIMITS TO THE CITY OF BOULDER ARE BASED ON THE RECORDED DESCRIPTION AND THE FIELD LOCATED CENTERLINE OF SUNSHINE CANYON CREEK. THE CENTERLINE OF SUNSHINE CANYON CREEK APPEARS TO BE THE INTENDED LIMITS OF ADJOINING ANNEXATION BASED ON HISTORICAL RECORD.

Contiguity

TOTAL PERIMETER.....527.14'
1/6TH PERIMETER.....87.86'
CONTIGUOUS TO CITY LIMITS.....527.14'

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 APRIL 30, 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 - REQUESTED PER CLIENT REQUEST	4/27/15 ED

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 80501 BOULDER, CO 80301 DENVER, CO 80205
PH: (303) 776-1733 PH: (303) 443-7001 PH: (303) 936-6887
FAX: (303) 776-4355 FAX: (303) 443-8630 PH: (303) 936-6887



JOB NUMBER: 15-64,927
DATE: 3-11-2015
DRAWN BY: E. DAVIS
CHECKED BY: ETB/JZG/SB/JK
SHEET 1 OF 1

BY:EDAVIS FILE:64927-ANNEX (C15).DWG DATE:5/1/2015 8:28 AM

CITY OF BOULDER
CITY ATTORNEY'S OFFICE
CENTRAL RECORDS

ANNEXATION PETITION
Submit with your application.

2015 JUN 10 AM 8:44

Annexation Information

Location of property to be annexed: 236 Pearl Street

Legal Description: Tread 23A D 25 IN 7E Book 101 1 Page 269 BCR

Size of property: 13,549 sq / 0.32 acres Requested Zoning: RMX-1

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:

- Boulder Valley School District
- Left Hand Water District
- St. Vrain School District
- Other (list) _____
- Boulder Rural fire District _____
- Cherryvale Fire District _____

Property Owners

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

1. Ed Borg
2. _____
3. _____
4. _____

Submit with your application.

TO THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, GREETINGS:

The undersigned hereby petition(s) the city of Boulder to annex to the city of Boulder the territory shown on the map(s) attached hereto and described on the attachment hereto:

This Petition is signed by landowners qualified to sign. It is intended that this Petition be a one hundred percent (100%) petition for annexation as described in C.R.S. 1973, Section 31-12-107(l)(g), (as amended).

In support of this petition, the undersigned state(s) and allege(s) as follows, to wit:

1. That it is desirable and necessary that the above described territory be annexed to the city of Boulder.
2. That petitioners are landowners of one hundred percent (100%) of the territory, excluding streets and alleys, herein proposed for annexation to the city of Boulder.
3. That no less than one-sixth of the aggregate external boundaries of the above described territory hereby petitioned to the city of Boulder is contiguous to the city limits of the city of Boulder.
4. That a community of interest exists between the above described territory and the city of Boulder, And that the same is urban, or will be urbanized in the near future, and further that the said territory is integrated or is capable of being integrated in the city of Boulder.
5. That in establishing the boundaries of the above described territory, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowner or landowners thereof, except and unless such tracts or parcels are already separated by a dedicated street, road or other public way.
6. That in establishing the boundaries of the above described territory, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate comprising twenty acres or more which, together with the buildings and improvements situate thereon, have an assessed valuation in excess of \$200,000 for ad valorem tax purposes for the year next preceding the filing of the within petition for annexation, has been included within the above.
7. That the above described territory does not include any area which is the same or substantially the same area in which an election for an annexation to the city of Boulder was held within the twelve months preceding the filing of this petition.
8. That the above described territory does not include any area included in another annexation proceeding involving a city other than the city of Boulder.

9. That at least four copies of an annexation map setting forth with reasonable certainty a written legal description of the boundaries of the area proposed to be annexed, a delineation of the outer boundaries of the above described territory, and the location of each ownership, tract and/or the boundaries and the plat numbers of plats and lots and blocks, the portion of the boundary contiguous with the existing city limits of the city of Boulder, and the dimensions of said contiguous boundary, all upon a material and of a size suitable for recording or filing with the City Clerk of the city of Boulder, and the dimensions of said contiguous boundary, all upon a material and of a size suitable for recording or filing with the City Clerk of the city of Boulder, accompany, have been attached hereto and hereby constitute a part of this petition.
10. That the above described territory is not presently a part of any incorporated city, city and county, or town.
11. That the above area described will (not) result in the detachment of area from any school district and the attachment of the same to another school district (and the resolution of school board of the district to which the area will be attached approving this annexation request).

CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

STEPHEN SPARN

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.

STEPHEN SPARN
Circulator

Subscribed and sworn to before me this 3rd day of June, A.D. 2015.

Witness my hand and official seal. My commission expires: 3-30-18.



Vida J Clifton
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: _____.

Notary Public

ANNEXATION PETITION 2015 JUN 10 AM 8:44
Submit with your application.

Annexation Information

Location of property to be annexed: 250 Pearl St.
Legal Description: Attached
Size of property: 15,282 sq ft or 0.35 acres Requested Zoning: BT-2

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):

- GKN Family LLP, Nancy L. Vinson, Partner
- GKN Family LLP, Karen S. Klenzendorf, Partner
- _____
- _____

CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

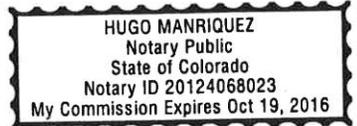
Nancy L. Vinson

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.

Nancy L. Vinson, Partner GKN Family LLP
Nancy L. Vinson, Partner
Circulator GKN Family LLP

Subscribed and sworn to before me this 2nd day of June, A.D. 20 15.

Witness my hand and official seal. My commission expires: Oct 19, 2016.



[Signature]
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: _____.

Notary Public

From: [REDACTED]
Sent: Tuesday, March 10, 2015 5:10 AM
To: McLaughlin, Elaine
Subject: Redevelopment of 236 Pearl

Hi Elaine,

I hope you are well. I know that Neil Rasmussen, who is the HOA president at Beacon Square, recently discussed with you his concerns regarding water management and flood issues arising from the drainage ditch that borders the east side of the proposed redevelopment site at 236 Pearl. I am the owner of 1999 Beacon Court, and I want to also weigh in that I am concerned about this issue, as are others in our community.

I have personally experienced elsewhere how new development can alter storm water flows to the severe detriment of those in adjacent properties. I would like to not only be assured that the developer's plan for 236 Pearl would not exacerbate an already tenuous situation with respect to the storm water management there, but would appreciate it if their storm water management plan might also include some mitigation efforts to alleviate an troublesome issue that already exists.

Simply stated, storm water should not be permitted to pass across their property onto ours. Thanks for your attention to this concern.

Regards,
Dave

Dave Terzian
1999 Beacon Ct
301-325-8777

From: [REDACTED]
Sent: Monday, March 09, 2015 9:12 PM
To: McLaughlin, Elaine
Subject: Re: 236 Pearl St. and the flood...

(somehow the first line of the e-mail seems to have been made blank initially, sorry, here it is again.)

Neil Rasmussen suggested I contact you with another perspective on the property at 236 Pearl St and the flood, and how many houses on Beacon Ct narrowly escaped significant damage from runoff. Hopefully with the new development plans we can do something to mitigate the possibility of something like this happening in the future.

Basically, the ditch to the east of 236 Pearl St (shown in green, **see image below**) **breached the culvert under Pearl St** (red/blue star) and **came over the road instead**. This brought much of the water on Pearl St itself, **west of the ditch**, directly into the parking lot of 236 Pearl St (red/blue arrows). From there it **continued west** in the parking lot, over the property line of Beacon Square, and **entered into the east end of Beacon Ct itself**, where it quickly overwhelmed our small storm drain (green/blue circle), and within an hour, brought Beacon Ct to a depth of 2 feet of runoff, and still rising, just at the entrances to most garages and lower levels.

Note that before the runoff from 236 Pearl St began to enter Beacon Ct, our small storm drain was doing

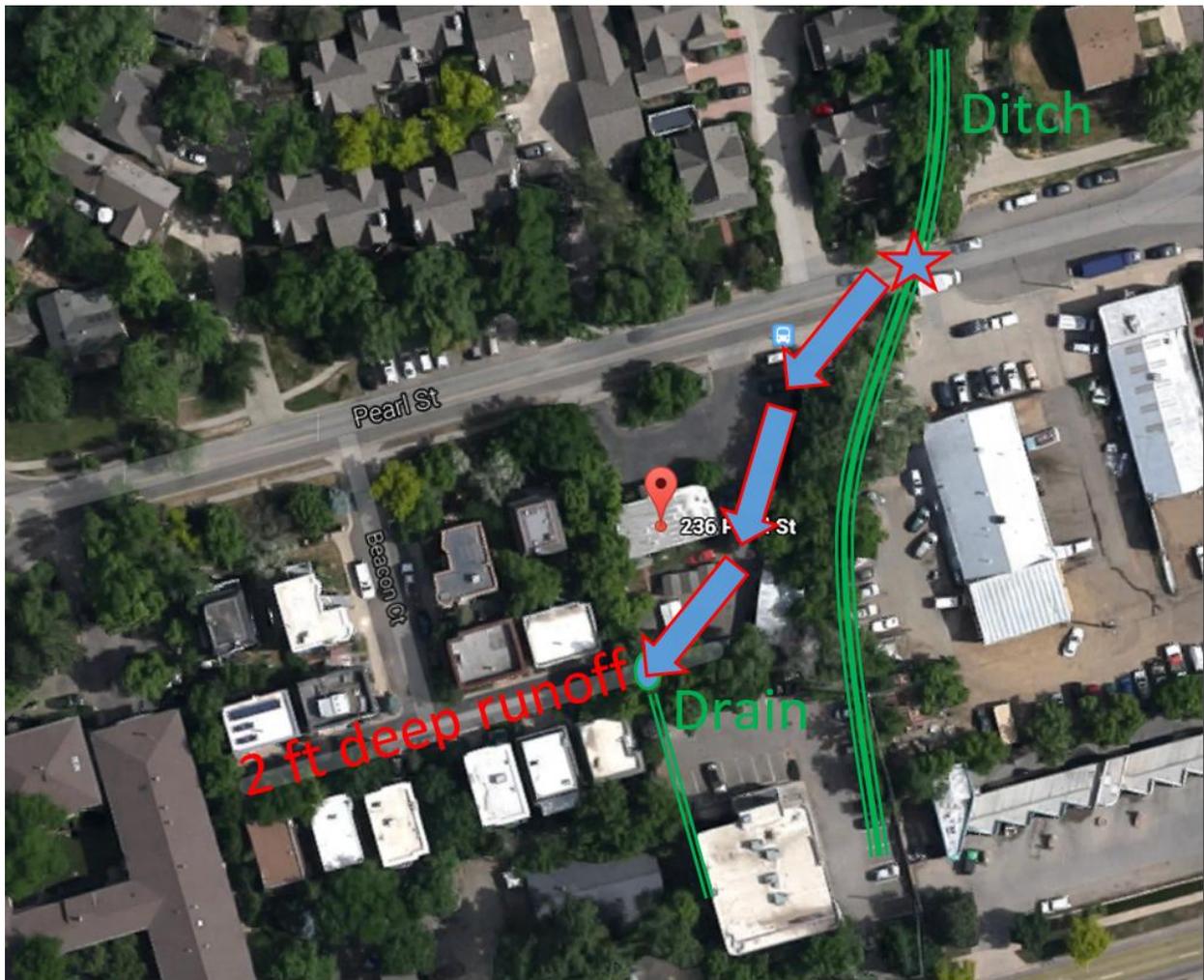
just fine keeping up with water coming down the “T” of Beacon Ct, and falling on the property itself.

As Beacon Ct succumbed to the runoff, a number of folks were able to quickly divert the water **back into the ditch** from the northern part of the parking lot of 236 Pearl St, and then the 2 feet of water in Beacon Ct immediately started receding. Had folks not been so quick, I expect many of the houses in Beacon Ct would have experienced significant damage.

Given the nature of the small storm drain in Beacon Ct, it seems prudent to have either a retaining wall between 236 Pearl St and Beacon Ct, or some kind of retaining wall to catch water that comes over the road when the culvert under Pearl St is breached (though as the red/blue arrows show, this was significantly west of the ditch, due to the slope of Pearl St in the area, so this water might be hard to catch). In addition, it would be ideal if the city could keep the culvert under Pearl St free from overgrowth and clear of debris, to aid in routing water under the road, rather than above it.

Thank you.

Rich Testardi
1996 Beacon Ct



From: [REDACTED]
Sent: Monday, March 09, 2015 6:44 PM
To: McLaughlin, Elaine; Bruce Schwartz
Subject: Annexation and Redevelopment of 236 Pearl

Hi Elaine, I'd like to echo my neighbor Neil's concerns. I have a house at 1939 Beacon Court next door to Neil. Water from that ditch did come into my garage.

b

From Neil Rasmussen on March 9th 2015.

Hi Elaine,

thanks for the brief chat this morning about the Annexation Feasibility Study re 236 Pearl St

as we discussed, that property is adjacent and due east of a group of 14 homes on Beacon Court that includes my home and those of my neighbors

i'd like to put forth some comments related to the potential redevelopment of that property in the context of the flood event we had here back in Sept 2013

there's a drainage ditch just to the east of 236 Pearl that overflowed badly onto that property, and the lay of the land there is such that it slopes downward to the west and spilled massive amounts of water onto Beacon Ct

in addition to the water falling from the sky, and the water that flowed down our street from Pearl St itself, the additional massive flow of water from that drainage ditch (that is adjacent to and maybe part of 236 Pearl) totally overwhelmed our single drain on Beacon Ct, such that our street was inundated with almost two feet of water

in my case, and some of my neighbors, the water crept up my driveway and into my garage, and fortunately stopped about a foot short of the entry door into my house (at the back of the garage) - very lucky !

in the event of a recurrence of that type of rainfall, doubtful as it may seem, i'd like to ask if some steps toward mitigation might be undertaken by the developers of 236 Pearl, specifically either 1) building a 3 foot high cement retaining wall on the west and south boundaries of 236 Pearl so that water would not flow into our street and overwhelm the capacity of our drainage sewer, or 2) building a retaining wall on the west side of the drainage ditch, which would be on the east side of 236 Pearl, thus preventing water from the ditch from flowing onto 236 Pearl, and subsequently into Beacon Ct

i look forward to discussing this in more detail and even "walking" the property with you to better explain the situation here

thank you,
Neil Rasmussen
1936 Beacon Ct
[303-440-4248](tel:303-440-4248)

From: [REDACTED]
Sent: Monday, March 09, 2015 5:43 PM
To: McLaughlin, Elaine
Subject: Flood mitigation for Annexation Feasibility Study re 236 Pearl St

Ms. McLaughlin,
I would like to second the request that Neil Rasmussen described for the 236 Pearl Street property. Some sort of flood control re-grading would probably be required for the proposed structures anyway, but that work should be designed to also fix the overflow to the Beacon Court properties.

Thanks for your consideration.

Ernest Mark
1949 Beacon ct.

--
Ernest Mark

From : [REDACTED] Mon, Mar 02, 2015 07:23 AM
Subject : 236 Pearl
To : Elaine McLaughlin <mclaughlin@bouldercolorado.gov>

Elaine McLaughlin,

My wife, Karen Cassidy and I live at 293 Pearl Street where the Eastern property line is the Sunshine Creek.

Is the Eastern property line of Project Name 236 Pearl as shown on the "City of Boulder Vicinity Map", been verified by a survey to create a property line associated with Sunshine Creek as it is today (2014/15)?

Our concern is that the owner of the property protects Sunshine Creek by not encroaching into the creek with new construction.

Some thoughts relative to the creek:

There was major flood damage to 4 homes in the Blue Pearl Lane across from 236 Pearl Street.

We are aware, at times the water gate is opened to Sunshine Creek to allow a small flow of water in the creek. Maybe the water gate was opened during the "Boulder Flood". Water flowed over the culvert which goes under Pearl Street. The culvert, in the past has been used as a "living place" by the "street people". They left items in the culvert that blocked the flow of water. The flood deposited "earth" into the culvert similar to the earth deposited in the Knollwood tennis courts.

The City of Boulder encourages citizens call 911 to report anything that may cause a major restriction to the flow of water. The city responded immediately to remove a mattress just North of the culvert.

Also, we do have an interest in the height of the buildings which will be address later.

Gerald A. Gayer
Karen J. Cassidy
293 Pearl Street
Boulder, CO 80301
[REDACTED]
303-247-9177

For Administrative Use Only
Development Name: 236 Pearl
Owners: William L. and Carole F. Cassio
Case No.: LUR2015-00029

ANNEXATION AGREEMENT

This Annexation Agreement (“Agreement”), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city, hereinafter referred to as “City,” and William L. and Carole F. Cassio hereinafter referred to as “Applicants.” The City and the Applicant 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 Applicant is the owner of the real property generally described as 236 Pearl and more particularly described on Exhibit A, which real property shall hereinafter be referred to as the “Property.”
- B. The Applicant is 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 Mixed - 1 (RMX-1)” is consistent with the Boulder Valley Comprehensive Plan.
- D. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant 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. Requirements Prior to First Reading of the Annexation Ordinance. Prior to first reading of the annexation ordinance before City Council, the Applicant shall do the following:
 - a. Annexation Agreement. The Applicant will sign this Agreement.
 - b. Title Work. The Applicant 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 the Property, if any.
 - d. Payment of Fees. Pay the following fees:

Storm Water and Flood Management PIF	\$15,515.00
Housing Excise Tax	<u>\$ 632.40</u>
Total	\$16,147.40
 - e. Northern Colorado Water Conservancy District (“NCWCD”). Sign and file an application, and pay the applicable fees, for inclusion in the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District.
 - f. Easement Dedication. To the extent the Property is located within 20 feet from the centerline of Sunshine Canyon Creek, the Applicants shall dedicate to the City, at no cost, a flood control easement from 20 feet on either side of the centerline of Sunshine Canyon Creek in the form generally as shown on the attached Exhibit B.
2. Sewer Connection Requirement. Within 180 days of the effective date of the annexation ordinance, any existing structure on the Property that requires the use of a waste disposal system shall be demolished or connected with the wastewater utility of the City. The City Manager may, in her discretion, approve a different time for demolition of said structures or connection to the wastewater utility provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension. Prior to connection to the City’s wastewater utility, the Applicant shall perform the following:
- a. Submit an application that meets the requirements of Chapter 11-2, “Wastewater Utility” B.R.C. 1981 and obtain City approval to connect to the City’s wastewater utility main:
 - b. Pay applicable fees and charges associated with a service line connection to the wastewater utility main, including fees associated with right of way and wastewater permits, inspection fees, installation fees, tap fees, and the wastewater plant investment fees associated with the Property.
 - c. Construct the individual service line and connect any existing structures requiring a waste disposal system to the City’s wastewater utility main.
 - d. Upon connection to the City’s wastewater utility or demolition of existing structures requiring a waste disposal system, the Applicant shall abandon the existing septic system in accordance with Boulder County Health Department and State of Colorado regulations.

Any new structures requiring a waste disposal system and any dwelling units constructed on the Property shall be connected to the City’s waste water utility.

3. Requirements Prior to Building Permit:
 - a. Prior to an application for any building permit, other than a demolition permit, the Applicant shall do the following if the Property is all one parcel:
 - i. Remove the multiple curb-cuts serving the Property and construct a new single (shared) curb-cut meeting the access design, spacing and driveway requirements found in Section 2.04 of the City of Boulder Design and Construction Standards and subject to approval by the City Manager.
 - ii. Remove the existing curb-and-gutter and attached sidewalk along Pearl Street and construct new curb-and-gutter and a 5- foot wide detached sidewalk with an 8-foot wide landscape strip along Pearl Street.
 - b. Prior to an application for any building permit, other than a demolition permit, the Applicant shall do the following if the Property has been subdivided into two lots:
 - i. Remove the multiple curb-cuts serving the Property and construct a new curb-cut for each lot meeting the access design, spacing and driveway requirements found in Section 2.04 of the City of Boulder Design and Construction Standards and subject to approval by the City Manager.
 - ii. Remove the existing curb-and-gutter and detached sidewalk along Pearl Street and construct new curb-and-gutter and a 5- foot wide detached sidewalk with an 8-foot wide landscape strip along Pearl Street.
4. Existing Nonstandard Buildings and/or Nonconforming Uses. 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 1.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.
5. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

6. 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.
7. Setback Modifications. If the Applicant subdivides the Property into two lots, then the Parties agree, subject to the terms of the Subdivision Agreement, to allow development of the Property consistent with the following standards:
 - a. Construction of two attached dwelling units across the shared lot line of the two lots on the Property, each unit being located on its own lot with a zero side yard setback to the interior lot line that is shared with the lot of the adjoining unit provided that each unit is separated from the adjoining unit by a wall extending from the foundation through the roof which is structurally independent of the corresponding wall of the adjoining unit. This Agreement does not waive any requirements of Title 10, Structures, B.R.C. 1981;
 - b. A minimum five-foot side yard setback from the western lot line of the most-western of the two lots;
 - c. A minimum ten-foot side yard setback from the eastern lot line of the most-eastern of the two lot; and
 - d. A minimum 12.5-foot front yard landscaped setback.
8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.
9. Waiver of Vested Rights. The Applicant waives any statutory vested rights that may have accrued under County jurisdiction. The Applicant acknowledges that nothing contained 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.
10. Zoning. The Property shall be annexed to the City with an initial zoning classification of Residential Mixed - 1 (RMX-1), and, except as set forth herein, shall be subject to all of the rights and restrictions associated with that zoning.
11. Cash-in-lieu of Providing Permanently Affordable Housing. At the time of annexation, no dwelling unit exists on the Property. For each dwelling unit developed on the Property that is not deed-restricted as a permanently affordable residence consistent with the requirements of Chapter 9-13, B.R.C., 1981, an amount equal to twice the applicable cash-in-lieu amount per Chapter 9-13, B.R.C., 1981 shall be paid to the City. This amount is payable prior to application for a building permit for the new dwelling unit.
12. Breach of Agreement. In the event that the Applicant breaches or fails to perform any required action or fails to pay any fee specified under this Agreement or

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

[SEAL]

Notary Public

CITY OF BOULDER, COLORADO

By:_____
Jane M. Brautigam, City Manager

ATTEST:

City Clerk

Approved as to form:

City Attorney's Office

Date: _____

EXHIBITS

Exhibit A Legal Description
Exhibit B Flood Control Easement

**EXHIBIT A
TO ANNEXATION AGREEMENT**

Legal Description

A tract of land located in the Southeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of Section 25, Township 1 North, Range 71 West of the 6th P.M., County of Boulder, State of Colorado, described as follows:

Beginning at a point North 15° West, 20.00 feet and South 75° West, 278.00 feet from the Northwest corner of Lot 6 in Block 58 in West Boulder, now a part of the City of Boulder; thence South 75° West 112.5 feet; thence South 16° East 150.00 feet; thence North 75° East 112.5 feet; thence North 16° West 150.00 feet to the POINT OF BEGINNING.

**EXHIBIT B
TO ANNEXATION AGREEMENT**

For Administrative Purposes Only
Property Address: 236 Pearl Street
Grantor: Willam L. and Carole F. Cassio
Grantee: City of Boulder, Colorado
Case#: LUR2015-00029

GRANT OF FLOOD CONTROL EASEMENT

WILLIAM L. AND CAROLE F. CASSIO (“Grantor”), whose address is 236 Pearl Street, Boulder, CO, 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, 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

Grantor, for himself and for his heirs, successors, agents, lessees, and assigns, does hereby covenant and agree that no permanent structure or improvement shall be placed on said easement by himself or his heirs, successors or assigns, and that said use of such easement shall not otherwise be obstructed or interfered with.

Grantor warrants his 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, his heirs, agents, lessees and assigns, and all other successors to him 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.

GRANTOR:

By: _____
William L. Cassio

By: _____
Carole F. Cassio

EXHIBIT A TO FLOOD CONTROL EASEMENT

Legal Description

EXHIBIT "A"

AN EASEMENT FOR FLOOD CONTROL PURPOSES OVER AND ACROSS A PORTION OF LAND,
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 2

AN EASEMENT FOR FLOOD CONTROL PURPOSES OVER AND ACROSS A PORTION OF LAND,
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 71 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE SOUTH LINE OF AN EXCEPTED PORTION OF LAND AS DESCRIBED IN THE
RECORDS OF BOULDER COUNTY AT RECEPTION NO. 574170 ON MAY 3, 1956 TO BEAR
N75°00'00"E, A DISTANCE OF 112.50 FEET BETWEEN FOUND NO. 5 REBARS WITH 1 1/2"
ALUMINUM CAPS, MARKED "FLATIRONS SURV, 16406", WITH ALL BEARINGS CONTAINED HEREIN
RELATIVE THERETO.

COMMENCING AT THE SOUTHEAST CORNER OF SAID EXCEPTED PORTION, SAID POINT ALSO
BEING ON THE EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN THE RECORDS OF
BOULDER COUNTY AT RECEPTION NO. 1254651 ON JANUARY 6, 1993; THENCE S16°00'00"E,
ALONG SAID EASTERLY LINE, A DISTANCE OF 31.26 FEET TO THE POINT OF BEGINNING;
THENCE S16°00'00"E, CONTINUING ALONG SAID EASTERLY LINE, A DISTANCE OF 91.84 FEET
TO THE SOUTHEAST CORNER OF SAID PARCEL; THENCE S75°00'00"W, ALONG THE SOUTHERLY
LINE OF SAID PARCEL, A DISTANCE OF 37.86 FEET; THENCE N04°08'48"W, A DISTANCE OF
15.76 FEET; THENCE N03°59'44"E, A DISTANCE OF 18.10 FEET; THENCE N19°09'55"E, A
DISTANCE OF 33.62 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 2,172 SQ.FT. OR 0.05 ACRES, MORE OR LESS.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY
STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND
ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY
RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO
REPRESENT A MONUMENTED LAND OR TO DIVIDE OR SUBDIVIDE LAND IN VIOLATION OF STATE
STATUTE.



JOHN B. GUYTON
COLORADO P.L.S. #16406 FSI JOB NO. 15-65,959
CHAIRMAN/CEO, FLATIRONS, INC.

JOB NUMBER: 15-65,959
DRAWN BY: E. DAVIS
DATE: JULY 2, 2015

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.

Flatirons, Inc.
Surveying, Engineering & Geomatics
655 FOURTH AVE
LONGMONT, CO 80501
PH: (303) 776-1733
FAX: (303) 776-4355
www.FlatironsInc.com

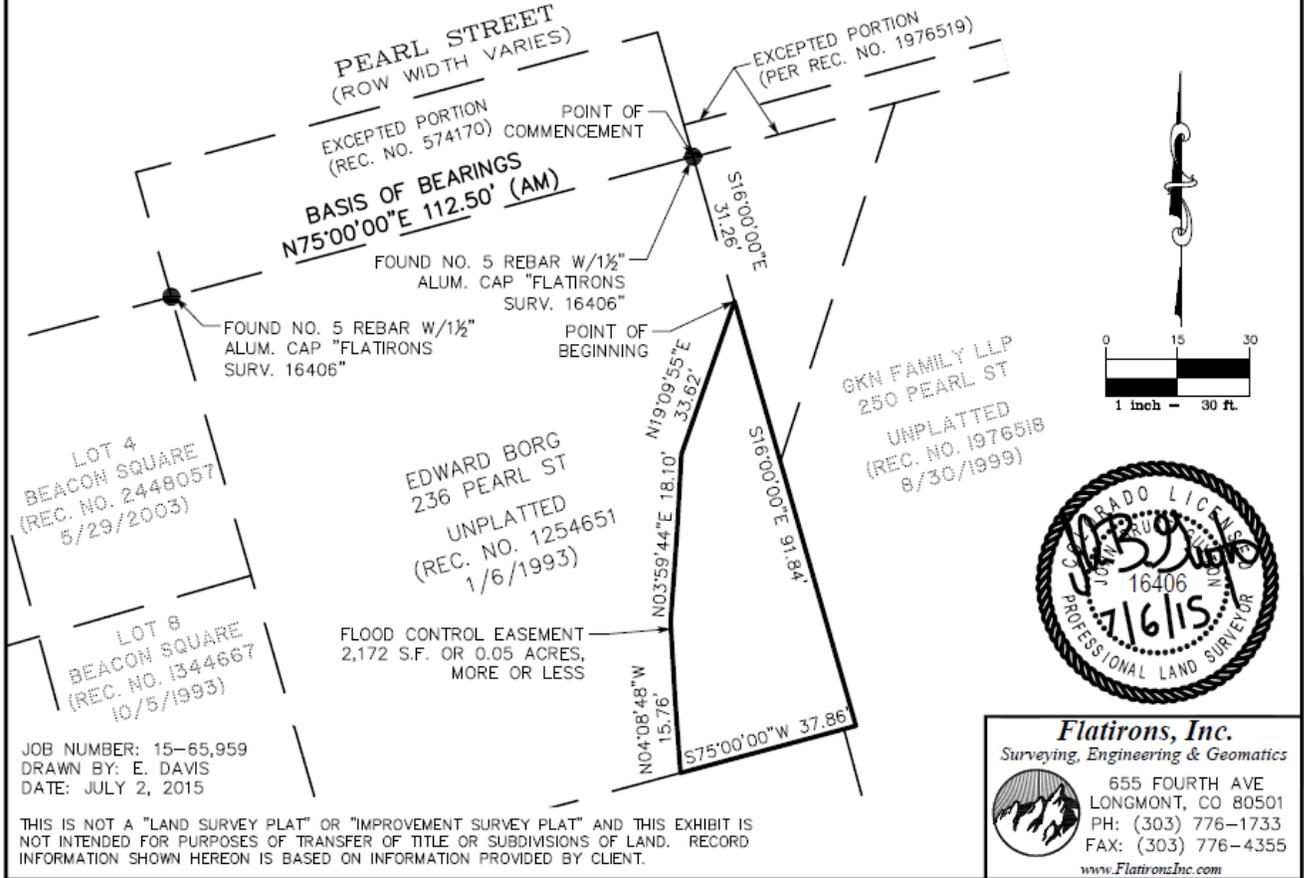
The logo for Flatirons, Inc. features a stylized mountain range with three peaks, enclosed within a circular border.

BY: E.DAVIS FILE: 65959-EASEMENT (C15).DWG DATE: 7/6/2015 1:44 PM

EXHIBIT "A"

A PORTION OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2



JOB NUMBER: 15-65,959
DRAWN BY: E. DAVIS
DATE: JULY 2, 2015

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.

BY:EDAVIS FILE:65959-EASEMENT (C15).DWG DATE:7/6/2015 1:44 PM

ANNEXATION AGREEMENT

This Agreement, made this ____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city, hereinafter referred to as “City,” and GKN Family LLP, a Colorado limited liability partnership, hereinafter referred to as “Applicant.” The City and the Applicant 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 Applicant is the owner of the real property generally described as 250 Pearl Street and more particularly described on Exhibit A, which real property shall hereinafter be referred to as the “Property.”

B. The Applicant is interested in obtaining approval from the City of a request for the annexation of the Property in order to provide adequate urban services, particularly City water and sewer.

C. The parties anticipate that annexation with an initial zoning designation of “Business - Transitional 2” is consistent with the Boulder Valley Comprehensive Plan.

D. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant 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:

15. Requirements. Prior to first reading of the annexation ordinance before City Council, the Applicant shall:
 - a. Annexation Agreement. The Applicant will sign this Agreement.
 - b. Title Work. The Applicant will provide the City with title work current to within 30 days of signing this agreement.

- c. Northern Colorado Water Conservancy District (“NCWCD”). The Applicant will sign and file an application for inclusion in the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District for the Property described on Exhibit B.
 - d. Easement Dedication. The Applicant shall dedicate to the City, at no cost, a flood control easement over the Property in the form generally as shown on the attached Exhibit C.
16. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.
 17. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.
 18. Waiver of Vested Rights. The Applicant waives any statutory vested rights that may have accrued under County jurisdiction. The Applicant acknowledges that nothing contained 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.
 19. Zoning. The Property shall be annexed to the City with an initial zoning classification of Business - Transitional 2 (BT-2), and, except as set forth herein, shall be subject to all of the rights and restrictions associated with that zoning.
 20. Breach of Agreement. In the event that the Applicant breaches or fails 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 Applicant acknowledges 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 Applicant fails 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 Applicant agrees 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 Applicant and collect its costs in the manner herein provided. The Applicant agrees to waive any rights he may have under Section 31-20-105, C.R.S., based on the City’s lack of an enabling ordinance authorizing the collection of this specific debt or acknowledges that the adopting of the annexation ordinance is such enabling ordinance.

COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, Karen S. Klenzendorf, Partner of GKN Family LLP.

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

[SEAL]

Notary Public
CITY OF BOULDER, COLORADO

By:

Jane M. Brautigam, City

Manager

ATTEST:

City Clerk

Approved as to form:

City Attorney's Office

Date: _____

EXHIBITS

- Exhibit A Legal Description of Property to be annexed
- Exhibit B Legal Description of entire property known as 250 Pearl
- Exhibit C Flood Control Easement

EXHIBIT A TO ANNEXATION AGREEMENT

Legal Description (Tract 237 – Northwest Portion of 250 Pearl)

Beginning at the northwest corner of said parcel recorded as Reception No. 1976518; thence S. 16° East, a distance of 65.85 feet; thence North 17° 42'35" East, 78.28 feet; thence South 74° 57'30" West, 43.43 feet to the point of beginning,

County of Boulder,
State of Colorado

EXHIBIT B TO ANNEXATION AGREEMENT

Legal Description (250 Pearl)

Beginning at the Northwest corner of Lot six (6), Block fifty-eight (58) West Boulder, now a part of the City of Boulder, according to the recorded plat thereof; thence South 75° West a distance of 117.05 feet to the True Point of Beginning; thence South 75° West a distance of 160.95 feet; thence South 15° East a distance of 200 feet; thence North 75° East a distance of 228 feet; thence North 15° West a distance of 50 feet; thence South 75° West a distance of 67.05 feet; thence North 15° West a distance of 150 feet to the True Point of Beginning; EXCEPT the following described tract; Beginning at a point from which the Northwest corner of Block fifty-eight (58) of West Boulder, an addition to the City of Boulder, according to the recorded plat thereof, bears North 74°57'30" East a distance of 278.0 feet; thence South 15°02'30" East a distance of 7.0 feet; thence North 74°57'30" East a distance of 69.0 feet; thence North 15°02'30" West a distance of 7.0 feet; thence South 74°57'30" East a distance of 69.0 feet, more or less, to the point of beginning, County of Boulder, State of Colorado,

EXHIBIT C

For Administrative Purposes Only
Property Address: 250 Pearl Street
Grantor: GKN Family Partnership LLP
Grantee: City of Boulder, Colorado
Case#: LRU2015-00029

GRANT OF FLOOD CONTROL EASEMENT

GKN FAMILY PARTNERSHIP LLP, a Colorado limited liability partnership, a/k/a GKN FAMILY LLP, a Colorado limited liability partnership (“Grantor”), whose address is 1305 Drexel St, Boulder, CO, 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, 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

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.

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 _____, 2015.

GRANTOR:

GKN FAMILY PARTNERSHIP LLP, a Colorado limited liability partnership,
a/k/a GKN FAMILY LLP, a Colorado limited liability partnership

By: _____
Nancy L. Vinson, Partner

STATE OF COLORADO)

COUNTY OF BOULDER)
)ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Nancy L. Vinson, Partner, GKN Family Partnership LLP.

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

Notary Public

By: _____
Karen S. Klenzendorf, Partner

STATE OF _____)
)ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Karen S. Klenzendorf, Partner, GKN Family Partnership LLP.

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

Notary Public

EXHIBIT A TO FLOOD CONTROL EASEMENT

EXHIBIT "A"

AN EASEMENT FOR FLOOD CONTROL PURPOSES OVER AND ACROSS A PORTION OF LAND,
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT FOR FLOOD CONTROL PURPOSES OVER AND ACROSS A PORTION OF LAND,
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 1 NORTH, RANGE 71 WEST
OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE
PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE SOUTH LINE OF AN EXCEPTED PORTION OF LAND AS DESCRIBED IN THE
RECORDS OF BOULDER COUNTY AT RECEPTION NO. 574170 ON MAY 3, 1956 TO BEAR
N75°00'00"E, A DISTANCE OF 112.50 FEET BETWEEN FOUND NO. 5 REBARS WITH 1 1/2"
ALUMINUM CAPS, MARKED "FLATIRONS SURV, 16406", WITH ALL BEARINGS CONTAINED HEREIN
RELATIVE THERETO.

BEGINNING AT THE SOUTHWEST CORNER OF AN EXCEPTED PORTION OF LAND AS DESCRIBED
IN THE RECORDS OF BOULDER COUNTY AT RECEPTION NO. 1976519 ON AUGUST 30, 1999;
THENCE N75°00'00"E, ALONG SOUTH LINE OF SAID RECEPTION NO. 1976519, A DISTANCE OF
43.45 FEET, MORE OR LESS TO THE CENTERLINE OF SUNSHINE CANYON CREEK; THENCE
S17°42'35"W, ALONG SAID CENTERLINE, A DISTANCE OF 78.28 FEET TO A POINT ON THE
EASTERLY LINE OF A PARCEL OF LAND AS DESCRIBED IN THE RECORDS OF BOULDER
COUNTY AT RECEPTION NO. 1254651 ON JANUARY 6, 1993; THENCE N16°00'00"W, ALONG
SAID EASTERLY LINE, A DISTANCE OF 65.88 FEET TO THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 1,431 SQ.FT. OR 0.03 ACRES, MORE OR LESS.

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY
STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND
ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY
RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO
REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE
STATUTE.



JOHN B. GUYTON
COLORADO P.L.S. #16406
CHAIRMAN/CEO, FLATIRONS, INC. SI JOB NO. 15-65,960

JOB NUMBER: 15-65,960
DRAWN BY: E. DAVIS
DATE: JULY 2, 2015

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.

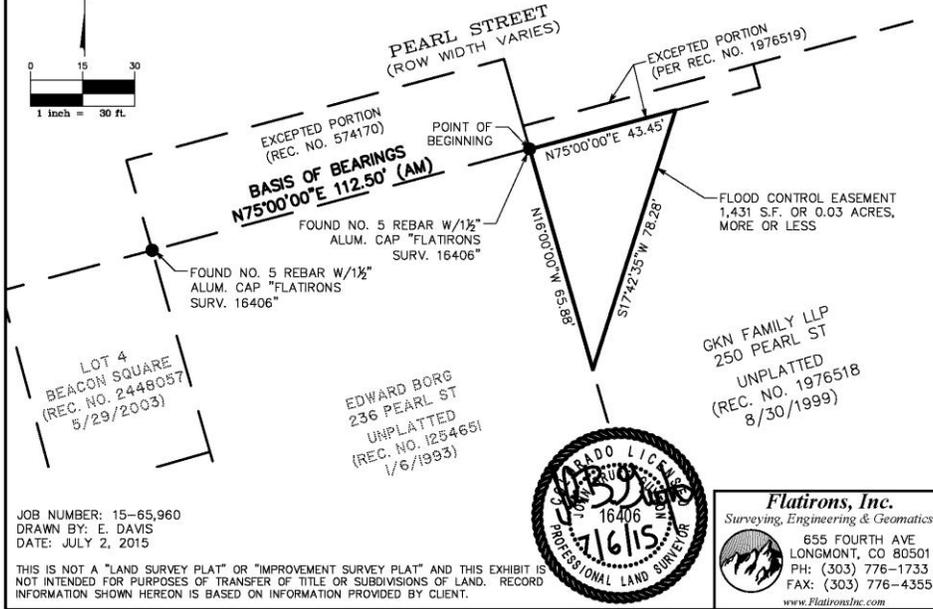
Flatirons, Inc.
Surveying, Engineering & Geomatics
655 FOURTH AVE
LONGMONT, CO 80501
PH: (303) 776-1733
FAX: (303) 776-4355
www.FlatironsInc.com

BY:EDAVIS FILE:65960-EASEMENT (C15).DWG DATE:7/6/2015 1:51 PM

EXHIBIT "A"

A PORTION OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2



**CITY OF BOULDER
PLANNING BOARD AGENDA ITEM
MEETING DATE: August 6, 2015**

AGENDA TITLE:

Public hearing and consideration of a USE REVIEW (LUR2015-00060) for a new tavern with outdoor seating area over 300 square feet in size to be operated in conjunction with “Boulder Food Park” mobile food vehicle sales at 2775 Valmont Rd. in the Business Community One (BC-1) zone district. Proposal includes a request for a 25% parking reduction to allow for 50 vehicle parking spaces to be provided on-site where 66 are required.

Applicant: Jeff Check of Coburn Development for Boulder Food Park
Owner: Stephen D. Tebo

REQUESTING DEPARTMENT:

Community Planning & Sustainability
David Driskell, Executive Director
Susan Richstone, Deputy Director
Charles Ferro, Development Review Manager
Chandler Van Schaack, Planner I

OBJECTIVE:

Define the steps for Planning Board consideration of this request:

1. Hear Applicant and Staff presentations
2. Hold Quasi-Judicial Public Hearing
3. Planning Board discussion
4. Planning Board action to approve, approve with conditions or deny

SUMMARY:

Proposal:	USE REVIEW: for a new tavern with outdoor seating area over 300 square feet in size to be operated in conjunction with “Boulder Food Park” mobile food vehicle sales at 2775 Valmont Rd. in the BC-1 zone district. Proposal includes a request for a 25% parking reduction to allow for 50 on-site vehicle parking spaces to be provided where 66 are required.
Project Name:	Boulder Food Park Tavern
Location:	2775 Valmont Rd.
Size of Tract:	83,262 square feet (1.91-acres)
Zoning:	BC-1 (Business – Community 1)
Comprehensive Plan:	High Density Residential, Mixed Use Business

KEY ISSUES:

1. Is the proposed project consistent with the Use Review criteria set forth in Section 9-2-15(e), B.R.C. 1981?
2. Is the requested 25% parking reduction consistent with the criteria for Parking Reduction Criteria set forth in section 9-9-6(f)(3), B.R.C. 1981?

BACKGROUND:

Existing Site/Site Context

The 83,262 square foot (1.91-acre) project site is located at 2775 Valmont Road, just west of the intersection of Valmont Rd. and 28th St., as shown below in **Figure 1**, within the Business – Community 1 (BC – 1) zoning district. Per section 9-5-2(c)(4)(B), B.R.C. 1981, the Business – Community 1 (BC-1) zone district is defined as *business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate.*



Figure 1: Vicinity Map

The existing 1-story, 9,826 sq. ft. building was constructed in 1956, and was the location of the former location of Rayback’s Plumbing Supply and most recently, the “Futsal” indoor sports facility. The remainder of the site is a large, partially paved parking area with a canopy structure running north-south down the middle. To the east of the site are several existing commercial properties including a dispensary, a restaurant and a liquor store, all of which lie within a corridor of BC-1 and BC-2 zoning running north-south along both side of 28th Street. The Two Mile Creek multi-use path runs along the west side of the site, and roughly demarcates the boundary of between the BC zoning to the east and a large area of Residential High - 4 (RH-4) zoning to the west. Within the RH-4 zoned area lies the Two Mile Creek apartment complex immediately west of the project site as well as the Shady Hollow condominiums and Mapleton Mobile Home Park across Valmont to the south.

Project Description

The proposal is to redevelop the existing property at 2775 Valmont with two new principal uses: a tavern with an outdoor seating area and mobile food vehicle sales. The proposed tavern would utilize the existing tenant space and would be roughly 7,600 sq. ft. in size, with two new outdoor patio areas and a landscaped outdoor seating area including an area for outdoor games. There is roughly 2,226 sq. ft. of existing office space located in the subject building which would remain following the proposed conversion.

The mobile food vehicle sales would occur in a designated area to the north of the tavern, with up to four mobile food vehicles operating at a time. As part of this application, the applicant is requesting a 25% parking reduction to allow for a total of 50 off-street parking spaces where 66 are required per the BC-1 zone district parking standards. As part of this request, the applicant has provided a Transportation Demand Management (TDM) Plan outlining strategies for reducing automobile travel to and from the site, including constructing a paved path connection onto the site from the existing Elmer's Two Mile Creek Path, providing RTD Eco-Passes to employees, offering periodic discounts to customers who arrive by bike, performing public outreach via the "The Boulder Cruiser Ride Group," and providing 30 bicycle parking spaces (22 short-term spaces and 8 long-term spaces) where 10 spaces are required per the city's bicycle parking standards.

The proposed hours of operation for the tavern are from 11:00am – 10:00pm, Monday – Friday, 11:00am – 11:00pm on Saturday and 11:00 am – 9:00pm on Sunday. Mobile food vehicles will operate in accordance with the City's mobile food vehicle regulations (section 9-6-5(d), B.R.C. 1981), which allow for hours of operation from 7:00 a.m. to 9:00 p.m., seven days per week. Outdoor seating will be available for mobile food vehicle patrons for all hours but tavern sales will only occur during the hours specified above. Amplified music will be played in the outdoors area at low volume levels during the regular tavern business hours. Periodically special events will take place where music will be more amplified but will be restricted to hours no later than 9:00 pm. Please see [Attachment A](#) for Applicant's Proposed Plans and Management Plan. These commitments have also been memorialized in the recommended conditions of approval included in this memorandum. If this application is approved, any future changes to the conditions of approval, the management plan or the operational characteristics would require a new Use Review.

Process

Prior to submitting the subject application, the applicant looked at various sites throughout the city but was unable to find an appropriate location for the use. On June 2, 2015, City Council passed Ordinance #8049 which allows the city manager to grant permission for mobile food vehicles within the BC-1 zone district to locate within 150 feet of an existing restaurant with written permission from the restaurant owner. Therefore, mobile food vehicles are now allowed to operate on the project site subject to the conditional use standards found in section 9-6-5(d), B.R.C. 1981. The use standards found in section 9-6-1, B.R.C. 1981 require a Use Review for the proposed tavern use because it includes an outdoor seating area over 300 sq. ft. in size and is located within 500 feet of a residential use module.

On July 16, 2015, following staff review of a Use Review application for consistency with the city's Use Review criteria, city staff approved the Boulder Food Park Tavern. Staff-level Use Review approvals may be called up by the board or by the public within 14 days of staff's decision. Following the Planning Board meeting on July 16, 2015 at which the Planning Board did not call up the decision, a member of the public called up staff's decision on July 17, 2015.

KEY ISSUES:

Staff has identified the following key issues for the board's consideration:

1. Is the proposed project consistent with the Use Review criteria set forth in Section 9-2-15(e), B.R.C. 1981?

Section 9-2-15(e), B.R.C. 1981 includes the procedures and review criteria for approval of a Use Review. The proposal was found to be consistent with the criteria for Use Review found in section 9-2-15(e), B.R.C. 1981. Please refer to [Attachment C](#) for staff's complete analysis of the review criteria.

2. Is the requested 25% parking reduction consistent with the criteria for Parking Reduction Criteria set forth in section 9-9-6(f)(3), B.R.C. 1981?

The criteria for motor vehicle parking reductions are found in section 9-9-6(f)(3), B.R.C. 1981. The applicant has provided a Travel Demand Management Plan which meets the requirements of section 9-9-6(f)(3)(D), B.R.C. 1981; therefore, the requested parking reduction was found to be consistent with the review criteria. Please see [Attachment B](#) for Applicant's Travel Demand Management Plan and [Attachment C](#) for staff's analysis of the review criteria.

PUBLIC COMMENT AND PROCESS:

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. The applicant also held a voluntary neighborhood meeting on June 25, 2015, at which they discussed the proposed management plan with several interested neighbors. Feedback from the meeting was largely positive; however, staff has received comments from several neighbors as well as the Two Mile Creek HOA expressing concerns over potential noise, visual and parking impacts from the proposed use. Public comments received by staff are included as [Attachment D](#).

STAFF FINDINGS AND RECOMMENDATION:

Staff recommends that the Planning Board approve the Use Review application LUR2015-00060, adopting the staff memorandum as findings of fact, including the attached analysis of review criteria, and subject to the recommended conditions of approval.

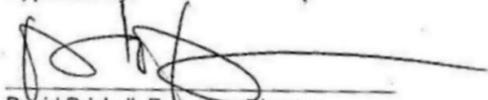
RECOMMENDED CONDITIONS OF APPROVAL:

1. The Applicant shall ensure that the **development shall be in compliance with all approved plans** prepared by the Applicant on June 15, 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 July 22, 2015 which is attached to this Notice of Disposition.
 - b. Size of the indoor tavern use shall be limited to 7,600 square feet, with a total of 180 interior seats. The total outdoor seating area including patios shall not exceed 3,060 square feet, with a total of

36 outdoor seats. All trash located within the outdoor seating area, on the tavern property and adjacent streets, sidewalks and properties shall be picked up and properly disposed of immediately after closing.

- c. The approved tavern use shall be closed from 10:00 p.m. to 11:00 a.m., Mon. – Fri., before 11:00 a.m. and after 11:00 p.m. on Saturdays, and before 11:00 a.m. and after 9:00 p.m. Sundays.
2. The Applicant **shall not expand or modify the approved use**, except pursuant to Subsection 9-2-15(h), B.R.C. 1981.
3. This **approval shall be limited to the Boulder Food Park Tavern**, operated consistent with the Applicant's Management Plan dated July 22, 2015 as well as the Applicant's Travel Demand Management Plan dated July 22, 2015. 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 tavern in compliance with the terms of this approval.
4. All **mobile food vehicles shall operate in accordance with the standards** set forth in subsection 9-6-5(d), B.R.C. 1981, except as amended by Ordinance 8049.
5. Prior to a building permit application, the Applicant shall submit an application for and obtain approval of an **Administrative Landscape Standards Modification** consistent with Subsection 9-9-12(c), B.R.C. 1981.
6. Prior to issuance of a certificate of occupancy, the Applicant shall submit an application for and construct water and sanitary sewer services to the existing structure consistent with Subsections 11-1-13(a) and 11-2-8(a), B.R.C 1981.
7. Prior to building permit application, the Applicant shall submit a **financial guarantee** in a form acceptable to the Director of Public Works, in an amount equal to \$6,435 for the costs of providing eco-passes to the employees of the development for three years after the issuance of a certificate of occupancy as proposed in the Applicant's Transportation Demand Management (TDM) Plan.

Approved By:



David Driskell, Executive Director
Department of Community Planning and Sustainability

ATTACHMENTS:

- A: [Applicant's Proposed Plans and Management Plan](#)
- B: [Applicant's Travel Demand Management Plan](#)
- C: [Staff Analysis of Review Criteria](#)
- D: [Neighborhood Comments](#)



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Boulder Food Park

2775 Valmont Rd.
Boulder, CO 80304



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#	DESCRIPTION	AUTHOR	CHECKED	DATE

USE REVIEW
06/15/2015

SHEET No.

UR-1
SITE PLAN

BOULDER FOOD PARK

2775 Valmont Rd. Boulder, CO

PROJECT TEAM

OWNER
BOULDER FOOD PARK
2775 VALMONT RD.
BOULDER, CO
P: 404-786-9125

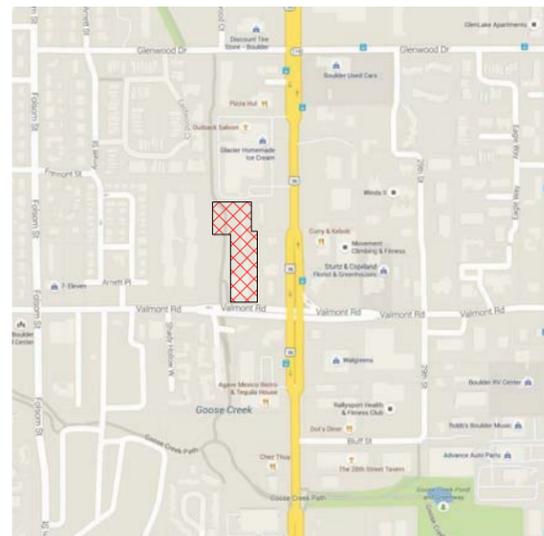
ARCHITECT
COBURN ARCHITECTURE
3020 CARBON PLACE #203
BOULDER, CO
P: 303-442-3351
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BUILDING INFORMATION	
SQFT OF TENANT SPACE	7,600 SQFT
SQFT OF BUILDING	9,826 SQFT
TOTAL SQFT FOR SITE	83,262 SQFT
INDOOR SEATING AREA	5,850 SQFT
OUTDOOR SEATING AREA TOTAL	3,070 SQFT
SOUTH PATIO AREA	410 SQFT
NORTH PATIO/DECK AREA	300 SQFT
NORTH LANDSCAPED SEATING AREA	2,360 SQFT
BUILDING HEIGHT	16'-6"
OPEN SPACE	
REQUIRED (@20%)	16,652 SQFT
TOTAL OPEN SPACE SHOWN	29,851 SQFT
PARKING REQUIREMENTS	
EXISTING OFFICE TENANTS (@ 1:300 SQFT)	6
INTERIOR SEATING (180 @ 1:3 SEATS)	60
EXTERIOR SEATING (36 < 20% INTERIOR SEATING)	0
PARKING REQUIRED	66
TOTAL PARKING REQUIRED WITH 25% REDUCTION	50
• ACCESSIBLE SPACES REQUIRED	2 (1 VAN ACC)
• COMPACT SPACES POSSIBLE (50%)	25
STANDARD SPACES SHOWN	26
COMPACT SPACES SHOWN	22
ACCESSIBLE SPACES SHOWN	2
TOTAL PARKING SHOWN	50
BICYCLE PARKING REQUIREMENTS	
TAVERN (1 PER 750 SQFT, MIN OF 4)	10
LONG-TERM BIKE PARKING REQUIRED (25%)	3
TOTAL BICYCLE PARKING SHOWN	30 (8 LONG-TERM)
PARKING LOT LANDSCAPING	
PARKING LOT AREA	22168 SQFT
INTERIOR PARKING LOT LANDSCAPING REQUIRED (5%)	1108 SQFT
TOTAL INTERIOR PARKING LOT LANDSCAPING SHOWN	1608 SQFT

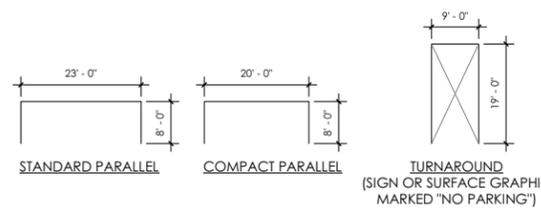
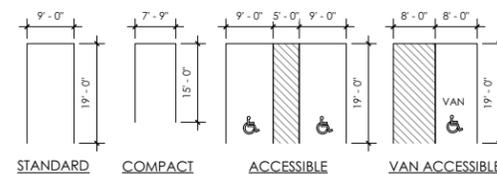
SITE INFORMATION	
LEGAL DESCRIPTION	TR 598-C LESS PT TO CITY 598-C.1 & 598-C-1-A & 598-D & 599-E & 599-E-1 IN 20-1N-70 TOTAL 98 ,843 SF OR 2.27AC M/L, BOULDER, CO
ZONING	BC-1
USE REVIEW	REQUIRED FOR TAVERN IN BC-1

DRAWING INDEX

UR-1	SITE PLAN
UR-2	FLOOR PLAN
UR-3	PRELIMINARY LANDSCAPE PLAN
UR-4	ELEVATIONS



VICINITY MAP
1" = 40'-0"

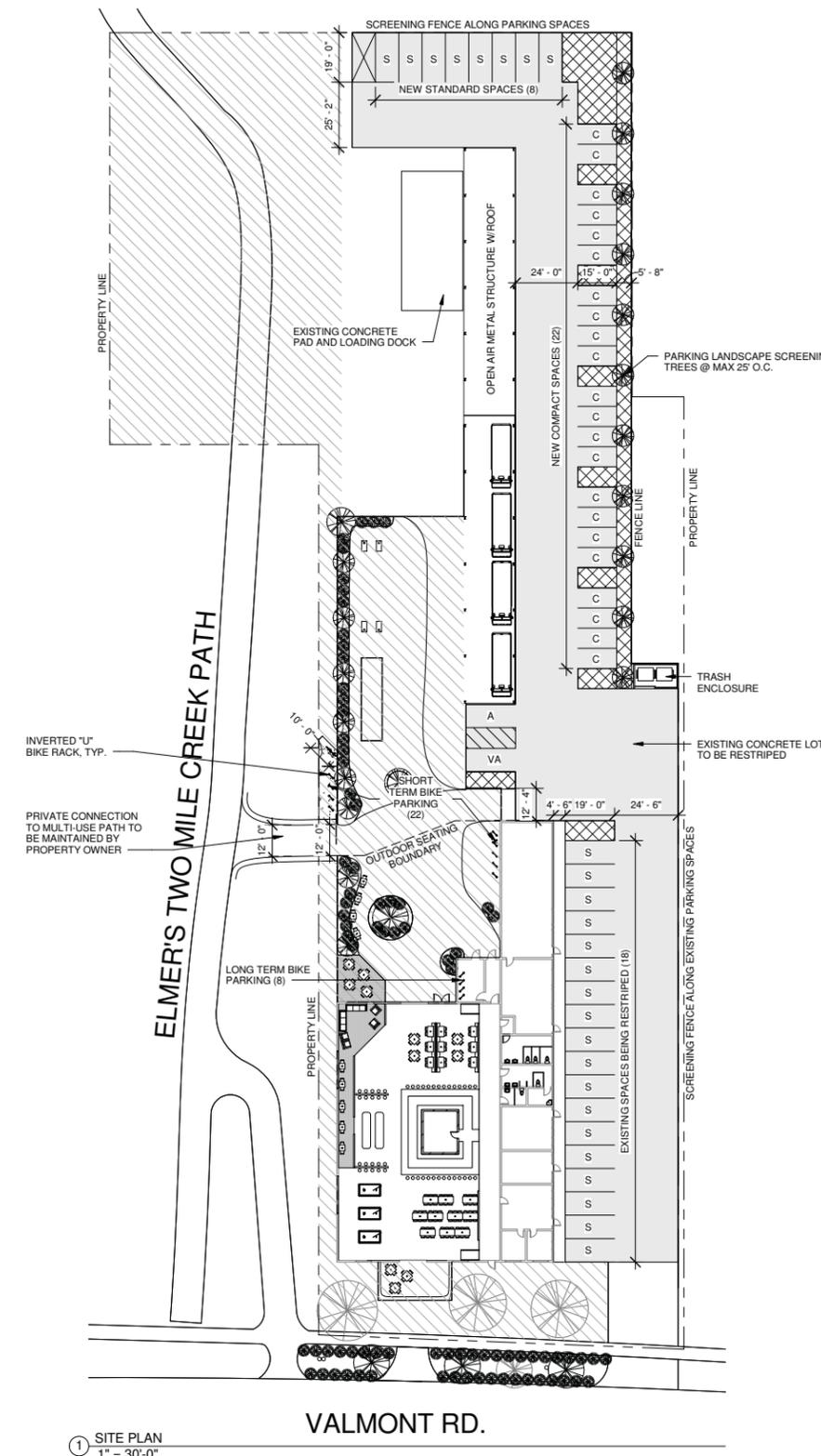


PARKING STALL SIZING
1/16" = 1'-0"

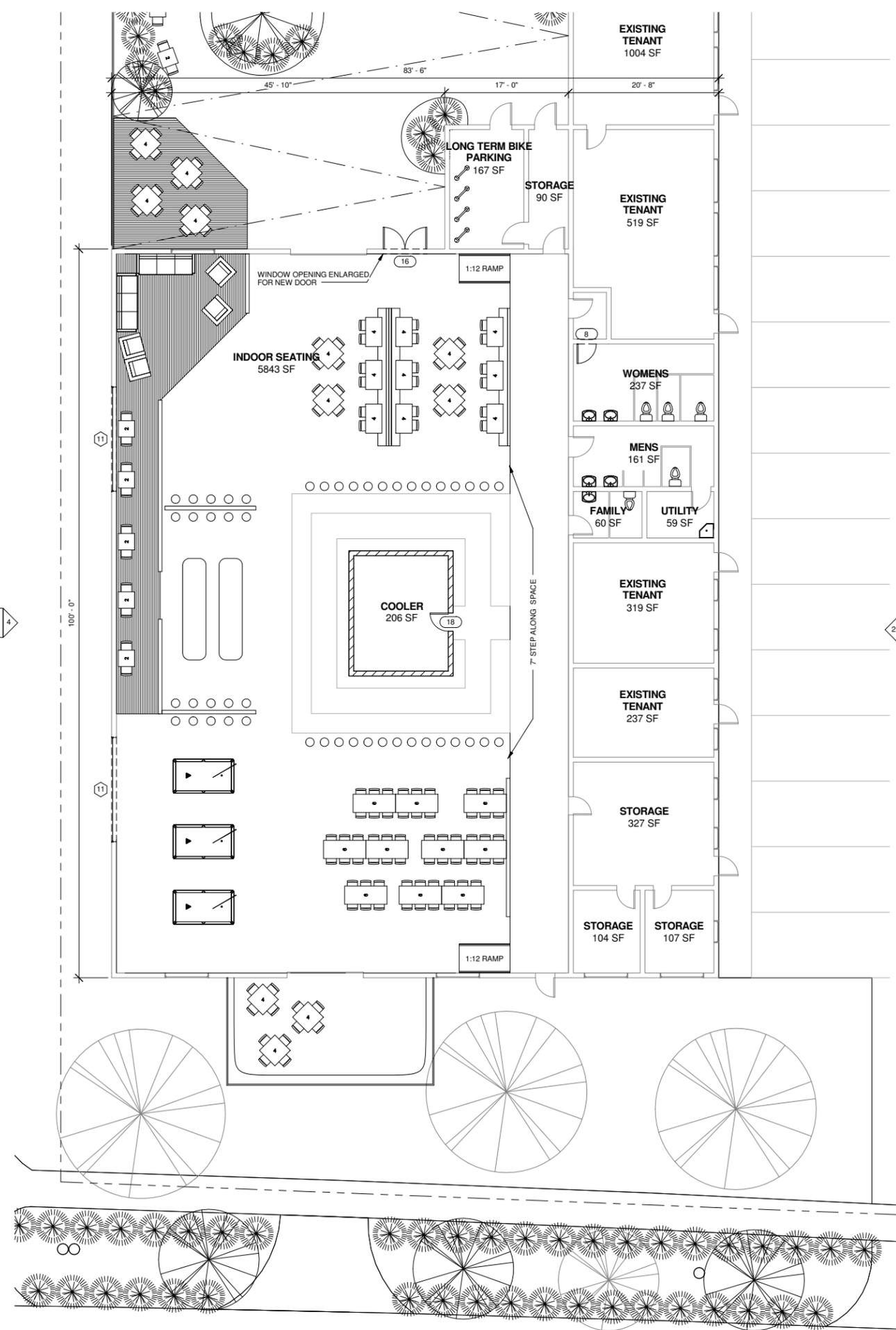
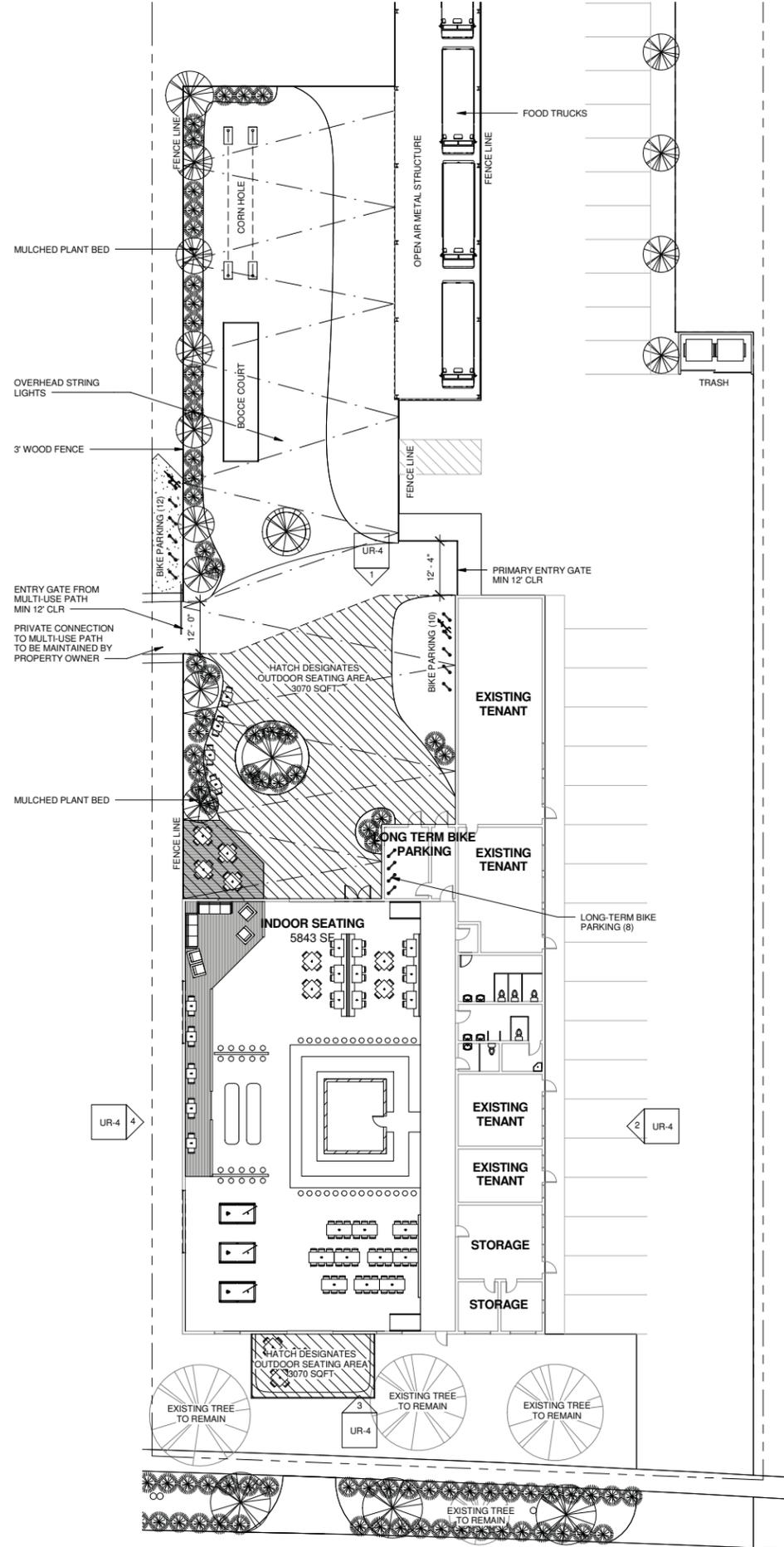
PARKING SPACE LEGEND	
S	STANDARD PARKING STALL
C	COMPACT PARKING STALL
CP	COMPACT PARALLEL PARKING STALL
A	ACCESSIBLE PARKING STALL
VA	VAN ACCESSIBLE PARKING STALL
T	TURNAROUND

HATCH INDICATES PARKING LOT LANDSCAPING
 OPEN SPACE

SITE PLAN LEGEND
1" = 20'-0"



SITE PLAN
1" = 30'-0"



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USE REVIEW
06/15/2015

SHEET No.
UR-2
FLOOR PLAN

② AREA LAYOUT
1/16" = 1'-0"

① FLOOR PLAN
1/16" = 1'-0"



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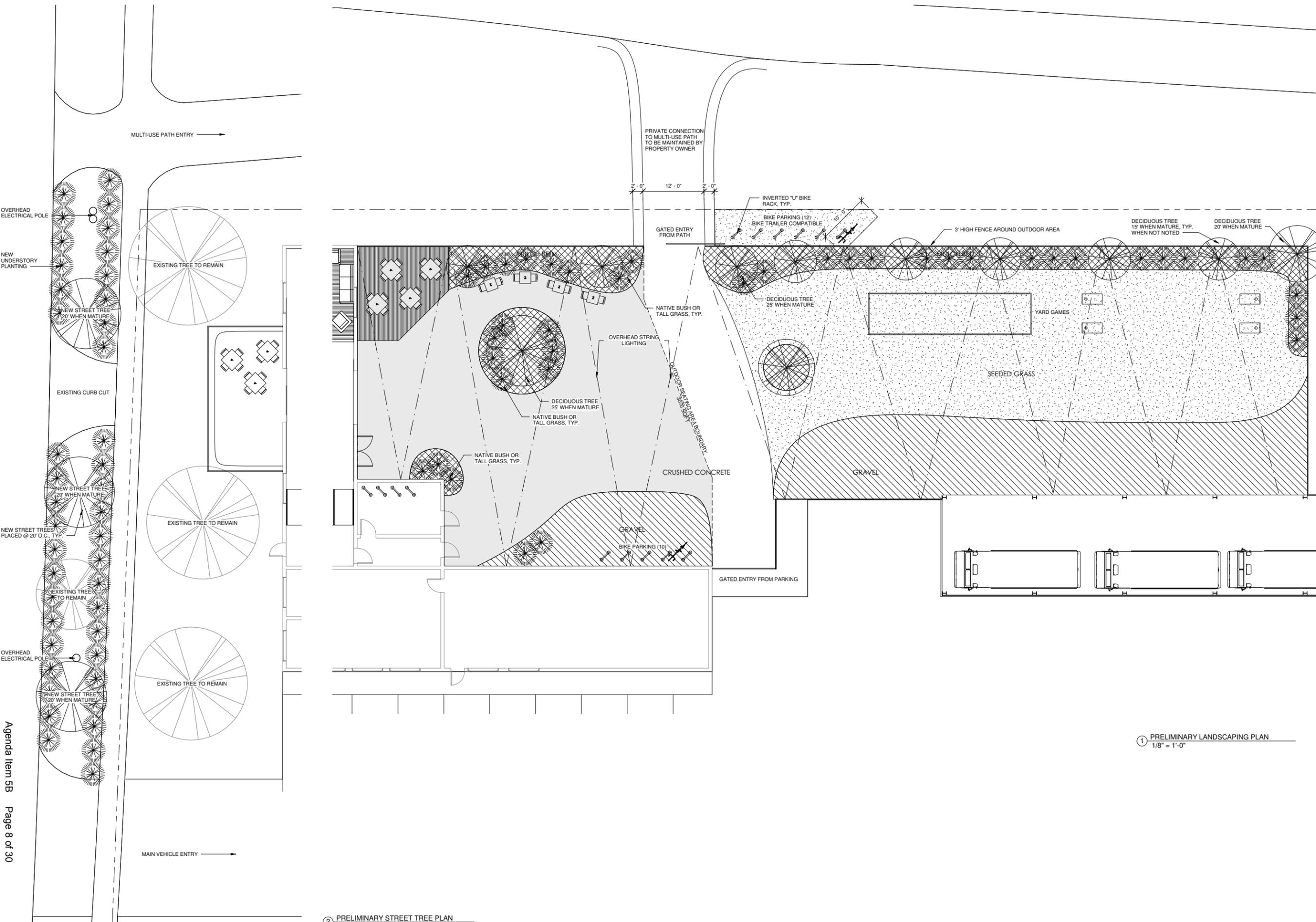
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#	DESCRIPTION	AUTHOR	CHECKED	DATE

1 PRELIMINARY LANDSCAPING PLAN
1/8" = 1'-0"

2 PRELIMINARY STREET TREE PLAN
1/8" = 1'-0"



USE REVIEW
06/15/2015

SHEET No.
UR-3
PRELIMINARY
LANDSCAPE PLAN



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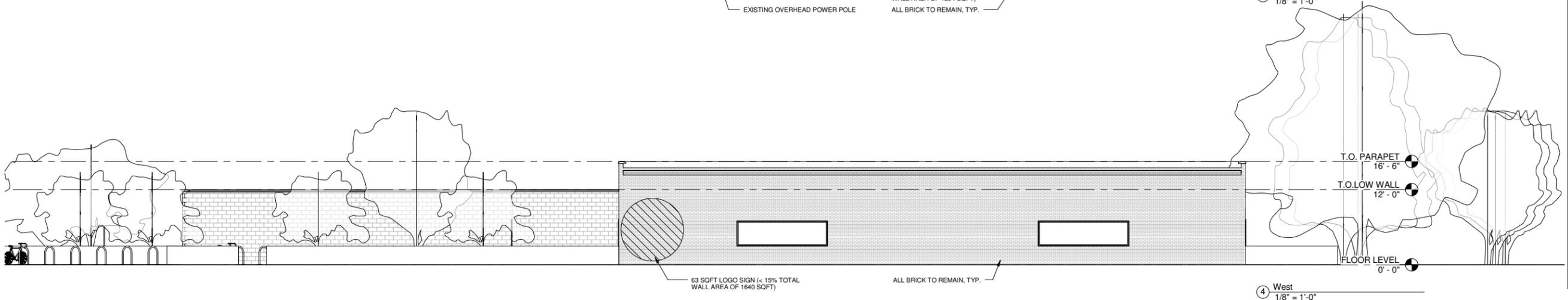
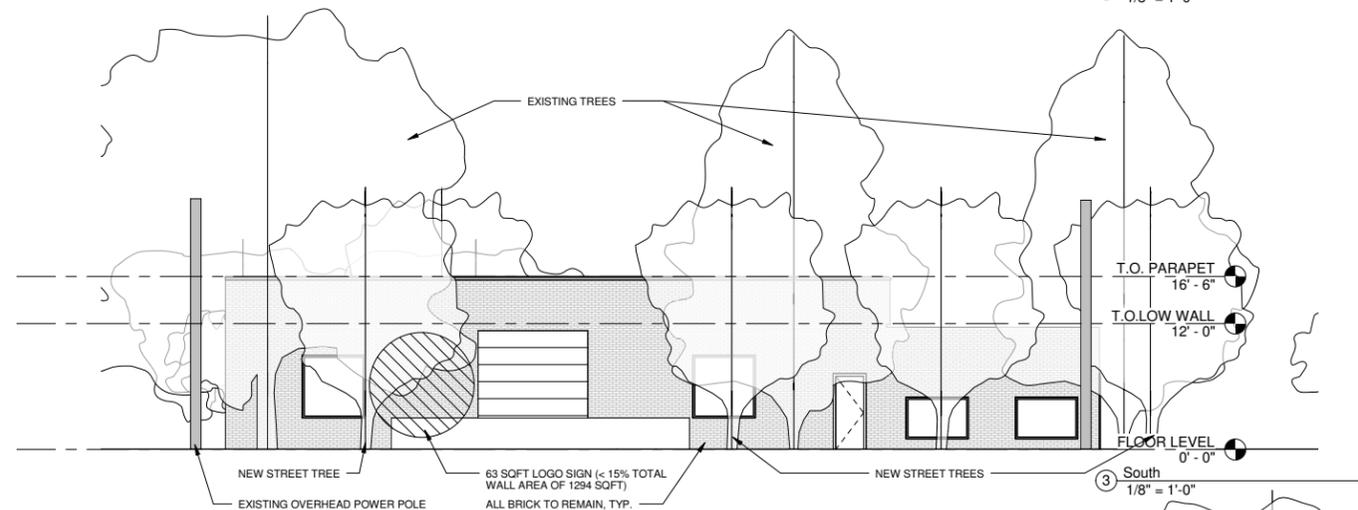
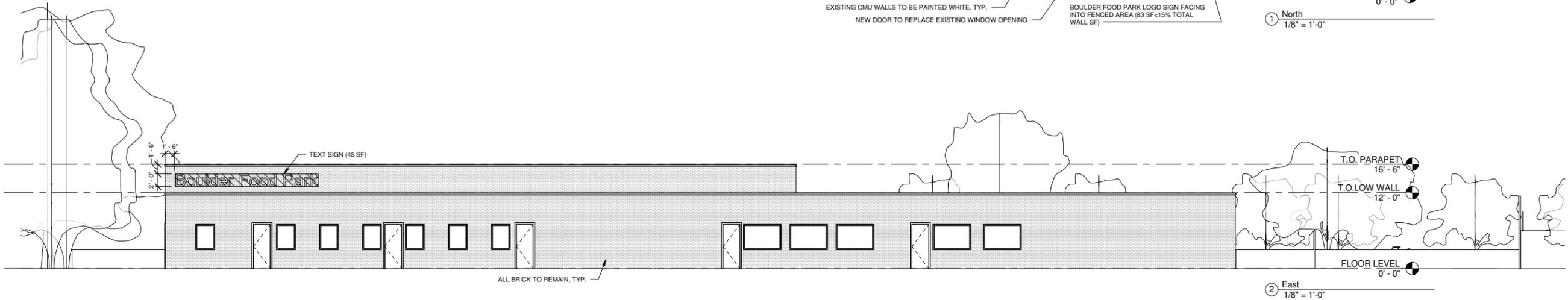
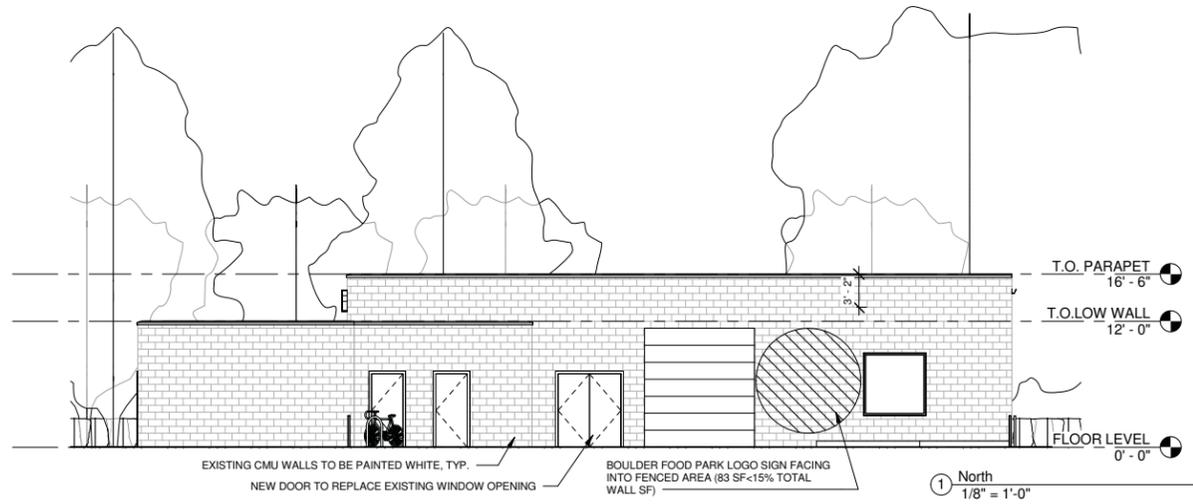
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#	DESCRIPTION	AUTHOR	CHECKED	DATE

USE REVIEW
06/15/2015

SHEET No.

UR-4
ELEVATIONS



Attachment A: Management Plan Language
7/22/15

Background: Boulder Food Park (BFP) is designed to provide Boulder with an environment where they can enjoy local food, beer, and community. The site will be adaptively reused to have an inviting 6,900 square foot indoor eating, drinking, and event space, with the total floor area of the tenant space not to exceed 7,600 square feet. The outside will be landscaped to create an inviting area for seating, games, and music. The site will host two principal uses: a tavern and mobile food vehicle sales. The mobile food vehicle sales will be located in the mobile food vehicle park which will host 4 rotating food trucks which will provide local food choices to the patrons of Boulder Food Park. The mobile food vehicle sales use will operate in accordance with the City's mobile food vehicle regulations (section 9-6-5(d), B.R.C. 1981). The tavern use will provide beer and wine options, and will include outdoor seating and music for patrons.

Tavern Hours of Operation: Monday –Friday 11:00am – 10:00pm. Saturday 11:00am – 11:00pm. Sunday 11:00 am – 9:00pm.

Food Truck Hours: All week no earlier or later than 7am-9pm as allowed by city law. **Note:** Outdoor seating will be available for mobile food vehicle patrons for all hours but tavern sales will only occur during the hours specified above.

Parking: 50 off-street parking spaces will be provided on-site. Employees will be encouraged to use alternate forms of transportation such as the bike path which connects to the property and RTD (RTD Eco Passes will be provided to all employees of Boulder Food Park). At this time, our number of employees will range from 3-10 starting at the lower end now while the business ramps up, and then increased depending on business traffic, business financials, and security to ensure all areas are being watched. The employees who do choose to drive will be instructed to use on-site parking and not surrounding business or neighborhood parking areas. Food Trucks will be required to park in the designated area shown on the site plan, which has been designed to meet the minimum required separation from adjacent residential zoning and to be separate from the customer parking area.

Deliveries: These will be instructed to drive to the designated food truck staging area out of the way of BFP patrons.

Trash and Recycling: Trash, recycling, and composting receptacles will be provided both indoors and outdoors and maintained by BFP staff. The trash dumpster will be kept on the north end of the property in an area accessible for the trash service. Trash, recyclables, and compostables shall not be collected between the hours of 10:30 p.m. and 7:30 a.m. to avoid noise that may impact surrounding neighborhoods. All trash located within the outdoor dining area, on the restaurant or tavern property, and adjacent streets, sidewalks, and properties shall be picked up and properly disposed of immediately after closing.

Noise:

Noise: There will be NO live music played outside (amplified or acoustic). Live or amplified acoustic music may be played in the indoor tavern area only. On no more than two (2) days per week, special events may take place where live music will be played indoors during tavern business hours.

Amplified music may be played in the outdoor seating areas during regular tavern business hours via a typical restaurant / tavern sound system. The intent of the outdoor music is ONLY to provide background music to enhance ambiance and not to create noise pollution to residents.

We will comply with all City of Boulder regulations regarding approved decibel levels, as directed by Section 5-9-3 of the Boulder Revised Code.

The sound system will be designed and installed by a professional without the use of omni-directional speakers to ensure sound is focused to specific locations on the property only. Small outdoor speakers will be positioned and angled appropriately to avoid any unintended sound travel.

Food Trucks will run on BFP provided electrical outlets and not be allowed to run their generators or engines. The food trucks will not be allowed to play their own music while on site.

Drug and Alcohol Policy: BFP will provide stringent training and established alcohol policies congruent with the Boulder Police Departments and other state certified guidelines for safe and controlled consumption of alcohol on the premises by patrons at least 21 years of age. The entire property will be fenced in so that alcohol use can be moderated. Designated entries and exits will be noted where alcohol is prohibited.

Neighborhood Outreach and Methods of Future Communication: Before opening a “Neighborhood Meeting” will be held to address any suggestions or concerns. After operations commence, owners may be reached at info@boulderfoodpark.com and all inquiries will be addressed.

Methods of Dispute Resolution with Surrounding Neighborhood: BFP 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.

Boulder Food Park

Travel Demand Management Plan- 7/22/15

1 INTRODUCTION

The site is located off of 28th Street and Valmont Road. The proposed adaptive reuse of the building and surrounding property is a 6900 square foot indoor bar and seating area as well as a 8000 square foot outdoor seating and entertainment area. The current access to the site is through a street entrance at 2775 Valmont Road. The location of the site with respect to the surrounding land uses and roadway system is shown in Figure 1. The proposed site plan is shown in Figure 2.

2 EXISTING MODES DESCRIPTION

Currently the site is accessible by a driveway into the existing parking lot from Valmont Road and by The Regional Transportation District (RTD), a fixed route transit service, on the 28th St & Valmont Rd Station. Figure 3a & 3b shows the existing bus stops and transit routes within the vicinity of the site including:

- BOLT
- 205
- 205T
- Call-n-Rides

The Boulder Food Park is well positioned to make good use of these existing opportunities.

3 PLANNED ALTERNATIVE TRANSPORTATION ADDITIONS

The location of the site runs directly along the Elmer's Two Mile Creek Greenway. The Elmer's Two Mile Creek Greenway begins just north of Elmer's Two Mile Park on the north end of Boulder, shown in Figure 4. It is paved and generally flat, graveling through open spaces, parks, neighborhoods and commercial areas. This Greenway connects directly to The Goose Creek Greenway which offers a major east-west route through Boulder. The Goose Creek Greenway connects the downtown Boulder area and the University of Colorado all the way through to the North part of Boulder at the Valmont Bike Park.

We plan to have direct access from the Elmer's Two Mile Creek Greenway to the Boulder Food Park. We expect a large portion of our patrons to access the site through this method and entrance.

4 TRANSPORTATION DEMAND MANAGEMENT STRATEGY FOR BOULDER FOOD PARK

The package we have created for The Boulder Food Park takes advantage of the traditional and alternative methods of transportation and combines them with proactive measures by business management to promote the use responsible use of all site access venues.

Beginning with our employees, we will provide an ecopass for all employees (10) for a period of 3 years. Upon hire, we will orient all employees on how to access the site using the bike path. Both of these combined will encourage employees to use the alternate transportations options and not use onsite parking.

The site will have 50 parking spots with a combination of handicap, compact, and standard spaces to server the customers who do decide to come by car. This is a 25% reduction which is only part of the 50% reduction we believe to be justified by the alternate modes described in this plan.

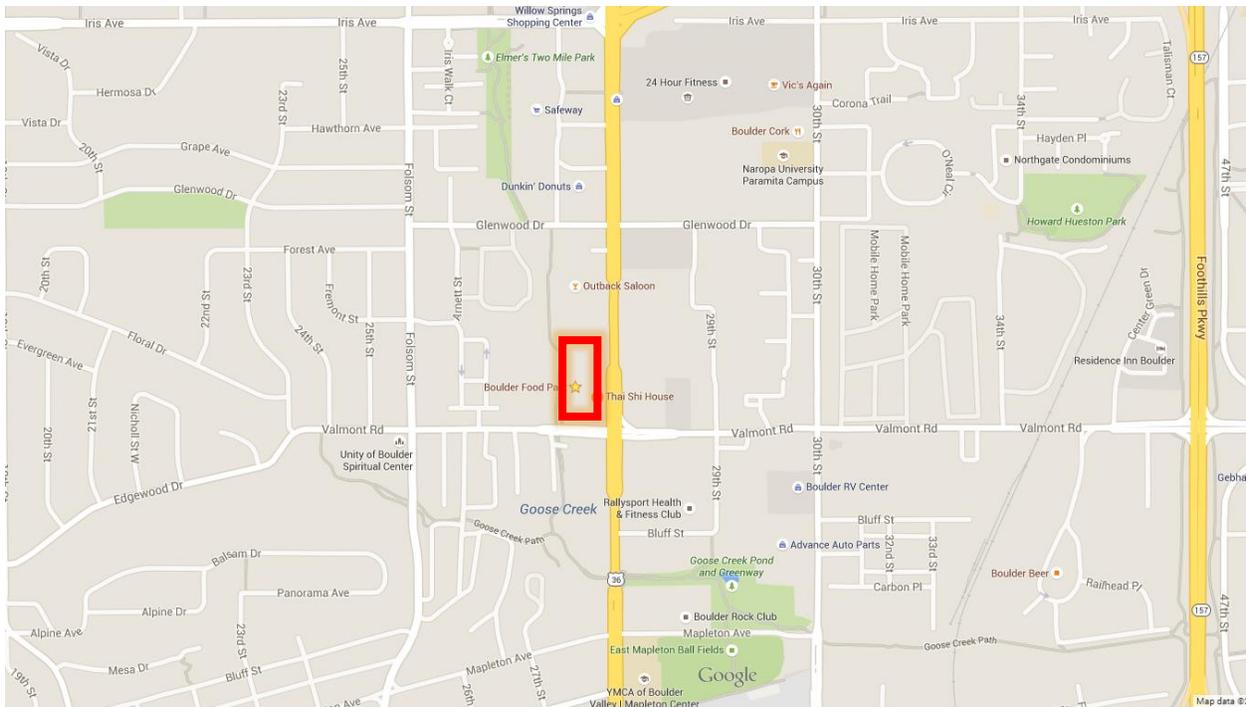
The patrons of Boulder Food Park will have several incentives to use alternate modes of transportation. Periodically Boulder Food Park will advertise and give discounts to customers who arrive by bicycle. Currently Boulder Food Park founders have an agreement with “The Boulder Cruiser Ride” group to have their Thursday Ride end at Boulder Food Park. This will raise awareness to a large part of the population that enjoys bike accessible locations.

City Code requires that bike parking is equal to 10% of car parking which in the case of Boulder Food Park would be 13 spots. Boulder Food Park will provide over 30 bike parking spots in the form of exterior bike racks assuming 2 bikes per inverted U-location and 8 long term spots.

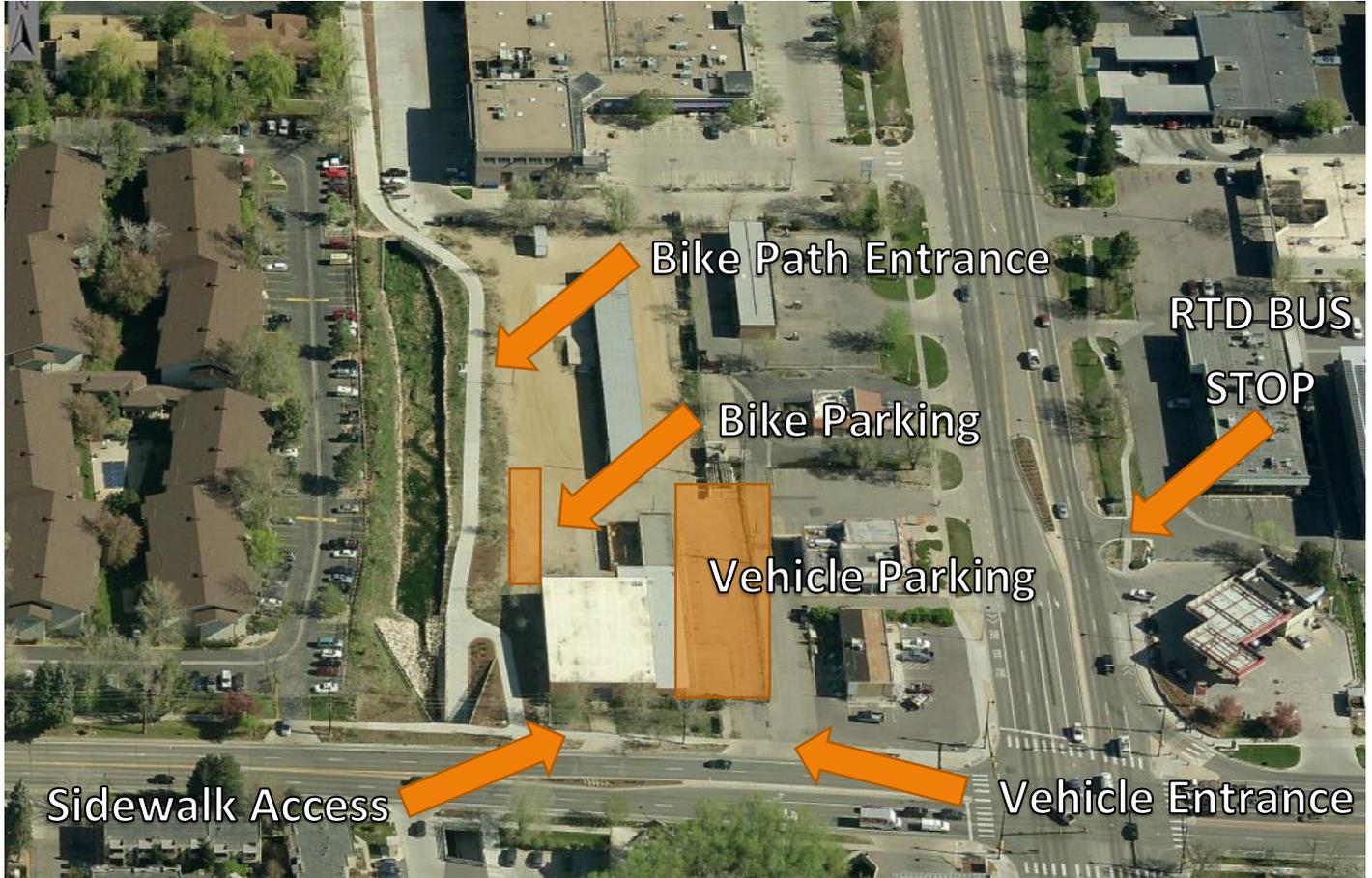
In general, The Boulder Food Park’s outdoors and locals environment is expected to attract a crowd that is already use to using these alternate modes of transportation. The surrounding areas is a high density residential area which has many people walking distance from the site. There are also several commercial office buildings which have people who walk to surrounding business for lunch as shopping.

Lastly, the bus stop is both visible from Boulder Food Park and those being dropped off can see the Boulder Food Park site. This gives another access point to the site which patrons will be encouraged to use as a responsible alternative to driving.

5 FIGURE 1 – BOULDER FOOD PARK LOCATION



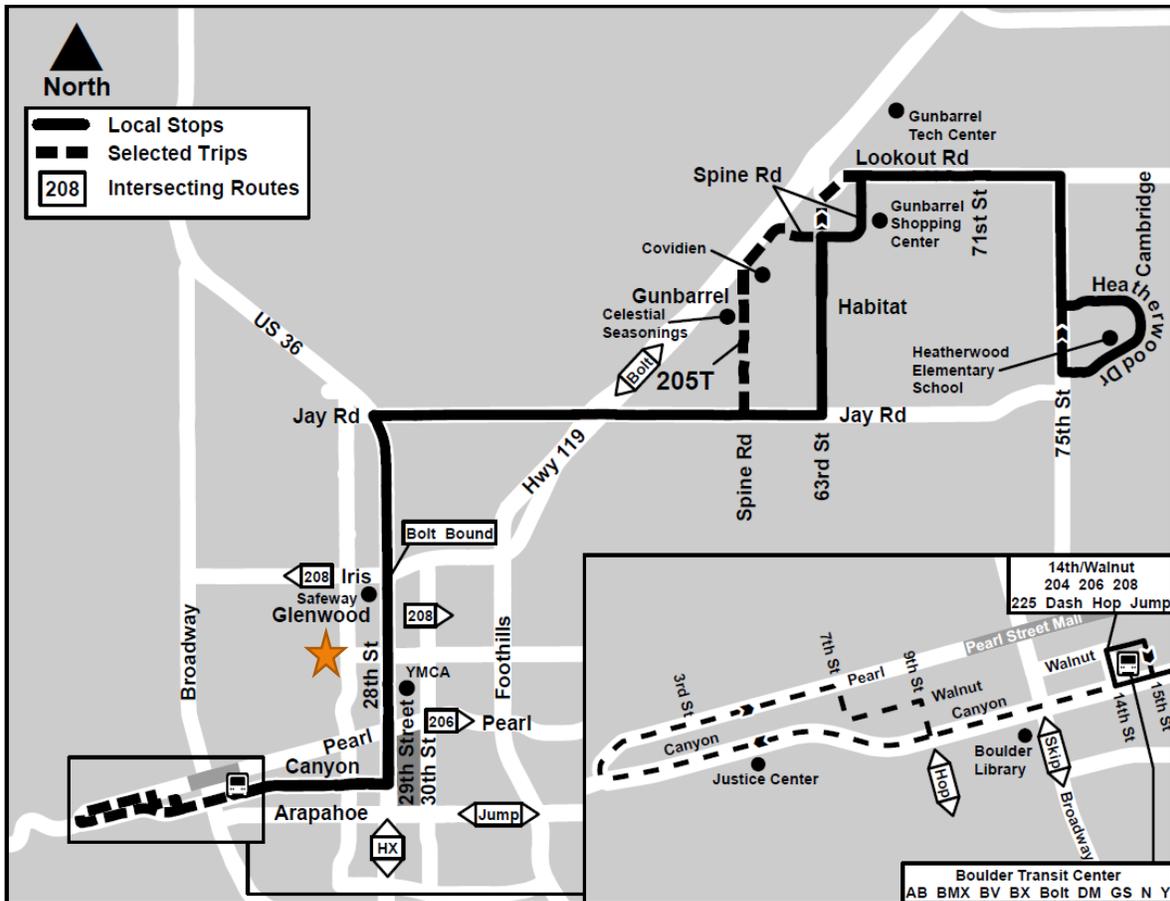
6 FIGURE 2 – SITE PLAN (TRANSPORTATION)



7 FIGURE 3A – RTD ROUTE MAPS

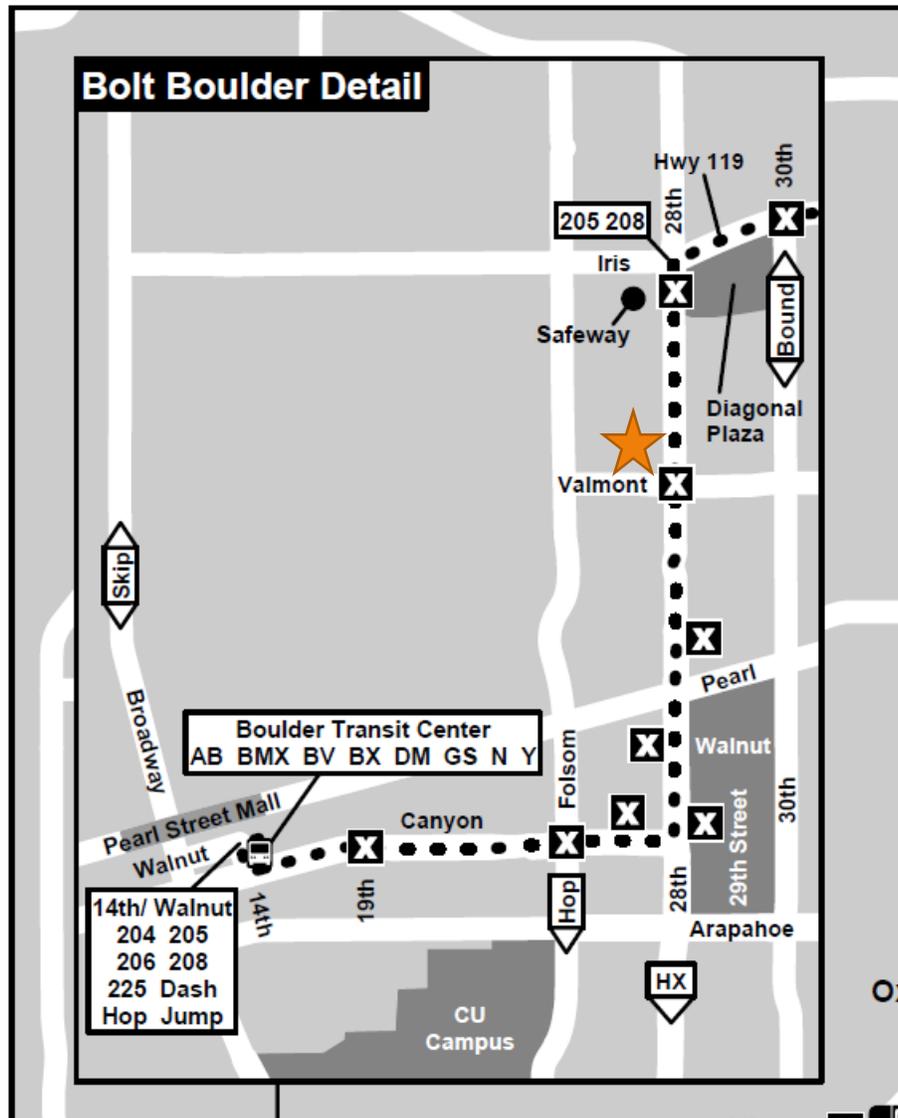
Route 205 Boulder/Heatherwood

Effective: 10 May 2015
Map Revised: 10 May 2015

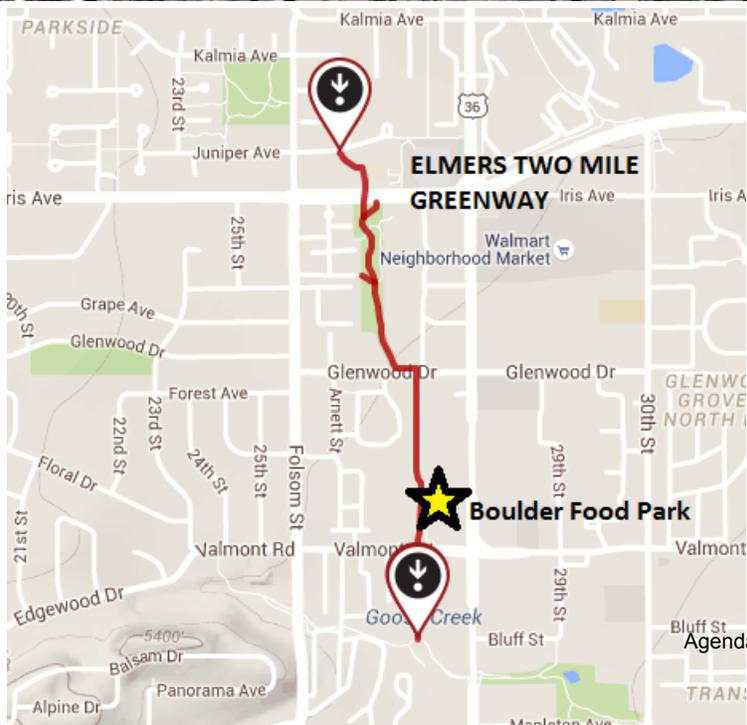
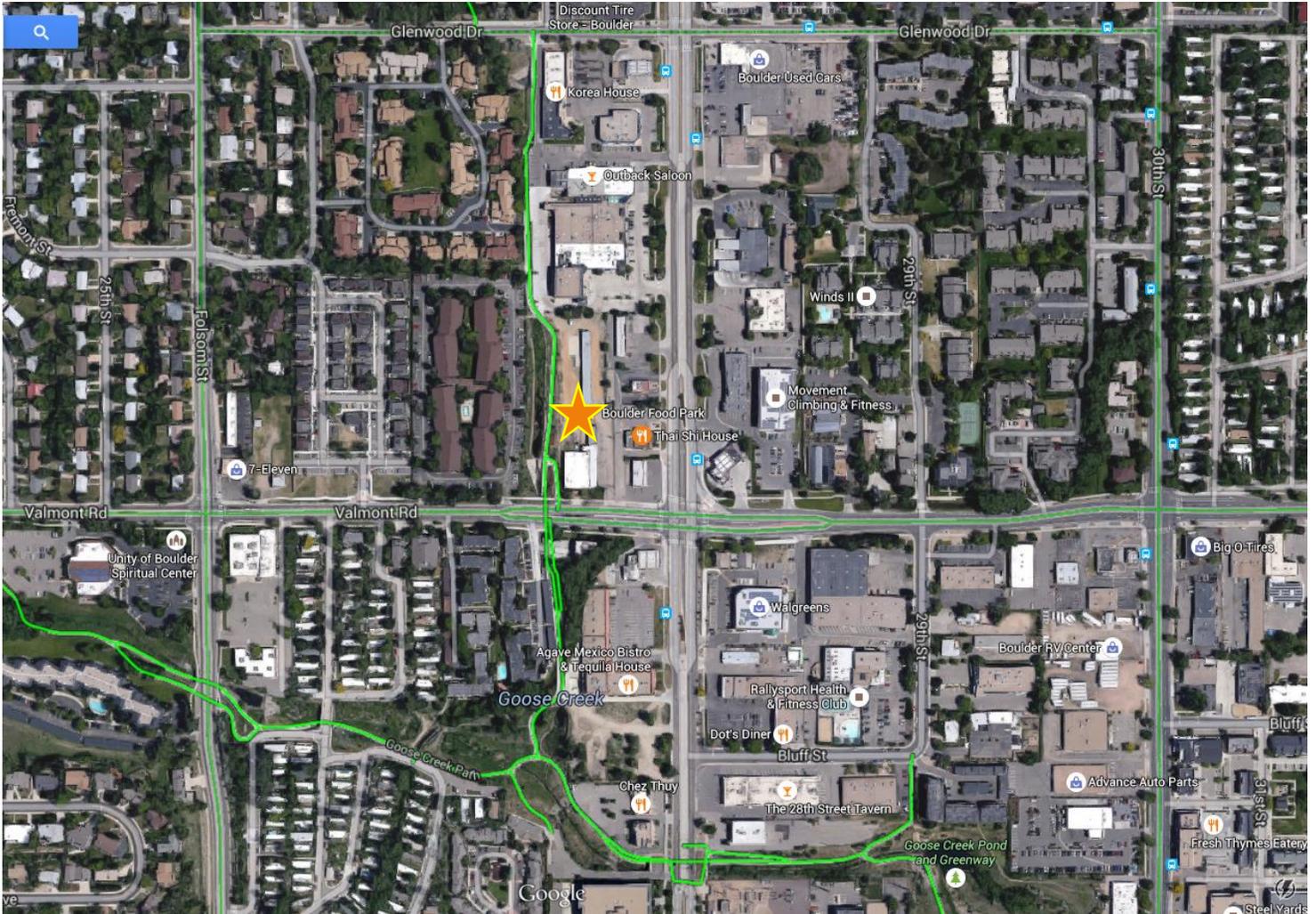


8 FIGURE 3B – RTD ROUTE MAPS

Route BOLT Boulder



9 FIGURE 4 – GREENWAY MAPS



Case #: LUR2015-00060

Project Name: Boulder Food Park

Date: 7/16/15

USE REVIEW CRITERIA

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

(1) Consistency with Zoning and Non-Conformity: The use is consistent with the purpose of the zoning district as set forth in [Section 9-5-2\(c\)](#), "Zoning Districts Purposes," B.R.C. 1981, except in the case of a non-conforming use;

The project site is zoned BC-1 (Business- Community 1), defined in the land use code as: "Business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate" (section 9-5-2(c)(2)(G)). For the purposes of applying zoning, the proposed use is considered a combination of a "tavern with an outdoor seating area of 300 square feet or more within 500 feet of a residential zoning district," which requires a Use Review to operate in the BC-1 zone, and a "Mobile Food Vehicle" use, which is permitted to operate subject to the conditional use standards found in section 9-6-3(d) of the Boulder Revised Code. It should be noted that on June 2, 2015, City Council adopted ordinance 8049, which allows the proposed food trucks to locate within 150 feet of the existing restaurant to the east (the code previously did not allow this); however, the code still requires a Use Review for the proposed tavern/ outdoor seating area.

_____ (2) Rationale: The use either:

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

The proposed tavern and food truck park will provide a direct service the surrounding uses and neighborhood by re-using an existing vacant space to provide a new family-friendly eating, drinking and event space serving local food and beer. In addition to the proposed 7,600 sq. ft. indoor tavern, the use will include a large outdoor landscaped area for seating, music and games. Being located immediately adjacent to the Elmer's Two-Mile multi-use path and near the intersection of two major roads, Valmont Road and 28th Street, the site is easily accessible by various transportation modes including biking, walking, transit and automobile. In addition, there are several high density residential developments within walking distance of the proposed use that will benefit from having a community-oriented eating and drinking establishment in close proximity.

_____ (B) Provides a compatible transition between higher intensity and lower intensity uses;

_____ (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

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

✓ 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;

The location, size, design and operating characteristics of the proposed use are such that the use will be reasonably compatible with and have minimal negative impact on the use of nearby properties. In terms of the location, as previously mentioned the site is located near the intersection of Valmont and 28th St., which are classified as an arterial and a highway, respectively, and as such routinely accommodate very high levels of traffic. The surrounding area is currently a mix of high density residential uses to the west along Valmont and higher intensity commercial uses along the 28th Street corridor to the north, east and south. The Elmer's Two-Mile Path runs along the west side of the site and aside from providing direct pedestrian and bicycle access to the site acts as a buffer between the proposed use and the residential uses to the west. Given the ease of access as well as the predominantly retail and service-based character of the nearby area, the proposed site is an appropriate location for the food truck park.

In terms of size and design, the proposed tavern use is to be located in an existing roughly 7,600 sq. ft. tenant space formerly used as the "Futsal" indoor sports facility. Therefore, the size and design of the building are not changing. In terms of the site, the existing conditions are undesirable and include a large dirt parking area almost entirely devoid of landscaping as well as a large, somewhat dilapidated carport structure running up the center of the site. The applicant proposes to pave and stripe the parking area and to create a roughly 3,060 sq. ft. landscaped area for seating music and games, which will greatly improve the overall appearance of the site.

In terms of the proposed operating characteristics, the previous tenant was the Futsal indoor sports facility, which was a by-right use that operated from 7:00 am to 2:00 am, and included numerous sports events with high turnover and large numbers of attendees. The proposed tavern and food truck park will be subject to a Management Plan and will therefore increase the predictability of the use compared to the previous use. Per the Management Plan, the tavern will have hours of operation from 11 am – 10 pm, Mon – Fri, 11 am – 11 pm on Saturdays and 11 am – 8 pm on Sundays. Food trucks will be able to serve between 7:00 a.m. and 9:00 p.m., seven days per week. There will be amplified music during regular tavern business hours, as well as occasional outdoor musical performances which will not be amplified past 9:00 pm. If the Use Review is approved, the applicant will be required to obtain a 25% parking reduction in order to allow for them to provide 50 parking spaces on-site as proposed where 66 are required per section 9-9-6, B.R.C. 1981. The applicant has provided a Travel Demand Management Plan outlining several ways in

which the applicant proposes to reduce the number of vehicle trips to and from the site, including providing a direct paved connection to the bike path from the site, subsidizing eco-passes for employees of the facility, offering periodic discounts to people who travel to the site by alternate modes and holding bicycle-oriented events with local organizations to promote awareness. In addition, the applicant is proposing to provide 30 bicycle parking spaces, including 22 short-term spaces and 8 long-term spaces, where only 8 are required by the land use code. All of the measures combined will significantly reduce the number of vehicles travelling to and from the site, which will reduce the chance the use will have any significant impact on traffic and parking in the surrounding area.

✓ (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;

The proposed use will re-use an existing building that has been in the current location since 1956. Currently, the site is not served by City water or sewer; however, the site will be required to connect to City utilities through the building permit process. The site will also be required to meet all drainage requirements at time of building permit. The existing utilities in the area are over-sized for the existing and future demand, and are designed to accommodate any additional development that may occur on the site. In addition, the anticipated traffic generated by the site will not adversely affect either of the two streets serving the site, Valmont Rd. and 28th St., which are a major arterial and a state highway, respectively, and are well within acceptable level of service ranges. Therefore, the proposed use will not significantly affect the infrastructure of the surrounding area.

✓ (5) Character of Area: The use will not change the predominant character of the surrounding area or the character established by adopted design guidelines or plans for the area; and

The use will not change the predominant character of the surrounding area, which is a mix of high density residential uses to the west along Valmont and higher intensity retail and service uses to the north, east and south along the 28th Street corridor. Given the building's location on the south side of the site as well as the site's location to the rear (west) of several existing businesses including a restaurant, dispensary and drive-thru liquor store and to the east of the Elmer's Two-Mile path, the proposed outdoor seating area and food truck park will be buffered on three sides and will only be minimally visible from adjoining rights-of-way. In addition, the proposed Management Plan will help ensure ongoing predictability of the use.

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 proposal is for the replacement of a previously existing commercial use with a new commercial use, and does not include any conversion of existing dwelling units to non-residential uses.

Van Schaack, Chandler

From: Clyda Stafford [clyda@q.com]
Sent: Friday, July 03, 2015 1:43 PM
To: Van Schaack, Chandler
Subject: App. for 2775 Valmont Rd. Tavern

Dear Mr. Van Schaack,

I am emailing my comment on the application to the Planning Dept. for a Food Park and Tavern at 2775 Valmont Rd. Today, I see that the letter from Planning Dept. says to send them before July 3, but when I first read the letter, I had July 3 in my mind as the deadline. Please accept my comment today.

I live in the Willow Brook Townhomes that border on Glenwood Drive on the north, the Two Mile Creek bike path on the east, and Red Oak Park (city public housing) on the southeast. My town home (3120 Eastwood Ct.) is in the southeast corner of our HOA. I am only yards from the bike path, Two Mile Creek condos, and the open space for the bike path extends down to Valmont. Although a tavern at 2775 Valmont would be a block and half away from me, it is in a direct line of open space to my townhouse; therefore, I could hear noise from an outside seating area. Inevitably, there would be noise-- a "tavern" is a bar, especially from music that plays until possibly 2:00 a.m.

Shady Hollow East and Two Mile Creek condos are only yards from that location. All of the area west of that location is very dense residential housing. I already hear noise from 28th St., Valmont Rd., the back of the shopping center to my east that is on 28th (especially the car wash), noise from the back parking lot of Two Mile Creek condos, noise from Red Oak Park (city public housing), noise from my own neighborhood (very dense), and sometimes at night -- even noise from the Elmers's Two Mile Creek bike path. I don't want more noise.

Just because the people who live in all these dense neighborhoods, in condos and townhouses, are living in affordable housing, doesn't mean that the City (especially the Planning department) can assume we have not right to a decent quality of life and the peace and quiet of our own homes. The City (including the Planning department) preaches "affordable housing" and "residential density" as if those ideas are a religion. But, they do not understand what their policies do to the quality of life for the people who live in affordable housing -- after all, they don't live there.

Clyda Stafford
303-443-8313
3120 Eastwood Ct.
Boulder, CO 80304

June 30, 2015

City of Boulder Planning and Sustainability
1739 Broadway
Boulder, CO 80306

TwoMile Creek HOA
2707 Valmont
Boulder, CO 80304

Mr. Van Schaack:

TwoMile Creek (TMC) appreciated the opportunity to attend the developers' meeting regarding the proposed use at 2775 Valmont Road.

We do believe, however, that some concerns need to be "on the record" and written plans in place to deal with the following issues that we believe are likely or probable problems that will result from the project going forward:

- the location of windows (operable or not) facing TwoMile Creek will result in noise transmission from the existing building. We request no windows facing TMC.
- patrons parking in our parking lot; I personally saw many people park there the night of the meeting; it's convenient and I think there is every reason that will be a problem.
- *the extent of effective sound mitigation for not just the outside music, but the noise of scores of people whose volume cannot be "turned down."* This was not discussed at the meeting and is likely to be substantial as people will be drinking---even wine and beer.
- car lights facing TMC will disturb residents (bedrooms face the project) if extensive sight mitigation is not installed *all along the area where cars will be facing TMC.*
- professional security supervision to make sure that we will not have an incursion of vagrants or tavern patrons onto our property when "the party is over" at the tavern site.

We would ask that the city require, and the developers agree, to hiring security to be sure that their customers are not parking in our lot and that their site is cleared completely when they close. We also ask that both sound and sight mitigation measures be **VERY** extensive before the project is allowed to go forward; it is unlikely that changes will be made once approval is gained. Further, we would like to have a specific plan in place to address problems should they occur and would like to see those plans prior to construction.

We ask that the City very seriously consider that TMC's residents will not be able to "go home" to escape noise that is too loud, or car lights too bright, if they are deprived of their parking spaces or if vandalism occurs. This project has the potential to permanently change the quality of their life. We ask that you work with TMC if this project is to go forward.

Suzanne Wong
TwoMile Creek Board President

Van Schaack, Chandler

From: Michael May [mmay303@yahoo.com]
Sent: Tuesday, June 23, 2015 12:48 PM
To: Van Schaack, Chandler
Subject: Boulder Food Park & Tavern

Hi Chandler Van Schaack,
I received your letter about this project in my neighborhood and would like to comment.

In general. I am greatly in favor of this project and think it will be great for Boulder. My two concerns are:

1) the noise from this location drifting into my neighborhood if there will be outdoor music. This is primarily of concern during the the last hour that it is open each day as this is getting into the bedtime for children.

2) good parking has to be provided for customers so as to not encourage people from parking in the parking lots of neighboring condo and apartment buildings nearby.

Regards,

Michael May
2982 Shady Hollow West
Boulder, CO
President of the Shady Hollow HOA

303-241-0119

Van Schaack, Chandler

From: Tom Wilberding [twilberding@comcast.net]
Sent: Saturday, June 20, 2015 7:23 PM
To: Van Schaack, Chandler
Cc: Barb Wilberding
Subject: 2775 Valmont

In response to your mailing about this project, Boulder Food Park and Tavern, my wife and I vote no—outside taverns are not appropriate next to residential. Inside tavern with zero outdoor tables would be okay with us, subject to their obeying Boulder noise and other ordinances.

Thank you,

Thomas W. Wilberding
Barbara A. Wilberding
3108 Eastwood Court
Boulder, CO 80304-2957

Van Schaack, Chandler

From: Ellen Shriver [ellen.r.shriver@gmail.com]
Sent: Saturday, June 20, 2015 11:40 AM
To: Van Schaack, Chandler
Subject: tavern

since you are listed as project contact on the letterhead stationery from the community planning & sustainability i am directing my questions to you. this letter which included a colorful brochure/invitation from the young investors in the food park project was described in your letter as a good neighbor meeting. however the letter with brochure was inserted into our mail boxes.... u.s. postal boxes, by an unknown hand. some boxes that had enough space around the sides or the bottom for the envelop to slide through got the letter. those boxes which are by their construction too tight for the envelope to slide through did not. first of all who was messing with our mail boxes; second, a hit or miss approach for informing the neighbors is not a formal notification. some residents were informed, some were not. has the city government become so careless as to use a questionable method of informing the public of a meeting that concerns them? to use the u.s. postal mail boxes of the residents at 2707 valmont road rather than taking the time to deliver the notice, since it did not come through the mail, door to door? a letter under the city of boulder letterhead which included a brochure from the aforementioned investors in the food park smacks of tacit support from the city for this business project. what about city support for the densely populated residential area that this business borders? does the city council now make it's decisions based on weather a proposal is "cool" or uncool? it is cause for concern to the public that city government is behaving in such an irresponsible manner as regards this matter. ellen r. shriver, 2707 valmont road.

2707 Valmont Rd. D202
Boulder, CO. 80304
7/1/15

Chandler Van Schaack
P.O. Box 791
Boulder, CO. 80306
RE: Boulder Food Park & Tavern

Dear Mr. Van Schaack,

This letter is my comments on the proposed Boulder Food Park & Tavern Review Number: LUR2015-00060 in response to the notice I received dated June 16, 2015.

I would like to begin by reiterating our telephone conversation. I explained to you the neighborhood meeting invitations were found in our locked mailboxes without address or postage, and not all residents received them. I asked you how this could be a legitimate meeting since not all the residents were invited. Your response was that since they are not required to have a neighborhood meeting there was nothing you could do. You told me you suggested to them that they postpone the meeting and send out proper notice but they refused. This was not fair to the residents who did not know about the meeting, and to the food truck that may have had more customers if the meeting had been properly noticed.

The next item I would like to bring up is conflicting information. It was verbally stated at the meeting that the music would be indoors. On the management plan document we received it states "Amplified music will be played in the outdoors area at low volume levels during the regular business hours of operation. Periodically special events will take place where the music will be more amplified but will be restricted to hours no later than 9pm." I am very confused.

Thirdly, at the meeting one of our homeowners made a request that closing time be earlier. The response was no with no offer of negotiation.

If I were on a review board, I would see the above mentioned behaviors as red flags and would question if these people are capable of running a business.

In regard to noise, even if the music is indoors and under control, what about people's voices? We can hear people talking on the bike path so how is it going to be with people sitting outdoors eating and drinking?

I deserve to have a quiet home without disturbance from neighboring businesses. I am requesting that this application be denied. If my request is denied, they should be required to build a fence with sound proofing material and take full responsibility for any sound seepage.

Please send me notice of your decision.

Sincerely ,



CC Stephen Tebo
Law Office of Riggs, Abney, Neal,
Turpin, Orbison, & Lewis

Van Schaack, Chandler

From: Dan Corbett [dcorbett@climbtrees.com]
Sent: Tuesday, July 21, 2015 3:52 PM
To: Van Schaack, Chandler
Subject: Fwd: 2775 Valmont Review

----- Forwarded message -----

From: **Dan Corbett** <dcorbett@climbtrees.com>
Date: Sat, Jun 27, 2015 at 2:47 PM
Subject: 2775 Valmont Review
To: vanschaack@bouldercolorado.com

Greetings Chandler,

My wife and I received the City's notice on the planning of the food trucks at 2775 Valmont in the mail. We live across the street in the Shady Hollow townhouse complex. While I am all for using the space for something better I have a few concerns about the project.

1. Noise - We have a three year old child, and may be adding another. During much of the year we like having our windows open. Having outdoor seating and (more importantly) drinking will undoubtedly add lots of noise pollution that will distract from the quiet comfort of our house and may make it more difficult for our son to sleep. I would much prefer to limit the hours of operation to 8pm.
2. Quality of Life - There are already a large number of people who use the ditches near the townhouse complex as their toilet and bathtub, in addition to camping out along the bike path. It is frustrating having to explain to my three year old why someone is vomiting or defecating when we are going for a walk. Alcohol will bring more problems, both from patrons and from homeless begging. While it won't help with the homeless camping and behaving poorly, I would prefer not needing alcohol. Isn't the point of mobile food trucks food, not booze?
3. Parking - We have extremely limited parking in our complex. During an event like the Bolder Boulder, as well as any normal Saturday night, it is near impossible to find an open spot. If the food trucks come in there needs to be a way to ensure people are not parking in our complex.

Please keep me informed on planning board hearings or decisions.

Thank you,
Dan Corbett
2978 Shady Hollow West

Van Schaack, Chandler

From: Don Elsborg [don.elsborg@gmail.com]
Sent: Tuesday, July 21, 2015 3:09 PM
To: Van Schaack, Chandler
Subject: Please approve the Boulder Food Truck Park - LUR2015-00060

Hello,

I would like to urge you to approve the Food Park.

I live in the neighborhood at Floral and 23rd. I think it would be a great neighborhood addition and bring some life to our neighborhood. I spoke with several of my neighbors and everyone is excited to be able to take a short walk to the new Food Park.

Quoting someone else who voiced a very logical opinion:

“Note its current ugliness (in spite of a nice location near creek and away from cars). 2. Now imagine a community-oriented #thirdspace for cyclists and walkers -- this would be great for #Boulder and the community. 3. Lastly, consider the boring/offensive alternatives for this site -- yet another 3-story monstrosity after years of construction with no use to neighbors and existing community? Please approve the food truck park.”

Can you tell me what the next steps are in the approval process?

Thanks
Don Elsborg
3010 23rd st.
Boulder



**CITY OF BOULDER
PLANNING BOARD INFORMATION ITEM**

TO: Planning Board

FROM: David Driskell, Executive Director, Community Planning and Sustainability
Maureen Rait, Executive Director of Public Works
Yvette Bowden, Director of Parks and Recreation
Sam Assefa, Senior Urban Designer, Project Coordinator
Joanna Crean, Project Coordinator
Jeff Haley, Project Coordinator

DATE: August 6, 2015

SUBJECT: Information Item: Civic Area Master Plan Changes Since the May 21, 2015
Planning Board Hearing

This memo is to provide the Planning Board an update on changes made to the Boulder Civic Area Master Plan regarding flood policy recommendations after the May 21, 2015 presentation to the board.

The Planning Board reviewed the Civic Area Master Plan at its May 21, 2015 meeting and made recommendations for City Council acceptance. Since that meeting, staff has made some changes based on further consideration of the city's flood regulatory framework and lessons from the September 2013 flood. Civic Area lands and city facilities were impacted as a result of the September 13 flooding along Boulder Creek and Gregory Creek. This has highlighted the need to even more carefully consider risk and uses in the floodplain. In considering the regulatory framework that is in place for the high hazard flood zones (HHZ) surrounding the north wing of the Main Library, and existing and updated floodplain mapping, staff presented the following recommended changes regarding proposed land uses in the Civic Area to the City Council at its June 16, 2015 meeting:

Performing Arts Facility

While previous recommendations for the Civic Area included consideration of removing the north wing library building out of the HHZ through site grading to allow expansion or redevelopment of the site, staff does not currently recommend an expansion or major enhancement to the north wing of the Main Library for assembly uses such as a performing arts facility. A regularly used performance/assembly center creates a higher risk to life safety and is not a use that would be appropriate for this location. The City's flood regulations including HHZ regulations do allow the north wing library to be improved up to 50 percent of the value of the structure within the existing square footage. While it may be possible to meet the minimum flood regulations and construct improvements to the existing building, from a flood safety

perspective, such an investment is not recommended. The city will continue to explore the feasibility of a performing arts facility in the context of alternative locations and as an outdoor venue.

Below-Grade Parking Structures

The Civic Area Vision Plan adopted in September of 2013 and the Civic Area Master Plan presented to the Planning Board on May 21st considered below-grade parking structures at the bookends as options to be explored. However, staff currently does not recommend below grade parking structures in the Boulder Creek area due to flood risk and ground water challenges. Below grade structures are at greater risk for flood damage to both the structure and the contents and are also a risk for people that may try to leave the area during a flood. Mitigation for groundwater will also likely increase the cost for both construction and long term operations of any below grade structure. Parking needs in the area will continue to be evaluated as the implementation phases of the master plan move forward.

Pedestrian Bridge Over Canyon Boulevard

While a new bridge over Canyon Boulevard to connect to a future use at the Civic Use Pad is still possible, the HHZ regulations would likely prohibit its connection to the north wing of the library. Staff recommends that the synergy with the Civic Use Pad be achieved with enhanced connectivity between the sites rather than a pedestrian bridge.

For additional Civic Area Floodplain Information, please refer to www.bouldercivicaarea.com.