



**CITY OF BOULDER
PLANNING BOARD MEETING AGENDA**

DATE: August 27, 2015

TIME: 5:30 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

5. PUBLIC HEARING ITEMS

A. Public hearing and consideration of a USE REVIEW (LUR2015-00069) to allow a 1,500 square foot restaurant use at 5530 Spine Rd. within the Alexan Flatirons/ Apex 5510 mixed-use development.

The proposal includes a request to increase the parking reduction previously granted to the Alexan Flatirons/ Apex 5510 development from 7.1% to 9.5% for a total of 249 parking spaces to be provided where 275 are required pursuant to the Residential – High 5 (RH-5) zoning standards.

Applicant: Meaghan Turner for Kimley Horn

Owner: Boulder CAF II, LLC

B. Public hearing, consideration, and recommendation to City Council to rezone a 0.81 acre portion of land generally located at 385 South Broadway from the Residential - Low 1 (RL-1) to the Business - Transitional 2 (BT-2) zoning district consistent with the Boulder Valley Comprehensive Plan land use map designation of Transitional Business while retaining a 25-foot area along the northern and western property lines within the RL-1 zoning district. (LUR2015-00047), and

Public hearing, consideration, and recommendation to City Council to adopt an ordinance amending sections 9-2-14, “Site Review,” B.R.C.1981, and 9-9-2, “General Provisions,” B.R.C. 1981, to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district, one of which is a low density residential district with neighboring land uses, and setting forth related details. This proposed code change would implement the buffer zone on the north and west sides of the property located at 385 Broadway that was contemplated in the 2008 mid-term Comprehensive Plan update, and is intended to ensure properties with similar circumstances are compatible.

Applicant for Rezoning: Erin Bagnall

Owner for Rezoning: 385 Broadway LLC

Public hearing, consideration, and recommendation to City Council to adopt an ordinance amending sections 9-2-14, “Site Review,” B.R.C.1981, and 9-9-2, “General Provisions,” B.R.C. 1981, to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district one of which is a low density residential district with neighboring land uses, and setting forth related details. This proposed code change would implement the buffer zone on the north and west sides of the property located at 385 Broadway that was contemplated in the 2008 mid-term Comprehensive Plan update and similar circumstances are compatible.

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

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

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

**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.

**CITY OF BOULDER
PLANNING BOARD AGENDA ITEM
MEETING DATE: August 27, 2015**

AGENDA TITLE:

Public hearing and consideration of a USE REVIEW (LUR2015-00069) to allow a 1,500 square foot restaurant use at 5530 Spine Rd. within the Alexan Flatirons/ Apex 5510 mixed-use development. The proposal includes a request to increase the parking reduction previously granted to the Alexan Flatirons/ Apex 5510 development from 7.1% to 9.5% for a total of 249 parking spaces to be provided where 275 are required pursuant to the Residential – High 5 (RH-5) zoning standards.

Applicant: Meaghan Turner for Kimley Horn

Owner: Boulder CAF II, LLC

REQUESTING DEPARTMENT:

Community Planning & Sustainability

David Driskell, Executive Director

Susan Richstone, Deputy Director

Charles Ferro, Development Review Manager

Chandler Van Schaack, Planner II

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 (LUR2015-00069) to allow a 1,500 square foot restaurant use to occupy a building designed for commercial use at 5530 Spine Rd. within the Alexan Flatirons/ Apex 5510 mixed-use development. The proposal includes a request to increase the parking reduction previously granted to the Alexan Flatirons/ Apex 5510 development from 7.1% to 9.5% for a total of 249 parking spaces to be provided where 275 are required pursuant to the Residential – High 5 (RH-5) zoning standards.

Project Name:

Alexan Flatirons/ Apex 5510 Kafe Urban Use Review

Location:

5530 Spine Rd.

Size of Tract:

387,582 square feet (8.89 acres)

Zoning:

Residential – High 5 (RH-5)

Comprehensive Plan:

High Density Residential

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 9.5% 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 proposed restaurant space is located at 5530 Spine Rd. within the Alexan Flatirons/ Apex 5510 mixed-use development, located within the Gunbarrel neighborhood, at the terminus of Spine Road (See **Figure 1** below for a Vicinity Map). The Alexan Flatirons/ Apex 5510 development was originally approved by Planning Board in November 2012, and includes 13 detached structures comprised of 232 multi-family residential dwelling units, a 2,500 square foot clubhouse building and a 1,500 square foot tenant space designed for retail or restaurant use. The Planning Board packet is available online [HERE](#) (click '2012' → '11 NOV' →

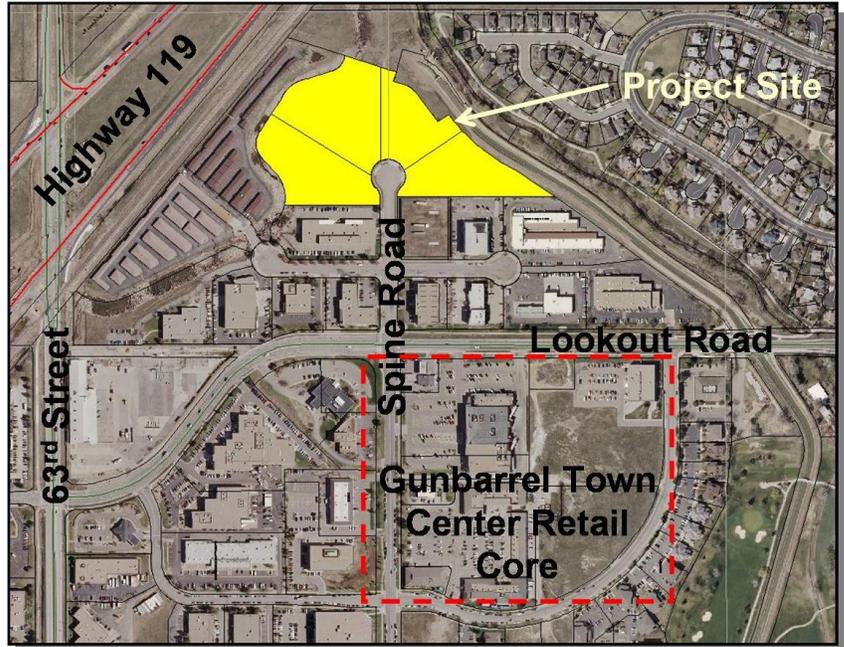


Figure 1: Vicinity Map

'11.15.2012_PB_Packet') The project site is comprised of approximately 8.6 acres and is zoned Residential High-5 (RH-5), 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.

Uses adjacent to the site include light industrial uses, including wholesale and manufacturing uses directly adjacent to the south as well as a public storage facility adjacent to the west across a wetland buffer. Although not immediately adjacent to the site, single family residential is in near proximity to the northeast. The Gunbarrel Center development, approved by Planning Board in February 2012, is located within a few blocks of the site to the south, across Lookout Road. The Gunbarrel Center development is a mixed-use, pedestrian-oriented development comprised of office, retail and residential uses designed to serve as the core of the Gunbarrel Neighborhood.

Project Description

The proposal is to allow for a restaurant use to occupy the 1,500 square foot tenant space designed for retail or restaurant use within the Alexan Flatirons/ Apex 5510 development (Site Review case #LUR2012-00039). See **Figure 2** below for a picture of the existing tenant space and **Figure 3** below for the previously approved site plan showing the location of the space within the development. No changes to the

site or building plans are proposed. The proposed restaurant, “Kafe Urban,” includes 23 indoor seats and 16 outdoor seats, and would function as a coffee shop and wine bar. The proposed hours of operation are from 6:00 am – 10:00 pm, Monday – Friday, 7:00 am – 10:00 pm, Saturdays and 7:00 am – 9:00 pm Sundays. The proposal includes a request to increase the parking reduction previously granted to the Apex/ Alexan Flatirons development from 7.1% to 9.5% to allow for a total of 249 parking spaces to be provided



Figure 2: Existing Tenant Space

where 275 are required. This parking reduction request stems from the proposed change in use, which increases the required parking for the 1,500 sq. ft. tenant space from 5 parking spaces (1 space per 300 sq. ft. of floor area for retail uses) to 12 parking spaces (1 parking space per 3 indoor seats plus 1 parking space per 3 outdoor seats for those seats exceeding 20 percent of the indoor seats).

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.

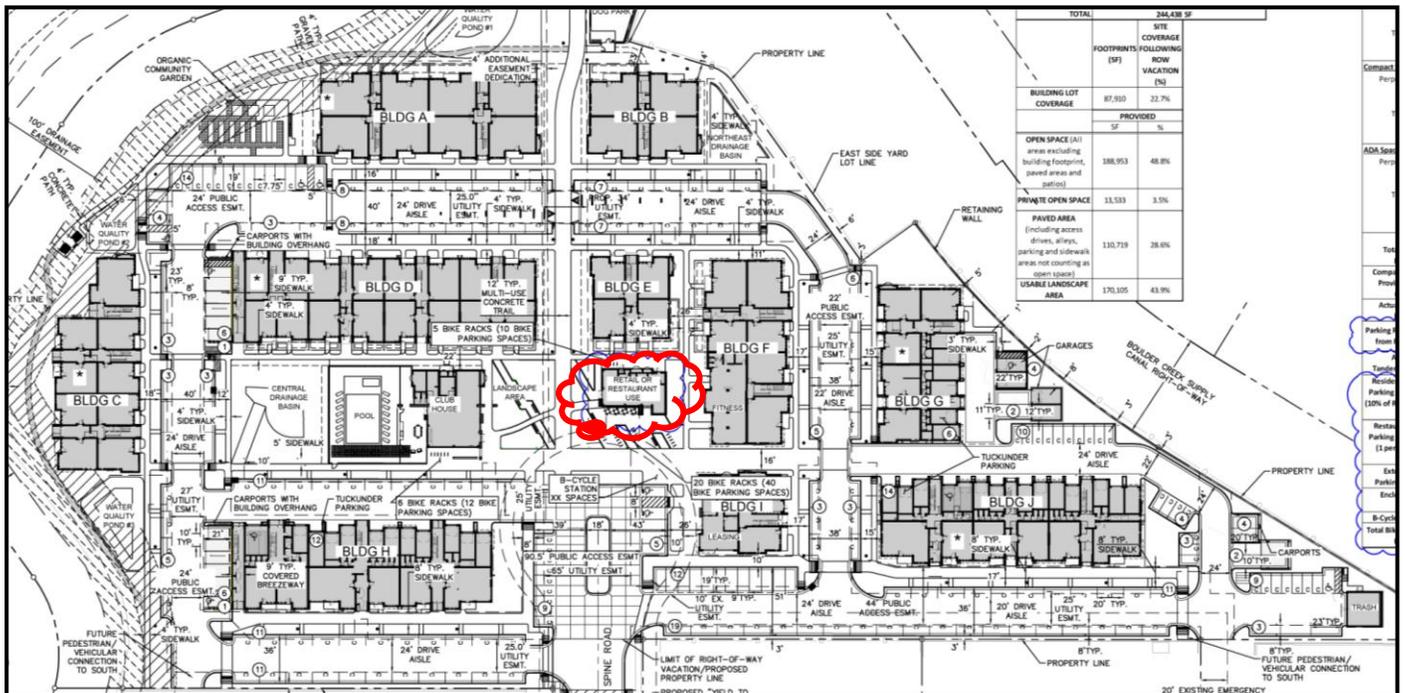


Figure 3: Site Plan showing location of existing tenant space proposed for new restaurant use

Process

Pursuant to section 9-6-1, "Schedule of Permitted Land Uses," B.R.C. 1981, a Use Review is required for "Restaurants, brewpubs, and taverns over 1,000 square feet in floor area, or which close after 11 p.m., or with an outdoor seating area of 300 square feet or more" to operate in the RH-5 zone district. The Use Review criteria are found in section 9-2-15(e), B.R.C. 1981. The trigger in this case is the floor area proposed greater than 1,000 square feet. Pursuant to section 9-2-15(d)(1), B.R.C. 1981, any Use Review request for a nonresidential use in a residential zone district requires a public hearing with a final decision by the Planning Board. Following a decision by Planning Board, there will be a 30-day period during which time City Council may call up the decision pursuant to Section 9-4-4, "Appeals, Call-Ups and Public Hearings," B.R.C. 1981.

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. Staff's analysis of the review criteria is included below:

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 located within the RH-5 (Residential – High 5) zone district, which is defined in section 9-5-2(c)(1)(F) of the Boulder Revised Code 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."

Pursuant to the use standards for the RH-5 zone district, "Restaurants, brewpubs, and taverns over 1,000 square feet in floor area, or which close after 11 p.m., or with an outdoor seating area of 300 square feet or more" are allowed pursuant to a Use Review.

(2) Rationale: The use either:

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

The proposed project is located within the recently approved development previously known as the Alexan at Gunbarrel Flats, now known as "Alexan Flatirons/ Apex 5510." The development, which is currently under construction, consists of 11 residential buildings with a total of 232 units comprised of a mix of studios, 1-bedroom, and 2-bedroom units, as well as a detached, 2,500 square foot clubhouse and a 1,500 square foot building designed for retail or restaurant uses. The current proposal to allow for a

restaurant use within the approved 1,500 sq. ft. retail space will provide a direct service to the surrounding area by providing a centrally-located place where residents can walk to get coffee, baked goods and other food and drink items.

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

N/A (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 and design of the building in which the proposed use would be located were approved as part of the original Site Review (LUR2012-00039), and no changes to the building are proposed as part of this review. In terms of the operating characteristics, the proposed tenant, "Kafe Urban," functions as a coffee shop and wine bar. The proposed hours of operation are from 6:00 am – 10:00 pm, Monday – Friday, 7:00 am – 10:00 pm, Saturdays and 7:00 am – 9:00 pm Sundays. The proposed restaurant would include a total of 23 interior seats and 16 outdoor patio seats. Given that the operating characteristics will be memorialized by the Management Plan in order to ensure predictability as well as the fact that the building location, size and design have already been approved, the use will be compatible with and have minimal negative impact on the surrounding development.

The proposal includes a request to increase the parking reduction previously granted to the Alexan Flatirons/ Apex 5510 development from 7.1% to 9.5% to allow for a total of 249 parking spaces to be provided where 275 would be required following the proposed restaurant conversion per the Residential – High 5 (RH-5) zoning standards. Given the location of the project site in proximity to the public transit (RTD route 205 location at Spine and Lookout roads, within a quarter of a mile from the site) as well as the multi-use path connection to the northeast, pedestrian connection along the southern property line and the future roadway connections to the south on both the east and west sides of the site, the approved development strongly supports multi-modal transit opportunities such that the request for an increase in the existing parking reduction will have a minimal negative impact on the use of nearby properties. In addition, the original development approval includes five designated parking spaces for the subject building, and additional on-street parking exists throughout the development. There are 40 bicycle parking spaces located immediately south of the restaurant space, as well as a recently approved B-Cycle Station to be installed slightly further to the south. Overall, the proposed increase in the existing parking reduction from 7.1% to 9.5% is in keeping with the intent of the Alexan Flatirons/ Apex 5510 development to create a successful urban infill project focusing on pedestrians and connectivity and also meets the broad goals of the Gunbarrel Center Community Plan (GCCP) to create a

vibrant, easily accessible, pedestrian-oriented, mixed-use neighborhood. As such, the proposed use will be reasonably compatible with and have minimal negative impact on the use of nearby properties.

✓ (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;

As mentioned above, the proposal is to allow for a restaurant use in the building previously approved for retail. The building was approved as part of the larger Alexan at Gunbarrel Flats development, the infrastructure for which is still currently under construction and is intended to serve the 11 residential buildings and 2 commercial buildings therein. The proposed change in 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 proposed change in use is in keeping with the predominant character of the area as established by the approved Site Review and the Gunbarrel Community Center Plan (GCCP), the principle goal of which is to create a vibrant, easily accessible, pedestrian-oriented, mixed-use neighborhood. The design of the retail space was intended to serve the residents of the development by providing a neighborhood-scale, walkable commercial establishment where residents could purchase basic goods.

✓ (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.

No dwelling units are being converted to non-residential uses as part of this proposal.

2. Is the requested 9.5% 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 request to increase the parking reduction previously granted to the Alexan Flatirons/ Apex 5510 development from 7.1% to 9.5% to allow for a total of 249 parking spaces to be provided where 275 would be required following the proposed restaurant conversion was found to be consistent with the applicable review criteria. Staff's analysis of the review criteria is included below:

Section 9-9-6(f)(3), Parking Reduction Criteria

Parking Reduction Criteria: Upon submission of documentation by the applicant of how the project meets the following criteria, the city manager may approve reductions of up to and including twenty-five percent of the parking requirements of this section (see Tables 9-1, 9-2, 9-3 and 9-4), if the manager finds that:

N/A (A) The parking needs of the use will be adequately served through on-street parking or off-street parking;

N/A (B) A mix of residential uses with either office or retail uses is proposed, and the parking needs of all uses will be accommodated through shared parking;

N/A (C) If joint use of common parking areas is proposed, varying time periods of use will accommodate proposed parking needs; or

✓ (D) The applicant provides an acceptable proposal for an alternate modes of transportation program, including a description of existing and proposed facilities, proximity to existing transit lines, and assurances that the use of alternate modes of transportation will continue to reduce the need for on-site parking on an ongoing basis

The Applicant has provided an acceptable proposal for an alternate modes of transportation program that includes a description of the existing and proposed facilities, proximity to existing transit lines and assurances that the use of alternate modes of transportation will continue to reduce the need for on-site parking on an ongoing basis. Given the location of the project site in proximity to the public transit (RTD route 205 location at Spine and Lookout roads, within a quarter of a mile from the site) as well as the multi-use path connection to the northeast, pedestrian connection along the southern property line and the future roadway connections to the south on both the east and west sides of the site, the approved development strongly supports multi-modal transit opportunities such that the request for an increase in the existing parking reduction will not affect the development's ability to continue to reduce the need for on-site parking on an ongoing basis.

In addition, the original development approval included a robust Transportation Demand Management Plan as well as five designated parking spaces for the subject building, and additional on-street parking exists throughout the development. There are 40 bicycle parking spaces located immediately south of the restaurant space, as well as a recently approved B-Cycle Station to be installed slightly further to the south. Overall, the number existing and proposed bicycle and pedestrian facilities, combined with the site's proximity to existing transit lines and the small scale of the proposed restaurant all support the parking reduction request and provide the necessary assurances that the use of alternate modes of transportation will continue to reduce the need for on-site parking on an ongoing basis.

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. Staff has not received any comments from the public regarding the proposal.

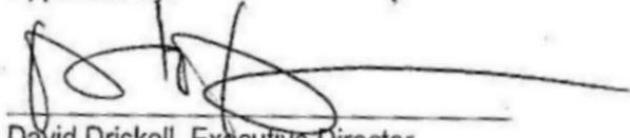
STAFF FINDINGS AND RECOMMENDATION:

Staff recommends that the Planning Board approve the Use Review application LUR2015-00069, adopting the staff memorandum as findings of fact 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 August 3, 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. 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 August 3, 2015 which is attached to this Notice of Disposition.
 - b. Size of the restaurant use shall be limited to 1,500 square feet, with a total of 23 interior seats and 16 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 restaurant use shall be closed from 10:00 p.m. to 6:00 a.m., Mon. – Fri., before 7:00 a.m. and after 10:00 p.m. on Saturdays, and before 7:00 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. 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. 03314182 on May 23, 2013 and the Subdivision Agreement recorded at Reception No. 03336953 in the records of the Boulder County Clerk and Recorder.
4. This **approval shall be limited to Kafe Urban**, operated consistent with the Applicant's Management Plan dated August 3, 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 restaurant in compliance with the terms of this approval.

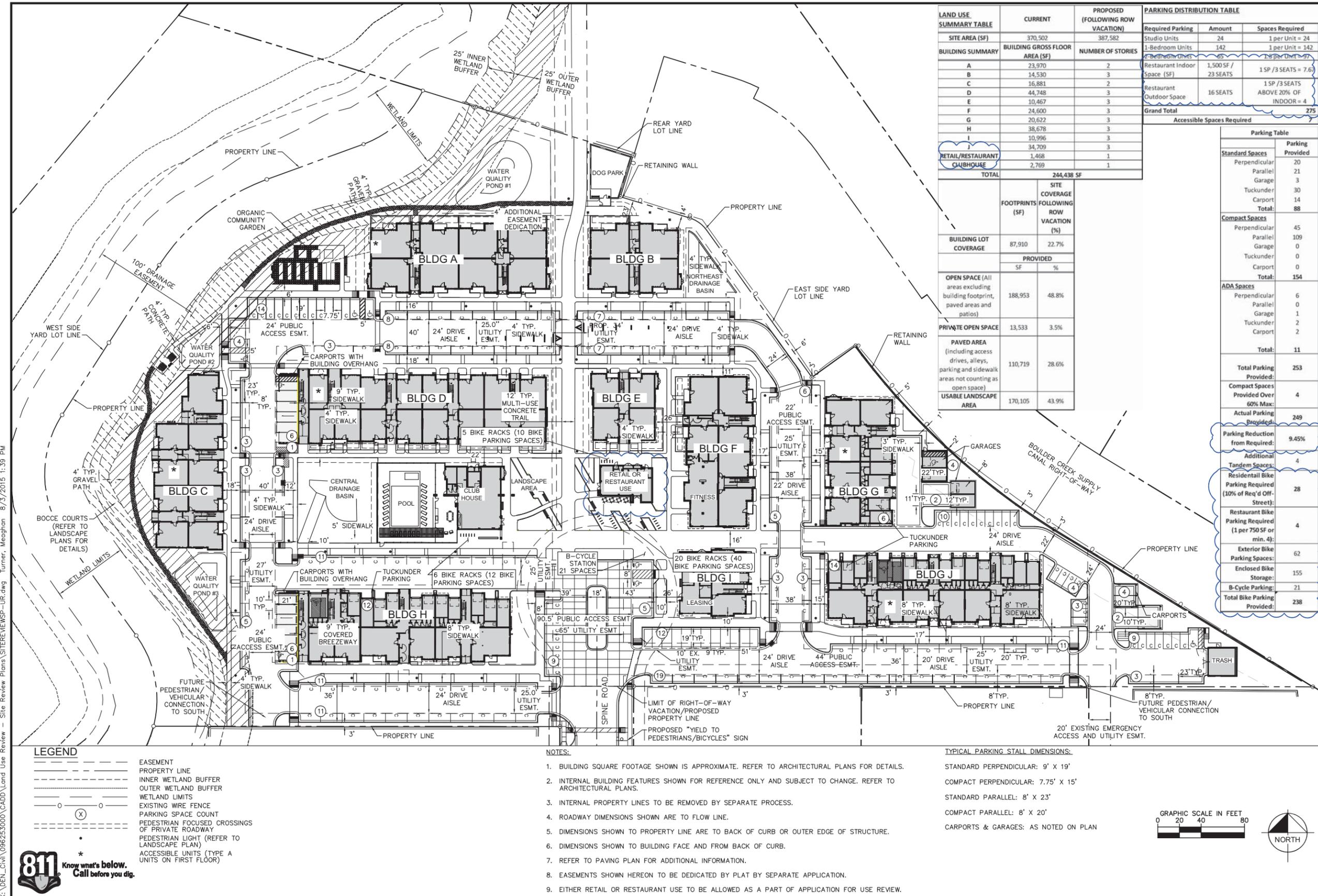
Approved By:

A handwritten signature in black ink, appearing to read 'David Driskell', written over a horizontal line.

David Driskell, Executive Director
Department of Community Planning and Sustainability

ATTACHMENTS:

A: [Applicant's Proposed Plans and Management Plan](#)



LAND USE SUMMARY TABLE	CURRENT	PROPOSED (FOLLOWING ROW VACATION)
SITE AREA (SF)	370,502	387,582
BUILDING SUMMARY	BUILDING GROSS FLOOR AREA (SF)	NUMBER OF STORIES
A	23,970	2
B	14,530	3
C	16,881	2
D	44,748	3
E	10,467	3
F	24,600	3
G	20,622	3
H	38,678	3
I	10,996	3
J	34,709	3
RETAIL/RESTAURANT CLUBHOUSE	1,468	1
TOTAL	244,438 SF	

PARKING DISTRIBUTION TABLE		
Required Parking	Amount	Spaces Required
Studio Units	24	1 per Unit = 24
1-Bedroom Units	142	1 per Unit = 142
2-Bedroom Units	65	1 per Unit = 65
Restaurant Indoor Space (SF)	1,500 SF / 23 SEATS	1 SP / 3 SEATS = 7.6
Restaurant Outdoor Space	16 SEATS	1 SP / 3 SEATS ABOVE 20% OF INDOOR = 4
Grand Total		275

BUILDING LOT COVERAGE	FOOTPRINTS (SF)	SITE COVERAGE FOLLOWING ROW VACATION (%)
BUILDING LOT COVERAGE	87,910	22.7%
OPEN SPACE (All areas excluding building footprint, paved areas and patios)	188,953	48.8%
PRIVATE OPEN SPACE	13,533	3.5%
PAVED AREA (including access drives, alleys, parking and sidewalk areas not counting as open space)	110,719	28.6%
USABLE LANDSCAPE AREA	170,105	43.9%

Parking Table	
Standard Spaces	Parking Provided
Perpendicular	20
Parallel	21
Garage	3
Tuckunder	30
Carpport	14
Total:	88
Compact Spaces	
Perpendicular	45
Parallel	109
Garage	0
Tuckunder	0
Carpport	0
Total:	154
ADA Spaces	
Perpendicular	6
Parallel	0
Garage	1
Tuckunder	2
Carpport	2
Total:	11
Total Parking Provided:	253
Compact Spaces Provided Over 60% Max:	4
Actual Parking Provided:	249
Parking Reduction from Required:	9.45%
Additional Tandem Spaces:	4
Residential Bike Parking Required (10% of Req'd Off-Street):	28
Restaurant Bike Parking Required (1 per 750 SF or min. 4):	4
Exterior Bike Parking Spaces:	62
Enclosed Bike Storage:	155
B-Cycle Parking:	21
Total Bike Parking Provided:	238

Kimley»Horn
 2015 KIMLEY-HORN AND ASSOCIATES, INC.
 4582 S. Ulster Street, Suite 1500
 Denver, Colorado 80237 (303) 228-2300

ALEXAN FLATIRONS / APEX 5510
 USE REVIEW
 CITY OF BOULDER, STATE OF COLORADO
 SITE PLAN

PRELIMINARY
 FOR REVIEW ONLY
 NOT FOR CONSTRUCTION
Kimley»Horn
 Kimley-Horn and Associates, Inc.
 PROJECT NO. 096253000
 SHEET 1

LEGEND

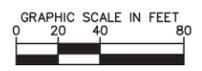
- EASEMENT
- PROPERTY LINE
- INNER WETLAND BUFFER
- OUTER WETLAND BUFFER
- WETLAND LIMITS
- EXISTING WIRE FENCE
- PARKING SPACE COUNT
- PEDESTRIAN FOCUSED CROSSINGS OF PRIVATE ROADWAY
- PEDESTRIAN LIGHT (REFER TO LANDSCAPE PLAN)
- ACCESSIBLE UNITS (TYPE A UNITS ON FIRST FLOOR)

811 Know what's below. Call before you dig.

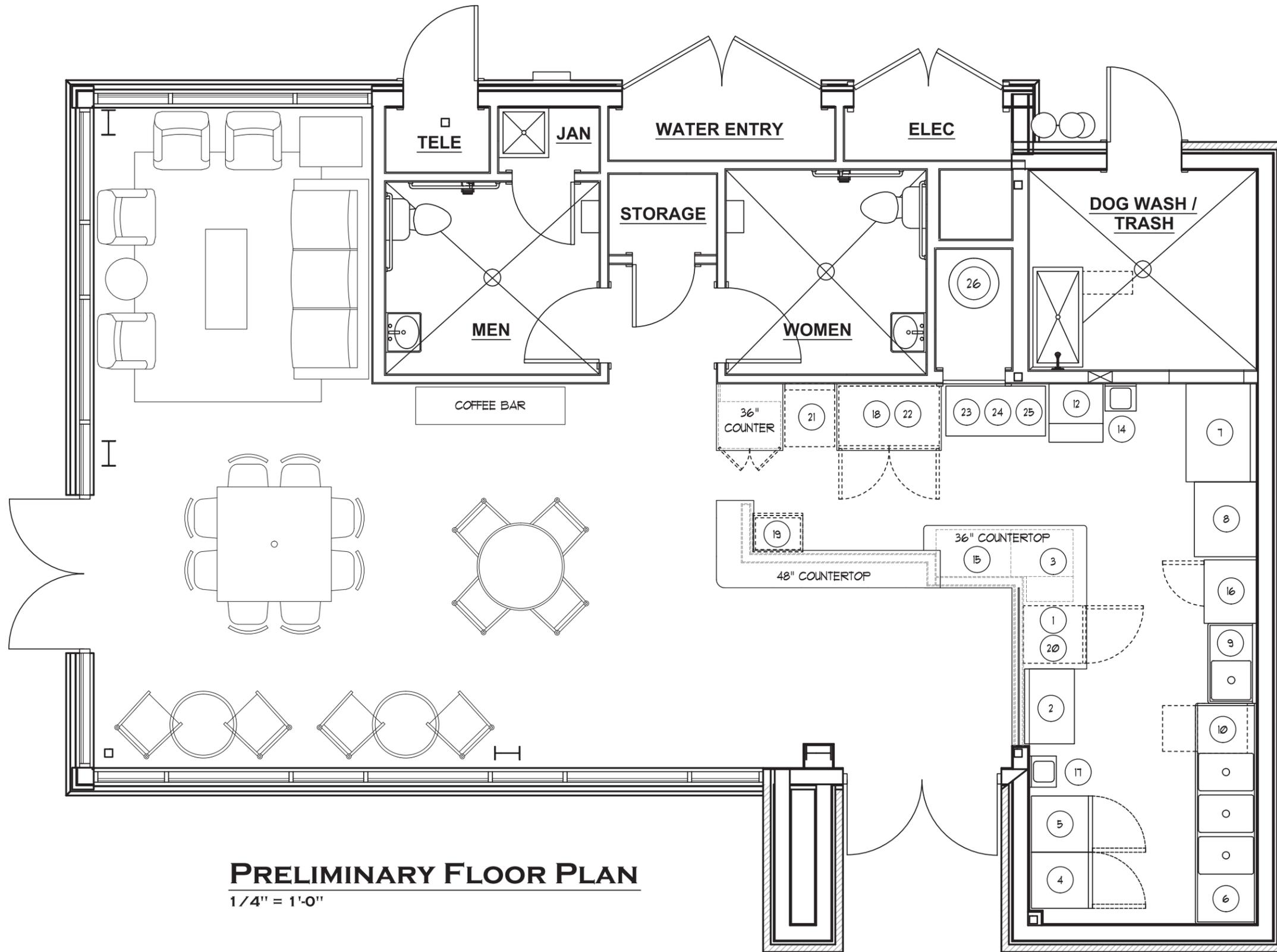
- NOTES:**
- BUILDING SQUARE FOOTAGE SHOWN IS APPROXIMATE. REFER TO ARCHITECTURAL PLANS FOR DETAILS.
 - INTERNAL BUILDING FEATURES SHOWN FOR REFERENCE ONLY AND SUBJECT TO CHANGE. REFER TO ARCHITECTURAL PLANS.
 - INTERNAL PROPERTY LINES TO BE REMOVED BY SEPARATE PROCESS.
 - ROADWAY DIMENSIONS SHOWN ARE TO FLOW LINE.
 - DIMENSIONS SHOWN TO PROPERTY LINE ARE TO BACK OF CURB OR OUTER EDGE OF STRUCTURE.
 - DIMENSIONS SHOWN TO BUILDING FACE AND FROM BACK OF CURB.
 - REFER TO PAVING PLAN FOR ADDITIONAL INFORMATION.
 - EASEMENTS SHOWN HEREON TO BE DEDICATED BY PLAT BY SEPARATE APPLICATION.
 - EITHER RETAIL OR RESTAURANT USE TO BE ALLOWED AS A PART OF APPLICATION FOR USE REVIEW.

TYPICAL PARKING STALL DIMENSIONS:

STANDARD PERPENDICULAR: 9' X 19'
 COMPACT PERPENDICULAR: 7.75' X 15'
 STANDARD PARALLEL: 8' X 23'
 COMPACT PARALLEL: 8' X 20'
 CARPORTS & GARAGES: AS NOTED ON PLAN



K:\DEN_Civil\096253000\CADD\Land Use Review - Site Review Plans\STEREVIEWMSP-UR.dwg Turner, Meaghan 8/3/2015 1:39 PM



KAFE URBAN
5510 APEX, GUNBARREL, CO

Equipment Legend

1. Espresso Machine (220v)
2. Gelato Display
3. Bakery Display
4. Single Refrigerator
5. Single Freezer
6. 3 Compartment Sink
7. 48" Sandwich Prep
8. 30" Prep Table
9. Prep Sink
10. Dishwashing Machine
11. --
12. Ice Machine
13. --
14. Dump Sink
15. Point of Sale (Mini Ipad / Cash Drawer)
16. Convection Oven (220v)
17. Hand Sink
18. 48" Under Counter Refrigerator
19. Bar Ice Box
20. 27" Under Counter Refrigerator
21. Kegerator
22. Countertop Brewing Equipment
23. Panini Press machine (220v)
24. Countertop Cooking Equipment
25. 48" Stainless Steel Mobile Table
26. Hot Water Heater

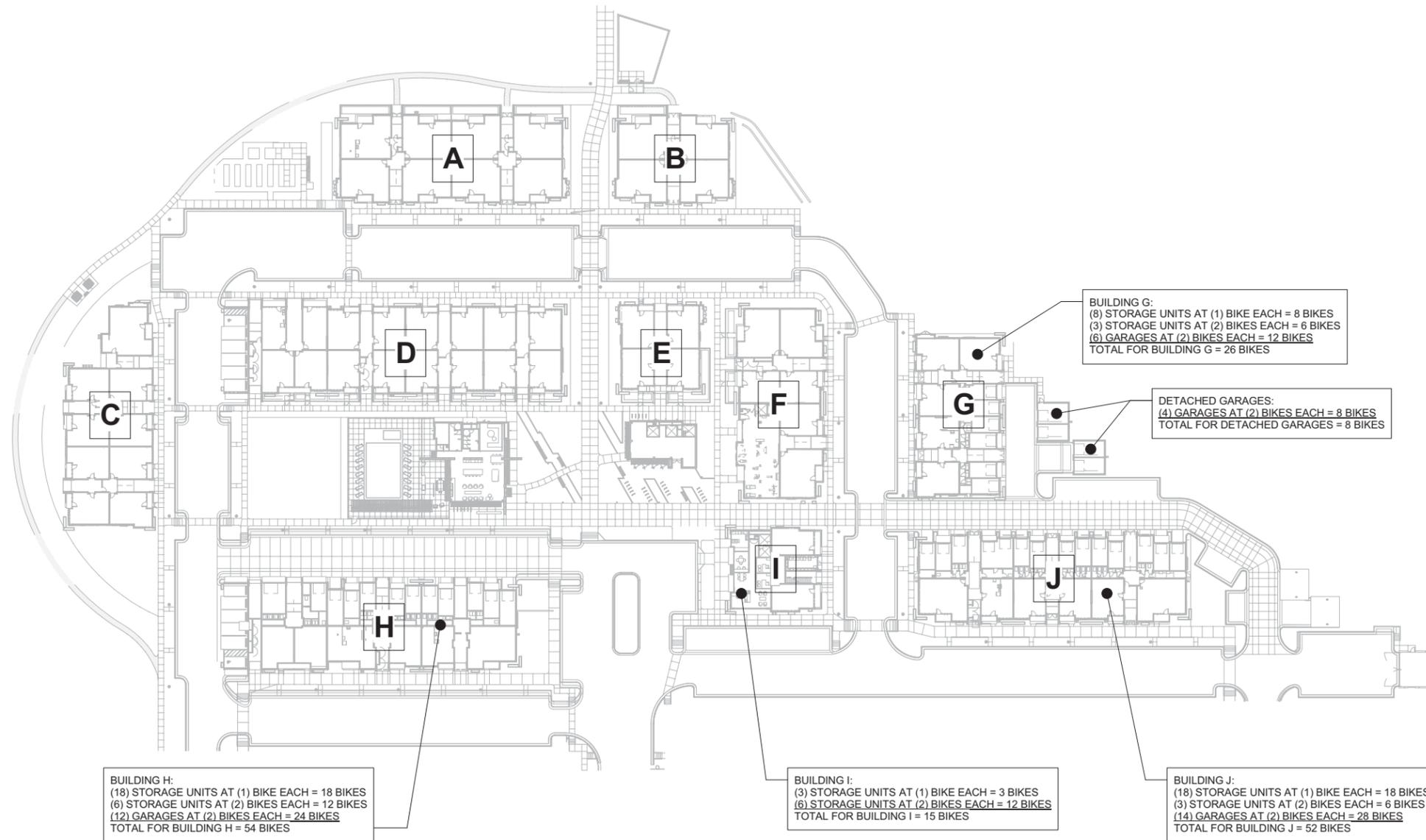
PRELIMINARY FLOOR PLAN
1/4" = 1'-0"

August 3, 2015



P:\1122105-Design_Drawings_Revit\11-Local Workstation\Sarah\1122_Campus_slinback(Recovery).rvt

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COVERED BIKE STORAGE LEGEND	
BUILDING	PROVIDED BIKE STORAGE
H	54
I	15
G	26
J	52
DETACHED GARAGES	8
TOTAL	155

PROJECT #1122

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CASE NUMBER: LUR2012-

ALEXAN FLATIRONS

TRAMMELL CROW RESIDENTIAL

BOULDER, COLORADO

JG JOHNSON ARCHITECTS
 HOSPITALITY & HOUSING DESIGN

1600 Wynkoop Street, Suite 100
 Denver, Colorado 80202
 www.jgjohnson.com
 Fax 303.892.7059
 Studio 303.892.7062

ISSUES/REVISIONS

Date	Description
8/3/2015	RFI 386

SHEET TITLE

COVERED BIKE STORAGE

SHEET NUMBER

ASK-004

1 COVERED BIKE STORAGE
 1" = 60'-0"

5530 Spine Road – Kafe Urban - Management Plan

August 3, 2015

Kafe Urban Background

Kafe Urban is a concept that has a modern spin on an Italian coffee shop and wine bar. Serving Exclusively Lavazza Coffee from Italy and a global menu of wine, beer and spirits. This Boulder location (Gunbarrel) is the 2nd location of the Kafe Urban concept as the principals have identified this area needing an upscale contemporary Kafe for lunch and early small plate meals as well as the early morning coffees. Principals of Kafe Urban also operate Prospects (Longmont) Urban Thai Café, a modern spin on a traditional Thai restaurant. A 2nd location for Urban Thai will be located at the just opened Hyatt Place Hotel in Boulder.

Hours of Operation

Monday – Friday: 6am – 10pm

Saturday: 7am – 10pm

Sunday: 7am – 9pm

Parking

Employees will be encouraged to use alternate modes of transportation available to the Project. Routes 205 and J are available for easy access to the project in addition to the bike and pedestrian facilities provided on the site. There are an excess of bike parking spaces easily accessible for both employees and guests at the front door. For those that do use vehicles, there are parking options adjacent to the entry to the project and throughout the site.

Deliveries

Deliveries will be coordinated to be made at off-peak times, once or twice a week so as to mitigate disruption to the residents or users of the Kafe.

Trash and Recycling

Trash and recycling is located at the eastern edge of the site. Glass recycling will be emptied prior to 10pm to minimize noise impact to the residents.

Noise

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

Cleanliness of Premises and Adjacent Right-of-Way

Sweeping/cleaning of the patio area and premises is conducted on a daily basis or more frequently if needed.

Drug and Alcohol Policy

Kafe Urban will abide by State and Local requirements and will undergo training and establish alcohol policies consistent with the Boulder Police Department and other state-certified guidelines for safe and controlled consumption of alcohol on the premises by patrons of at least 21 years of age.

Strategies to Avoid Loitering

We will help direct any subjects loitering to move to a better area if they become a nuisance to our clients. We will also work with the property management of the residential community to provide a unified front on this concern. If necessary, we will utilize the services of the Boulder Police Department.

Neighborhood Outreach and Methods of Future Communication

The principals Edward Vanegas and Paul Chansingthong of Kafe Urban can be reached by email address KafeUrban@gmail.com and by calling 303-719-7916.

Dispute Resolution Strategies

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

CITY OF BOULDER
AGENDA ITEM PLANNING BOARD
MEETING DATE: August 27, 2015

AGENDA TITLE:

REZONING: Public hearing, consideration, and recommendation to City Council to rezone a 0.8 acre portion of land generally located at 385 South Broadway from the Residential - Low 1 (RL-1) to the Business - Transitional 2 (BT-2) zoning district consistent with the Boulder Valley Comprehensive Plan land use map designation of Transitional Business while retaining a 25-foot area along the northern and western property lines within the RL-1 zoning district. (LUR2015-00047); and

CODE CHANGE : Public hearing, consideration, and recommendation to City Council to adopt an ordinance amending sections 9-2-14, "Site Review," B.R.C.1981, and 9-9-2, "General Provisions," B.R.C. 1981, to implement the BVCP and to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district of which one is a low density residential district with neighboring land uses, and setting forth related details.

Applicant: Erin Bagnall (rezoning request); City of Boulder (Land Use Code Change)
Owner: 385 Broadway LLC

REQUESTING DEPARTMENT:

Community Planning and Sustainability:

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

OBJECTIVE:

1. Hear Applicant and Staff presentations
2. Hold Public Hearing
3. Planning Board discussion
4. Planning Board recommendation to approve or deny the rezoning application and recommendation on proposed code amendment

REZONING PROPOSAL AND SITE SUMMARY:

Rezoning Proposal:	Proposal at the request of the property owner to rezone a portion of the property at 385 Broadway from Residential – Low 1 (RL-1) to Business – Transitional 2 (BT-2) consistent with the Boulder Valley Comprehensive Land Use designation of Transitional Business.
Code Change Proposal:	Proposal by city to amend portions of the land use code related to development of lots located in more than one zoning district, of which one is a low density residential district.
Rezoning Project Name:	385 South Broadway Rezoning
Location:	385 South Broadway
Size of Property:	1.01 acre (44,253 square feet): area to be rezoned 0.8 acre (35,361 square feet)
Zoning:	Residential - Low 1, RL-1 (currently), with Business – Transitional 2, BC-2 (proposed) for a 0.8 acre portion of the site.
Comprehensive Plan:	Transitional Business (TB) and 25-foot wide area of Low Density Residential (LDR) on the north and west of the subject property.

KEY ISSUES:

Rezoning: Is the rezoning request consistent with review criteria for rezoning?

Code Change: Does the proposed code change implement the Boulder Valley Comprehensive Plan?

BACKGROUND:

The property was originally developed as an office building in 1957 and has functioned as a non-conforming commercial use in a low density residential zone district (RL-1), making the existing commercial building difficult to expand, improve or redevelop. In order to request a commercial zoning designation, the underlying BVCP land use designation first needed to be changed. As part of the 2008 Mid-Term review of the Boulder Valley Comprehensive Plan (BVCP), Ordinance 7662 was adopted by City Council which included approval of a request by the property owner of 385 South Broadway for a BVCP land use designation change for an 0.80 acre site from Low Density Residential to Transitional Business. At that time, a series of public hearings and neighborhood meetings concluded with a modification to the original request to change the entire property from a land use of Low Density Residential to Transitional Business to a request to change only a portion of the property to Transitional Business with a portion of the site to remain Low Density Residential. More specifically, a 25-foot wide area on the north and west side of the property was left Low Density Residential.

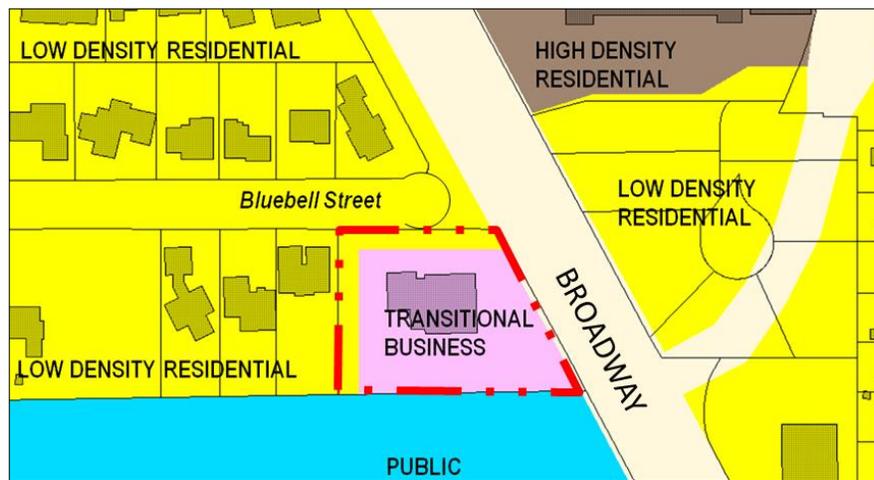


Figure 1: Boulder Valley Comprehensive Plan Land Use

As reflected in the minutes from the public hearings, the intent in maintaining a 25-foot wide area of Low Density Residential land use on the property was to “provide a buffer to the adjacent low density Residential Neighborhood.” Below is an excerpt from the April 17, 2008 staff memo. A link to the Feb. 21, 2008 staff memo and minutes of the initial hearing are found [here](#). A link to the staff memo and minutes of the continuation hearing of March 3, 2008 is found [here](#) and the staff memo and minutes of a subsequent continuation hearing of April 17, 2008 is found [here](#).

Originally, the property owner requested a land use map change from low density residential to transitional business for the entire property. An alternate land use map change was proposed in the February hearing which would split the land use designation on the lot, leaving the low density residential designation on the west and north sides of the lot in order to provide a buffer to the adjacent low density residential neighborhood. The objective of creating a buffer from the surrounding residential is to reduce the impacts caused by expansion of the non-residential use including vehicles, noise, traffic as well as the visual impacts and to provide a more appropriate transition between the uses.

To implement the intent behind the 25-foot buffer, and to implement BVCP policies 2.13, *Protection of Residential Neighborhoods Adjacent to Non-residential Zones*, and 2.15, *Compatibility of Adjacent Land Uses*, an ordinance (see [Attachment B](#)) to amend section 9-9-2(d) “Zoning Standards for Lots in Two or More Zoning Districts,” is being considered simultaneously to the rezoning ordinance which is discussed below under “Key Issue: Code Change.”

Rezoning: The applicant requests to rezone an 0.80 acre portion of the property at 385 Broadway from Residential – Low 1 (RL-1) to Business – Transitional 2 (BT-2) consistent with the Boulder Valley Comprehensive Land Use designation of Transitional Business.

Existing Site. As shown in the photos in Figures 3 and 4, the one acre site is located on Broadway and currently has a medical and dental office building with a surrounding parking lot. To the south of the site is the campus of the federal agency, the National Institutes of Standards (NIST); to the west and south is single family residential; to the east is Broadway, the Creekside Apartments; and an RTD Park and Ride; along with the Flatirons Medical/Dental Offices to the southeast. Further to the northeast is Basemar Shopping Center. The existing building on the property, shown in Figure 3, has been used as medical offices since 1957, and has been a non-conforming use since its construction.



Figure 2: Aerial Photo of Site and Context



Figure 3: Existing Site Looking Northwest

REVIEW PROCESS:

Per Land Use Code section 9-2-18(d), B.R.C. 1981, “the planning board shall hear a request for rezoning at a public hearing and shall make a recommendation for approval or denial to the city council.” Staff prepared a draft rezoning ordinance, provided in [Attachment A](#). Figure 4 illustrates the BVCP Land Use Map.

The applicant’s written statement (provided in [Attachment B](#)) indicates the intent to redevelop the site as townhomes, a use permitted by right in BT zoning districts. The one-acre size of the site does not meet the threshold for mandatory Site Review in the BT zones of two acres. However, if the townhome development is larger than 30,000 square feet, a mandatory Concept Plan and Site Review would be required. Similarly, a request for a residential parking reduction would also trigger a Site Review process.

As a part of the rezoning, staff has prepared an ordinance amending sections 9-2-14, “Site Review,” B.R.C.1981, and 9-9-2, “General Provisions,” B.R.C. 1981, to implement the BVCP and to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district one of which is a low density residential district with neighboring land uses. The code change is intended to clarify what can and cannot be built within the 25 foot buffer area that is the Low Density Residential area on the west and north portion of the site. The code change also implements the intent behind the creation of parcels with more than one land use that are established for an appropriate transition between existing residential neighborhoods and future neighboring land uses that have a greater intensity of use.

BVCP Land Use

As shown in Figure 4, the Boulder Valley Comprehensive Plan land use designation for the site is Transitional Business, defined on page 68 of the BVCP:

“The Transitional Business designation is shown along certain major streets. These are areas usually zoned for less intensive business uses than in the General Business areas, and they often provide a transition to residential areas.”

In 2008, as part of the mid-term review of the BVCP, the property owner was granted a land use designation map change from Low Density Residential to Transitional Business because the medical and dental office building on the property had been a non-conforming use since it was constructed in the 1950s. Refer to [Attachment B](#) for the parcel report and the Planning Board Minutes. The property had also received two variances, one for expansion in 1964, and one for an expansion of uses in 1973.

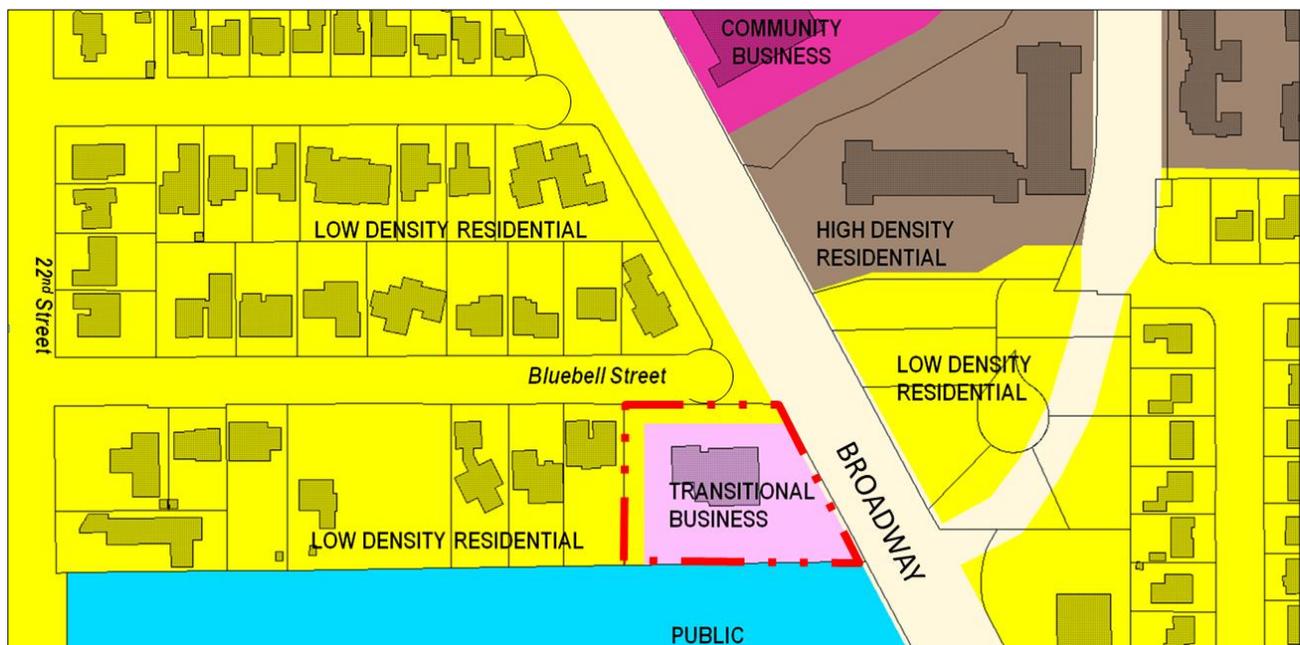


Figure 4: Broader Surrounding Area: Boulder Valley Comprehensive Plan Land Use Plan

Existing Zoning As shown on Figure 5, Zoning Map on following page, the current zoning is Residential – Low 1 defined within the land use code section 9-5-2, B.R.C. 1981 as, “Single-family detached residential dwelling units at low to very low residential densities.”

Requested Zoning As shown on Figure 6 Proposed Zoning, on the following page, the applicant is proposing Business - Transitional 2 (BT-2) zoning, as shown in the map on the following page, which is defined in the land use code section 9-5-2, B.R.C. 1981, “Transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation, temporary lodging and office uses.”



Figure 5: Existing Zoning

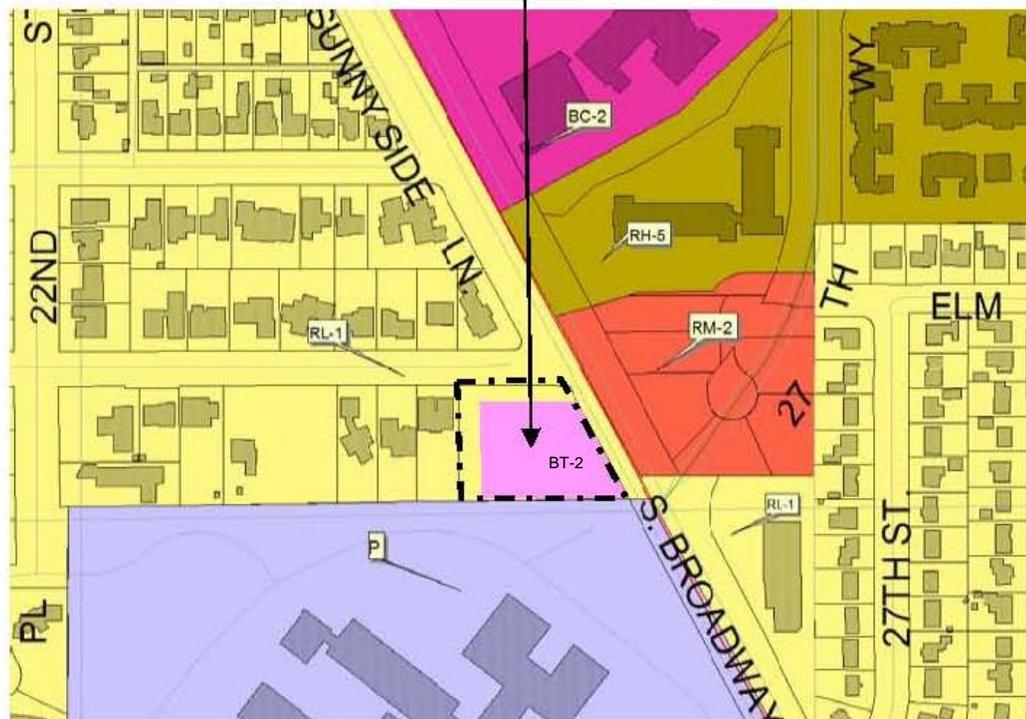


Figure 6: Proposed Zoning

Figure 6 illustrates the precise location of the rezoning within the property, and illustrates how a 25-foot wide “buffer” of Residential - Low 1 (RL-1) would remain.

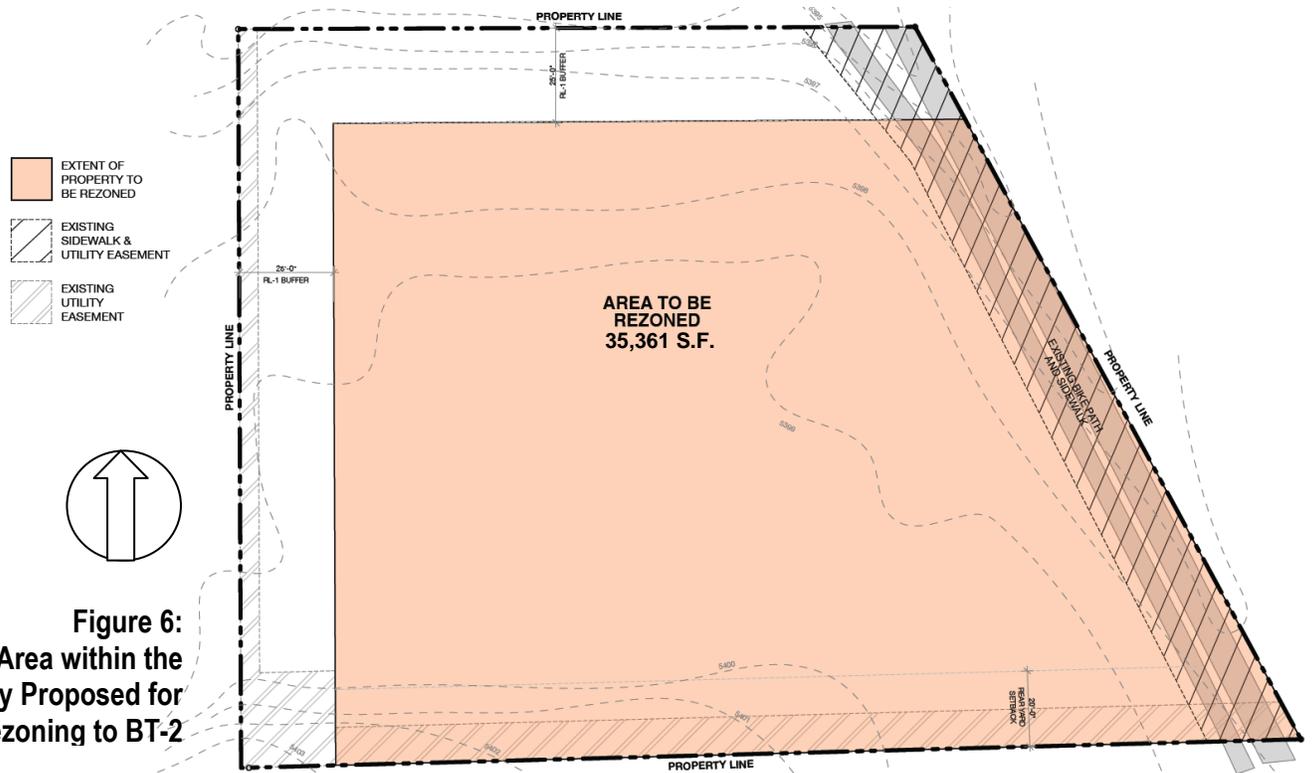


Figure 6:
Area within the Property Proposed for Rezoning to BT-2

Note that under the Transitional Business Land Use, the two compatible zoning districts are BT-1 and BT-2. An overview of the distinctions between the two is provided in Table 1.

	Business - Transitional 1	Business - Transitional 2
PURPOSE	<i>“Transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation, temporary lodging and office uses.”</i>	SAME
RES. USE	Detached and Attached Dwelling Units, and Townhomes are by-right	SAME
INTENSITY	1,200 SQUARE FEET OF OPEN SPACE PER DWELLING UNIT:	1,600 SQUARE FEET MINIMUM LOT AREA PER DWELLING UNIT MAXIMUM 27.2 DWELLING UNITS PER ACRE
MAXIMUM FLOOR AREA RATIO (FAR)	NO MAXIMUM	0.5 FAR MAXIMUM
PARKING	1 FOR 1- OR 2-BEDROOM DWELLING UNIT 1.5 FOR 3-BEDROOM DWELLING UNIT 2 FOR A 3-BEDROOM DWELLING UNIT 2 FOR A FOUR OR MORE BEDROOM DWELLING UNIT	SAME

As can be noted, the BT-2 zoning district is more restrictive in terms of residential density because one dwelling unit requires 1,600 square feet of lot area compared to a requirement of 1,200 square feet of open space per dwelling unit for BT-1. This would result in fewer units than the BT-1 zoning. Similarly, BT-2 has a maximum FAR of 0.5, whereas BT-1 has no FAR restriction. Note that the density for the site cannot be calculated using any part of the area zoned as Residential - Low 1 (RL-1).

KEY ISSUE: Is the rezoning request consistent with required review criteria for rezoning?

Land Use Code Section 9-2-18(e), B.R.C. 1981 states:

The city's zoning is the result of a detailed and comprehensive appraisal of the city's present and future land use allocation needs. In order to establish and maintain sound, stable, and desirable development within the city, rezoning of land is to be discouraged and allowed only under the limited circumstances herein described. Therefore, the city council shall grant a rezoning application only if the proposed rezoning is consistent with the policies and goals of the Boulder Valley Comprehensive Plan,

The most relevant BVCP goal for this rezoning request is the BVCP land use map that is a sketch plan of the desired land use pattern, in this case designating the site for the Transitional Business Land Use – which the zoning implements by assigning each parcel a zoning district. The proposed rezoning would align the BVCP land use map and the zoning, which is currently inconsistent. In addition, the 25-foot wide area of Low Density Residential land use to remain as RL-1 zoning on the site is intended to fulfill BVCP policy 2.13 “Protection of Residential Neighborhoods Adjacent to Non-Residential Zones” and BVCP Policy 2.15, “Compatibility of Adjacent Land Uses.”

and,

for an application not incidental to a general revision of the zoning map, meets one of the following criteria:

- √ ***The applicant demonstrates by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map;***

In the applicant’s written statement it was noted,

“we are requesting rezoning the TB Land Use portion of the site to BT-2 zoning from the current RL-1 zoning. Doing so will bring the property into compliance with requirements of the Boulder Valley Comprehensive Plan Land Use Map.”

- n/a ***The existing zoning of the land was the result of a clerical error;***

Not applicable.

- n/a ***The existing zoning of the land was based on a mistake of fact;***

Not applicable.

- n/a ***The existing zoning of the land failed to take into account the constraints on development created by the natural characteristics of the land, including but not limited to, steep slopes, floodplain, unstable soils, and inadequate drainage;***

Not applicable.

n/a **The land or its surrounding environs has changed or is changing to such a degree that it is in the public interest to encourage a redevelopment of the area or to recognize the changed character of the area; or**

Not applicable.

n/a **The proposed rezoning is necessary in order to provide land for a community need that was not anticipated at the time of adoption of the Boulder Valley Comprehensive Plan.**

Not applicable.

KEY ISSUE: Is the code change consistent with the Boulder Valley Comprehensive Plan (BVCP)?

The BVCP has policies the city adopted with the intent to protect residential neighborhoods that are located adjacent to non-residential zoning districts and establish compatibility of adjacent land uses. Those policies are as follows.

2.13 Protection of Residential Neighborhoods Adjacent to Non-residential Zones

The city and county will take appropriate actions to ensure that the character and livability of established residential neighborhoods will not be undermined by spill-over impacts from adjacent regional or community business zones or by incremental expansion of business activities into residential areas. The city and county will protect residential neighborhoods from intrusion of non-residential uses by protecting edges and regulating the impacts of these uses on neighborhoods.

2.15 Compatibility of Adjacent Land Uses

To avoid or minimize noise and visual conflicts between adjacent land uses that vary widely in use, intensity or other characteristics, the city will use tools such as interface zones, transitional areas, site and building design and cascading gradients of density in the design of subareas and zoning districts. With redevelopment, the transitional area should be within the zone of more intense use.

This code change is intended to specifically address the comprehensive plan policies related to compatibility and protection of residential neighborhoods adjacent to non-residential zones. In doing so, it will also address compatibility of adjacent land uses by specifying standards for split zoned properties when one of the zoning districts is low density residential.

Specific to the proposed rezoning at 385 Broadway, the land use designation change for just a portion of the property from Low Density Residential to Transitional Business was intended to create a 25-foot “buffer” area on the north and west side of the property. As noted, this was intended to ensure an appropriate transition between the existing low density residential neighborhood and more intense uses allowed on the rezoned portion of the property.

To implement the intent of the 25-foot buffer of Low Density Residential Land Use, and to implement BVCP policies 2.13, and 2.15, the code change ordinance is being considered simultaneous to the rezoning ordinance to ensure that any structures, parking and other site improvements, other than landscaping and fences, have a setback that is the greater of the two zoning districts and not less than 25 feet from the property line. Therefore, a development on a split zoned property, that includes low density residential zoning, must be developed consistent with the use, form and bulk, and intensity standards of the lower density zoning district, or it must be approved through Site Review.

PUBLIC NOTIFICATION AND COMMENT

Required public notice for the rezoning was given in the form of written notification mailed to all property owners within 600 feet of the subject site and a sign posted on the property for at least 10 days. All notice requirements of Section 9-4-10(g),

B.R.C. 1981 have been met.

Staff received a number of comments from members of the public via email regarding this application along with a letter signed by 23 neighbors, residents of the "Community of Lower Bluebell" who provided signature and addresses on the letter. The neighbors indicated their concerns about the property redeveloping upon rezoning to build "multi-family/high density student rental housing which would be comprised of 16 townhomes with 4 bedrooms each (potentially 64 residents)." Regarding the concerns articulated, the applicant did not provide information that indicated student rental housing would be constructed.

Among the neighbors concerns were those related to parking (and an indication from the property owners that they would request a parking reduction), light pollution, poorly maintained buffer zone, construction staging, pedestrian access, fire and life safety access, and solar access. The emails and letters are provided in [Attachment C](#).

As noted under the Key Issue, there is only one applicable criteria for rezoning the property under Land Use Code section 9-2-18(e)(1), B.R.C. 1981:

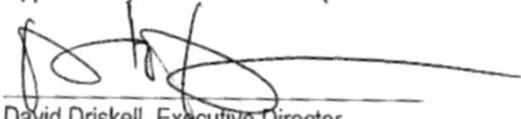
"The applicant demonstrates by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map"

At the request of some of the neighbors, staff responded to their questions and comments with the applicable criteria and also noted that if redevelopment of the property in the future requires a parking reduction that a Site Review application with approval by Planning Board would be required. Another letter was received from a representative for the National Institute of Standards (NIST) who indicated concerns about changes to the zoning that may impact traffic and the existing access easement the is currently in place between NIST and the property owners of 385 Broadway.

STAFF FINDINGS AND RECOMMENDATION:

- (1) Staff finds that the proposed rezoning application meets the rezoning criteria of Section 9-2-18(e), "Criteria," B.R.C., 1981 and finds the proposed rezoning request to be in compliance with the Boulder Valley Comprehensive Plan land use map designation of Transitional Business. Therefore, staff recommends that Planning Board recommend approval of case no. LUR2015-00047 to City Council incorporating this staff memorandum and the above review criteria checklist as findings of fact.
- (2) Staff further recommends that Planning Board recommend approval of the ordinance amending sections 9-2-14, "Site Review," B.R.C.1981, and 9-9-2, "General Provisions," B.R.C. 1981 attached herein, to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district one of which is a low density residential district with neighboring land uses, and setting forth related details; and incorporating this staff memorandum as findings of fact.

Approved By:



David Driskell, Executive Director
Department of Community Planning and Sustainability

Attachments

- Attachment A: Draft Rezoning Ordinance
- Attachment B: Draft Code Change Ordinance
- Attachment C: Public Comment Received
- Attachment D: DRC Comment Letter
- Attachment E: Applicant's Written Statement

ORDINANCE NO. _____

AN ORDINANCE REZONING A 0.8 ACRE PORTION OF LAND GENERALLY LOCATED AT 385 SOUTH BROADWAY FROM THE RESIDENTIAL – LOW 1 (RL-1) TO THE BUSINESS – TRANSITIONAL 2 (BT-2) ZONING DISTRICT AS DESCRIBED IN CHAPTER 9-5, “MODULAR ZONE SYSTEM,” B.R.C. 1981, AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO FINDS:

A. A public hearing before the Planning Board of the City of Boulder was duly held on August 27, 2015, in consideration of rezoning a 0.8 acre portion of land from Residential – Low 1 (RL-1) to Business - Transitional 2 (BT-2), that is a portion of a parcel of land generally located at 385 South Broadway, City of Boulder, County of Boulder, State of Colorado, as more particularly described on Exhibit A attached to this ordinance (the “Property”).

B. The Planning Board found that the rezoning of the Property from Residential – Low 1 (RL-1) to Business - Transitional 2 (BT-2) is consistent with the policies and goals of the Boulder Valley Comprehensive Plan and is consistent with Land Use Code criteria section 9-2-18(e)(1), B.R.C. “the applicant demonstrates by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map.”

C. The Planning Board recommended that the City Council amend the zoning district map to include a 0.81 portion of the Property in the Business - Transitional 2 (BT-2) zoning district as provided in Chapter 9-5, “Modular Zone System,” B.R.C. 1981.

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

Section 1. Chapter 9-5, “Modular Zone System,” B.R.C. 1981, and the zoning district map forming a part thereof are amended to include the Property within the Business - Transitional 2 (BT-2) zoning district.

Section 2. The City Council finds that the rezoning of the Property from Residential – Low 1 (RL-1) to Business - Transitional 2 (BT-2) is consistent with the policies and goals of the Boulder Valley Comprehensive Plan, is necessary to bring the Property into compliance with the Boulder Valley

Comprehensive Plan map, and meets the criteria for rezoning as provided in Chapter 9-2, “Review Processes,” B.R.C. 1981. The City Council adopts the recitals as a part of this ordinance.

Section 3. The City Council has jurisdiction and legal authority to rezone the Property.

Section 4. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern. The rezoning of the Property bears a substantial relation to, and will enhance the general welfare of, the Property and of the residents of the City of Boulder.

Section 5. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

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

this _____ day of _____, 20__.

Mayor

Attest:

City Clerk

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

TITLE ONLY this ___ day of _____, 20__.

Mayor

Attest:

City Clerk

EXHIBIT A

PART OF LOTS 26, 27, & 28 SOUTH OAK PARK
LOCATED IN THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 SOUTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

FOR PURPOSES OF REZONING A PORTION OF LOTS 26, 27, AND 28 OF SOUTH OAK PARK, REC. NO. 90593794 DATED 5/22/1957, LOCATED IN THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 SOUTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE NORTH LINE OF LOTS 26, 27, AND 28 OF SAID SOUTH OAK PARK TO BEAR NORTH 89°48'30" EAST, A DISTANCE OF 179.03 FEET BETWEEN A FOUND #5 REBAR WITH 1 1/2" ALUMINUM CAP STAMPED "FLATIRONS SURV 16406" AND A FOUND #5 REBAR WITH 1 1/2" ALUMINUM CAP STAMPED "FLATIRONS SURV 16406", WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 28; THENCE SOUTH 28°27'30" EAST ALONG THE EAST LINE OF SAID LOT 28, A DISTANCE OF 28.38 FEET TO A POINT ON SAID EAST LINE AND THE TRUE POINT OF BEGINNING; THENCE CONTINUING SOUTH 28°27'30" EAST, A DISTANCE OF 214.16 FEET TO THE SOUTHEAST CORNER OF SAID LOT 28; THENCE SOUTH 88°27'16" WEST ALONG THE SOUTH LINE OF SAID LOTS 26, 27, AND 28, A DISTANCE OF 255.42 FEET TO A POINT ON SAID SOUTH LINE OF LOT 26; THENCE NORTH 00°13'25" WEST ALONG A LINE 25 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF SAID LOT 26, A DISTANCE OF 169.66 FEET; THENCE NORTH 89°48'30" EAST ALONG A LINE PARALLEL WITH AND 25 FEET SOUTH OF SAID NORTH LINE, A DISTANCE OF 167.46 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINING 35,361 SQ.FT. OR 0.8 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 FSI JOB NO. 15-64,763
CHAIRMAN/CEO, FLATIRONS, INC.

JOB NUMBER: 15-64,763
DRAWN BY: W. BECKETT
DATE: AUGUST 11, 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.

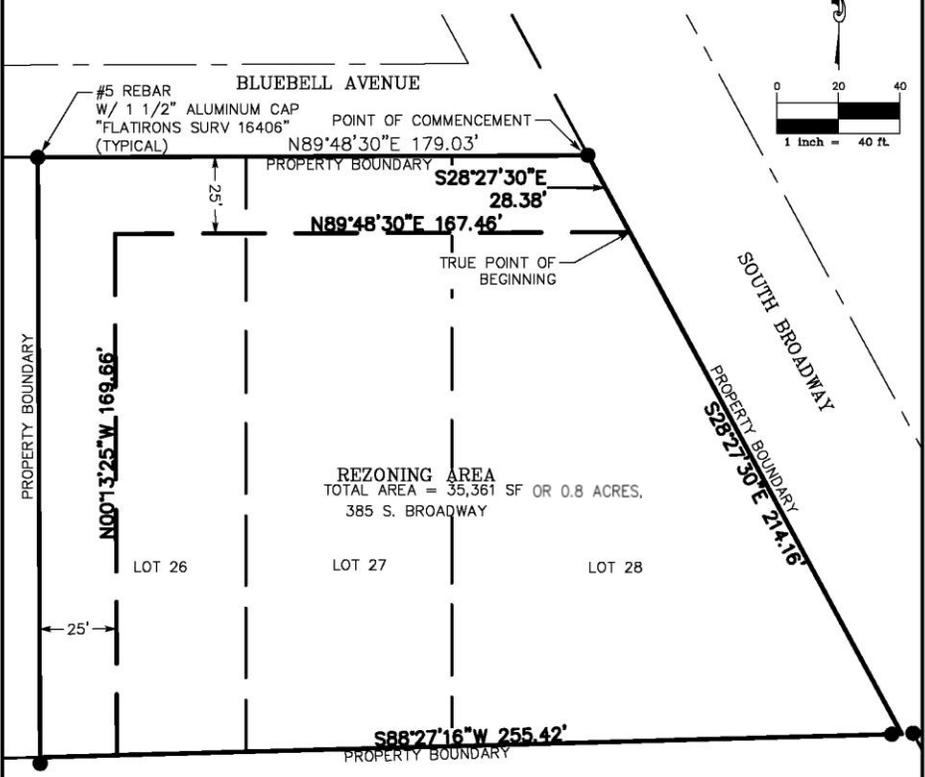
Flatirons, Inc.
Surveying, Engineering & Geomatics

 3825 IRIS AVE, STE 395
 BOULDER, CO 80301
 PH: (303) 443-7001
 FAX: (303) 443-9830
www.FlatironsInc.com

BY:SBENNINK FILE:164763-EXHIBIT.DWG DATE:8/11/2015 1:58 PM

EXHIBIT A

PART OF LOTS 26, 27, & 28, SOUTH OAK PARK
 LOCATED IN THE NORTHEAST QUARTER OF SECTION 6, TOWNSHIP 1 SOUTH,
 RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
 COUNTY OF BOULDER, STATE OF COLORADO
 SHEET 2 OF 2



BY:SBENNICK FILE:64763-EXHIBIT.DWG DATE:8/11/2015 1:58 PM



JOB NUMBER: 15-64,763
 DRAWN BY: W. BECKETT
 DATE: AUGUST 11, 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.

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ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTIONS 9-2-14, "SITE REVIEW," B.R.C. 1981, AND 9-9-2 "GENERAL PROVISIONS," B.R.C. 1981, TO ENSURE REASONABLE COMPATIBILITY OF THE DEVELOPMENT OF LOTS AND PARCELS LOCATED IN MORE THAN ONE ZONING DISTRICT ONE OF WHICH IS A LOW DENSITY RESIDENTIAL DISTRICT WITH NEIGHBORING LAND USES, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 9-2-14. Site Review, B.R.C. 1981, is amended, and a new paragraph (c)(6) is

added and subsequent paragraphs renumbered, to read:

9-2-14. - Site Review.

...

(b) Scope: The following development review thresholds apply to any development that is eligible or that otherwise may be required to complete the site review process:

(1) Development Review Thresholds:

- (A) Minimum Thresholds for Voluntary Site Review: No person may apply for a site review application unless the project exceeds the thresholds for the "minimum size for site review" category set forth in Table 2-2 of this section or a height modification pursuant to Subsection (e) below on any lot is requested.
- (B) Minimum Thresholds for Required Site Review: No person may apply for a subdivision or a building permit for a project that exceeds the thresholds for the "concept plan and site review required" category set forth in table 2-2 of this section until a site review has been completed.

...

- (E) Height Modifications: A development which exceeds the permitted height requirements of Section 9-7-5, "Building Height," or 9-7-6, "Building Height, Conditional," B.R.C. 1981, is required to complete a site review and is not subject to the minimum threshold requirements. No standard other than height may be modified under the site review unless the project is also eligible for site review.

(F) New Development on Lots in Two or More Zoning Districts: A development which does not meet the standards of Section 9-9-2(d)(2), Development of New Structures on Lots in

Two or More Zoning Districts,” B.R.C. 1981, is required to complete a site review and is not subject to the minimum threshold requirements. No standard other than Section 9-9-2(d)(2), B.R.C. 1981, may be modified under the site review unless the project is also eligible for site review.

...

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

...

(5) 9-9-2(b), "Maximum Permitted Buildings on a Lot."

(6) Standards for new structures and other new site improvements for lots and parcels in two or more zoning districts one of which is a RE, RR, or RL zoning district to the extent permitted by Paragraph 9-9-2(d)(2), B.R.C. 1981.

...

Section 2. Section 9-9-2. General Provisions, B.R.C. 1981, is amended to read:

9-9-2. - General Provisions.

No person shall use or develop any land within the city except according to the following standards, unless modified through a use review under Section 9-2-15, "Use Review," B.R.C. 1981, or a site review, Section 9-2-14, "Site Review," B.R.C. 1981, or a variance granted under Section 9-2-3, "Variances and Interpretations," B.R.C., 1981.

...

- (d) Zoning Standards for Lots in Two or More Zoning Districts: The following standards apply to lots and parcels in two or more zoning districts:

(1) Existing buildings located in more than one zoning district shall be regulated according to the applicable use standards for the zoning district in which the majority of the existing building is located. Any building additions or site improvements shall be regulated according to the zoning district in which such additions or improvements are located. In the event that an existing building is split in half between two zoning districts, the city manager shall determine which use standards shall apply based upon the historic use of the building and the character of the surrounding area.

(2) Development of New Structures on Lots in Two or More Zoning Districts:

(A) Purpose: The purpose of this paragraph is to ensure reasonable compatibility of the development of lots and parcels located in more than one zoning district one of which is a RE, RR, or RL zoning district with neighboring land uses.

(B) Standard: Any new structure, parking area or other site improvements except fences and landscaping on lots or parcels located in more than one zoning district one of which is RR-1, RR-2, RE, RL-1, or RL-2 shall meet the greater of the following:

- (i) The setback standards applicable in the zoning district the improvement or part thereof is located in;
 - (ii) The setback standards of the adjacent zoning district; or
 - (iii) A twenty-five foot setback from the property line that is generally parallel to a zoning district boundary.
- (C) Administrative Modification: The requirements of this paragraph may be modified by the city manager if the applicant demonstrates that the proposed development of the area is consistent with the standards of Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," and 9-8, "Intensity Standards," applicable to the lower intensity zoning district of the two or more zoning districts of the lot or parcel.
- (D) Site Review Modification: The requirements of this paragraph may be modified under the provisions of Section 9-2-14, "Site Review," B.R.C. 1981.

...

Section 3. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern and implements the intent of the Boulder Valley Comprehensive Plan.

Section 4. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY
 this ____ day of _____, 2015.

 Mayor

Attest:

 City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY
TITLE ONLY this ____ day of _____, 2015.

Mayor

Attest:

City Clerk



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
LAND USE REVIEW RESULTS AND COMMENTS

DATE OF COMMENTS: **June 5, 2015**
 CASE MANAGER: **Elaine McLaughlin**
 PROJECT NAME: **385 BROADWAY REZONING**
 LOCATION: **385 BROADWAY**
 COORDINATES: **S01W05**
 REVIEW TYPE: **Rezoning**
 REVIEW NUMBER: **LUR2015-00047**
 APPLICANT: **Erin Bagnall**
 DESCRIPTION: **REZONING: Rezone the 48,219 square foot property from Residential - Low 1 (RL-1) to Business - Transitional 2 (BT-2) to be consistent with the BVCP land use; except for the 25-foot buffers of RL-1 zoning which will remain along northern and western property lines.**

REQUESTED VARIATIONS FROM THE LAND USE REGULATIONS: **none related to rezoning**

I. REVIEW FINDINGS

The applicant's written materials indicate that a proposed project will result from the rezoning that includes 16 four bedroom townhomes, however there were no project plans accompanying the application. In the Application Project Fact Sheet, the applicant indicates that a 25 percent parking reduction would be necessary for the intended plan. Please note that such a request for a residential parking reduction requires application for Site Review. If the project moves forward, a Site Review application must accompany the resubmittal, so that staff, the neighborhood, and the decision makers all fully understand, and can review, the proposed project.

In addition, staff received a letter from the National Institute of Standards (NIST) the federal agency for whom the property owner holds an access agreement, indicating "serious reservations" regarding the access to the property via the existing easement if the property is rezoned and has a greater intensity of use. A copy of the letter is attached under Attachment A. Also provided in Attachment 'A' are comment letters from residential neighbors from Bluebell Avenue who articulated a number of concerns, including concerns about potential access and increased traffic via Bluebell Avenue.

Given the potential access issues and given the intended redevelopment to townhomes, several steps must be taken by the applicant prior to conclusion of this review application. Because of access issues raised, staff requires the applicant to provide a letter from NIST that indicates support for continued use of the access easement, in perpetuity, before this application can move forward. In addition, the buffer area designated in the BVCP Land Use as Low Density Residential must also be reviewed through a Site Review concurrent with the rezoning to ensure that a functional, high quality buffer adequately protects the adjacent properties from potential impacts. Therefore, please review the "Next Steps" at the end of this comment letter to understand how best to proceed.

II. CITY REQUIREMENTS

This section addresses issues that must be resolved prior to a project decision or items that will be required conditions of a project approval. Requirements are organized by topic area so that each department's comments of a similar topic are grouped together. Each reviewer's comment will be followed by the reviewer's department or agency and telephone number. Reviewers are asked to submit comments by section and topic area so that the comments can be more efficiently organized into one document. Topics are listed here alphabetically for reference.

Access/Circulation, David Thompson, 303-441-4417

1. Pursuant to Section 2.6 of the State of Colorado State Highway Access Code a new CDOT State Highway Access Permit Application must be approved for the proposed land use change. The new CDOT access permit must be reviewed and approved

Address: 385 Broadway

through a separate Technical Document Review process. Application materials and requirements are located on the 3rd Floor of the Park Central Building.

2. The Applicant must notify the National Institute of Standards and Technology Labs (NIST) of the proposed land use change and obtain their approval for the continued use of the access easement which provides access to the site across NIST property from Broadway.

Fees

Please note that 2015 development review fees include a \$131 hourly rate for reviewer services following the initial city response (these written comments). Please see the P&DS Questions and Answers brochure for more information about the hourly billing system.

Neighborhood Comments Elaine McLaughlin, 303-441-4130

Staff received three phone calls from three different neighbors who reside along Bluebell Avenue who articulated concerns about the proposed rezoning. In addition, staff received a neighborhood comment letter with 23 signatures and one additional email confirming the a neighbor's agreement with the letter. In addition to the neighborhood comment letter, staff received a separate letter from another neighbor. The correspondence is provided in Attachment A.

Staff also received a letter from the National Institute of Standards (NIST) the federal agency for whom the property owner holds an access agreement. As stated in the letter,

“NIST does not express an opinion at this time on the merits of the applicant’s rezoning request. However, NIST wishes to express its serious reservations regarding the acceptability to NIST of access to the subject property via the existing easement, if the subject property is rezoned.”

Therefore, a priority will be for the applicant to determine in conversations with NIST if access into the property will be maintained in perpetuity and must document it as such through a letter from NIST. Because this seems to be at question at the present, this will be critical before the applicant moves forward. This would be true for either a by-right or discretionary review development application.

Given the concerns raised by neighboring property owners, staff requires the applicant host a Good Neighbor meeting. This should be done once the access issue is resolved through NIST.

Review Process

Because the applicant included information in the application materials about the proposed intent to redevelop the site for townhomes, that would require a request for a parking reduction through a Site Review. Therefore, the applicant should submit an application for the Site Review to run concurrently with the rezoning request and a key submittal requirement is provision of a letter by NIST indicating access from the easement in perpetuity. Because that Site Review would be dependent upon a rezoning, staff will refer the Site Review to the Planning Board who would in turn, make a recommendation on both the Rezoning and the Site Review to City Council.

III. INFORMATIONAL COMMENTS

This section addresses issues that are for the applicant's reference but are not required to be resolved prior to a project decision or as a condition of approval. Informational Comments are organized by topic area so that each department's comments of a similar topic are grouped together. Each reviewer's comment will be followed by the reviewer's department or agency and telephone number. Reviewers are asked to submit comments by section and topic area so that the comments can be more efficiently organized into one document. Topics are listed here alphabetically for reference.

Access / Circulation, David Thompson, 303-441-4417

1. The Applicant must demonstrate at time of Site Review submittal that a curb cut (access) meeting the design standards found in Section 2.04 of the City's Design and Construction Standards (DCS) can be constructed from Bluebell Avenue should the access easement across the NIST site be vacated by NIST.
2. Please provide staff with a diagram showing the area of the access easement the site is responsible to maintain per the access easement executed with NIST.

Address: 385 Broadway

3. A Parking Study / TDM Plan is required to support any requested parking reductions on the site.
4. Pursuant to Section 9-9-5 of the Boulder Revised Code, 1981 access to the site must be taken from the lowest category street which is Blue Bell unless the applicant can demonstrate why this is not feasible and that other access can meet the intent of the BRC.

Historic Preservation, James Hewat 303-441-3207

Sources:

Boulder Carnegie Library for Public History. Obituary of Charles Keller, <http://www.legacy.com/obituaries/dailycamera/obituary.aspx?pid=171055928>

The existing building located at 385 Broadway was constructed in 1957. It first appears in the City of Boulder Directory in 1958 and is listed as the Oak Park Medical & Dental Building. The first physicians and dentists to occupy the building included Duhon & Wolfe, Frederick U. Timms, Duane M. Clement, Joseph L Hutton, and Charles B. Keller. Through initial research, an obituary on dentist Charles B. Keller was found. Charles Keller occupied the building from at least 1959-1975. After fighting in World War II, Keller enrolled in the University of Southern California Dental School and practiced dentistry in Southern California until 1953. In 1954 he moved to Boulder and moved his practice into the Oak Park Medical Building by 1959. Keller passed away on May 12th, 2014. Further research may be needed to gather more information about the other physicians and dentists that occupied the building. Since South Broadway Road was originally named Marshall Road pre-1963, the Oak Park Medical Building was first addressed as 385 Marshall Road.



In 1964, Hobart D. Wagener was commissioned to design an addition on the west side of the building. Further research is needed to determine the architect of the 1957 portion. Wagener’s architectural drawings of the 1964 addition are located at the Boulder Carnegie Library for Public History. Outlined in red is the addition designed by Hobart Wagener (permission is needed by Wagener’s heirs to duplicate or copy the architect’s drawings):

Land Use and Zoning, Elaine McLaughlin, 303-441-4130

1. BVCP Land Use

As shown in the map on page 5, the Boulder Valley Comprehensive Plan land use designation for the site is Transitional Business, defined on page 68 of the BVCP:

“The Transitional Business designation is shown along certain major streets. These are areas usually zoned for less intensive business uses than in the General Business areas, and they often provide a transition to residential areas.”

In 2008, as part of the mid-term review of the BVCP, the property owner was granted a land use designation map changed from Low Density Residential to Transitional Business because the building on the property had been non-conforming since it was constructed in the 1950s. Refer to Attachment B for the parcel report and the Planning Board Minutes. The property had also received two additional variances, one for expansion in 1964, and one for an expansion of uses in 1973.

2. Existing Zoning

As shown in the map on page 5, the current zoning is Residential Low-1 defined within the land use code section 9-5-2, B.R.C. 1981 as,

“Single-family detached residential dwelling units at low to very low residential densities.”

Address: 385 Broadway

3. Proposed Zoning

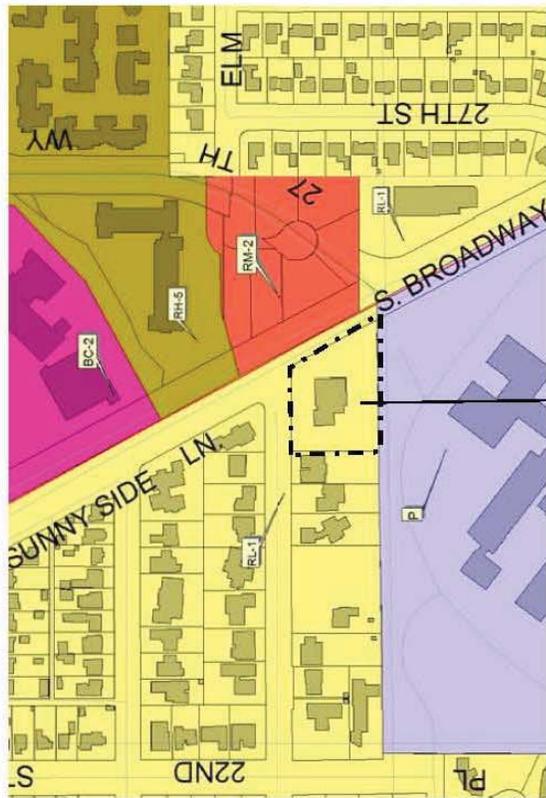
The applicant is proposing Business Transition - 2 (BT-2) zoning, as shown in the map on page 5, which is defined in the land use code section 9-5-2, B.R.C. 1981,

“Transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation, temporary lodging and office uses.”

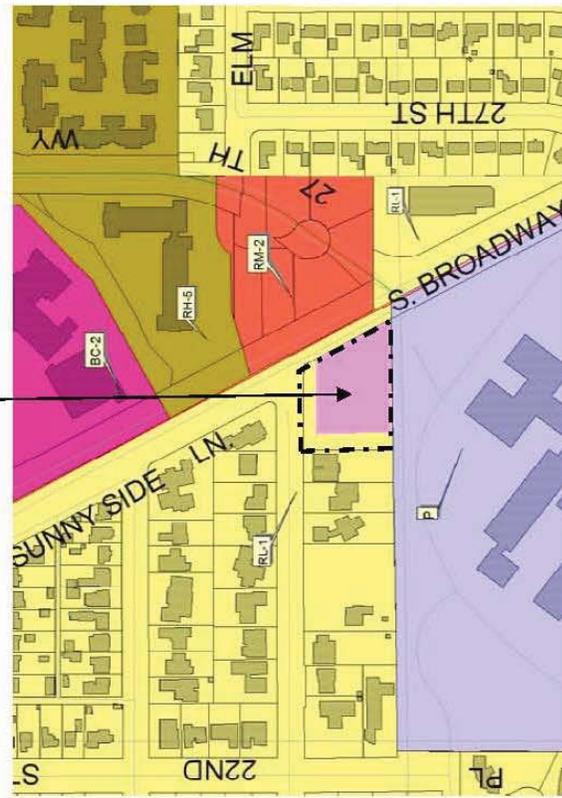
Refer to maps on the page 5 that include the BVCP Land Use Map, the Existing Zoning and the Proposed Zoning. The applicant indicated that the intent is to redevelop the site as 16 townhomes, four-bedrooms each that would require a 25 percent parking reduction. Residential parking reductions are subject to a review under a Site Review application. Because the redevelopment is prompting the rezoning at this time, the applicant is encouraged to submit application concurrently with the rezoning. The threshold for a Site Review and the areas of the Land Use Code that can be modified through Site Review are found in section 9-2-14, B.R.C. 1981, provided [here](#) for reference.

Note that under the Transitional Business Land Use, the two compatible zoning districts are BT-1 and BT-2. An overview of the distinctions between the two is provided in the following table. As can be noted, the BT-2 zoning district is more restrictive in terms of density, and would result in fewer units than the BT-1 zoning. Note that the density for the site cannot be calculated using any part of the area zoned as Residential Low -1 (RL-1).

	Business Transition- 1	Business Transition - 2
PURPOSE	<i>“Transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation, temporary lodging and office uses.”</i>	SAME
USES	TOWNHOMES BY-RIGHT	SAME
INTENSITY	1,200 SQUARE FEET OF OPEN SPACE PER DWELLING UNIT: NO MAXIMUM FAR	1,600 SQUARE FEET MINIMUM LOT AREA PER DWELLING UNIT MAXIMUM 27.2 DWELLING UNITS PER ACRE AND 0.5 FAR
PARKING	1 FOR 1- OR 2-BEDROOM DWELLING UNIT 1.5 FOR 3-BEDROOM DWELLING UNIT 2 FOR A 3-BEDROOM DWELLING UNIT 2 FOR A FOUR OR MORE BEDROOM DWELLING UNIT	SAME



Current Zoning



Proposed Zoning

Exhibits illustrating Existing BVCP Map along with Existing Zoning and Proposed Zoning



Comp Plan Land Use Designation

Address: 385 Broadway

IV. NEXT STEPS

Coordinate project plans with NIST. Request a letter from NIST that indicates support for continued use of the access easement in perpetuity and resubmit with an application for Site Review for the proposed project that includes a 25 percent parking reduction.

V. CITY CODE CRITERIA CHECKLIST

To be completed upon a recommendation.

VI. Conditions on Case

None at this time.

The Community of Lower Bluebell in Boulder, Colorado

6.1.2015

Ms. Elaine McLaughlin
Senior Planner
Department of Community Planning + Sustainability
City of Boulder
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791

RE: Application for re-zoning
#LUR2015-00047
385 Broadway/High Density Student Housing

Dear Ms. Elaine McLaughlin,

The undersigned represent the community of Lower Bluebell who are vigorously opposed to the zoning change request, #LUR2015-00047, for 385 Broadway, Boulder.

We live in a low-density residential neighborhood that has maintained its character for 58 years. We are a strong, diverse community committed to caring for the fabric of the neighborhood and for one another. One half of the homes have been occupied by the same families for over 30 years, one third of the homes have been occupied for over 50 years by the original builders of the houses.

In 2008, the owner of 385 Broadway requested a land use map change. As a neighborhood we worked with the then owner and the city to come to an agreement that would allow for expansion or redevelopment of the site for continued business use while maintaining a buffer from the impacts of the proposed increase in business uses the owner was proposing. We were told he wanted to increase the square footage of office space and that a change in zoning would remove the need to request variances as was done in the past to allow for a business use in a residential zone. City Staff proposed the 25 foot RL-1 buffer on the west and north sides of the property and a zoning change to BT-2 for the remainder of the property to allow for the improvements. The neighbors agreed to the staff's proposal, the buffer was put into place and the BVCP land use was changed. However, the owner did not pursue the zoning change for the majority of the site and instead chose to list the property for sale.

The property was sold in 2014 and the current request for re-zoning is being requested by the new owners of the property. Unlike the previous owner's stated intent of increasing square footage of office space, the current owner's stated intent, found in their Project Fact Sheet, is to build multi-family/high density student rental housing which would be comprised of 16 townhomes with 4 bedrooms each (potentially 64 residents). They intend a reduction in off street parking spaces from the required 48 to 36, building code occupancy classification B and \$119,000 Cash-in-Lieu of 4 dedicated permanently affordable housing units on site. This project would require the demolition of a building that is over 50 years old, which would require a historic landmark review.

The current proposal states that a change in zoning is required by the Boulder Valley Comprehensive Plan and that the property zoning must be in compliance with the BVCP Land Use Map. We disagree, and recognize that the BVCP guides land use decisions, provides a general statement of communities desires for future development but does not regulate city zoning.

We strongly oppose the proposed change in zoning. Should rezoning occur, the owners would have "by-right" development opportunities. And therefore, could build anything allowed in that zoning, which is unacceptable. We insist on maintaining the residential zoning allowing for development with special review only.

The current project proposed by Matt Johnke Realty & Heritage Title Co., Sopher Sparn Architects LLC, Adrian Sopher and Erin Bagnall, exemplifies the potential scope of a project which could be developed by-right.

Our concerns specific to the above mentioned project are:

1. Parking: Requires review

The developers have requested a reduction in permitted parking spaces of 25%. With a potential of 64 residents and 36 parking spaces those without a space in the complex would have no alternative but to park on Bluebell or Mariposa, which is not acceptable. While Bluebell is part of the Columbine Parking Zone, an increase of up to 28 permits is not sustainable.

2. Light Pollution: Compliance with “Dark Skies” requires a review

Two 3-story buildings housing 16 units and perched on a hill will produce unwelcomed light pollution.

3. Buffer Zone:

Both the 25 foot buffer zones, north which is in the required set back and west which abuts a residence, have historically been ill maintained.

4. Construction Staging: Requires review

Construction Staging is problematic in that there is no venue for staging.

6. Pedestrian Access:

The pedestrian access on the new development should go directly east from the developed property onto the bike/pedestrian path on Broadway, avoiding Bluebell Avenue altogether.

7. Fire and Life Safety: Requires Review

Access from Bluebell is non-existent. There is an existing fire truck access to the cul de sac at the end of Bluebell Ave through a chained gate which must remain exclusively dedicated to emergency vehicles.

8. Solar Access: Requires Review

The elevation of the site and the proposed height of the buildings suggest an infringement on access to sunlight on the property at 2290 Bluebell Avenue.

Thank you,
The undersigned neighbors

Name	Address	Phone	Signature
Michael Dominick	2265 Bluebell	3/817-4975	Michael Dominick
MARCIA WALKER	2265 BLUEBELL	773.908.9009	MARCIA WALKER
Shirley S. Keller	2240 Bluebell	303-442-8535	Shirley S. Keller
Matthew Anderson	2290 Bluebell Ave.	720-233-6976	Matthew Anderson
J. Bellipai	2240 Bluebell Ave	720-233-6976	JULIANNA BELLIPANNI
Elizabeth Fleming	2285 Bluebell Ave	415-6777979	Elizabeth Fleming
Helmut M. Altschuler	2250 Bluebell Ave	442-8769 (303)	Helmut M. Altschuler
T.F. Van Zant	2255 Bluebell	303-499-6395	T.F. Van Zandt
Natalie L. Hedberg	2255 Bluebell	303-499-6395	Natalie L. Hedberg
Dan Olson	2285 Bluebell	415-713-7457	Dan Olson
Jennifer Alexander	415 Sunnyside Ln	720 301 6129	Jennifer Alexander
Patty Angerer	2225 Bluebell	303-449-0968	Patty Angerer
Tom ANGERER	2225 Bluebell	303-449-0968	Thomas Angerer
Charles Palmer	2270 Bluebell	303-788-8502	Charles Palmer
Halina Palmer	2270 Bluebell	303 718 4798	Halina Palmer
Steve C. Monem	2245 Bluebell Ave.	720-629-1733	Steve C. Monem

Name	Address	Phone	Signature
Helen Taft	485 Sunnyside Ln	303-444-1474	Helen Taft
GREN C. TAFT	485 Sunnyside Ln	303-444-1474	Gren C. Taft

Name	Address	Phone	Signature
HOLLOWAY, SALLY C.	2222 BLUEBELL AVE,	303-442-0980	Sally C. Holloway
MARY TIAO	2202 BLUEBELL AVE	303-499-4747	Mary Tiao
DORIS HASS	2207 Bluebell	303-443-7087	Doris E. Hass
Mho Salim	2211 Bluebell	303-449-3365	M. H. Salim
Guy Salim	2211 Bluebell Ave	303-449-3365	Guy Salim

Contact: Patty Angerer
 2225 Bluebell Ave.
 Boulder, CO 80302
 303-449-0968
 psangerer@yahoo.com

From: ~~dh1056@gmail.com [mailto:dh1056@gmail.com]~~ **On Behalf Of** David Holloway

Sent: Thursday, June 04, 2015 3:08 PM

To: McLaughlin, Elaine

Subject: Proposed Bluebell Student Housing Project at 385 Broadway, #LUR2015-00047

Dear Ms. McLaughlin,

I have an interest in property on lower Bluebell Avenue and am writing to express my alarm and opposition to the proposed student housing project for 385 Broadway.

It is stunning that planning and zoning would even consider such a proposal, given its scale and mass, when compared to the contiguous low density single family area of lower Bluebell.

As you know, the proposed student housing project triggers multiple reviews including parking, fire and life safety, and historical.

Moreover, the proposed project submitted by Mr. Johnke, et. al., raises serious questions about your department's position and record on FAR regulations and enforcement.

The Bluebell neighborhood has already experienced unfavorable development accommodations and mangling of FAR guidelines with several area redevelopment projects, including the recent (within the last several years) redevelopment of 2131 Bluebell. The 2131 Bluebell redevelopment more closely resembles a zero-lot-line project as the structure stretches north and east touching two alley boundaries! How could that have possibly been approved? Worse, after multiple assurances to the contrary, the "single family" at 2131 Bluebell appears to be operating as a rental property, along with numerous other non-conforming rentals within a five block radius.

I have also been in contact with the GSA (General Services Administration), the federal government's property manager at NIST, and have asked them for their position on this student housing project.

Among the questions for GSA is the issue of access to 385 Broadway - which essentially runs the length of the NIST main entrance - and how that access squares with their current and future security demands.

It seems inconsistent with their ongoing security concerns that the GSA would lock down their south and west entries (Dartmouth and King streets), and open up their front door to student housing.

The proposed parking scheme for 385 Broadway is a also total non-starter. The property won't accommodate the required 48 surface spaces, and it barely accommodates the current 36 spaces with a building one-third the mass of the proposed structure. So, as a result of the unfavorable access to the property, combined with the dearth of parking spaces, tenants (students) of this proposed project would be inclined to park on Bluebell - especially given the projects proposed orientation - facing Broadway and Bluebell.

In addition, though I have not yet received it, I have ordered a litigation report (title report) on 385 Broadway. There seem to be questions about a former or current leasehold estate in the chain of title, which wouldn't surprise me given that all of South Oak Park was essentially re-platted due to surveying errors. Plus, current use - commercial, conflicts with current zoning - low density residential; and the proposed zoning - business, seems to be in contravention of proposed use - high density student housing? Is student housing in Boulder zoned business?

Given the myriad entanglements with this project it is my hope that reason and common sense prevail and the proposed zoning request is denied forthwith.

Please know that if the project planning is allowed to continue, I will use - without limitation - all available methods and resources to block any further activity on this project.

Sincerely,

David Holloway

Address: 385 Broadway

Page 7



UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology
325 Broadway
Boulder, Colorado 80305-3328

June 5, 2015

Elaine McLaughlin
City of Boulder
Planning and Development Services
P.O. Box 791
Boulder, CO 80306-0791

Re: LUR 2015-00047: 385 Broadway
Rezoning Request

Dear Ms. McLaughlin:

It has come to the Department of Commerce's attention that the new owner of 385 Broadway is seeking to modify the zoning on the property for the purpose of redevelopment, per the captioned Land Use Review Application. The subject property is immediately adjacent to, and shares a portion of its boundary with, the Department of Commerce's Boulder Campus. Current vehicular access to the subject property from Broadway is over an easement across the Boulder Campus. This easement was granted by the National Institute of Standards and Technology (NIST) for the existing medical/dental office building use.

NIST does not express an opinion at this time on the merits of the applicant's rezoning request. However, NIST wishes to express its serious reservations regarding the acceptability to NIST of access to the subject property via the existing easement, if the subject property is rezoned.

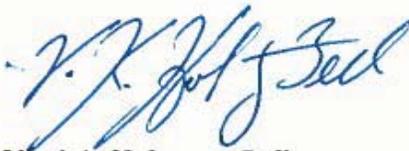
The existing easement provides a long access road to the subject property across a large frontage of NIST property. In granting the easement for the medical office building, NIST never contemplated that it would be obligating itself with an easement for the significantly different new use which NIST understands is proposed by the applicant for a rezoned 385 Broadway. The proposed new use that underlies the rezoning request was not contemplated by NIST in granting the easement initially, in recording it subsequently, or in its continuance today.

NIST notes that subsequent to NIST granting the easement, there have been several changes to the considerations that NIST must manage in its stewardship of the property on behalf of the federal government. The post 9-11 construction of a new entrance to the DOC Boulder Laboratories site with new security affected the design of NIST's front entrance on Broadway. Additionally, NIST now holds a municipal stormwater permit for the Boulder Site. The road and associated paving between the road and the bike path represent a significant amount of impermeable surface. A rough estimate of the paving that could be removed and redeveloped as permeable surface in this area, if the easement were vacated, is approximately 25,000 square feet.

If rezoning is granted by the City, NIST requests the City's support and engagement of the property owner to vacate the current easement and reconfigure vehicular access to the subject property. Use of the existing easement for the contemplated new facility is unacceptable because of the liability concerns from the increased number and different nature of vehicular, bicycle, and pedestrian trips. NIST believes that if the rezoning is granted, the redevelopment provides the landowner with opportunity to work with the City in a redesign of the entrance located upon the confines of the landowner's property which would meet the future purpose of the new building. Additionally, by changing the entrance to 385 Broadway, NIST would be able to better meet its current security and stormwater permit requirements. In the absence of assurances to NIST of alternative access to the subject property, NIST could not rule out taking action to terminate the easement because of this new, materially different use than the one for which the easement was granted and confirmed by NIST.

NIST appreciates the opportunity to submit this letter regarding its concerns for the record in the captioned application.

Sincerely,



Virginia Holtzman-Bell
Deputy Director for Facility Design and Construction/
Boulder Laboratories Site Manager
Office of Facilities and Property Management

Sent by Email with return receipt requested

**Attachment B: 2008 Comp. Plan Land Use Change Parcel Report and
Planning Board Hearing Minutes**

(refer to attached PDFs)

Dear Elaine,

The information you shared this morning in our phone conversation clarified many of my questions regarding the re-zoning request for 385 Broadway, (LUR2015-00047). Thank you for sending the BVCP link.

My understanding of the BVCP is that it is a general statement meant to guide decisions?

Is it necessary that re-zoning occur to bring a property into compliance with the BVCP land use? Or does current zoning and usage carry weight?

In the memorandum from SopherSparr Architects regarding Rezoning dated May 1, 2015, the argument is made that "rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map." This implies that re-zoning must occur because compliance is mandatory. Is this a true assumption on my part?

I appreciate any clarity that you can bring to these questions.

Regards,
Patty

From: "McLaughlin, Elaine" <McLaughlinE@bouldercolorado.gov>
To: "psangerer@yahoo.com" [mailto:psangerer@yahoo.com]
Sent: Monday, June 1, 2015 12:07 PM
Subject: 385 Broadway

Hi Patty-

It was nice to talk with you this morning. Following is a link to the Boulder Valley Comprehensive Plan for your use:
<https://bouldercolorado.gov/planning/2010-boulder-valley-comprehensive-plan>

Please feel free to call or email with any additional questions, and as you noted, I will look for your comment letter by the end of the week.

Kind Regards-
Elaine

Elaine McLaughlin, Senior Planner
Department of Community Planning + Sustainability
City of Boulder
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791
303-441-4130 (phone)
303-441-3241 (fax)

<http://www.boulderplandevlop.net>
<http://www.bouldercolorado.gov/>



From: McLaughlin, Elaine
Sent: Thursday, June 04, 2015 3:48 PM
To: 'ps angerer'
Subject: RE: Lower Bluebell Response to LUR2015-00047

Hi Patty-

The applicant will need to respond to staff comments, which we're still putting together, and resubmit a response to our comments for a three week review track (beginning the first and third Monday of the month). Among the comments is to ask for any recent communications between the applicant and NIST regarding their access agreement and proposed rezoning. Our City Attorney's Office has a copy of the private access easement between the two property owners. I can check to see if you could have a copy of the easement. It may be somewhat proprietary given that it's for the Federal Labs, but I can certainly check.

Elaine

From: ps angerer [mailto:psangerer@yahoo.com]
Sent: Thursday, June 04, 2015 3:41 PM

To: McLaughlin, Elaine
Subject: Re: Lower Bluebell Response to LUR2015-00047

Thank you Elaine,
Once June 5 passes, what is the timeline for this application?
I have a question about the easement with NIST. Do the applicants have to contact NIST and if so, may I have a copy of their communication?
Regards
Patty

From: "McLaughlin, Elaine" <McLaughlinE@bouldercolorado.gov>
To: 'ps angerer' <psangerer@psangerer.com>
Sent: Thursday, June 4, 2015 1:00 PM
Subject: RE: Lower Bluebell Response to LUR2015-00047

Hi Patty-
Thanks very much for your letter. I'll ensure that it is provided to the applicant and becomes part of the public record for Planning Board and City Council.
Kind Regards-
Elaine

Elaine McLaughlin, Senior Planner
Department of Community Planning + Sustainability
City of Boulder
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791

303-441-4130 (phone)
303-441-3241 (fax)

<http://www.boulderplandevlop.net>
<http://www.bouldercolorado.gov/>



From: ps angerer [<mailto:psangerer@psangerer.com>]
Sent: Thursday, June 04, 2015 12:55 PM
To: McLaughlin, Elaine
Subject: Lower Bluebell Response to LUR2015-00047

Elaine,
Attached you will find the Bluebell neighborhood response letter including signatures to LUR2015-00047.
Please keep us informed as the application proceeds.
Thank you
Patty

The Community of Lower Bluebell in Boulder, Colorado

6.1.2015

Ms. Elaine McLaughlin
Senior Planner
Department of Community Planning + Sustainability
City of Boulder
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791

RE: Application for re-zoning
#LUR2015-00047
385 Broadway/High Density Student Housing

Dear Ms. Elaine McLaughlin,

The undersigned represent the community of Lower Bluebell who are vigorously opposed to the zoning change request, #LUR2015-00047, for 385 Broadway, Boulder.

We live in a low-density residential neighborhood that has maintained its character for 58 years. We are a strong, diverse community committed to caring for the fabric of the neighborhood and for one another. One half of the homes have been occupied by the same families for over 30 years, one third of the homes have been occupied for over 50 years by the original builders of the houses.

In 2008, the owner of 385 Broadway requested a land use map change. As a neighborhood we worked with the then owner and the city to come to an agreement that would allow for expansion or redevelopment of the site for continued business use while maintaining a buffer from the impacts of the proposed increase in business uses the owner was proposing. We were told he wanted to increase the square footage of office space and that a change in zoning would remove the need to request variances as was done in the past to allow for a business use in a residential zone. City Staff proposed the 25 foot RL-1 buffer on the west and north sides of the property and a zoning change to BT-2 for the remainder of the property to allow for the improvements. The neighbors agreed to the staff's proposal, the buffer was put into place and the BVCP land use was changed. However, the owner did not pursue the zoning change for the majority of the site and instead chose to list the property for sale.

The property was sold in 2014 and the current request for re-zoning is being requested by the new owners of the property. Unlike the previous owner's stated intent of increasing square footage of office space, the current owner's stated intent, found in their Project Fact Sheet, is to build multi-family/high density student rental housing which would be comprised of 16 townhomes with 4 bedrooms each (potentially 64 residents). They intend a reduction in off street parking spaces from the required 48 to 36, building code occupancy classification B and \$119,000 Cash-in-Lieu of 4 dedicated permanently affordable housing units on site. This project would require the demolition of a building that is over 50 years old, which would require a historic landmark review.

The current proposal states that a change in zoning is required by the Boulder Valley Comprehensive Plan and that the property zoning must be in compliance with the BVCP Land Use Map. We disagree, and recognize that the BVCP guides land use decisions, provides a general statement of communities desires for future development but does not regulate city zoning.

We strongly oppose the proposed change in zoning. Should rezoning occur, the owners would have "by-right" development opportunities. And therefore, could build anything allowed in that zoning, which is unacceptable. We insist on maintaining the residential zoning allowing for development with special review only.

The current project proposed by Matt Johnke Realty & Heritage Title Co., Sopher Sparn Architects LLC, Adrian Sopher and Erin Bagnall, exemplifies the potential scope of a project which could be developed by-right.

Our concerns specific to the above mentioned project are:

1. Parking: Requires review

The developers have requested a reduction in permitted parking spaces of 25%. With a potential of 64 residents and 36 parking spaces those without a space in the complex would have no alternative but to park on Bluebell or Mariposa, which is not acceptable. While Bluebell is part of the Columbine Parking Zone, an increase of up to 28 permits is not sustainable.

2. Light Pollution: Compliance with “Dark Skies” requires a review

Two 3-story buildings housing 16 units and perched on a hill will produce unwelcomed light pollution.

3. Buffer Zone:

Both the 25 foot buffer zones, north which is in the required set back and west which abuts a residence, have historically been ill maintained.

4. Construction Staging: Requires review

Construction Staging is problematic in that there is no venue for staging.

6. Pedestrian Access:

The pedestrian access on the new development should go directly east from the developed property onto the bike/pedestrian path on Broadway, avoiding Bluebell Avenue altogether.

7. Fire and Life Safety: Requires Review

Access from Bluebell is non-existent. There is an existing fire truck access to the cul de sac at the end of Bluebell Ave through a chained gate which must remain exclusively dedicated to emergency vehicles.

8. Solar Access: Requires Review

The elevation of the site and the proposed height of the buildings suggest an infringement on access to sunlight on the property at 2290 Bluebell Avenue.

Thank you,

The undersigned neighbors

Name	Address	Phone	Signature
Michael Dominick	2265 Bluebell	3/817-4975	Michael Dominick
MARCIA WASE	2265 BLUEBELL	773.908.9009	MARCIA WASE
Shirley Kilian	2270 Bluebell	303-442-8535	Shirley Kilian
Matthew Anderson	2290 Bluebell Ave.	720-233-6976	Matthew Anderson
J. Bellipai	2290 Bluebell Ave	720-233-6976	JULIANNA BELLIPANNI
Elizabeth Fleming	2285 Bluebell Ave	415-5777979	Elizabeth Fleming
Helmut M. Altschuler	2250 Bluebell Ave	442-8769 (303)	Helmut M. Altschuler
T.F. Van Zant	2255 Bluebell	303-499-6395	T.F. Van Zant
Natalie L. Hedberg	2255 Bluebell	303-499-6395	Natalie L. Hedberg
Dan Olson	2285 Bluebell	415-713-7457	Dan Olson
Janice Alexander	415 Sunnyside Ln	720 301 6129	Janice Alexander
Patty Angerer	2225 Bluebell	303-449-0968	Patty Angerer
Tom ANGERER	2225 Bluebell	303-449-0968	Thomas Angerer
Charles Palmer	2270 Bluebell	303-786-8502	Charles Palmer
Halina Palmer	2270 Bluebell	303 718 4798	Halina Palmer
Steven C. Monahan	2245 Bluebell Ave.	720-629-1733	Steven C. Monahan

Name	Address	Phone	Signature
Helen Taft	485 Sunnyside Ln	(303) 444-1474	Helen Taft
SPENCER C. TAFT	485 Sunnyside Ln	303-444-1474	Spencer C. Taft

Name	Address	Phone	Signature
HOLLOWAY, SALLY C.	2222 BLUEBELL AVE,	303-442-0980	Sally C. Holloway
MARY TIAO	2202 BLUEBELL AVE	303-499-4747	Mary Tiao
DORIS HASS	2207 Bluebell	303-443-7087	Doris E. Hass
Mho Salim	2211 Bluebell	303 449 3365	M. A. Salim
Fay Salim	2211 Bluebell Ave	303 449-3365	Fay Salim

Contact: Patty Angerer
 2225 Bluebell Ave.
 Boulder, CO 80302
 303-449-0968
 pangerer@cityofboulder.com

From: ps angerer [mailto:pangerer@cityofboulder.com]
 Sent: Thursday, June 04, 2015 3:41 PM
 To: McLaughlin, Elaine
 Subject: Re: Lower Bluebell Response to LUR2015-00047

Thank you Elaine,
 Once June 5 passes, what is the timeline for this application?
 I have a question about the easement with NIST. Do the applicants have to contact NIST and if so, may I have a copy of their communication?
 Regards
 Patty

From: McLaughlin, Elaine
 Sent: Thursday, June 04, 2015 3:48 PM
 To: 'ps angerer'
 Subject: RE: Lower Bluebell Response to LUR2015-00047

Hi Patty-
 The applicant will need to respond to staff comments, which we're still putting together, and resubmit a response to our comments for a three week review track (beginning the first and third Monday of the month). Among the comments is to ask for any recent communications between the applicant and NIST regarding their access agreement and proposed rezoning. Our City Attorney's Office has a copy of the private access easement between the two property owners. I can check to see if you could have a copy of the easement. It may be somewhat proprietary given that it's for the Federal Labs, but I can certainly check.

Elaine

From: ps angerer [mailto:psangerer@psd.com]
Sent: Thursday, June 04, 2015 4:48 PM
To: McLaughlin, Elaine
Subject: Re: Lower Bluebell Response to LUR2015-00047

Thank you, I would appreciate a copy if it is available to the public.
Patty

From: McLaughlin, Elaine
Sent: Friday, June 05, 2015 10:58 AM
To: 'ps angerer'
Subject: RE: Lower Bluebell Response to LUR2015-00047

Hi Patty-

Please see the attachments of the NIST agreements with the property owners.
Elaine

From: dlh1956@gmail.com [mailto:dlh1956@gmail.com] **On Behalf Of** David Holloway
Sent: Thursday, June 04, 2015 3:08 PM
To: McLaughlin, Elaine
Subject: Proposed Bluebell Student Housing Project at 385 Broadway, #LUR2015-00047

Dear Ms. McLaughlin,

I have an interest in property on lower Bluebell Avenue and am writing to express my alarm and opposition to the proposed student housing project for 385 Broadway.

It is stunning that planning and zoning would even consider such a proposal, given its scale and mass, when compared to the contiguous low density single family area of lower Bluebell.

As you know, the proposed student housing project triggers multiple reviews including parking, fire and life safety, and historical.

Moreover, the proposed project submitted by Mr. Johnke, et. al., raises serious questions about your department's position and record on FAR regulations and enforcement.

The Bluebell neighborhood has already experienced unfavorable development accommodations and mangling of FAR guidelines with several area redevelopment projects, including the recent (within the last several years) redevelopment of 2131 Bluebell. The 2131 Bluebell redevelopment more closely resembles a zero-lot-line project as the structure stretches north and east touching two alley boundaries! How could that have possibly been approved? Worse, after multiple assurances to the contrary, the "single family" at 2131 Bluebell appears to be operating as a rental property, along with numerous other non-conforming rentals within a five block radius.

I have also been in contact with the GSA (General Services Administration), the federal government's property manager at NIST, and have asked them for their position on this student housing project. Among the questions for GSA is the issue of access to 385 Broadway - which essentially runs the length of the NIST main entrance - and how that access squares with their current and future security demands. It seems inconsistent with their ongoing security concerns that the GSA would lock down their south and west entries (Dartmouth and King streets), and open up their front door to student housing.

The proposed parking scheme for 385 Broadway is a also total non-starter. The property won't accommodate the required 48 surface spaces, and it barely accommodates the current 36 spaces with a building one-third the mass of the

proposed structure. So, as a result of the unfavorable access to the property, combined with the dearth of parking spaces, tenants (students) of this proposed project would be inclined to park on Bluebell - especially given the projects proposed orientation - facing Broadway and Bluebell.

In addition, though I have not yet received it, I have ordered a litigation report (title report) on 385 Broadway. There seem to be questions about a former or current leasehold estate in the chain of title, which wouldn't surprise me given that all of South Oak Park was essentially re-platted due to surveying errors. Plus, current use - commercial, conflicts with current zoning - low density residential; and the proposed zoning - business, seems to be in contravention of proposed use - high density student housing? Is student housing in Boulder zoned business?

Given the myriad entanglements with this project it is my hope that reason and common sense prevail and the proposed zoning request is denied forthwith.

Please know that if the project planning is allowed to continue, I will use - without limitation - all available methods and resources to block any further activity on this project.

Sincerely,

David Holloway

From: McLaughlin, Elaine

Sent: Thursday, June 04, 2015 4:18 PM

To: 'David Holloway'

Subject: RE: Proposed Bluebell Student Housing Project at 385 Broadway, #LUR2015-00047

Hi David-

Thanks very much for your thoughtful comment letter, I'll ensure that the applicant receives a copy and that it becomes part of the public record when Planning Board and City Council consider the rezoning.

A few quick points of clarification: we've not received any plans by the applicant, only a statement of intent to build 16 townhomes. Therefore we don't yet know if the 16 townhomes would be marketed as student housing or not. We are requesting that the applicant submit an application for Site Review application to accompany the rezoning, although they are not required to do so, as having the plans upfront will provide a better understanding of the purpose of the rezoning for the benefit of the neighbors, staff, and the decision makers.

Secondly, while the city does not consider rezoning requests very often the application must meet one of the five rezoning criteria (found [here](#)). In this case, the applicant is requesting to bring the property into compliance with the Boulder Valley Comprehensive Land Use for the site which is designated Transitional Business. In the requested BT-1 zoning, townhomes of up to 35 feet in height are a use by-right. However, as you've pointed out to build the 16 units, the applicant would need to request a residential parking reduction which can only be approved through the more extensive Site Review process which would provide greater information about the project, the access and the number of planned vehicular trips per day.

Please feel free to contact me with any additional questions or comments.

Kind Regards-

Elaine

Elaine McLaughlin, Senior Planner

Department of Community Planning + Sustainability

City of Boulder

1739 Broadway, 3rd Floor

Boulder, CO 80306-0791

303-441-4130 (phone)

303-441-3241 (fax)

From: Tom Van Zandt [mailto:~~vanzandt78@gmail.com~~]
Sent: Friday, June 12, 2015 8:54 PM
To: McLaughlin, Elaine
Subject: 385 Broadway

Elaine,

Thanks for you memo about 385 Broadway. We and our neighbors will respond to the memo. In the meantime, I have a couple of comments about the memo itself.

First, you give directions for accessing Title 9. But what then? In Title 9 how does a layperson find information such as density limits, setbacks, height limits, etc., etc.? Is there an index to Title 9?

Second, the map in the memo is about 40 years out of date. 27th Way was extended to Broadway in the '70's. This is relevant to the proposal because the intersection of 27th Way and Broadway is adjacent to 385 Broadway. The maps in the application as well as flood maps of the area are all up to date. The City should be able to do just as well.

Thanks for your attention.

Tom Van Zandt
2255 Bluebell Avenue
303-499-6395

From: McLaughlin, Elaine
Sent: Monday, June 15, 2015 8:49 AM
To: ~~vanzandt78@gmail.com~~
Subject: RE: 385 Broadway

Hi Tom-

Could you refer me to the specific memo you are addressing? I've prepared a staff comment letter that was sent to the applicant a couple of weeks ago and about a month ago I sent a public notice to the neighbors that Planning had received the application. That notice was intended to provide notification to the neighborhood only and not intended to be a memorandum. I've attached the staff comments that went to the applicant that could assist you in your questions about Title 9. If you do have questions beyond what the comment letter addresses, I'm happy to assist you with specific questions.

Kind Regards-
Elaine

Elaine McLaughlin, Senior Planner
Department of Community Planning + Sustainability
City of Boulder
1739 Broadway, 3rd Floor
Boulder, CO 80306-0791

303-441-4130 (phone)
303-441-3241 (fax)

<http://www.boulderplandevlop.net>
<http://www.bouldercolorado.gov/>

From: Tom Van Zandt [mailto:tomvandt70@gmail.com]
Sent: Wednesday, June 17, 2015 3:29 PM
To: McLaughlin, Elaine
Subject: Re: 385 Broadway

Elaine,

The memo I referred to is dated May 21.

Thanks for all the valuable information you included in the attachments.

I do have a few specific questions and comments.

How is "Dwelling Unit" defined?

How many beds are permitted in a bedroom? How is the limit enforced? (It's my impression that enforcement is very difficult, so that violations of occupancy limits are common.)

These questions are related to the parking requirements.

I don't believe that the Federal government would ever agree to any condition "in perpetuity". Even if they did agree, they could always change their mind!

Thank you very much.

Tom Van Zandt
2255 Bluebell Ave.

----- Forwarded Message -----

From: Helen <hgoldman@comcast.net>
To: angerer ps <pangerer@yale.edu>
Sent: Thursday, June 4, 2015 3:53 PM
Subject: Finaldraft.docx

Dear Ms. McLaughlin,

My husband Martin and I have lived at 2275 Bluebell Ave. since 1972. It has been a quiet residential street where our children grew up, and it continues to be a street with many youngsters playing outside. We are distressed to hear of the proposed changes to the property on Broadway that would inevitably turn it into a densely populated area.

Our names would have been added to the letter sent to you by the neighborhood's close knit residents, had we not been traveling in France. We would like to add our voices to those strongly opposed to the zoning changes.

We have asked Patty Angerer to forward this letter to you.

Yours truly,
Helen and Martin Goldman

From: Holtzman-Bell, Virginia K. [<mailto:virginiaholtzmanbell@nist.gov>]
Sent: Friday, June 05, 2015 12:18 PM
To: McLaughlin, Elaine
Cc: Salber, Stephen S.
Subject: LUR 2015-00047: 385 Broadway

Ms. McLaughlin:

Please find attached the Department of Commerce's input to the City's consideration of the rezoning request for 385 Broadway.

Virginia Holtzman-Bell

*Deputy Director for Facilities Design and Construction/
Boulder Laboratories Site Manager
Office of Facilities and Property Management
National Institute of Standards and Technology
325 Broadway, Rm. 05-1101, Mail Stop-194.00
Boulder CO 80305-3328
303-497-6673 (phone)
303-356-6911 (mobile)*



UNITED STATES DEPARTMENT OF COMMERCE
National Institute of Standards and Technology
325 Broadway
Boulder, Colorado 80305-3328

June 5, 2015

Elaine McLaughlin
City of Boulder
Planning and Development Services
P.O. Box 791
Boulder, CO 80306-0791

Re: LUR 2015-00047: 385 Broadway
Rezoning Request

Dear Ms. McLaughlin:

It has come to the Department of Commerce's attention that the new owner of 385 Broadway is seeking to modify the zoning on the property for the purpose of redevelopment, per the captioned Land Use Review Application. The subject property is immediately adjacent to, and shares a portion of its boundary with, the Department of Commerce's Boulder Campus. Current vehicular access to the subject property from Broadway is over an easement across the Boulder Campus. This easement was granted by the National Institute of Standards and Technology (NIST) for the existing medical/dental office building use.

NIST does not express an opinion at this time on the merits of the applicant's rezoning request. However, NIST wishes to express its serious reservations regarding the acceptability to NIST of access to the subject property via the existing easement, if the subject property is rezoned.

The existing easement provides a long access road to the subject property across a large frontage of NIST property. In granting the easement for the medical office building, NIST never contemplated that it would be obligating itself with an easement for the significantly different new use which NIST understands is proposed by the applicant for a rezoned 385 Broadway. The proposed new use that underlies the rezoning request was not contemplated by NIST in granting the easement initially, in recording it subsequently, or in its continuance today.

NIST notes that subsequent to NIST granting the easement, there have been several changes to the considerations that NIST must manage in its stewardship of the property on behalf of the federal government. The post 9-11 construction of a new entrance to the DOC Boulder Laboratories site with new security affected the design of NIST's front entrance on Broadway. Additionally, NIST now holds a municipal stormwater permit for the Boulder Site. The road and associated paving between the road and the bike path represent a significant amount of impermeable surface. A rough estimate of the paving that could be removed and redeveloped as permeable surface in this area, if the easement were vacated, is approximately 25,000 square feet.

If rezoning is granted by the City, NIST requests the City's support and engagement of the property owner to vacate the current easement and reconfigure vehicular access to the subject property. Use of the existing easement for the contemplated new facility is unacceptable because of the liability concerns from the increased number and different nature of vehicular, bicycle, and pedestrian trips. NIST believes that if the rezoning is granted, the redevelopment provides the landowner with opportunity to work with the City in a redesign of the entrance located upon the confines of the landowner's property which would meet the future purpose of the new building. Additionally, by changing the entrance to 385 Broadway, NIST would be able to better meet its current security and stormwater permit requirements. In the absence of assurances to NIST of alternative access to the subject property, NIST could not rule out taking action to terminate the easement because of this new, materially different use than the one for which the easement was granted and confirmed by NIST.

NIST appreciates the opportunity to submit this letter regarding its concerns for the record in the captioned application.

Sincerely,



Virginia Holtzman-Bell
Deputy Director for Facility Design and Construction/
Boulder Laboratories Site Manager
Office of Facilities and Property Management

Sent by Email with return receipt requested

From: "Ferro, Charles" <FerroC@bouldercolorado.gov>
To: "~~ps angerer~~" <~~psangerer@yahoo.com~~>
Cc: "McLaughlin, Elaine" <McLaughlinE@bouldercolorado.gov>
Sent: Monday, July 13, 2015 2:35 PM
Subject: 385 Broadway Rezoning

Hi Patty,

Please note that the rezoning hearing has been tentatively scheduled for Planning Board's consideration on August 27, 2015 at 6:00pm.

The Planning Board meeting will be held in chambers on the second floor of City Hall located at 1777 Broadway. Staff will send out a written notification to property owners within 600' of the site as a courtesy in early August. Please feel free to contact me with any questions.

Best,
Charles

Charles Ferro, AICP
Development Review Manager
City of Boulder - Department of Community Planning + Sustainability
303.441.4012 - Direct
303.441.3241 - Fax

ferroc@bouldercolorado.gov

www.bouldercolorado.gov

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Please consider the environment before printing this email.

From: ps angerer <~~psangerer@yahoo.com~~>
Date: July 13, 2015 at 5:37:09 PM MDT
To: "Ferro, Charles" <FerroC@bouldercolorado.gov>
Subject: Re: 385 Broadway Rezoning
Reply-To: ps angerer <~~psangerer@yahoo.com~~>

Hi Charles,

Thank you for the notification of the calendar scheduling.

I have a couple of questions:

1. What is the entire process for changing zoning?
2. What is the entire process for changing land use?

Pretty broad questions, but I am a little confused as to how many boards and how many times in front of those boards.

Thanks

Patty

Hi Patty,

Apologies for the delayed response.

The processes are a bit complex but, I've done my best to summarize them.

Please feel free to call me (or Elaine) with any additional questions.

Best,

Charles

Charles Ferro, AICP
Development Review Manager
City of Boulder - Department of Community Planning + Sustainability
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Please consider the environment before printing this email.

From: ps angerer [mailto:psangerer@cityofboulder.com]
Sent: Monday, July 13, 2015 5:37 PM
To: Ferro, Charles
Subject: Re: 385 Broadway Rezoning

Hi Charles,
Thank you for the notification of the calendar scheduling.

I have a couple of questions:

1. What is the entire process for changing zoning?

After the applicant submits an official application and the fee, staff then reviews the application & makes a recommendation to Planning Board based on the review criteria found in [Section 9-2-18\(e\) B.R.C. 1981](#). Planning Board makes a recommendation to the City Council regarding whether or not a rezoning should be approved based on aforementioned criteria. This occurs at a public hearing (the public is welcome to address the board). City Council then considers the Planning Board's recommendation via an ordinance. Typically there are two reading of an ordinance. The first reading is an opportunity for council and the public to review a proposal and ask questions of staff and or the applicant. The second reading is another public hearing (the public is welcome to address council) and this is typically when approval or denial would occur. All public hearings are published in the Daily Camera at least 10 days in advance of a hearing.

2. What is the entire process for changing land use?

The standards and processes are outlined [here](#).

There are land use plan changes that require only the approval of the City Planning Board and the City Council only and those that require the approval of the City Planning Board and the City Council in addition to the County Planning Commission and the County Board of Commissioners. There are individual changes that may be considered at any time as well as those that occur through the "mid term" update period or the "5 year or major update" period.

In this case, the land use map designation was changed in accordance with the last "mid term" update that was approved in 2008 (refer to my email from 7/7/15 for the approval documentation).

Pretty broad questions, but I am a little confused as to how many boards and how many times in front of those boards.
Thanks
Patty

From: lyalts@cohome.com [mailto:lyalts@cohome.com]
Sent: Wednesday, August 19, 2015 9:43 AM
To: boulderplanningboard
Subject: LUR2015-00047

Subject: Proposed rezoning of 385 Broadway, Boulder.
LUR2015-00047

I wish to address only one of the many aspects of the impact of the proposed rezoning on the 2200 block of Bluebell Avenue: A safe zone for children to live in and play.

My wife and I bought our home at 2250 Bluebell Avenue in 1965--50 years ago, and occupied it with our three children. It was ideal for children: A no-through-traffic cul-de-sac lined exclusively with one-family homes. Children could safely play on the street and ride their tricycles or bicycles on the block. This has not changed. Kids still play and ride up and down the block with or without parents. Further, I have often noted that only drivers that do not live here, who mistakenly try to drive through our block, drive so much faster through it than we residents.

Any rezoning that would increase traffic or parking by outside groups would impair this wonderful quality of the 2200 block of Bluebell.

MARCIA WEESE 2265 Bluebell Ave Boulder, CO 80302 773.908.9009

8.12.15

RE: #LUR2015-00047

Dear Boulder Planning Board,

I live in a quiet, lovely neighborhood called Lower Bluebell—across the street and 3 houses west of the lot that is requesting a zoning change for 385 Broadway, Case #LUR2015-00047.

Our neighborhood cherishes its planted island to the west and cul de sac to the east, which slows traffic and keeps it at a minimum. Children play, families commune, and pedestrians and cyclists float by.

This will radically change if the city allows the requested rezoning from RL-1 to BT2.

It takes years to weave together a neighborhood. It takes one vote to rip it asunder. I vote to keep this lot zoned as RL-1.

Sincerely,

A handwritten signature in black ink, appearing to read 'Marcia Weese', with a long horizontal line extending to the right.

Marcia Weese, LEED AP

August 18, 2015

To: Boulder Planning Board

Re: LUR2015-00047, Zoning Change request for 385 Broadway

From: Shirley Keller, 2240 Bluebell Ave, Boulder, CO

My husband was one of the original occupants of the Medical/Dental building at 385 Broadway where he practiced dentistry from 1957 until he retired in 1987. We built our house, just five lots west of my husband's office in 1964; our house on Bluebell Avenue has been our family home for the last fifty years. The site on which 385 Broadway was built has been zoned residential low density since it platting. A variance was granted which allowed the construction of this non-conforming one story medical dental building. Over the years additional variances were granted for the expansion of the building. The medical/dental use has been long accepted by the neighborhood as it developed to the west and north. It has had adequate parking, continuous access off of Broadway and a buffer of dense growth that has protected the neighborhood from noise and light pollution. In addition it has been a welcome source of medical and dental services for the extended area, accessible by foot traffic, bicycle and public transportation. In the way this building has served the community, it has been an asset and a good fit not only for the immediate area but for all of this part of Boulder.

In 2008 Mr. Tenenbaum requested the land use designation be changed from Low Residential to Transitional Business because, "Office and medical usage have been the historical use of this property since 1956. It is an extremely busy and important center serving the Boulder community." He further stated, "... it seems unlikely that it would ever be desirable for residential use, and will better serve the people of Boulder by insuring that it remains in its current capacity." (Planning Board Agenda, February 21, 2008, Agenda Item#5A Page#C-17). We believed Mr. Tenenbaum when he said he only wanted to improve the building.

Now a new owner is requesting a zoning change to Business Transitional 2. It is difficult to imagine that any one of the 32 uses listed as "by-right" possibilities under BT2 would meet the same criteria or be in any way complementary to this area. Neither I nor any of my neighbors have any interest in a zoning change that would allow any of the possible uses to be established at the Broadway end of our street. We have no assurance which of these uses would be considered but the history of the real-estate investor who purchased the property suggests that he specializes in student housing.

This request for rezoning 385 Broadway from RL1 to BT2 is unacceptable to me and I strongly urge that the request be denied.

Matt Ludemann
2290 Bluebell Ave.
Boulder, CO 80302
720-233-6976

August 19, 2015

Re: Rezoning request at 385 Broadway

Dear Boulder Planning Board Members,

I am writing to you in opposition of the rezoning request to 'high residential' of the property at 385 Broadway in Boulder. For the past 5 ½ years, I have lived with my wife and two small children at 2290

Bluebell Ave, the house bordering the Broadway property directly to the west. I can tell you unequivocally that this is a single family neighborhood. The house across the Bluebell cul-de-sac from 385 Broadway, the house across Bluebell from our property, and our next door neighbors to the west all have small children ages 1-8. Many of the other owners on the block are original owners and elderly. There are no college rentals on the block. As evidenced by our community block parties, and the "Lower Bluebell" stone sign and neatly maintained flower bed at the top of the block, the owners on this block take great pride in the quiet, family-friendliness of the neighborhood.

I have several concerns about allowing the rezoning of the property at 385 Broadway to 'high residential'. First and foremost, a high residential property would greatly compromise the quiet, single family nature of the block. Currently, there are very few college student residences west of Broadway and south of Baseline, and none on our block of Bluebell. This would presumably change abruptly with many college students living in the proposed four bedroom apartments if the rezoning was approved. Noise would be disruptive on the block. My children's bedtime is 8pm. Having been a college student once upon a time, I know that most of their bedtimes are quite a bit later. I would expect there to be tensions between the families in the neighborhood and the 'high residential' tenants regarding evening noise levels. We do not want college students loitering around the neighborhood cul-de-sac.

Secondly, additional vehicle traffic on Bluebell is a big concern. Currently, the access to 385 Broadway is off of Broadway through the NIST government property to the south. The original proposal for the 385 Broadway property is asking for fewer parking spaces on the property than is traditionally allowed. Even if parking is adequate for this facility, I would expect residents to try to park on Bluebell because of its close proximity and easy access off of Broadway and Baseline. This would make our quiet street much busier and louder. Also, Bluebell is a major bike route off of the Broadway bike path that feeds all of Lower Chautauqua including King and Mariposa. Our family uses Bluebell frequently for bike access to the Broadway path, as do many families and bike commuters in the area. Additional vehicle traffic on Bluebell would potentially make bike traffic unsafe. I also worry that because the primary pedestrian access to 385 from Broadway may be indirect for some residents, residents would be inclined to cut through the Bluebell cul-de-sac and create a path off of the cul-de-sac. To take that a step further, the 385 Broadway developer could create formal pedestrian or vehicle access to Bluebell. Creating any kind of access directly to Bluebell from 385 Broadway would further disrupt the neighborhood.

Student neighborhoods and single family neighborhoods are both tremendous assets to our Boulder Community. While it is in Boulder's development plans to expand 'high residential' housing, it is neither in Boulder's plans nor in Boulder's best interest to compromise additional long-standing single family neighborhoods with 'high residential' property geared toward students. Rather than having 'high residential' student property spread into our single family neighborhoods, of which there are precious few, let's work to expand housing in areas that are already student neighborhoods, and keep the wonderful single family neighborhoods of Boulder, single family.

For the above reasons, my family and I strongly oppose the zoning change on 385 Broadway to 'high residential'. If the unfortunate decision to rezone the 385 Broadway property is made, please do everything you can to minimize its impact on our neighborhood. Thank you very much for your consideration in this matter, and thank you for your dedicated service to our great community!

Sincerely,

Matt Ludemann

From: [redacted]
Sent: Monday, August 17, 2015 8:23 AM
To: boulderplanningboard
Subject: Proposed zoning change to 385 Broadway, Boulder, CO

8/17/15

RE: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

Dear City of Boulder, Staff, Planning Board and City Council

We are Oren and Helen Taft, 485 Sunnyside Lane, Boulder, CO. We are 50 year residents of Boulder and have lived at this address since 1991. Due to the proximity of our residence and 385 Broadway, we received a notice from the city of the proposed zoning change to the above subject property. We thank you for this notification and for our chance to respond to this proposal. We are **NOT** in favor of this re-zoning proposal.

Our main concern is a potential increase in vehicle traffic and parking congestion in our neighborhood. If zoning is changed from RL-1 to BT-1 or 2, a "By-Right" development would result, increasing the density of the subject site, beyond its' carrying capacity. None of the long list of BT-1 or 2, by-right development options fit with the current neighborhood. (Please see: Boulder Comprehensive Plan, Para. 2.10)

Our residence sits on a corner lot and Mariposa fronts our house. While lower Mariposa is a permitted parking block, we already have many transient, non-permitted vehicles parking here. Permit monitoring seems spotty at best and an increase in out of area parked cars will only compound this problem.

385 Broadway is a small site and should zoning increase the density the natural alternative will be an increase in neighborhood parking on lower Columbine, Mariposa and Bluebell. Among other potentials, Baseline Ave. would experience a negative impact into our neighborhood. The current weekday mass exodus from upper Baseline slows the normal flow of traffic. When the Broadway light stops eastbound Baseline traffic, vehicles moving west from Broadway, must sometimes bypass 22nd and drive to the light on 20th to be able to turn left and into the neighborhood. A resultant increase in this neighborhood traffic attempting to turn left onto 22nd, will most certainly cause a back-up past a busy fire station and even onto the Baseline/Broadway intersection.

We do not wish to dwell on the traffic that already exists in front of our address, but want to offer a short review. Having been subject to the Skunk Creek Underpass Project, without much recourse, we now live amid a virtual sea of human transportation. We've lost our street in front of our house (Sunnyside Lane) yet through the kindness of the postmaster we were able to keep our address. Sunnyside Lane was a buffer from Broadway and we experienced little pedestrian traffic. We lost another buffer when 3 of our mature trees died due to project digging in front of our property. The city did plant evergreens outside of our property, in front of the tunnel, but that has only led to homeless people dragging items over from the Goodwill Store boxes, to use behind the evergreens as sleeping mats. This is all against our front yard fence and we constantly are placing these items in our trash cans. We often contact the police to shepherd these campers along their way. Most annoying as a result of the underpass, the Broadway roadbed was raised above our fence level and now focuses a higher decibel vehicle noise across our property and into our home.

We had little chance of changing the outcome of the Skunk Creek Underpass project and its impact to our home. We hope this letter will help Staff, Planning Board and City Council decide to maintain the current zoning at 385 Broadway Avenue.

By keeping 385 Broadway currently zoned RL-1, (low density residential), the future of our neighborhood will remain mostly as it exists today and should any changes be contemplated down this road, the by-right development list is shorter and much more acceptable. For other proposed uses, the review process will still be an option, one that does not exist if zoning is changed to BT-1 or 2.

Respectfully Submitted

Oren and Helen Taft
485 Sunnyside Lane
Boulder, CO 80302

From: Beth Fleming [<mailto:bfflemingca@hotmail.com>]

Sent: Wednesday, August 19, 2015 12:58 PM

To: boulderplanningboard

Subject: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

RE: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

Dear City of Boulder, Staff, Planning Board and City Council

Executive Summary: NO to zoning change to 385 Broadway Ave

I am the owner of 2285 Bluebell Ave, Boulder, CO which is directly across Bluebell from the 385 Broadway lot in question. I live in my home with my husband and 2 small children. I am strongly opposed to the 385 Broadway Rezoning Change from RL-1 to TB-2. The 2008 decision to change BVCP Land Use for the lot on 385 Broadway Ave was based on misinformation, false statements and conflicts of interest. Our neighborhood association plans to fight the BVCP land use designation for this lot as business transitional based on this misinformation. If the City of Boulder rushes to make a decision on this lot's zoning during the BVCP 2015 revision period, they will be cutting off our neighborhood associations' ability to work through the issues with the BVCP.

The number 1 concern to me is the developer's push to get the zoning changed before discussing issues of access to the 385 Bluebell lot if it becomes a transition business zone. In the definition of the BVCP Land Use Descriptions, "The Transitional Business designation is shown along certain major streets. These are areas usually zoned for less intensive business uses than the General Business areas, and they often **provide a transition to residential areas.**" The BVCP land use designation change in 2008 was allowed at a time when the access to 385 Broadway came through NIST with an easement. Since then, NIST has heightened its security in many ways and has stated in its recent letter to the planning board that they do not plan to support the continuation of their easement to the lot if the lot becomes BT-2. My understanding is that there is no other access point from Broadway into the property. The developer is trying to delay the conversations about planning and property access until after the zoning decision has been made.

But I would argue that, by the nature of BVCPs zones descriptions, a transitional business zone lot should and must have access from the major street. If not through NIST or directly from Broadway, the only other access to the property would be through Bluebell Ave which is a dead end quiet residential street with no access to Broadway. This means that any BT-2 building traffic would need to access the business through the residential neighborhood entering from Baseline and 22nd, driving down 22nd ave and driving down Bluebell Ave. **If you do not understand the planned access to the lot from Broadway, then you should not approve rezoning.**

The 385 Broadway property has always been one of non-conforming use. It changed ownership in 2006. Then the owner requested the change be made to the BVCP Land Use to allow for minor improvements to the existing non-conforming single-story office building. The property owner did not make the improvements but instead put the property up for sale as TB-2 Zoned lot in 2014. It was a total misrepresentation of the plans for the lot. The property was marketed by the seller as a TB-2 zoned property with the potential to build up to a 18K sq ft building.

385 Broadway St, Boulder, CO 80305

Print Request Info

Photos Map Docs Neighborhoods Walk Score®



\$1,250,000

Sale:
Commercial/Industrial
IRES MLS # 740656

Sold

5933 Total Building SqFt

Built in 1957

TB-2 Zoning

Incorporated Area, Office Commercial Industrial Type

Boulder County

Boulder Area

Description

Terrific Investment Opportunity w/ great development potential! Incredible location on 1 acre in W. Boulder w/ a 7-1 parking to building ratio. Boulder's Comprehensive Plan has changed zoning from low density residential to transitional business; many possibilities for future use! Possible to build up to an 18,000 sqft building. By Right, a 2nd story now allowed. Close to major bus routes, CU, NIST, shopping, & HIGH VISIBILITY! See add'l docs for flr plans. Call agent for info & to set showing.

On Broadway between University and Greenbriar (@ 3.5 miles), there are no lots with business transitional zoning - ZERO. In addition, our entire lower Chautauqua neighborhood (From Baseline to King and from 15th to Broadway) is 100% low density residential. The proposed rezoning to BT-2 zoning is totally inappropriate for this historic residential area.

The fact that the current old commercial building has remained out of conformity with its designated land use without much argument from the neighbors is because it was low impact to the neighborhood. It had access from Broadway through NIST. As a dentist and optical office, it has very low car, foot and bike traffic. It has a large parking lot with ample parking for the needs of the current businesses. Most of the development possibilities in an BT-2 zone would have a huge impact on the neighborhood:

- construction staging
- car, foot and bike traffic on Bluebell
- backed up traffic on Baseline (West of Broadway) in front of the fire station waiting to turn onto 22nd
- increased parking on Bluebell

As noted in the BVCP Plan's charter "The Boulder Valley Comprehensive Plan policies **guide** decisions about growth, development, preservation, environmental protection, economic development, affordable housing, culture and the arts, urban design, neighborhood character and transportation. The policies also inform decisions about the manner in which services are provided, such as police, fire, emergency medical services, water utilities, flood control and human services." It is intended as a **guide**, not legally binding document for local land use decisions

Please do not rezone this lot without allowing us the opportunity to fight the BVCP's incorrect change to Business Transitional in 2008. Also, do not rezone this lot without understanding access from Broadway. A lot cannot be described as a way to create a buffer from a busy street to a residential neighborhood if the only access is through that neighborhood. No Rezoning of 385 Broadway.

Thanks,
Beth Fleming
2285 Bluebell Ave, Boulder, CO.

To: Boulder Planning Board

Re: LUR2015-00047

Location: 385 Broadway

Description: Proposal to rezone from RL-1 to BT-1

From: Tom Van Zandt and Natalie Hedberg
2255 Bluebell Avenue,
Boulder 80302
303-499-6395

Date: Aug. 18, 2015

The only reason the proponents give for rezoning from RL-1 to BT-2 is to make the City zoning agree with the BVCP. But there isn't any requirement, in either the City Zoning regs or the BVCP, that the City zoning and BVCP uses agree in detail. The BVCP is advisory to the City, not regulatory.

We are very concerned that BT-2 zoning allows much more intensive uses that are not compatible with the neighborhood (but greatly increases the value of the property for the applicant!). Some of the allowed uses are: Fraternities, Sororities, Dormitories, Boarding houses, Town houses, and Congregate care facilities. Such uses are in direct contradiction to BVCP Neighborhoods policies.

For example, BVCP Policy 2.10, Preservation and Support for Neighborhoods, says "the city will work with neighborhoods to protect and enhance neighborhood character and livability". These allowed, by right, uses would certainly degrade the livability of the 2200 block of Bluebell Avenue as well as the larger neighborhood to the west and north. Imagine the intrusion of a fraternity or student housing on this quiet residential neighborhood! Nighttime uses are particularly objectionable. Note that next to 385 Broadway there are eight children up to the age of 11 in the residences at 2280, 2285, 2290 Bluebell, and 415 Sunnyside Lane.

Also, BVCP Policy 2.15, Compatibility of Adjacent Land Uses, requires that adjacent widely varying uses be separated by "interface zones, transitional areas ... and cascading gradients of densities," and "the transitional area should be within the zone of more intense use". It's obvious that a one-acre property is much too small to include an effective transitional area especially when you consider that the parcel less the 25-foot buffers on the north and west sides leave only 0.8 of an acre for development. Such a buffer would do nothing to minimize noise and light pollution.

The foregoing paragraphs present clear and convincing evidence that the proposed rezoning is NOT consistent with either the policies or goals of the BVCP or with BRC 9-2-18(a). For this reason we strongly oppose the proposed zoning change.

From: Helen <hgoldman@colorado.edu>
Date: August 19, 2015 at 9:54:03 AM MDT
To: boulderplanningboard@bouldercolorado.gov
Subject: Fwd: 385 Broadway LUR2015-00047

Dear Planning Board Members:

My husband and I live at 2275 Bluebell Avenue, nearly opposite the property requesting a zoning change. We have lived on this quiet residential street since 1972, and raised our two children here. I invite you to actually take a stroll down our street to see what we are in danger of losing.

If the proposal is accepted, our neighborhood is about to undergo a drastic and destructive change, which will undermine a family centered neighborhood where young children play safely, especially in the lower part of our street and the cul-de-sac. It has been a haven that substitutes for a local playground, which we do not have.

A bit of history: when we moved in, city planners included a playground in every other residential neighborhood, close enough for children to walk or ride bikes to, with no intervening major streets to cross, like Broadway. I was curious why we were not so blessed. So I called the city offices and their response was that when the city gave the land next door to the federal government for the Bureau of Commerce, there was an agreement between the city and the federal government that the local residents could use the unbuilt part of the land there to "play." Hah! Some playground, with limited access and no facilities.

So our little haven of peace and quiet, broken only by the laughter of the children at play will be shattered by traffic, parked cars and extremely dense population. There could be as many as 64 cars and as many or more unrelated people using our street. We feel that the original 2008 zoning change was a Trojan Horse, meant to undermine our right to live quietly on our lovely residential street. Please do not do this to us.

Yours truly,
Helen Goldman

Sent from my iPad

From: lyalts@aol.com [<mailto:lyalts@aol.com>]
Sent: Wednesday, August 19, 2015 3:35 PM
To: boulderplanningboard
Subject: LUR2015-00047

Subject: Proposed rezoning of 385 Broadway, Boulder.
LUR2015-00047

I wish to address only one of the many aspects of the impact of the proposed rezoning on the 2200 block of Bluebell Avenue: A safe zone for children to live in and play.

My wife and I bought our home at 2250 Bluebell Avenue in 1965--50 years ago, and occupied it with our three children. It was ideal for children: A no-through-traffic cul-de-sac lined exclusively with one-family homes. Children could safely play on the street and ride their tricycles or bicycles on the block. This has not changed. Kids still play and ride up and down the block with or without parents. Further, I have often noted that only drivers that do not live here, who mistakenly try to drive through our block, drive so much faster through it than we residents.

Any rezoning that would increase traffic or parking by outside groups would impair this wonderful quality of the 2200 block of Bluebell.

Sincerely,

Helmut Altschuler
2250 Bluebell Avenue
Boulder, CO
303-442-8769

Date : August 19, 2015

To: City of Boulder City council, Planning Board and Staff

Subject: Rezoning & Site Review Process - LUR2015-00047 (385 Broadway Ave.)

Executive Summary: Opposing the proposal to rezone property at 385 Broadway

My wife and I have lived at 2211 Bluebell Avenue since 1981 when we moved to Boulder to raise our two children. Our property is on the north side and close to the west end of the 22nd block of Bluebell.

I am writing this letter along with and on behalf of our neighbors who unanimously and strongly oppose rezoning the property at 385 Broadway from RL1 to TB2 without considering its intended use and access.

My purpose in writing this letter is to bring to your attention that certain uses of this property, although within the guidelines of TB2 zoning classification, will have disastrous consequences for the neighborhood.

NIST has stated that it will not allow continued access to this property under the new zoning classification. It appears that attorneys for the new owner of the property have used a procedural loophole to put a request to rezone this property on the agenda without specifying its intended use, and more specifically, without telling the City how the property will be accessed.

In addition to exposing our neighborhood and the City to disastrous consequences, accepting this request without knowing what they plan to do with the property and how they plan to access the property is contrary to your responsibility to protect and enhance the interest of the community and the city.

I am requesting that you deny this rezoning request. The owner must work with the neighborhood and the City to find agreeable options and if there is a need for rezoning, the City can decide, with all facts on the table, if it is appropriate.

Respectfully



Mho Salim

August 19, 2015

From: Julianna Bellipanni [mailto:jbellipanni@boulder.com]
Sent: Wednesday, August 19, 2015 7:51 PM
To: boulderplanningboard
Subject: LUR2015-00047 (385 Broadway Ave.) NO to zoning change to 385 Broadway Ave

RE: Rezoning and Site Review Processes LUR2015-00047 (385 Broadway Ave.)
NO to zoning change to 385 Broadway Ave

-
Dear City of Boulder, Staff, Planning Board and City Council:

I have lived with my brother's family for 4 years at 2290 Bluebell Ave, which is directly adjacent to 385 Broadway. I rely completely on my bike for transportation in and around Boulder. This location has offered me complete convenience and accessibility to the bike path and safe roads to get around. I am concerned that re-zoning of 385 Broadway will increase traffic and parking on Bluebell Ave and inhibit safe bike riding on this street. Bluebell is a major thoroughfare for bikes as it connects directly with the bike path. When cars are parked along both sides of the street, a bike and a single car cannot pass safely. Last week, cars were parked on each side of the street, a car was traveling eastbound on Bluebell, and I was riding westbound. There was no room for the car to move over and he couldn't pass me safely. I had to dismount in order to avoid being hit by the car. I have serious concerns that rezoning 385 Broadway will lead to more traffic and parking on Bluebell and it will no longer serve its function of allowing bike accessibility from western neighborhoods onto the Broadway bike path. This has the potential to affect all biking residents of Boulder, regardless of where they live. **No to rezoning of 385 Broadway Ave**

Sincerely,

Robert Ludemann

From: julianna bellipanni <jbellipanni@boulder.com>
To: "boulderplanningboard@bouldercolorado.gov" <boulderplanningboard@bouldercolorado.gov>
Sent: Wednesday, August 19, 2015 7:45 PM
Subject: LUR2015-00047 (385 Broadway Ave.) NO to zoning change to 385 Broadway Ave

RE: Rezoning and Site Review Processes - LUR2015-00047 (385 Broadway Ave.)
NO to zoning change to 385 Broadway Ave

Dear City of Boulder , Staff, Planning Board and City Council:

I was born and raised in Boulder and currently I am the owner and occupant of 2290 Bluebell Avenue , directly adjacent to 385 Broadway. When my husband, young child and I moved into this house almost 6 years ago, we chose this neighborhood, this street and this house based on the particular characteristics it offered: a dead end street, a residential community, at a distance from student rentals; views out all the windows of mature vegetation (not looking into any other properties' backyard). At that time, it appeared the Boulder city council and staff had an interest in preserving open space, parks and the character of neighborhoods by limiting excessive development and inappropriate re-development within the city limits.

The current medical/dental clinic at 385 Broadway seemed a curious neighbor within our residential neighborhood, but has proved to be a wonderful one as it is unobtrusive and has very minimal traffic--Much less than is typical of this type of building. The developer's lawyer argues "a "Medical-Dental Office" use generates 36.13 trips per day per 1000 square feet of office space. Given the existing 17,600 square foot medical office, that is 636 trips/day. On the other hand, a "Residential Condo/Townhome" use generates 5.81 trips per day per unit. In the case of 16 units, that results in a total of only 93 trips/day. In other words, the specific use about which NIST expresses concern would result in 543 fewer trips per day." This is completely erroneous. I hear the amount of cars that come in and out of that building daily and it is at most maybe 30 and is not disruptive at all. A Residential Condo/Townhome seemingly designed for college students who drive to and from class, activities and downtown multiple times a day and have many guests would lead to exceedingly more traffic and parking concerns. In addition, the proposal suggests 4 students per unit which equals 64 people, drastically increasing the traffic trips per day.

A business-transitional 2 (BT-2) zoning change would allow the creation of a building that would significantly affect my house: It would inhibit my access to natural light; flood my house with artificial lights at night; increase noise and trash, and potentially damage or destroy the mature vegetation along my eastern property line.

I understand the developer needs to demonstrate “by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map”. **Rezoning 385 Broadway is not necessary for compliance with the Boulder Valley Comprehensive Plan Map.** It seems one of the most important tenants of the Comprehensive Plan is 2.10 Preservation and Support for Residential Neighborhoods. **Rezoning this land is completely contradictory to this point of the Comprehensive Plan. Not supporting the rezoning would be in compliance with this tenant,** as it would demonstrate “the city will work with neighborhoods to protect and enhance neighborhood character and livability.” Because of this issue of access to the property (NIST has said they will not allow a large development to use the access road) and what the redevelopment would look like in a business transitional zone (The developer has stated an intent to build high-density condominiums suitable for student use), the character and livability of our neighborhood would be irrevocably changed for the worst: If NIST refuses access through their property and access is through Bluebell, the numerous speeding cars would not allow my children to be safe playing outside in what is now a cul-de-sac. If the developer is granted the rezoning change and continues with their plan to build condominiums tailored for students, instead of having quiet evenings filled with ice cream street parties we will be subject to late loud parties, marijuana smoking and college drinking.

I understand the developer is pushing through rezoning so they don't have to discuss their redevelopment plans which they know will significantly harm the neighborhood. It is clear from their letter dated June 17, 2015, they have no interest in neighborhood or NIST input into their re-development plans and would like to have ultimate freedom in deciding what to build with no deference to the community, which would be granted to them by a rezoning decision. (Again, allowing this goes against the comprehensive plan to preserve and support residential neighborhoods) However, it is also clear from their June 17, 2015 letter they intend to build a high density condominiums (as they erroneously argue about the traffic patterns for this sort of establishment). The developer is well-known for the construction of high-density student housing in other parts of Boulder . It can only be assumed this is his intent and if rezoning is granted, this will happen. Besides ruining the community, this type of development would necessitate increased police response. Because student housing does not fit into our neighborhood and our concerns have been dismissed by the developer, the neighbors will not tolerate any late night noise, parties, drinking or marijuana smoking nearby. When this occurs, unfortunately we will be forced to call the police to respond and manage these issues, diverting their presence and time away from areas already notorious for dealing with student life.

There are plenty of places in Boulder more suitable for this type of development—such as that proposed for 27th way/Broadway (where the old Wendy's used to be), which can be developed appropriately. Spot-zoning a single parcel of residential land into business transitional is not appropriate, ruins our neighborhood , disrupts my family's way of living, and negates all the reasons we chose to live in this house.

Please join with the Boulder citizens and choose to protect and defend our neighborhood and community against the bullying of a single developer. **No Rezoning of 385 Broadway.**

Thank you.

Sincerely,

Julianna Bellipanni

ATTACHMENTS: A copy of this letter in Microsoft Word; PDF file with NIST's concerns (p. 12); Developer's letter indicating dismissal of neighborhood and NIST concerns

-----Original Message-----

From: Dan Olson [mailto:danolson1@gmail.com]
Sent: Wednesday, August 19, 2015 11:43 PM
To: boulderplanningboard
Subject: NO on rezoning 385 Broadway

Hello, please see the attached letter regarding the proposed rezoning of 385 Broadway.

We urge the planning board to VOTE NO on the rezoning, as it is done without complete information and would be ruinous to the character of the Lower Bluebell neighborhood.

Thanks,

Dan Olson
2285 Bluebell Ave

From: Jennifer Lancaster [mailto:jennifer_lancaster@hotmail.com]
Sent: Wednesday, August 19, 2015 9:35 PM
To: boulderplanningboard
Subject: Regarding the rezoning of 385 Broadway Ave

Please see the attached letter.

Regarding: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

Dear City of Boulder, Staff, Planning Board and City Council,

Executive summation: Please vote no to zoning change to 385 Broadway Avenue

My family and I live at 415 Sunnyside Lane, Boulder CO; directly across the street (Bluebell Avenue) from 385 Broadway Avenue. We have owned our home since 2003 (and I am a CO native). I have **3 young children ages, 11, 9 and 9.**

I purchased my home because of the neighborhood, the cul-de-sac, the schools, the community and the quietness of our neighbors and neighborhood. I am requesting that you **decline** the request to rezone **385 Broadway Avenue** because it would change the tenor of our lower Bluebell community, the quietness of our street and would devalue our homes. Most importantly (to me); it would greatly increase vehicle traffic which would impact my family's quality of life. (The developer has implied they would build high density condominiums).

We LOVE our neighborhood because it safe. My children feel comfortable riding their bikes up and down Bluebell, running over to our neighbors to play with their children, and we have ice cream socials in our cul-de-sac. If 385 Broadway were rezoned it is unclear how the numerous tenants would access the property (given NIST's statements) and undoubtedly they would drive and park on Bluebell, given the easy access

(and possibly the only access). I would no longer feel comfortable having my children outside with numerous cars driving on Bluebell; and with high turn-over tenants who are not vested in our community, nor our children. I understand people want to make money and utilize under-developed space, but I ask you to consider the impact that has on our children and our community.

I moved to Boulder and to Lower Chautauqua because of the family centric neighborhood and quality of life. I specifically chose not to live on the Hill because of the high traffic, high turn-over population and how these influences would impact my children.

I ask that we keep the zoning as it stands on 385 Broadway Avenue and maintain the integrity of our neighborhood.

Thank you for your consideration.

Regards,

Jennifer Lancaster Alexander

415 Sunnyside Lane Boulder, CO 80302

720-301-6129

From: Tom Angerer [mailto:tom.angerer@comcast.com]
Sent: Thursday, August 20, 2015 2:48 PM
To: boulderplanningboard
Subject: Opposition to Zoning Change for 385 South Broadway (LUR2015-00047)

As a homeowner at 2225 Bluebell Avenue since 1978, I strongly oppose the proposed Zoning Change to the property at 385 South Broadway.

When the original request for a specific variance to construct a specific medical/dental building at 385 South Broadway was made (sometime in the late 1950's), I am confident that the request seemed reasonable to the neighborhood and the city. After all, the variance represented a benefit to the neighborhood in that the building would house low-impact dental and eye-doctor businesses, thus making access for the neighborhood to obtain dental and optometry care readily available. It was a variance specifically for a medical/dental facility, not a range of facilities that a "zoning change" would allow the developer to construct.

In 2008 we were asked by the building's owner, Mr. Tenenbaum, to agree to a zoning change for his property, because it would make it easier to upgrade and repair the building. Perhaps we were naive to believe that a zoning change was necessary, especially when the owner never proceeded with any of those repairs and upgrades. However, as a result of his request, a "land use" change to the Boulder Valley Comprehensive Plan was moved by the Planning Board and ultimately approved by City Council. Planning Staff did try to help and thus recommended that the land use change be accompanied by a 25' buffer on the North and West sides of the property. However, following City Council's vote to approve the land use change, we learned that a "a condition" (i.e. the buffers) could not be attached to the land use change as had

been originally recommended by City Staff. Also, we never learned what could or could not be done in a “buffer”, but it turned out that a buffer was not allowed at the time of the land use change.

Now, we are again faced with an untenable situation. If we agree to a zoning change to the property, we agree to a “by right” change of the property by a developer who initially asked for a permit to build multi-unit residences on the site along with a variance request for a reduced parking requirement. The consequences of such a development would be dire to our neighborhood. Since access to the site is relatively inconvenient from Broadway, we would see increased hazardous traffic conditions on Bluebell, Mariposa, 22nd, 21st and 20th Streets. The young children of our neighborhood would certainly be exposed to additional risk when playing in the street as children are prone to do on a “dead end” street like Bluebell.

- Is it not the City Council’s and Planning Board’s goal to preserve the character and stability of neighborhoods which are classified as residential (RL-1)?
- Is it not the City Council’s and Planning Board’s goal to conserve property values by encouraging the most appropriate uses of land within zoning districts?
- Is it not the City Council’s and Planning Board’s goal to protect the peace, comfort, convenience and welfare of those citizens of an area that is zoned residential (RL-1)?

A zoning change for 385 South Broadway, would actually impede the City Council’s and Planning Board’s ability to fulfill those goals for the Lower East Chautauqua neighborhood.

Please do NOT allow a zoning change from Residential Low Density (RL-1) to Business Transitional (BT-1 or BT-2) for the property at 385 South Broadway. If there are changes that need to be made to this building and property, let them be initiated as a non-conforming use variance request to the original zoning of Residential Low Density.

Sincerely,

Tom Angerer
2225 Bluebell Avenue

From: Paul Cheng [<mailto:pacheng@gmail.com>]
Sent: Thursday, August 20, 2015 3:10 PM
To: boulderplanningboard
Subject: LUR2015-00047

Planning Board,

We have attached a letter that we have written regarding concerns we have about the proposed rezoning of 385 Broadway (LUR2015-00047).

Thank you for your consideration!

Paul Cheng and Crystal Lee

From: Trina Rioux [mailto:~~tarioux@j-lawson~~]

Sent: Wednesday, June 17, 2015 2:58 PM

To: McLaughlin, Elaine

Cc: Brad Curl; asopher@sophersparn.com; Pannewig, Hella; mattjohnke@gmail.com; Gehr, David

Subject: 385 Broadway– Application for Rezoning (LUR2015-00047)

Ms. McLaughlin:

Please see the attached correspondence from Brad Curl in connection with the above-referenced matter.

Trina Rioux, Legal Assistant

Johnson & Repucci LLP

2521 Broadway St., Ste A

Boulder, Colorado 80304

Phone: 303-442-1900

Fax: 303-442-0191

E-mail: tarioux@j-rlaw.com

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Bradley R. Curl
brcurl@j-rlaw.com

June 17, 2015

Via E-Mail (McLaughlinE@bouldercolorado.gov)

Ms. Elaine McLaughlin
Senior Planner
City of Boulder
1739 Broadway, 3rd Floor
Boulder, Colorado 80306

Re: 385 Broadway (the "Property") – Application for Rezoning (LUR2015-00047) (the "Rezoning Application")

Dear Elaine:

As you know, this firm represents the owner of the above-referenced Property (the "Owner") with respect to various land use issues, including the above-referenced Rezoning Application. In that regard, thank you for the City of Boulder's (the "City") June 5, 2015 Land Use Review Results and Comments regarding the Rezoning Application (the "Comments"). This letter responds to the Comments and expresses Owner's serious concerns related thereto. In particular,

- Owner's site review application, to the extent required, will be separate and apart from the pending Rezoning Application;
- as such, a "Good Neighbor" meeting is not required; and
- the National Institute of Standards and Technology ("NIST") is improperly interfering with the Rezoning Application process and, as a result, the City's conditioning of rezoning upon receipt of access approval from NIST is without basis.

I. THE CITY MUST CONSIDER THE REZONING APPLICATION ON ITS OWN MERITS.

The Comments require that Owner prepare a site review application and submit that application, along with a resubmittal of the Rezoning Application, so that the City may consider the two applications concurrently. The City's requirement in this regard is unfounded.

Although it is true that Owner is considering constructing a future project on the Property that includes townhomes, the scope and nature of that project may change, or the project may not proceed at all. In any event, the type of review that will be required in connection with the final

2521 Broadway, Suite A Boulder, Colorado 80304 | tel 303-442-1900 | fax 303-442-0191 | www.j-rlaw.com

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Ms. Elaine McLaughlin

June 17, 2015

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version of the proposed development of the Property, if any, is entirely separate and distinct from, and has no bearing upon, simply rezoning the Property to bring it in to compliance with the Comprehensive Plan land use map.

The list of relevant criteria that the City may consider in connection with review of a rezoning application is relatively short and does not include concurrent approval of any particular possible development of the subject property. Code, §9-2-18(e). Owner therefore requires that the City (a) withdraw its condition that Owner submit a site plan application; and (b) move forward with processing the Rezoning Application.

II. A GOOD NEIGHBOR MEETING IS NOT REQUIRED.

The Comments also require that Owner conduct a Good Neighbor meeting. However, as noted above, the only application before the City as of this date is the Rezoning Application, which simply is the vehicle pursuant to which the zoning will be made consistent with the Comprehensive Plan land use map, as was contemplated when the City revised the map in 2008. Owner has not submitted a development application and, as such, the actual use of the Property is not yet known. A Good Neighbor meeting is therefore at best premature at this point, and may never be triggered pursuant to the Code, depending upon the ultimate use of the Property. Owner therefore requests that the City delete the requirement for a Good Neighbor meeting as a condition to its merely processing the Rezoning Application.

III. NO NIST APPROVAL REQUIRED.

The Comments also condition the processing of the Rezoning Application upon Owner securing consent from NIST with respect to access issues. For the reasons set forth below, such a condition is patently improper.

A. *NIST does not Oppose the Rezoning Application.*

As an initial matter, and as noted above, the only application that is currently pending with respect to the Property is the Rezoning Application. In that regard, we have reviewed a copy of NIST's June 5, 2015 letter to the City. In relevant part, the letter states that "NIST does not express an opinion at this time on the merits of the applicant's rezoning request" (emphasis added). Simply put, that is the only comment in the letter that is germane to the pending Rezoning Application.

The NIST correspondence admittedly raises a number of other issues, but all of those issues are related to the redevelopment, not rezoning, of the Property. Owner has not submitted an application for redevelopment. Accordingly, in light of NIST not expressing an opinion regarding the Rezoning Application, the City's requirement that Owner secure consent from NIST in connection with the Rezoning Application is misplaced.

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B. NIST has no Basis to Oppose the Rezoning Application.

Even if NIST's comments were correctly provided in connection with a pending development application, for the reasons set forth below, NIST simply has no basis for its position.

1. The Access Rights are without Restriction.

As you are aware, access to and from the Property is currently via an easement across the NIST property to the south of the Property (the "Easement"). A copy of the relevant Deed of Easement is enclosed for your reference.

In its correspondence, NIST expresses ". . . its serious reservations regarding the acceptability to NIST of access to the [Property] via the [Easement], if the [Property] is rezoned" and ". . . requests the City's support and engagement of the [Owner] to vacate the [Easement] . . ." NIST goes on to indicate that it ". . . could not rule out taking action to terminate the [E]asement because of this new, materially different use. . ."

Notwithstanding the content of its correspondence, NIST simply has no right to terminate the Easement or otherwise restrict the rights pursuant to the Deed of Easement, which rights NIST granted without restriction. In particular, the Deed of Easement provides as follows:

[NIST] does hereby grant and convey . . . an easement and right-of-way for vehicular ingress and egress, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement . . . over and across that portion of the existing roadway . . . as is reasonably necessary to allow for ingress and egress to the [Property] . . . said easement shall be appurtenant to and for the use and benefit of [the Property].

In other words, Owner's access rights pursuant to the Easement Deed are absolute – the Deed of Easement simply grants the rights of ingress and egress to and from the Property, without distinction as to the purpose for the allowed access. NIST therefore has no basis whatsoever for making the claims in its letter.

Accordingly, NIST inserting itself into the Rezoning Application process by asserting rights that it does not possess and soliciting the City's assistance in terminating rights that it is incapable of terminating, is entirely inappropriate and raises serious legal concerns. We have communicated as much to NIST.

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Ms. Elaine McLaughlin

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2. Independent of the Absolute Nature of the Access Rights across the Easement, NIST's Stated Objections are Without Merit.

The NIST correspondence touches on various other issues, but stops short of specifically arguing that those issues somehow give rise to rights that NIST does not otherwise have to terminate the Easement or restrict the access over and across the same. For example, the NIST letter merely invokes 9/11 in what amounts to no more than a red herring. Parties have been accessing the Property across the NIST property since at least 1995 and for nearly 14 years since 9/11. Driving the same car across the same Easement to access a residence, rather than a medical/dental office, does not implicate the sort of security concerns about which the correspondence muses.

In addition, NIST refers to the fact that elimination of the Easement would help it comply with its stormwater permit obligations. However, NIST's required compliance with respect to stormwater matters is completely independent of, and frankly subject to, its obligation to provide access pursuant to the Easement Deed.

Finally, NIST appears to base its position upon the purported "increased number" of trips that would result and the correspondingly "materially different" use of the Easement. However, the number of daily trips over the Easement will be substantially less if, for example, the Property were rezoned and developed into townhomes. In particular, according to the ITE Trip Generation Manual, a "Medical-Dental Office" use generates 36.13 trips per day per 1000 square feet of office space. Given the existing 17,600 square foot medical office, that is 636 trips/day. On the other hand, a "Residential Condo/Townhome" use generates 5.81 trips per day per unit. In the case of 16 units, that results in a total of only 93 trips/day. In other words, the specific use about which NIST expresses concern would result in 543 fewer trips per day.

* * * * *

We have copied your counsel on this correspondence and encourage you to seek their input. The City cannot delay the rezoning process by requiring submittal of a concurrent site review application or requiring a Good Neighbor meeting with respect to a use that is as yet unknown. Neither can the City require that Owner secure the consent of a third party that has asserted claims that have no basis in fact or law, and in any event, have nothing to do with simply causing the zoning of the Property to comply with the Comprehensive Plan land use map.

Based upon the forgoing, we strongly encourage the City to (a) withdraw its conditions that Owner (i) submit for site review; (ii) hold a Good Neighbor meeting; and (iii) secure NIST consent; and (b) move forward with processing the Rezoning Application in accordance with the Code.

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Ms. Elaine McLaughlin

June 17, 2015

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Thank you for your attention to this matter.

Sincerely,



Brad R. Curl

Enclosure

cc: David Gehr, Esq. (*via e-mail*)
Hella Parnewig, Esq. (*via e-mail*)
Mr. Matthew Johnke (*via e-mail*)
Adrian Sopher, AIA (*via e-mail*)

{00316875 / 1 }

From: Ferro, Charles
Sent: Tuesday, June 30, 2015 6:06 PM
To: Brad R. Curl
Cc: Gehr, David; Pannewig, Hella; McLaughlin, Elaine
Subject:

Mr. Curl,
Please find the attached letter related to 385 Broadway.
Best,
Charles

Charles Ferro, AICP
Development Review Manager
City of Boulder - Department of Community Planning + Sustainability
303.441.4012 - Direct
303.441.3241 - Fax

ferroc@bouldercolorado.gov

www.bouldercolorado.gov

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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

6/29/15

Via E-Mail (brcurl@j-rlaw.com)

Mr. Brad Curl
Johnson & Repucci LLP
2521 Broadway
Boulder, CO 80304

RE: Rezoning & Site Review Processes - LUR2015-00047 (385 Broadway Ave.)

Mr. Curl:

I am in receipt of your letter dated June 17, 2015. With regard to process, while a Site Review is required to address the proposed parking reduction, please note that the Rezoning and the Site Review applications are not required to be processed concurrently (although that is preferable). Both applications can be reviewed separately under the respective criteria found in Section 9-2-18(e), B.R.C. 1981 and 9-2-14(h), B.R.C. 1981 and while a neighborhood meeting is not required by the Boulder Revised Code, it is strongly encouraged. Finally, site access is not a consideration for rezoning however, suitable access that meets the city's access standards must be demonstrated at the time of Site Review.

Best,

Charles Ferro, AICP
Development Review Manager



MEMORANDUM

To: Charles Ferro, Land Use Review Manager - CITY OF BOULDER
From: Adrian Sopher - SOPHER SPARN ARCHITECTS LLC
Project: 385 BROADWAY
Date: 1 May 2015

Re: REZONING WRITTEN STATEMENT

5. Description of proposed project

Project intent

To create a new, high quality, and energy-efficient multi-unit residential project at the address above, that orients itself to the Broadway frontage and maintains ample separation from the single family residential neighborhood to the west. In order to so, we are requesting rezoning the TB Land Use portion of the site to BT-2 zoning from the current RL-1 zoning. Doing so will bring the property into compliance with requirements of the Boulder Valley Comprehensive Plan Land Use Map.

Site Conditions



The 1.01 acre property is located adjacent to the northwest intersection of Broadway and 27th Way. It is immediately north of the northeast corner of the NIST site, and is at the far southeast corner of the termination of Bluebell Avenue.

The site, while bordered by Broadway on the east and Bluebell on the north, has no direct vehicular access from those streets. Currently, its sole means of vehicular access is from a frontage road running northward from the NIST entry at Broadway & 27th Street and terminating at the site.

The east side of the property along Broadway has a bikeway, pedestrian & utility easement beneficial to the city along its entire length, providing pedestrian and bicycle access to the site.

The north edge of the site along Bluebell is heavily vegetated with overgrown shrubs and trees, and, while the site itself slopes minimally, there is a ±6' grade separation to the sidewalk on this perimeter.

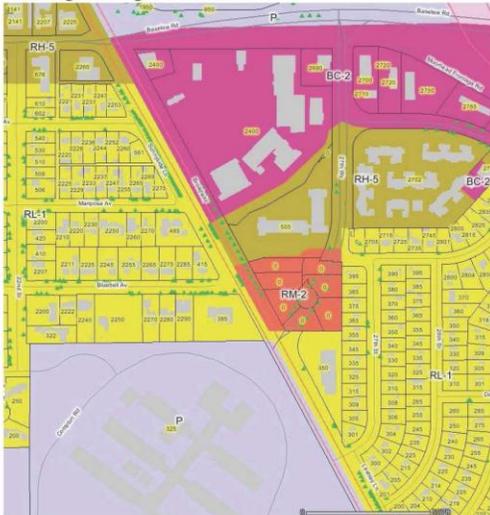
The existing single story brick office building on the site is intended to be removed, and the site is intended to be fully redeveloped with the proposed changed in use effected by the rezoning.

Adjacent Properties

- West & Northwest – existing single family residential structures and Bluebell Neighborhood.
• North – Basemar Shopping Center.
• East – Base Mar high-density residential apartments

- and city owned park-n-ride facility.
- Southeast – Flatirons Medical Dental office building.
- South & Southwest – National Institute of Standards facilities.

Existing Zoning Conditions



The site is currently zoned RL-1, as is the single-family neighborhood to the west of the site. However it is our understanding that the property has not had a single-family residential use on the site since the existing building was constructed in 1957. This was concurrent to the time that the subdivision was established in 1956 (per County Subdivision Plat, attached).

All properties to the north, east and south reflect the intensity of activity of the Broadway corridor, both in the scale of the structures and the intensity of use that their zoning designation allows. The only exception is the medical office building at 350 Broadway southeast of the site, which is clearly a pre-existing nonconforming use in what is arguably an oddly zoned RL-1 property and the adjacent rump RM-2 parcels at a major intersection of 27th Way and Broadway. Also to the Northwest, the single family residences extend to Broadway.

Pre-2008 Land Use Map

It was in recognition of the inconsistency between the conditions affecting this site, both in terms of its longtime non-single family residential use and the ever-increasing importance of Broadway as a major transit corridor for the city, that the owner requested

that the land use map be changed. During the time of the 2008 mid-term review of the BVCP, both the Planning Board and City Council agreed that leaving this site with RL-1 zoning unfairly burdened and limited the property owner’s ability to improve the site. The owner was until then, limited to what was possible under a non-conforming use review. Such changes are extremely minimal, and at the time, the owner wanted to make improvements to the structure to provide for greater commercial use of the site.

2008 Land Use Map Revision



Upon staff’s recommendation and after extensive public process, Planning Board & City Council adopted a change to the parcel’s land use which incorporated a 25’ buffer zone of RL-1 zoning along the western and northern property boundaries.

The purpose of the 25’ buffer was to ensure that the single family neighborhood abutting those property lines were able to maintain an adequate separation from impacts arising from the increase in commercial activity or other impacts that might be associated with a change in the property’s intensity of activity.

Likewise, it was understood that there was no intention to provide vehicular access to the site from Bluebell, in order to maintain the single-family character of the street and the neighborhood it serves. The newly established access to the property from the south ensured that adequate access to the site remained available.

The ostensive reason for the change was to recognize that the intensity of Broadway could easily support improvements to the property, whether to increase the commercial use on the site, or for other compatible uses that are in keeping with the revised land use designation and the activity of the other Broadway fronting higher intensity uses.

Subsequent to Adoption of Map Change

Pursuant to a map change, it would have been reasonable to expect that the property owner would soon thereafter apply for rezoning of the property, bringing it into compliance with the Comp Plan designation then adopted. However subsequent to the adoption of the map change at the end of 2008 – presumably due to the general economic conditions – the zoning change was not applied for and whatever the property owner intended in terms of modifications to the site has now changed.

The property has been sold, with the new owner intent on building multi-family housing on the property. According to the land use designation this is supportable, and consequently we are applying for rezoning to BT-2 in support of that use. The applicable rezoning criterion for that application will be Criterion #1:

The applicant demonstrates by clear and convincing evidence that the proposed rezoning is necessary to come into compliance with the Boulder Valley Comprehensive Plan map.

We are proposing the rezoning of the site from RL-1 to BT-2. As noted earlier, this rezoning is supportable based on Rezoning Criteria #1 regarding the necessity of bring the property into compliance with the Boulder Valley Comprehensive Plan.

General Description

The project is intended to provide 16 town homes, and on-grade vehicular parking for residents. The larger building will be oriented principally towards Broadway, with a secondary building that fronts Bluebell for pedestrian access only. The Bluebell structure will maintain a 25’ buffer from the street. Internal to the site, the structure or structures will orient towards a south-facing green space protected from Broadway.

Parking will be accessed from the south frontage road, and will be oriented towards the south and western sides of the site, again, maintaining adequate separation from the adjoining single-family site to the west.

Building Organization and Usage

The proposed structures would form a generally L-shaped plan, forming 2-sides along an improved courtyard and fronting along the streets to the north and east. The structure would be oriented towards both Broadway and Bluebell, with the private entries to each individual town home along the street edges to the north and east. Secondary entries from the parking to the south would be via the south-facing courtyard. The buildings would maintain the 25’ buffer from the north and west, as required by the Land Use Map.

At this time, we are considering 16 residential units with an average size of 1100 net square feet per unit.

Vehicular Access and Parking

To the south of that courtyard would be parking along the south property line, and turning northward along the western side of the site. Parking for up to 16 units would require at most, 48 parking spaces, if there is no parking reduction. Given the project’s proximity to a major multi-modal corridor, the university and the federal labs, we believe that a 25% parking reduction is supportable. Therefore we will be requesting an administrative parking reduction of 25%.

Fire access would be achievable from three directions:

- From the south, via the frontage access and into the parking area.
- From the north along Bluebell Avenue.
- From the east directly from Broadway.

Fire Department turnaround is provided with the 30’ T (or Y) intersection, as requested by the Fire Marshall.

Other Considerations

At this time, it is not anticipated that the inclusionary housing requirement would be met on site.

Lots

We are proposing that all of the uses and units would remain combined on a single lot, and that Lots 26, 27 & 28 of the South Oak Park Subdivision would remain under a single ownership.

Construction Staging

At this time, we feel it is pre-mature for us to address this issue, though we intend to build in a single phase.

- Cc Matt Johnke (property owner)
- Leslie Ewy, Sanitas Group (civil engineer)

Existing Project Site Zoning

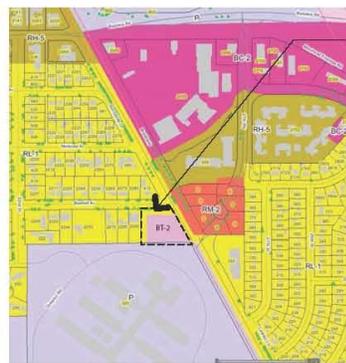


385 BROADWAY
CURRENTLY ZONED RL-1
EXISTING LOT: 1.01 ACRES

ZONING LEGEND

	MU-3		BC-2
	MU-4		BT-1
	RMX-1		BT-2
	RM-2		BR-1
	RH-2		P
	RH-5		IG
	RL-1		

Proposed Project Site Zoning



385 BROADWAY
PROPOSED ZONE: BT-2
PROPOSED SF IN BT-2: 35,406

CITY OF BOULDER
PLANNING BOARD AGENDA ITEM
MEETING DATE: August 27, 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 application was continued from the Aug. 6, 2015 Planning Board hearing at the request of the applicant. No changes were made to the application since that time as the applicant considered requesting an additional modification through annexation that staff could not support.

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.

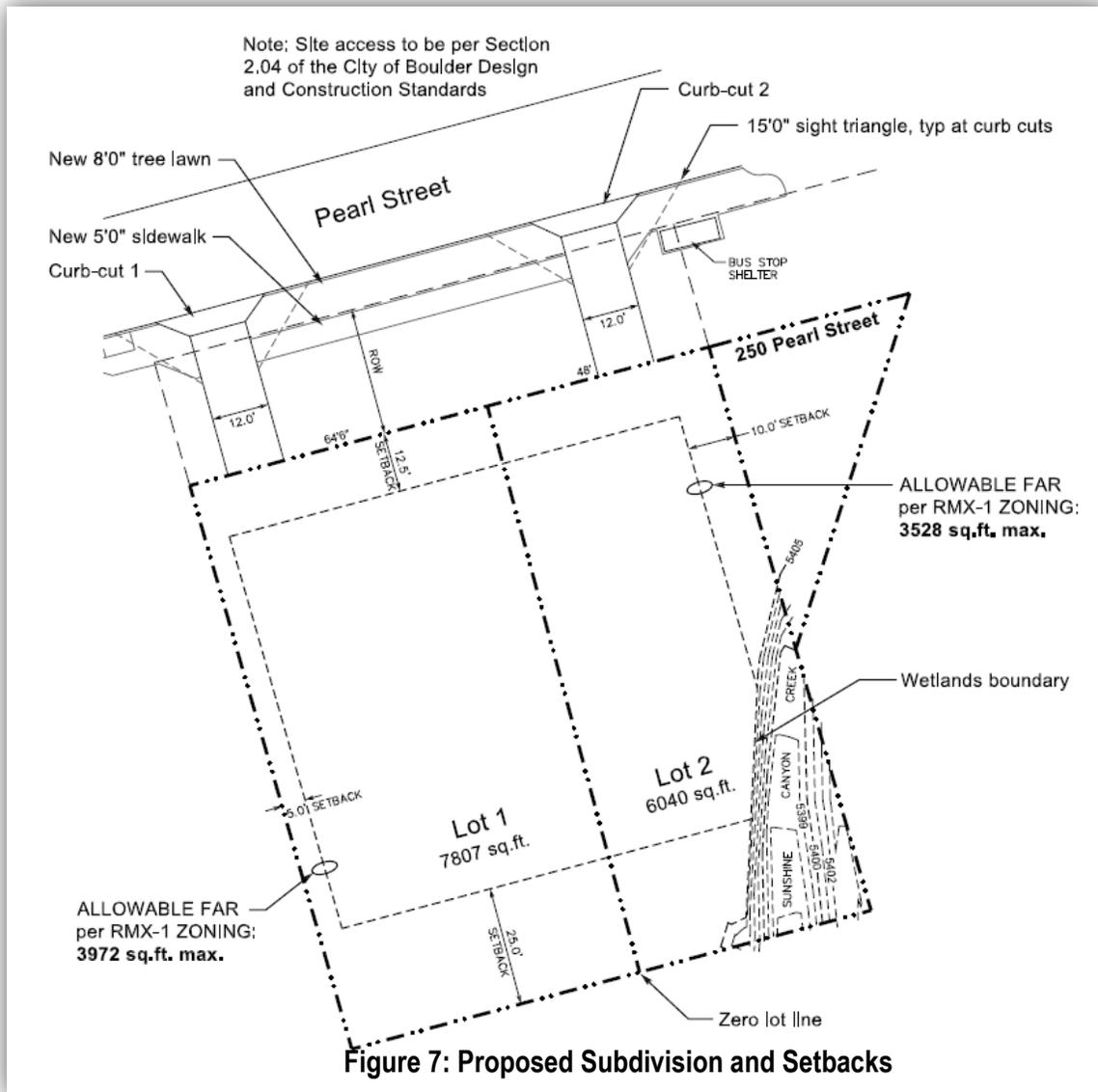


Figure 6: Proposed Initial Zoning

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

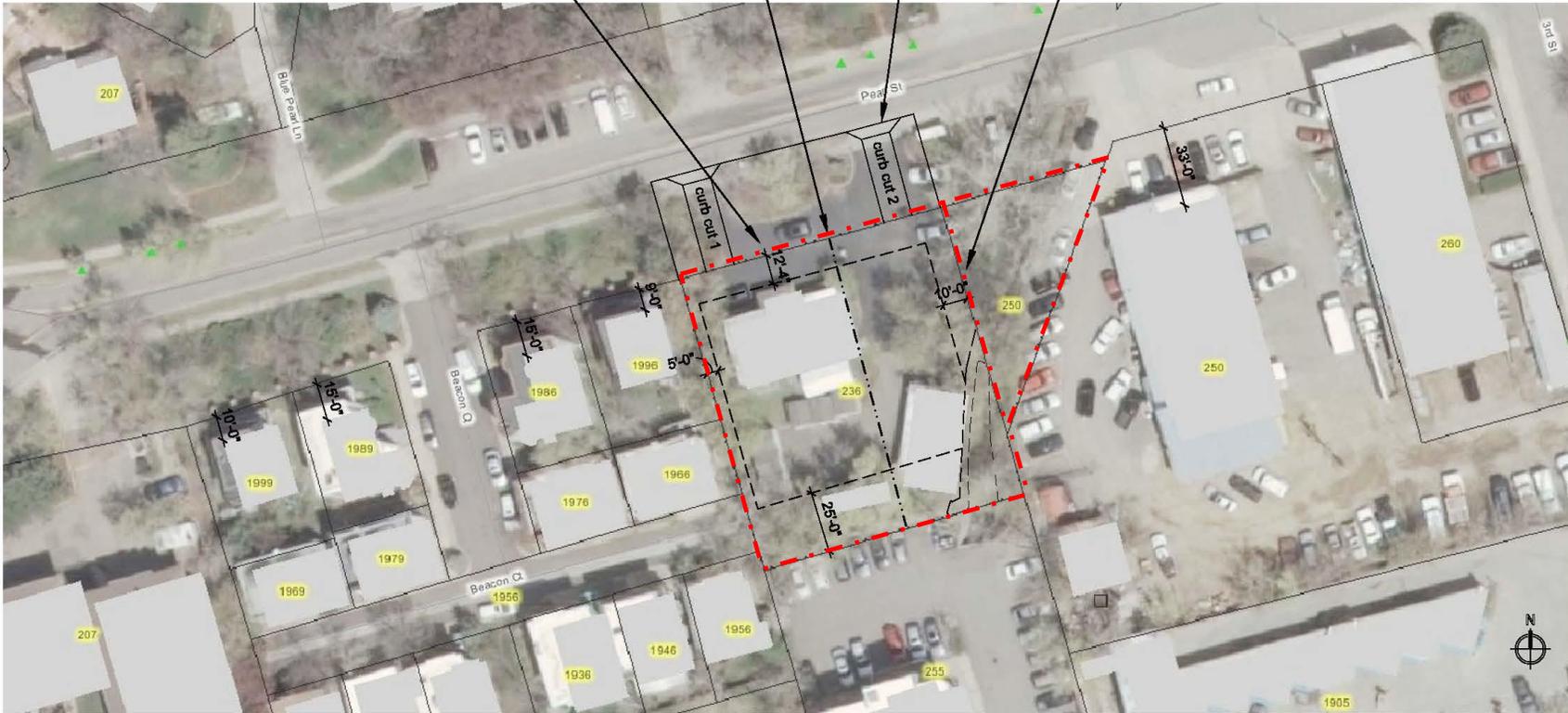
sideyard of the eastern lot and a 10 foot side yard setback on the western side yard of the western lot with a zero setback on the interior lot line. The code requires a minimum combined side yard setback of 15 feet. The code does not allow for the proposed combined side yard setbacks; however, would the applicant choose to not subdivide the parcel and build the same two attached units on the parcel, the proposed side yard setbacks would meet code requirements for side yard setbacks.



The RMX-1 zoning permits duplexes by-right but does not permit a zero lot line for the interior side yard setback. The desire to have a duplex with a separate yard and on its own lot for each unit requires the request for a modification to the side yard setback. The applicant has also requested front yard setback averaging to reduce the front yard setback from 15 feet to 12.5 feet as is consistent with the other residential units on Pearl Street to the west of the site, established through Site Review. This is illustrated in Figure 8 on the following page. The minimum side yard setback in the RMX-1 zoning is five feet as the applicant is proposing. Refer to the analysis of these requests under Key Issue 2, found later in the document.

**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:

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?

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.



**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**

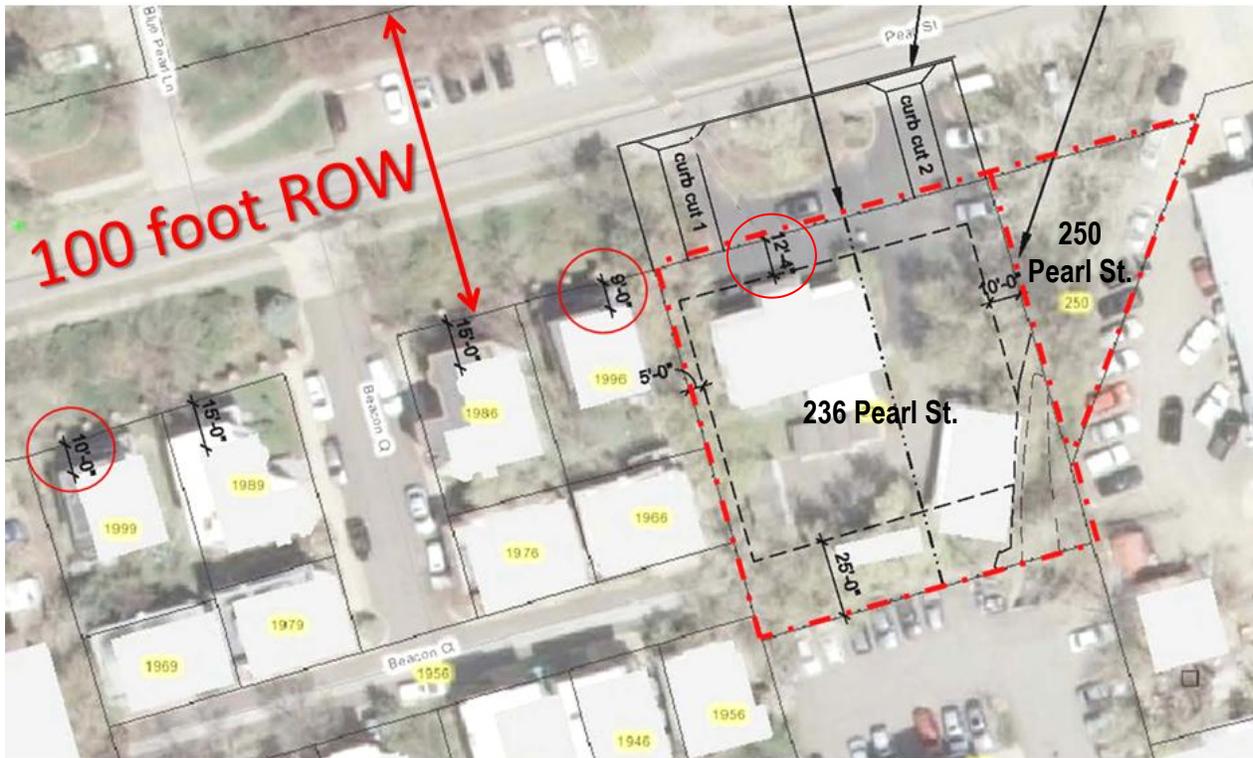


Figure 12: Requested Setback Modifications in Context

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

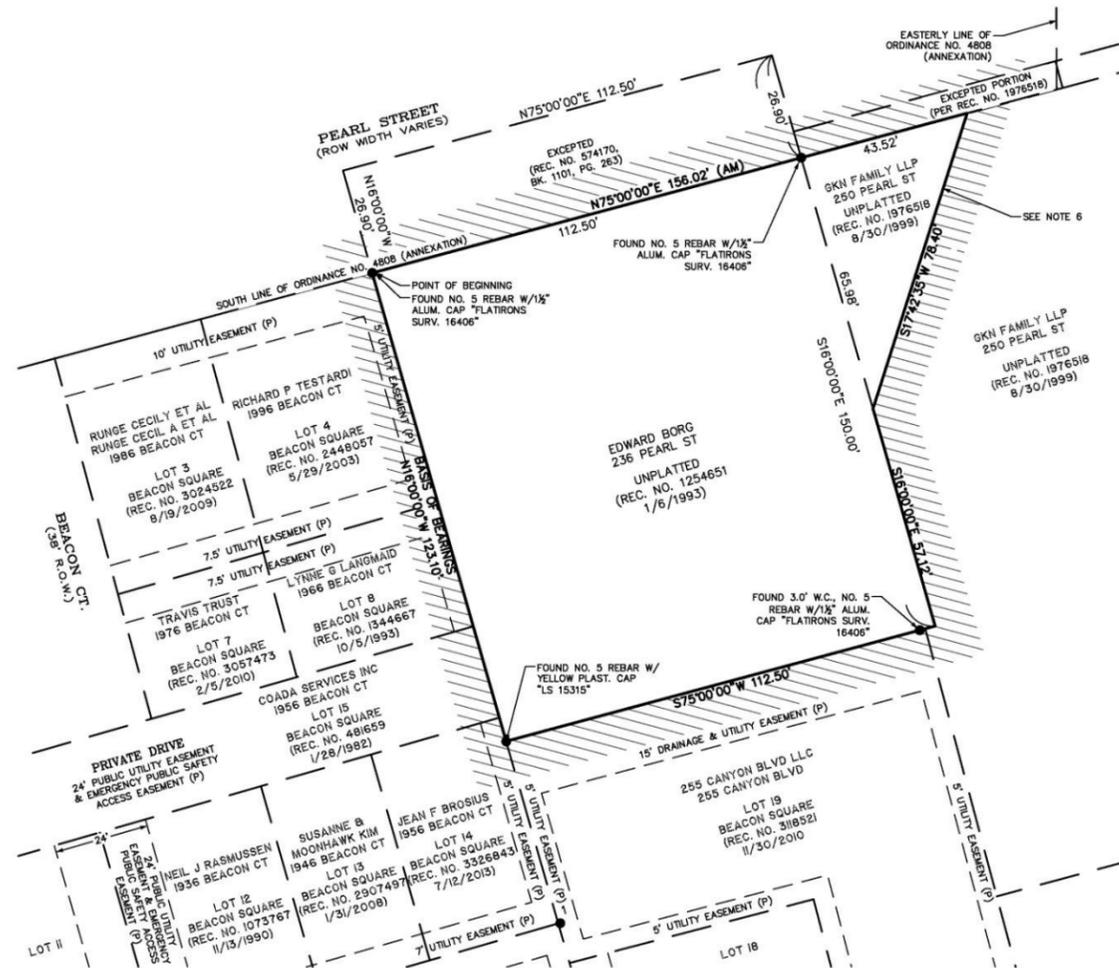
A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 25,
TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH P.M.,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 1

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

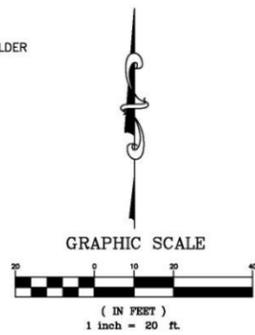


Vicinity Map
SCALE: 1" = 300'



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	4/27/15 ED
2	
3	
4	
5	
6	
7	
8	

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

Flatirons, Inc.
Surveying, Engineering & Geomatics
www.flatironsinc.com
3825 IRIS AVE, STE 395 3660 DOWNING ST
BOULDER, CO 80501 BOULDER, CO 80301 UNIT E
PH: (303) 776-1733 PH: (303) 443-7001 DENVER, CO 80205
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

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):

1. GKN Family LLP, Nancy L. Vinson, Partner
2. GKN Family LLP, Karen S. Klenzendorf, Partner
3. _____
4. _____

CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

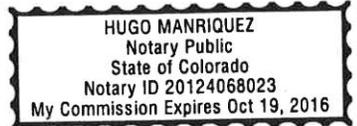
Nancy L. Vinson

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

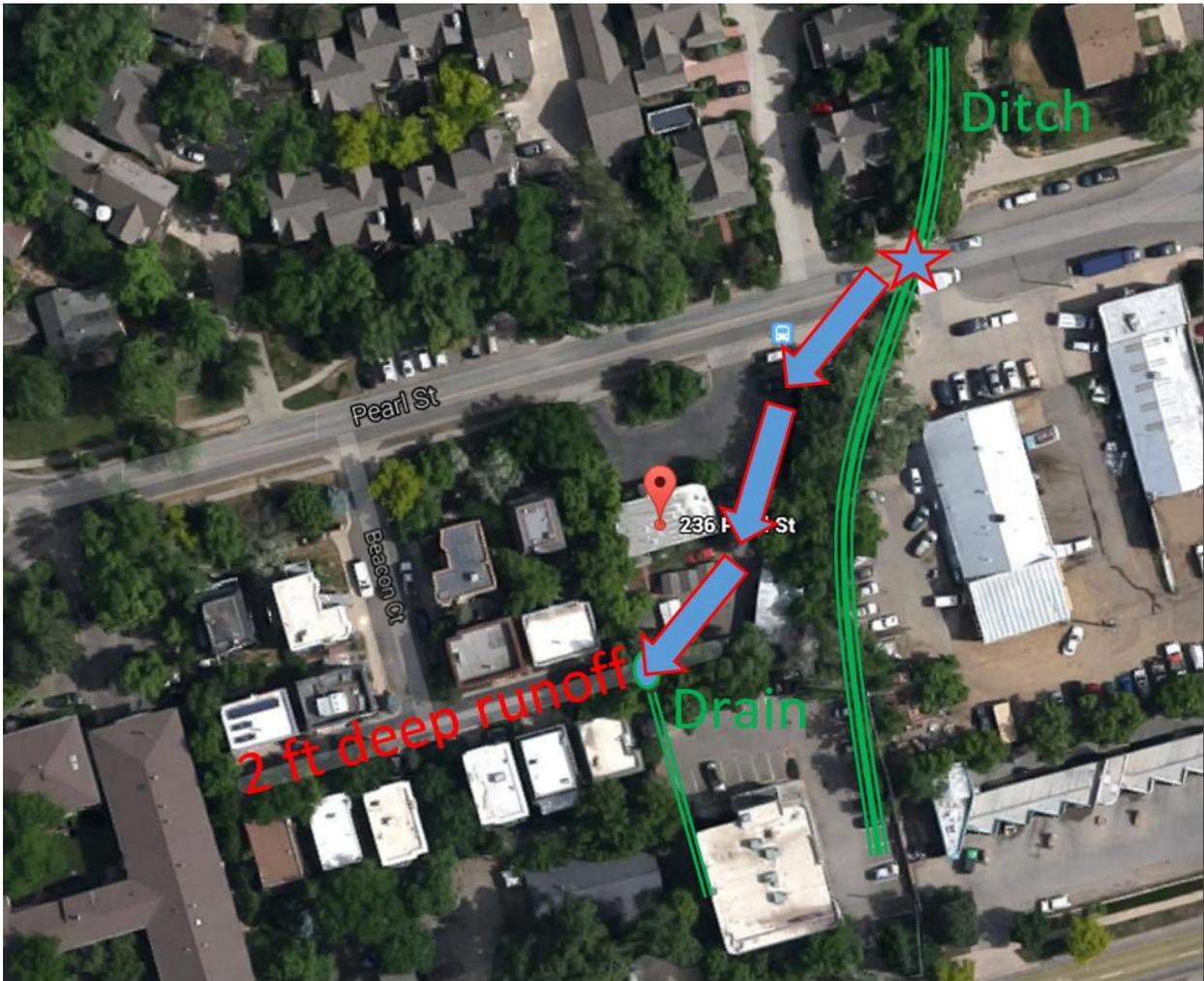
just fine keeping up with water coming down the “T” of Beacon Ct, and falling on the property itself.

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

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.

13. Failure to Annex. This Agreement and any document executed pursuant hereto shall be null and void and of no consequence in the event that the Property is not annexed to the City with the initial zoning of Residential Mixed -1 (RMX-1).
14. Future Interests. The Agreement and covenants as set forth herein shall run with the land and be binding upon the Applicant, the Applicant's heirs, successors, representatives and assigns, and all persons who may hereafter acquire an interest in the Property, or any part thereof. If it shall be determined that this Agreement creates an interest in land, that interest shall vest, if at all, within the lives of the undersigned plus 20 years and 364 days.

EXECUTED on the day and year first above written.

Applicant:

By: _____
William L. Cassio

And

By: _____
Carole F. Cassio

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by William L. and Carole F. Cassio.

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

[NOTARY BLOCK FOLLOWS]

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by William L. and Carole F. Cassio.

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

Notary Public

EXHIBIT A TO FLOOD CONTROL EASEMENT

Legal Description

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 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



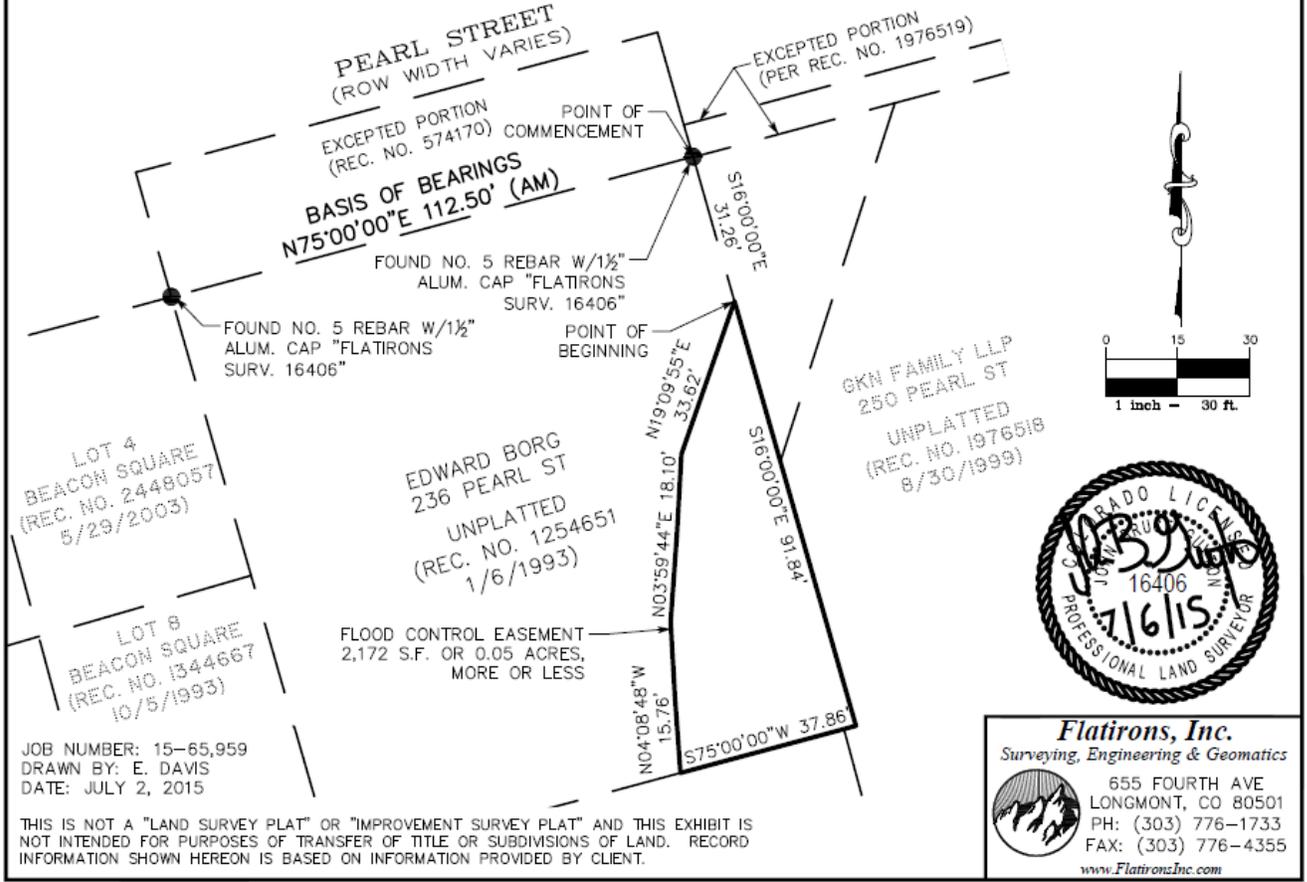
655 FOURTH AVE
 LONGMONT, CO 80501
 PH: (303) 776-1733
 FAX: (303) 776-4355
www.FlatironsInc.com

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



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

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

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"

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
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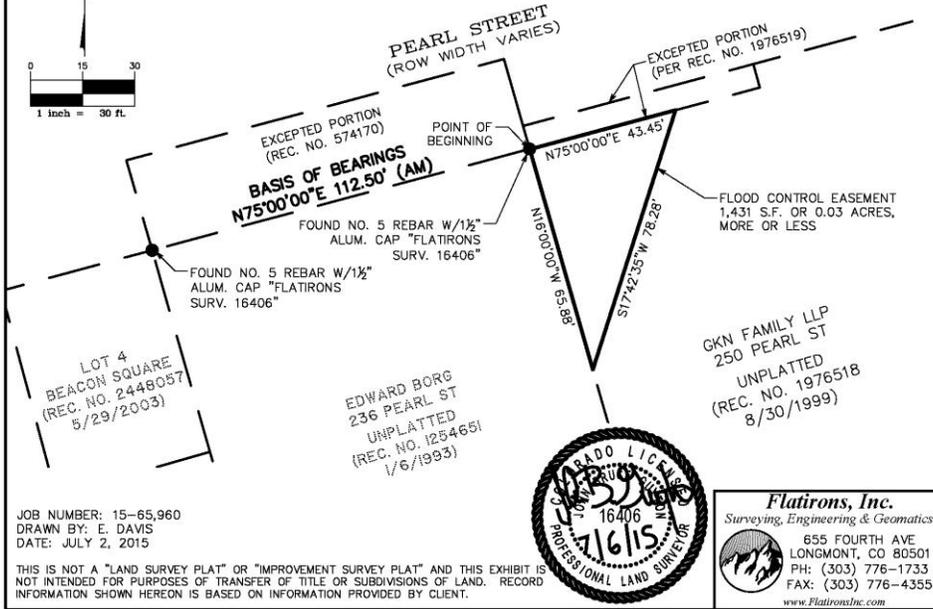
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EXHIBIT "A"

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

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