



**CITY OF BOULDER
PLANNING BOARD STUDY SESSION AND MEETING AGENDA**

DATE: October 10, 2013

TIME: Study Session at 5:30 p.m., Meeting at 7 p.m.

PLACE: Council Chambers, 1777 Broadway

STUDY SESSION: 5:30 - 7 P.M., COUNCIL CHAMBERS, 1777 BROADWAY

Topic: [Board Communication Guidelines](#)

MEETING: 7 P.M., COUNCIL CHAMBERS, 1777 BROADWAY

1. CALL TO ORDER

2. APPROVAL OF MINUTES

The [August 15th Planning Board minutes](#) are scheduled for approval

3. PUBLIC PARTICIPATION

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

- A. USE REVIEW (LUR2013-00040):** Request to allow a new 34,400 square foot recreational sports complex located at 3203 Pearl in the IG zone district. The call-up period expires on **October 11, 2013**.

5. PUBLIC HEARING ITEMS

- A. Public hearing and consideration of a recommendation to City Council on an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to modify building setbacks and to defer payment of fees for land use applications and building permits to the earlier of Jan. 1, 2015 or the issuance of a certificate of occupancy, whichever is first to accommodate the relocation of two residential structures from 1220 and 1243 Grandview Ave. to 905 Marine St. and setting forth related details.**

Applicant/Property Owner: Christian Griffith

- B. Public hearing and consideration of a recommendation to City Council regarding amendment to the [Benson Annexation Agreement for the 1215 and 1235 Tamarack properties](#) (Lots 10 and 11, Block 5, Moore's Subdivision) to modify the requirements pertaining to the construction of 12 ½ Street between Upland and Tamarack Avenue.**

Applicant: Michael Marez/ TJM Investment, LLC

Owners: TJM Investment, LLC (Lot 10: 1215 Tamarack Ave.)

James C. Hohmann and Deborah Stabler (Lot 11: 1235 Tamarack Ave.)

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

- A. Update on the draft [Economic Sustainability Strategy](#)**

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

2. Public Hearing

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

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

3. Board Action

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

MATTERS FROM THE PLANNING BOARD, DIRECTOR, AND CITY ATTORNEY

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

ADJOURNMENT

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

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

MEMORANDUM

TO: Planning Board
FROM: Hella Pannewig, Assistant City Attorney
DATE: October 10, 2013
SUBJECT: Study Session to Consider Planning Board Communication Guidelines

The purpose of this Planning Board study session is for the Planning Board to consider proposed communication guidelines.

Please find the following items for the Board's consideration at the October 10, 2014 study session attached to this memorandum:

Attachment A: [Proposed Planning Board communication guidelines](#)

Attachment B: [Proposed email auto response language](#)

City of Boulder, Planning Board Communication Guidelines, 2013

All Board Member Communications:

- **Board members should not discuss a quasi-judicial matter¹ outside of the public hearing on the matter.**
- Any two board members are allowed to discuss planning board related topics that are not quasi-judicial matters.
- Even if a board member has discussed a topic (that is not a quasi-judicial matter) with other board members, there is no limit on the conversation other than to avoid attempting to make a decision outside of a public meeting.
- A board member should avoid representing another board member's opinion to other board members, staff, or the public.
- No votes or consensus should be gathered outside of a public meeting; the only exceptions are administrative decisions (i.e. deciding meeting day, time, place, etc.).
- Any or all board members are permitted to gather outside of scheduled meetings as long as planning board business is not discussed.
- If a planning board decision must be made in a timeframe not permitting discussion at a regular meeting, a special meeting must be scheduled allowing as much public notice as possible (minimum 24 hours).
- **All** planning board business communications are a part of the public record and can be requested by the public at any time.

Board Member Email Communications:

- Any two board members may exchange email on any topic (other than a quasi-judicial matter); messages containing (non-administrative) planning board business shall not be forwarded to any other board member.
- A board member may send informational emails to the entire planning board; it is good practice to include a reminder in the message not to "reply all" to the message. If any board member wants to respond or discuss the contents of the email, the topic should be added to the next meeting agenda; "reply all" only to ask for this agenda request.

¹ What is a Quasi-Judicial Matter:

The Planning Board often takes action on two common types of matters: "legislative" and "quasi-judicial." Legislative matters create new rules or laws that are applicable throughout the city and are prospective in nature. In quasi-judicial matters the board applies existing rules to a case involving particular individuals and facts; quasi-judicial actions do not have citywide application.

Legislative decisions are often made in a political environment where lobbying and personal investigation by decision-makers are proper; political and social views of the decision makers are an important part of the legislative process.

However, when a local body has to make a quasi-judicial decision, members must act in the manner of impartial judges in a court case. In a quasi-judicial process, decision makers are expected to apply the rules fairly whether or not they agree with them. Procedural due process is critical in quasi-judicial hearings. This includes the right of all directly impacted parties to participate in a pre-decision hearing, their right to present evidence, to see all the evidence that will be considered by the decision making body, and their right to confront adverse evidence. When board members sit as judges in a quasi-judicial hearing, it is essential that they not have made up their minds before hearing the evidence. They must decide the case based upon the evidence presented **at the hearing** and not based upon outside sources. At the beginning of a quasi-judicial hearing, board members should disclose any outside information they have about the case to avoid a due process violation. For the same reason, all email questions relating to quasi-judicial matters and staff email responses to such questions must be made part of the hearing record.

City of Boulder, Planning Board Communication Guidelines, 2013

Examples of all-planning board emails:

- 1) informational topics to be discussed at our next meeting as "heads up",
- 2) research or public communication to be shared with fellow board members, not as a part of an ongoing discussion
- 3) questions being asked of staff

Questions to Staff:

- When sending a substantive request for information to staff, the planning board as a whole per the boulderplanningboard email list should be copied on the request so that all board members and staff part of the list may be aware of the request.
- If/when staff responds via email or memo to questions from a board member, staff will copy all planning board members on their answer.

Boulderplanningboard Distribution List Protocol:

- The boulderplanningboard distribution list is an email distribution list for use by the member of the Planning Board, staff, and the public.
- Members of the public may use the distribution list to submit their comments on upcoming agenda items. Board members should not respond to these comments through the distribution list and should not respond at all if the comments relate to a quasi-judicial item. Comments on quasi-judicial items should not be read and considered after the public comment on a particular public hearing has been closed.
- Board members can use the distribution list to request specific information from staff regarding city policies and services and to request information regarding upcoming agenda items. The distribution list may also be used to share items of general interest with the board and to share questions board members intend to raise about upcoming agenda items or to put other board members on notice of suggestions that might be made at upcoming meetings in order to avoid surprising colleagues and staff.
- All members of the board will see distribution list questions. Many may be interested in replies to distribution list inquiries. Board members will want to keep this in mind when deciding upon the best mode of communication for a particular matter.
- A series of board members should not comment to one another or on the same topic.²

Use of Electronic Communication during Board Meetings:

- During board meetings, board members should refrain from any electronic communications, other than urgent personal matters. Board members should strive to attend urgent personal matters outside of the hearing room or during a recess.
- During board meetings, board members should not read nor respond to electronic communications received during a hearing pertaining to any matters being discussed at the

² **Why to avoid distribution list "discussions:"** A distribution list "discussion" between board members is problematic when email communications turn into an electronic meeting. The problem is that all meetings – electronic or otherwise – need to be preceded by public notice. Distribution list communications to and from staff (even when monitored by all board members) usually avoid issues relating to improperly noticed public meetings. A problem arises if board members discuss or conduct business or take action through an email discussion.

hearing except that board members may receive electronic copies of materials from staff displayed on monitors or that otherwise have already been made available at the meeting.

Speaking with the Public as a Board Member:

- Board members should represent their ideas as personal (not as the planning board) when expressing opinions, unless the planning board has voted on that issue.
- Board members should avoid any types of communications other than questions to staff about quasi-judicial matters that are coming before the board.

Proposed language for boulderplanningboard@bouldercolorado.gov auto response:

Thank you for your email to the Boulder Planning Board. We appreciate your taking the time to communicate with us. Though the board's guidelines do not allow them to respond to individual emails, please be assured that all messages are read and considered. If you have additional questions regarding a particular agenda item, please contact the board secretary, Susan Meissner: meissners@bouldercolorado.gov.

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
August 15, 2013
1777 Broadway, Council Chambers

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

PLANNING BOARD MEMBERS PRESENT:

Aaron Brockett, Vice-Chair
Bryan Bowen
Crystal Gray
John Putnam
Sam Weaver

PLANNING BOARD MEMBERS ABSENT:

Leonard May
Mary Young, Chair

STAFF PRESENT:

Hella Pannewig, Assistant City Attorney
Susan Meissner, Administrative Assistant III
Charles Ferro, Development Review Director for CP&S
Karl Guiler, Planner II
Mishawn Cook

1. CALL TO ORDER

Vice-Chair, **A. Brockett**, declared a quorum at 7:06 p.m. and the following business was conducted.

2. APPROVAL OF MINUTES

On a motion by **C. Gray** and seconded by **S. Weaver** the Planning Board approved 5-0 (**L. May** and **M. Young** absent) the April 24, 2013 minutes as amended and the June 6, 2013 minutes.

On a motion by **C. Gray** and seconded by **S. Weaver** the Planning Board approved 4-0 (**L. May** and **M. Young** absent, **A. Brockett** abstained) the July 25, 2013 minutes.

3. PUBLIC PARTICIPATION

No one from the public spoke.

4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL

UPS/CONTINUATIONS

- A.** Continuation from August 1, 2013 Planning Board meeting: Adoption of final written approval for Use Review, case no. LUR2013-00020, and Site Review, case no. LUR2013-00037.

On a motion by **S. Weaver**, seconded by **J. Putnam**, the Planning Board approved 4-0 (**M. Young** and **L. May** absent, **A. Brockett** abstained) Planning Board findings approving Use Review, case no. LUR2013-00020, and Site Review, case no. LUR2013-00037, and adopting this memorandum as the findings of the Planning Board.

- B.** Nonconforming use review request, case no. LUR2013-00041) for a request to convert an 8-unit apartment building with 18 bedrooms at 2550 9th St. in the RMX-1 zone district to an 18-bedroom co-operative boarding house and two 2-bedroom apartments. The call-up period expires on August 23, 2013.

B. Bowen recused himself from the board discussions.

Lincoln Miller, Executive Director of Boulder Housing Coalition answered questions to the board. This item was not called up.

- C.** Nonconforming Use Review request, case no. LUR2013-00029, for exterior restoration and interior remodel to an existing nonconforming fourplex on a nonstandard lot located at the southwest corner of Pleasant and 12th streets. The request includes a reduction in the number of units from four to three as well as an increase in floor area (359 square feet) and site improvements, including parking and trash/recycle storage area. Amendment to Nonconforming Use Review case no. NC-88-25. The call-up period expires on August 23, 2013.

This item was not called up.

5. PUBLIC HEARING ITEMS

- A. Public hearing to consider a recommendation to City Council on an ordinance amending Chapter 6-3, "Trash, Recyclables, and Compostables," and Title 9, "Land Use Code," B.R.C. 1981, to update trash removal standards and zoning standards to reduce impacts of hospitality establishments on neighboring properties.**

Staff Presentation:

- C. Ferro** introduced the item.
K. Guiler presented the item to the board.

Board Questions:

- K. Guiler** answered questions from the board.
M. Cook answered questions from the board.

Public Hearing:

- 1. Mark Heinritz, 1165 13th Street**, the owner of the Sink and Flanders Brewpub, did not think that the proposed changes are based upon substantive data. He did not think that there was collective will or the ability to enforce the proposed changes. Focus on enforcing the existing laws and ordinances.
- 2. Mark Gelband, 505 College Avenue**, a neighbor on the Hill, thought the greater problem was house parties. He thought that main street zoning should have a lively mix of bars and restaurants. He saw this as discrimination against businesses trying to do something different.
- 3. Chris Schaeffbauer, 6175 Habitat Dr**, thought the 500 foot rule and definitions would cause students more harm than good. This is overregulation and drives away businesses. The highest risk drinking happens at house parties. It is important to have responsible establishments on the Hill.
- 4. John Voorhees (pooled with Kim Voorhees), 655 12th Street**, thought that the businesses on the Hill and house parties set an attitude and tone for alcohol consumption. He asked for a sensible recommendation that takes into account the students and the neighborhood.
- 5. Iva Townsend, 5125 5th Street**, the community representative for the Big F Restaurant Group doubted that the code changes would have an effect on the culture of the community. She thought the wide net approach could adversely affect the businesses and deter economic vitality on the Hill. House party drinking should be considered before or concurrent with established businesses.
- 6. Stephen Schein, 445 Fountaintree Lane**, spoke in opposition to the proposed code changes. He thought that the blight in the Hill was caused by outspoken and powerful individuals in the city. He was not convinced that there was really a problem.
- 7. Lisa Spalding, 1135 Jay Street**, thought that house parties are a greater problem with underage drinkers but there is also a problem with bars.
- 8. James Pribyl, 805 16th Street**, recommended that the Planning Board consider the public interest over economic interest. He thought the high concentration of bars on the licenses on the Hill have led to problems and safety issues.
- 9. Bill Schrum, 2985 Moorhead Drive**, worked with the student group about this issue and was concerned by the results of this process. He thought bars are a safer place for students. None of the other University towns have been successful implementing this type of policy. He thought it was disingenuous to impose a geographic solution to a cultural problem.

Board Comments:

C. Gray noted that land use regulations can only dictate an establishment's allowable hours of operation and size. She would like to reserve conditional uses for special cases. The creation of an overlay on East Pearl has made a big difference in the establishments and consequent behavior in the surrounding areas. She does not see the need for the Neighborhood Pub and Bistro use as it would extend the impact on the adjacent neighborhoods. She would like to close the loopholes. She thought alcohol consumption at house parties and bars are separate issues.

S. Weaver noted that excessive alcohol consumption is a chronic problem in many college towns and is a larger cultural issue. The Planning Board cannot solve the drinking problem, but it can develop a mitigation strategy to reduce impacts on neighbors and enhance economic vitality of the Hill. Though he thought that closing at earlier hours and concentrating late businesses could be helpful, he felt uncomfortable requiring all businesses on the Hill to close at an early hour. Enforcement issues and management plans should be addressed more aggressively. He was also uncomfortable requiring that establishments maintain an alcohol to food cost ratio and would rather see a ratio based on mass and volume but that would be much more difficult to achieve. He was interested in discussing late night licenses.

J. Putnam liked the generalized approach because it is helpful to have definitions and tools. The general concept is on the right track but the details need adjustment prior to adoption to be more congruent with how businesses work. He thought management plan enforcement could help but that the prohibition of additional taverns in the Hill could be difficult. He didn't know how it would apply in reality and thought it could cause unintended spillover into West Pearl Street.

A. Brockett noted that the focus of the ordinance needs to be the mitigation of negative impacts. He was concerned about unintended consequences with the broader concept of not allowing late night restaurants in the bulk of the city. One of the characteristics of a vibrant city is to be able to go out late at night for food or drink; these establishments should not be restricted to the downtown and 28th Street areas. He was concerned that regulations aimed to crack down on the Hill would make the activities move downtown. He liked the ideas of having management plans available for public viewing and creating minimum requirements for the service of food and water in restaurants until closing. Late night licenses could be a way to focus on the bad actors and provide better enforcement.

C. Gray thought a Late Night Bistro use would impact neighbors in the downtown by extending operating hours by one hour. She did not support the conditional use of extending the hours. She wanted to require that Neighborhood Pubs and Bistros be required to undergo Use Reviews in the MU-3, DT-1, DT-2, DT-3 and BMS zones. She recommended that everyone look at Westminster's code pertaining to alcohol because it requires that the applicant establishment pay for the city to conduct a survey of the neighborhood. She thought that the Boulder Liquor Authority could instate many more state-allowed controls.

J. Putnam was concerned that **C. Gray's** proposed use review requirements would target specific issues for downtown and the Hill but could cause problems for other areas of town that are lacking in vibrancy. He also did not feel comfortable that all businesses in the BMS zone be required to go through a use review as it could deter businesses from going into an area.

A. Brockett would like to establish a baseline of percentages of food to alcohol served at existing establishments in town by dollar amount.

J. Putnam thought it would be helpful to know how much changing the percentages of required food to alcohol served would affect designations of restaurant, tavern, etc. It would be helpful to color code the categories and definitions on a map to show the distribution of different types of businesses and the proposed review processes in different parts of town.

A. Brockett was concerned that grandfathering a use change could freeze the Hill in its current configuration and prevent positive change. He was not in favor of removing late night restaurants from the Hill entirely.

J. Putnam thought that given the population, the Hill would be a good place for late night restaurants if they had a use review component.

S. Weaver was interested in exploring the late night licensing option.

J. Putnam suggested that late night restaurants in the interface zone be listed separately and required to have a management plan.

S. Weaver did not want to prevent restaurants from staying open until 2am because people feared that they would later choose to serve alcohol. It seemed too restrictive. Late night restaurants can currently be added in BMS zoned areas in North, and East Boulder and Boulder Junction, however, the new proposal would disallow their addition in the future. He would like North Boulder to have a separate BMS2 zoning; BMS was not differentiated enough. There are too many conditions to lump these areas into one zoning type.

A. Brockett suggested requiring a use review for late night restaurants in MU-1, 2 and 4.

J. Putnam would also support putting BMS into the Use Review category.

S. Weaver did not feel comfortable requiring a use review for establishments in BMS zones because neighbors would likely not understand the subtleties and see it as a negative.

C. Gray thought the BMS designation on the Hill was going in the wrong direction due to the ownership dynamic. She also recommended analysis of creating an overlay district that would require a use review for late night establishments within 300 feet of a residential zone.

Motion

On a motion by **A. Brockett**, seconded by **J. Putnam**, the Planning Board recommend 5-0 (**L. May** and **M. Young** absent) approval of an ordinance that amends chapter 6-3, "Trash, Recyclables, and Compostables," and chapters 9-2, "Review Processes," 9-6, "Use Standards," and 9-16, "Definitions," of Title 9, "Land Use Code" B.R.C. 1981 to address impacts of hospitality establishments on neighboring properties as outlined in out package.

But with the following modifications and additional recommendations:

- Change the conditional use category for the DT-1, DT-2, DT-3, BMS, and MU-3 zoning districts for neighborhood pub or bistros smaller than 1500 square feet to the use review category;
- Change the prohibition of late night restaurants in the MU-1, MU-2, and MU-4 zoning district to the use review category (supported by 4 board members, Gray against)

- Making the requirement for serving solid food until closing stricter where proposed to be required.
- Obtaining more data before imposing a food sales percentage requirements.
- Further exploration of establishing licenses for late night hospitality establishments.

Comment

Board member **C. Gray** did not agree with changing the prohibition of late night restaurants in the MU-1, MU-2, and MU-4 zoning districts to the use review category. Board members **J. Putnam, B. Bowen,** and **A. Brockett** supported changing the prohibition of late night restaurants in the BMS zoning district to the use review category. All board members felt that the different areas of the City with the BMS zoning designation should be distinguished from each other.

Motion

On a motion by C. Gray, seconded by S. Weaver, the Planning Board requested 5-0 (L. May and M. Young absent) that staff analyze a requirement of a use reviews for hospitality establishments in the DT-5 zoning district within 300 feet of a residential zoning district that stay open beyond 11 p.m.

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

- A. Informational Item: Access easement vacation at 6655 Lookout Road (Boulder Views Apartments). Case number LUR2013-00026.
- B. **H. Pannewig** spoke about the IECC code changes. Many of the Planning Board's recommendations were included in the ordinance.
- C. **S. Meissner** reported that IT is working to create an auto reply email to the Planning Board distribution list and that correspondence will be compiled and added to the website. The board would like to review the auto reply language before it goes live.

6. DEBRIEF MEETING/CALENDAR CHECK

7. ADJOURNMENT

The Planning Board adjourned the meeting at 10:23 p.m.

APPROVED BY

Board Chair

DATE

MEMORANDUM

TO: Planning Board
FROM: Chandler Van Schaack, Case Manager
DATE: October 10, 2013
SUBJECT: **Call Up Item: USE REVIEW (LUR2013-00040):** Request to allow a new 34,400 square foot recreational sports complex to include 2 indoor fields, office space, a spectator deck with refreshments bar/cafe, and 1 outdoor field to be added at a later time. The property is located at 3203 Pearl in the IG zone district. The call-up period expires on October 11, 2013.

Background.

3203 Pearl St. is located adjacent to the Burlington Northern Santa Fe (BNSF) railroad at the terminus of Old Pearl St. and is comprised of a 2.64 acre lot. The site is split-zoned, with the majority of the site zoned IG (Industrial - General) and a small portion of the southern site zoned IS-1 (Industrial - Service 1). The IG zone is defined as "General industrial areas where a wide range of light industrial uses, including research and manufacturing operations and service industrial uses are located. Residential uses and other complementary uses may be allowed in appropriate locations" per section 9-5-2(c)(4)(B), B.R.C. 1981. The IS-1 zone is defined as "Service industrial areas primarily used to provide to the community a wide range of repair and service uses and small scale manufacturing uses" per section 9-5-2(c)(4)(A), B.R.C. 1981. The subject site is surrounded by IG and IS-2 zoning to the north and south, respectively, and sits immediately across the BNSF railroad from the future Boulder Junction area, zoned MU-4. Please refer to Figure 1 for a Vicinity Map.



Figure 1: Vicinity Map

The subject site has never been developed, and is currently vacant. In 2003, a building permit was approved for a by-right development proposal; however, construction of the project was never commenced and the building permit approval has since expired. In April, 2013, staff approved a Use Review application for a similar proposal to construct a new 24,806-square-foot indoor/outdoor sports complex on the subject site; however, the project did not move forward and the approval has since expired.

The current character of the area immediately surrounding the site is a mix of industrial service uses to the south along Old Pearl St. and industrial office, manufacturing and warehouse use to the north across Goose Creek. The Steel Yards mixed-use development lies to the northwest across the railroad, and several of the properties across the railroad to the west are currently being developed as mixed-use in conformance with the adopted 2007 Transit Village Area Plan.

Project Proposal.

The applicant is requesting approval of a Use Review to allow for a new 34,400 square foot recreational sports complex to include 2 indoor fields, office space, a spectator deck with a refreshments bar/cafe, and 1

outdoor field to be added at a later time. The proposed facility would be used for private soccer games and lacrosse games. The hours of operation for the proposed use would be from 9:00 a.m. to 2:00 a.m., seven days per week. The applicant is requesting a 7% parking reduction to allow for 80 on-site spaces where 86 are required by the IG zone parking standards for non-residential uses, and is also proposing 16 bicycle parking spaces. The proposal includes landscape improvements as well as a new access point off of the existing Old Pearl St. (refer to [Attachment C: Applicant's Proposed Plan](#)).

Review Process. Per the use standards found in section 9-6-1, B.R.C. 1981, approval of a Use Review is required for "indoor recreational or athletic facilities" to operate in the IG zone district. Per section 9-4-2, B.R.C. 1981, applications for Use Review are subject to call up by the Planning Board. Pursuant to section 9-9-6(f)(6), B.R.C. 1981, a parking reduction of up to 25% may be requested through the Use Review process. The proposal does not trigger or require Site Review.

Analysis. The proposal was found to be consistent with the Use Review criteria found in subsection 9-2-15(e), "Criteria for Review," as well as the Parking Reduction criteria found in section 9-9-6(f), B.R.C. 1981. Refer to [Attachment B](#) for the complete Use Review and Parking Reduction criteria analysis.

Public Comment. Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property and a sign posted on the property for at least 10 days. All notice requirements of section 9-4-3, "Public Notice Requirements," B.R.C. 1981 have been met. Staff has not received any public comments.

Conclusion. Staff finds that the proposed project meets the relevant criteria of section 9-2-15, "Use Review," B.R.C. 1981 (refer to [Attachment B](#)). The proposal was **approved** by staff on **September 27, 2013** and the decision may be called up before Planning Board on or before **October 11, 2013**. There is one Planning Board hearings scheduled during the required 14 day call-up period on **October 10, 2013**. Questions about the project or decision should be directed to the Case Manager, Chandler Van Schaack at (303) 441-3137 or at vanschaackc@bouldercolorado.gov

Attachments:

- A. Signed Disposition
- B. Analysis of Use Review Criteria
- C. Applicant's Proposed Plan
- D. Applicant's Trip Generation Report



CITY OF BOULDER
Community Planning and Sustainability

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

CITY OF BOULDER PLANNING DEPARTMENT
NOTICE OF DISPOSITION

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

DECISION: **Approved with Conditions**
 PROJECT NAME: **Boulder Indoor Sports on Pearl**
 DESCRIPTION: **USE REVIEW for a new 34,400 square foot recreational sports complex, including 2 indoor fields, office space, spectator deck with refreshments bar/cafe, and 1 outdoor field to be added at a later time.**
 LOCATION: **3203 Pearl St.**
 COOR: **N04W03**
 LEGAL DESCRIPTION: **Lot 1A, Block 1, Replat of a Portion of Pearl Street Auto Subdivision, County of Boulder, State of Colorado.**
 APPLICANT/OWNER: **BIS Holdings, LLC**
 APPLICATION: **Use Review, LUR2013-00040**
 ZONING: **IG**
 CASE MANAGER: **Chandler Van Schaack**
 VESTED PROPERTY RIGHT: **NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.**

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

Approved on:

9.27.13
 Date

By:

[Signature]
 David Driskell, Executive Director of Community Planning and Sustainability

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

Appeal to Planning Board expires: 10.11.13

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

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

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all approved plans** dated September 9, 2013 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 19, 2013 which is attached to this Notice of Disposition.
 - b. The approved use shall be closed from 2:00 a.m. to 9:00 a.m. seven days per week.
 - c. Size of the approved use shall be limited to 34,400 square feet.
2. The Applicant **shall not expand or modify the approved use**, except pursuant to subsection 9-2-15(h), B.R.C. 1981.
3. Prior to a building permit application, the Applicant shall submit a Technical Document Review application for the following item, subject to the approval of the City Manager: **Final transportation plans** for the road connection between Pearl Street and the property including any necessary roadway transitions. The site access design must comply with the Boulder Revised Code, 1981; City of Boulder Design and Construction Standards; and the American Association of State Highway and Transportation Officials (AASHTO) Roadside Design Guide. The final transportation plans must include, but are not limited to: street plan and profile drawings, street cross-sectional drawings, signage and striping plans in conformance with Manual on Uniform Traffic Control Devices (MUTCD) standards, transportation details drawings, geotechnical soils report and pavement analysis.

Case #: LUR2013-00040

Project Name: Boulder Indoor Soccer

Date: September 4, 2013

USE REVIEW CRITERIA

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

 X (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 site is split-zoned, with the majority of the site zoned IG (Industrial - General) and a small portion of the southern site zoned IS-1 (Industrial - Service 1). The IG zone is defined as "*General industrial areas where a wide range of light industrial uses, including research and manufacturing operations and service industrial uses are located. Residential uses and other complementary uses may be allowed in appropriate locations*" per section 9-5-2(c)(4)(B), B.R.C. 1981. The IS-1 zone is defined as "*Service industrial areas primarily used to provide to the community a wide range of repair and service uses and small scale manufacturing uses*" per section 9-5-2(c)(4)(A), B.R.C. 1981. Pursuant to Chapter 9-6, B.R.C. 1981, "indoor recreational or athletic facilities" are allowed by-right in the IS-1 zone and require approval of a Use Review to operate in the IG zone.

 (2) Rationale: The use either:

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

Boulder Indoor Soccer has been successfully operating in their current location at 2845 29th St. since 2003. The current facility has become so popular that they have outgrown their space and are thus looking to build a new, larger facility at the proposed location. The proposed indoor/ outdoor athletic facility would provide a direct service to the surrounding area by providing a larger year-round facility for soccer teams currently using the 29th St. facility to practice and play in.

The new indoor sports facility will increase amount of space available for practice and tournaments, and will thereby increase convenience for children ages playing in private sports leagues.

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

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

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

 X 3) Compatibility: The location, size, design, and operating characteristics of the proposed development or change to an existing development are such that the use will be reasonably

compatible with and have minimal negative impact on the use of nearby properties or for residential uses in industrial zoning districts, the proposed development reasonably mitigates the potential negative impacts from nearby properties;

The location, size, design and operating characteristics of the proposed development are such that it will be reasonably compatible with and have a minimal negative impact on the use of surrounding properties. The subject site is unique in that it is bordered on two sides by land that is essentially undevelopable. On the west is the BNSF railroad, and on the north is the Goose Creek multi-use path and open space area. Both of these areas provide buffers between the subject site and nearby properties. To the south and east of the subject site are primarily light industrial uses, including an auto repair shop and gas storage facility, both of which face away from the subject site towards Old Pearl St.

The Applicant is requesting a 7% parking reduction to allow for 80 on-site spaces where 86 are required per the parking standards for nonresidential uses in the IG zoning district. Staff finds that the proposal meets the parking reduction criteria found in section 9-9-6(f)(3) in that the needs of the use will be adequately served through a combination of on-street and off-street parking. Historical data provided by the applicant on their existing facility indicates that many patrons of the proposed facility will opt to travel to the facility by bicycle via the Goose Creek bike path, thereby reducing the number of vehicles travelling to the site. In addition, on-street parking is available along Old Pearl to the south, so additional parking would be available if the 80 on-site spaces were to fill up.

*The applicant is proposing 16 bicycle parking spaces where 10 are required. The applicant has provided a Trip Generation Report (please see **Attachment D**) which shows that the proposed use would not generate enough peak hour traffic to require a traffic study. At 34,400 square feet, the size of the building is well within the maximum allowable FAR for the zone district (the IG zone district allows for a 0.5 FAR, which would equate to a roughly 59,000-square-foot building on the subject site), and the proposed building height of 33' is within the 40' maximum allowable height. In addition, the proposed nighttime hours of operation would not have any negative impact on nearby uses, as the businesses to the south along Old Pearl have regular daytime business hours and there are currently no residential uses located in proximity to the site.*

X (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;

Existing infrastructure is suitable to accommodate the proposed development. X (5) Character of Area: The use will not change the predominant character of the surrounding area; and

The proposed sports complex is compatible with the surrounding area in terms of building mass and scale, and will add to the diversity of existing uses in the surrounding area.

The character of the surrounding area is comprised predominantly of light industrial and service industrial uses. Immediately to the south of the subject site along Old Pearl are several service industrial businesses, including an auto repair shop, a contractor and a veterinary clinic. There is also a gas storage facility and several other light industrial uses. To the north, across the Goose Creek multi-use path, are a number of light industrial, industrial office and warehouse/manufacturing uses around Wilderness Pl. To the northwest is the Steel Yards mixed use development, and immediately across the railroad tracks to the west is the future site of the proposed Bus Rapid Transit Station and mixed use development known as Junction Place.

N/A (6) Conversion of Dwelling Units to Non-Residential Uses: There shall be a presumption

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

Not Applicable, as there are no residential units existing on site.

**ADMINISTRATIVE PARKING REDUCTIONS
SECTION 9-9-6 (f)**

Criteria Criteria
Met Not Met

(1) **Parking Reduction:** The city manager may grant a parking reduction for commercial developments, industrial developments and mixed use developments to allow the reduction of at least one parking space, with the total reduction not to exceed twenty-five percent of the required parking, if the manager finds that the requirements of paragraph (f)(3) below are met. The city manager may grant a parking reduction exceeding twenty-five percent for those uses that are nonconforming only as to parking, if the manager finds that the requirements of subparagraph (f)(1)(B) of this section have been met. Parking reductions are approved based on the operating characteristics of a specific use. No person shall change a use of land that is subject to a parking reduction except in compliance with the provisions of this subsection.

(A) **Parking Reduction for Housing for the Elderly:** The city manager may reduce by up to seventy percent the number of parking spaces required by this chapter for governmentally sponsored housing projects for the elderly.

Not Applicable.

(B) **Uses With Nonconforming Parking:** The city manager is authorized to approve a parking reduction to allow an existing nonresidential use that does not meet the current off-street parking requirements of subsection (b) of this section, to be replaced or expanded subject to compliance with the following standards:

Not Applicable.

- | | | |
|-------|------------|--|
| _____ | <u>N/A</u> | (i) An existing permitted nonresidential use in an existing building may be replaced by another permitted nonresidential use if the new use has the same or lesser parking requirement as the use being replaced. |
| _____ | <u>N/A</u> | (ii) A nonconforming nonresidential use in an existing building may be replaced by a conforming nonresidential use or another nonconforming nonresidential use, pursuant to subsection 9-10-3(c) , B.R.C. 1981, if the permitted or nonconforming replacement use has the same or lesser parking requirement as the use being replaced |
| _____ | <u>N/A</u> | (iii) An existing or replacement nonresidential use, whether conforming or nonconforming, that does not meet current parking requirements, shall not be expanded in floor area, seating, or be replaced by a use that has an increased parking requirement unless a use review pursuant to section 9-2-15 , "Use Review," B.R.C. 1981, and a corresponding parking reduction pursuant to this subsection (f) are approved. |
| _____ | <u>N/A</u> | (iv) Before approving a parking reduction pursuant to this subsection, the city manager shall evaluate the existing parking arrangement to determine whether it can accommodate additional parking or be rearranged to accommodate additional parking in compliance with the design requirements of subsection (d) of this section. If the city manager finds that additional parking can reasonably be provided, the provision of such parking shall be a condition of approval of the requested reduction. |
| _____ | <u>N/A</u> | (v) A nonconforming use shall not be replaced with a use, whether conforming or |

nonconforming, that generates a need for more parking.

- (2) **Residential Parking Reductions:** Parking reductions for residential projects may be granted as part of a site review approval under [section 9-2-14](#), "Site Review," B.R.C. 1981.

Not Applicable, as the subject site is located in the IG zone district and the project does not include a residential component.

- (3) **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:

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

The applicant has demonstrated that the parking needs of the proposed use will be served through a mix of on-site and off-site parking. The Applicant is requesting a 7% parking reduction to allow for 80 parking spaces where 86 are required by the parking standards for non-residential uses in the IG zone district. The applicant's trip generation report indicates that the proposed use will generate 58 weekday afternoon peak hour trip ends and 98 Saturday peak hour trip ends, which can both be accommodated by the available on-site and off-site parking (there is ample on-street parking available in the Old Pearl right-of-way immediately adjacent to the site, so overflow parking can be accommodated there if needed).

- 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;

Not Applicable.

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

Not Applicable.

- (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.

- (4) **Alternative Parking Reduction Standards for Mixed Use Developments:** The parking requirements in [section 9-9-6](#), "Parking Standards," B.R.C. 1981, may be reduced if the following standards are met. These standards shall not be permitted to be combined with the parking reduction standards in subsections (f)(3) and (f)(5) of this section, unless approved as part of a site review pursuant to [section 9-2-14](#), "Site Review," B.R.C. 1981. A mixed use development may reduce that amount of required parking by ten percent in the BMS, IMS, MU-1, MU-2, MU-3 and RMX-2 zoning districts, or in all other nonresidential zoning districts in [section 9-5-2](#), "Zoning Districts," B.R.C. 1981, a twenty-five-percent parking reduction if the following requirements are met:

Not Applicable, as the proposed use is not a mixed use.

- N/A (A) The project is a mixed use development that includes, as part of an integrated development plan, both residential and nonresidential uses. Residential uses shall comprise at least thirty-three percent of the floor area of the development; and

N/A

(B) The property is within a quarter of a mile walking distance to a high frequency transit route that provides service intervals of fifteen minutes or less during peak periods. This measurement shall be made along standard pedestrian routes from the property.

(5) **Limiting Factors for Parking Reductions:** The city manager will consider the following additional factors to determine whether a parking reduction may be appropriate for a given use:

 x

(A) A parking deferral pursuant so subsection (e) of this section, is not practical or feasible for the property.

The development proposal includes a large outdoor sports field that is planned to be installed at a later date. Because of the unusual shape of the site and the layout of the proposed building and required dimensions of the field, there is not adequate room to set aside for deferred parking spaces. Therefore, a parking deferral is not feasible for this site.

 x

(B) The operating characteristics of the proposed use are such that granting the parking reduction will not cause unreasonable negative impacts to the surrounding property owners.

*According to the applicant's Trip Generation Report (**Attachment D**), the busiest times for the proposed sporting complex will be weekday evenings and weekends. The surrounding businesses are all service and light industrial uses with standard business hours, so there will be very little if any overlap between the new use and the existing uses as far as use of the right-of-way for parking, as the new use will only require the on-street parking for overflow during busy times.*

 x

(C) The parking reduction will not limit the use of the property for other uses that would otherwise be permitted on the property.

The proposed reduction is minimal enough that it would not affect the use of the property for other permitted uses. Additionally, the proposed reduction would not preclude the property from being fully redeveloped with another use and site layout.

(6) **Parking Reduction With a Concurrent Use Review:** If a proposed use requires both a review pursuant to [section 9-2-15](#), "Use Review," B.R.C. 1981, and a public hearing, the city manager will make a recommendation to the approving agency to approve, modify and approve, or deny the parking reduction as part of the use review approval.

This parking reduction request is being made as part of a Use Review (LUR2013-00040).

(7) **No Changes to Use:** No person benefiting from a parking reduction shall make any changes to the use that would increase parking.

The conditions of approval for the Use Review will require a new Use Review for any change in use that would increase the parking impact.

(8) **Parking Reductions for Religious Assemblies:** The city manager will grant a parking reduction to permit additional floor area within the assembly area of a religious assembly which is located within three hundred feet of the Central Area General Improvement District if the applicant can demonstrate that it has made arrangements to use public parking within close proximity of the use and that the building modifications proposed are primarily for the weekend and evening activities when there is less demand for use of public parking areas.

Not Applicable.

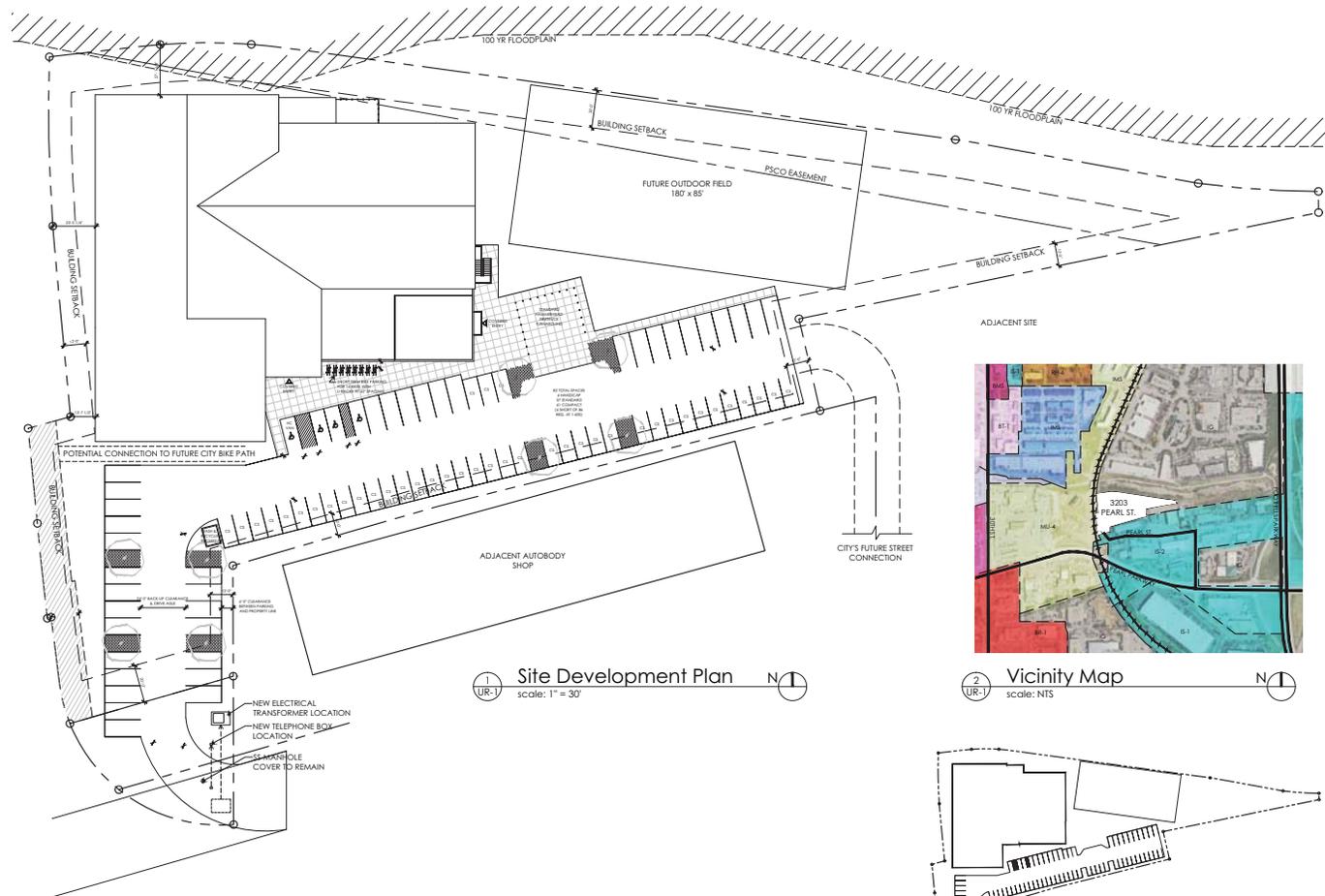


3020 Carbon Place #203
Boulder, Colorado
p: 303-442-3351
f: 303-447-3933

**Boulder
Indoor Sports
on Pearl**
3203 Pearl St.
Boulder, CO 80301

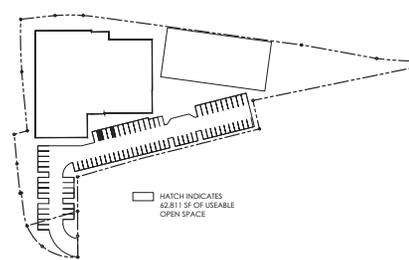
BOULDER INDOOR SPORTS ON PEARL

3203 Pearl St, Boulder, CO



1 Site Development Plan
UR-1 scale: 1" = 30'

2 Vicinity Map
UR-1 scale: NTS



3 Open Space Diagram
UR-1 scale: 1" = 100'

PROJECT INFORMATION	
OWNER	BOULDER INDOOR SOCCER 2845 29TH ST. BOULDER, CO 80301
APPLICANT	COBURN DEVELOPMENT 3020 CARBON PL. #203 BOULDER, CO 80301
LEGAL DESCRIPTION	LOT 1A, BLOCK 1, REPLAT OF A PORTION OF PEARL AUTO SUBDIVISION, LOCATED IN THE NORTHEAST QUARTER OF SECTION 29, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF COLORADO
ZONING	IG
PROPOSED USE	RECREATIONAL SPORTS COMPLEX TO INCLUDE 2 INDOOR FIELDS, OFFICE SPACE, SPECTATOR DECK WITH REFRESHMENTS BAR, & 1 OUTDOOR FIELD

SITE INFORMATION	
SITE AREA	119,384 SF
MAXIMUM F.A.R.	50%
SQ FOOTAGE ALLOWED	59,692 SF
SQ FOOTAGE PROPOSED	34,400 SF
F.A.R.	28.8%
SITE COVERAGE	25.8%
USEABLE OPEN SPACE	62,811 SF

PARKING INFORMATION	
TOTAL SPACES REQUIRED @1:400	86
STANDARD SPACES	36
COMPACT SPACES	40 (50%)
HANDICAPPED SPACES	4
TOTAL VEHICLE SPACES PROVIDED	80
PARKING REDUCTION	7%
TOTAL BICYCLE SPACES REQUIRED	8.2
BICYCLE PARKING PROVIDED	16



DRAWING INDEX	
UR-1	SITE DEVELOPMENT PLAN
UR-2	ARCHITECTURAL PLANS
UR-3	ARCHITECTURAL PLANS
UR-4	ARCHITECTURAL ELEVATIONS

DISCLAIMER:
THESE DOCUMENTS ARE PROVIDED BY COBURN DEVELOPMENT INC., FOR THE DESIGN INTENT OF THIS SPECIFIC PROJECT AND ONLY THIS PROJECT. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL CONSTRUCTION COORDINATION, METHODS AND MATERIALS REQUIRED FOR THE SUCCESSFUL COMPLETION OF THE PROJECT. THIS INCLUDES BUT IS NOT LIMITED TO THE QUALITY OF WORKMANSHIP AND MATERIALS REQUIRED FOR EXECUTION OF THESE DOCUMENTS AND WORK OR MATERIALS SUPPLIED BY ANY SUBCONTRACTORS. ALL WORK SHALL COMPLY WITH GOVERNING CODES AND ORDINANCES. THE CONTRACTOR SHALL REVIEW AND UNDERSTAND ALL DOCUMENTS AND SHALL NOTIFY THE ARCHITECT IMMEDIATELY OF ANY DISCREPANCIES IN THE DRAWINGS, FIELD CONDITIONS OR DIMENSIONS.

DESCRIPTION	DESIGNER/ARCHITECT	DATE
USE REVIEW SUBMITTED	SD	7/11/13
USE REVIEW RE-COMPLETED	SD	8/19/13

Land Use Review
Re-Submittal
8.19.13

NOT FOR CONSTRUCTION

SHEET NO.
UR-1
SITE PLAN

DELICH ASSOCIATES Traffic & Transportation Engineering
 2272 Glen Haven Drive Loveland, Colorado 80538
 Phone: (970) 669-2061 Fax: (970) 669-5034



MEMORANDUM

TO: Bill Holicky/Dan Davis, Coburn
 David Thompson, Boulder Transportation Engineer

FROM: Matt Delich

DATE: May 3, 2013

SUBJECT: Boulder Indoor Soccer Traffic Assessment
 (File: 1338ME01)



This memorandum provides a traffic assessment as described in the City of Boulder, Design and Construction Standards, Chapter 2, Transportation Design, Section 2.02(A and B). The purpose of this exercise is to provide trip generation for the proposed land use to determine whether a Traffic Study is required. A Traffic Study is required if the "trip generation from the development during the peak hour of the adjacent street is expected to exceed 100 vehicles for nonresidential application." As requested by David Thompson, Boulder Transportation Engineer, in a previous exercise, "Trip Distribution/Assignment and Modal Split" is also addressed in this memorandum.

Boulder Indoor Soccer is proposing an indoor/outdoor soccer facility at 3203 Pearl Parkway in Boulder. The site location is shown in Figure 1. It is located within a small commercial park in the northwest quadrant of the Pearl Parkway/Foothills Parkway interchange. Access to the site would be via the Pearl Parkway/Frontier Avenue intersection. The site is currently vacant. From available aerial photography, the remainder of the commercial park appears to be fully developed.

Figure 2 shows a site plan of the Boulder Indoor Soccer facility. The site plan shows one building, which will have two indoor soccer fields, along with associated amenities (Lounge, coffee bar, etc.). There is a bicycle storage facility provided. There will also be a large outdoor field east of the building. An office component is also proposed within this building.

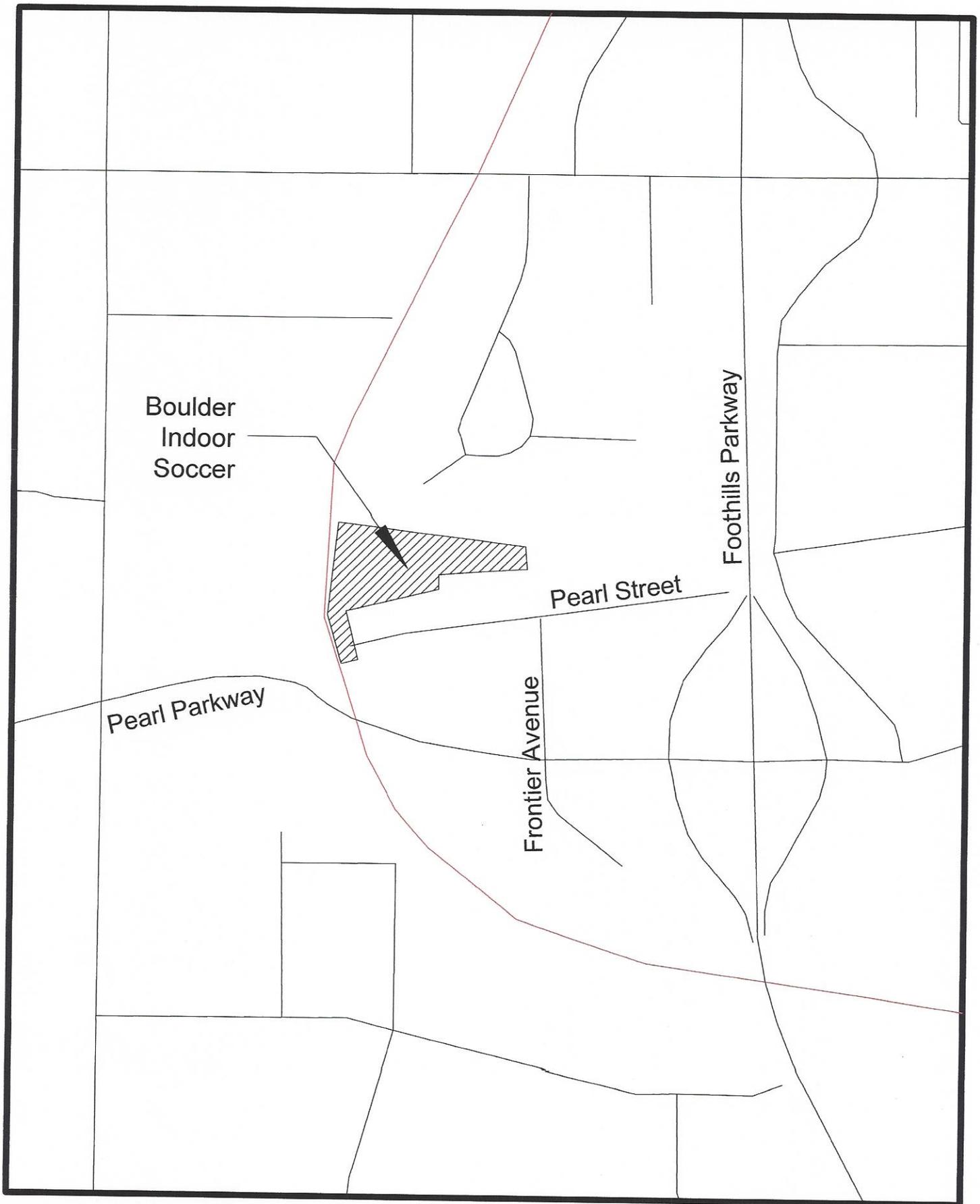
The reference document, Trip Generation, 9th Edition, ITE, was used to estimate the weekday, weekday peak hour, Saturday, and Saturday peak hour traffic that would be generated at this site. From that document, Land Use Code 488, Soccer Complex was selected to calculate the vehicular trip generation for the soccer use. The trip generation variable Fields was used. Table 1 shows the calculated trip generation for the Boulder Indoor Soccer facility. It is expected that during the winter, only the two indoor fields would have consistent predictable use. During the summer, all three fields would have consistent predictable use. To be conservative, the office component, within the building, was considered to be separate with its own trip generation. From the cited reference document, Land Use Code 710, General Office was used to calculate the vehicular trip generation for the office component. This is also shown in Table 1. During the summer, the following is the calculated trip generation: 248 weekday trip ends; 8 weekday morning peak hour trip ends; 58 weekday afternoon peak hour trip ends; 360 Saturday trip ends; and 93 Saturday peak hour trips ends (using rates rather than equations). Both the weekday peak hour and Saturday peak hour trip generation will be less than the 100 vehicles (trip ends) for nonresidential applications that would require the applicant to submit a Traffic Study. The calculated trip generation reflects no trip

reductions. It can be expected that some trip reductions could occur due to carpooling, bicycling, and transit. Therefore, the calculated trip generation is considered to be conservatively high.

Given the location of the Boulder Indoor Soccer facility within the City of Boulder, it is expected that the trip distribution would be evenly split at the Pearl Parkway/Frontier Avenue intersection. Figure 3 shows the trip distribution and the traffic assignment of the weekday peak hour and Saturday peak hour trips at the Pearl Parkway/Frontier Avenue intersection.

It is concluded that the Boulder Indoor Soccer facility will not generate enough peak hour traffic to require a Traffic Study. It is respectfully requested that no further transportation analyses be required for the Boulder Indoor Soccer facility. Do not hesitate to contact me if you have questions or require additional information.

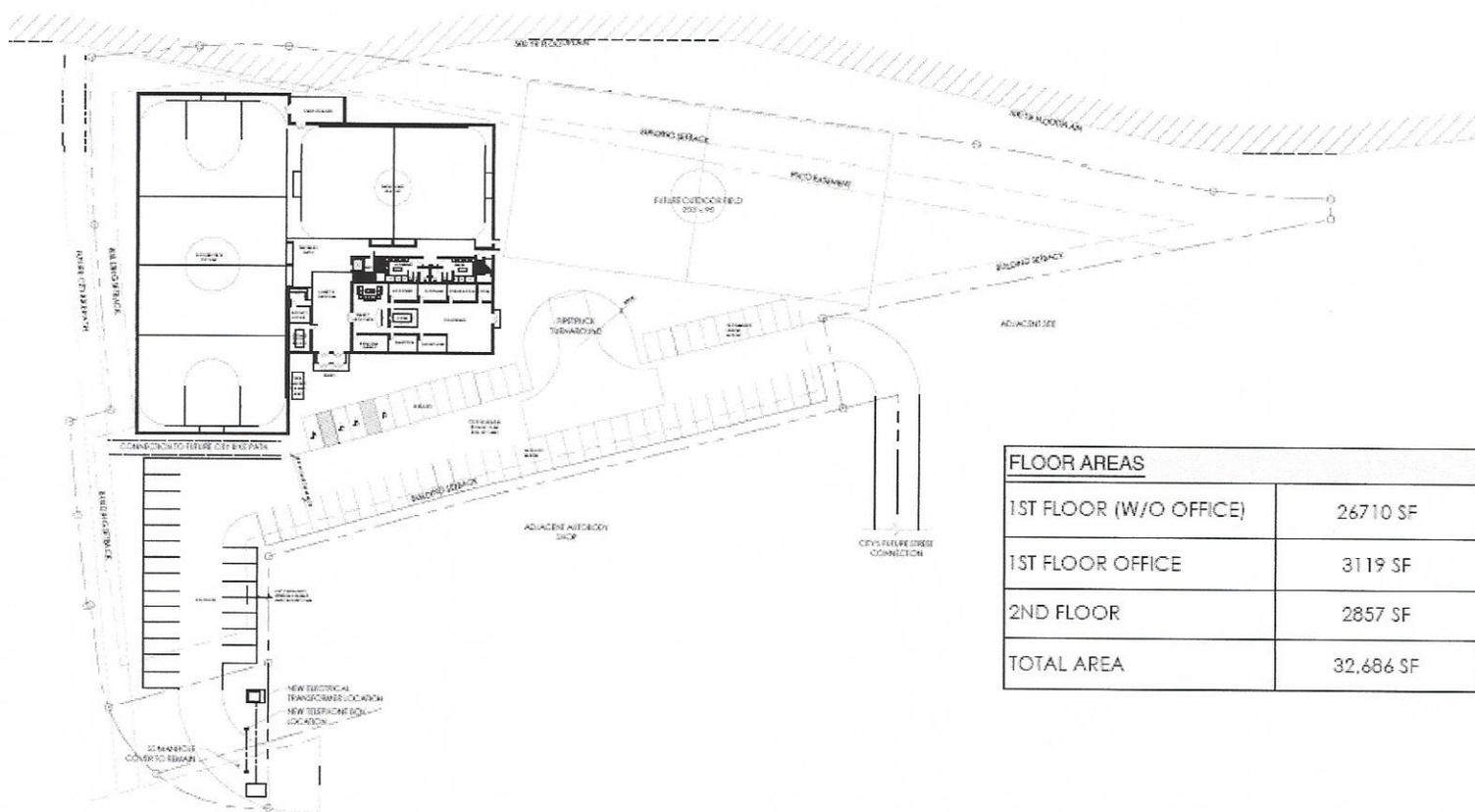
TABLE 1												
Trip Generation												
Code	Use	Size	AWDTE		AM Peak Hour				PM Peak Hour			
			Rate	Trips	Rate	In	Rate	Out	Rate	In	Rate	Out
488	Soccer Complex	3 Fields	71.33	214	0.64	2	0.48	1	11.86	36	5.84	17
710	General Office	3.119 KSF	11.03	34	1.37	4	0.19	1	0.25	1	1.24	4
Saturday												
Code	Use	Size	ADTE		Peak Hour							
			Rate	Trips	Rate	In	Rate	Out				
488	Soccer Complex	3 Fields	117.4	352	Eq.	17	Eq.	18				
488	Soccer Complex	3 Fields			14.56	44	15.78	47				
710	General Office	3.119 KSF	2.46	8	0.23	1	0.20	1				



SCALE: 1"=500'

SITE LOCATION

Figure 1



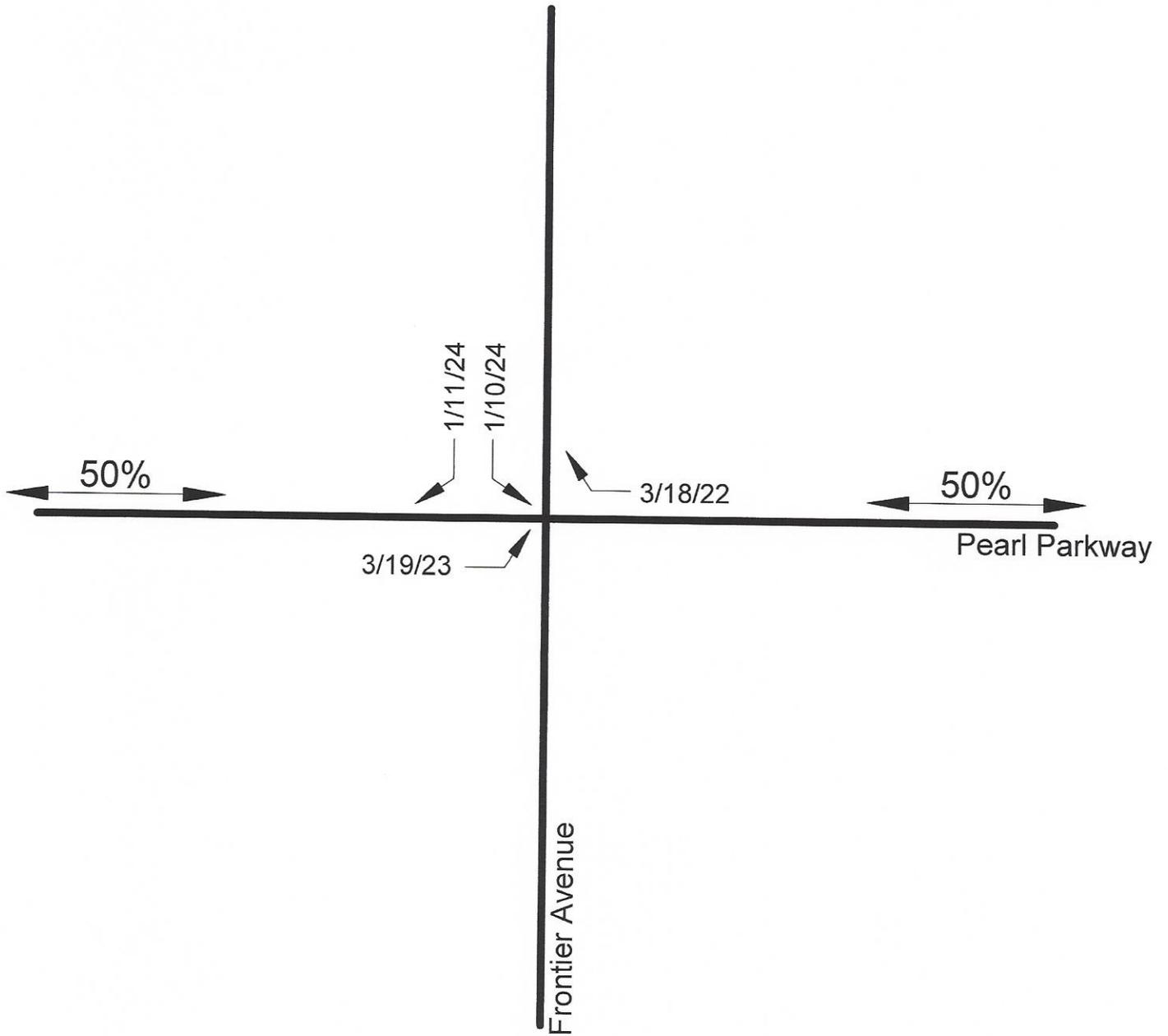
FLOOR AREAS	
1ST FLOOR (W/O OFFICE)	26710 SF
1ST FLOOR OFFICE	3119 SF
2ND FLOOR	2857 SF
TOTAL AREA	32,686 SF

SITE PLAN

Figure 2



← AM/PM/SATURDAY



TRIP DISTRIBUTION AND PEAK HOUR ASSIGNMENT

Figure 3

**CITY OF BOULDER
PLANNING BOARD AGENDA ITEM**

MEETING DATE: October 10, 2013

AGENDA TITLE: Public hearing and consideration of a recommendation to City Council on an ordinance (case no. LUR2013-00043) amending Title 9, "Land Use Code," B.R.C. 1981, to modify building setbacks, density and to defer payment of fees for land use applications and building permits to the earlier of Jan. 1, 2015 or the issuance of a certificate of occupancy, whichever is first to accommodate the relocation of two residential structures from 1220 and 1243 Grandview Ave. to 905 Marine St. and setting forth related details.

Applicant/Property Owner: Christian Griffith

REQUESTING DEPARTMENT:

Community Planning & Sustainability

David Driskell, Executive Director

Susan Richstone, Deputy Director

Maureen Rait, Director of Public Works

Charles Ferro, Land Use Review Manager

James Hewat, Senior Historic Preservation Planner

Jessica Vaughn, Planner II

OBJECTIVE:

1. Hear applicant and staff presentations.
2. Hold public hearing.
3. Planning Board discussion.
4. Planning Board recommendation to City Council to approve, approve with conditions, or deny the request for special ordinance.

SUMMARY:

Proposal: Relocate two historically significant houses from 1220 and 1243 Grandview Ave. to 905 Marine St. The relocation can be approved only if modifications to the land use code, including setbacks pursuant to Chapter 9-7, "Form and Bulk Standards," B.R.C. 1981 and density pursuant to Chapter 9-8, "Intensity Standards," B.R.C. 1981, are authorized in an ordinance. As part of the development proposal, the applicant is also requesting to defer payment of land use application and building permit fees until the earlier of Jan. 1, 2015 or certificate of occupancy. The proposal also asks that, for the purposes of reviewing and approving buildings permits, the two houses to be treated as individual landmarks and that the city manager be authorized to waive building code requirements primarily relating to insulating the houses and replacing windows. This memo hereby notifies the Planning Board of the pendency of an ordinance amending Title 10, "Structures," B.R.C. 1981 in that limited regard for the purpose of preserving the two houses. The proposed ordinance would also authorize the city manager to find that the planting of new street trees satisfies the tree removal mitigation requirements of Section 6-6-7, B.R.C. associated with the proposal to remove one tree located in the 9th Street right-of-way.

Project Name: Grandview Bungalow Relocation Project
Location: 905 Marine Street
Size of Tract: 24,077 square feet (0.56 acres)
Zoning: Residential Mixed-1 (RMX-1)
BVCP: Mixed Density Residential (MDR)

STAFF FINDINGS AND RECOMMENDATION:

Overall, staff finds that the application as presented would result in a defined community benefit for the city of Boulder as follows:

- The relocation and preservation of the bungalows is consistent with the Boulder Valley Comprehensive Plan (BVCP) goals and policies specifically as they relate to historic preservation and housing in so far as it furthers important historic preservation goals for the city of Boulder and provides additional housing opportunities;
- The applicant has agreed to submit an application for an individual landmark for each of the buildings proposed for relocation pursuant to the city's landmarking process;
- The relocation of the bungalows to 905 Marine St. is generally consistent with the identifiably residential character of the area;
- The proposed setback modifications were found to promote a safer and better subdivision design at it relates to locating residential structures outside of the regulatory floodplain; and
- The proposed increase in density to roughly nine dwelling units per acre was found to be generally consistent with both the range of densities intended for the Mixed Density Residential BVCP land use designation (six-18 dwelling units per acre) and the range of densities currently present in proximity to the project site (9.5-39 dwelling units per acre).

Based on these findings, staff finds that the benefits of the relocation and contribution to the city's historic preservation program outweigh the Land Use Code requirements that will be modified by the approval of the ordinance. Therefore, staff requests Planning Board consideration of this matter and action in the form of the following motion:

Suggested Motion Language:

Motion to recommend to City Council approval of an ordinance amending Title 9, "Land Use Code," B.R.C. 1981, to allow approval of modifications to building setbacks and density standards and deferment of payment of fees for land use applications and building permits, as proposed in the staff memo, to accommodate the relocation of two residential structures from 1220 and 1243 Grandview Ave. to 905 Marine St. and setting forth related details.

KEY ISSUES:

Staff has identified the following key issues regarding the development proposal and has provided responses below in the "Analysis" section of this memo.

Key Issue #1: Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the overarching BVCP goals and policies?

Key Issue #2: Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the city's Historic Preservation Ordinance?

Key Issue #3: Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the intent of the zone district designation and the general character of the area?

PROCESS:

The requested modifications to the Land Use Code require approval through an ordinance by City Council. In this case, the applicant is requesting an increase in residential density and setback modifications as well as the deferment of the payment of fees, including land use and building permit application fees as a result of not being able to obtain financing until the bungalows are relocated.

A Planning Board recommendation to City Council is required on a proposal for an ordinance that will modify the land use regulations. The proposed ordinance will then be forwarded to City Council for consideration.

GRANDVIEW AREA HISTORY:

On Jan. 22, 2001, a Memorandum of Agreement (MOA) was executed between the Regents of the University of Colorado and the City of Boulder. The MOA recognizes the importance of preserving the buildings in the area known as the Grandview area, which is generally described as the area between the eastern boundary of Broadway, northern boundary of University Avenue and southern boundary of the abandoned railroad right-of-way as shown in Figure 1 at the right.



Figure 1: General Grandview Area

The MOA provides protective covenants for buildings both located within an area identified as the Grandview Preserve. The Grandview Preserve is a smaller area within the general Grandview area

that is described as the properties fronting Grandview Avenue between 13th and 14th streets. The MOA provides protective covenants for the bungalows located within the Grandview Preserve from demolition or relocation for a period of 25 years, until 2026.

While the MOA provides protection for the bungalows located within the Grandview Preserve from demolition or relocation, the MOA does not provide protective covenants for those buildings located within the general Grandview area. Specifically, the MOA states that "...*bungalows not located within the Grandview Preserve, may be demolished or relocated at any time...*" While the MOA has expired as of July 2011, the University of Colorado and the city have continued to work in concert to continue to honor the agreement in an effort to preserve the historic buildings located within the general Grandview area.

To date, a total of two bungalows have been relocated from the general Grandview area that were not located within the Grandview Preserve, to other locations within the city. In 2001, one house, located respectively at 1513 13th St. was relocated to Chautauqua Park within the Chautauqua Historic District. In addition, one house, now a duplex with two units, originally located at 1434 15th St., was relocated to 905 Marine St., the project site. All of the relocations to date involved the passing of an ordinance modifying city codes, including the land use code. The modifications to the land use code included setbacks, parking and building code requirements.

As part of the ordinance that permitted the relocation of 1434 15th St. to 905 Marine St., Ordinance No. 7148, modifications to the land use code were granted, including a reduction of the required side yard setback from five feet to three feet, combine side yard from 15 feet to 13 feet and the front yard setback for covered and uncovered parking in order to locate the parking in the front yard setback. A 20 percent parking reduction (four spaces were required where three were provided) was also granted as part of the ordinance. Finally, a waiver of the building and energy code requirements related to insulating the structure and replacing windows was also granted as part of the ordinance.

In 2001, the project site was originally 23,000 square feet, in 2002 a roughly 2,000 square-foot unplatted piece of property, located between the project site and the adjacent property to the north, 1638 9th St., was discovered. The unplatted property was split equally to each of the adjacent property owners and quitclaimed. The portion of the unplatted piece of land, roughly 1,000 square feet that was quitclaimed to the property owner of 905 Marine St. The proposed project would include a subdivision that would include this portion of land in the 905 Marine parcel increasing its size to 24,077 square feet. Today, given the size of the project site, a total of four units would be permitted on the project site, where three units exist.

PROPOSAL:

The applicant, Christian Griffith, has been awarded the two historic buildings currently located at 1220 and 1243 Grandview Ave., within the general Grandview area, outside of the Grandview Preserve, to relocate to the project site. Once relocated, the applicant is proposing to utilize the buildings as single-family residences. The relocation of the buildings to the project site can only be approved if Land Use Code modifications, including setbacks and density as a result of a subdivision, are authorized by City Council through an ordinance. In addition, given the difficulty in obtaining financing to relocate the bungalows prior to their relocation and City Council approval, as part of the development proposal, the applicant is also requesting deferment of payment of all land use application and building permit fees until the earlier of Jan. 1, 2015 or certificate of occupancy, whichever comes first.

The proposed subdivision of the project site from one lot into three will require several Land Use Code modifications, including setbacks and density, which can only be approved if they are authorized by City Council through an ordinance. Refer to Table 1 below, which details the requested setback modifications.

Yard	Required Setback	Proposed Setback
Rear yard for principal structures, Lot 1	25 feet	13.4 feet
Rear yard for principal structures, Lot 2	25 feet	14 feet
Rear yard for principal structures, Lot 3	25 feet	20 feet
Combined side yards, Lot 2	15 feet	11 feet
Combined side yards, Lot 3	15 feet	11 feet

In addition, as a result of the proposed subdivision, Lot 1, where the three existing structures are currently located, will exceed the permitted density. Development in the RMX-1 zone district is subject to a minimum lot area per dwelling unit, 6,000 square feet. Given the size of the proposed Lot 1 roughly 10,482 square feet, one dwelling unit would be permitted by-right where three are currently existing today. Therefore, the applicant is proposing to modify the permitted density pursuant to section 9-8, "Intensity Standards," B.R.C. 1981, to allow for the three existing units, including the previously relocated historic house, to remain on the Lot 1 portion of the project site. The proposed lots 2 and 3 will meet the lot standards and no modifications will be required.

Lots	Existing	Proposed	Existing No. of Units	Permitted No. of Units pursuant to Land Use Code	Proposed No. of Units
1	24,077 sq. ft.	10,482 sq. ft.	3	4	3
2	N/A	6,150 sq. ft.	N/A	N/A	1
3	N/A	7,445 sq. ft.	N/A	N/A	1
Total		24,077 sq. ft.	3	4	5

All of the required parking will be provided on site for Lots 2 and 3. Pursuant to section 9-9-6, "Parking Standards," B.R.C. 1981, a total of two parking spaces, one for each single-family residence, are required where three will be provided. It is important to note that, as part of the original special ordinance for the relocation of 1434 15th St. to 905 Marine St., a parking reduction was granted. A total of five spaces are required where four are provided. That parking reduction will not be changed as part of this proposal.

The proposal also asks that, for the purposes of reviewing and approving buildings permits, the two houses to be treated as individual landmarks and that the city manager be authorized to waive building code requirements primarily relating to insulating the houses and replacing windows. This memo hereby notifies the Planning Board of the pendency of an ordinance amending Title 10, "Structures," B.R.C. 1981 in that limited regard for the purpose of preserving the two houses. The proposed ordinance would also authorize the city manager to find that the planting of new street trees satisfies the tree removal mitigation requirements of Section 6-6-7, B.R.C. associated with the proposal to remove one tree located in the 9th Street right-of-way.

Refer to [Attachment A](#) for the applicant's proposed site plan.

SITE CONTEXT:

The project site, shown in Figure 2 is a single roughly 24,077 square feet in size, is located the northeast corner of Marine and 9th streets. Currently, the property is comprised three residential units, a duplex, (originally addressed 1434 15th St., that was located within the Grandview Preserve area and relocated to the project site in 2001), and a single family residence that was originally constructed around the turn of the century.



lot,
at
of

Figure 2: Vicinity Map



Figure 3: Flood Map

Unique to the project site is its topography and the presence of the conveyance zone and the 100- year floodplain, the majority of which are all located on the northern portion of the property. Refer to Figure 3 below. It is important to note that all activities located in the 100-year floodplain are not permitted to cause a rise in the flood water depth. In addition, should a new house be located in the 100-year floodplain, it is required to be floodproofed by raising the finished floor elevation above the flood protection elevation and in a manner that the building is watertight. Given the location of the extent of the conveyance zone and the 100-year floodplain on the project site and the development restrictions within each zone, any new buildings to be

located on the northern portion of the lot would have to be setback as much as possible to avoid development in the floodplain and conveyance zone that would cause a rise in the floodwater elevation. A Floodplain Development Permit has been submitted and is in the process of being reviewed through the standard development review process. A Floodplain Development Permit is a staff level decision that is subject to a 14-day Planning Board call-up period. Based on the information provided to date, the development proposal will not impact the floodwater elevation.

The project site also has significant topography. Moving across the project site from south to north, there is roughly 20 feet of grade change, with Marine Street edge being the highest point. Overall, the grade across the project site is roughly 10 percent. Refer to Figure 4 at the right.



Figure 4: Topography

The project site is surrounded primarily by residential development in an area where the general character is identified as residential development with a variety of student rental housing, including apartments, condos and single-family houses. Although the area is primarily residential in nature, nonresidential uses are also located in proximity to the project site. The Emergency Family Assistance Association (EFFA) is located to the east of the project site as well as office and the West Senior Center, both of which are located to the north of the project site at the corner of Arapahoe Avenue and 9th Street.



Figure 5: BVCP Land Use Designation

Boulder Valley Comprehensive Plan (BVCP) Land Use Designation. As indicated in Figure 5, the project site is designated as Mixed Density Residential (MDR) by the BVCP. As noted in the BVCP, areas designated as MDR are defined as having densities ranging from six up to 18 dwelling units per acre. Generally, mixed density areas surround the downtown and are located in some areas planned for new development.

Densities within proximity to the project site range from 9.5 dwelling units per acre to roughly 39 dwelling units per acre. The development proposal at roughly nine dwelling units per acre is consistent with the surrounding densities as well as the BVCP range of densities intended to be developed in the MDR land use designation.

Zoning. The project site is zoned Residential Mixed-1 (RMX-1) which is defined as:

"Mixed density residential areas with a variety of single-family, detached, duplexes, and multi-family units that will be maintained; and where existing structures may be renovated or rehabilitated" (section 9-5-2(c)(1)(D), B.R.C. 1981).

All of the properties surrounding the project site are zoned RMX-1 with the exception of those adjacent to the northeast, which are zoned Residential High-2.



Figure 6: Zoning

HISTORIC BUILDING BACKGROUND:

In an effort to prevent demolition of the two historically significant houses located within the Grandview Preserve area, the applicant, Christian Griffith, is proposing to relocate two historic buildings currently located at 1220 and 1243 Grandview Ave., to the project site, 905 Marine St. Below is a brief historic background on each building.

1220 Grandview Ave. The brick and frame house at 1220 Grandview Ave. was constructed in 1906 and is a well-preserved example of the Edwardian Vernacular architecture popular in Colorado during the late nineteenth and early twentieth centuries. The façade features a flat-roof porch with classical columns and a wooden railing. A paneled and glazed door with a transom is located on the west side of the north façade and a large, double-hung window is located on the east side of the same façade. Decorative elements on the front gable include a vent with scalloped louvers, decorative wooden shingles, and a door flanked by double-hung windows with dentil trim and decorative sills. Gabled dormers are located on the east and west elevations and feature shingled walls and paired windows. Small eyebrow vents are located on the east and west roof slopes. An addition, constructed in 1929, is located on the east elevation of the building and features 12-light, steel casement windows with stone sills. A one-car garage is located on the lower level. The west elevation features a two-story bay window. The building rests on an evenly coursed stone foundation.



Figure 7: Reynolds House, 1220 Grandview Ave. c. 1949 (left) and 2012 (right)

The house remains largely intact, although an attached garage was constructed in 1929 at the east elevation of the house. A building permit for “repair of dwelling” was issued in 1933, however, the extent of the alterations is unknown. All original materials, including exterior sheathing, decorative elements and windows and doors remain. The original wood roofing has been replaced with asphalt shingles.

As with many houses in this area, the building at 1220 Grandview Ave. provided housing for a series of University of Colorado professors. In 1910, Wilford Robbins, a biology teacher, and his mother, Jennie, were residents of the house. In 1913, Esther White, a teacher at Washington School and widow of Reverend Edgar White lived in the house. Drs. George F. and Mabel S. Reynolds purchased the house in 1919, the year they joined the University of Colorado faculty. George was a professor and head of the Department of English Literature, while Mabel taught English literature and speech. The Reynolds, along with Professor Wolle, co-founded the Little Theater at the University of Colorado.

In 1962, Mr. Reynolds sold the property to the University of Colorado. He died in 1964 and donated money to the City of Boulder to build its first branch library, located on Table Mesa Drive, which was named in his honor.

The house was converted for office use by the University of Colorado, but has been vacant for the past several years.

1243 Grandview Ave. The building at 1243 Grandview Ave. was constructed in 1909 and is an example of the Craftsman Bungalow influenced style popular during the early twentieth century. The one-and-half story building features a side gable roof with wide, overhanging eaves and exposed rafters. The building rests on a cut fieldstone with brick walls to the sill level and stucco and half-timbering above. A long, shed-roof dormer is located on the north and south roof slopes and each feature five multi-light casement windows. Two windows on the south façade gable and one on the east elevation have been removed for the installation of air conditioning units. The asymmetrical porch features a gable above the entrance with stucco and half-timbering and is supported by wood post supports with arched brackets atop brick pillars. The off-center, paneled and glazed door is located on the east side of the façade. Multi-over-single light double-hung windows are located on the first floor. The west elevation features a shed roofed bay window with paired windows. A small gable-roof addition is located on the east elevation and features paired, double hung windows and a solid wood door on the lower level.



Figure 8: 1243 Grandview Ave. c. 1949 (left) and 2012 (right)

The building is relatively intact. An addition was constructed on the east elevation around 1930. The divided-light wood windows on the shed dormer, evident in the 1987 survey photograph, have been removed and boarded over to accommodate air conditioning units.

Edwin J. and Rosa C. Finch resided in this house from the time of its construction until Mrs. Finch died in 1930. Edwin was a bookkeeper for the Boulder National Bank for 20 years and was also a prominent member of the Freemason Fraternal Organization and active in the Eastern Star Social Organization. Rosa was also active in many social organizations, including the Eastern Star, the Daughters of the American Revolution, the Women's Club and the Garden Club. A 1930 newspaper article notes that the garden at 1243 Grandview was one of the finest in town. Their daughter, Frances, graduated from the State Preparatory School and the University of Colorado.

The next occupants of 1243 Grandview Ave. were Percy and Virginia Paddock. Percy served as postmaster of Boulder. His brother was A. "Gov." Paddock, publisher of the Boulder Daily Camera. Percy worked as a linotype operator for the Boulder Daily Camera until he sustained an eye injury, and was later involved in the Central Colorado Power Company and operated Paddock's Store on University Hill. In 1934 he was appointed postmaster of Boulder and served in this position until his death in 1946. Following Percy's death, Virginia moved to California and later remarried.

From 1946 until 1952 the property was occupied by a series of short-term residents, including Capt. Clifford Fines, a university professor, John and Beverley Thompson, CU students, and in 1953 the fraternity Alpha Epsilon Phi was listed at this address.

In 1954 the house was purchased by Gordon and Miriam Yager. Gordon was an insurance auditor for the K. L. Pearce Company. The Yagers resided in the house until they sold it to the University of Colorado in 1971. For the next forty years, the property was used as offices for the Institute of Behavioral Sciences.

ANALYSIS OF KEY ISSUES:

As part of the Planning Board's consideration of the special ordinance, it must consider whether the benefit to the city of Boulder, as a result of saving the historic buildings, justifies the land use code modifications that are being requested to facilitate the proposed relocation. Modifications include relief from the required setbacks as listed in Table 1, and an increase in density as described in Table 2. In addition, the applicant is also requesting a deferral of all land use application and building permit fees to be payable on the earlier of Jan. 1, 2015 or issuance of a certificate of occupancy.

As part of the staff analysis, the proposal was evaluated for consistency with the [Boulder Valley Comprehensive Plan](#) (BVCP) goals and policies, the city's Historic Preservation Ordinance and the intent of the underlying zone district and general area character. On balance, the relocation and preservation of the two buildings to 905 Marine St. was found to be consistent with not only the overarching BVCP goals and policies, but also the city's Historic Preservation Ordinance as well as the intent of the underlying zone district and general area character.

Key Issue #1: Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the overarching BVCP goals and policies?

Yes, on balance the development proposal was found to be consistent with a wide range of Boulder Valley Comprehensive Plan (BVCP) goals and policies as well as the BVCP land use designation densities. The project site has a BVCP land use designation of Mixed Density Residential, which is identified as areas where densities may range from six up to 18 dwelling units per acre. Given the size of the project site and the proposed number of dwelling units totaling five (two new units and three existing) the density of the project site will be roughly 10 dwelling units per acre which is within the range of densities identified for the MDR land use designation.

The most applicable goals and policies in the BVCP are those that specifically speak to historic preservation found in Section 2 and housing found in Section 7, including policies 2.24 (*Preservation of Historic and Cultural Resources*), 2.27 (Eligible Historic District and Landmarks), 7.07 (Preserve Existing Housing Stock), 7.09 (Housing for a Full Range of Households),

Similarly, the development proposal was found to be consistent with BVCP policies 2.15 (Compatibility of Adjacent Land Uses), 2.21 (Commitment to a Walkable and Accessible City) which are related to compatibility of adjacent land uses and providing housing in proximity to service centers.

Key Issue #2: Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the city's Historic Preservation Ordinance?

Yes, the intent of the Historic Preservation Ordinance is to:

"...promote the public health, safety and welfare by protecting, enhancing and perpetuating buildings, sites and areas of the city reminiscent of past eras, events and person important to local, state or national history or providing significant examples of architectural styles of the past" (section 9-11-1, "Purpose and Legislative Intent," B.R.C. 1981).

Although the relocation of the buildings will result in a loss of environmental significance, the proposal will preserve two buildings with historic and architectural significance. To this end, staff considers the proposal consistent with the Historic Preservation Ordinance.

As noted above, 1220 Grandview Ave. has architectural significance as a representative example of Edwardian Vernacular architecture, popular during the late nineteenth and early twentieth centuries in the United States. Notable details include the gabled roof, decorative wood shingles, double-hung windows with stone sills and lintels, and classical porch details. The house also has historic significance for its association with notable persons, George and Mabel Reynolds.

The building located at 1243 Grandview Ave. is a representative example of Craftsman Bungalow architecture popular at the beginning of the twentieth century. Notable features include wide, overhanging eaves with exposed rafter tails, half-timbering, multi-light windows, and a prominent porch supported by wooden posts. Its historic significance is based upon its association with persons, Edwin and Rosa Finch as identified above.

It is important to note that an individual landmark designation for each building is required as a condition of the funding provided by the city to assist with the cost of moving the houses. An application for an Individual Landmark designation is required to be submitted following the relocation of each house.

Key Issue #3: Is the development proposal to relocate two historic structures to 905 Marine St. consistent with the intent of the zone district designation and the general character of the area?

Yes, on balance the proposal was found to be generally consistent with both the RMX-1 zoning designation and the character of the area. The intent of the RMX-1 zone district is identified as "*Mixed density residential areas with a variety of single-family detached, duplexes and multi-family units that will be maintained and where existing structures may be renovated or rehabilitated*" (section 9-5-2(c)(1)(D), B.R.C. 1981). The proposal to relocate the two buildings to the project site and rehabilitate them for the purposes of utilizing them as single-family residences is generally consistent with the intent of the zone district.

Although the requested setback modifications are required as a result of the proposed subdivision, they were found to be supportable given the development constraints present on the project site, including the conveyance zone and 100-year floodplain. The proposed rear yard setback modifications on the proposed lots 2 and 3 are a result of the presence of the conveyance zone and 100-year floodplain on the majority of the western portion of the project site, requiring the bungalows to be setback to a location outside of the floodplains. In addition, the requested setback modifications, specifically the side yard combined setbacks were found to have minimal adverse impacts to the adjacent properties, given that the impacted setbacks are interior to the overall project site. Given the development constraints located on the project site and the limited impacts to adjacent development, overall, the requested setback modifications were found to provide for a better, safer subdivision design.

In addition, the proposed increase in density, although a result of the proposed subdivision only impacting Lot 1, was also found to be consistent with the range of densities intended to be developed in the BVCP MDR land use designation (six-18 dwelling units per acre) as well as the densities that are currently present within proximity to the project site (9.5-39 dwelling units per acre). The development proposal, overall, will have a density of roughly nine dwelling units per acre. The increase in density will also allow for the existing three dwelling units to be maintained, consistent with the previously approved Ordinance No. 7148, which permitted the relocation of a historic house from the Grandview area to the project site.

Overall, the proposal was also found to be consistent with the general character of the area, which has been identified as primarily residential providing a mix of housing opportunities, including apartments, condos and houses. The proposal will result in additional residential development, consistent and compatible with the general character of the area.

PUBLIC COMMENT AND PROCESS:

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

In response to the public notice, one comment was received via telephone. The caller expressed concern for the additional density that was being requested. The concerns were generally in terms of the adverse impacts associated with student rentals, including noise, trash and parking.

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: Plan Set](#)

PREPARED BY:



The Sanitas Group
 801 MAIN ST., SUITE 210
 LOUISVILLE, CO 80027
 720.346.1656
 PROJECT CONTACT:
 CURTIS C. STEVENS, P.E.

PREPARED FOR:

CHRISTIAN GRIFFITH
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 EL Dorado SPRINGS, CO
 303.990.3100

PRELIMINARY SITE PLAN FOR:

**905 MARINE STREET
 SPECIAL ORDINANCE**

NORTHEAST CORNER OF 9TH STREET AND MARINE STREET
 CITY OF BOULDER, STATE OF COLORADO

ISSUE DATE

CITY REVIEW	8/6/13
CLIENT EDITS	8/8/13
CITY COMMENTS	8/26/13
CITY COMMENTS	8/30/13
PLANNING BOARD	9/3/13

DESIGNED BY:	CCS
DRAWN BY:	CCS
CHECKED BY:	LRE

DRAWING SCALE:
 HORIZONTAL: 1"=20'
 VERTICAL: N/A

**CIVIL
 SITE PLAN**

PROJECT NO. B1041

1

SHEET: 1 OF 1

PROPOSED SITE PLAN

905 Marine Street
 located in the northeast 1/4 of Section 36
 Township 1 North . Range 71 West of the 6th P.M.
 City & County of Boulder . State of Colorado
 24,077 SQUARE FEET

LEGEND

- PROPERTY BOUNDARY
- ADJACENT PROPERTY BOUNDARY
- PROPOSED LOT LINE
- PROPOSED EASEMENT
- PROPOSED SETBACK
- EXIST ELECTRICAL CABINET SWITCH
- EX. GAS METER GM
- EX. ELECTRICAL METER EM
- PROPOSED DRIVEWAY (ASPHALT OR CONCRETE)
- PROPOSED GRAVEL PARKING
- PROPOSED CONCRETE
- PROPOSED TURF OR SIMILAR.....
- PROPOSED DETENTION POND AREA
- EX. TREES (TO REMAIN).....
- EX. TREES (TO BE REMOVED)

SURVEY & FLOOD INFO NOTES:

- EXISTING ONSITE SURVEY DATA INCLUDING TOPOGRAPHY AND BOUNDARY INFORMATION WAS PREPARED BY FLAGSTAFF SURVEYING, INC. AND PROVIDED TO THE SANITAS GROUP IN CAD FORMAT.
- EXISTING OFFSITE TOPOGRAPHIC INFORMATION IS FROM THE AERIAL SURVEY DATA UTILIZED IN THE GREGORY CANYON CREEK LOMR COMPLETED IN 2010 FOR THE CITY OF BOULDER. CAD DWG OF MAPPING INFORMATION PROVIDED BY CITY OF BOULDER.
- BASIS OF BEARINGS - PER RECORDED PLAT AND DEEDS, I HELD THE BEARING NORTH 15°00'00" WEST, ALONG THE CENTERLINE OF 9TH STREET BETWEEN EXISTING SURVEY MONUMENTS AS SHOWN HEREON.
- ALL UNDERGROUND UTILITIES SHOULD BE FIELD LOCATED BY THE APPROPRIATE AGENCY PRIOR TO ANY CONSTRUCTION OR DIGGING ON OR ADJACENT TO THE SUBJECT PROPERTY.
- THE SUBJECT PARCEL CONTAINS A GROSS AREA OF 24,077 SQUARE FEET.
- ALL ELEVATIONS SHOWN ARE BASED UPON CITY BENCHMARK ID "A-1", A CUT "L" AT THE NORTHEAST CORNER OF MARINE AND 9TH STREET ELEVATION = 5398.56 FEET, NAVD'88 DATUM.
- ZONING INFORMATION - THE SUBJECT PARCEL IS ZONED "RMX-1" (RESIDENTIAL MIXED - 1). SETBACKS ARE PER ORDINANCE NO. 7148: 13 FOOT COMBINED SIDE YARD SETBACK - 3 FOOT MINIMUM.
- FLOOD INFORMATION - THE SUBJECT PARCEL IS LOCATED IN ZONE AE, SHADED ZONE X AND UNSHADED ZONE X, AS SHOWN ON THIS MAP BASED UPON THE FEMA FLOOD INSURANCE RATE MAP NO. 08013C 0393 J, DATED 18 DECEMBER 2012.
- BUILDING FOOTPRINTS FOR RELOCATED HISTORIC RESIDENCES ARE BASED ON INFORMATION PROVIDED BY FLAGSTAFF SURVEY AND THE CLIENT. THE SANITAS GROUP HAS NOT VERIFIED OR PERFORMED A SITE SURVEY OF EXISTING BUILDINGS. PORCH DIMENSIONS AND EAVE SIZES ARE BASED ON APPROXIMATE SITE MEASUREMENTS.

LAND USE SUMMARY TABLE		
SITE AREA: 24,077 S.F.		
BUILDING FLOOR AREA	EXISTING	PROPOSED
LOT 1 (WEST BLDG)		
1ST FLOOR	972	972
2ND FLOOR	972	972
LOT 1 (EAST BLDG)		
1ST FLOOR	1,080	1,080
2ND FLOOR	520	520
FINISHED BASEMENT	1,232	1,232
LOT 1 TOTAL	4,776	4,776
LOT 2		
1ST FLOOR	0	983
2ND FLOOR	0	1,108
BASEMENT	0	362
LOT 2 TOTAL	0	2,453
LOT 3		
1ST FLOOR	0	986
2ND FLOOR	0	836
BASEMENT	0	736
LOT 3 TOTAL	0	2,558
UNITS/BEDROOMS		
LOT 1	3/10	3/10
LOT 2	0	1/4
LOT 3	0	1/4
LOT COVERAGE (BLDG)		
LOT 1	2,204	2,204
LOT 2	0	1,034
LOT 3	0	959
LOT COVERAGE (PORCHES)		
LOT 1	223	223
LOT 2	0	210
LOT 3	0	199
OPEN SPACE		
LOT 1	6,922	6,922
LOT 2	0	3,866
LOT 3	0	4,929
PAVED AREA		
LOT 1	1,133	1,133
LOT 2	0	1,040
LOT 3	0	1,358
LANDSCAPE AREA		
LOT 1	6,527	6,527
LOT 2	6,150	3,866
LOT 3	7,445	4,929

LOT AREA SUMMARY

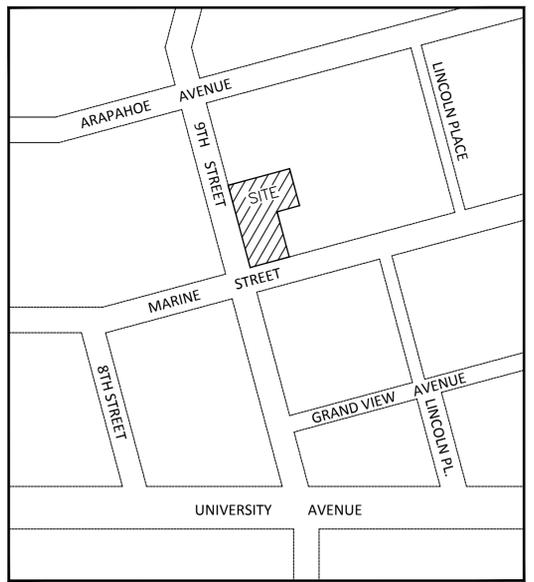
EXISTING

PARCEL A: 23,982 S.F.
 PARCEL B: 95.6 S.F.
 TOTAL GRIFFITH PARCEL: 24,077 S.F.

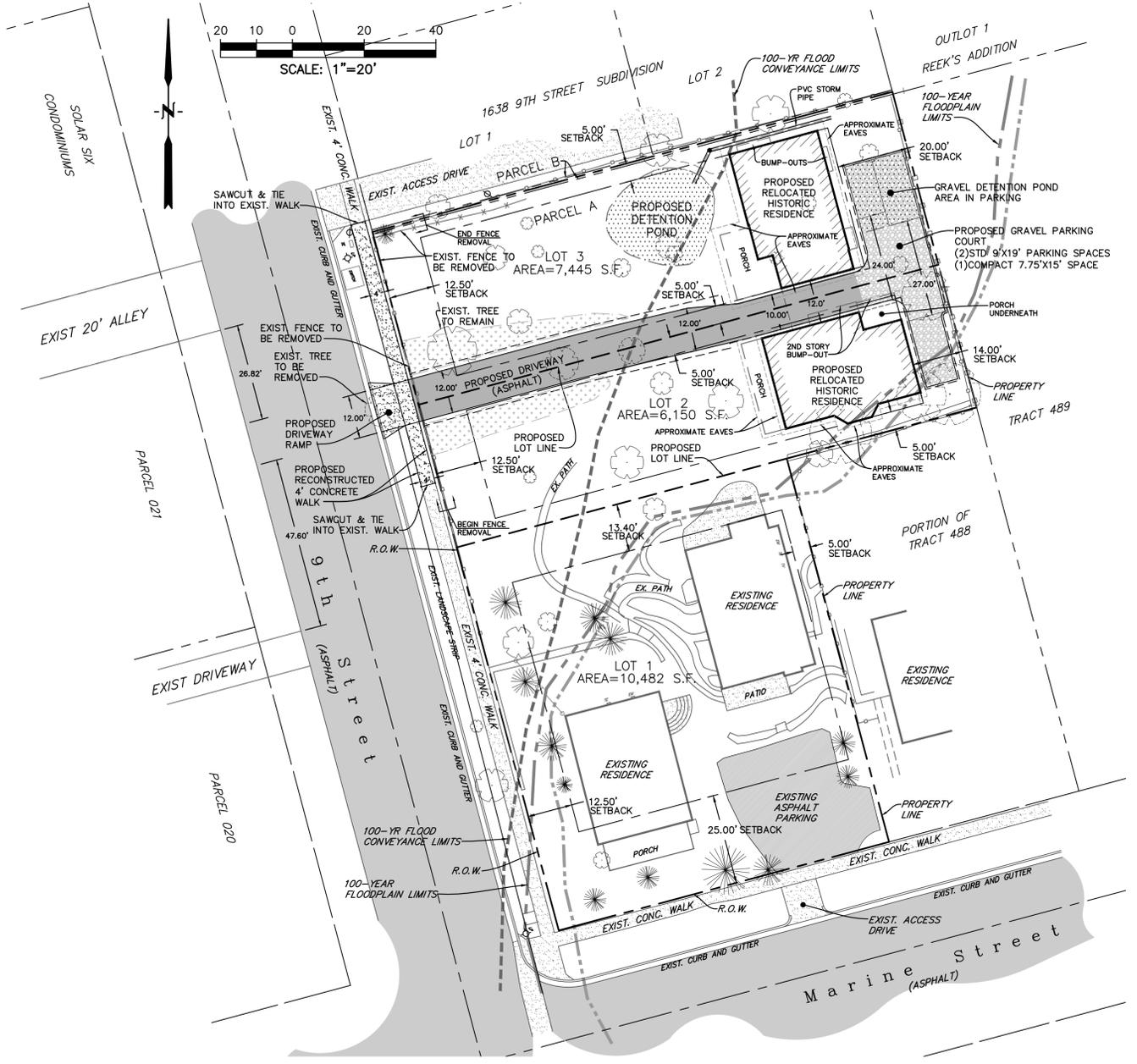
PROPOSED

LOT 1: 10,482 S.F.
 LOT 2: 6,150 S.F.
 LOT 3: 7,445 S.F.
 TOTAL: 24,077 S.F.

- Vicinity Map -



SCALE - 1 INCH = 200 FEET



SEE SHEET 2 - DRIVEWAY PLAN & PROFILE FOR PROPOSED SITE IMPROVEMENT DETAILS

SEE SHEET - GRADING & DRAINAGE PLAN FOR PRELIMINARY GRADING AND DRAINAGE DETAILS

REVIEW ONLY
 NOT FOR CONSTRUCTION
 DATE 9/3/13



CITY OF BOULDER
PLANNING BOARD AGENDA ITEM
MEETING DATE: October 10, 2013

AGENDA TITLE: Public hearing and consideration of a recommendation to City Council regarding amendment to the Benson Annexation Agreement for the 1215 and 1235 Tamarack properties (Lots 10 and 11, Block 5, Moore's Subdivision) to modify the requirements pertaining to the construction of 12 ½ Street between Upland and Tamarack Avenue. Case number: LUR2013-00036.

Applicant: Michael Marez/ TJM Investment, LLC
Owners: TJM Investment, LLC (Lot 10: 1215 Tamarack Ave.)
James C. Hohmann and Deborah Stabler (Lot 11: 1235 Tamarack Ave.)

REQUESTING DEPARTMENT:

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

OBJECTIVE:

Define the steps for Planning Board consideration of this request:

1. Hear Staff and Applicant presentations
2. Hold Public Hearing
3. Planning Board discussion
4. Planning Board action to recommend approval, approval with conditions or denial

SUMMARY:

Proposal:

Proposed amendment to the Benson Annexation Agreement for the 1215 and 1235 Tamarack properties (Lots 10 and 11, Block 5, Moore's Subdivision) to modify the requirements pertaining to the construction of 12 ½ Street between Upland and Tamarack Avenues. The proposed amendment would allow for construction of 12 ½ Street between Upland and Tamarack Avenues as a standard twelve foot (12') wide residential alley at the time of any building permit for an additional dwelling unit, but would maintain the existing requirement to construct 12 ½ Street as a full twenty foot (20') wide residential access lane at the time of subdivision.

Project Name: 1215 & 1235 Tamarack Annexation Agreement Amendment

Size of Parcel: Roughly 34,000 square feet (.78 acres)

Zoning: Residential Low – 2 (RL-2)

Comprehensive Plan: Low Density Residential

KEY ISSUE:

Staff has identified the following key issue regarding the proposed application request:

Is the requested annexation agreement amendment consistent with the intent of the original Crestview West Annexation package with regards to the desired land use and transportation pattern contained in the North Boulder Subcommunity Plan?

PROCESS:

Annexation agreement amendments are reviewed pursuant section 9-2-16, "Annexation Requirements," B.R.C. 1981. Pursuant to section 9-4-2, B.R.C. 1981, Planning Board is required to make a recommendation to City Council on applications for annexation.

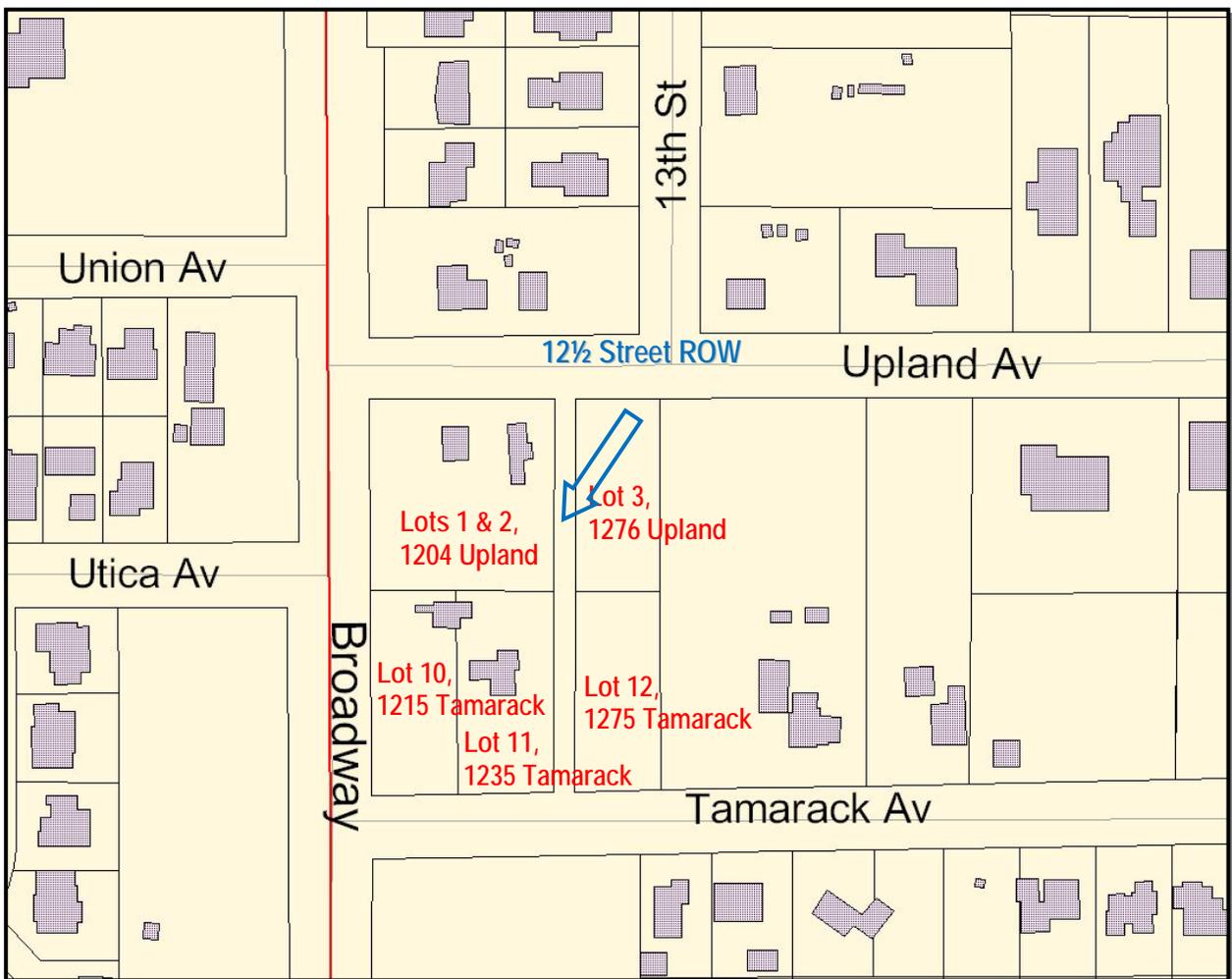


Figure 1: Vicinity Map

BACKGROUND:

The project area is located in North Boulder in the Crestview West Neighborhood (generally, the area east of Broadway, south of Violet Avenue, west of 19th Street, and north of vacated Riverside Avenue) within the Residential Low - 2 (RL-2) zone district. Please refer to **Figure 1** above for a vicinity map. Lot 10

(1215 Tamarack) is currently vacant, and Lot 11 (1235 Tamarack) contains an existing single-family home. The neighboring lots to the east, Lots 3 and 12 (1276 Upland and 1275 Tamarack) are both developed with single family homes, and 12½ Street has been constructed as a twelve (12') foot wide residential alley. Below is a summary of the background on the existing annexation agreements affecting the lots east of Broadway and west of 13th Street, between Upland and Tamarack Avenues, as well as the status of the 12½ Street connection.

- The subject area is located in the Crestview West Neighborhood, which was unilaterally annexed into the City in October 1997. During the Crestview West Annexation process, a street connection for 12½ Street was required in anticipation of future higher density development on the lots east of Broadway and west of 13th Street, between Upland and Tamarack Avenues. Specifically, 12½ Street was intended to provide access to new lots if any of the lots adjacent to Broadway were to be subdivided, thereby precluding new curb cuts from being placed on Broadway (please see **Figure 2** below for anticipated lot configuration and access contained in original Annexation and Initial Zoning proposal).

- Consistent with the NoBo Plan's vision for higher densities along the Broadway corridor, property owners in that area who signed an annexation agreement were given a zoning designation of RL-2. In anticipation of future subdivision, the annexation agreement signed by the owner of Lots 10 and 11 (1215 and 1235 Tamarack) at that time (see **Attachment A**) required the owner to construct 12½ Street as a standard twenty (20') foot access lane with a required turnaround and an eight-foot-wide pedestrian/ bicycle path extending west to Broadway at the time of development or redevelopment of the subject property (see **Figure 2**).

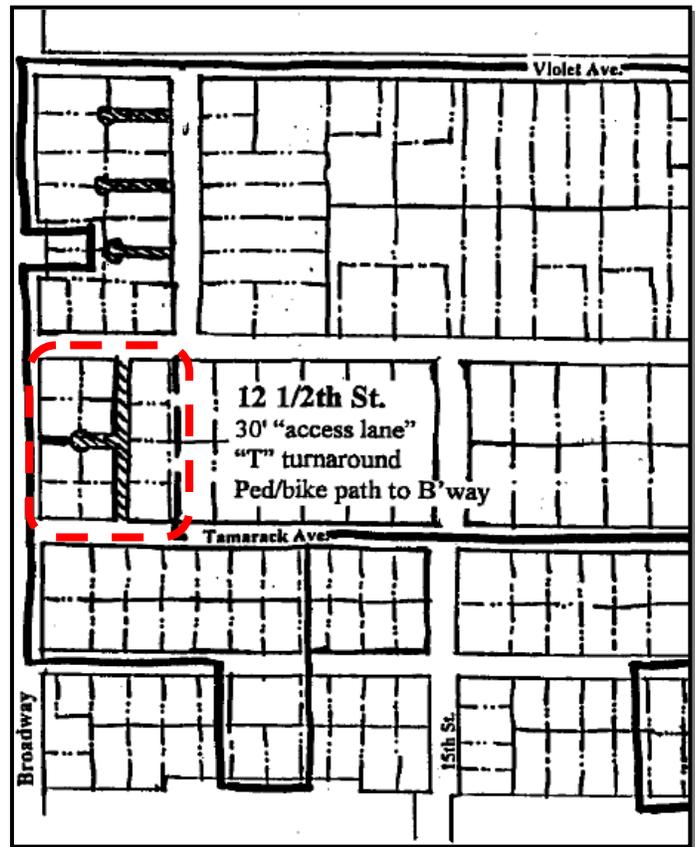


Figure 2: Original 12 ½ Street Proposal

- Later in 1999, following a new redevelopment proposal for Lots 3 and 12 (1276 Upland and 1275 Tamarack) for two duplexes (one on each lot), City Council approved an amendment to the Post-Annexation Agreement for those properties to allow the construction of a twelve (12') foot wide residential alley in place of constructing a twenty (20') foot wide residential access lane for 12½ Street (See **Attachment B**). Several factors were considered as part of council's approval of the amendment, including the fact that the new development proposal was still consistent with the NoBo Plan's vision for higher densities along the Broadway corridor as well as the fact that the proposal included taking direct

access from Upland and Tamarack Avenues and therefore did not require the use of 12½ Street to provide access as originally intended in the Crestview West Annexation Package.

- The proposed project to build duplexes on Lots 3 and 12 was never completed, and Lots 3 and 12 have since been developed as single family homes. As part of the redevelopment of these properties, the owners were required to construct 12 ½ Street as a twelve (12') foot wide alley, consistent with the Post-Annexation Agreement Amendment for those properties. Currently, both properties take access from the alley. Both owners have indicated that they have no intention of subdividing in the future; however, the Post-Annexation Agreement Amendment is still valid today and contains a provision requiring the full twenty (20') foot 12½ Street connection to be constructed in the event that either Lot 3 or 12 were to be subdivided in the future.
- As mentioned above, Lot 10 (1215 Tamarack) is currently vacant, and Lot 11 (1235 Tamarack) contains an existing single-family home which takes direct access from Tamarack Avenue. The original 1997 Annexation Agreement for Lots 10 and 11, which requires the owner to construct 12½ Street as a standard twenty (20') foot access lane with a required turnaround and an eight-foot-wide pedestrian/ bicycle path extending west to Broadway at the time of development or redevelopment of the subject properties is still valid.

PROPOSAL:

The purpose of the application is to request an amendment to the Annexation Agreement for 1215 and 1235 Tamarack (Lots 10 and 11, Block 5, Moore's Subdivision) to modify requirements pertaining to the construction of 12 ½ Street between Upland and Tamarack Avenues as a requirement of development or redevelopment of the subject properties. The proposed amendment would require construction of 12 ½ Street between Upland and Tamarack Avenues as a standard twelve foot (12') wide residential alley at the time of any building permit for a dwelling unit, which is consistent with the Post-Annexation Agreement Amendment for Lots 3 and 12 (1276 Upland and 1275 Tamarack). Because the twelve (12') foot wide alley has already been constructed, the proposed amendment would allow the owners of Lots 10 and 11 to obtain building permits for new dwelling units on their properties without having to construct any new right-of-way.

The proposed amendment to the subject Annexation Agreement would allow the owners of the Lots 10 and 11 to redevelop their properties without having to construct the 12½ Street right-of-way as a full twenty (20') foot wide residential access lane; however, the amended agreement would maintain the existing requirement to construct 12 ½ Street as a full twenty (20') foot wide residential access lane if either of the lots were to be subdivided in the future. See [Attachment C](#) for the proposed Annexation Agreement Amendment.

ANALYSIS:

Staff identified the following key issue for discussion regarding the proposed application request:

1. Is the requested annexation agreement amendment consistent with the intent of the original Crestview West Annexation package with regards to the desired land use and transportation pattern contained in the North Boulder Subcommunity Plan?

Staff finds the request to amend the Benson Annexation Agreement for the 1215 and 1235 Tamarack properties (Lots 10 and 11, Block 5, Moore's Subdivision) to be consistent with the intent of the original

annexation package with regards to the NoBo Plan. The specific goals for Crestview West included in the NoBo Plan that are applicable to the subject area include:

Crestview West Annexation Goals (This area was annexed subsequent to the Plan adoption, in 1997.)

- *Allow possible higher densities along the Broadway corridor to achieve affordable and diverse housing close to transit.*
- *Consider neighborhood consensus, in balance with other annexation goals.*
- *Help defray the property owners' costs of annexation.*

The proposed annexation agreement amendment is consistent with the goals listed above. The proposed amendment will not affect the existing zoning of the area which allows for higher densities, so the goal of allowing possible higher densities along the Broadway corridor will continue to be met. The RL-2 zoning designation for properties along Broadway was intended to help meet the first goal of "*allow(ing) possible higher densities along the Broadway corridor to achieve affordable and diverse housing close to transit.*" The requirement to construct 12½ Street with a turnaround and a bicycle/pedestrian path to Broadway was predicated upon a redevelopment scenario in which all of the subject properties would subdivide along the east-west axis and redevelop as single family homes (refer to **Figure 2** for intended lot configuration following subdivision), and would therefore require new right-of-way to take access from.

Under current RL-2 zoning standards, density is based upon open space, with a minimum of 6,000 square feet of open space required per dwelling unit. Because each of the two subject lots is large enough to accommodate up to two attached dwelling units under the current zoning standards without subdividing, they could theoretically redevelop at a higher density while keeping direct access from Tamarack Avenue. In the event that any of the lots were to be subdivided, the requirement to construct 12 ½ Street as a twenty (20') foot wide residential street would apply.

With regards to affordable housing, the proposed amendments do not affect the inclusionary housing requirements for the subject properties, so the goals and policies contained in the NoBo Plan relating to the provision of affordable housing will continue to be met. The owners of both Lots 3 and 12 are required to pay the applicable cash-in-lieu fee for the new single-family homes being constructed, and the owners of Lots 10 and 11 will be required to meet inclusionary housing requirements at the time of development or redevelopment of the subject properties.

With regards to neighborhood comments, staff has not received any comments from neighbors expressing opposition to the proposed amendments.

PUBLIC COMMENT AND PROCESS:

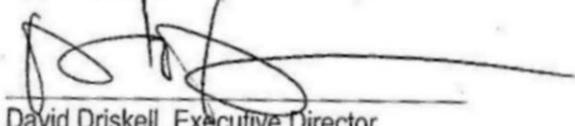
Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the proposed development, and a sign posted on the property for at least 10 days. All notice requirements of section 9-4-2, B.R.C. 1981 have been met. No public comment was received in response to the notice.

STAFF FINDINGS AND RECOMMENDATION:

Staff recommends that Planning Board recommend to City Council approval of the Annexation Agreement Amendment as it is consistent with the overall goals and policies of the Boulder Valley Comprehensive Plan policies pertaining to annexation as well as the intent of the original Crestview West Annexation package

with regards to the desired land use and transportation pattern contained in the North Boulder Subcommunity Plan.

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:

[Attachment A: 1997 Annexation Agreement for Lots 10 & 11](#)

[Attachment B: Post-Annexation Agreement and Post Annexation Agreement Amendment for Lots 3 & 12](#)

[Attachment C: Requested Amendments to Annexation Agreement Amendments](#)

[Attachment D: Approved Technical Document plans for 12' alley with 20.25' Right-of-Way](#)



ANNEXATION AGREEMENT

This Agreement, made this 19th day of Sept, 1997, by and between the City of Boulder, a Colorado home rule city, hereinafter referred to as "City," and Dolores M. Benson, hereinafter referred to individually or collectively as "Applicant:"

WITNESSETH:

RECIPIENTS

WHEREAS, the Applicant is the owner of Parcel #3, the real property described as:

Lots 10 and 11, Block 5, Moore's Subdivision, recorded in the offices of the Boulder County Clerk and Recorder at Book 5, pages 92-94, County of Boulder, State of Colorado,

also known as 1255 Marack Avenue, which real property shall hereinafter be referred to as the "Subject Property;" and

WHEREAS, the Applicant is interested in obtaining approval from the City of the annexation of the Subject Property in order to provide adequate urban services to said area, particularly city water and sewer; and

WHEREAS, the parties anticipate that annexation, with an initial zoning designation of Low Density Residential - Developing (LR-D), will be consistent with the Boulder Valley Comprehensive Plan; and

WHEREAS, the City is interested in insuring 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:

K:\ALPHA\PL\CUA-3.GYR

1. Definitions

“Redevelopment” shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new dwelling unit, or issuance of a building permit for additional square footage or other improvement which is twenty-five percent (25%) or more of the market value of the existing structure, except where twenty-five percent (25%) is less than Twenty-Five Thousand dollars (\$25,000) in which case redevelopment shall mean a building permit for a structure whose value is greater than or equal to Twenty-Five Thousand dollars (\$25,000). Successive building permits will be aggregated in determining whether redevelopment has occurred and will be cumulative over any three (3) year period.

Improvements to existing structures to the extent that the improvements are necessary to comply with City’s rental housing requirements will not be counted against the twenty-five percent (25%) or Twenty-Five Thousand dollars (\$25,000) thresholds which define redevelopment and will not trigger payment of outstanding fees.

“Basement” shall be defined as habitable or non-habitable areas below grade enclosed by a foundation wall where no part of the foundation wall exceeds two (2) feet in height above grade, as said grade existed at the time of this agreement. If any portion of the foundation wall projects more than two (2) feet above the grade, the basement area enclosed by the foundation shall count against the total Floor Area Ratio (FAR) permitted on the site and said basement shall be considered a story for purposes of determining the number of permitted stories in a structure.

2. Water

A. Domestic water service will be constructed and paid for by the City pursuant to that agreement between the City of Boulder, the EPA and the other Potentially Responsible Parties (PRPs). Domestic water service to existing residences shall include application fees, main front footage charges, tap fees for a 3/4" tap, Plant Investment Fees (PIFs) for residential use, meter fees and any other fees for water connection to existing residences and will include the filing fee(s) for inclusion into the Northern Colorado Water Conservation District (NCWCD), if necessary, and the Municipal Subdistrict. The City will not pay the annual mill levy of NCWCD.

New units will be required to pay all normal fees and charges for water service at time of construction, except that no front foot assessment for the newly installed water mains will be collected.

B. Applicant shall connect to the City’s water system immediately upon annexation.



- C. Applicant may use existing wells for irrigation purposes. Under no circumstances may existing wells be used for domestic water purposes. No person shall make any cross connections between a well and the City's municipal water supply system.

3. Sewer

- A. If the Subject Property is currently served by an adequate septic system, Applicant will not be required to connect to the City's sanitary sewer system. In order to demonstrate that the septic system is adequate, the Applicant must provide to the City of Boulder confirmation of (1) a valid Boulder County ISDS Permit and (2) an inspection of the septic system confirming there is a four foot (4') separation between the absorption field and the seasonal high groundwater level. If the property does not meet these requirements, Applicant shall connect to the sanitary sewer system within 365 days of the effective date of the annexation ordinance.

- B. Assessments for the costs of construction of the sanitary sewer mains shall be paid by Applicant as a lump sum, at time of connection or redevelopment, unless a property owner applies for connection to the City's sanitary sewer system within sixty (60) days of the effective date of the annexation ordinance. If the application is made within sixty (60) days and the connection made within 365 days after application, the property owner may elect to pay the outstanding assessment in a lump sum payment or pay the prorated amount in ten (10) equal, annual installments amortized at a rate of six and a half percent (6.5%) simple interest per annum beginning on the effective date of the annexation ordinance.

If the property owner does not apply for connection within sixty (60) days of the effective date of the annexation ordinance or fails to connect within three hundred sixty-five (365) days after application, the outstanding balance will accrue interest at a rate of six and a half percent (6.5%) simple interest per annum and must be paid in full at time of connection.

- C. Plant Investment Fees (PIFs) and other connection fees will be determined at time of connection based on the then applicable fee schedule.
- D. Where the City is not required by an existing agreement to collect outstanding assessments for the construction of a sanitary sewer main, such prorated fees will not be collected by City.
- E. Sanitary sewer main assessments and PIFs for the Subject Property must be paid for the entire property at time of redevelopment or connection to the City sanitary sewer



system. Sanitary sewer main assessments and PIFs for individual buildable lots, will be due at the time of redevelopment of each lot.

- F. Low-Income Deferral - Applicant shall be eligible for a low income deferral or payment schedule when a property is required to connect to the sanitary sewer system prior to redevelopment and the property owner meets the criteria set by the City of Boulder Housing Authority and applies in writing to the City Manager for a deferral prior to connection to the sanitary sewer system.

4. Transportation

- A. At or prior to the time of subdivision or redevelopment of the Subject Property, whichever first occurs, Applicant shall sign an agreement to participate in and not to remonstrate against the establishment of a Local Improvement District (LID). Applicant acknowledges that no subdivision will be approved and no redevelopment will be permitted until said agreement to participate is signed.

In the formation of such LID, the City shall pay fifty percent (50%) of the costs to improve the existing pavement sections of the following streets to City of Boulder standards:

- Upland from Broadway to 19th Street;
- Portions of Tamarack from Broadway to Crestview School;
- 13th Street from Upland to Violet; and
- Sumac from Broadway to 19th Street.

The costs of all new improvements, including but not limited to road base, pavement, curb, gutter, sidewalks, and drainage facilities, shall be paid for one hundred percent (100%) by the properties located in the LID for the following improvements:

- 13th Street, between Upland and Violet, as a standard rural residential street with sidewalks on one side;
- 15th Street, between Upland and Tamarack Avenue, as standard rural residential street with sidewalks on one side;

- Upland Avenue as a standard rural residential street with drainage improvements and a sidewalk on one side;
- Tamarack Avenue as a standard rural residential street with drainage improvements;
- Sumac Avenue as a standard rural residential street with drainage improvements and a sidewalk on one side; and
- 17th Street between Upland and Violet as a multi-use path for pedestrians, bicycles, and emergency access for police and fire.

Prior to the formation of any assessment district which includes the construction of 15th or 17th Street, the City will provide the opportunity for the Applicant to have input into the final designs for the street improvements to be built.

B. At the time of development or redevelopment of the Subject Property, Applicant shall be required to construct the following improvements in the location depicted on the attached Exhibit A:

- 12 ½ Street between Upland Avenue and Tamarack Avenue as a standard thirty foot (30') right-of-way access lane with the required turnaround and with an eight foot wide pedestrian/bicycle path extending west to Broadway

C. Prior to second reading of the annexation ordinance, the Applicant shall:

- Dedicate to the City of Boulder, in fee and at no cost, right-of-way for Broadway such that there is a total of forty and a half feet (40.5') from the centerline which the City agrees is the Section line.

D. The Applicant acknowledges that access to existing and proposed streets shall be limited as follows:

- No new curb cuts or direct access to Broadway will be permitted;
- Existing curb cuts on Broadway shall be closed at time of redevelopment; and
- Shared driveways and curb cuts may be permitted and may be encouraged during subdivision or redevelopment of the Subject Property where such

combined access is consistent with the adopted zoning and infrastructure plan.

- 5. **Flood Control and Stormwater** - At time of redevelopment or sale of the Subject Property, the Applicant shall pay the Stormwater and Flood Control Plant Investment Fee (SFCPIF). If the fee is paid within two (2) years of the effective date of the Annexation Ordinance, the fee will be the amount due on the effective date of the Annexation Ordinance. If the fee is paid later than two (2) years from the effective date of the Annexation Ordinance, the fee will be the amount due at time of payment. The Applicant acknowledges the use of a modified equation for the calculation of SFCPIF that charges each property based on the developed (impervious area) of the site, as follows:

$[X/7000 \times (C5-0.2)/0.2 \times \$1094.78]$
 where X=Total Impervious Area in square feet;
 $C5=[0.9Y+0.1(X-2)]/X$; and
 Y=Total Impervious Area in square feet

To accurately determine the SFCPIF due for the Subject Property, the Applicant shall submit an Improvement Location Certificate completed by a licensed surveyor to the Utilities Division of the Public Works Department, prior to sale or redevelopment.

- 6. **Floodplain and Drainage**
 - A. The City has implemented a restudy of the Fourmile Canyon Creek Floodplain and if appropriate, will amend the location of the High Hazard and Conveyance Zones and the boundaries of the Floodplain when the study is complete.
 - B. The City of Boulder floodplain regulations, Chapter 9-9, B.R.C., 1981, as amended, shall apply to all properties located within the regulatory One Hundred (100) Year Floodplain. Existing structures located in the floodplain of Fourmile Canyon Creek may remain, consistent with the aforementioned Section. All new structures, additions, or substantial improvements or modifications will be subject to the City's floodplain regulations.
 - C. Properties shall convey drainage from the site in a manner which does not negatively impact abutting properties.
 - D. At the time of redevelopment, Applicant acknowledges that the Subject Property shall provide drainage improvements needed to serve their property (including detention facilities and an adequate outfall to a major drainage system) in accordance

with the City's design standards. Such detention or other drainage facilities shall be designed and constructed by property owners at time of redevelopment, if the improvements are needed in order to comply with "C" above.

- E. Applicant acknowledges that existing irrigation ditches and/or laterals shall not be used as an outfall point for developed storm water runoff if the storm water discharge is of increased quantity or frequency. The City agrees that there may be certain situations where such releases to ditches or ditch laterals may be appropriate if an adequate hydraulic engineering analysis acceptable to the City Manager is provided to show that the ditch/lateral has sufficient capacity and a positive outfall at a major drainage way. In those cases it will be necessary to obtain the consent of the ditch company to accept the storm water discharge, in a form which is acceptable to the City Attorney.

7. Silver Lake Ditch Water Release and Existing Well

- A. At time of redevelopment or connection to the City's water system, the Applicant shall offer a "First Right of Refusal", consistent with Section 11-1-19, B.R.C., 1983 for any water rights appurtenant to the Subject Property. Said right of refusal shall provide that the Applicant shall give the manager sixty (60) days' advance written notice of Applicant's desire to sell the ditch rights to the City. It is the City's desire to keep for use on the land any water or ditch rights appurtenant to property zoned ER-E and RR-E and for residential lots over 15,000 sq. ft. in size regardless of zoning.
- B. Properties abutting an existing irrigation ditch or lateral shall not relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

8. Miscellaneous Fees / Taxes

- A. Park Fees - For residential dwelling units existing on July 1, 1997, the Applicant may defer the payment of park fees until redevelopment or sale of the Subject Property. The Applicant agrees to pay the then current park fees at the time redevelopment or sale occurs.
- B. Development Excise Tax - For buildings in existence on July 1, 1997, the Development Excise Tax (DET) that would normally be due upon annexation will be deferred until redevelopment or sale occurs. Applicant acknowledges that at the time of redevelopment or sale of the Subject Property, Applicant shall pay the DET



for any existing building or buildings and the new building or addition at the time that a permit is requested for the new building or addition. The rates imposed for this tax will be the rates applicable at that time.

9. Northern Colorado Water Conservancy District

- A. Applicants shall execute the Petition for inclusion of Lands in the NCWCD municipal subdistrict prior to first reading of the annexation ordinance.

10. City Codes and Policies:

- A. Zoning and Allowed Uses The Applicant agrees that the following design guidelines and criteria will apply to the Subject Property after annexation:

General

- Non-residential uses such as personal services, offices, medical and dental offices or clinics, automobile parking lots as a principal use, mobile home parks, convenience stores and outlets, antique stores, and village centers shall not be permitted;
- Site Review or Subdivision (platting, lot layout, housing types) shall not be used to reduce the density below two (2) platted lots;
- All lots must have frontage on a public street; and
- Flaglots shall not be permitted.

Landscaping

- Street trees shall be selected from among the "large maturing" varieties and planted as required by the City Forester at time of redevelopment; and
- Properties shall receive credit, if approved by the City Forester, for existing "large maturing" varieties of street trees.

Fences

- Fences and landscaping berms are permitted in required front yards and side yard abutting a public street (up to the front facade of the principal building

Unofficial Copy



and the side yard building envelope) so long as either or the combination of both does not exceed forty-eight inches (48") in height. However, in no event may a berm exceed thirty-six inches (36") in height;

- For properties abutting Broadway or Front Avenue, a fence which shall not exceed thirty-six inches (36") in height may be located on the top of the thirty-six inches (36") berm; and
- Up to 7 foot fences permitted on interior sideyard or rearyard lot lines equal to or behind the front facade of the principal building.

Buildings

- Two-story maximum above basement;
- At least one "Entry" element including but not limited to, covered and uncovered porches and front doors shall be provided on facades abutting a public street;
- Porches may encroach within a required yard abutting a street consistent with §9-3.2-15(c) and (d), B.R.C., 1981; and
- Attached and detached garages shall be setback at least 10' from the front facade of the principal building; or if side-loaded, may not project beyond the front facade of the building.

B. Floor Area Ratios (FARs)

Redevelopment shall be consistent with the following FARs which shall be defined as the total square footage of all levels within the outside walls of a building or portion thereof including attached and detached garages and detached accessory buildings, but which shall not include basements, unenclosed carports, and unenclosed porches and decks:

Lots 6500 - 15000 sq.ft.	0.30:1 FAR
Lots 15001 - 29999 sq.ft.	0.25:1 FAR
Lots >or = 30000 sq.ft.	0.20:1 FAR

Additionally, a 500 square foot increase to the total FAR is available for a detached or attached garage or a detached accessory building.

Properties, upon redevelopment, may transfer up to forty percent (40%) of the total permitted floor area of one lot to another lot within a development in order to create greater diversity of housing types within the development.

C. Non-conforming Buildings, Uses, Animal Ordinances

- The City agrees that its ordinances generally are not applicable to pre-existing non-conforming structures and uses, with the exception of ordinances regarding health and life safety hazards. This means that existing legal non-conforming uses will be allowed to continue and be modified or expanded in accordance with the City's non-conforming review provisions of the Code.
- The City acknowledges that non-standard buildings, established while under County jurisdiction, may be retained and may be modified consistent with the City's zoning and use and other regulations.

The City acknowledges that the application of the Uniform Building Code to Applicant's property will be the same as, and no greater than, its application to any other property in the City limits as of July 1, 1997.

- Signs which are legal under the existing County regulations as of the date of annexation may remain in place without meeting the City's amortization schedule for the removal of non-conforming signs. At the time of redevelopment of the Subject Property, signs shall meet the City Sign Code.

D. Rental Properties

Rental properties shall submit an application to the City for a rental housing license within ninety (90) days of the effective date of annexation; property owners shall comply with the immediate life safety requirements of the rental housing code within 180 days of the inspection report.

E. Design Standards

- The City shall work with utility providers such as Public Service Company and US West to review the design of the provision of services to the Crestview West Annexation Area. Property owners shall relocate or construct any overhead service lines consistent with a redesigned system

upon redevelopment. The City and the respective utility companies may participate in the costs to construct the new distribution system.

- Existing fences not conforming with these guidelines may be retained until redevelopment of the Subject Property. However, new or replacement fences must conform to the standards for fences listed in this agreement.
- Non-residential uses shall be eligible for Site Review whether or not they meet the lot size or dwelling unit thresholds of the City's code.
- The City Manager may approve variances to the berm height, FARs, garage setbacks, fence setbacks, and the two (2) story limit upon a finding that a physical hardship or limitation exists, that the hardship or limitation was not of the Applicant's own making, that the proposed variance is the minimum necessary to reasonably utilize the property.

11. Fire and Life Safety Codes

The City's Fire and Life Safety Code is intended to be retroactive so that buildings and building occupancies or uses should meet the Code shortly after annexation. However, existing buildings and their occupancies or uses will not be required to meet the Fire and Life Safety Code until redevelopment occurs or unless the use of the building is a hazardous use. At the time of redevelopment or change of occupancy to a hazardous use, the building or portion of the building being redeveloped or changed will be required to meet the Fire and Life Safety Code. Building uses that are classified as hazardous uses include those using flammable or combustible liquids, spray paint operations, woodworking shops and similar places generating combustible dusts, and restaurants.

12. Breach of Covenants

In the event the Applicant breaches or fails to perform any required action under or fails to pay any fee specified under Covenants 1, 2, 4, or 7 of 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 obligation to connect to the water and/or sewer system of the City. In the event the Applicant fails to pay any monies due under this agreement or fails to perform any affirmative obligation hereunder, 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 the City 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 or she may have under Section 31-20-105, C.R.S., based on the City's lack of an enabling ordinance authorizing collection of this specific debt, or acknowledges that the adoption of the annexation ordinance is such enabling ordinance.

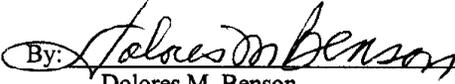
13. Vested Rights

The Applicant hereby waives any statutory vested rights that may have accrued under County jurisdiction, that have not been perfected as common law vested rights. The Applicant acknowledges that nothing herein 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.

This Agreement and any document executed pursuant hereto shall be null and void and of no consequence in the event the Subject Property is not annexed to the City of Boulder.

This Agreement and the covenants set forth herein shall run with the land and be binding upon the Applicant, her heirs, successors, and assigns and all persons who may hereafter acquire an interest in the Subject Property, in any part thereof. If it shall be determined that this Agreement contains an interest in land, that interest shall vest, if at all, within the lives of the undersigned plus twenty (20) years and 64 days.

APPLICANT:

By: 
Dolores M. Benson



STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, Notary Public, this 19th day of September, 1997, by Dolores M. Benson.

Witness my hand and official seal.

My commission expires 2000 12/6/97

(seal)



MY COMMISSION EXPIRES
DECEMBER 6, 2000

Jessi L. Tall
Notary Public

CITY OF BOULDER

By: [Signature]
City Manager

Attest:

[Signature]
Director of Finance and Record
Ex-Officio City Clerk

Approved As To Form:

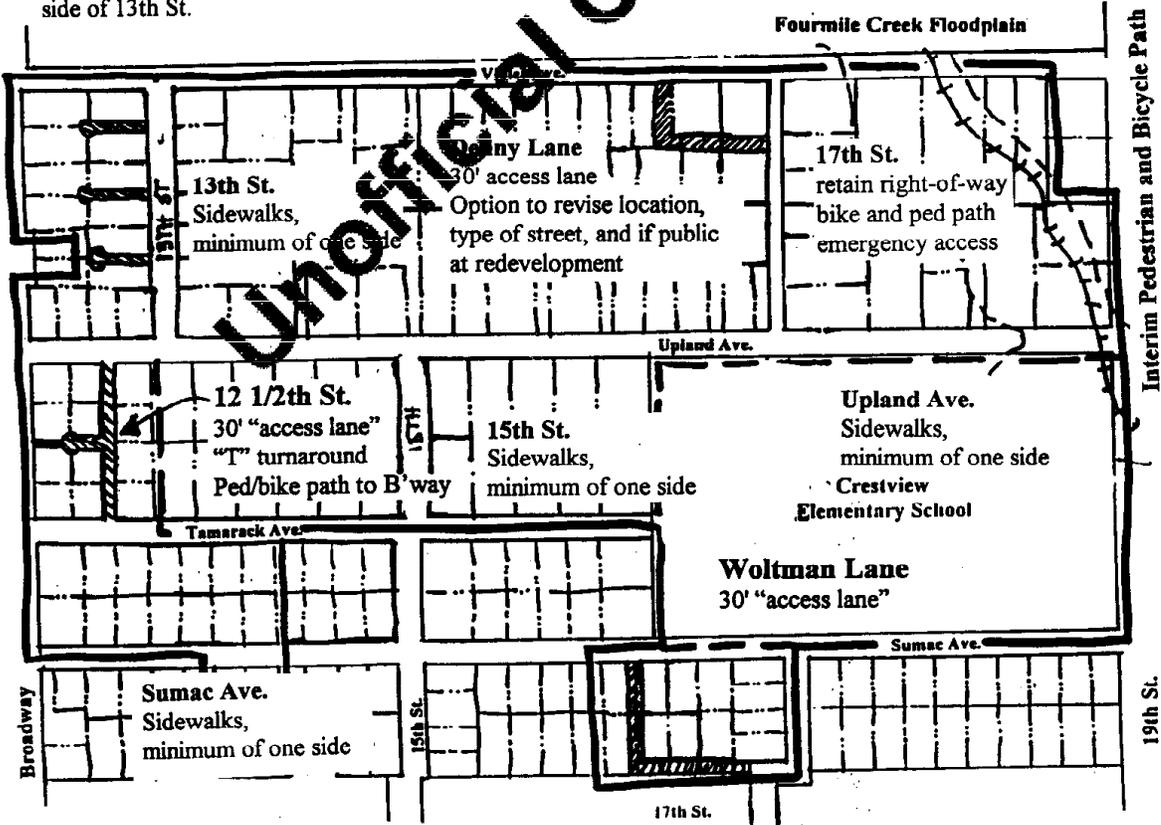
[Signature]
City Attorney 11-6-97



EXHIBIT A

Shared Driveways
May exceed length requirement
w/ City Manager approval
Max 3 curb cuts on the west
side of 13th St.

Future Pedestrian and Bicycle Path
Path easement not required at
annex, path to be constructed
by City when properties, or portions
thereof, are purchased for bridge/underpass
and floodplain improvements





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POST-ANNEXATION AGREEMENT AMENDMENT

This Agreement, made this 22nd day of ~~October~~^{November}, 1999, by and between the City of Boulder, a Colorado home rule city, (the "City") and Sierra Development, L.L.C., a Colorado limited liability company, (the "Owner") the owner of Property that is generally located at 1276 Upland Avenue and more fully described in Exhibit "A" attached hereto and incorporated herein by reference (the "Subject Property").

RECITALS

WHEREAS, this Post-Annexation Agreement Amendment is intended to amend Post-Annexation Agreement between the City and Aca A. Nasalroad, dated September 9, 1999, and recorded on September 27, 1999 at Reception No. 1985022 with the Boulder County Clerk and Recorder (the "Post-Annexation Agreement"); and

WHEREAS, the Owner of the Subject Property has proposed an alternative method for constructing 12 1/2 Street than was originally contemplated in the Post-Annexation Agreement; and

WHEREAS, said method proposed for the construction of 12 1/2 Street meets the City standards; and

WHEREAS, the Planning Board recommended that the City Council authorize the City Manager to execute this Agreement on October 21, 1999; and

WHEREAS, the City Council authorized the City Manager to execute this agreement on November 9th, 1999.

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:

A. The Parties agree to amend the Post-Annexation Agreement by repealing and replacing Paragraphs "B" and "C" of Section 5, "Transportation," with the following:

5. Transportation

...

K:\PLCUVA-NASALROAD-AMDNT.GYR

LOB

B. No additional dwelling units may be constructed until the Owner of the Property dedicates three feet (3') of additional right-of-way, for a total of eighteen feet (18') of right-of-way, along the west property line, to the City.

C(1). At time of application for any building permit for an additional dwelling unit on the Subject Property, Owner shall be required to construct the following improvements in the location depicted on Exhibit "B" attached to this agreement:

- 12 1/2 Street between Upland Avenue and Tamarack Avenue as a standard twelve foot (12') wide residential alley placed one foot (1') from the west property line and meeting the City of Boulder's "Design and Construction Standards."

C(2) Prior to, or concurrent with, subdivision of the subject Property, the Owner shall dedicate or secure the dedication of, the entire width of 12 1/2 Street up to the City thirty foot (30') wide right-of-way access lane standard. The Owner shall be required to construct 12 1/2 Street between Upland Avenue and Tamarack Avenue as a standard thirty (30') foot wide right-of-way with an access lane meeting the City of Boulder's "Design and Construction Standards."

C(3) The City and the Owner Agree that no further Subdivision of the Property will be permitted until 12 1/2 Street has been constructed in accordance with Paragraph C(2) above.

C(4) Owner may receive reimbursement for part or all of the costs of such improvements constructed pursuant to Paragraph C(2) above, in accordance with the terms and conditions of a Public Improvement Extension Agreement that is consistent with Paragraph 9-5-9(e)(1), B.R.C. 1981.

B. The Owner agrees to pay all costs associated with the recording of this Post-Annexation Agreement Amendment.

C. The City and Owner agree that all covenants, conditions and requirements set forth in the Post-Annexation Agreement, more fully described above, except as modified herein, shall remain in full force and effect as written.

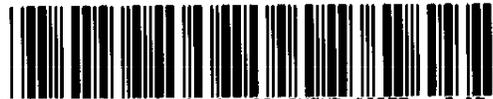
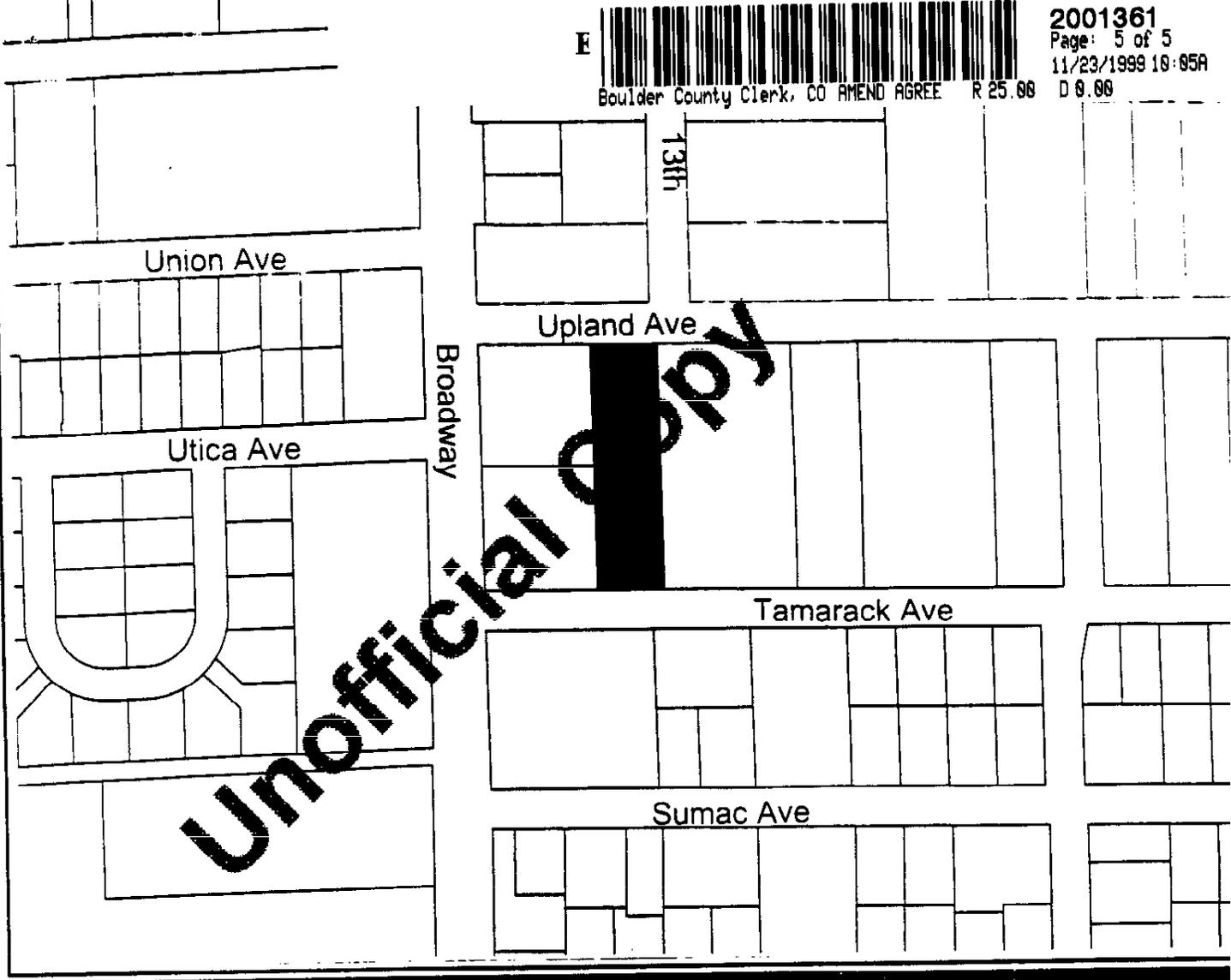


Exhibit A

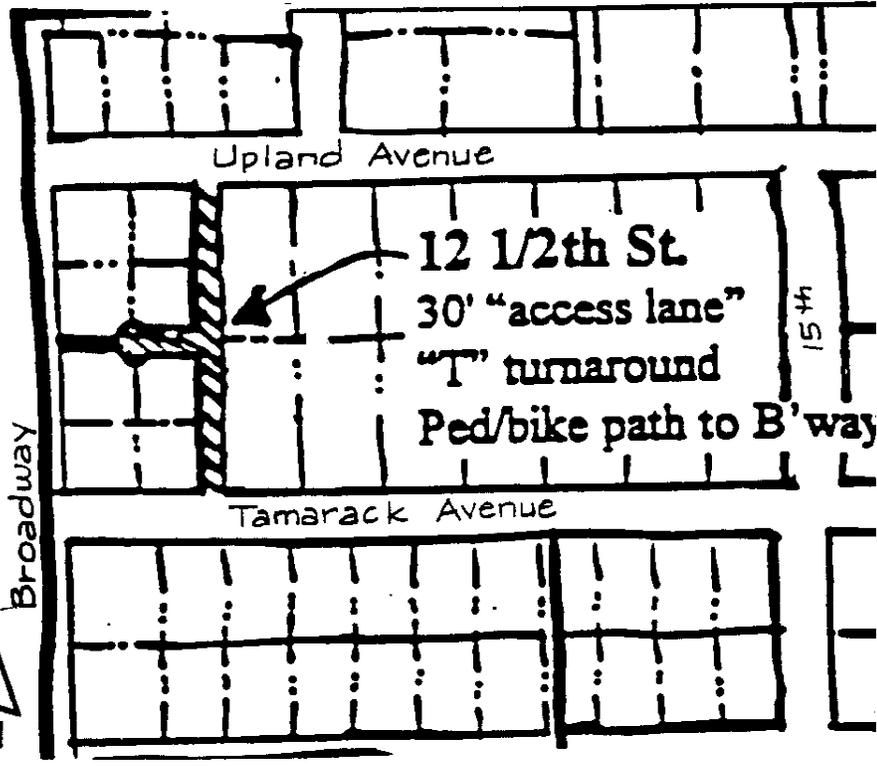
Legal Description

Lots 3 and 12, Block 5, Moore's Subdivision, County of Boulder, State of Colorado, excepting therefrom the westerly 15 feet of said Lots 3 and 12, as conveyed by Aca A. Nasalroad to the City of Boulder, a Colorado home rule city, in the warranty deed recorded July 26, 1999 as reception no. 1964274. Also known by street and number as 1276 Upland Avenue, Boulder, Colorado 80304

Unofficial Copy



- LOCATION:
1276 Upland Avenue
- APPLICATION TYPE:
Amendment to Post Annexation Agreement
- ZONING:
LR-D Low Density Residential Developing
- APPLICANT:
Sierra Development LLC,
Mark Young, manager



For Administrative Purposes Only
 Address: 1215 and 1235 Tamarack
 Case No. LUR2013-00036

ANNEXATION AGREEMENT AMENDMENT

This annexation agreement amendment ("Amendment") made this _____ day of _____, 2013, by and between the City of Boulder, a Colorado home rule city ("City"); TJM Investment, LLC, a Colorado limited liability company, f/k/a TJM Properties, LLC, a Colorado limited liability company ("TJM Investment"), the owner of the property generally known as 1215 Tamarack and more particularly described on Exhibit A ("1215 Tamarack Property"); and James C. Hohmann and Deborah Stabler, the owners of the property generally known as 1235 Tamarack and more particularly described on Exhibit B ("1235 Tamarack Property"). TJM Investment and James C. Hohmann and Deborah Stabler are hereafter collectively referred to as the "Applicant." The 1215 Tamarack Property and 1235 Tamarack Property and hereafter collectively referred to as "Subject Property."

RECITALS

A. The Annexation Agreement for the Subject Property was between Dolores M. Benson and the City and recorded in the records of the Boulder County Clerk and Recorder on November 18, 1997 at Reception #1748523 ("Annexation Agreement").

B. The Applicant is interested in obtaining approval from the City for this Amendment to modify the requirement set forth in Paragraph 4.B of the Annexation Agreement to construct 12 ½ Street between Upland Avenue and Tamarack Avenue as a standard thirty foot (30') right-of-way access lane with the required turnaround from the time of development or redevelopment to the time of subdivision of the Subject Property.

COVENANTS

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

1. The City and the Applicant agree to amend the Annexation Agreement by repealing and replacing the existing Section 4.B with the following:
 - B.i. At time of application for any building permit for an additional dwelling unit on the Subject Property, the Applicant shall be required to construct the

following improvements in the location depicted on Exhibit C attached to this Amendment:

- 12½ Street between Upland Avenue and Tamarack Avenue as a standard twelve foot (12') wide residential alley placed one foot (1') from the eastern property line and meeting the City of Boulder Design and Construction Standards.
- B.ii. Prior to, or concurrent with, subdivision of the Subject Property, the Applicant shall dedicate or secure the dedication of, the entire width of 12½ Street up to the City thirty foot (30') wide right-of-way access lane standard with the required turnaround and with an eight foot wide pedestrian/bicycle path extending west to Broadway. The Applicant shall be required to construct 12½ Street between Upland Avenue and Tamarack Avenue as a standard thirty foot (30') right-of-way with the required turnaround and with an eight foot wide pedestrian/bicycle path extending west to Broadway meeting the City of Boulder Design and Construction Standards.
- B.iii. The City and the Applicant agree that no further Subdivision of the Property will be permitted until 12½ Street has been constructed in accordance with paragraph B.ii above.
- B.iv. The Applicant may receive reimbursement for part or all of the costs of such improvements constructed pursuant to Paragraph B.ii above, in accordance with the terms and conditions of a Public Improvement Extension Agreement that is consistent with Paragraph 9-12-12(f)(1), "Public Improvement Extension Agreement," B.R.C. 1981.
2. The City and the Applicant also agree that the remaining portions of Section 4 of the Annexation Agreement not affected by this Amendment shall remain in full force and effect.
3. Prior to an application for a building permit for redevelopment of either the 1215 Tamarack Property or 1235 Tamarack Property, the Applicant shall ensure that the accessory building located on the lot line between these properties is removed.

4. This Amendment is contingent upon the approval of the Boulder City Council. If the Boulder City Council does not approve this Amendment, the parties agree that it will have no force or effect.
5. This Amendment shall be recorded in the records of the Boulder County Clerk and Recorder at the expense of the City.

CITY OF BOULDER , COLORADO

By: _____
Jane S. Brautigam, City Manager

Attest:

City Clerk

Approved as to form:

City Attorney's Office

Date

APPLICANT
OWNERS OF 1235 TAMARACK PROPERTY

By: _____
James C. Hohmann

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2013 by James C. Hohmann.

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

[SEAL]

Notary Public

By: _____
Deborah Stabler

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2013 by Deborah Stabler.

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

[SEAL]

Notary Public

EXHIBITS

- Exhibit A Legal Description for 1215 Tamarack
- Exhibit B Legal Description for 1235 Tamarack
- Exhibit C Map of the location of the 12½ Street Improvement

