THE CITY OF BOULDER
CITY COUNCIL MEETING
COUNCIL CHAMBERS, 1777 Broadway
March 17, 2015
6 PM

1. **CALL TO ORDER AND ROLL CALL**

   A. Stand Up for Transportation Day declaration.

2. **OPEN COMMENT** and **COUNCIL/STAFF RESPONSE** (Limited to 45 minutes.) Public may address any city business for which a public hearing is not scheduled later in the meeting (this includes the consent agenda and first readings). After all public hearings have taken place, any remaining speakers will be allowed to address council. All speakers are limited to three minutes.

3. **CONSENT AGENDA** (to include first reading of ordinances) Vote to be taken on the motion at this time. Roll call vote required.

   A. Consideration of a motion to accept the February 24, 2015 study session summary on the Envision East Arapahoe project

   B. Consideration of a motion to accept the January 27, 2015 study session summary on Boulder's Energy Future

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

   D. Second reading and consideration of a motion to adopt Emergency Ordinance No.8035 amending Section 4-20-68, "Flood Related Fee Waiver," B.R.C. 1981, to extend temporary authority to waive certain fees to facilitate recovery and repair work resulting from flood impacts and amending Section 9-10-2 "Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures, and Lots," B.R.C., 1981, to extend the time to resume uses and restore buildings affected by the September 2013 flood

E. Consideration of the following items related to the annexation of the Old Tale Road neighborhood and right-of-way:

1. Resolution No. 1157 finding the annexation petition in compliance with state statutes and establishing Apr. 21, 2015, as the date for a public hearing;

2. Introduction, first reading and consideration of a motion to order published by title only, Ordinance No. 8039 related to the annexation and initial zoning of 20 properties and right-of-way totaling 22.40 acres in the Old Tale Road neighborhood with an initial zoning designation of Residential-Rural 2 (RR-2).

Applicants/Owners:
1165 Old Tale Rd., Macinko Exempt Trust
1193 Old Tale Rd., Cynthia and Charles Anderson
1228 Old Tale Rd., Steven Erickson
1245 Old Tale Rd., Harold and Sherlynne Bruff
1270 Old Tale Rd., Jeffrey and Wendy Mortner
1275 Old Tale Rd., Thomas and Barbara Corson
1305 Old Tale Rd., Monty Moran
1315 Old Tale Rd., Joanne M Simenson
1325 Old Tale Rd., Sarah Kingdom
1402 Old Tale Rd., Kellie Masterson-Praeger
1409 Old Tale Rd., William Dick III
1412 Old Tale Rd., John and Penelope Bennett
1435 Old Tale Rd., Joyce Peterson Thurmer
1436 Old Tale Rd., Thomas Perry
1457 Old Tale Rd., Cameron Bradley Peterson
1483 Old Tale Rd., Jason and Jennifer Kiefer
1507 Old Tale Rd., Richard and Jeanie Leddon
1510 Old Tale Rd., Mark and Mary Beth Vellequette
1533 Old Tale Rd., Laurie Duncan-McWethy
1566 Old Tale Rd., Stewart and Robin Elliott
8036

F. Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8036 designating the building and property at 977 7th St., to be known as the Krueger-Cunningham Property, as an individual landmark under the city's Historic Preservation Ordinance.

Owner/Applicant: Janelle C. Krueger & Cosima Krueger-Cunningham

G. Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8037 designating the building and property at 1029 Broadway, to be known as the Evans Scholars House, as an individual landmark under the city's Historic Preservation Ordinance.

Owner/Applicant: Evans Scholar Program

H. Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8038 allowing for production and sale of certain foods in residential zone districts, amending Section 9-6-3(e) "Specific Use Standards – Residential Uses"; amending Section 9-9-21 "Signs" and adding a new Chapter 6-17 "Cottage Foods and Fresh Produce"

4. **POTENTIAL CALL UP CHECK IN**
Opportunity for Council to indicate possible interest in the call-up of an item listed under agenda Item 8-A1.

5. PUBLIC HEARINGS

A. Second reading and consideration of a motion to adopt Ordinance No. 8033 approving supplemental appropriations to the 2015 Budget.

B. Second reading and consideration of a motion to adopt Ordinance No. 8034 amending the capital facilities impact fee in Section 4-20-62, "and Chapter 8–9, B.R.C. 1981 by the addition of a new affordable housing linkage fee on non-residential development, and setting forth related details.

6. **MATTERS FROM CITY MANAGER**

None

7. **MATTERS FROM CITY ATTORNEY**

None

8. **MATTERS FROM MAYOR AND MEMBERS**

A. Call Ups

1. Knapp Subdivision Final Plat Application no. TEC2013-00057: Final Plat to subdivide one 0.5-acre developed lot at 3050 15th St. in the RL-1 zone district to create 2 new residential lots: Lot 1 (9,605 s.f.) and Lot 2 (12,176 s.f.). Lot 1 will contain an existing single family home.

2. Site and Use Review application, no. LUR2014-00057 to construct one new 2,850 square foot, single story Bank of America building with a drive thru facility on the pad site at 1965 28th St. The proposal also includes improvements to the existing parking area serving the pad site as well to the parking area adjacent to the Hazels liquor store. The project site is zoned Business – Regional 1 (BR-1).

3. Concept Plan Review 1900 Folsom (LUR2014-00085)

4. Use Review for a 3,509 square foot tavern with an outdoor patio, which will not exceed 712 square feet in area, at 921 Pearl Street (LUR2014-00081). Proposed hours of operation are 9 a.m. to 12:00 a.m. Sunday through Thursday and 9 a.m. to 2 a.m. Friday and Saturday

B. 2015 Annual Boards and Commissions Appointments

9. **PUBLIC COMMENT ON MATTERS** (15 min.)
Public comment on any motions made under Matters.

10. **FINAL DECISIONS ON MATTERS** Action on motions made under Matters.

11. **DEBRIEF** (5 Min.) Opportunity for Council to discuss how the meeting was conducted.

12. **ADJOURNMENT**

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If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. *Si usted necesita interpretación o cualquier otra ayuda con relación al idioma para esta junta, por favor comuníquese al (303) 441-1905 por lo menos 3 negocios días antes de la junta.*

Electronic presentations to the city council must be pre-loaded by staff and will not be accepted after 3:30 p.m. the day of a regularly scheduled council meeting. Electronic media must come on a prepared USB jump (flash/thumb) drive.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 17, 2015

AGENDA TITLE: Consideration of a motion to accept the February 24, 2015 City Council Study Session Summary on the Envision East Arapahoe project

PRESENTERS
Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works and Acting City Manager
David Driskell, Executive Director of Community Planning & Sustainability (CP&S)
Susan Richstone, Deputy Director of CP&S
Lesli Ellis, Comprehensive Planning Manager
Kathleen Bracke, GO Boulder Manager
Sam Assefa, Senior Urban Designer

EXECUTIVE SUMMARY

This agenda item provides a summary of the Feb. 24, 2015 City Council Study Session on the Envision East Arapahoe project (**Attachment A**). The purpose of the study session was for City Council to discuss and provide feedback on the vision plan and analysis, adjusted project scope and schedule, continuing transportation and access planning, and medical office zoning schedule and approach.

STAFF RECOMMENDATION

Suggested Motion Language:
Staff recommends Council consideration of this summary and action in the form of the following motion:

Motion to accept the Feb. 24, 2015 City Council Study Session Summary on the Envision East Arapahoe project

POTENTIAL NEXT STEPS

Over the next few months, staff will also analyze potential changes to accommodate medical office near Boulder Community Health, brining zoning changes to council in May, 2015. Staff will continue work on transportation planning with the community and agency partners. The next study session is scheduled for August 25, 2015.

ATTACHMENTS

Attachment A: Feb. 24, 2015 Study Session Summary on the Envision East Arapahoe project

Attachment A: February 24, 2015 Study Session Summary on Envision East Arapahoe

City staff provided a presentation and information on what the project has accomplished so far, community input to date, and the project next steps. Land use issues may be revisited after the upcoming community discussion about the Boulder Valley Comprehensive Plan 2015 update. Planning for transportation along the corridor, however, will continue, as will planning to allow for medical office uses near Boulder Community Health in the short term. Staff also provided a report on the tools that were tested during this phase of the project, including CommunityVIZ GIS scenario analysis, as well two varieties of visualization – both a 3d model of the area, and street-level illustrations of possible futures.

Transportation staff also provided information about transportation planning along the corridor, including initial multimodal transportation analysis, an update on RTD's Northwest Area Mobility Study and Boulder County's recently approved State Highway 7 corridor study beginning this spring, as well as a report on community outreach and feedback on transportation related topics..

Discussion Summary

Land Use Comments

Tools

- Council stated support for the visualization and GIS analysis planning tools and quantitative analysis. This is a helpful start to analysis. Tools like these make sense for planning.
- Several different scenarios assists with visualizing how different plans would affect the area.

Medical Office

- Council generally supports phased/tiered approach to addressing medical office zoning changes, with the focus on a tight area near Boulder Community Health, not along the full length of corridor.
- It is the opinion of some members of council that medical office will begin to push out affordable industrial space. It makes sense to have medical uses near BCH, but this allowance could begin the process of displacing some industrial.
- The phased approach makes sense allowing conditional use in existing buildings first.
- Some council members expressed concern about opening up land for one to two story medical office uses ahead of a more robust land use discussion. The visualization of Commerce Street looks good. Avoid letting suburban-style medical office structures that get built in the short term prevent opportunities to realize the land use vision later.
- One council member stated that as medical uses move east, they will be vacating spaces near Alpine and Broadway, and it may be time to start thinking about the future of that area as well.

Walnut St. Extension

- Walnut Street extension is theoretically a great idea to improve connections. Walnut Street currently is a dead end with very few ways out in Walnut East.
- Council would like to see full analysis of Walnut Street extension, including the various alternatives of how this could be accomplished and range of benefits/impacts/costs.
- Need to understand complete picture, including environmental impacts, particularly to Boulder Creek and the riparian corridor. For example at-grade vs. elevated, and understanding the costs and benefits.

Transportation Comments

- Council generally supported next steps of transportation analysis and coordination with the regional SH7 corridor study.
- Transportation analysis needs to make sure to look at safety and operations concerns at both 48th St. and E. Arapahoe Ave., and for access to commercial/restaurants near 55th St (Conestoga St.). These are the access points to Boulder Community Health and to the Ozo coffee shopping area. These intersections have become very congested, which can lead to conflicts and safety concerns for users of all travel modes.
- As planning progresses, plan for trees along the corridor. They can really soften the landscape and act as traffic mitigation as well.
- More attention is needed to improve crosswalks.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 17, 2015

AGENDA TITLE: Consideration of a motion to accept the summary of the January 27, 2015 study session on Boulder's Energy Future.

PRESENTER/S
Jane S. Brautigam, City Manager
Tom Carr, City Attorney
David Gehr, Deputy City Attorney
Debra Kalish, Senior Assistant City Attorney
Kathy Haddock, Senior Assistant City Attorney
Bob Eichem, Chief Financial Officer
Heather Bailey, Executive Director of Energy Strategy and Electric Utility Development
David Driskell, Executive Director of Community Planning and Sustainability
Maureen Rait, Executive Director of Public Works
Don Ingle, Information Technology Director
Jonathan Koehn, Regional Sustainability Coordinator
Kelly Crandall, Energy Strategy Coordinator
Yael Gichon, Energy Sustainability Coordinator
Sarah Huntley, Media Relations/Communications Manager
Lisa Smith, Communication Specialist

EXECUTIVE SUMMARY
This agenda item provides a summary of the January 27, 2015 City Council study session on Boulder's Energy Future. The purpose of the study session was to provide City Council and the community with:

- An update on the changing energy utility landscape;
- A staff-level evaluation of the recent Xcel-Minneapolis franchise and Memorandum of Understanding (MOU) and its relevance to Boulder; and,
- An update on the city's plan for Broadband - expanded choices and local control.

Attachment A is a summary of council's discussion of the issues and the questions presented at the study session.

STAFF RECOMMENDATION

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

Motion to accept the summary of the January 27, 2015, study session on Boulder's Energy Future.

NEXT STEPS

Boulder Energy Future, the Changing Energy Utility Landscape
Staff will:

1. Continue to evaluate all options that have the potential of moving Boulder closer to its energy goals.
2. Continue to investigate new developments and determine whether they represent a better path than municipalization, including any potential proposal from Xcel Energy.
3. Schedule a second community visioning session.
4. Report back to council with the Energy Services Working Group recommendations.
5. Evaluate innovative grant opportunities and partnerships to develop pilots, such as microgrids and "behind-the-meter" strategies.
6. Complete Solar Capacity Analysis (2015).
7. Provide ongoing support to existing pilots and programs.
8. At the direction of council, support any legislative and regulatory measures that will facilitate increased customer choice and flexibility with respect to power supply and services.
9. Provide council with a list of the top 10 regulatory or legislative changes that would support the city's energy goals as well as examples of services that we are precluded from offering in the face of these limitations.

Broadband and Local Control

1. Form Community Broadband Working Group to help guide the initial vision for Boulder's "smart city" broadband future, assist with public participation and community strategies, and help define next steps.
2. Conduct feasibility study, including:
    a. Fiber engineering analysis
    b. Current and future applications; Energy Future needs
    c. Analysis of alternative business models, risks and costs
    d. Advisory role for Broadband Working Group
3. Civic Center Public Wi-Fi project
    a. Immediately leverages our legislative exemption
    b. Benefits to Civic Area project
    c. Case study for benefits of mobility and expanded digital access

ATTACHMENTS

Attachment A: January 27, 2015, Study Session Summary

ATTACHMENT A

January 27, 2015
City Council Study Session Summary
Boulder's Energy Future

PRESENT:

City Council: Council Members Appelbaum, Cowles, Jones, Karakehian, Morzel, Plass, Shoemaker, Weaver, Young

Staff Members: Jane S. Brautigam, City Manager; Tom Carr, City Attorney; David Gehr, Deputy City Attorney; Debra Kalish, Senior Assistant City Attorney; Kathy Haddock, Senior Assistant City Attorney; Bob Eichem, Chief Financial Officer; Heather Bailey, Executive Director of Energy Strategy and Electric Utility Development; David Driskell, Executive Director of Community Planning and Sustainability; Maureen Rait, Executive Director of Public Works; Don Ingle, Information Technology Director; Jonathan Koehn, Regional Sustainability Coordinator; Kelly Crandall, Energy Strategy Coordinator; Yael Gichon, Energy Sustainability Coordinator; Sarah Huntley, Media Relations/Communications Manager; Lisa Smith, Communication Specialist

PURPOSE:

The purpose of the study session was to discuss and seek council feedback on activities related to Boulder's Energy Future, including:

- The changing energy utility landscape;
- The recent Xcel-Minneapolis franchise and Memorandum of Understanding (MOU) and its relevance to Boulder; and,
- The city's plan for Broadband - expanded choices and local control.

OVERVIEW OF PRESENTATIONS:

The Changing Energy Utility Landscape

H. Bailey discussed what the city is currently doing and what we could do beyond municipalization to support an eventual clean energy carbon-free future. The city's biggest risk today is missing opportunities in terms of what new technologies and a new energy future marketplace can provide to Boulder. The purpose of tonight's discussion is to present the changing electric utility landscape and seek council feedback on:

- What's happening in terms of progressive energy policies and programs across the country;
- Case studies of a number of progressive communities;
- Assessment of the Xcel-Minneapolis franchise agreement and memorandum of understanding (MOU);
- The future of broadband in Boulder; and
- How the private sector can help leverage distributed generation and new energy technologies and services.

Why We Are Here
J. Koehn discussed the importance of Boulder's climate commitment and the clear nexus between climate and energy. This nexus provides an opportunity to create a roadmap that has economic, social and local environmental benefits, long term cost savings, significantly greater choices, local resilience and greater shared economic benefits. While municipalization remains the best option for achieving our goals today, the city is committed to looking at all options that meet the goals of decentralizing, democratizing, and decarbonizing Boulder's energy supply.

J. Koehn presented some of the driving forces behind the dramatic shift that is underway in the energy utility industry and the pressures on the existing utility business model, including new environmental regulations, declining or flat load growth projections, shifting fuel economics, dramatically falling costs of renewable resources, aging distribution resources, an antiquated revenue model, and increasing customer expectations.

What We Are Doing Today
J. Koehn presented several innovative city projects and efforts currently underway including the Boulder Community Power Partnership, Boulder Energy Challenge, solar capacity analysis with NREL, energy services and resource acquisition working groups, community visioning, and USDN grants for microgrids, district heating and visioning.

Case Studies
J. Koehn presented a number of case studies where states, utilities and communities are developing progressive strategies. Not all strategies will work in Boulder, or in Colorado, due to regulatory or legislative limitations. He highlighted New York's State Energy Plan and Reforming the Energy Vision Proceeding document, Fort Collins' Energy Engage Mobile application, and Chattanooga's plan to optimize their fiber optic network as a test bed for electric vehicles.

Xcel-Minneapolis Franchise and Memorandum of Understanding (MOU)
D. Kalish presented Minneapolis's vision for its utility future and clean energy goals. She discussed Minneapolis law that requires municipalities to pay electric utilities the value of the assets, plus ten years of lost profits. In Minneapolis, this proved to be cost prohibitive, and consequently the municipalization pathway was ruled out for now. Because of time involved in seeking a change in state law, community choice aggregation was not recommended as a short term path forward. However, each of these pathways was recognized by consultants to result in greater local control. As a result, last August Minneapolis entered into an enhanced energy franchise agreement with Xcel Energy and a MOU with Xcel Energy and Center Point Energy.

D. Kalish reviewed several enhancements that were included in the franchise agreement. The biggest advantage in the Minneapolis franchise agreement is in its term, a 10-year term with the option for two five-year extensions. In the city of Boulder's franchise negotiations with Xcel Energy several years ago, the company refused to a term to any shorter than 20 years.

D. Kalish said the MOU between Minneapolis, Xcel Energy and Center Point Energy specifies the creation of a board that will study, plan, prioritize, and coordinate tasks necessary to meet the city's energy goals. The board will determine the deliverables and create an annual report and must meet at least quarterly. Future action may be subject to the approval of the Minnesota Public Utilities Commission. The MOU terminates automatically if the franchise agreement

terminates and may also be terminated by any party on 60-days' written notice. If the cost of programs and incentives adopted by the board are beyond the scope of the programs offered to all Xcel Energy customers in its Minnesota service territory, Minneapolis will be responsible for those costs.

D. Kalish explained that over two years ago, Boulder city staff prepared a white paper, which included various ways to move forward to meet the city's energy goals. Five months later, the City of Boulder/Xcel Partnership Task Force was formed to try to find ways for the city and Xcel Energy to work together to meet our goals, but unfortunately no agreement was reached. Minneapolis is in a different bargaining position than Boulder. Minneapolis is the largest city in Minnesota and has the highest percentage of electricity use within Xcel Energy's Minnesota service territory. Also, Xcel Energy's headquarters are located in Minneapolis. Consequently, Xcel Energy has a stronger financial incentive to work with Minneapolis and the city may have the ability to reach agreements with Xcel Energy.

What These Examples Mean for Boulder and What We Can Do
J. Koehn said there are limitations to what we can do, but we also know we can do more. Attachment B of the staff memorandum provides an analysis on Colorado in context. The analysis shows that Colorado is generally in the top 10 percent in areas such as energy efficiency and renewable generation. As new technologies are developed and pressures are placed on the existing utility model, it is time to look forward and determine if Colorado is positioned to support progressive strategies and long-term efforts on policy reform at the state level.

J. Koehn said the city can focus on projects that create immediate short-term benefits and learning opportunities. Colorado can also look at scaling up pilots and projects and emerging technologies that eliminate any power or backflow onto the grid, such as batteries, curtailment, and other behind the meter strategies. He presented exciting opportunities to explore microgrids in Boulder for facilities such as the Betasso Water Treatment Plant, as well as other critical needs customers in Boulder such as hospitals, dialysis centers, and emergency operations centers. Lastly, he discussed ways the city can provide and incentivize more solar in our community, and focus on utilizing solar in different ways such as shifting the orientation of panels to reduce peak demand.

Broadband and Local Control
D. Ingle said Boulder is one of the very few municipalities in Colorado that has exempted itself from state laws limiting the use of the public's own telecommunications infrastructure. Broadband access is not just about providing expanded consumer and business internet services, it's about creating an infrastructure to empower and democratize the city's approach to clean energy and sustainability environmental factors, economic vitality, educational opportunities and information and digital service access.

<u>The 3 C's</u>
D. Ingle presented the drivers of digital choice and local control: competition, connectivity and capacity:

1. Competition
    - Problem of only a few incumbents providing broadband services, and these providers are using waning technologies

- Fiber conduit and infrastructure is in place and city's cost of capital is reduced
- Ability to apply multiple business models to provide cost competitive, scalable technologies

2. Connectivity and the importance of:
   - Fiber as the transmission media
   - Fiber to the Premise (FTTP) into homes, businesses in the future
   - Mobility (public Wi-Fi, etc.), as it relies on backfill infrastructure that makes access points possible
   - Growing prevalence of "The Internet of Things," including home appliance technologies, control systems, security monitoring systems, Fitbit, etc.
   - Digital awareness and system control and monitoring in terms of the connectivity equation
   - The community as a virtual and physical network
   - Increased reliability and redundancy

3. Capacity
   - Converged content (data, voice, video) is increasing, and as a result there is increased digital PSI
   - Emergence of big data – the ability to store vast amounts of data, which underscores how data will fuel intelligent systems
   - Must be synchronous
   - Necessity of fiber infrastructure

Capacity and Broadband Technologies

D. Ingle presented an illustration of capacity and broadband technologies and highlighted the promise and abilities of the FTTP.

Digital Divide

D. Ingle discussed opportunities to bridge the broader digital divide for the entire community in the following key areas: economic vitality, education, healthcare/ telemedicine industries, and government needs. Important to bridging the broader digital divide is the concept of how broadband can help facilitate environmental sustainability and clean energy. The Bennett Foundation studied high speed connectivity to homes and businesses and specifically, what the GHG emissions might look like if there was a national strategy. The Foundation believes that GHG emissions could be reduced by 1 billion tons over the next 10 years. The practices of progressive energy entities such as spinning reserves and load shifting will also be empowered by broadband in the future.

Next Steps

D. Ingle presented immediate next steps including, forming a community broadband working group, conducting a feasibility study, and developing a civic center public Wi-Fi project.

J. Koehn presented next steps for Boulder's energy future, including: scheduling a second community visioning session, bringing forth the Energy Services Working Group recommendations, evaluating innovative grant opportunities and partnerships to develop micro-grids and behind the meter strategies, completing the solar capacity analysis, and continuing to

support existing pilots and programs, exploring legislative options (with Boulder County) and looking at policy reform at the state level (in conjunction with the Colorado Climate Network).

COUNCIL DISCUSSION:

T. Plass said there are exciting things that can be pursued at the local level. He asked staff for an update on the timing of the broadband work plan.

Don Ingle said the plan is to issue an RFP for the feasibility assessment by the end of first quarter and present results to council by the fourth quarter. The discussion of the business model and whether it will focus on a public/private partnership will be an important aspect of this project. The engineering analysis is also a critical component. Depending on the outcome of the council decision on the public investment side, the project could start next year.

T. Plass asked about opportunities and obstacles.

D. Ingle said a key business modeling question is whether to do a phased approach with anchor tenants or do the entire network into residential areas. Another engineering issue is based on applications, future proofing and how many fiber strands will be constructed into homes and businesses. The level at which the city will provide dense throughput to dense developed areas will determine how the network is built and funded.

S. Jones asked for the percentage of infrastructure that is already in place.

D. Ingle said there is roughly 100 miles of fiber built in segments. Whether more fiber will need to be added to create a back hall capability, needs to be determined. The engineering analysis will give the raw data for what needs to be built versus what needs to be leveraged.

S. Weaver discussed the possibilities of connecting our grid to the university and how that could allow for more research opportunities. Connecting our communications system to our distribution grid could enable utility of the future business models to look at energy, aggregated and electric vehicle management and new energy services. If we decide to allow energy generators to sell to other energy users in the community, we will need to balance the grid to manage the transactional sales.

S. Weaver asked if there were other regulatory barriers for Minnesota.

D. Kalish said the one important difference was the 10 years in lost profits; she was not sure if there are other regulatory impediments to Minnesota.

S. Weaver asked for clarification on whether Minnesota had an opt-out in five years.

D. Kalish said the franchise agreement stipulates that there is a 10 year start, with two five year extensions.

S. Weaver said the work Boulder has done has had positive impacts and has helped pave the way for other communities to have conversations about their energy.

M. Cowles thanked the Public Works department for having the foresight of building in extra capacity and planning for the future.

M. Cowles presented examples of what cities are doing with big data. Moscow is using real property data to locate and redirect the use of under-utilized physical facilities to other parts of the community that are in need of these under-utilized assets. Barcelona is using cell phone data to look at real time information and fashion transportation solutions. He said it is important for the city to attend the important conferences and research the cities and countries that are cutting edge, when it comes to working with big data.

D. Ingle said he and David Driskell are part of a USDN subgroup that plans to bring in technologists to talk about big data.

M. Cowles supported offering money to businesses to come up with innovative solutions, similar to Boulder's Energy Challenge. New York recently issued a challenge to the private sector to find a new use for old pay phones. This resulted in a plan for New York City to provide free Wi-Fi by transforming old pay phones into hotspots. It would be interesting to see a list of what types of big data is available to help Boulder meet some of the challenges it faces in delivering great services to our community.

D. Ingle said the city has an open data initiative to publish data that is not in need of redaction and is not subject to what may be considered to be open records, such as development review data. The city is also interested in looking at structure data around transportation. The city currently works with data that can be represented geographically.

M. Cowles encouraged Xcel to make data available to entrepreneurs and others who are interested in providing new services. Data around usage is very valuable as we look at municipalization, and Xcel is protecting this data like a trade secret.

M. Appelbaum said it is important to keep up on what others are doing and look at what's innovative, what's been successful, and what we cannot do because of regulatory issues or other limitations. It is also important to do some analysis to see what ideas are on point and would make a difference.

H. Bailey said there are legislative limitations when it comes to particular ideas and initiatives, such as microgrids. One example is the inability of transmitting power between two customers. The city is also considering the legal limitations as it goes through process of looking at pilots.

M. Appelbaum suggested forming a coalition that could affect some of these changes.

S. Jones would like to see a top ten list of useful changes that could be made in state law that would support Boulder's goals.

L. Morzel was excited to see how far the city has come in the evolution of ideas and concepts. Building on a solid framework is a good place to start.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 17, 2015

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

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

EXECUTIVE SUMMARY
On Jan. 20, 2015, City Council considered on first reading an ordinance that would limit height modifications in the city to specific areas. The proposed ordinance is intended to address the community concern that a height modification may be considered on any property in the city through Site Review. It would reinforce the community's vision of an urban form that only allows higher intensity and taller buildings in select, transit-rich areas, which have been vetted and approved through a planning process such as an area plan or other public process. The proposed ordinance also includes specific circumstances in which height modifications could still be considered to avoid potential unintended consequences. Importantly, inclusion of a specific area or circumstance in the proposed exemptions list does not infer that a building height of 55 feet is appropriate or desired in the area overall or on any specific property (55 feet being the maximum potential height on any property subject to zoning control, as established by voters in the City Charter). It does, however, acknowledge that a height greater than 35 feet (or 38 feet downtown) may be appropriately considered in these areas and circumstances, and that policies and other guidance are in place to inform that consideration. Approval of any such modification would still require public review and input, and action by the planning board subject to council call-up. New development and Site Review applications could still be considered

in all areas, and Site Review would still be required for many projects per the code; however, height modifications outside of the identified areas and circumstances could not be considered.

On Feb. 19, 2015, Planning Board considered the proposed ordinance and recommended approval of the ordinance on a vote of 4 to 2 (Putnam absent), but did not recommend approval of allowing height modification requests in the identified areas. Rather, only the following exemptions were recommended:

1) A Site Review application that has been submitted by January 21, 2015

2) A Site Review application that is for an upgrade of emergency operations antennae.

3) A Concept Plan and Site Review application for Frasier Meadows

A complete summary of the Planning Board action is included in the new 'Board and Commission Feedback' section below.

On Feb. 26, 2014, City Council Considered second reading of the proposed ordinance, based on the version approved on first reading rather than the Planning Board recommendation, and passed the ordinance by a vote of 8-1 (Morzel opposed) with the following map amendments:

1) Add the portions of the Reve property at 2170 30th and 2120 32nd Streets that are located outside out of the Transit Village Area Plan boundary.
2) Remove the Downtown 4 & 5 zone districts
3) Remove all proposed properties in the North Boulder subarea except that portion of the Armory parcel located at 4750 Broadway.
4) Include the area from 28th to 30th Arapahoe to Walnut (29th Street Mall).
5) Add the Frasier Meadows Manor properties located at 4950 Thunderbird and 350 Ponca Pl.
6) Add the publicly zoned portions of the Arapahoe Ave. campus of the Boulder Community Hospital located at 4747 Arapahoe

The remainder of the Transit Village (Boulder Junction), University Hill and Gunbarrel areas as well as all areas of the city impacted by topography would continue to be included as originally proposed at first reading ordinance.

Provisions were also made to allow for increased height in Industrial zones if it is necessary for a manufacturing, testing or other industrial process or equipment. Provisions were also made for emergency operation antennae as well as projects in all zoning districts if at least forty percent of the floor area of the building is used for units that meet the requirements for permanently affordable units.

The proposed ordinance, including the map as modified at second reading, is found in **Attachment A** and would limit to specific areas and situations, the eligibility to consider

the approval of buildings that could exceed the by-right height limits through the Site Review process.

STAFF RECOMMENDATION

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

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

ATTACHMENTS

A: Ordinance No. 8028

ORDINANCE NO. 8028

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

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

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

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

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

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

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

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

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

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

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

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

9-2-14 Site Review.

. . .

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

(1) 9-7-1, "Schedule of Form and Bulk Standards" and standards referred to in that section except that the standards referred to as "FAR Requirements" may not be modified under this paragraph and are subject to Section 9-8-2, B.R.C. 1981 and the maximum height or conditional height for principal buildings or uses, except as permitted in paragraph (c)(2) below.

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

(A) For building or uses designated in Appendix J "Areas Where Height Modifications May Be Considered."
(B) Industrial General, Industrial Service, and Industrial Manufacturing districts if the building has two or fewer stories or if the height is necessary for a manufacturing, testing or other industrial process or equipment.
(C) In all zoning districts, if the height modification is to allow the greater of two stories or the maximum number of stories permitted in Section 9-7-1 in a building and the height modification is necessary because of the topography of the site.
(D) In all zoning districts if at least forty percent of the floor area of the building is used for units that meet the requirements for permanently affordable units in Chapter 9-13, "Inclusionary Housing," B.R.C. 1981.[1]
(E) For emergency operations antenna.

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

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

Section 5. This ordinance shall apply to all building permits or land use approvals for which an application is made on January 21, 2015 or thereafter, unless specifically exempted. Building permit applications for a development that received a site review approval for height

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

that exceeds the permitted height on or prior to January 21, 2015 may apply for and receive building permits that are necessary to construct the approved development.

Section 6. Complete site review applications that have been submitted to the city prior to January 21, 2015 that request additional height in areas that would not permit such height under this ordinance will be permitted to continue through the process under the height regulations in place at the time such application is made**.** Complete site review applications that have been submitted to the city after January 21, 2015 and before February 20, 2015 that request additional height in areas that would not permit such height under this ordinance will be permitted to continue through the process under the height regulations in place at the time such application was made, including the standards and requirements for the version this Ordinance No 8028 introduced and read on first reading at the January 20, 2015 city council meeting. Such applicants shall be required to pursue such development approvals and meet all requirements deadlines set by the city manager and the Boulder Revised Code. Pending developments may apply for and receive building permits that are necessary to construct the approved development.

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

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

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

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

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

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this __ day of _____, 2015.

_____
Mayor

Attest:

_____
City Clerk

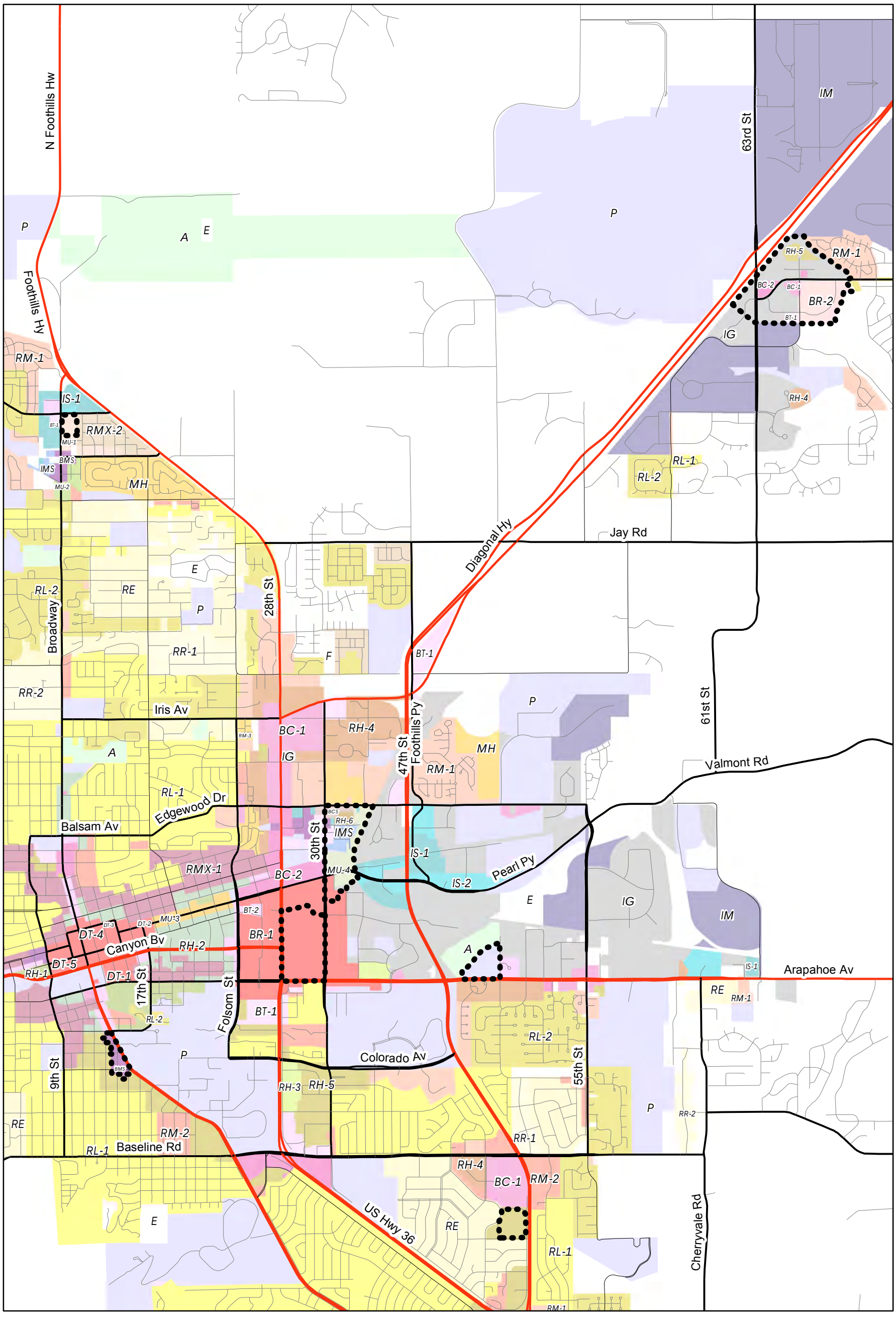
READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this __ day of _____, 2015.

_____
Mayor

Attest:

_____
City Clerk

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



Areas Where Height Modifications May be Considered

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 17, 2015

AGENDA TITLE: Second Reading and consideration of a motion to adopt Emergency Ordinance No. 8035 amending Section 4-20-68, "Flood Related Fee Waiver," B.R.C. 1981, to extend temporary authority to waive certain fees to facilitate recovery and repair work resulting from flood impacts and amending Section 9-10-2 "Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures, and Lots," B.R.C., 1981, to extend the time to resume uses and restore buildings affected by the September 2013 flood.

PRESENTER/S
Jane S. Brautigam, City Manager
Maureen Rait, Executive Director of Public Works, Flood Recovery Manager
Susan Richstone, Deputy Director, Community Planning and Sustainability (CP&S)
Hella Pannewig, Assistant City Attorney
Dave Thacker, Building Services Manager/Chief Building Official
Chris Meschuk, Flood Recovery Coordinator for Community Services

EXECUTIVE SUMMARY

On Oct. 15, 2013, City Council adopted Emergency Ordinance No. 7946 authorizing the city manager to waive certain permit and application fees for permits applied for and applications made before Dec. 31, 2013. On Feb 18, 2014 this ordinance was extended by Ordinance No. 7961 through March 1, 2015. These emergency ordinances were adopted to facilitate recovery and repair work resulting from flood impacts.

This item requests that City Council temporarily extend this authority to waive fees and add a time extension to restore and replace nonstandard and nonconforming buildings and uses to facilitate flood recovery through March 1, 2016.

The ordinance was approved on first reading on March 3, 2015, and there were no questions.

STAFF RECOMMENDATION

Suggested Motion Language:
Staff requests council consideration of this matter and action in the form of the following motion:
Motion to adopt by emergency Ordinance No. 8035 amending Section 4-20-68, "Flood Related Fee Waiver," B.R.C. 1981, to extend the authority to waive certain fees to facilitate recovery and repair work resulting from flood impacts and amending Section 9-10-2 "Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures, and Lots," B.R.C., 1981, to extend the time to resume uses and restore buildings affected by the September 2013 flood.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

Economic: These changes will continue to support the flood recovery process and minimally impact city revenues during the next year. This ordinance reduces the economic burden on those seeking to obtain permits to restore the damage caused by the flood event.
Environmental: Waiving permit and application fees is meant to encourage compliance with applicable building codes and regulations as part of the recovery process. Structures that are repaired or built in compliance with city building codes are more environmentally sound than buildings not build up to code.
Social: Rebuilding and repairing homes and businesses and restoring neighborhoods positively contributes to the social fabric of the Boulder community.

OTHER IMPACTS

- Fiscal – See section on economic impacts above.
- Staff time – All work can be accommodated within the existing flood recovery work plan.

ANALYSIS

The fee waiver provides financial relief to affected parties and encourages residents and businesses to obtain building permits and inspection services. From September 2013 to date, 760 flood permits have been issued and fees waived total approximately $250,000.

In 2015, applications for flood recovery and repair related permits continue to be filed, but at a much slower pace. Currently, 82 Boulder households have applied for CDBG-DR housing rehabilitation financial assistance, and 19 open City of Boulder cases with the Long Term Flood Recovery Group of Boulder County still need construction assistance. Based on this data, we anticipate less than 100 additional flood recovery permits will be processed under the time extension proposed in the attached ordinance.

Many of these households, residents and businesses still seeking repairs have been negotiating insurance settlements or have not had the financial means to rebuild to date. Much of the federal CDBG-DR housing rehabilitation grant funding is assisting these people, who are now obtaining permits to repair and rebuild. Because of this time delay, some properties have issues regarding non-standard or non-conforming buildings or uses being repaired based on the limitations in the code. This ordinance also provides a time extension to restore and replace nonstandard and nonconforming buildings to help people and businesses recover.

Additionally, providing time to obtain fee-waived flood restoration permits will continue to encourage property owners to utilize city permitting and inspections services.

This ordinance is consistent with the council adopted objectives for flood recovery *#1: Help People Get Assistance*, and *#3: Assist Business Recovery.*

ATTACHMENTS

Attachment A: Ordinance No. 8035

EMERGENCY ORDINANCE NO. 8035

AN EMERGENCY ORDINANCE AMENDING SECTION 4-20-68, "FLOOD RELATED FEE WAIVER," B.R.C. 1981, EXTENDING THE TIME DURING WHICH THE CITY MANAGER IS AUTHORIZED TO WAIVE CERTAIN FEES TO FACILITATE RECOVERY AND REPAIR RESULTING FROM FLOODING, AND AMENDING SECTION 9-10-2, "CONTINUATION OR RESTORATION OF NONCONFORMING USES AND NONSTANDARD BUILDINGS, STRUCTURES, AND LOTS," B.R.C. 1981, EXTENDING THE TIME TO RESUME NONCONFORMING USES AND RESTORE NONCONFORMING BUILDINGS AFFECTED BY THE SEPTEMBER 2013 FLOOD AND SETTING FORTH RELATED DETAILS.

WHEREAS the City Council finds that

A. Between Monday, September 9, 2013, and Tuesday, September 19, 2013, the City of Boulder received an estimated 17.2 inches of rainfall;

B. The city set daily precipitation records on September 10, 11, 12, 13, and 15. The 9.08 inches received on September 12th was the most rainfall ever received on a single day in Boulder's recorded history. The rain also set records for the month of September and for annual precipitation;

C. The storm has been characterized as both a 100-year flood and a 1000-year event;

D. The storm inflicted severe damage on many homes, businesses, parks and on open space and public infrastructure;

E. On September 12, 2013, the city manager issued a Declaration of Disaster Emergency pursuant to the authority granted in Section 2-2.5-3, B.R.C. 1981, and Colo. Rev. Stat. § 24-33.5-709;

F. On September 17, 2013, the City Council approved the Declaration of Disaster Emergency and extended it until October 15, 2013;

G. On October 15, 2013, the city council adopted Emergency Ordinance No. 7946 to facilitate disaster response in the city beyond October 16, 2013, the date when the powers of the city manager pursuant to Section 2-2.5-9, B.R.C. 1981 terminated.

H. Ordinance No. 7946 included city manager authority to waive certain fees for permits applied for and applications made before December 31, 2013, as set forth in Section 4-20-68, "Flood Related Fee Waiver," B.R.C. 1981.[1]

I. Emergency Ordinance No. 7961 extended the city manager's authority to waive certain fees for permits applied for and applications made before March 1, 2015, as set forth in Section 4-20-68, "Flood Related Fee Waiver," B.R.C. 1981.

J. Flood recover and repair work continue in the city; therefore, the City Council deems it necessary to extend the authority to waive certain fees to continue to facilitate recovery and repair work resulting from flooding and to extent the time within which to resume nonconforming uses discontinued as a result from flooding and restore nonconforming structures and buildings damaged by flooding.

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

Section 1. Section 4-20-68, B.R.C. 1981, is amended to read:

4-20-68. Flood Related Fee Waiver.

For permits applied for or applications made before March 1, 201~~5~~6, the city manager may waive any fee required under any of the following sections to facilitate recovery and repair resulting from flooding:

(1) Building Permit fees as required by Subsection 4-20-4(c) and Paragraph 4-20-4(f)(7), Subsection 4-20-8(a), Subsections 4-20-13(c) and (d), and Subsection 4-20-15(b), B.R.C. 1981.

(2) Right of Way Permit fees as required by Subsection 4-20-6(b), B.R.C. 1981.

(3) Water Permit fees as required by Paragraphs 4-20-23(a)(3), (b)(1) and (b)(2), B.R.C. 1981.

(4) Water Service fees as required by Subsection 4-20-24(g), B.R.C. 1981.

(5) Wastewater Permit fees as required by Paragraphs 4-20-27(a)(1)—(3), (b)(1) and (b)(2), B.R.C. 1981.

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[1] Ordinance No. 7946 provided for such fee waivers to be located in Section 4-20-67, "Flood Related Fee Waiver," B.R.C. 1981. Following adoption of Ordinance No. 7946, the Flood Related Fee Waiver section was included in the Boulder Revised Code in Section 4-20-68, "Flood Related Fee Waiver," B.R.C. 1981, as section 4-20-67 had also been approved by City Council for Section 4-20-67, "Recreational Marijuana Businesses," B.R.C. 1981.

(6) Floodplain Development Permit fees as required by Paragraphs 4-20-44 (a)(2), (a)(4) and (b)(1), B.R.C. 1981.

Section 2. Section 9-10-2, B.R.C. 1981, is amended to read:

9-10-2. Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures, and Lots.

Nonconforming uses and nonstandard buildings and lots in existence on the effective date of the ordinance which first made them nonconforming may continue to exist subject to the following:

(a) One-Year Expiration for Nonconforming Uses: A nonconforming use, except for a use that is nonconforming only because it fails to meet the required off street parking standards in Sections 9-9-6, "Parking Standards," and 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, that has been discontinued for at least one year shall not be resumed or replaced by another nonconforming use as allowed under Subsection 9-2-15(f), B.R.C. 1981, unless an extension of time is requested in writing prior to the expiration of the one-year period. The approving authority will grant such a request for an extension upon finding that an undue hardship would result if such extension were not granted.

(b) Damage by Fire, Flood, Wind, or Other Calamity or Act of God and Unsafe Buildings: A nonstandard building or structure, a building or structure that contains a nonconforming use, or a building or structure on a nonstandard lot, that has been damaged by fire, flood, wind, or other calamity or act of God may be restored to its original condition, or any building declared unsafe under the building code or any other applicable safety or health code may be restored to a safe condition, provided that such work is consistent with the requirements of Section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981, started within twelve months of such event, and completed within twenty-four months of the date on which the restoration commenced.

. . .

(e) Discontinuance of Use and Damage to Buildings or Structures related to the September 2013 Flood Event: The city manager may grant extensions of time to resume or replace a nonconforming use under subsection (a) if such extension would facilitate recovery and repair resulting from flooding and provided that the applicant requests the extension in writing on or before June 1, 2015 and shows that undue hardship would result if the extension was not granted. The city manager may extend time to start work under subsection (b) to restore a structure or building that has been damaged by flooding if such work is started no later than March 1, 2016 and is completed within twenty-four months of the date on which the restoration is commenced. The city manager may grant one additional six-month extension to start work under subsection (b) to restore a structure or building if a request is made in writing prior to March 1, 2016 and the applicant shows that it exercised reasonable diligence towards completing the project and will be able to

complete the work within twenty-four months of the date on which the restoration is commenced.

Section 3. For the limited purposes of this ordinance, the city council suspends the provisions of Subsection 9-1-5(a), "Amendments and Effect of Pending Amendments," B.R.C. 1981, for the limited purpose of adopting this ordinance.

Section 4. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

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

Section 6. The City Council finds that public health, peace and safety justify the adoption of this ordinance as an emergency measure.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of March 2015.

.

Mayor

Attest:

City Clerk

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READ ON SECOND READING, PASSED, AND ADOPTED AS AN EMERGENCY MEASURE BY TWO-THIRDS OF COUNCIL MEMBERS PRESENT, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of March, 2015.

_____
Mayor

Attest:

_____
City Clerk

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CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 17, 2015

AGENDA TITLE
Consideration of the following items related to the annexation of the Old Tale Road neighborhood and right-of-way:

1. Resolution No. 1157 finding the annexation petition in compliance with state statutes and establishing Apr. 21, 2015, as the date for a public hearing;

2. Introduction, first reading and consideration of a motion to order published by title only, Ordinance No. 8039 related to the annexation and initial zoning of 20 properties and right-of-way totaling 22.40 acres in the Old Tale Road neighborhood with an initial zoning designation of Residential-Rural 2 (RR-2).

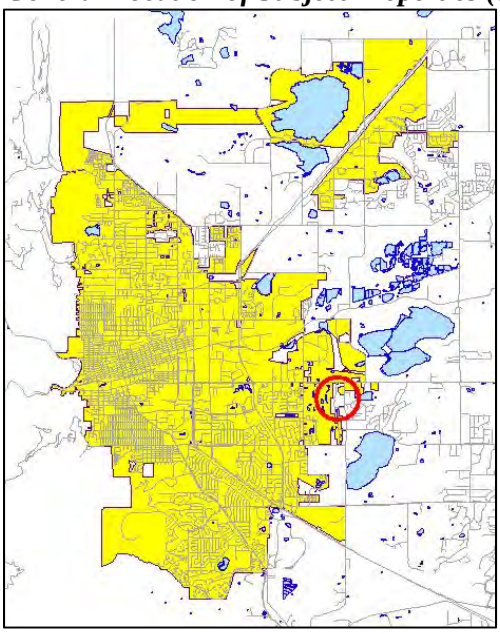
Applicants/Owners:
1165 Old Tale Rd., Macinko Exempt Trust
1193 Old Tale Rd., Cynthia and Charles Anderson
1228 Old Tale Rd., Steven Erickson
1245 Old Tale Rd., Harold and Sherlynne Bruff
1270 Old Tale Rd., Jeffrey and Wendy Mortner
1275 Old Tale Rd., Thomas and Barbara Corson
1305 Old Tale Rd., Monty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

PRESENTER/S
Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning & Sustainability
Susan Richstone, Deputy Director of Community Planning & Sustainability
Chris Meschuk, Flood Recovery Coordinator – Community Services
Bev Johnson, Annexation Project Manager

EXECUTIVE SUMMARY

The purpose of this item is for City Council to consider the first reading of an ordinance (**Attachment A**) relating to the annexation and intial zoning of 20 properties in the Old Tale Road neighborhood (LUR2015-00004). (See vicinity map in **Figure 1** below.) The proposed initial zoning of Residential Rural – 2 (RR-2), is consistent with the Boulder Valley Comprehensive Plan (BVCP) land use designation of Very Low Residential for the properties. Old Tale Road and a portion of McSorley Lane are also included in the proposed annexation.

Figure 1: General Location of Subject Properties (circled in red)



Per the state's annexation statutes, City Council is also asked to consider the attached annexation resolution as provided in **Attachment B.** The proposed annexation resolution initiates the annexation proceedings, finds substantial compliance of each annexation petition with Section 31-12-107(1), C.R.S. and sets a hearing date not less than 30 days or more than 60 days after the date of the resolution. The purpose of the subsequent hearing is to determine whether the proposed annexation complies with state law and other annexation requirements.

The purpose of the annexation is to allow the construction of city water mains in the street and connection of the properties to city water services. After the September 2013 floods, several landowners in Area II who had been impacted by the flood contacted the city about connecting to city water and sewer. In response, the city developed an annexation package with special

financial incentives. Staff raised this issue with City Council on Dec. 3, 2013 seeking direction on developing a special flood related annexation package. Council expressed interest in supporting a special package to facilitate annexation, and in March 2014 council supported the following staff proposal:

1. Waive the application fees
2. Waive all Development Excise Taxes and any Housing Excise Taxes
3. Offer 10 year financing through the city for all costs
4. Require a 60-foot easement along either side of the creek for flood control and conveyance
5. Pay all applicable permit fees, tap fees, inspection fees, and PIF's.

In April, staff notified approximately 160 landowners in Area II of the flood related annexation initiative. Seven individual properties have been annexed (two in August 2014 and five in January 2015) based on this package.

In August 2014, the city received $1,000,000 in state grant funds for the installation of utility infrastructure in Area II flood-impacted neighborhoods. Landowners along Old Tale Road expressed the most interest in annexing, so the city is working with that neighborhood on annexation and the construction of water main infrastructure. The grant reduces the cost of annexation for each property by approximately $30,000, covering the water main design and construction, street reconstruction, bridge repairs, water taps and water meters and pits, as well as the inclusion costs to the Northern Colorado Water Conservancy District (NCWCD). All the properties along Old Tale Road are currently on individual wells. Eighteen of the annexing properties are on city wastewater services (a sewer main exists in along Old Tale Road). Two of the properties are on on-site wastewater systems (septic), one of which will connect to city sewer after annexation.

The total annexation area is 22.40 acres (see Annexation Map in **Attachment C**). The subject properties range from approximately 0.66 to 1.20 acres in size and are each developed with a single family detached home. The list of properties, landowners and property sizes is in **Attachment F** and the annexation agreements are in **Attachment D**. Upon annexation, none of the properties within the neighborhood will have subdivision potential based on the proposed zoning designation of RR-2.

On Feb. 19, 2015, Planning Board voted unanimously (5-0, J. Putnam absent, J. Gerstle recused) to recommend approval of the proposed Annexation and Initial Zoning. Planning Board also made recommendations on some concerns raised by Old Tale Road landowners at the meeting, including triggers for connection under Option C, clarification of the purpose of the flood easement to not include a trail, and clarifying what the grant is paying for. Following the Planning Board meeting, staff revised the agreements to address some of the recommendations. The staff memorandum to the board and the audio of the proceedings related to the board's review are available on the city website at the following link:
https://bouldercolorado.gov/boards-commissions/planning-board

Key Issue Identification

1. Are the staff recommended triggers for future connection to city water under Option C appropriate (see Analysis section)?

2. Is the proposal consistent with Colorado State Statutes on Annexation, as well as city Boulder Valley Comprehensive Plan (BVCP) policies and the North Boulder Subcommunity Plan (as applicable)?

3. Is the proposed zoning, pursuant to land use code subsection 9-5-2(c)(1)(A), B.R.C. 1981, appropriate as the initial zoning of the subject properties?

STAFF RECOMMENDATION

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

Suggested Motion Language:

1. *Motion to approve proposed Resolution No.1157 finding the annexation petitions in compliance with state statutes and establishing Apr. 21, 2015 as the date for a public hearing.*

2. *Motion to introduce on first reading and order published by title only Ordinance No. 8039 to annex Old Tale Road, a portion of McSorley Lane and the following properties:* 1165 Old Tale Rd., 1193 Old Tale Rd., 1228 Old Tale Rd., 1245 Old Tale Rd., 1270 Old Tale Rd., 1275 Old Tale Rd., 1305 Old Tale Rd., 1315 Old Tale Rd., 1325 Old Tale Rd., 1402 Old Tale Rd., 1409 Old Tale Rd., 1412 Old Tale Rd., 1435 Old Tale Rd., 1436 Old Tale Rd., 1457 Old Tale Rd., 1483 Old Tale Rd., 1507 Old Tale Rd., 1510 Old Tale Rd., 1533 Old Tale Rd., and 1566 Old Tale Rd.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: It is in the interest of the city to annex properties along the edge of the city to improve efficiency in city service provision.
- Environmental: There are environmental benefits of having properties connected to city water and sewer, specifically, the avoidance of the potential environmental and public health impacts of contaminated wells.
- Social: The provision of safe and reliable treated water is a benefit to every community member and the general public.

OTHER IMPACTS

- Fiscal: City sewer services are existing and available to properties along Old Tale Road. The annexation is enabling the city to construct water services in the road with grant money obtained from the State of Colorado. City property taxes will be paid once the properties are annexed. Landowners of 11 properties will finance payment of city utility connection fees

through a 10-year payment plan offered by the city.

- Staff time: The annexation application has been processed through a special offer to landowners where the administrative fees were waived ($69,080 in total). General fund revenues have been allocated to provide the staff time to process the applications.

BOARD AND COMMISSION FEEDBACK

Annexations are subject to a city Planning Board recommendation prior to City Council action. The Planning Board hearing was held on Feb. 19, 2015. Nine of the applicants and one former applicant spoke at the public hearing. The landowners expressed concerns primarily about the following issues:

1. The limited ability and time to negotiate the provisions of the annexation agreement;
2. The city's request for a 60 ft. flood maintenance easement and what it may be used for;
3. The requirement that landowners pay the Stormwater and Flood Plant Investment Fee (PIF),
4. The potential draw-down of the water table from the construction of a water main;
5. The triggers for future connection to city water under Option C; and
6. The lack of clarity in the annexation easement over what the grant is paying for.

A discussion of the issues raised at Planning Board can be found in the Analysis section of this memorandum. A key issue for City Council is whether the staff recommended triggers for connection to city water under Option C is appropriate.

On a motion by **A. Brockett**, seconded by **L. Payton**, the Planning Board voted 5-0 (**J. Putnam** absent, **J. Gerstle** recused) to recommend to City Council approval of the proposed annexation of 22 properties (*Note: two properties have dropped out of the annexation since the board hearing*) and right-of-way in the Old Tale Road neighborhood subject to the annexation conditions in the respective annexation agreements attached to the staff memorandum and approval of an initial zoning for the properties of RR-2 with the following additions:

- Change the trigger for connecting the city water if people take Option C, to not be triggered by sale or inheritance of the property,
- Change the trigger for wet plumbing fixtures to be equivalent to six or more residential fixture units per the plumbing fixture unit calculation worksheet that the city already uses.
- Modify the language to clarify what expenses are being paid by the grant and clarify exact expenses being paid by the homeowners, and
- Clarify that the flood easement does not allow a bike trail.

In addition, the Planning Board requested that staff share analysis of the water main engineering with the neighbors and provide materials about the recourse for any property damage to the flood control easement.

PUBLIC FEEDBACK

All notice requirements of section 9-4-3, "Public Notice Requirements," B.R.C. 1981 have been met. Compliance with these requirements included public notice in the form of written notification mailed to all property owners within 600 feet of the subject property, and a sign posted in the neighborhood for at least 10 days prior to the public hearing as required.

BACKGROUND

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

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

In August 2014, the city received a grant from the Colorado Department of Public Health and Environment (CDPHE) for $1,000,000 to construct water and sewer infrastructure in a residential neighborhood currently lacking complete utility infrastructure. The grant funds were authorized by the state legislature (House Bill 1002) to assist communities in recovering from the September 2013 flood. Under the conditions of the grant, the city must obligate this money by June 2015, and expend all funds by June 2016.

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

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

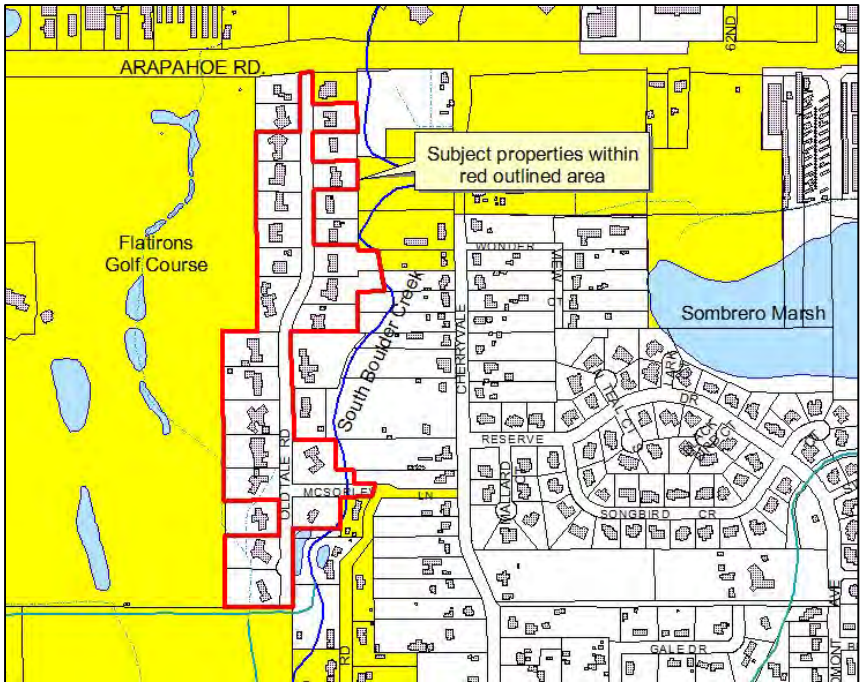


Figure 2: Old Tale Road Neighborhood Context (City limits in yellow)

All of the properties along Old Tale Road are in the South Boulder Creek floodplain. During the September 2013 flood, water spilled from South Boulder Creek into the neighborhood, impacting both homes and property. Water inundation from the flood impacted every property in the neighborhood (see **Figure 3** below). A small portion of Old Tale Road was damaged by flood waters. In October 2013 the city began receiving phone calls from Old Tale Road residents inquiring about annexation and connection to city water due to contamination of their drinking wells. Of the 28 parcels along Old Tale Road, 23 filed for FEMA Individual Assistance or a National Flood Insurance Program (NFIP) claim.

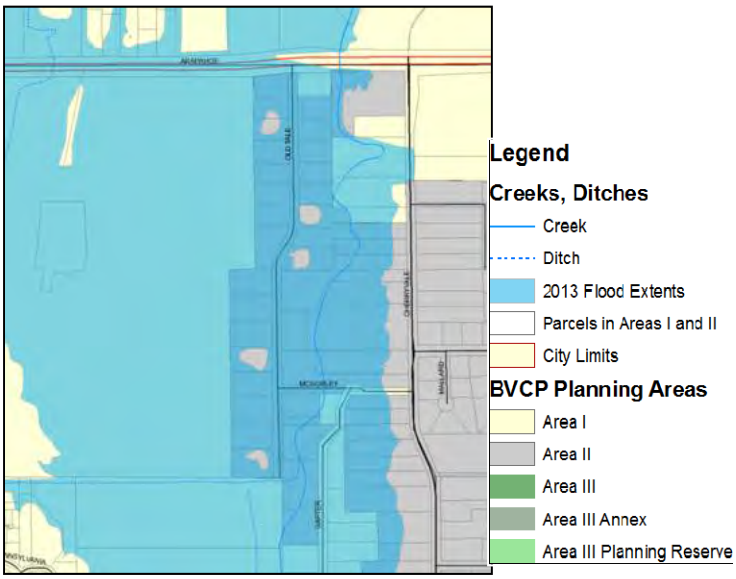


Figure 3: Extent of Flooding in the Old Tale Road Neighborhood

A neighborhood meeting was held with several of the Old Tale Road landowners in November 2014. At that meeting, staff presented sample annexation agreements and reviewed the conditions of annexation with the attendees. The process and schedule for annexation was also presented and discussed, as was a breakdown of costs by property. Staff explained that in order to meet the conditions of the grant to obligate the funds by June 2015, the process would have to move quickly and there would be little time for extensive negotiation over the terms of annexation. The terms of annexation that were discussed with the neighborhood included the following:

1. The cost of the water main construction and road improvements would be funded by the grant money.
2. The city will waive the annexation administration fee (approximately $6,580 per property) and finance all of the costs related to water and wastewater utility connection (10-year financing plan).
3. Landowners choosing to annex have three options for connection to utilities:
    a. Connect to city utilities shortly after annexation and pay the city back in full;
    b. Connect to city utilities shortly after annexation and finance all connection costs through the city; or
    c. Annex now and defer connection and payment to some future time.
4. The city will lock in all the fees at 2014 rates for landowners choosing Options A or B if the process remains on schedule.
5. The city will waive all Development Excise Taxes (cost varies depending on age of the original new home) and Housing Excise Taxes ($0.23 per house square foot).
6. Landowners will pay all costs associated with water and sewer (where applicable) connection as well as stormwater and flood plant investment fees.
7. Landowners will petition for inclusion in the NCWCD.
8. Property owners along creeks will be required to dedicate a flood maintenance easement of 60 feet along either side of the centerline of a major drainageway.
9. Property owners with ditches or ditch laterals on their property will be required to dedicate easements along either side of the centerline of the lateral for the purpose of maintaining ditch water conveyance.

Existing Conditions

The annexation includes 20 properties, all of Old Tale Road and a portion of McSorley Lane, (see **Figure 2** above). Nine properties along Old Tale Road are not part of the annexation. One property adjacent to Arapahoe Road is already in the city limits. Six properties are remaining in the county and will become enclaves as a result of the neighborhood annexation. In addition, a property located on Cherryvale Road at Arapahoe Road will also become an enclave as a result of the annexation.

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

Several parcels in the annexation area have an Open Space–Other land use designation over a portion of the parcel in or near the South Boulder Creek drainageway (see **Figure 4** below). This designation was given to certain private properties prior to 1981 that the city and county would

like to preserve one or more open space functions of the property through various preservation methods, including but not limited to intergovernmental agreements, dedications or acquisitions. In the case of the subject properties, the OS-O designation is intended to help preserve the natural qualities of the drainageway and to prevent further encroachment on the wetlands and floodplain. The city's land use goals with this designation will be met through the dedication of flood maintenance easements on these properties. Once in the city, these properties will also be subject to the city's floodplain and wetland protection ordinances.

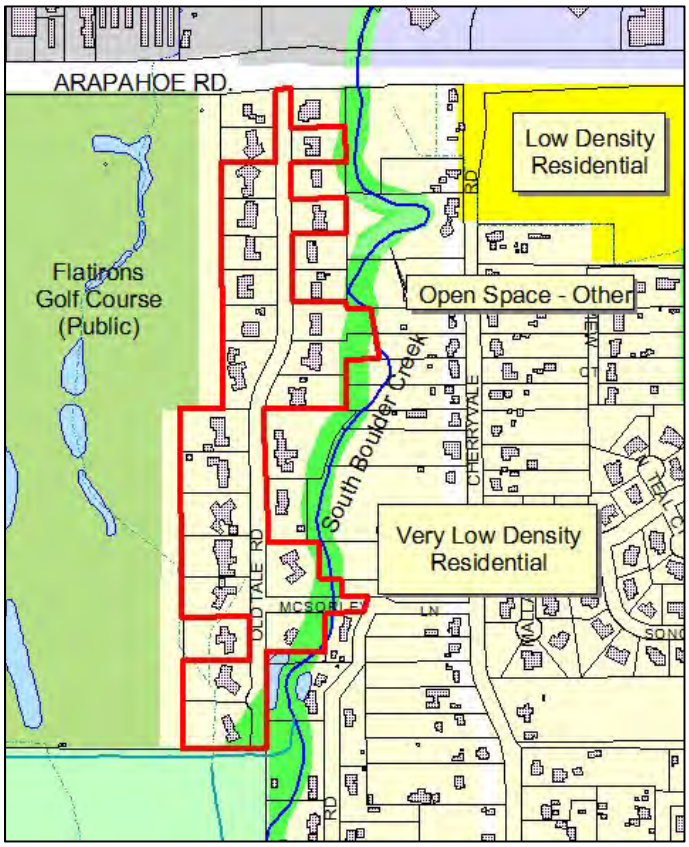


Figure 4: Old Tale Road – Land Use Designations

Current Utilities

A city sewer main currently exists in Old Tale Road and 18 of the 20 subject properties are currently connected to the city's wastewater system. The landowner of 1228 Old Tale Rd. will connect to city sewer as well as city water, however, the landowner of 1435 Old Tale Rd. is deferring connection to both utilities until a later time. The proposed annexation agreement requires property owners selecting Option C to connect when they either sell or redevelop the property.

Floodplain Conditions

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

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

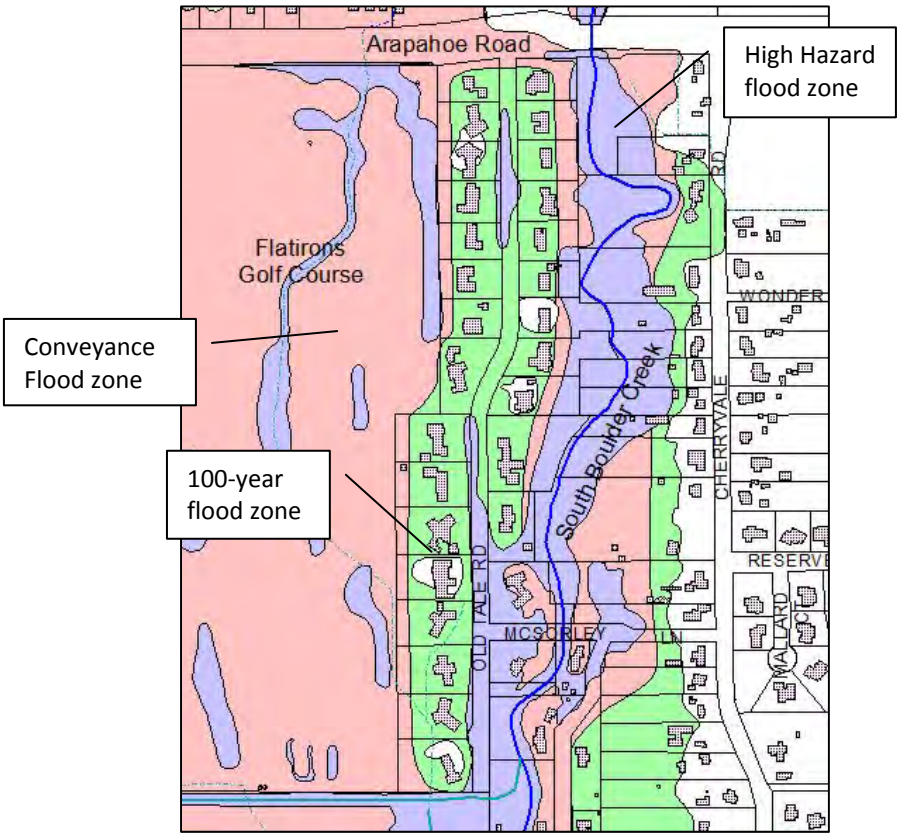


Figure 5: Old Tale Road Neighborhood – Flood Zone Designations

Future Development Potential

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

Ditches and Ditch Rights

None of the subject properties have associated ditch rights. However, the Howard Ditch lateral, which feeds some of the irrigation ponds on the Flatirons Golf Course runs through two of the properties (see **Figure 6** below). The landowners have agreed to dedicate a 12 foot wide easement along the lateral on their properties.

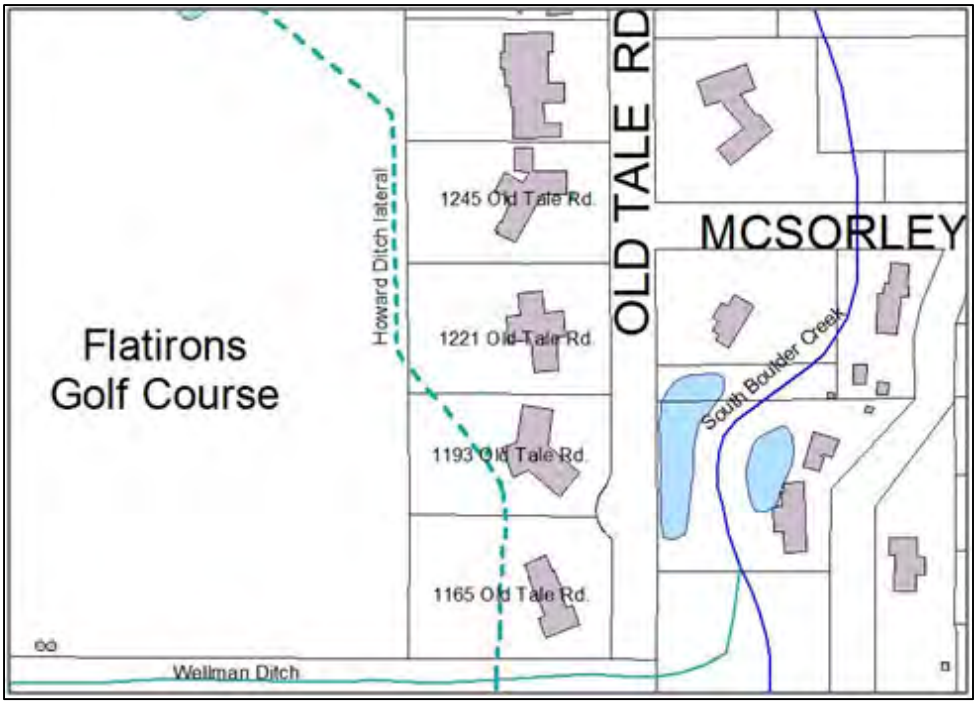


Figure 6: Howard Ditch Lateral Location

ANALYSIS

A. Issues Raised at Planning Board

At the Feb.19, 2015 Planning Board hearing, a number of concerns were raised by some of the Old Tale Road landowners. The following is a summary of these concerns and the board's recommendations:

1. *Flood Control and Maintenance Easement*: The annexation package includes a requirement that landowners along creeks dedicate an easement over the portion of their property within 60 ft. of the centerline of the creek for the purpose of flood maintenance and mitigation. Some property owners in the Old Tale Road neighborhood expressed concern at the board meeting that the easement is either unnecessary or too wide. Concerns also were raised by a few landowners that the flood easement could be used for the construction of a public multi-use trail.

   Dedication of a flood maintenance easement is a standard policy of annexations and is referenced in the city's annexation guidelines for residential properties (**Attachment G**). Sixty feet is the standard distance from the creek centerline and has been applied to special annexation packages including the Gapter Road subdivision annexation (2009) and the previous seven flood related annexations. (Typically, the city requests a flood easement over the entire flood conveyance zone. The proposed easements do not extend beyond the conveyance zone on any of the properties.)

   Planning Board did not recommend a change to the 60 ft. width requirement, however, it did recommend that the flood maintenance easement include a provision that expressly states that it does not convey a right for the construction of a public multi-use trail. This

change has been incorporated into the agreements included in **Attachment D**.

2. *Stormwater and Flood PIF*: The Stormwater and Flood PIF is a property owner's contribution to an enterprise fund that pays for larger stormwater and flood capital improvements that benefit the entire community. The utility was created in the early 1980s to protect the community from damage from stormwater runoff and floods by requiring that landowners pay for a share of the cost of the facilities necessary to lessen the impact of runoff and floods throughout the city. Property owners annexing to the city are required by code (Section 11-5-11a, B.R.C.) to contribute to that capital fund as is required of all new development in the city. All property owners annexing to the city over the past six years (including Gapter Road and Crestview East landowners) have paid the fee either prior to 1st reading or connection to city utilities. The Planning Board did not make any recommendation regarding this issue.

3. *Potential draw-down of the water table*: All of the residents along Old Tale Road will be able to retain the use of their wells for outdoor irrigation purposes. Two landowners are choosing Option C and will not be hooking up to city water in the short term. These two landowners will retain the use of their wells for domestic water use. Concerns were raised by a few landowners that the construction of the new water main could lower the water table in the neighborhood and, consequently, impact their wells. Residents requested that more assurance be given that the city will use a sufficient number of clay plugs along the water line to prevent impacts to their wells. Planning Board did not make a recommendation on this matter but advised staff to share design information with the property owners throughout the design and construction process in order to allow open discussion of their concerns. The design (including the number of clay plugs) will be based on the City of Boulder Design and Construction Standards, and based on recommendations of the design engineer.

4. *Triggers for connecting to city water (under Option C)*: Under the terms of the proposed annexation agreement, landowners are able to choose from the following three options for connection to water and sewer:
    1. Option A: Connect upon completion of the utility mains and pay costs in full
    2. Option B: Connect upon completion of the utility mains and begin financing through the city
    3. Option C: Defer connection and payment until sometime in the future.

    The annexation agreement presented to the Planning Board on Feb.19, 2015 specified that, under Option C, a landowner would be required to connect to the city water and/or sanitary sewer main when: 1) the on-site wastewater system on the property fails; 2) when the property is sold; or 3) at the time of redevelopment (meaning an increase in square footage to the existing structure or increase in the number of plumbing fixtures). Two of the 20 property owners are selecting Option C. Concerns were raised by landowners at Planning Board about the stringent requirements for connection under this option. Concerns were also raised about the meaning of the sale of property and if it includes inheritance by a member of the family.

Planning Board recommended that the sale or inheritance of a property not be a trigger for connecting to city water. The board also recommended that the trigger be changed to six or more new residential plumbing fixtures per the plumbing unit calculation worksheet that the city already uses.

The city is offering an option to annex without connecting to water to accommodate landowners that can not afford the costs of connection at this time. This is typically not an option available to properties annexing, but staff believes it draws a reasonable balance between allowing properties to annex and the financial needs of some residents, including those that are still completing or paying for flood repairs to their home. However, staff believes it is critical and reasonable to maintain the proposed triggers of property sale, addition of plumbing fixtures, and adding square footage. The city and state are directly investing in providing the infrastructure and water to address a public health issue and assist people, and it is important to get people connected to infrastructure over time.

Staff, however, is supporting changes to Option C which clarify that inheritance of property does not trigger the connection requirement. Changes were made to the annexation agreements (**Attachment D**) to clarify that, under Option C, "sale" of a property is defined as only when a transaction occurs for money or for other consideration and that an inheritance situation, name change on a deed, gift or transfer of a property to an LLC will not trigger the connection requirement.

Staff also made a change in the annexation agreements to the definition of redevelopment to mean the addition of *three* or more plumbing fixtures. This change would allow some minor improvements to a home, such as bar sinks, dishwashers, and even small bathrooms without triggering the connection requirements.

5. *Clarification on what expenses are being covered by the grant*. Planning Board made a recommendation to clarify in the annexation agreements, all the costs that the grant will cover (e.g. water main construction, road resurfacing, NCWCD fees). This change is reflected in the agreements in **Attachment D**.

B. **Compliance with State Annexation Statutes and the Boulder Valley Comprehensive Plan**

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

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

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

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

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

All of the subject properties are developed with a single residential dwelling unit. The annexation as proposed (see annexation map in **Attachment C**) meets the eligibility requirement of having at least 1/6 contiguity with the city limits. A community interest exists between the properties proposed for annexation and the City of Boulder.

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

Wastewater services are available to serve all of the properties (18 of the 20 properties are currently connected to city sewer). Water services are currently not available. Annexation of Old Tale Road, however, will enable the city to construct water infrastructure in the road and make those services available to all properties.

None of the subject properties are in the municipal subdistrict of the NCWCD. Petitions for inclusion in the district and subdistrict have been filed with the NCWCD office.

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

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

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

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

BVCP Policies

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

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

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

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

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

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

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

All properties are Area II properties that are fully developed.

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

conditions being proposed.

The proposed zoning (RR-2) of the properties will reflect the existing development pattern most respective of the existing lifestyle and density of this neighborhood. Upon annexation, 18 of the 20 properties will connect to city water as per city standards and discontinue use of well for domestic water purposes. The annexation agreement will allow continued use of well water for outdoor irrigation.

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

e) Annexation of substantially developed properties that allows for some additional residential units or commercial square footage will be required to demonstrate community benefit commensurate with their impacts. Further, annexations that resolve an issue of public health without creating additional development impacts should be encouraged.

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

ATTACHMENTS

A. Proposed Ordinance No.8039
B. Proposed Resolution No.1157
C. Annexation Map
D. Annexation Agreements
E. Applicants' Annexation Petition
F. Property Information
G. Guidelines for Annexation Agreements

ORDINANCE NO. 8039

AN ORDINANCE ANNEXING TO THE CITY OF BOULDER APPROXIMATELY 22.40 ACRES OF LAND GENERALLY LOCATED AT 1165, 1193, 1228, 1245, 1270, 1275, 1305, 1315, 1325, 1402, 1409, 1412, 1435, 1436, 1457, 1483, 1507, 1510, 1533, AND 1566 OLD TALE ROAD, ALONG WITH OLD TALE ROAD RIGHT-OF-WAY AND MCSORLEY LANE RIGHT-OF-WAY, WITH AN INITIAL ZONING DESIGNATION OF RURAL RESIDENTIAL-2 (RR-2) AS DESCRIBED IN CHAPTER 9-5, "MODULAR ZONE SYSTEM," B.R.C. 1981; AMENDING THE ZONING DISTRICT MAP FORMING A PART OF SAID CHAPTER TO INCLUDE SAID PROPERTIES IN THE ABOVE-MENTIONED ZONING DISTRICT AND SETTING FORTH RELATED DETAILS.

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

A. Macinko Exempt Trust dated October 4, 1989, Cynthia B. Anderson and Charles W. Anderson, Steven Erickson, Harold H. Bruff and Sherlynne Guest Bruff, Jeffrey P. Mortner and Wendy E. Mortner, Thomas E. Corson and Barbara A. Corson, Montgomery F. Moran, Joanne M. Simenson, Sarah R. Kingdom, Kellie Masterson-Praeger, William J. Dick III, John K. Bennett and Penelope A. Bennett, Joyce Peterson Thurmer, Thomas J. Perry, Cameron Bradley Peterson, Jason Kiefer and Jennifer Kiefer, Richard L. Leddon III and Jeanie C. Leddon, Mark C. Vellequette and Mary Beth Vellequette, Laurie Duncan-McWethy, and Stewart Gregory Elliott and Robin M. Elliott are the owners of the parcels and the County of Boulder is the owner of the Old Tale Road right-of-way and McSorley Lane right-of-way to be annexed herein, all of which comprise the real property more particularly described on **Exhibit A** (the "Property") attached hereto and incorporated herein by reference.

B. The owners of 100% of the area proposed for annexation, excluding streets and alleys, have petitioned for annexation of the Property with an initial zoning designation of Rural Residential – 2 (RR-2); the Property is not embraced within any city, city and county, or

incorporated town; and the Property abuts and is contiguous to the City of Boulder by at least one-sixth of its perimeter.

C. A community of interest exists between the Property proposed for annexation and the City of Boulder, the Property is urban or will be urbanized in the near future, and the Property is integrated or capable of being integrated with the City of Boulder.

D. The Property does not include any area included in another annexation proceeding involving a city other than the City of Boulder.

E. This annexation will not result in the detachment of the area from one school district and the attachment of same to another school district.

F. This annexation will not have the effect of extending the City of Boulder's boundaries any further than three miles from any point of the existing city boundaries.

G. The Property does not include any area which is the same or substantially the same area in which an election for annexation to the city was held within twelve months preceding the filing of the above Petitions.

H. The Planning Board duly proposed that the Property be annexed to the City of Boulder and that the zoning district map adopted by the City Council be amended to zone and include the Property in the Rural Residential - 2 (RR-2) zoning district, as provide in Chapter 9-5, "Modular Zone System," B.R.C. 1981.

I. A public hearing on the proposed annexation and initial zoning of the Property annexed and zoned hereby was duly held before the City Council on April 21, 2015.

J. The initial zoning designation of Rural Residential – 2 (RR-2) for the Property is consistent with the Boulder Valley Comprehensive Plan and bears a substantial relation to and will enhance the general welfare of the Property and of the residents of the City of Boulder.

K. The City Council has jurisdiction and legal authority to annex and zone the Property.

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

Section 1. The territory more particularly described in **Exhibit A** is hereby annexed to and included within the corporate boundaries of the City of Boulder.

Section 2. Chapter 9-5, "Modular Zone System," Boulder Revised Code, 1981, and the zoning district map forming a part thereof, be, and the same hereby are, amended to include the Property within the Rural Residential - 2 (RR-2) zoning district.

Section 3. The City Council adopts the recitals in this ordinance and incorporates them herein by this reference.

Section 4. The City Council approves any variations or modifications to the Boulder Revised Code or other City ordinances that are in the agreements associated with this annexation.

Section 5. The City Council authorizes the city manager to implement the terms of the agreements associated with this annexation.

Section 6. The annexation and zoning of the Property is necessary for the protection of the public health, safety, and welfare.

Section 7. The City Council deems it appropriate that this ordinance be published by title only and directs the city clerk to make available in its office copies of the text of the within ordinance for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of March 2015.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, ADOPTED AND ORDERED PUBLISHED BY TITLE ONLY this 21st day of April 2015.

_____
Mayor

Attest:

_____
City Clerk

EXHIBIT A (Page 1 of 6) – LEGAL DESCRIPTIONS

Legal Description for 1165 Old Tale Road (Macinko Exempt Trust dated October 4, 1989)
Lot 8, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1193 Old Tale Road (Cynthia B. Anderson and Charles W. Anderson)
Lot 7 and the South 15 feet of Lot 6, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1228 Old Tale Road (Steven Erickson)
Lot 12, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1245 Old Tale Road (Harold H. Bruff and Sherlynne Guest Bruff)
Lot 5, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1270 Old Tale Road (Jeffrey P. Mortner and Wendy E. Mortner)
Lot 11, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1275 Old Tale Road (Thomas E. Corson and Barbara A. Corson)
Lot 4, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1305 Old Tale Road (Montgomery F. Moran)
Lot 3, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1315 Old Tale Road (Joanne M. Simenson)
Lot 2, McSorley's Subdivision, together with that portion of the vacated Old Tale Road lying West of the line between the Northeast corner of Lot 1 and the Southeast corner of Lot 2 and South of the North line of Lot 2 extended, County of Boulder, State of Colorado.

EXHIBIT A (Page 2 of 6) – LEGAL DESCRIPTIONS

Legal Description for 1325 Old Tale Road (Sarah R. Kingdom)
Lot 1, McSorley's Subdivision, together with that portion of the vacated Old Tale Road adjoining the Southeast portion of said Lot 1, as vested by Vacation Ordinance recorded March 16, 1966 on Film 562 as Reception No. 809925,
County of Boulder, State of Colorado.

Legal Description for 1402 Old Tale Road (Kellie Masterson-Praeger)
Lot 9, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description 1409 Old Tale Road (William J. Dick III)
Lot 1, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1412 Old Tale Road (John K. Bennett and Penelope A. Bennett)
Lot 10A, Canterbury Acres, Replat "A",
County of Boulder, State of Colorado.

Legal Description for 1435 Old Tale Road (Joyce Peterson Thurmer)
Lot 2, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1436 Old Tale Road (Thomas J. Perry)
Lot 11B, Canterbury Acres, Replat "B",
County of Boulder, State of Colorado.

Legal Description for 1457 Old Tale Road (Cameron Bradley Peterson)
Lot 3, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1483 Old Tale Road (Jason Kiefer and Jennifer Kiefer)
Lot 4, Canterbury Acres,
County of Boulder, State of Colorado.

EXHIBIT A (Page 3 of 6) – LEGAL DESCRIPTIONS

Legal Description for 1507 Old Tale Road (Richard L. Leddon III and Jeanie C. Leddon)
Lot 5, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1510 Old Tale Road (Mark C. Vellequette and Mary Beth Vellequette)
Lot 14, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1533 Old Tale Road (Laurie Duncan-McWethy)
Lot 6, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1566 Old Tale Road (Stewart Gregory Elliott and Robin M. Elliott)
Lot 16, Canterbury Acres,
County of Boulder, State of Colorado.

EXHIBIT A (Page 4 of 6) - ANNEXATION MAP

LOTS 1–6 INCLUSIVE, LOTS 9, 14 & 16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, A PORTION OF LOT 6, ALL OF LOTS 1–5 INCLUSIVE. LOTS 7, 8, 11 & 12, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 3

TOTAL AREA = 975,800 SQ. FT., OR 22.40 ACRES, MORE OR LESS

Parcel Description

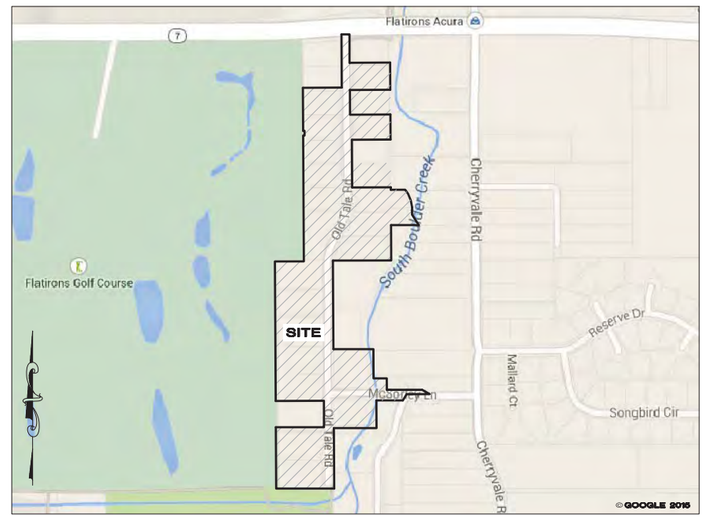
ALL OF LOTS 1–6 INCLUSIVE, LOT 9, 14 & 16 INCLUSIVE, CANTERBURY ACRES AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON MAY 16, 1963, AT RECEPTION NO. 90726438, LOT 10A, CANTERBURY ACRES REPLAT A AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON JULY 29, 1981, AT RECEPTION NO. 456852, LOT 11B, CANTERBURY ACRES REPLAT B AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON APRIL 7, 1992, AT RECEPTION NO. 1174140, A PORTION OF LOT 6, ALL OF LOTS 1–5 INCLUSIVE AND LOTS 7, 8, 11 & 12, MCSORLEY'S SUBDIVISION AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON MARCH 12, 1958, AT RECEPTION NO. 90608845, AND PORTIONS OF OLD TALE ROAD AND MCSORLEY LANE, ALL LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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

BEGINNING AT THE CENTER QUARTER CORNER OF SAID SECTION 34;

THENCE ALONG THE SOUTHERLY LINE OF SAID MCSORLEY'S SUBDIVISION, NORTH 90°00'00" WEST, A DISTANCE OF 328.32 FEET TO THE SOUTHWEST CORNER OF SAID LOT 8, MCSORLEY'S SUBDIVISION;
THENCE ALONG THE WESTERLY LINE OF SAID LOTS 6–8, MCSORLEY'S SUBDIVISION, NORTH 00°19'30" WEST, A DISTANCE OF 342.40 FEET TO A POINT LYING 15.00 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 6;
THENCE ALONG A LINE LYING 15.00 FEET NORTHERLY AND PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 6, NORTH 90°00'00" EAST, A DISTANCE OF 268.41 FEET TO A POINT ON THE WESTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID WESTERLY RIGHT–OF–WAY LINE, NORTH 00°21'20" WEST, A DISTANCE OF 160.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5, MCSORLEY'S SUBDIVISION;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 5, NORTH 90°00'00"WEST, A DISTANCE OF 268.32 FEET TO THE SOUTHWEST CORNER OF SAID LOT 5;
THENCE ALONG THE WESTERLY LINE OF SAID LOTS 1 THROUGH 5, MCSORLEY'S SUBDIVISION, NORTH 00°19'30" WEST, A DISTANCE OF 825.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 1;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 1, NORTH 89°54'10" EAST, A DISTANCE OF 163.86 FEET TO THE SOUTHWEST CORNER OF LOT 1, SAID CANTERBURY ACRES;
THENCE ALONG THE WESTERLY LINE OF SAID LOTS 1–6 INCLUSIVE, CANTERBURY ACRES THE FOLLOWING FIVE (5) COURSES:
NORTH 00°19'30" WEST, A DISTANCE OF 712.00 FEET;
THENCE NORTH 89°40'30" EAST, A DISTANCE OF 8.00 FEET;
THENCE NORTH 00°19'30" WEST, A DISTANCE OF 27.00 FEET;
THENCE SOUTH 89°40'30" WEST, A DISTANCE OF 8.00 FEET;
THENCE NORTH 00°19'30" WEST, A DISTANCE OF 243.41 FEET TO THE NORTHWEST CORNER OF SAID LOT 6, CANTERBURY ACRES;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 6, NORTH 89°40'30" EAST, A DISTANCE OF 220.00 FEET TO A POINT ON THE WESTERLY RIGHT–OF–WAY LINE OF SAID OLD TALE ROAD;
THENCE ALONG SAID WESTERLY RIGHT–OF–WAY LINE, NORTH 00°19'30" WEST, A DISTANCE OF 291.02 FEET TO A POINT ON THE SOUTHERLY RIGHT–OF–WAY LINE OF ARAPAHOE ROAD;
THENCE ALONG SAID SOUTHERLY RIGHT–OF–WAY LINE, NORTH 89°53'20" EAST, A DISTANCE OF 60.00 FEET TO A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF SAID OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 150.80 FEET TO THE NORTHWEST CORNER OF SAID LOT 16;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 16, NORTH 89°40'30" EAST, A DISTANCE OF 214.46 FEET TO THE NORTHEAST CORNER OF SAID LOT 16;
THENCE ALONG THE EASTERLY LINE OF SAID LOT 16, SOUTH 00°19'30" EAST, A DISTANCE OF 140.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 16;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 16, SOUTH 89°40'30" WEST, A DISTANCE OF 214.46 FEET TO A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 140.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 14;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 14, NORTH 89°40'30" EAST, A DISTANCE OF 214.46 FEET TO THE NORTHEAST CORNER OF SAID LOT 14;
THENCE ALONG THE EASTERLY LINE OF SAID LOT 14, SOUTH 00°19'30" EAST, A DISTANCE OF 140.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 14;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 14, SOUTH 89°40'30" WEST, A DISTANCE OF 214.46 FEET TO A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 280.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 11B;
THENCE ALONG THE NORTHERLY LINES OF SAID LOT 11B THE FOLLOWING THREE (3) COURSES:
NORTH 89°40'30" EAST, A DISTANCE OF 214.46 FEET;
THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 20.00 FEET;
THENCE NORTH 89°53'20" EAST, A DISTANCE OF 81.50 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 11B;
THENCE ALONG THE EASTERLY LINES OF SAID LOT 11B AND SAID LOT 10A, THE FOLLOWING FIVE (5) COURSES:
SOUTH 35°00'00" EAST, A DISTANCE OF 28.00 FEET;
THENCE SOUTH 22°30'00" EAST, A DISTANCE OF 41.32 FEET;
THENCE SOUTH 10°30'00" EAST, A DISTANCE OF 39.47 FEET;
THENCE SOUTH 00°40'45" WEST, A DISTANCE OF 41.28 FEET;
THENCE SOUTH 32°58'25" EAST, A DISTANCE OF 69.92 FEET TO THE MOST EASTERLY CORNER OF SAID LOT 10A;
THENCE ALONG THE SOUTHERLY LINES OF SAID LOT 10A AND ALONG THE EASTERLY LINE OF SAID LOT 9, THE FOLLOWING TWO (2) COURSES:
SOUTH 89°53'20" WEST, A DISTANCE OF 157.00 FEET;
THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 200.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9;
THENCE ALONG THE SOUTHERLY LINE OF SAID CANTERBURY ACRES, SOUTH 89°53'20" WEST, A DISTANCE OF 330.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9 AND A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" WEST, A DISTANCE OF 4.29 FEET TO THE CENTER–NORTH SIXTEENTH CORNER OF SAID SECTION 34 AND THE NORTHWEST CORNER OF LOT 9, SAID MCSORLEY'S SUBDIVISION;
THENCE CONTINUING ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 517.07 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 11;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 11, NORTH 90°00'00" EAST, A DISTANCE OF 226.17 FEET TO THE NORTHEAST CORNER OF SAID LOT 11;
THENCE ALONG THE EASTERLY LINES OF SAID LOT 11, THE FOLLOWING THREE (3) COURSES:
SOUTH 00°19'30" EAST, A DISTANCE OF 145.00 FEET;
THENCE NORTH 90°00'00" EAST, A DISTANCE OF 75.00 FEET;
THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 65.00 FEET TO THE SOUTHWESTERLY CORNER OF LOT 13, SAID MCSORLEY'S SUBDIVISION;
THENCE ALONG THE SOUTHERLY LINES OF SAID LOT 13, THE FOLLOWING TWO (2) COURSES: NORTH 90°00'00" EAST, A DISTANCE OF 199.94 FEET;
THENCE SOUTH 60°00'00" EAST, A DISTANCE OF 48.74 FEET TO A POINT ON THE NORTHERLY LINE OF THE ANNEXATION ORDINANCE NO. 774, AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON AUGUST 25, 2010, AT RECEPTION NO. 03094116;
THENCE ALONG THE NORTHERLY LINES OF SAID ANNEXATION ORDINANCE, THE FOLLOWING THREE (3) COURSES:
SOUTH 89°56'00" WEST, A DISTANCE OF 130.41 FEET;
THENCE SOUTH 30°49'30" WEST, A DISTANCE OF 41.31 FEET;
THENCE NORTH 90°00'00" WEST, A DISTANCE OF 150.00 FEET TO THE NORTHWESTERLY CORNER OF SAID ANNEXATION ORDINANCE;
THENCE ALONG THE WESTERLY LINE OF SAID ANNEXATION ORDINANCE, SOUTH 00°19'30" EAST, A DISTANCE OF 156.40 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12, MCSORLEY'S SUBDIVISION;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 12, NORTH 90°00'00" WEST, A DISTANCE OF 241.40 FEET TO A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 384.49 FEET TO THE POINT OF BEGINNING;

SAID DESCRIBED TRACT CONTAINING 975,800 SQ. FT. OR 22.40 ACRES, MORE OR LESS.



Vicinity Map
NOT TO SCALE

Notes

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

Contiguity

TOTAL PERIMETER.....9,242.55'
1/6TH PERIMETER.....1,540.43'
CONTIGUOUS TO CITY LIMITS.....3,911.66'

Surveyor's Certificate

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

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

REVISION	DATE
1 –Removed 1486 Old Tale Rd	–1–28–2015
2 –Added a portion of Old Tale Road	–2–5–2015 EP
3 –Removed 1310 & 1221 Old Tale Rd	–3–10–2015 EP
4 –Removed 1548 & 1462 Old Tale Rd	–3–11–2015 EP
5 –Revision per client	–3–11–2015 EP
6	–
7	–
8	–
9	–

ANNEXATION MAP
PREPARED FOR
CITY OF BOULDER

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Surveying, Engineering & Geomatics
www.Flatironsinc.com
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BOULDER, CO 80301
PH: (303) 443–7001
FAX: (303) 443–9830
3660 DOWNING ST
UNIT E
DENVER, CO 80205
PH: (303) 936–6997

COLORADO LICENSED
PROFESSIONAL LAND SURVEYOR
JOHN B. GUYTON
16406
3/11/15

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

SHEET 1 OF 3

BY:EPRESCOTT FILE:65019–ANNEX–C13.DWG DATE:3/11/2015 10:09 AM

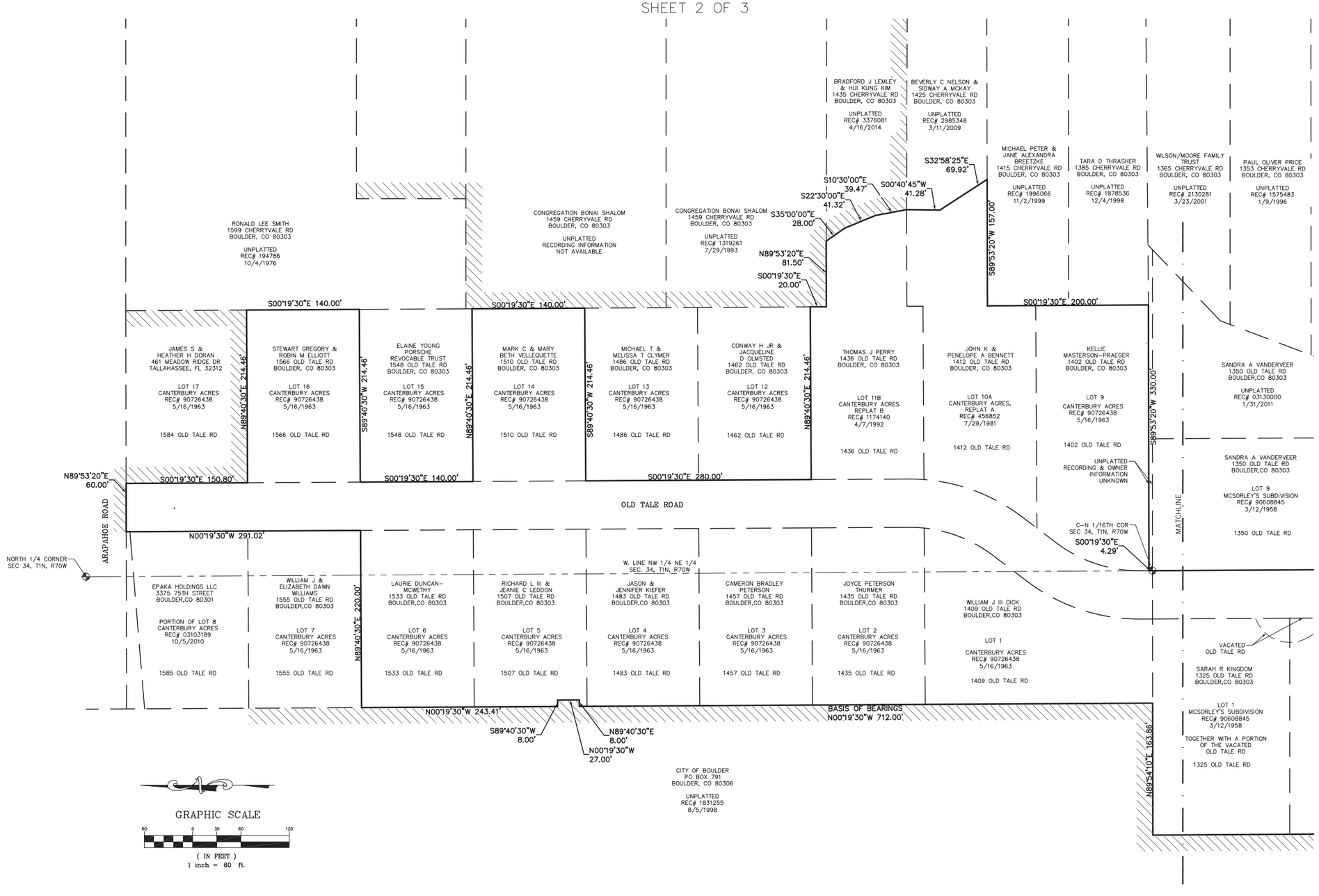
EXHIBIT A (Page 5 of 6) - ANNEXATION MAP

LOTS 1–6 INCLUSIVE, LOTS 9, 14 & 16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, A PORTION OF LOT 6, ALL OF LOTS 1–5 INCLUSIVE. LOTS 7, 8, 11 & 12, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 3

Legend

CURRENT LIMITS OF THE CITY OF BOULDER



REVISION	DATE
1 –Removed 1486 & 1548 Old Tale Rd	–1–28–2015
2 –Added a portion of Old Tale Road	–2–5–2015 EP
3 –Removed 1310 & 1221 Old Tale Rd	–3–10–2015 EP
4 –Removed 1548 & 1462 Old Tale Rd	–3–11–2015 EP
5 –Revision per client	–3–11–2015 EP
6 –	–
7 –	–
8 –	–
9 –	–

ANNEXATION MAP
PREPARED FOR
CITY OF BOULDER

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FAX: (303) 443–9830
3660 DOWNING ST
UNIT E
DENVER, CO 80205
PH: (303) 936–6997

COLORADO LICENSED
PROFESSIONAL LAND SURVEYOR
16406
3/11/15
SEAL

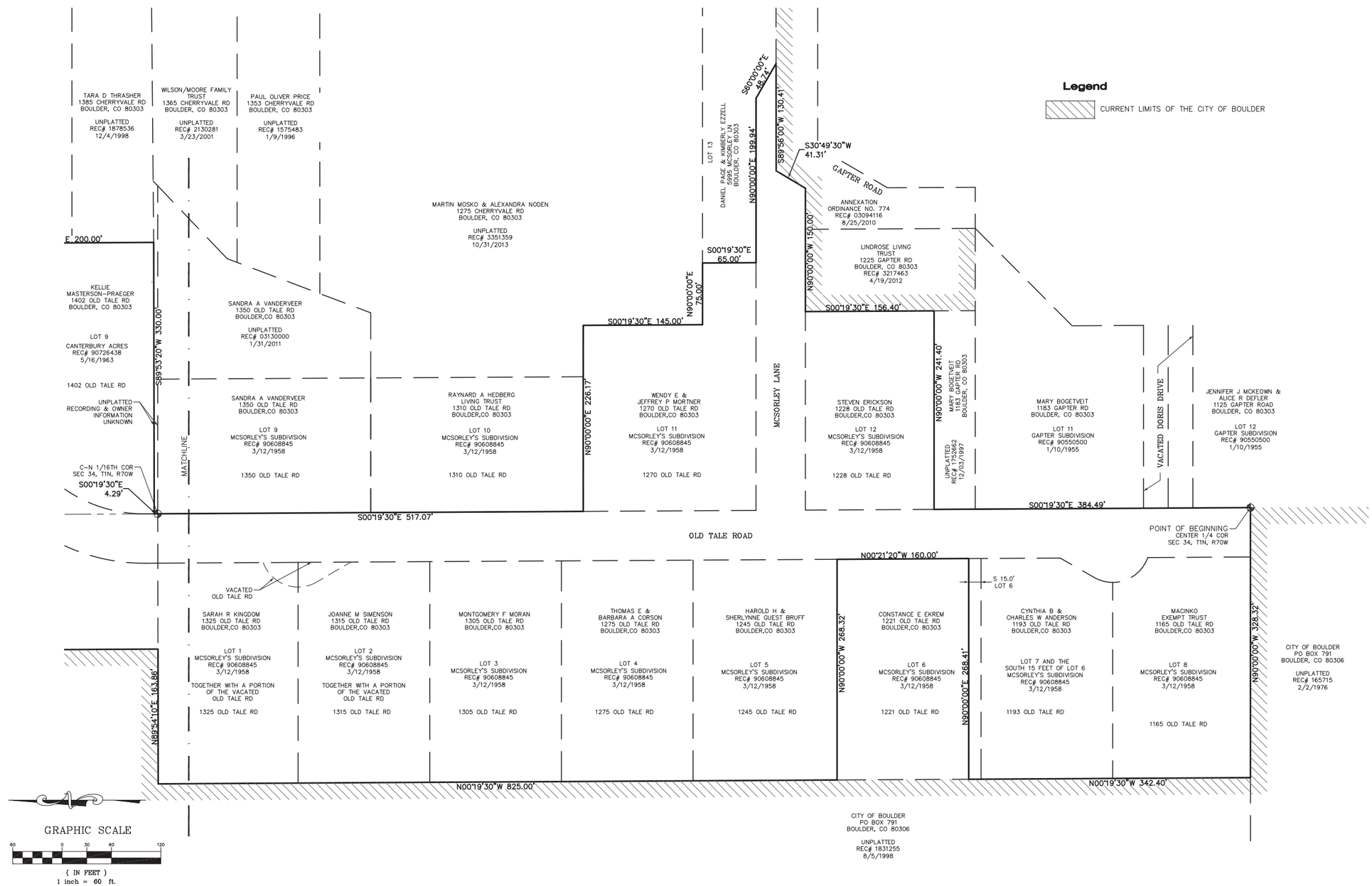
JOB NUMBER:	14–65,019
DATE:	1–15–2015
DRAWN BY:	E. PRESCOTT
CHECKED BY:	WW/JZG/JK
SHEET 2 OF 3	

BY:EPRESCOTT FILE:65019–ANNEX–C13.DWG DATE:3/11/2015 10:10 AM

EXHIBIT A (Page 6 of 6) - ANNEXATION MAP

LOTS 1–6 INCLUSIVE, LOTS 9, 14 & 16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, A PORTION OF LOT 6, ALL OF LOTS 1–5 INCLUSIVE. LOTS 7, 8, 11 & 12, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 3 OF 3



REVISION	DATE
1 – Removed 1486 Old Tale Rd	– 1–28–2015
2 – Added a portion of Old Tale Road	– 2–5–2015 EP
3 – Removed 1310 & 1221 Old Tale Rd	– 3–10–2015 EP
4 – Removed 1548 & 1462 Old Tale Rd	– 3–11–2015 EP
5 – Revision per client	– 3–11–2015 EP
6 –	–
7 –	–
8 –	–
9 –	–

ANNEXATION MAP
PREPARED FOR
CITY OF BOULDER

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3660 DOWNING ST
UNIT E
DENVER, CO 80205
PH: (303) 936–6997

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR 16406 3/11/15

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

SHEET 3 OF 3

BY:EPRESCOTT FILE:65019–ANNEX–C13.DWG DATE:3/11/2015 10:10 AM

RESOLUTION NO. 1157

A RESOLUTION TO DETERMINE THAT THE PETITIONS TO ANNEX APPROXIMATELY 22.40 ACRES OF LAND GENERALLY LOCATED SOUTH OF ARAPAHOE ROAD, ALONG THE EAST AND WEST SIDES OF OLD TALE ROAD ALONG WITH OLD TALE ROAD RIGHT-OF-WAY AND MCSORLEY LANE RIGHT-OF-WAY IS IN COMPLIANCE WITH SECTION 31-12-107(1), C.R.S. AND TO SET A HEARING TO DETERMINE COMPLIANCE WITH OTHER STATUTORY ANNEXATION REQUIREMENTS.

A. The City Council of the City of Boulder, Colorado, hereby finds that the Petitions to Annex the property more particularly described in **Exhibit A**, attached hereto and incorporated herein by reference, is in compliance with Subsection 31-12-107(1), C.R.S., as amended;

B. The City Council of the City of Boulder, Colorado, finds that the following requirements have been met:

i. Landowners of more than fifty percent of the area, excluding public streets and alleys, meeting the requirements of Sections 31-12-104 and 31-12-105, C.R.S., as amended, have petitioned the City of Boulder for annexation of such territory;

ii. The Petitions have been filed with the City Clerk;

iii. The Petitions allege it is desirable and necessary that such area be annexed to the City of Boulder;

iv. The Petitions allege that the requirements of Sections 31-12-104 and 31-12-105, C.R.S., as amended, exist or have been met;

v. The Petitions allege that signers of the Petitions comprise more than fifty percent of the landowners in the area and own more than fifty percent of the area proposed to be annexed, exclusive of streets and alleys;

vi. The Petitions contain a request that the City of Boulder approve the annexation of the area proposed to be annexed;

vii. The Petitions contain signatures of such landowners;

viii. The Petitions contain the mailing address of each signer;

ix. The Petitions contain the legal description of the land owned by each signer;

x. The Petitions contain the date of signing of each signature; and

xi. The Petitions contain the affidavit of each circulator of such Petitions, that each signature therein is the signature of the person whose name it purports to be.

C. Four copies of an annexation map accompanied the Petitions and contained the following information:

i. A written legal description of the boundaries of the area proposed to be annexed;

ii. A map showing the boundary of the area proposed to be annexed;

iii. Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part of all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks; and

iv. A drawing of the contiguous boundaries of the City of Boulder next to the boundary of the area proposed to be annexed and the contiguous boundary of any other municipality abutting the area proposed to be annexed.

D. All signatures on the Petitions have been dated no more than one hundred eighty days prior to the date of filing the Petitions with the City Clerk.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, THAT:

A hearing will be held to determine whether the requirements delineated in section 31-12-104 and 31-12-105, C.R.S., as amended, have been met and whether an election is required under subsection 31-12-107(2), C.R.S. The hearing will be held at 6:00 p.m. on April 21, 2015, at 1777 Broadway, Boulder, Colorado.

INTRODUCED, READ, PASSED, AND ADOPTED this 17th day of March 2015.

_____
Mayor

Attest:

_____
City Clerk

EXHIBIT A (Page 1 of 6) – LEGAL DESCRIPTIONS

Legal Description for 1165 Old Tale Road (Macinko Exempt Trust dated October 4, 1989)
Lot 8, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1193 Old Tale Road (Cynthia B. Anderson and Charles W. Anderson)
Lot 7 and the South 15 feet of Lot 6, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1228 Old Tale Road (Steven Erickson)
Lot 12, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1245 Old Tale Road (Harold H. Bruff and Sherlynne Guest Bruff)
Lot 5, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1270 Old Tale Road (Jeffrey P. Mortner and Wendy E. Mortner)
Lot 11, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1275 Old Tale Road (Thomas E. Corson and Barbara A. Corson)
Lot 4, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1305 Old Tale Road (Montgomery F. Moran)
Lot 3, McSorley's Subdivision,
County of Boulder, State of Colorado.

Legal Description for 1315 Old Tale Road (Joanne M. Simenson)
Lot 2, McSorley's Subdivision, together with that portion of the vacated Old Tale Road lying West of the line between the Northeast corner of Lot 1 and the Southeast corner of Lot 2 and South of the North line of Lot 2 extended, County of Boulder, State of Colorado.

EXHIBIT A (Page 2 of 6) – LEGAL DESCRIPTIONS

Legal Description for 1325 Old Tale Road (Sarah R. Kingdom)
Lot 1, McSorley's Subdivision, together with that portion of the vacated Old Tale Road adjoining the Southeast portion of said Lot 1, as vested by Vacation Ordinance recorded March 16, 1966 on Film 562 as Reception No. 809925,
County of Boulder, State of Colorado.

Legal Description for 1402 Old Tale Road (Kellie Masterson-Praeger)
Lot 9, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description 1409 Old Tale Road (William J. Dick III)
Lot 1, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1412 Old Tale Road (John K. Bennett and Penelope A. Bennett)
Lot 10A, Canterbury Acres, Replat "A",
County of Boulder, State of Colorado.

Legal Description for 1435 Old Tale Road (Joyce Peterson Thurmer)
Lot 2, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1436 Old Tale Road (Thomas J. Perry)
Lot 11B, Canterbury Acres, Replat "B",
County of Boulder, State of Colorado.

Legal Description for 1457 Old Tale Road (Cameron Bradley Peterson)
Lot 3, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1483 Old Tale Road (Jason Kiefer and Jennifer Kiefer)
Lot 4, Canterbury Acres,
County of Boulder, State of Colorado.

EXHIBIT A (Page 3 of 6) – LEGAL DESCRIPTIONS

Legal Description for 1507 Old Tale Road (Richard L. Leddon III and Jeanie C. Leddon)
Lot 5, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1510 Old Tale Road (Mark C. Vellequette and Mary Beth Vellequette)
Lot 14, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1533 Old Tale Road (Laurie Duncan-McWethy)
Lot 6, Canterbury Acres,
County of Boulder, State of Colorado.

Legal Description for 1566 Old Tale Road (Stewart Gregory Elliott and Robin M. Elliott)
Lot 16, Canterbury Acres,
County of Boulder, State of Colorado.

EXHIBIT A (Page 4 of 6) - ANNEXATION MAP

LOTS 1–6 INCLUSIVE, LOTS 9, 14 & 16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, A PORTION OF LOT 6, ALL OF LOTS 1–5 INCLUSIVE. LOTS 7, 8, 11 & 12, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 3

TOTAL AREA = 975,800 SQ. FT., OR 22.40 ACRES, MORE OR LESS

Parcel Description

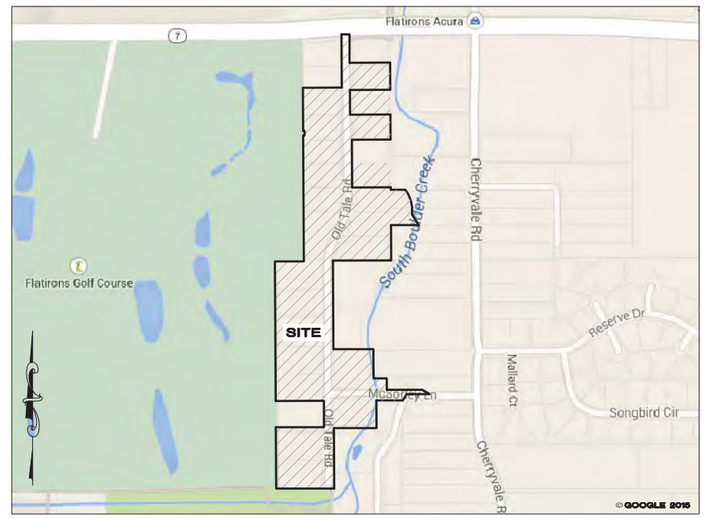
ALL OF LOTS 1–6 INCLUSIVE, LOT 9, 14 & 16 INCLUSIVE, CANTERBURY ACRES AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON MAY 16, 1963, AT RECEPTION NO. 90726438, LOT 10A, CANTERBURY ACRES REPLAT A AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON JULY 29, 1981, AT RECEPTION NO. 456852, LOT 11B, CANTERBURY ACRES REPLAT B AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON APRIL 7, 1992, AT RECEPTION NO. 1174140, A PORTION OF LOT 6, ALL OF LOTS 1–5 INCLUSIVE AND LOTS 7, 8, 11 & 12, MCSORLEY'S SUBDIVISION AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON MARCH 12, 1958, AT RECEPTION NO. 90608845, AND PORTIONS OF OLD TALE ROAD AND MCSORLEY LANE, ALL LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

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

BEGINNING AT THE CENTER QUARTER CORNER OF SAID SECTION 34;

THENCE ALONG THE SOUTHERLY LINE OF SAID MCSORLEY'S SUBDIVISION, NORTH 90°00'00" WEST, A DISTANCE OF 328.32 FEET TO THE SOUTHWEST CORNER OF SAID LOT 8, MCSORLEY'S SUBDIVISION;
THENCE ALONG THE WESTERLY LINE OF SAID LOTS 6–8, MCSORLEY'S SUBDIVISION, NORTH 00°19'30" WEST, A DISTANCE OF 342.40 FEET TO A POINT LYING 15.00 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 6;
THENCE ALONG A LINE LYING 15.00 FEET NORTHERLY AND PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 6, NORTH 90°00'00" EAST, A DISTANCE OF 268.41 FEET TO A POINT ON THE WESTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID WESTERLY RIGHT–OF–WAY LINE, NORTH 00°21'20" WEST, A DISTANCE OF 160.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5, MCSORLEY'S SUBDIVISION;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 5, NORTH 90°00'00"WEST, A DISTANCE OF 268.32 FEET TO THE SOUTHWEST CORNER OF SAID LOT 5;
THENCE ALONG THE WESTERLY LINE OF SAID LOTS 1 THROUGH 5, MCSORLEY'S SUBDIVISION, NORTH 00°19'30" WEST, A DISTANCE OF 825.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 1;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 1, NORTH 89°54'10" EAST, A DISTANCE OF 163.86 FEET TO THE SOUTHWEST CORNER OF LOT 1, SAID CANTERBURY ACRES;
THENCE ALONG THE WESTERLY LINE OF SAID LOTS 1–6 INCLUSIVE, CANTERBURY ACRES THE FOLLOWING FIVE (5) COURSES:
NORTH 00°19'30" WEST, A DISTANCE OF 712.00 FEET;
THENCE NORTH 89°40'30" EAST, A DISTANCE OF 8.00 FEET;
THENCE NORTH 00°19'30" WEST, A DISTANCE OF 27.00 FEET;
THENCE SOUTH 89°40'30" WEST, A DISTANCE OF 8.00 FEET;
THENCE NORTH 00°19'30" WEST, A DISTANCE OF 243.41 FEET TO THE NORTHWEST CORNER OF SAID LOT 6, CANTERBURY ACRES;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 6, NORTH 89°40'30" EAST, A DISTANCE OF 220.00 FEET TO A POINT ON THE WESTERLY RIGHT–OF–WAY LINE OF SAID OLD TALE ROAD;
THENCE ALONG SAID WESTERLY RIGHT–OF–WAY LINE, NORTH 00°19'30" WEST, A DISTANCE OF 291.02 FEET TO A POINT ON THE SOUTHERLY RIGHT–OF–WAY LINE OF ARAPAHOE ROAD;
THENCE ALONG SAID SOUTHERLY RIGHT–OF–WAY LINE, NORTH 89°53'20" EAST, A DISTANCE OF 60.00 FEET TO A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF SAID OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 150.80 FEET TO THE NORTHWEST CORNER OF SAID LOT 16;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 16, NORTH 89°40'30" EAST, A DISTANCE OF 214.46 FEET TO THE NORTHEAST CORNER OF SAID LOT 16;
THENCE ALONG THE EASTERLY LINE OF SAID LOT 16, SOUTH 00°19'30" EAST, A DISTANCE OF 140.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 16;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 16, SOUTH 89°40'30" WEST, A DISTANCE OF 214.46 FEET TO A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 140.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 14;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 14, NORTH 89°40'30" EAST, A DISTANCE OF 214.46 FEET TO THE NORTHEAST CORNER OF SAID LOT 14;
THENCE ALONG THE EASTERLY LINE OF SAID LOT 14, SOUTH 00°19'30" EAST, A DISTANCE OF 140.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 14;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 14, SOUTH 89°40'30" WEST, A DISTANCE OF 214.46 FEET TO A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 280.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 11B;
THENCE ALONG THE NORTHERLY LINES OF SAID LOT 11B THE FOLLOWING THREE (3) COURSES:
NORTH 89°40'30" EAST, A DISTANCE OF 214.46 FEET;
THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 20.00 FEET;
THENCE NORTH 89°53'20" EAST, A DISTANCE OF 81.50 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 11B;
THENCE ALONG THE EASTERLY LINES OF SAID LOT 11B AND SAID LOT 10A, THE FOLLOWING FIVE (5) COURSES:
SOUTH 35°00'00" EAST, A DISTANCE OF 28.00 FEET;
THENCE SOUTH 22°30'00" EAST, A DISTANCE OF 41.32 FEET;
THENCE SOUTH 10°30'00" EAST, A DISTANCE OF 39.47 FEET;
THENCE SOUTH 00°40'45" WEST, A DISTANCE OF 41.28 FEET;
THENCE SOUTH 32°58'25" EAST, A DISTANCE OF 69.92 FEET TO THE MOST EASTERLY CORNER OF SAID LOT 10A;
THENCE ALONG THE SOUTHERLY LINES OF SAID LOT 10A AND ALONG THE EASTERLY LINE OF SAID LOT 9, THE FOLLOWING TWO (2) COURSES:
SOUTH 89°53'20" WEST, A DISTANCE OF 157.00 FEET;
THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 200.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9;
THENCE ALONG THE SOUTHERLY LINE OF SAID CANTERBURY ACRES, SOUTH 89°53'20" WEST, A DISTANCE OF 330.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9 AND A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" WEST, A DISTANCE OF 4.29 FEET TO THE CENTER–NORTH SIXTEENTH CORNER OF SAID SECTION 34 AND THE NORTHWEST CORNER OF LOT 9, SAID MCSORLEY'S SUBDIVISION;
THENCE CONTINUING ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 517.07 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 11;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 11, NORTH 90°00'00" EAST, A DISTANCE OF 226.17 FEET TO THE NORTHEAST CORNER OF SAID LOT 11;
THENCE ALONG THE EASTERLY LINES OF SAID LOT 11, THE FOLLOWING THREE (3) COURSES:
SOUTH 00°19'30" EAST, A DISTANCE OF 145.00 FEET;
THENCE NORTH 90°00'00" EAST, A DISTANCE OF 75.00 FEET;
THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 65.00 FEET TO THE SOUTHWESTERLY CORNER OF LOT 13, SAID MCSORLEY'S SUBDIVISION;
THENCE ALONG THE SOUTHERLY LINES OF SAID LOT 13, THE FOLLOWING TWO (2) COURSES: NORTH 90°00'00" EAST, A DISTANCE OF 199.94 FEET;
THENCE SOUTH 60°00'00" EAST, A DISTANCE OF 48.74 FEET TO A POINT ON THE NORTHERLY LINE OF THE ANNEXATION ORDINANCE NO. 774, AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON AUGUST 25, 2010, AT RECEPTION NO. 03094116;
THENCE ALONG THE NORTHERLY LINES OF SAID ANNEXATION ORDINANCE, THE FOLLOWING THREE (3) COURSES:
SOUTH 89°56'00" WEST, A DISTANCE OF 130.41 FEET;
THENCE SOUTH 30°49'30" WEST, A DISTANCE OF 41.31 FEET;
THENCE NORTH 90°00'00" WEST, A DISTANCE OF 150.00 FEET TO THE NORTHWESTERLY CORNER OF SAID ANNEXATION ORDINANCE;
THENCE ALONG THE WESTERLY LINE OF SAID ANNEXATION ORDINANCE, SOUTH 00°19'30" EAST, A DISTANCE OF 156.40 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12, MCSORLEY'S SUBDIVISION;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 12, NORTH 90°00'00" WEST, A DISTANCE OF 241.40 FEET TO A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 384.49 FEET TO THE POINT OF BEGINNING;

SAID DESCRIBED TRACT CONTAINING 975,800 SQ. FT. OR 22.40 ACRES, MORE OR LESS.



Vicinity Map
NOT TO SCALE

Notes

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

Contiguity

TOTAL PERIMETER.....9,242.55'
1/6TH PERIMETER.....1,540.43'
CONTIGUOUS TO CITY LIMITS.....3,911.66'

Surveyor's Certificate

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

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

REVISION	DATE
1 –Removed 1486 Old Tale Rd	–1–28–2015
2 –Added a portion of Old Tale Road	–2–5–2015 EP
3 –Removed 1310 & 1221 Old Tale Rd	–3–10–2015 EP
4 –Removed 1548 & 1462 Old Tale Rd	–3–11–2015 EP
5 –Revision per client	–3–11–2015 EP
6	–
7	–
8	–
9	–

ANNEXATION MAP
PREPARED FOR
CITY OF BOULDER

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Flatirons, Inc.
Surveying, Engineering & Geomatics
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PH: (303) 443–7001
FAX: (303) 443–9830
3660 DOWNING ST
UNIT E
DENVER, CO 80205
PH: (303) 936–6997

COLORADO LICENSED
JOHN B. GUYTON
16406
3/11/15
PROFESSIONAL LAND SURVEYOR

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

SHEET 1 OF 3

BY:EPRESCOTT FILE:65019–ANNEX–C13.DWG DATE:3/11/2015 10:09 AM

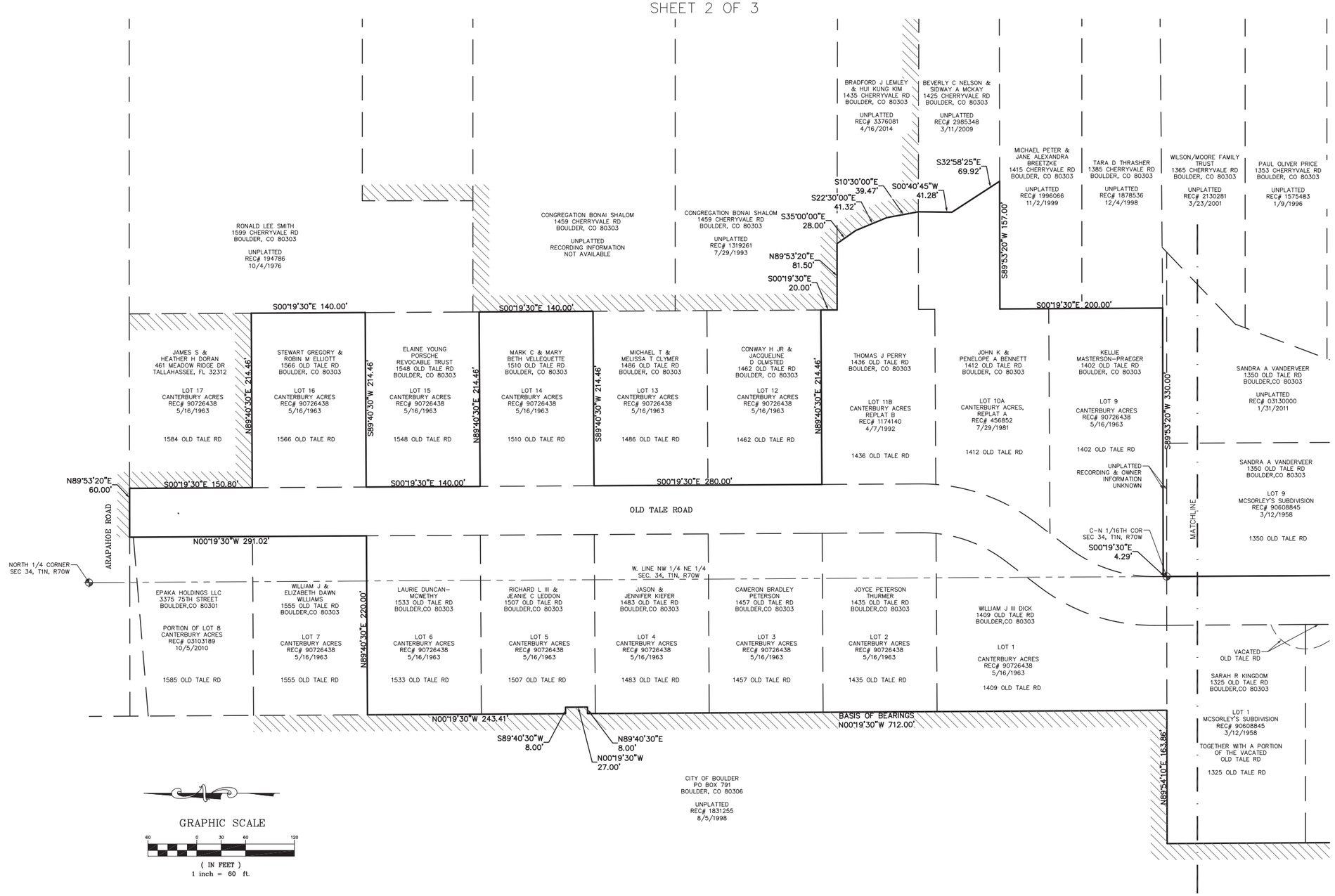
EXHIBIT A (Page 5 of 6) - ANNEXATION MAP

LOTS 1–6 INCLUSIVE, LOTS 9, 14 & 16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, A PORTION OF LOT 6, ALL OF LOTS 1–5 INCLUSIVE. LOTS 7, 8, 11 & 12, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 3

Legend

CURRENT LIMITS OF THE CITY OF BOULDER



REVISION	DATE
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5 –Revision per client	–3–11–2015 EP
6 –	–
7 –	–
8 –	–
9 –	–

ANNEXATION MAP
PREPARED FOR
CITY OF BOULDER

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Flatirons, Inc.
Surveying, Engineering & Geomatics
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3825 IRIS AVE, STE 395
BOULDER, CO 80301
PH: (303) 443–7001
FAX: (303) 443–9830
3660 DOWNING ST
UNIT E
DENVER, CO 80205
PH: (303) 936–6997

COLORADO LICENSED
WW WEBB
16406
3/11/15
PROFESSIONAL LAND SURVEYOR
SEAL

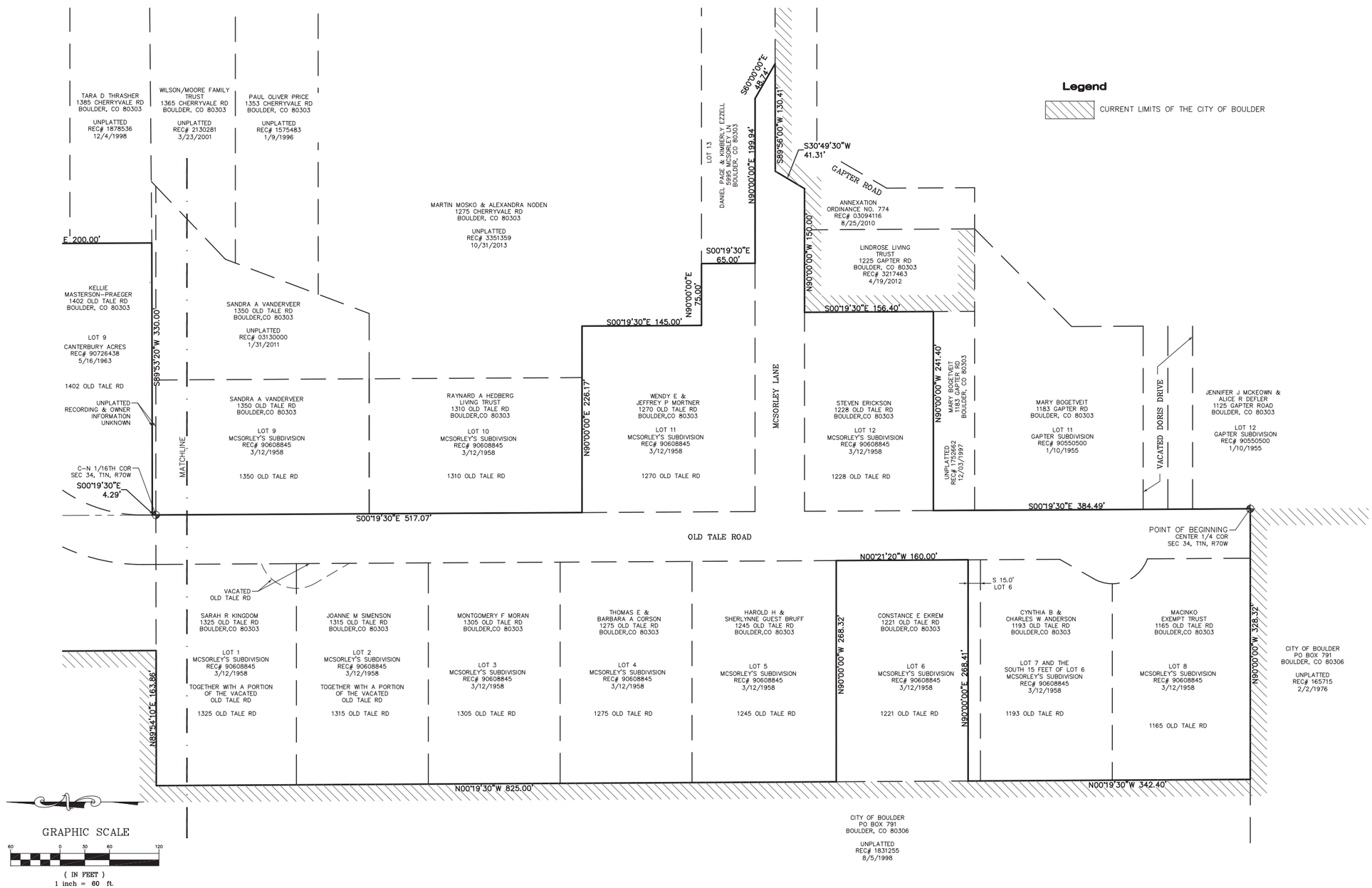
JOB NUMBER:	14–65,019
DATE:	1–15–2015
DRAWN BY:	E. PRESCOTT
CHECKED BY:	WW/JZG/JK
SHEET 2 OF 3	

BY:EPRESCOTT FILE:65019–ANNEX–C13.DWG DATE:3/11/2015 10:10 AM

EXHIBIT A (Page 6 of 6) - ANNEXATION MAP

LOTS 1–6 INCLUSIVE, LOTS 9, 14 & 16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, A PORTION OF LOT 6, ALL OF LOTS 1–5 INCLUSIVE. LOTS 7, 8, 11 & 12, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 3 OF 3



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7 –	–
8 –	–
9 –	–

ANNEXATION MAP
PREPARED FOR
CITY OF BOULDER

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Flatirons, Inc.
Surveying, Engineering & Geomatics
www.Flatironsinc.com
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3825 IRIS AVE, STE 395 BOULDER, CO 80301 PH: (303) 443–7001 FAX: (303) 443–9830
3660 DOWNING ST UNIT E DENVER, CO 80205 PH: (303) 936–6997

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR 16406 3/11/15 SEAL

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

SHEET 3 OF 3

BY:EPRESCOTT FILE:65019–ANNEX–C13.DWG DATE:3/11/2015 10:10 AM

ANNEXATION MAP

LOTS 1–6 INCLUSIVE, LOTS 9, 14 & 16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, A PORTION OF LOT 6, ALL OF LOTS 1–5 INCLUSIVE. LOTS 7, 8, 11 & 12, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 3

TOTAL AREA = 975,800 SQ. FT., OR 22.40 ACRES, MORE OR LESS

Parcel Description

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

BEGINNING AT THE CENTER QUARTER CORNER OF SAID SECTION 34;

THENCE ALONG THE SOUTHERLY LINE OF SAID MCSORLEY'S SUBDIVISION, NORTH 90°00'00" WEST, A DISTANCE OF 328.32 FEET TO THE SOUTHWEST CORNER OF SAID LOT 8, MCSORLEY'S SUBDIVISION;
THENCE ALONG THE WESTERLY LINE OF SAID LOTS 6–8, MCSORLEY'S SUBDIVISION, NORTH 00°19'30" WEST, A DISTANCE OF 342.40 FEET TO A POINT LYING 15.00 FEET NORTH OF THE SOUTHWEST CORNER OF SAID LOT 6;
THENCE ALONG A LINE LYING 15.00 FEET NORTHERLY AND PARALLEL WITH THE SOUTHERLY LINE OF SAID LOT 6, NORTH 90°00'00" EAST, A DISTANCE OF 268.41 FEET TO A POINT ON THE WESTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID WESTERLY RIGHT–OF–WAY LINE, NORTH 00°21'20" WEST, A DISTANCE OF 160.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5, MCSORLEY'S SUBDIVISION;
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THENCE ALONG THE WESTERLY LINE OF SAID LOTS 1 THROUGH 5, MCSORLEY'S SUBDIVISION, NORTH 00°19'30" WEST, A DISTANCE OF 825.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 1;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 1, NORTH 89°54'10" EAST, A DISTANCE OF 163.86 FEET TO THE SOUTHWEST CORNER OF LOT 1, SAID CANTERBURY ACRES;
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THENCE NORTH 89°40'30" EAST, A DISTANCE OF 8.00 FEET;
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THENCE SOUTH 89°40'30" WEST, A DISTANCE OF 8.00 FEET;
THENCE NORTH 00°19'30" WEST, A DISTANCE OF 243.41 FEET TO THE NORTHWEST CORNER OF SAID LOT 6, CANTERBURY ACRES;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 6, NORTH 89°40'30" EAST, A DISTANCE OF 220.00 FEET TO A POINT ON THE WESTERLY RIGHT–OF–WAY LINE OF SAID OLD TALE ROAD;
THENCE ALONG SAID WESTERLY RIGHT–OF–WAY LINE, NORTH 00°19'30" WEST, A DISTANCE OF 291.02 FEET TO A POINT ON THE SOUTHERLY RIGHT–OF–WAY LINE OF ARAPAHOE ROAD;
THENCE ALONG SAID SOUTHERLY RIGHT–OF–WAY LINE, NORTH 89°53'20" EAST, A DISTANCE OF 60.00 FEET TO A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF SAID OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 150.80 FEET TO THE NORTHWEST CORNER OF SAID LOT 16;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 16, NORTH 89°40'30" EAST, A DISTANCE OF 214.46 FEET TO THE NORTHEAST CORNER OF SAID LOT 16;
THENCE ALONG THE EASTERLY LINE OF SAID LOT 16, SOUTH 00°19'30" EAST, A DISTANCE OF 140.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 16;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 16, SOUTH 89°40'30" WEST, A DISTANCE OF 214.46 FEET TO A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
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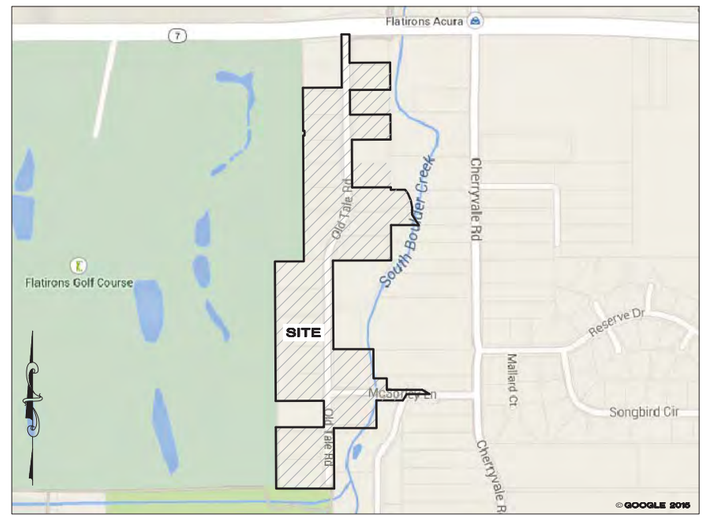
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 280.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 11B;
THENCE ALONG THE NORTHERLY LINES OF SAID LOT 11B THE FOLLOWING THREE (3) COURSES:
NORTH 89°40'30" EAST, A DISTANCE OF 214.46 FEET;
THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 20.00 FEET;
THENCE NORTH 89°53'20" EAST, A DISTANCE OF 81.50 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 11B;
THENCE ALONG THE EASTERLY LINES OF SAID LOT 11B AND SAID LOT 10A, THE FOLLOWING FIVE (5) COURSES:
SOUTH 35°00'00" EAST, A DISTANCE OF 28.00 FEET;
THENCE SOUTH 22°30'00" EAST, A DISTANCE OF 41.32 FEET;
THENCE SOUTH 10°30'00" EAST, A DISTANCE OF 39.47 FEET;
THENCE SOUTH 00°40'45" WEST, A DISTANCE OF 41.28 FEET;
THENCE SOUTH 32°58'25" EAST, A DISTANCE OF 69.92 FEET TO THE MOST EASTERLY CORNER OF SAID LOT 10A;
THENCE ALONG THE SOUTHERLY LINES OF SAID LOT 10A AND ALONG THE EASTERLY LINE OF SAID LOT 9, THE FOLLOWING TWO (2) COURSES:
SOUTH 89°53'20" WEST, A DISTANCE OF 157.00 FEET;
THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 200.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9;
THENCE ALONG THE SOUTHERLY LINE OF SAID CANTERBURY ACRES, SOUTH 89°53'20" WEST, A DISTANCE OF 330.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 9 AND A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" WEST, A DISTANCE OF 4.29 FEET TO THE CENTER–NORTH SIXTEENTH CORNER OF SAID SECTION 34 AND THE NORTHWEST CORNER OF LOT 9, SAID MCSORLEY'S SUBDIVISION;
THENCE CONTINUING ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 517.07 FEET TO THE NORTHWESTERLY CORNER OF SAID LOT 11;
THENCE ALONG THE NORTHERLY LINE OF SAID LOT 11, NORTH 90°00'00" EAST, A DISTANCE OF 226.17 FEET TO THE NORTHEAST CORNER OF SAID LOT 11;
THENCE ALONG THE EASTERLY LINES OF SAID LOT 11, THE FOLLOWING THREE (3) COURSES:
SOUTH 00°19'30" EAST, A DISTANCE OF 145.00 FEET;
THENCE NORTH 90°00'00" EAST, A DISTANCE OF 75.00 FEET;
THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 65.00 FEET TO THE SOUTHWESTERLY CORNER OF LOT 13, SAID MCSORLEY'S SUBDIVISION;
THENCE ALONG THE SOUTHERLY LINES OF SAID LOT 13, THE FOLLOWING TWO (2) COURSES: NORTH 90°00'00" EAST, A DISTANCE OF 199.94 FEET;
THENCE SOUTH 60°00'00" EAST, A DISTANCE OF 48.74 FEET TO A POINT ON THE NORTHERLY LINE OF THE ANNEXATION ORDINANCE NO. 774, AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON AUGUST 25, 2010, AT RECEPTION NO. 03094116;
THENCE ALONG THE NORTHERLY LINES OF SAID ANNEXATION ORDINANCE, THE FOLLOWING THREE (3) COURSES:
SOUTH 89°56'00" WEST, A DISTANCE OF 130.41 FEET;
THENCE SOUTH 30°49'30" WEST, A DISTANCE OF 41.31 FEET;
THENCE NORTH 90°00'00" WEST, A DISTANCE OF 150.00 FEET TO THE NORTHWESTERLY CORNER OF SAID ANNEXATION ORDINANCE;
THENCE ALONG THE WESTERLY LINE OF SAID ANNEXATION ORDINANCE, SOUTH 00°19'30" EAST, A DISTANCE OF 156.40 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12, MCSORLEY'S SUBDIVISION;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 12, NORTH 90°00'00" WEST, A DISTANCE OF 241.40 FEET TO A POINT ON THE EASTERLY RIGHT–OF–WAY LINE OF OLD TALE ROAD;
THENCE ALONG SAID EASTERLY RIGHT–OF–WAY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 384.49 FEET TO THE POINT OF BEGINNING;

SAID DESCRIBED TRACT CONTAINING 975,800 SQ. FT. OR 22.40 ACRES, MORE OR LESS.



Vicinity Map
NOT TO SCALE

Notes

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

Contiguity

TOTAL PERIMETER.....9,242.55'
1/6TH PERIMETER.....1,540.43'
CONTIGUOUS TO CITY LIMITS.....3,911.66'

Surveyor's Certificate

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

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

REVISION	DATE
1 –Removed 1486 Old Tale Rd	–1–28–2015
2 –Added a portion of Old Tale Road	–2–5–2015 EP
3 –Removed 1310 & 1221 Old Tale Rd	–3–10–2015 EP
4 –Removed 1548 & 1462 Old Tale Rd	–3–11–2015 EP
5 –Revision per client	–3–11–2015 EP
6	–
7	–
8	–
9	–

ANNEXATION MAP
PREPARED FOR
CITY OF BOULDER

COPYRIGHT 2015 FLATIRONS, INC.

Flatirons, Inc.
Surveying, Engineering & Geomatics
www.Flatironsinc.com
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BOULDER, CO 80301
PH: (303) 443–7001
FAX: (303) 443–9830
3660 DOWNING ST
UNIT E
DENVER, CO 80205
PH: (303) 936–6997

COLORADO LICENSED
16406
3/11/15
PROFESSIONAL LAND SURVEYOR

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

SHEET 1 OF 3

BY:EPRESCOTT FILE:65019–ANNEX–C13.DWG DATE:3/11/2015 10:09 AM

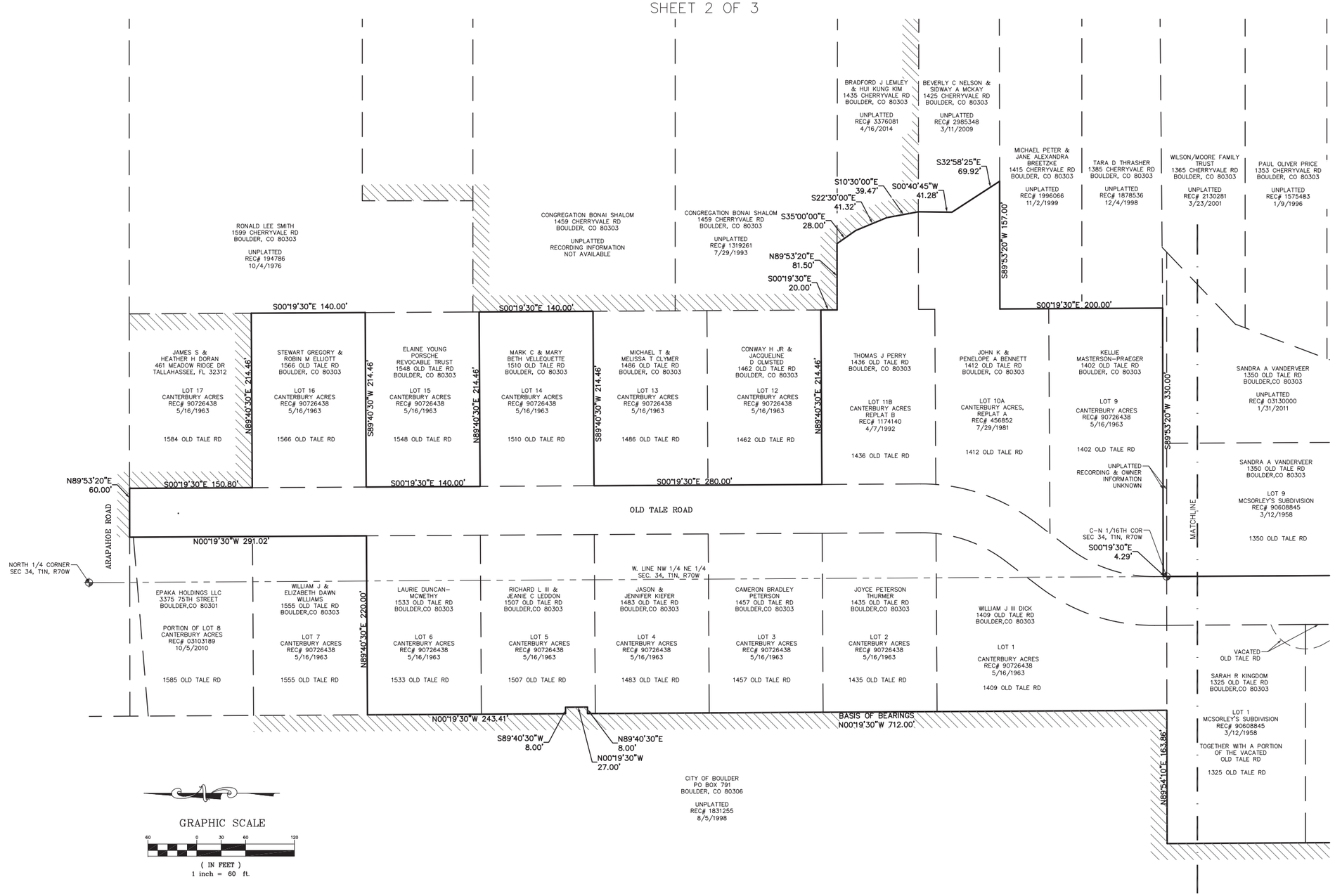
ANNEXATION MAP

LOTS 1–6 INCLUSIVE, LOTS 9, 14 & 16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, A PORTION OF LOT 6, ALL OF LOTS 1–5 INCLUSIVE. LOTS 7, 8, 11 & 12, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 3

Legend

CURRENT LIMITS OF THE CITY OF BOULDER



REVISION	DATE
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7 –	–
8 –	–
9 –	–

ANNEXATION MAP
PREPARED FOR
CITY OF BOULDER

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FAX: (303) 443–9830
3660 DOWNING ST
UNIT E
DENVER, CO 80205
PH: (303) 936–6997

COLORADO LICENSED
PROFESSIONAL LAND SURVEYOR
JAMES ZIEGLER GRIFFITH
16406
3/11/15
SEAL

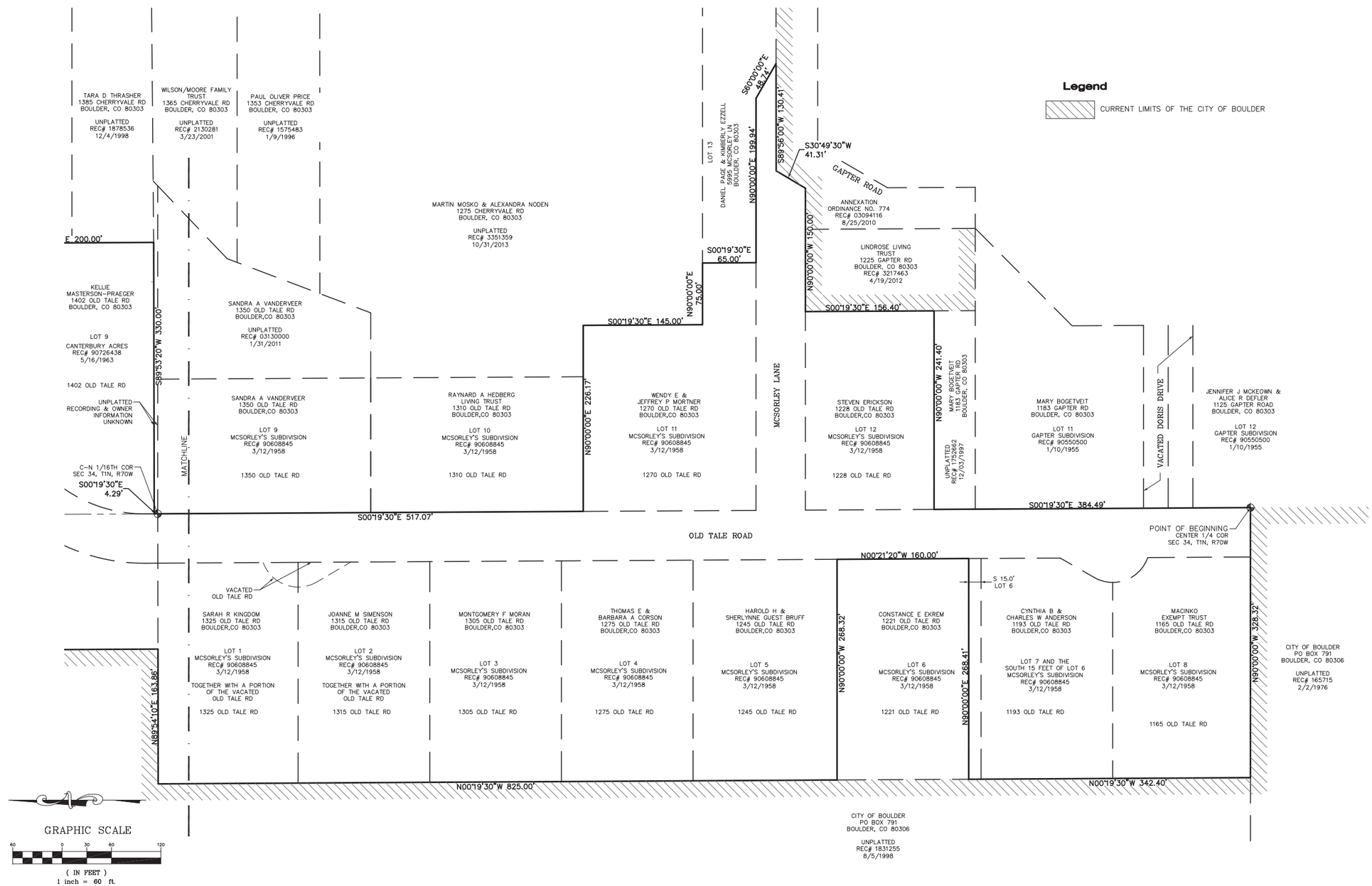
JOB NUMBER:	14–65,019
DATE:	1–15–2015
DRAWN BY:	E. PRESCOTT
CHECKED BY:	WW/JZG/JK
SHEET 2 OF 3	

BY:EPRESCOTT FILE:65019–ANNEX–C13.DWG DATE:3/11/2015 10:10 AM

ANNEXATION MAP

LOTS 1–6 INCLUSIVE, LOTS 9, 14 & 16 INCLUSIVE, CANTERBURY ACRES, LOT 10A, CANTERBURY ACRES REPLAT A, LOT 11B, CANTERBURY ACRES REPLAT B, A PORTION OF LOT 6, ALL OF LOTS 1–5 INCLUSIVE. LOTS 7, 8, 11 & 12, MCSORLEY'S SUBDIVISION AND PORTIONS OF OLD TALE ROAD & MCSORLEY LANE, LOCATED IN THE NORTH HALF OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO

SHEET 3 OF 3



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ANNEXATION MAP
PREPARED FOR
CITY OF BOULDER

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UNIT E
DENVER, CO 80205
PH: (303) 936–6997

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR 16406 3/11/15 SEAL

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

SHEET 3 OF 3

BY:EPRESCOTT FILE:65019–ANNEX–C13.DWG DATE:3/11/2015 10:10 AM

For Administrative Purposes Only
Property Address: 1165 Old Tale Road
Grantor: Macinko Exempt Trust,
dated October 4, 1989
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Macinko Exempt Trust, dated October 4, 1989 (the "Applicant"). The City and the Applicant are referred to as the "Parties."

RECITALS

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

A. The Applicant is the owner of the property generally known as 1165 Old Tale Road, Boulder CO 80303 and more particularly described as Lot 8, McSorley's Subdivision, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

obligation to construct or finance the construction of the Water Main or reconstruct or finance the reconstruction of Old Tale Road and McSorley Road as a condition of this Agreement.

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicant shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicant will sign this Agreement.

   B. Title Work. The Applicant will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicant shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicant will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

E. Easement Dedications. The Applicant shall convey to the City, at no cost, the following:

a. A ditch easement in the form shown on the attached **Exhibit B**.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$ 409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$11,807.92
Total	**$29,024.60**

E. Execute a Promissory Note and Deed of Trust, if Applicant selected Payment Option #B, as described under Paragraph 4.B(i) below.

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicant selects **Option #B** set forth below.

A. Option #A: Payment in Full. The Applicant shall connect to the Water Main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension.

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

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

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

C. Option #C: Future Connection. The Applicant shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time the Applicant's Property is Sold; or 2) at the time of Redevelopment of Applicant's Property, whichever occurs first. At the respective time and prior to the Applicant's connection to the Water Main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicant Responsible for Legal Disconnection of On-site Wastewater System. If the Applicant decides to continue to use an existing on-site wastewater system, the Applicant agrees that the Applicant will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site

wastewater system and connection to the City's sanitary sewer main, the Applicant is required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. Existing, nonstandard buildings and/or nonconforming uses will be allowed to continue to be occupied and operated in the City of Boulder. Only those nonstandard buildings and/or nonconforming uses for which the Applicant has provided a written description that is received by the City in accordance with Paragraph 2.C above will be considered legal. The Applicant and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The 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 in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the

City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that it will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the

annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicant.

21. 2014 Fee Schedule. If the Applicant agrees to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:
Macinko Exempt Trust,
dated October 4, 1989

By: Constance Mae Macinko
Constance Mae Macinko, Trustee

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 2nd day of March, 2015, by Constance Mae Macinko as Trustee of the Macinko Exempt Trust, dated October 4, 1989.

Witness my hand and official seal.
My commission expires: 11 Aug. 2016

[SEAL]

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

Notary Public

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Ditch Easement

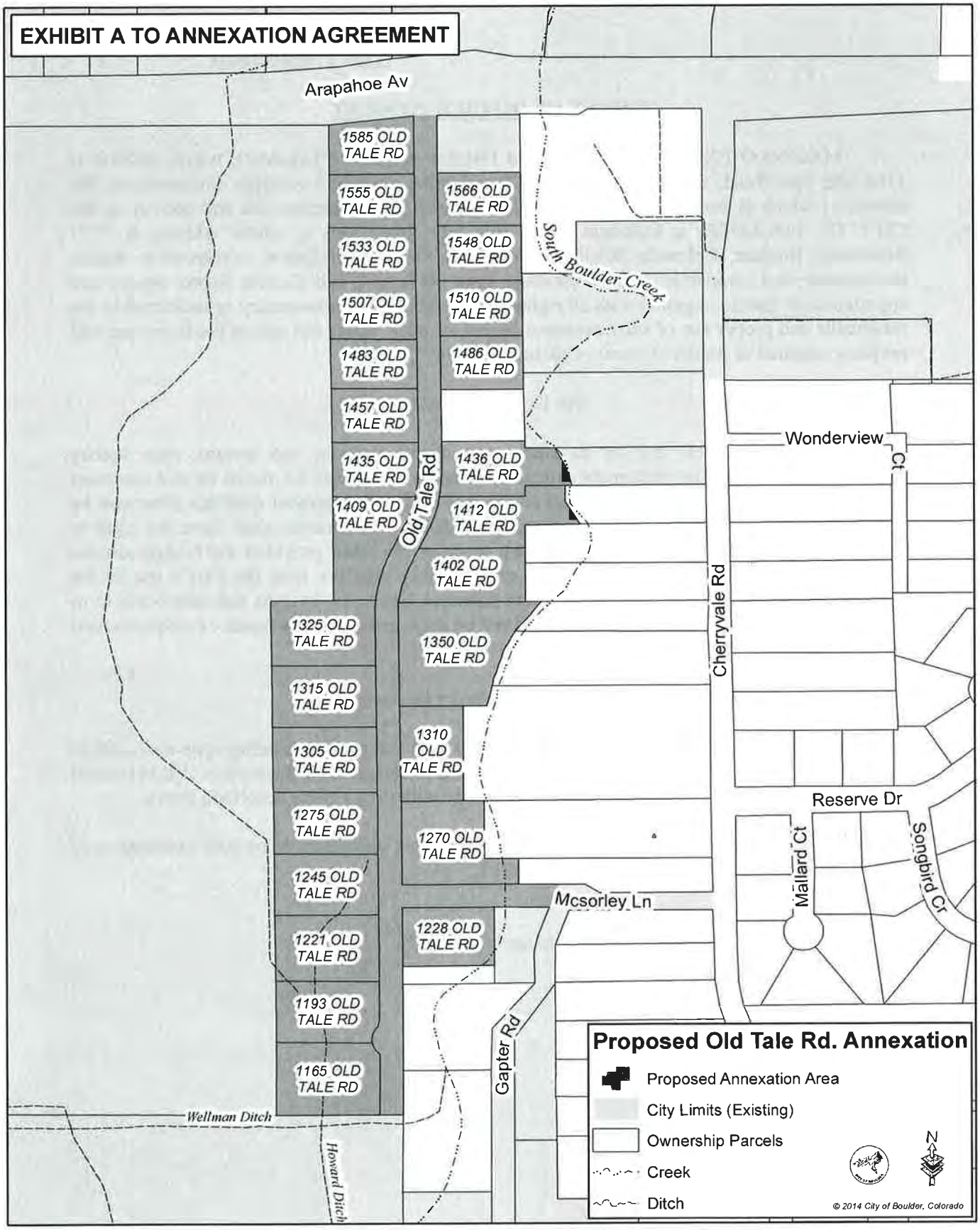
EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1566 OLD TALE RD
1533 OLD TALE RD
1548 OLD TALE RD
1507 OLD TALE RD
1510 OLD TALE RD
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1270 OLD TALE RD
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1228 OLD TALE RD
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Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
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EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 5)

For Administrative Purposes Only
Property Address: 1165 Old Tale Road
Case#: LUR2015-00004

GRANT OF DITCH EASEMENT

MACINKO EXEMPT TRUST, dated October 4, 1989, ("Grantor"), whose address is 1165 Old Tale Road, Boulder, CO, for $1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city, (the "City"), whose address is 1777 Broadway, Boulder, Colorado 80302, an easement for the installation, construction, repair, maintenance and reconstruction of a drainage ditch (or lateral) and channel improvements and appurtenances thereto, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached

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

Grantor warrants its ability to grant and convey this easement.

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

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

GRANTOR:
MACINKO EXEMPT TRUST, dated October 4, 1989,

By:_____
Constance Mae Macinko, Trustee

EXHIBIT B TO ANNEXATION AGREEMENT (Page 2 of 5)

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Constance Mae Macinko as Trustee of Macinko Exempt Trust.

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

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 3 of 5)

LENDER'S CONSENT AND SUBORDINATION

The undersigned, a beneficiary under a certain deed of trust encumbering the property, hereby expressly consents to and joins in the execution and recording of this grant of easement and makes the deed of trust subordinate hereto. The undersigned represents that he or she has full power and authority to execute this Lender's Consent and Subordination on behalf of the below-stated lender.

Washington Mutual Bank

By:_____
Printed Name:_____
Title:_____

ACKNOWLEDGMENT

State of _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by _____ as _____ of Washington Mutual Bank.

Witness my Hand and Seal.
My Commission Expires:_____

[Seal]

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 4 of 5)

EXHIBIT A TO DITCH EASEMENT (Page 1 of 2)

LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 2

AN EASEMENT OVER, UNDER AND ACROSS A PORTION OF LOT 8, MCSORLEY'S SUBDIVISION AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON MARCH 12, 1958, AT RECEPTION NO. 90608845, LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE SOUTHERLY LINE OF SAID LOT 8 TO BEAR NORTH 90°00'00" EAST, A DISTANCE OF 268.32 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 8;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 8, NORTH 90°00'00" EAST, A DISTANCE OF 111.49 FEET TO A POINT LYING 6.0 FEET WESTERLY OF THE CENTERLINE OF THE HOWARD DITCH LATERAL AND THE POINT OF BEGINNING;
THENCE ALONG A LINE LYING 6.0 FEET WESTERLY OF AND PARALLEL WITH THE CENTERLINE OF SAID LATERAL THE FOLLOWING THREE (3) COURSES:
THENCE NORTH 01°46'29" EAST, A DISTANCE OF 64.41 FEET;
THENCE NORTH 04°42'48" EAST, A DISTANCE OF 95.46 FEET;
THENCE NORTH 04°40'10" WEST, A DISTANCE OF 7.90 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 8;
THENCE ALONG SAID NORTHERLY LINE, NORTH 90°00'00" EAST, A DISTANCE OF 12.04 FEET TO A POINT LYING 6 0 FEET EASTERLY OF THE CENTERLINE OF SAID LATERAL;
THENCE ALONG A LINE LYING 6.0 FEET EASTERLY OF AND PARALLEL WITH SAID CENTERLINE, THE FOLLOWING THREE (3) COURSES:
SOUTH 04°40'10" EAST, A DISTANCE OF 7.91 FEET;
THENCE SOUTH 04°42'48" WEST, A DISTANCE OF 96.14 FEET;
THENCE SOUTH 01°46'29" WEST, A DISTANCE OF 63.73 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 8;
THENCE ALONG SAID SOUTHERLY LINE, SOUTH 90°00'00" WEST, A DISTANCE OF 12.01 FEET TO THE POINT OF BEGINNING;

SAID EASEMENT CONTAINING 2,013 SQ.FT. OR 0.05 ACRES, MORE OR LESS.

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

COLORADO LICENSED
JOHN B. GUYTON
16406
2/2/15
PROFESSIONAL LAND SURVEYOR

JOHN B. GUYTON
COLORADO P.L.S. #164[illegible]
CHAIRMAN/CEO, FLATIRON[illegible]

FSI JOB NO. 14-65019(J)

JOB NUMBER: 14-65019(J)
DRAWN BY: E. PRESCOTT
DATE: FEBRUARY 2, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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

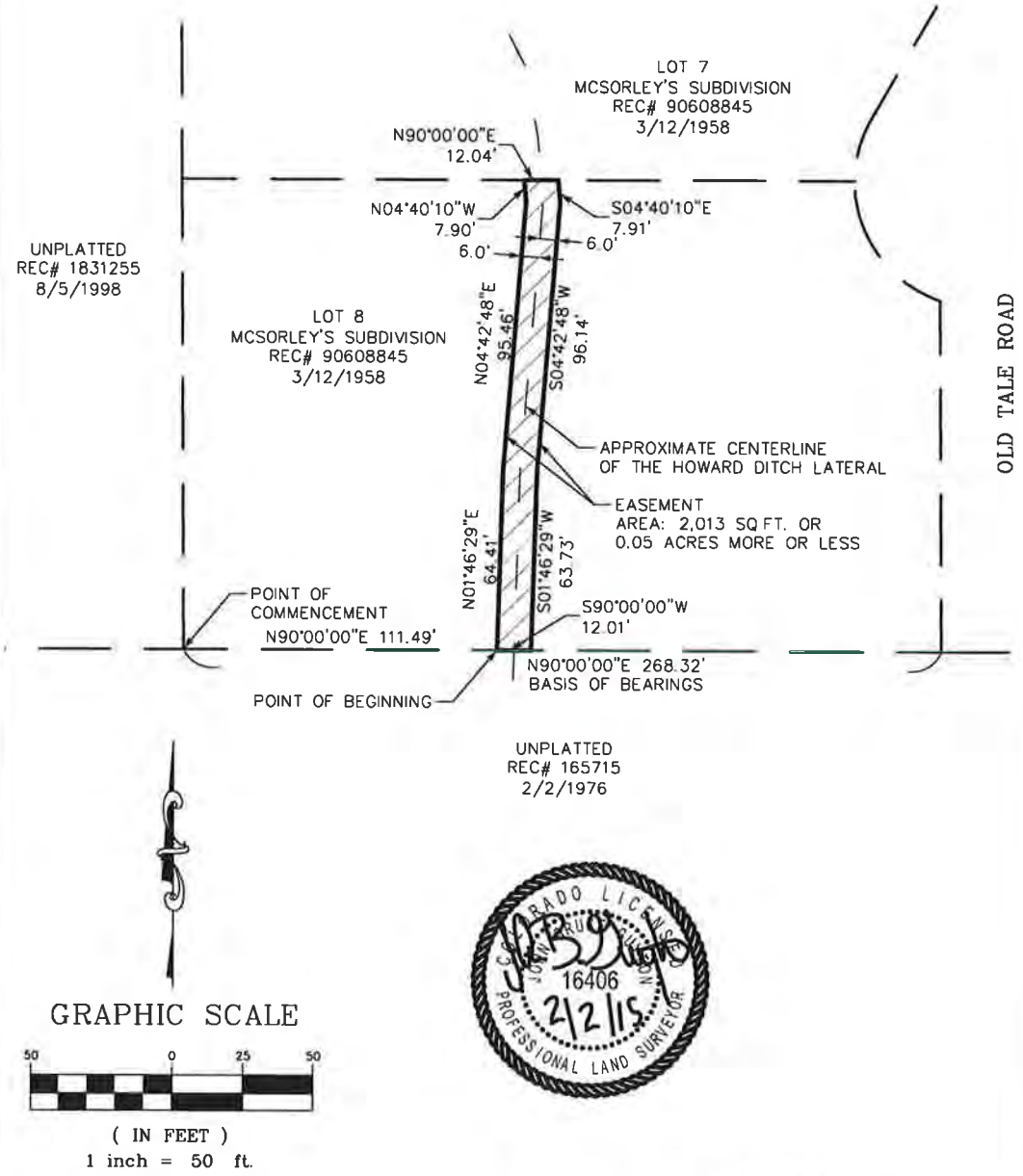
BY:EPRESCOTT FILE:65019-1165 LATERAL DESC(J) - C-15 DWG DATE:2/2/2015 2:15 PM

EXHIBIT B TO ANNEXATION AGREEMENT (Page 5 of 5)

EXHIBIT A TO DITCH EASEMENT (Page 2 of 2)

LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2



GRAPHIC SCALE

50 0 25 50

(IN FEET)
1 inch = 50 ft.

COLORADO LICENSED
JOHN R. BUSH
16406
2/2/15
PROFESSIONAL LAND SURVEYOR

JOB NUMBER: 14-65019(J)
DRAWN BY: E. PRESCOTT
DATE: FEBRUARY 2, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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

BY:EPRESCOTT FILE:65019-1165 LATERAL DESC(J) - C-15.DWG DATE:2/2/2015 2:16 PM

For Administrative Purposes Only
Property Address: 1193 Old Tale Road
Grantors: Cynthia B. and Charles W. Anderson
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Cynthia B. Anderson and Charles W. Anderson (the "Applicants"). The City and the Applicants are referred to as the "Parties."

RECITALS

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

A. The Applicants are the owners of the property generally known as 1193 Old Tale Road and more particularly described as Lot 7 and the South 15 feet of Lot 6, McSorley's Subdivision, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicants in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicants shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicants will sign this Agreement.

   B. Title Work. The Applicants will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicants shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicants will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

   E. Easement Dedications. The Applicant shall convey to the City, at no cost, the following:

i. A ditch easement in the form shown on the attached **Exhibit B**.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$15,958.82
Total	**$33,175.50**

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

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

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

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

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

C. Option #C: Future Connection. The Applicants shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time the Applicants' Property is Sold; or 2) at the time of Redevelopment of Applicants' Property, whichever occurs first. At the respective time and prior to the Applicants' connection to the Water Main, the Applicants will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

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

8. Historic Drainage. The Applicants agree to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicants agree not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit C**. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicants and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The Applicants hereby waive any statutory vested rights that may have accrued under County jurisdiction that have not been perfected as common law vested rights. The Applicants acknowledge that nothing in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicants acknowledge that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicants shall provide an original of this Agreement signed by Applicants, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicants. The Applicants agree that they will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicants agree that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred,

the Applicants shall neither convey ownership nor further encumber the Applicants' Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicants agree not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicants retain the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicants' right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicants withdraw from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicants. The City agrees, within 30 days of a request by the Applicants after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicants submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicants.

21. 2014 Fee Schedule. If the Applicants agree to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: Cynthia B. Anderson
Cynthia B. Anderson

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 5th day of March, 2015, by Cynthia B. Anderson.

Witness my hand and official seal.
My commission expires: 11 August 2016

[SEAL]

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

Notary Public

Applicant:

By: _____
Charles W. Anderson

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 5th day of March, 2015, by Charles W. Anderson.

Witness my hand and official seal.
My commission expires: 11 August 2016

[SEAL]

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

_____
Notary Public

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

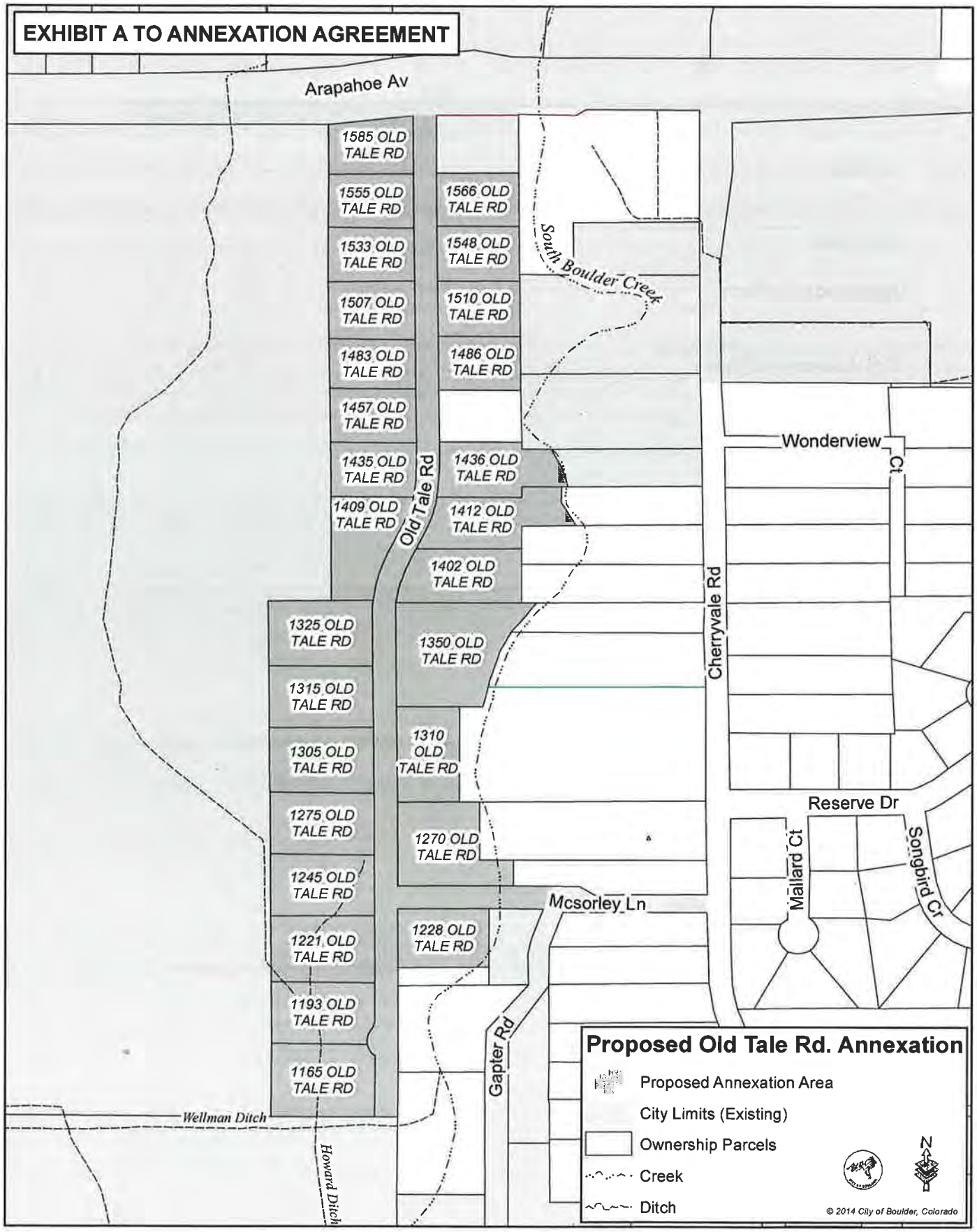
_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Ditch Easement
C: Written Description of Nonstandard or Nonconforming Structures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Proposed Annexation Area
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N
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EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 5)

For Administrative Purposes Only
Property Address: 1193 Old Tale Road
Case#: LUR2015-00004

GRANT OF DITCH EASEMENT

CYNTHIA B. ANDERSON AND CHARLES W. ANDERSON ("Grantors"), whose address is 1193 Old Tale Road, Boulder, CO, for $1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city, (the "City"), whose address is 1777 Broadway, Boulder, Colorado 80302, an easement for the installation, construction, repair, maintenance and reconstruction of a drainage ditch (or lateral) and channel improvements and appurtenances thereto, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached

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

Grantors warrant their ability to grant and convey this easement.

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

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

GRANTOR:

By:_____
Cynthia B. Anderson

EXHIBIT B TO ANNEXATION AGREEMENT (Page 2 of 5)

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this ___ day of_____, 2015, by Cynthia B. Anderson.

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

_____
Notary Public

By:_____
Charles W. Anderson

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this ___ day of_____, 2015, by Charles W. Anderson.

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

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 3 of 5)

LENDER'S CONSENT AND SUBORDINATION

The undersigned, a beneficiary under a certain deed of trust encumbering the property, hereby expressly consents to and joins in the execution and recording of this grant of easement and makes the deed of trust subordinate hereto. The undersigned represents that he or she has full power and authority to execute this Lender's Consent and Subordination on behalf of the below-stated lender.

Quicken Loans
(Home Loan Provider of Charles Schwab Bank)

By:_____
Printed Name:_____
Title:_____

ACKNOWLEDGMENT

State of _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by _____ as _____ of Quicken Loans.

Witness my Hand and Seal.
My Commission Expires:_____

[Seal]

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 4 of 5)

EXHIBIT A TO DITCH EASEMENT (Page 1 of 2)

LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT OVER, UNDER AND ACROSS A PORTION OF LOT 7, MCSORLEY'S SUBDIVISION AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON MARCH 12, 1958, AT RECEPTION NO. 90608845, LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE SOUTHERLY LINE OF SAID LOT 7 TO BEAR NORTH 90°00'00" EAST, A DISTANCE OF 238.32 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 7;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 7, NORTH 90°00'00" EAST, A DISTANCE OF 121.63 FEET TO A POINT LYING 6.0 FEET WESTERLY OF THE CENTERLINE OF THE HOWARD DITCH LATERAL AND THE POINT OF BEGINNING;
THENCE ALONG A LINE LYING 6.0 FEET WESTERLY AND SOUTHWESTERLY OF AND PARALLEL WITH SAID CENTERLINE THE FOLLOWING FIVE (5) COURSES:
THENCE NORTH 04°40'10" WEST, A DISTANCE OF 14.08 FEET;
THENCE NORTH 10°13'04" WEST, A DISTANCE OF 25.05 FEET;
THENCE NORTH 27°03'50" WEST, A DISTANCE OF 10.82 FEET;
THENCE NORTH 36°53'24" WEST, A DISTANCE OF 103.93 FEET;
THENCE NORTH 41°06'48" WEST, A DISTANCE OF 37.91 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 7;
THENCE ALONG SAID NORTHERLY LINE, NORTH 90°00'00" EAST, A DISTANCE OF 15.93 FEET TO A POINT LYING 6.0 FEET NORTHEASTERLY OF SAID CENTERLINE;
THENCE ALONG A LINE LYING 6.0 FEET NORTHEASTERLY AND EASTERLY OF AND PARALELL WITH SAID CENTERLINE THE FOLLOWING FIVE (5) COURSES:
SOUTH 41°06'48" EAST, A DISTANCE OF 27.88 FEET;
THENCE SOUTH 36°53'24" EAST, A DISTANCE OF 105.40 FEET;
THENCE SOUTH 27°03'50" EAST, A DISTANCE OF 13.62 FEET;
THENCE SOUTH 10°13'04" EAST, A DISTANCE OF 27.41 FEET;
THENCE SOUTH 04°40'10" EAST, A DISTANCE OF 15.64 FEET TO A POINT ON THE SOUTHERLY LINE OF SAID LOT 7;
THENCE ALONG SAID SOUTHERLY LINE, SOUTH 90°00'00" WEST, A DISTANCE OF 12.04 FEET TO THE POINT OF BEGINNING;

SAID EASEMENT CONTAINING 2,290 SQ.FT. OR 0.05 ACRES MORE OR LESS

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

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR
JOHN B. GUYTON
16406
2/2/15

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

FSI JOB NO. 14-65019(K)

JOB NUMBER: 14-65019(K)
DRAWN BY: E. PRESCOTT
DATE: FEBRUARY 2, 2014

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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

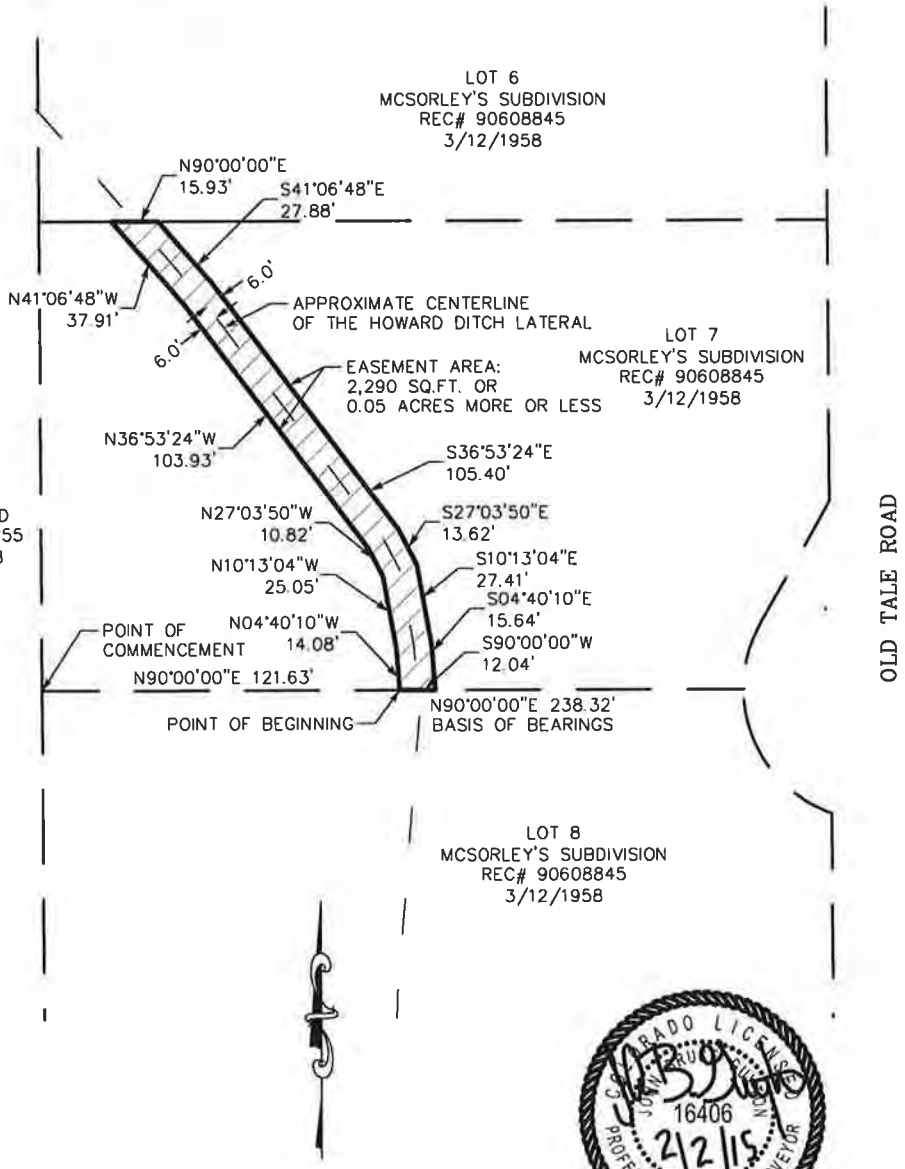
BY:EPRESCOTT FILE:65019-1193 LATERAL DESC(K)-C-15.DWG DATE:2/2/2015 2:18 PM

EXHIBIT B TO ANNEXATION AGREEMENT (Page 5 of 5)

EXHIBIT A TO DITCH EASEMENT (Page 2 of 2)

LOCATED IN THE NORTHWEST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2



GRAPHIC SCALE

50 0 25 50

(IN FEET)
1 inch = 50 ft.

COLORADO LICENSED
16406
2/2/15
PROFESSIONAL LAND SURVEYOR

JOB NUMBER: 14-65019(K)
DRAWN BY: E. PRESCOTT
DATE: FEBRUARY 2, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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

BY:EPRESCOTT FILE:65019-1193 LATERAL DESC(K)-C-15.DWG DATE:2/2/2015 2:19 PM

Box above approximates the property boundaries of 1193 Old Tale Rd. Red circle indicates approximate location of non-conforming structure: shed

For Administrative Purposes Only
Property Address: 1228 Old Tale Road
Grantor: Steven Erickson
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this 6th day of March, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Steven Erickson (the "Applicant"). The City and the Applicant are referred to as the "Parties."

RECITALS

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

A. The Applicant is the owner of the property generally known as 1228 Old Tale Road, Boulder, CO 80303 and more particularly described as Lot 12, McSorley's Subdivision, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicant shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicant will sign this Agreement.

   B. Title Work. The Applicant will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicant shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicant will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

   E. Easement Dedications. To the extent the Property is located within 60 feet from the centerline of the South Boulder Creek, the Applicant shall dedicate to the City, at no cost, the following easements:

a. A flood control easement from 60 feet on either side of the centerline of South Boulder Creek as shown on **Exhibit B**. The easement shall be in a form acceptable to the City Manager. The easement will exclude any principal building containing a dwelling unit on the lot within the flood control easement area that is existing at the time of annexation.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Sewer Permit, Inspection and Tap Fee	$426.93
Wastewater PIF	$4,473.00
Stormwater and Flood PIF	$8,190.56
Total	**$30,307.17**

E. Execute a Promissory Note and Deed of Trust, if Applicant selected Payment Option #B, as described under Paragraph 4.B.(i) below.

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicant selects **Option #B** set forth below.

A. Option #A: Payment in Full. The Applicant shall connect to the Water Main and sanitary sewer main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main and sanitary sewer main provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension.

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

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

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

C. Option #C: Future Connection. The Applicant shall connect to the Water Main and sanitary sewer main at a time later than what is specified in Option #A and #B above, but no later than the time when 1) the Applicant's on-site wastewater system fails or is declared unsafe, or the Applicant is otherwise required to stop using the on-site wastewater system by the Boulder County Health Department or the State of Colorado; or 2) at the time Applicant's Property is sold; or 3) at the time of Redevelopment of Applicant's Property, whichever occurs first. At the respective time and prior to the Applicant's connection to the Water Main and sanitary sewer main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicant Responsible for Legal Disconnection of On-site Wastewater System. If the Applicant decides to continue to use an existing on-site wastewater system, the Applicant agrees that the Applicant will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-

site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City's sanitary sewer main, the Applicant is required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit C**. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicant and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The 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 in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that he will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicant.

21. Flood Control Easement Conditions. The Applicant acknowledges that no accessory structures currently exist within the flood control easement area. The Applicant shall not construct any new buildings within the flood control easement area.

22. 2014 Fee Schedule. If the Applicant agrees to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: _____
Steven Erickson

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 6th day of March, 2015, by Steven Erickson.

Witness my hand and official seal.
My commission expires: 2/26/17

[SEAL]

STEVIE R. FOWLER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20084011020
MY COMMISSION EXPIRES FEBRUARY 26, 2017

_____
Notary Public

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Flood Control Easement
C: Written Description of Nonstandard or Nonconforming Structures

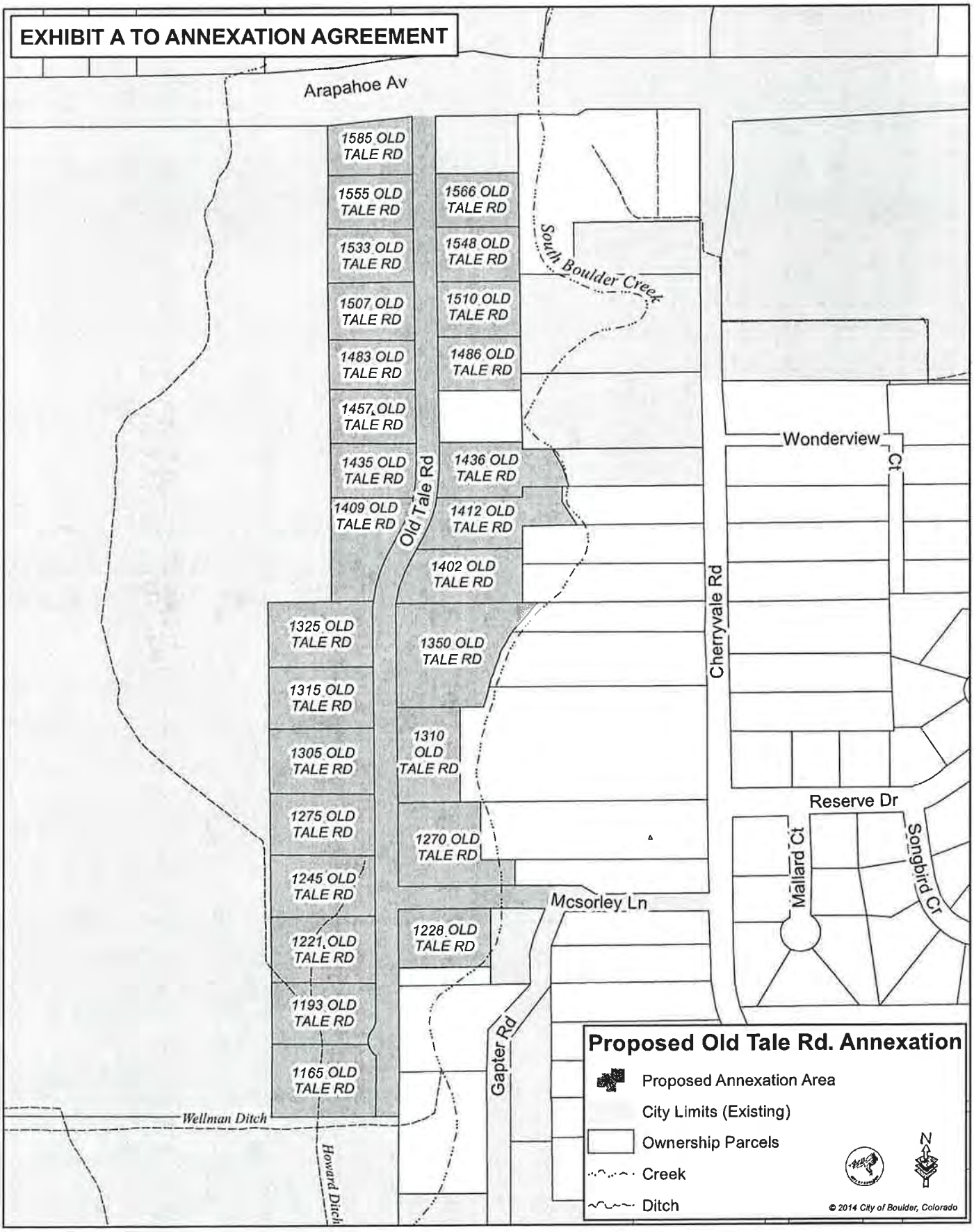


EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1566 OLD TALE RD
1533 OLD TALE RD
1548 OLD TALE RD
1507 OLD TALE RD
1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
1457 OLD TALE RD
1435 OLD TALE RD
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1310 OLD TALE RD
1305 OLD TALE RD
1275 OLD TALE RD
1270 OLD TALE RD
1245 OLD TALE RD
1221 OLD TALE RD
1228 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Cr
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 5)

For Administrative Purposes Only
Property Address: 1228 Old Tale Road
Grantor: Steven Erickson
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

GRANT OF FLOOD CONTROL EASEMENT

STEVEN ERICKSON ("Grantor"), whose address is 1228 Old Tale Road, Boulder, CO 80303, for $1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city (the "City"), whose address is 1777 Broadway, Boulder, Colorado 80302, a flood control easement for the purpose of drainage conveyance and control of flood waters and installation and maintenance of improvements necessary to ensure conveyance of flood waters as determined by the Grantee, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached

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

This easement does not grant to the City a right to construct a public trail or other public transportation improvement in the easement area.

Grantor warrants his ability to grant and convey this easement.

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

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed as of

this ___ day of _____, 2015.

GRANTOR:

By:_____
Steven Erickson

[*NOTARY BLOCK FOLLOWS*]

EXHIBIT B TO ANNEXATION AGREEMENT (Page 2 of 5)

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Steven Erickson.

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

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 3 of 5)

LENDER'S CONSENT AND SUBORDINATION

The undersigned, a beneficiary under a certain deed of trust encumbering the property, hereby expressly consents to and joins in the execution and recording of this grant of easement and makes the deed of trust subordinate hereto. The undersigned represents that he or she has full power and authority to execute this Lender's Consent and Subordination on behalf of the below-stated lender.

AMERICA'S WHOLESALE LENDER

By:_____
Printed Name:_____
Title:_____

ACKNOWLEDGMENT

State of _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this ___ day of _____,

20___, by _____ as _____ of

America's Wholesale Lender.

Witness my Hand and Seal.
My Commission Expires:_____

[Seal]

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 4 of 5)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 1 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT OVER AND ACROSS A PORTION OF LOT 12, MCSORLEY'S SUBDIVISION AS RECORDED IN THE RECORDS OF BOULDER COUNTY ON MARCH 12, 1958, AT RECEPTION NO. 90608845, LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EASTERLY LINE OF SAID LOT 12 TO BEAR SOUTH 00°19'30" EAST, A DISTANCE OF 156.40 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 12;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 12, NORTH 90°00'00" WEST, A DISTANCE OF 132.49 FEET TO A POINT LYING 60 FEET NORTHWESTERLY OF THE CENTERLINE OF SOUTH BOULDER CREEK;
THENCE DEPARTING SAID SOUTHERLY LINE, AND ALONG A LINE LYING 60 FEET NORTHWESTERLY AND PARALLEL WITH THE CENTERLINE OF SOUTH BOULDER CREEK THE FOLLOWING FOUR (4) COURSES:
NORTH 54°37'07" EAST, A DISTANCE OF 75.37 FEET;
THENCE NORTH 35°06'49" EAST, A DISTANCE OF 41.05 FEET;
THENCE NORTH 16°42'35" EAST, A DISTANCE OF 60.20 FEET;
THENCE NORTH 02°11'04" WEST, A DISTANCE OF 21.54 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 12;
THENCE ALONG SAID NORTHERLY LINE, NORTH 90°00'00" EAST, A DISTANCE OF 30.05 FEET TO THE NORTHEAST CORNER OF SAID LOT 12;
THENCE ALONG THE EASTERLY LINE OF SAID LOT 12, SOUTH 00°19'30" EAST, A DISTANCE OF 156.40 FEET TO THE SOUTHEAST CORNER OF SAID LOT 12, AND THE POINT OF BEGINNING;

SAID EASEMENT CONTAINING 9,253 SQ.FT. OR 0 21 ACRES MORE OR LESS

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

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR 16406 1/12/15

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

FSI JOB NO. 14-65,019

JOB NUMBER: 14-65,019(A)
DRAWN BY: E. PRESCOTT
JANUARY 12, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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

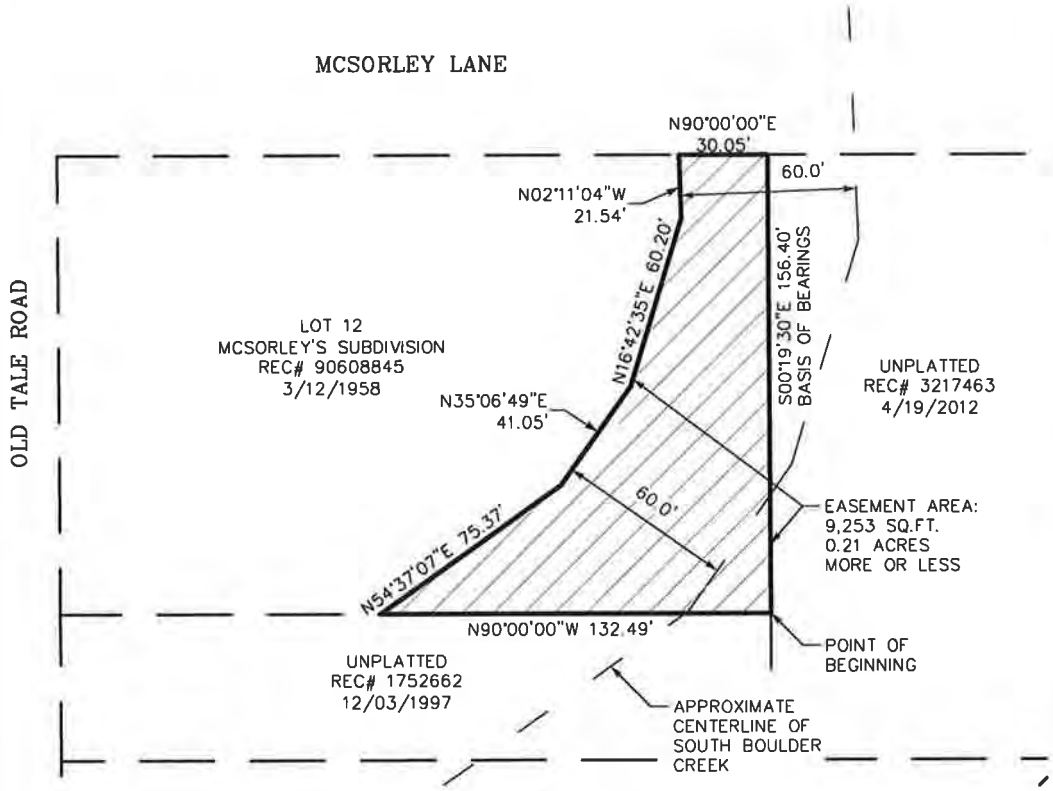
BY:EPRESCOTT FILE:55019-1228-OLD TALE FLOOD(A).DWG DATE:1/12/2015 2:42 PM

EXHIBIT B TO ANNEXATION AGREEMENT (Page 5 of 5)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 2 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2



GRAPHIC SCALE

50 0 25 50

(IN FEET)
1 inch = 50 ft.

JOB NUMBER: 14-65,019(A)
DRAWN BY: E. PRESCOTT
DATE: JANUARY 12, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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BY:EPRESCOTT FILE:65019-1228-OLD TALE FLOOD(A).DWG DATE:1/12/2015 2:43 PM

EXHIBIT C TO ANNEXATION AGREEMENT (Page 1 of 1)

Box above approximates the property boundaries of 1228 Old Tale Rd. Red circle indicates approximate location of non-conforming structure: shed on S. property line

For Administrative Purposes Only
Property Address: 1245 Old Tale Road
Grantors: Harold H. Bruff and Sherlynne Guest Bruff
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Harold H. Bruff and Sherlynne Guest Bruff (the "Applicants"). The City and the Applicants are referred to as the "Parties."

RECITALS

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

A. The Applicants are the owners of the property generally known as 1245 Old Tale Road and more particularly described as Lot 5, McSorley's Subdivision, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicants in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicants shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicants will sign this Agreement.

   B. Title Work. The Applicants will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicants shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicants will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$27,634.90
Total	**$44,851.58**

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

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

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

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

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

C. Option #C: Future Connection. The Applicants shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time the Applicants' Property is Sold; or 2) at the time of Redevelopment of Applicants' Property, whichever occurs first. At the respective time and prior to the Applicants' connection to the Water Main, the Applicants will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

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

8. Historic Drainage. The Applicants agree to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicants agree not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit B**. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicants and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The Applicants hereby waive any statutory vested rights that may have accrued under County jurisdiction that have not been perfected as common law vested rights. The Applicants acknowledge that nothing in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicants acknowledge that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicants shall provide an original of this Agreement signed by Applicants, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicants. The Applicants agree that they will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicants agree that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred,

the Applicants shall neither convey ownership nor further encumber the Applicants' Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicants agree not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicants retain the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicants' right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicants withdraw from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicants. The City agrees, within 30 days of a request by the Applicants after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicants submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicants.

21. 2014 Fee Schedule. If the Applicants agree to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: Harold H Bruff
Harold H. Bruff

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 2nd day of March, 2015, by Harold H. Bruff.

Witness my hand and official seal.
My commission expires: 7/31/16

[SEAL]

KARI ROBINSON NOTARY PUBLIC STATE OF COLORADO My Commission Expires 7/31/2016

Kari Robinson
Notary Public

Applicant:

By: _____
Sherlynne Guest Bruff

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 2nd day of March, 2015, by Sherlynne Guest Bruff.

Witness my hand and official seal.
My commission expires: 7/31/16

[SEAL]

KARI ROBINSON NOTARY PUBLIC STATE OF COLORADO My Commission Expires 7/31/2016

_____
Notary Public

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Written Description of Nonstandard or Nonconforming Structures

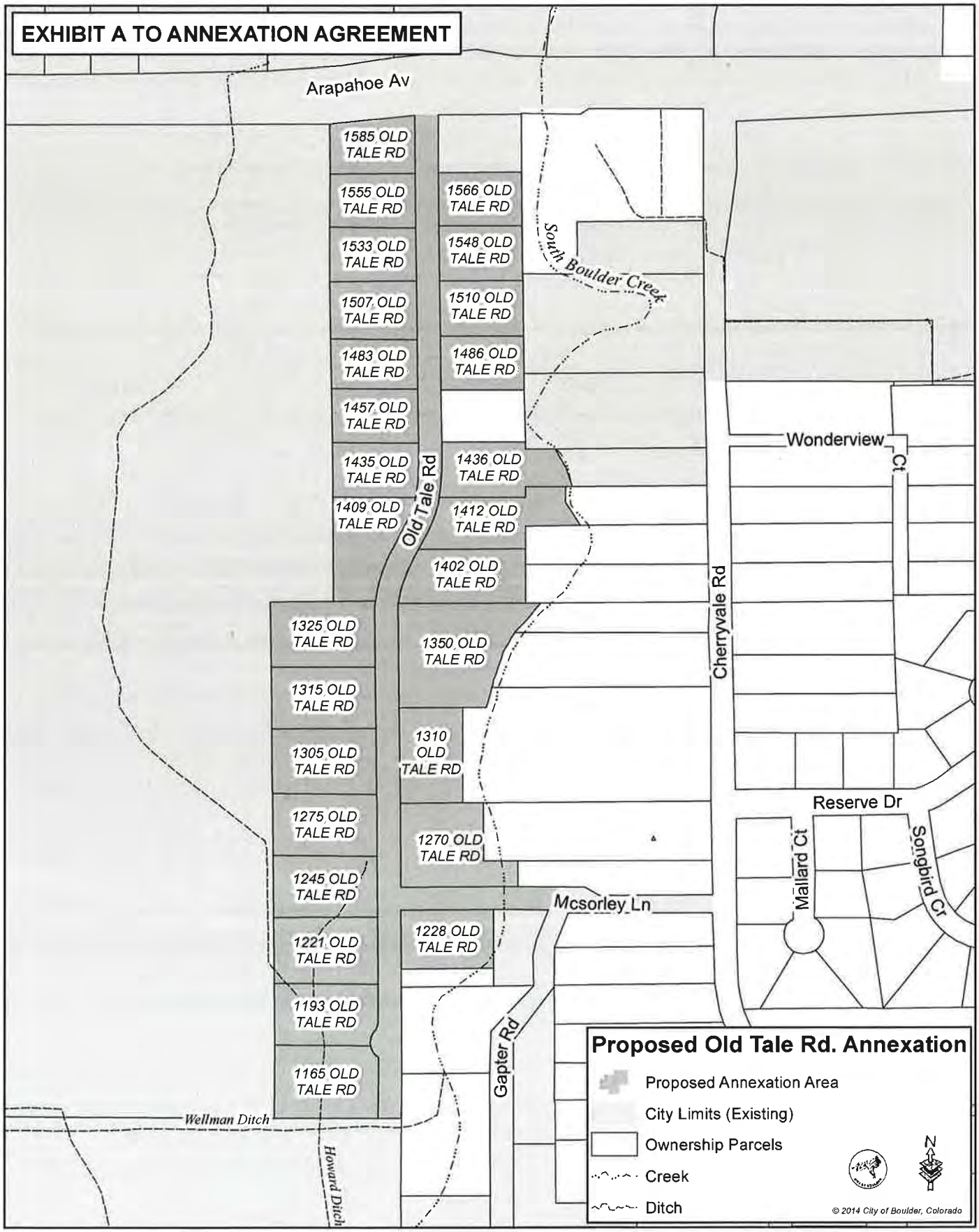
EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1566 OLD TALE RD
1533 OLD TALE RD
1548 OLD TALE RD
1507 OLD TALE RD
1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
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1305 OLD TALE RD
1275 OLD TALE RD
1270 OLD TALE RD
1245 OLD TALE RD
1228 OLD TALE RD
1221 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 1)

Box above approximates the property boundaries of 1245 Old Tale Rd. Note: The aerial image and property lines are not geographically accurate; the southern property line does not bisect the driveway. Please refer to the property survey for accurate location of the driveway in relation to the property line. Red circle indicates approximate location of non-conforming structure: Playhouse NW corner

For Administrative Purposes Only
Property Address: 1270 Old Tale Road
Grantors: Jeffrey P. Mortner and
Wendy E. Mortner
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this 9th day of March, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Jeffrey P. Mortner and Wendy E. Mortner (the "Applicants"). The City and the Applicants are referred to as the "Parties."

RECITALS

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

A. The Applicants are the owners of the property generally known as 1270 Old Tale Road, Boulder, CO 80303 and more particularly described as Lot 11, McSorley's Subdivision, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

obligation to construct or finance the construction of the Water Main or reconstruct or finance the reconstruction of Old Tale Road and McSorley Road as a condition of this Agreement.

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicants in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicants shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicants will sign this Agreement.

   B. Title Work. The Applicants will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicants shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicants will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

E. Easement Dedications. To the extent the Property is located within 60 feet from the centerline of the South Boulder Creek, the Applicants shall dedicate to the City, at no cost, the following easements:

a. A flood control easement from 60 feet on either side of the centerline of South Boulder Creek as shown on **Exhibit B**. The easement shall be in a form acceptable to the City Manager. The easement will exclude any principal building containing a dwelling unit on the lot within the flood control easement area that is existing at the time of annexation.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$24,192.64
Total	**$41,409.32**

E. Execute a Promissory Note and Deed of Trust, if Applicants selected Payment Option #B, as described under Paragraph 4.B(i) below.

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

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

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

assessments described in Paragraph 3 shall be paid in accordance with the terms of the following payment plan:

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

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

C. Option #C: Future Connection. The Applicants shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) at the time Applicants' Property is Sold; or 2) at the time of Redevelopment of Applicants' Property. At the respective time and prior to the Applicants' connection to the Water Main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicants Responsible for Legal Disconnection of On-site Wastewater System. If the Applicants decide to continue to use an existing on-site wastewater system, the Applicants agree that the Applicants will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site

wastewater system and connection to the City's sanitary sewer main, the Applicants are required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicants agree to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicants agree not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit C**. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses, except that those nonstandard structures located in the flood control easement (**Exhibit B**) shall not be restored in the easement once removed, destroyed, demolished, or relocated. The Applicants and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The Applicants hereby waive any statutory vested rights that may have accrued under County jurisdiction that have not been perfected as common law vested rights. The Applicants acknowledge that nothing in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicants acknowledge that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicants shall provide an original of this Agreement signed by Applicants, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final

legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicants. The Applicants agree that they will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicants agree that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicants shall neither convey ownership nor further encumber the Applicants' Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicants agree not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicants retain the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicants' right to withdraw shall terminate upon the City Council's final legislative action approving the

annexation. In the event that the Applicants withdraw from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicants. The City agrees, within 30 days of a request by the Applicants after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicants submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicants.

21. Flood Control Easement Conditions.

A. The City will allow existing accessory structures identified on **Exhibit C** to remain within the flood control easement area until removed, destroyed, demolished, or relocated.

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

C. The Applicants shall neither construct any new buildings or structures nor rebuild or reconstruct any pre-existing accessory buildings or structures within the flood control easement area.

22. 2014 Fee Schedule. If the Applicants agree to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: _____
Jeffrey P. Mortner

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 9th day of March, 2015, by Jeffrey P. Mortner.

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

[SEAL]

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

_____
Notary Public

Applicant:

By: _____
Wendy E. Mortner

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of March, 2015, by Wendy E. Mortner.

Witness my hand and official seal.
My commission expires: 11 August 2016

[SEAL]

_____
Notary Public

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:

A: Old Tale Area Map
B: Flood Control Easement
C: Written Description of Nonstandard or Nonconforming Structures and accessory structures in flood easement area

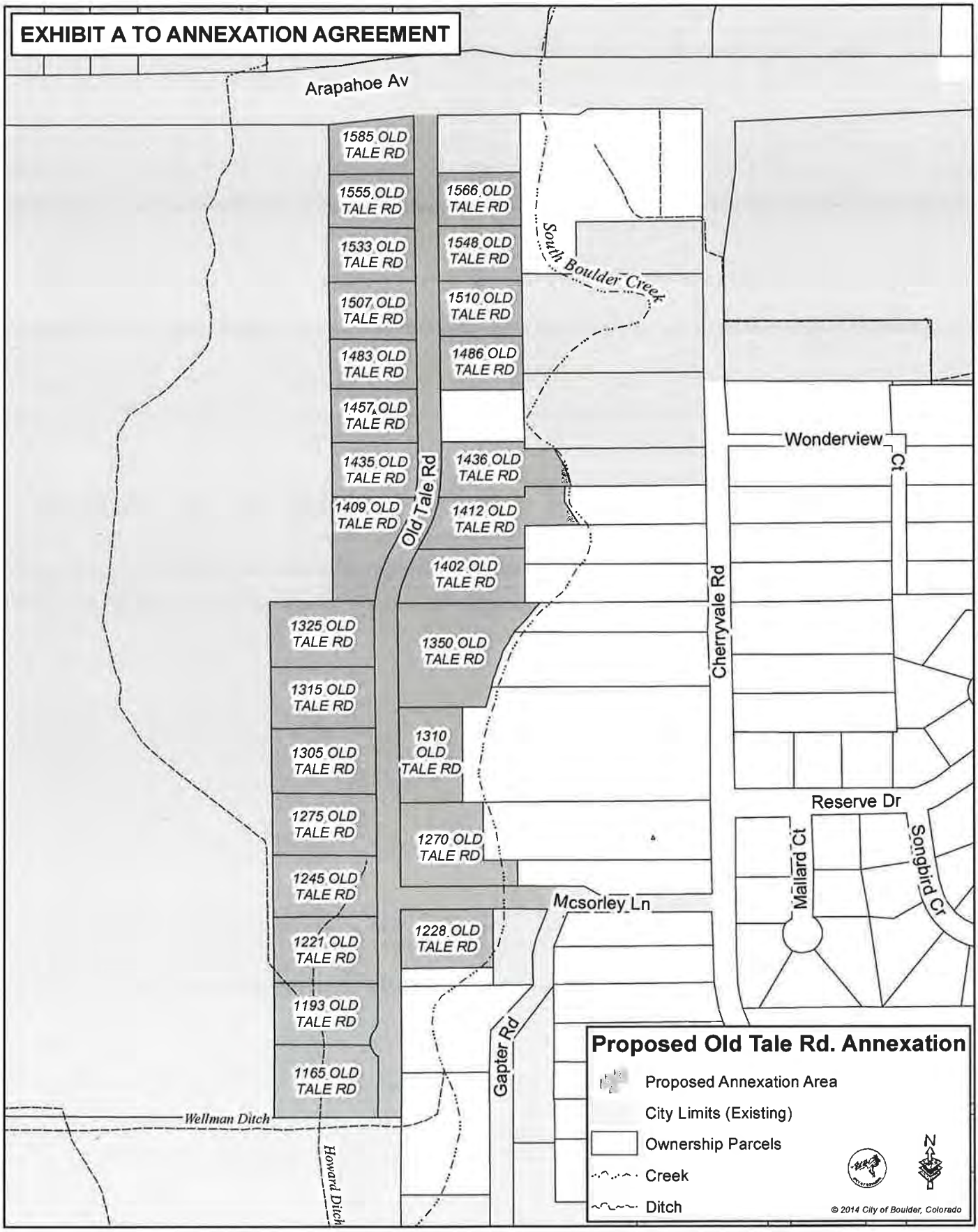


EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1566 OLD TALE RD
1533 OLD TALE RD
1548 OLD TALE RD
1507 OLD TALE RD
1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
1457 OLD TALE RD
1435 OLD TALE RD
1436 OLD TALE RD
1409 OLD TALE RD
1412 OLD TALE RD
1402 OLD TALE RD
1325 OLD TALE RD
1350 OLD TALE RD
1315 OLD TALE RD
1305 OLD TALE RD
1310 OLD TALE RD
1275 OLD TALE RD
1270 OLD TALE RD
1245 OLD TALE RD
1221 OLD TALE RD
1228 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 4)

For Administrative Purposes Only
Property Address: 1270 Old Tale Road
Grantors: Jeffrey P. Mortner and
Wendy E. Mortner
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

GRANT OF FLOOD CONTROL EASEMENT

JEFFREY P. MORTNER and WENDY E. MORTNER ("Grantors"), whose address is 1270 Old Tale Road, Boulder, CO 80303, for $1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city (the "City"), whose address is 1777 Broadway, Boulder, Colorado 80302, a flood control easement for the purpose of drainage conveyance and control of flood waters and installation and maintenance of improvements necessary to ensure conveyance of flood waters as determined by the Grantee, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached

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

This easement does not grant to the City a right to construct a public trail or other public transportation improvement in the easement area.

Grantors warrant their ability to grant and convey this easement.

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

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed as of

this ___ day of _____, 2015.

GRANTOR:

By:_____
Jeffrey P. Mortner

[*NOTARY BLOCK FOLLOWS*]

EXHIBIT B TO ANNEXATION AGREEMENT (Page 2 of 4)

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Jeffrey P. Mortner.

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

_____
Notary Public

GRANTOR:

By:_____
Wendy E. Mortner

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Wendy E. Mortner.

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

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 3 of 4)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 1 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT OVER AND ACROSS A PORTION OF LOT 11, MCSORLEY'S SUBDIVISION AS RECORDED IN THE RECORDS OF BOULDER COUNTY ON MARCH 12, 1958, AT RECEPTION NO. 90608845, LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE SOUTHERLY LINE OF SAID LOT 11 TO BEAR NORTH 90°00'00" WEST, A DISTANCE OF 301.17 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 11;
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 11, NORTH 90°00'00" WEST, A DISTANCE OF 88.76 FEET TO A POINT LYING 60 FEET WESTERLY OF THE CENTERLINE OF SOUTH BOULDER CREEK;
THENCE ALONG A LINE LYING 60 FEET WESTERLY AND PARALLEL WITH SAID CENTERLINE, THE FOLLOWING THREE(3) COURSES:
NORTH 01°50'33" WEST, A DISTANCE OF 18.29 FEET;
THENCE NORTH 09°52'09" WEST, A DISTANCE OF 111.11 FEET;
THENCE NORTH 18°17'46" WEST, A DISTANCE OF 86.62 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 11;
THENCE ALONG SAID NORTHERLY LINE, NORTH 90°00'00" EAST, A DISTANCE OF 59.40 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 11;
THENCE ALONG THE EASTERLY LINES OF SAID LOT 11, THE FOLLOWING THREE (3) COURSES:
SOUTH 00°19'30" EAST, A DISTANCE OF 145.00 FEET;
THENCE NORTH 90°00'00" EAST, A DISTANCE OF 75.00 FEET;
THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 65.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 11 AND THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 11,486 SQ. FT. OR 0.26 ACRES MORE OR LESS.

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

COLORADO LICENSED JOHN BRUCE GUYTON 16406 PROFESSIONAL LAND SURVEYOR 1/12/15

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

FSI JOB NO. 15-65,019

JOB NUMBER: 15-65,019(B)
DRAWN BY: E. PRESCOTT
DATE: JANUARY 12, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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

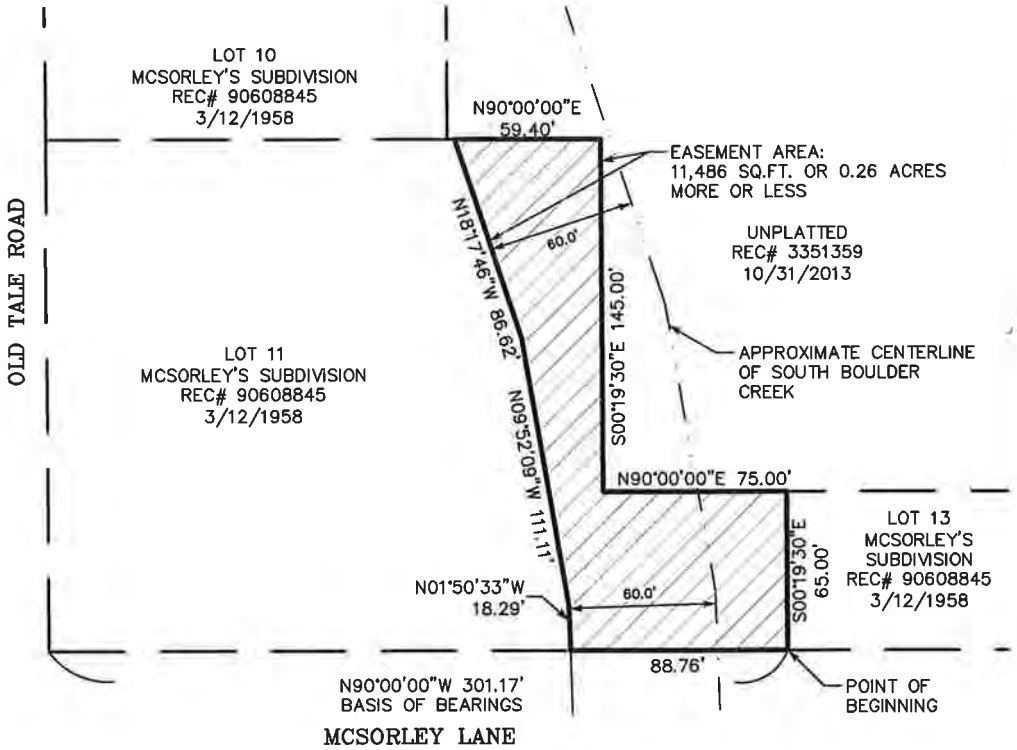
BY:EPRESCOTT FILE:6401-9-1270 OLD TALE RD(B).DWG DATE:1/12/2015 3:12 PM

EXHIBIT B TO ANNEXATION AGREEMENT (Page 4 of 4)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 2 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2



GRAPHIC SCALE

60 0 30 60

(IN FEET)
1 inch = 60 ft.

COLORADO LICENSED
16406
1/12/15
PROFESSIONAL LAND SURVEYOR

JOB NUMBER: 14-65,019(B)
DRAWN BY: E. PRESCOTT
DATE: JANUARY 12, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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BY:EPRESCOTT FILE:64019-1270 OLD TALE RD(B).DWG DATE:1/12/2015 2:46 PM

EXHIBIT C TO ANNEXATION AGREEMENT (Page 1 of 1)

Box above approximates the property boundaries of 1270 Old Tale Rd. Red circles indicate approximate location of non-conforming structures and/or structures in flood easement: 1) fence in flood easement, 2) outbuilding SE section of property

For Administrative Purposes Only
Property Address: 1275 Old Tale Raod
Grantors: Thomas E. Corson and Barbara A. Corson
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Thomas E. Corson and Barbara A. Corson (the "Applicants"). The City and the Applicants are referred to as the "Parties."

RECITALS

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

A. The Applicants are the owners of the property generally known as 1275 Old Tale Road and more particularly described as Lot 4, McSorley's Subdivision, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicants in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicants shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicants will sign this Agreement.

   B. Title Work. The Applicants will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicants shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicants will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$22,495.20
Total	**$39.711.88**

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

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

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

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

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

C. Option #C: Future Connection. The Applicants shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time the Applicants' Property is Sold; or 2) at the time of Redevelopment of Applicants' Property, whichever occurs first. At the respective time and prior to the Applicants' connection to the Water Main, the Applicants will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

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

8. Historic Drainage. The Applicants agree to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicants agree not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit B**. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicants and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The Applicants hereby waive any statutory vested rights that may have accrued under County jurisdiction that have not been perfected as common law vested rights. The Applicants acknowledge that nothing in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicants acknowledge that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicants shall provide an original of this Agreement signed by Applicants, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicants. The Applicants agree that they will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicants agree that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred,

the Applicants shall neither convey ownership nor further encumber the Applicants' Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicants agree not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicants retain the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicants' right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicants withdraw from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicants. The City agrees, within 30 days of a request by the Applicants after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicants submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicants.

21. 2014 Fee Schedule. If the Applicants agree to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: Thomas E. Corson
Thomas E. Corson

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 5th day of March, 2015, by Thomas E. Corson.

Witness my hand and official seal.
My commission expires: 11 Aug. 2016

[SEAL]

Notary Public

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

Applicant:

By: Barbara A. Corson
Barbara A. Corson

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of March, 2015, by Barbara A. Corson.

Witness my hand and official seal.
My commission expires: 11 Aug. 2016

[SEAL]

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

Notary Public

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Written Description of Nonstandard or Nonconforming Structures

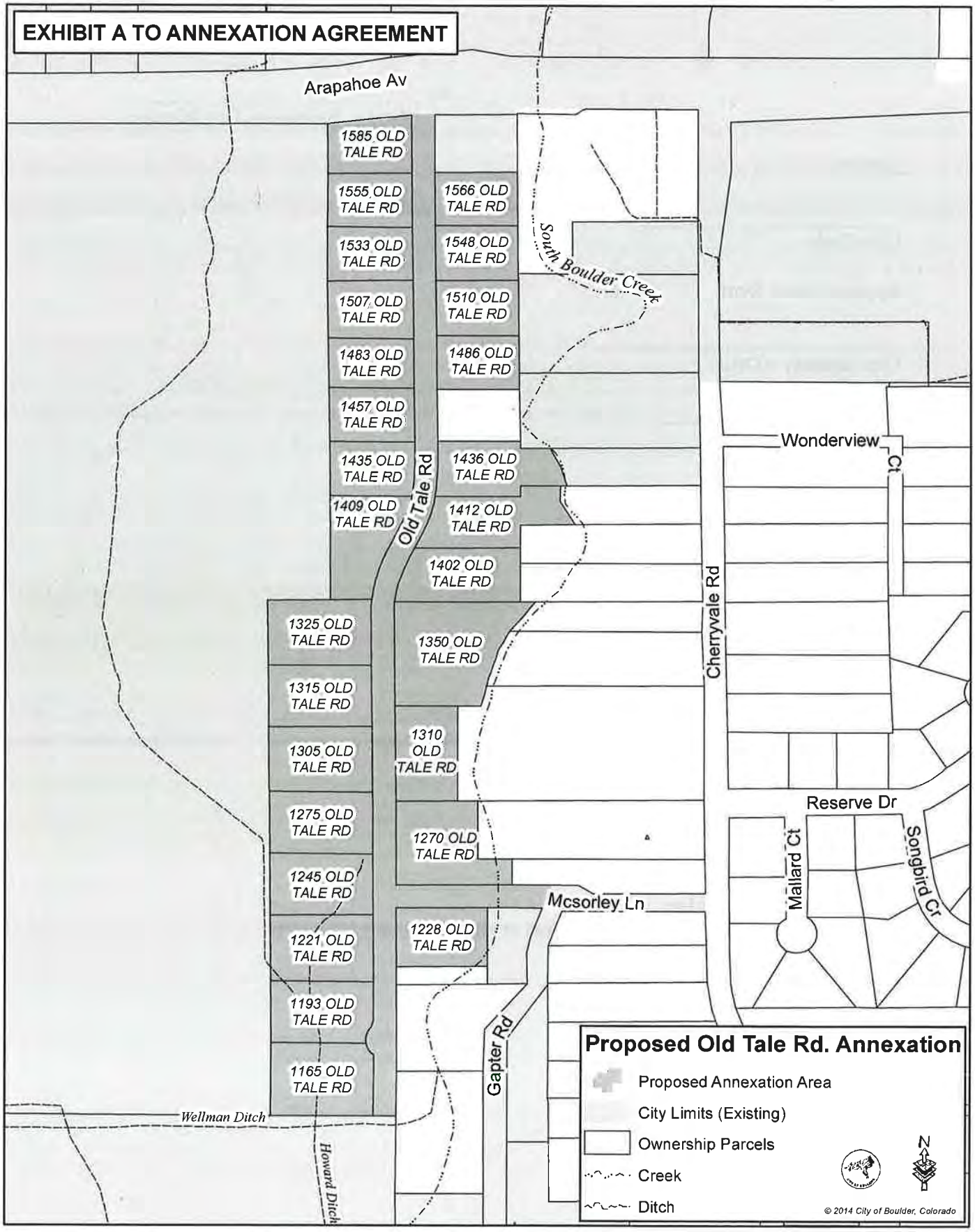
EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1566 OLD TALE RD
1533 OLD TALE RD
1548 OLD TALE RD
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1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
1457 OLD TALE RD
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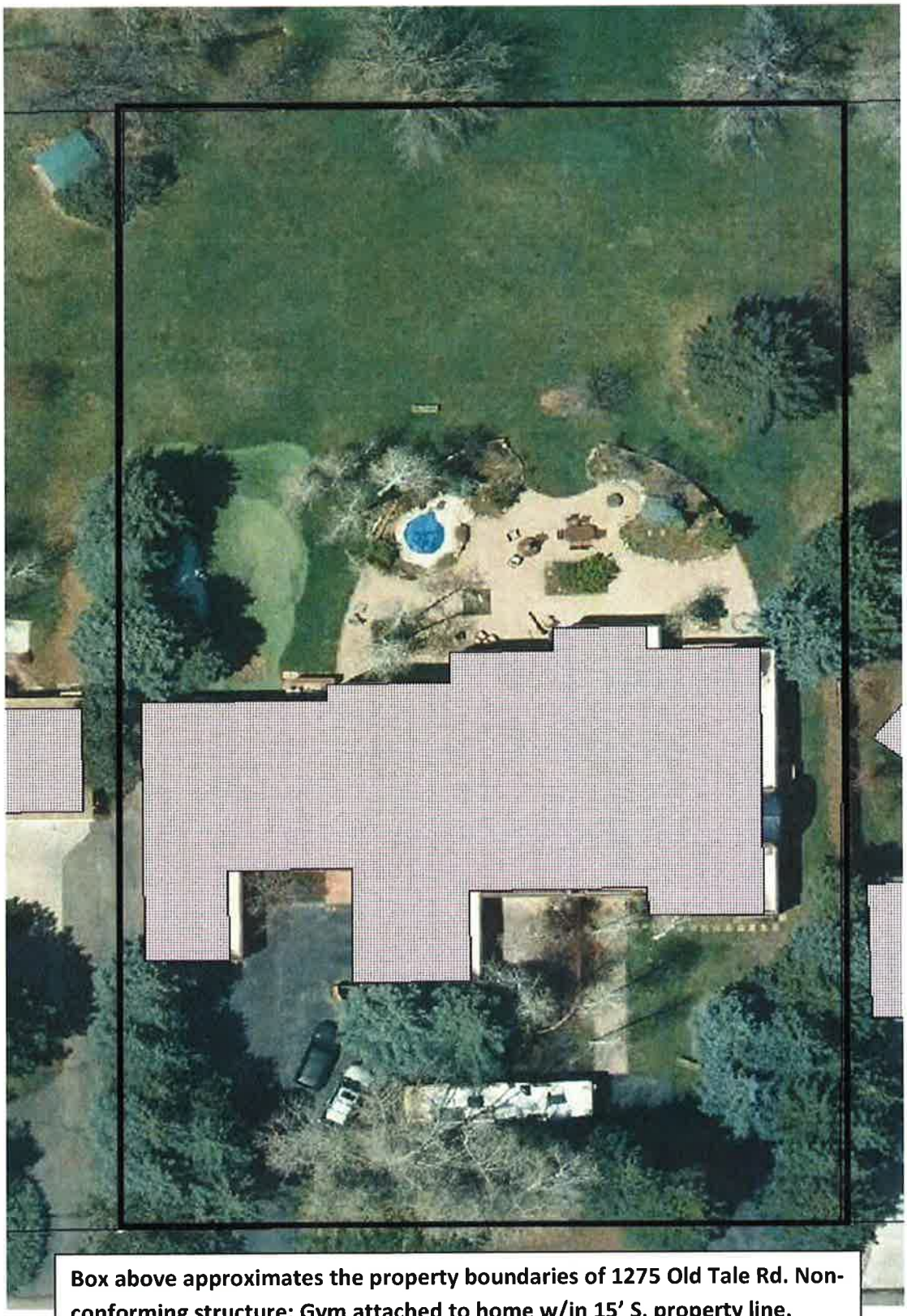
1315 OLD TALE RD
1310 OLD TALE RD
1305 OLD TALE RD
1275 OLD TALE RD
1270 OLD TALE RD
1245 OLD TALE RD
1221 OLD TALE RD
1228 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 1)



Box above approximates the property boundaries of 1275 Old Tale Rd. Non-conforming structure: Gym attached to home w/in 15' S. property line. (South property line is shown on the left side of this page.)

For Administrative Purposes Only
Property Address: 1305 Old Tale Road
Grantor: Montgomery F. Moran
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Montgomery F. Moran (the "Applicant"). The City and the Applicant are referred to as the "Parties."

RECITALS

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

A. The Applicant is the owner of the property generally known as 1305 Old Tale Road and more particularly described as Lot 3, McSorley's Subdivision, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicant shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicant will sign this Agreement.

   B. Title Work. The Applicant will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicant shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicant will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$22,713.56
Total	**$39,930.24**

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicant selects **Option #A** set forth below.

A. Option #A: Payment in Full. The Applicant shall connect to the Water Main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension.

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

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

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

C. Option #C: Future Connection. The Applicant shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time the Applicant's Property is Sold; or 2) at the time of Redevelopment of Applicant's Property, whichever occurs first. At the respective time and prior to the Applicant's connection to the Water Main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicant Responsible for Legal Disconnection of On-site Wastewater System. If the Applicant decides to continue to use an existing on-site wastewater system, the Applicant agrees that the Applicant will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City's sanitary sewer main, the Applicant is required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. Existing, nonstandard buildings and/or nonconforming uses will be allowed to continue to be occupied and operated in the City of Boulder. Only those nonstandard buildings and/or nonconforming uses for which the Applicant has provided a written description that is received by the City in accordance with Paragraph 2.C above will be considered legal. The Applicant and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The 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 in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that he will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred,

the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicant.

21. 2014 Fee Schedule. If the Applicant agrees to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: _____
Montgomery F. Moran

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of March, 2015, by Montgomery F. Moran.

Witness my hand and official seal.
My commission expires: 9/20/2018

[SEAL]

ELIZABETH A. HOBSON
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19944013708
MY COMMISSION EXPIRES 9/20/2018

_____
Notary Public

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map

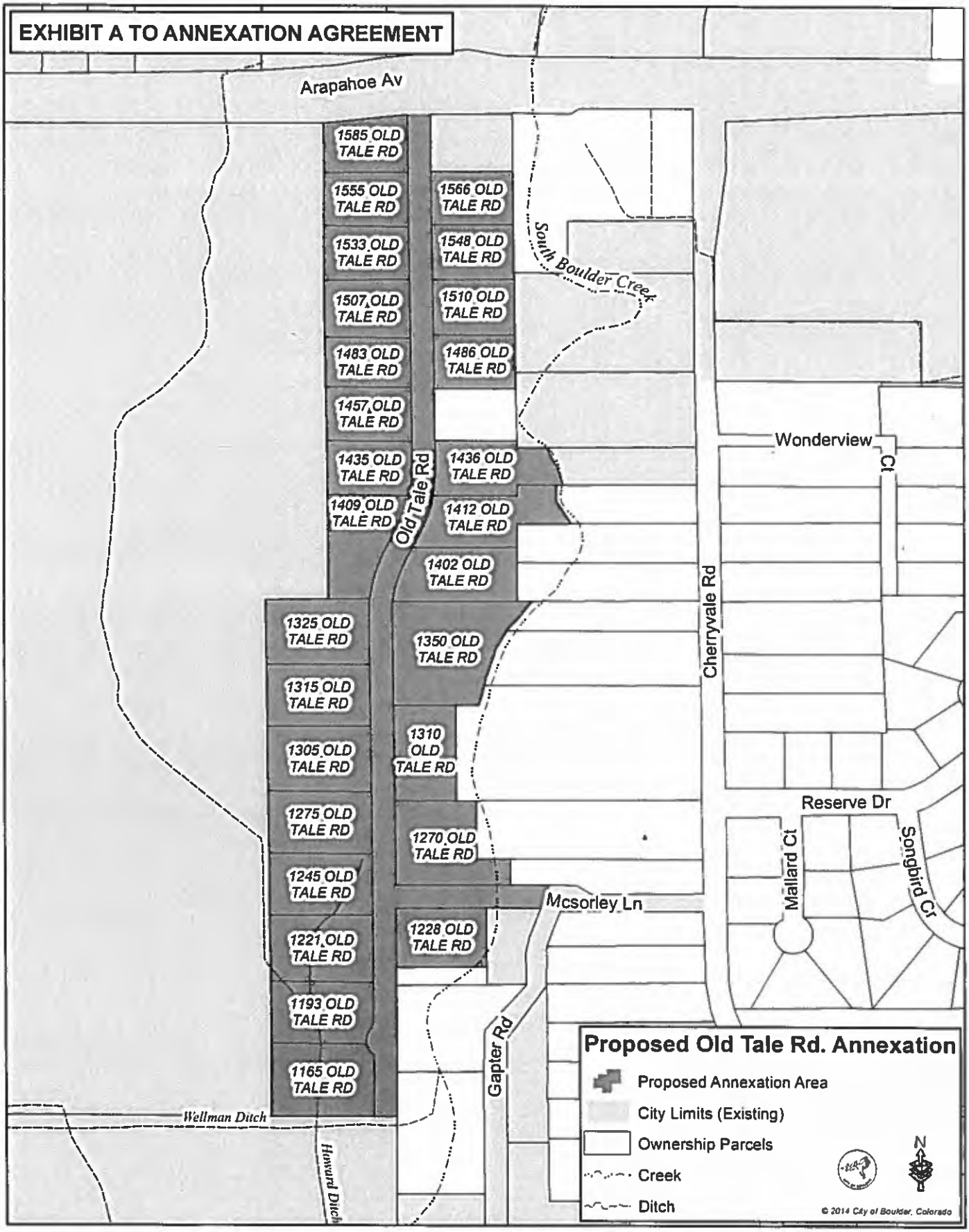


EXHIBIT A TO ANNEXATION AGREEMENT
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Reserve Dr
Mallard Ct
Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

For Administrative Purposes Only
Property Address: 1315 Old Tale Road
Grantor: Joanne M. Simenson
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Joanne M. Simenson (the "Applicant"). The City and the Applicant are referred to as the "Parties."

RECITALS

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

A. The Applicant is the owner of the property generally known as 1315 Old Tale Road and more particularly described as Lot 2, McSorleys Subdivision, together with that portion of the vacated Old Tale Road lying West of the line between the Northeast corner of Lot 1 and the Southeast corner of Lot 2 and South of the North line of Lot 2 extended, County of Boulder, State of Colorado. (the "Property").

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

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

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

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

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

obligation to construct or finance the construction of the Water Main or reconstruct or finance the reconstruction of Old Tale Road and McSorley Road as a condition of this Agreement.

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicant shall do the following, unless otherwise approved by the City Manager:

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   B. Title Work. The Applicant will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicant shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicant will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$15,942.34
Total	**$33,159.02**

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicant selects **Option #A** set forth below.

A. Option #A: Payment in Full. The Applicant shall connect to the Water Main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension.

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

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

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

C. Option #C: Future Connection. The Applicant shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time the Applicant's Property is Sold; or 2) at the time of Redevelopment of Applicant's Property, whichever occurs first. At the respective time and prior to the Applicant's connection to the Water Main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicant Responsible for Legal Disconnection of On-site Wastewater System. If the Applicant decides to continue to use an existing on-site wastewater system, the Applicant agrees that the Applicant will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City's sanitary sewer main, the Applicant is required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit B**. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicant and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The 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 in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that she will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred,

the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

17. Breach of Agreement. In the event the Applicant breaches or fails to perform any required action, or fails to pay any fee specified, under this Agreement or under any document that may also be required to be executed pursuant to this Agreement, the Applicant acknowledges that the City may take all reasonable actions to cure the breach, including but not limited to the filing of an action for specific performance of the obligations herein described. In the event the Applicant fails to pay any monies due under this Agreement or under any document that may also be required to be executed pursuant to this Agreement or fails to perform any affirmative obligation hereunder or under any document that may also be required to be executed pursuant to this Agreement, the Applicant agrees that the City may collect the monies due in the manner provided for in Section 2-2-12, B.R.C. 1981, as amended, as if the said monies were due and owing pursuant to a duly adopted ordinance of the City or may perform the obligation on behalf of the Applicant and collect its costs in the manner herein provided. The Applicant agrees to waive any rights 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.

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

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

20. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicant.

21. 2014 Fee Schedule. If the Applicant agrees to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: Joanne M. Simenson
Joanne M. Simenson

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of March, 2015, by Joanne M. Simenson.

Witness my hand and official seal.
My commission expires: 11 Aug. 2016

[SEAL]

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

Notary Public

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Written Description of Nonstandard or Nonconforming Structures

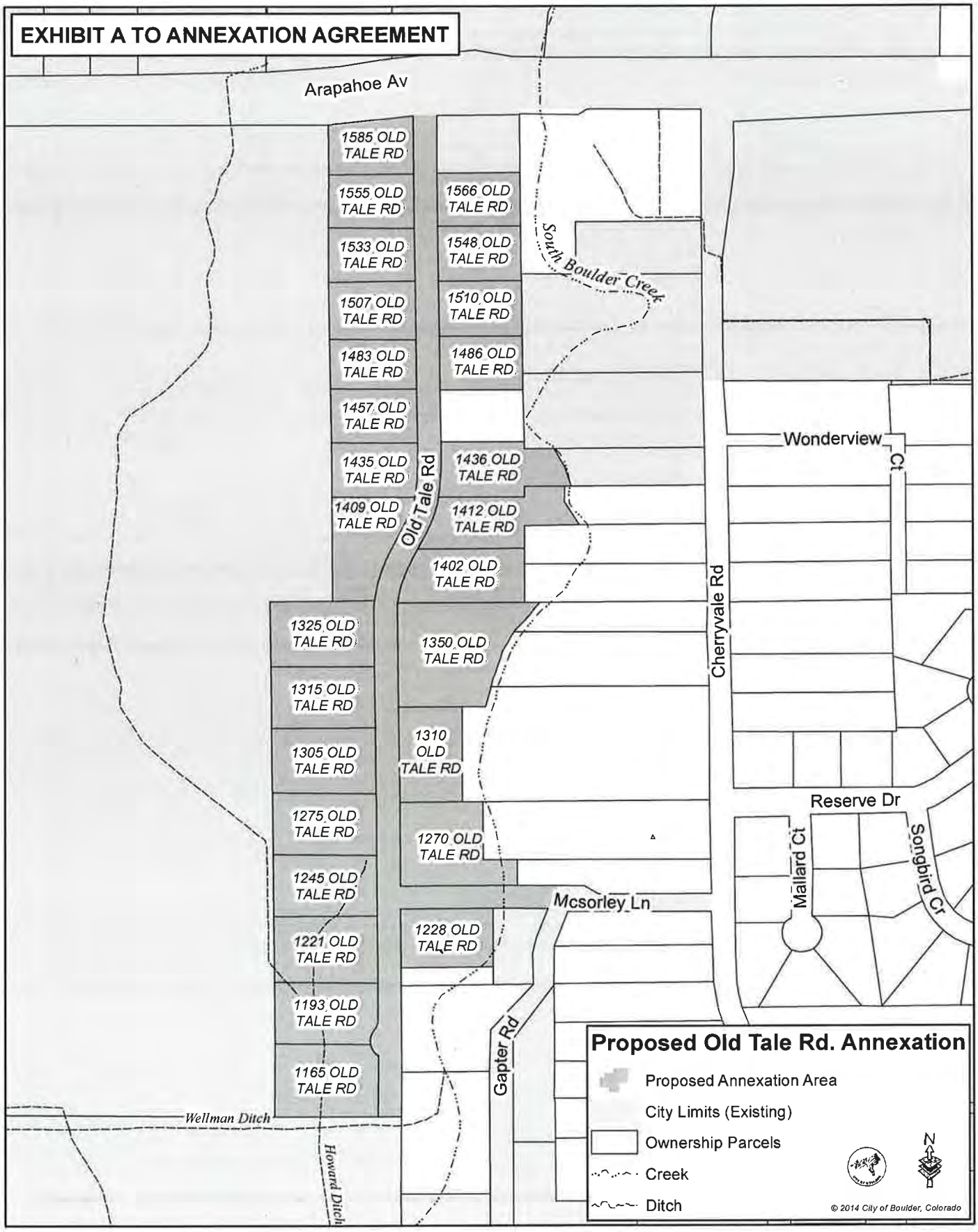
EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
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1566 OLD TALE RD
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1548 OLD TALE RD
1507 OLD TALE RD
1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
1457 OLD TALE RD
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1275 OLD TALE RD
1270 OLD TALE RD
1245 OLD TALE RD
1228 OLD TALE RD
1221 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 1)

Box above approximates the property boundaries of 1315 Old Tale Rd. Red circle indicates approximate location of non-conforming structure: shed

For Administrative Purposes Only
Property Address: 1325 Old Tale Road
Grantor: Sarah R. Kingdom
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Sarah R. Kingdom (the "Applicant"). The City and the Applicant are referred to as the "Parties."

RECITALS

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

A. The Applicant is the owner of the property generally known as 1325 Old Tale Road and more particularly described as Lot 1, McSorleys Subdivision, together with that portion of the vacated Old Tale Road adjoining the Southeast portion of said Lot 1, as vested by Vacation Ordinance recorded March 16, 1966 on Film 562 as Reception No. 809925, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

obligation to construct or finance the construction of the Water Main or reconstruct or finance the reconstruction of Old Tale Road and McSorley Road as a condition of this Agreement.

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicant shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicant will sign this Agreement.

   B. Title Work. The Applicant will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicant shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicant will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$25,109.34
Total	**$42,326.02**

E. Execute a Promissory Note and Deed of Trust, if Applicant selected Payment Option #B, as described under Paragraph 4.B(i) below.

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicant selects **Option #B** set forth below.

A. Option #A: Payment in Full. The Applicant shall connect to the Water Main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension.

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

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

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

C. Option #C: Future Connection. The Applicant shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time the Applicant's Property is Sold; or 2) at the time of Redevelopment of Applicant's Property, whichever occurs first. At the respective time and prior to the Applicant's connection to the Water Main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicant Responsible for Legal Disconnection of On-site Wastewater System. If the Applicant decides to continue to use an existing on-site wastewater system, the Applicant agrees that the Applicant will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City's sanitary sewer main, the Applicant is required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit B**. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicant and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The 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 in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that she will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred,

the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

17. Breach of Agreement. In the event the Applicant breaches or fails to perform any required action, or fails to pay any fee specified, under this Agreement or under any document that may also be required to be executed pursuant to this Agreement, the Applicant acknowledges that the City may take all reasonable actions to cure the breach, including but not limited to the filing of an action for specific performance of the obligations herein described. In the event the Applicant fails to pay any monies due under this Agreement or under any document that may also be required to be executed pursuant to this Agreement or fails to perform any affirmative obligation hereunder or under any document that may also be required to be executed pursuant to this Agreement, the Applicant agrees that the City may collect the monies due in the manner provided for in Section 2-2-12, B.R.C. 1981, as amended, as if the said monies were due and owing pursuant to a duly adopted ordinance of the City or may perform the obligation on behalf of the Applicant and collect its costs in the manner herein provided. The Applicant agrees to waive any rights 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.

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

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

20. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicant.

21. 2014 Fee Schedule. If the Applicant agrees to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: Sarah R. Kingdom
Sarah R. Kingdom

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 26 day of February, 2015, by Sarah R. Kingdom.

Witness my hand and official seal.
My commission expires: 3/13/17

[SEAL]

Notary Public

NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134016025
MY COMMISSION EXPIRES MARCH 13, 2017

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

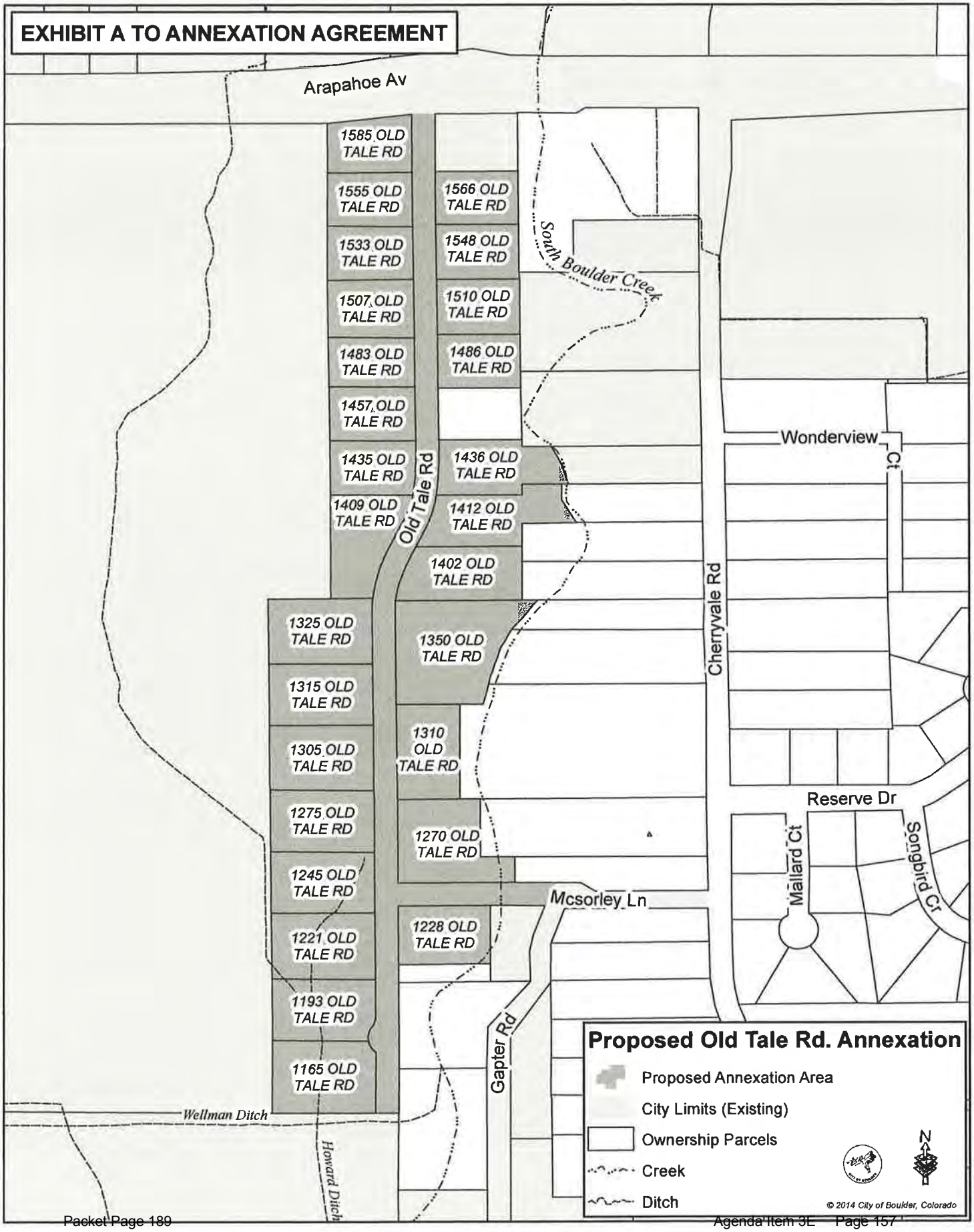
_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Written Description of Nonstandard or Nonconforming Structures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Mcsorley Ln
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Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 1)

Box above approximates the property boundaries of 1325 Old Tale Rd. Red circles indicate approximate location of non-conforming structures: shed (8'x10'), garage

For Administrative Purposes Only
Property Address: 1402 Old Tale Road
Grantor: Kellie Masterson Praeger
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Kellie Masterson Praeger (the "Applicant"). The City and the Applicant are referred to as the "Parties."

RECITALS

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

A. The Applicant is the owner of the property generally known as 1402 Old Tale Road, Boulder, CO 80303 and more particularly described as Lot 9, Canterbury Acres, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicant shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicant will sign this Agreement.

   B. Title Work. The Applicant will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicant shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicant will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

   E. Easement Dedications. To the extent the Property is located within 60 feet from the centerline of the South Boulder Creek, the Applicant shall dedicate to the City, at no cost, the following easements:

a. A flood control easement from 60 feet on either side of the centerline of South Boulder Creek as shown on **Exhibit B**. The easement shall be in a form acceptable to the City Manager. The easement will exclude any principal building containing a dwelling unit on the lot within the flood control easement area that is existing at the time of annexation.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$18,849.00
Total	**$36,065.68**

E. Execute a Promissory Note and Deed of Trust, if Applicant selected Payment Option #B, as described under Paragraph 4.B(i) below.

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicant selects **Option #B** set forth below.

A. Option #A: Payment in Full. The Applicant shall connect to the Water Main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension.

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

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

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

C. Option #C: Future Connection. The Applicant shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) at the time Applicant's Property is Sold; or 2) at the time of Redevelopment of Applicant's Property. At the respective time and prior to the Applicant's connection to the Water Main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicant Responsible for Legal Disconnection of On-site Wastewater System. If the Applicant decides to continue to use an existing on-site wastewater system, the Applicant agrees that the Applicant will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City's sanitary sewer main, the Applicant is

required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit C**. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicant and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The 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 in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will

return all such original documents to the Applicant. The Applicant agrees that she will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

17. Breach of Agreement. In the event the Applicant breaches or fails to perform any required action, or fails to pay any fee specified, under this Agreement or under any document that may also be required to be executed pursuant to this Agreement, the Applicant acknowledges that the City may take all reasonable actions to cure the breach, including but not limited to the filing of an action for specific performance of the obligations herein described. In the event the Applicant fails to pay any monies due under this Agreement or under any document that may also be required to be executed pursuant to this Agreement or fails to perform any affirmative obligation hereunder or under any document that may also be required to be executed pursuant to this Agreement, the Applicant agrees that the City may collect the monies due in the manner provided for in Section 2-2-12, B.R.C. 1981, as amended, as if the said monies were due and owing pursuant to a duly adopted ordinance of the City or may perform the obligation on behalf of the Applicant and collect its costs in the manner herein provided. The Applicant agrees to waive any rights 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.

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

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

20. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner

described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicant.

21. Flood Control Easement Conditions. The Applicant acknowledges that no accessory structures currently exist within the flood control easement area. The Applicant shall not construct any new buildings within the flood control easement area.

22. 2014 Fee Schedule. If the Applicant agrees to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: Kellie Masterson Praeger

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of March, 2015, by Kellie Masterson Praeger.

Witness my hand and official seal.
My commission expires: 11 Aug 16

[SEAL]

Notary Public

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Flood Control Easement
C: Written Description of Nonstandard or Nonconforming Structures

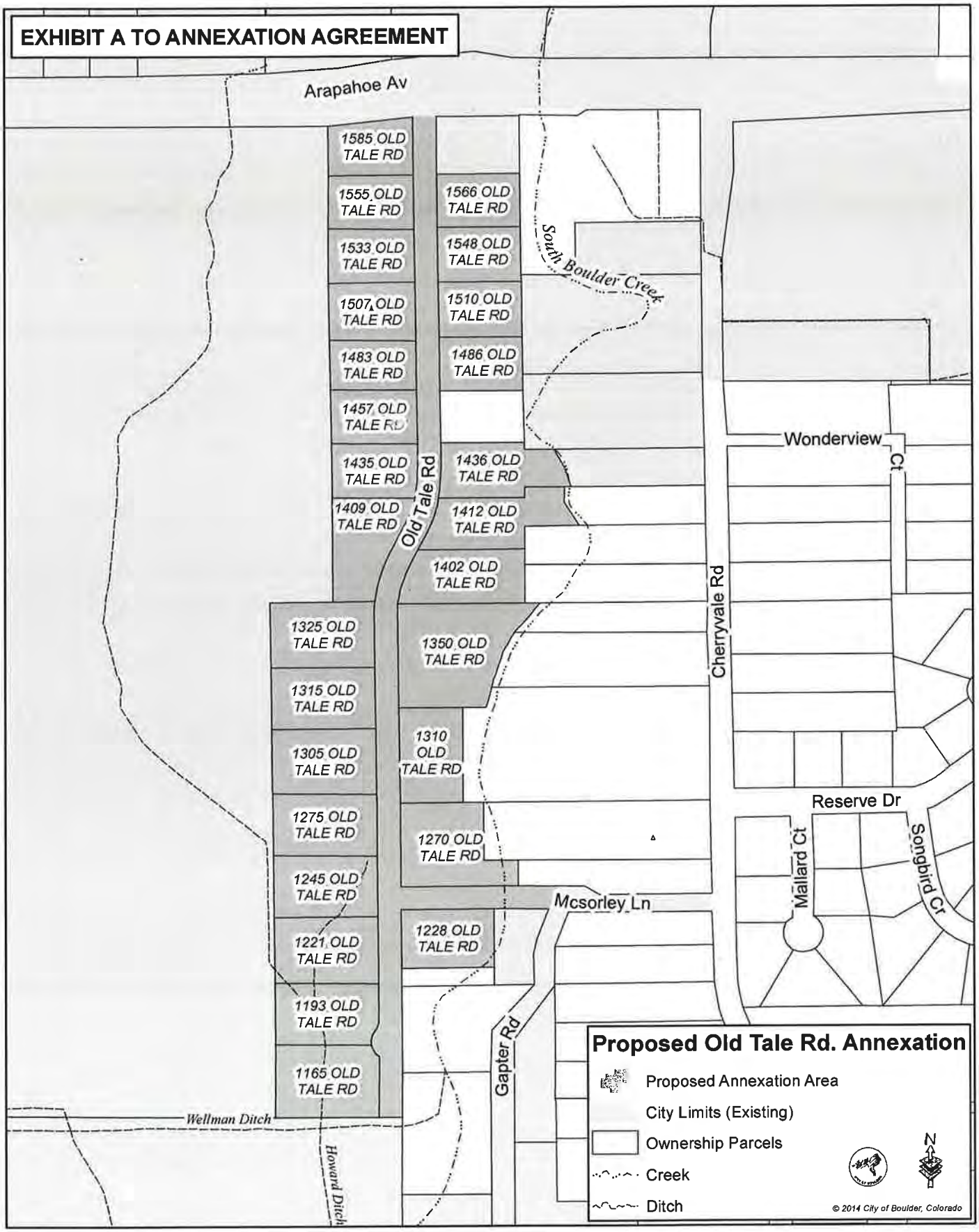


EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1533 OLD TALE RD
1507 OLD TALE RD
1483 OLD TALE RD
1457 OLD TALE RD
1435 OLD TALE RD
1409 OLD TALE RD
1566 OLD TALE RD
1548 OLD TALE RD
1510 OLD TALE RD
1486 OLD TALE RD
1436 OLD TALE RD
1412 OLD TALE RD
1402 OLD TALE RD
1325 OLD TALE RD
1315 OLD TALE RD
1305 OLD TALE RD
1275 OLD TALE RD
1245 OLD TALE RD
1221 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
1350 OLD TALE RD
1310 OLD TALE RD
1270 OLD TALE RD
1228 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 4)

For Administrative Purposes Only
Property Address: 1402 Old Tale Road
Grantor: Kellie Masterson Praeger
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

GRANT OF FLOOD CONTROL EASEMENT

KELLIE MASTERSON PRAEGER ("Grantor"), whose address is 1402 Old Tale Road, Boulder, CO 80303, for $1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city (the "City"), whose address is 1777 Broadway, Boulder, Colorado 80302, a flood control easement for the purpose of drainage conveyance and control of flood waters and installation and maintenance of improvements necessary to ensure conveyance of flood waters as determined by the Grantee, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached

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

This easement does not grant to the City a right to construct a public trail or other public transportation improvement in the easement area.

Grantor warrants her ability to grant and convey this easement.

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

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed as of

this ___ day of _____, 2015.

GRANTOR:

By:_____
Kellie Masterson Praeger

[*NOTARY BLOCK FOLLOWS*]

EXHIBIT B TO ANNEXATION AGREEMENT (Page 2 of 4)

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Kellie Masterson Praeger.

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

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 3 of 4)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 1 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT OVER AND ACROSS A PORTION OF LOT 9, CANTERBURY ACRES AS RECORDED IN THE RECORDS OF BOULDER COUNTY ON MAY 16, 1963, AT RECEPTION NO. 90726438, LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE SOUTHERLY LINE OF SAID LOT 9 TO BEAR SOUTH 89°53'20 WEST, A DISTANCE OF 330.00 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 9, THENCE SOUTH 89°53'20" WEST ALONG THE SOUTHERLY LINE OF SAID LOT 9, A DISTANCE OF 13.06 FEET TO A POINT LYING 60 FEET NORTHWESTERLY OF THE CENTERLINE OF SOUTH BOULDER CREEK;
THENCE DEPARTING SAID SOUTHERLY LINE, AND ALONG A LINE LYING 60 FEET NORTHWESTERLY AND PARALLEL WITH THE CENTERLINE OF SOUTH BOULDER CREEK, NORTH 46°22'09" EAST, A DISTANCE OF 17.95 FEET TO A POINT ON THE EASTERLY LINE OF SAID LOT 9;
THENCE ALONG SAID EASTERLY LINE, SOUTH 00°19'30" EAST, A DISTANCE OF 12.36 FEET TO THE SOUTHEAST CORNER OF SAID LOT 9 AND THE POINT OF BEGINNING;

SAID EASEMENT CONTAINING 80.70 SQ. FT. MORE OR LESS

I, JOHN B. GUYTON, A LAND SURVEYOR LICENSED IN THE STATEASEMENT DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE AT THE REQUEST OF THE CLIENT AND IS NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.

COLORADO LICENSED
JOHN B. GUYTON
16406
1/12/15
PROFESSIONAL LAND SURVEYOR

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

FSI JOB NO. 14-65,019

JOB NUMBER: 14-65,019(D)
DRAWN BY: E. PRESCOTT
DATE: JANUEARY 12, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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

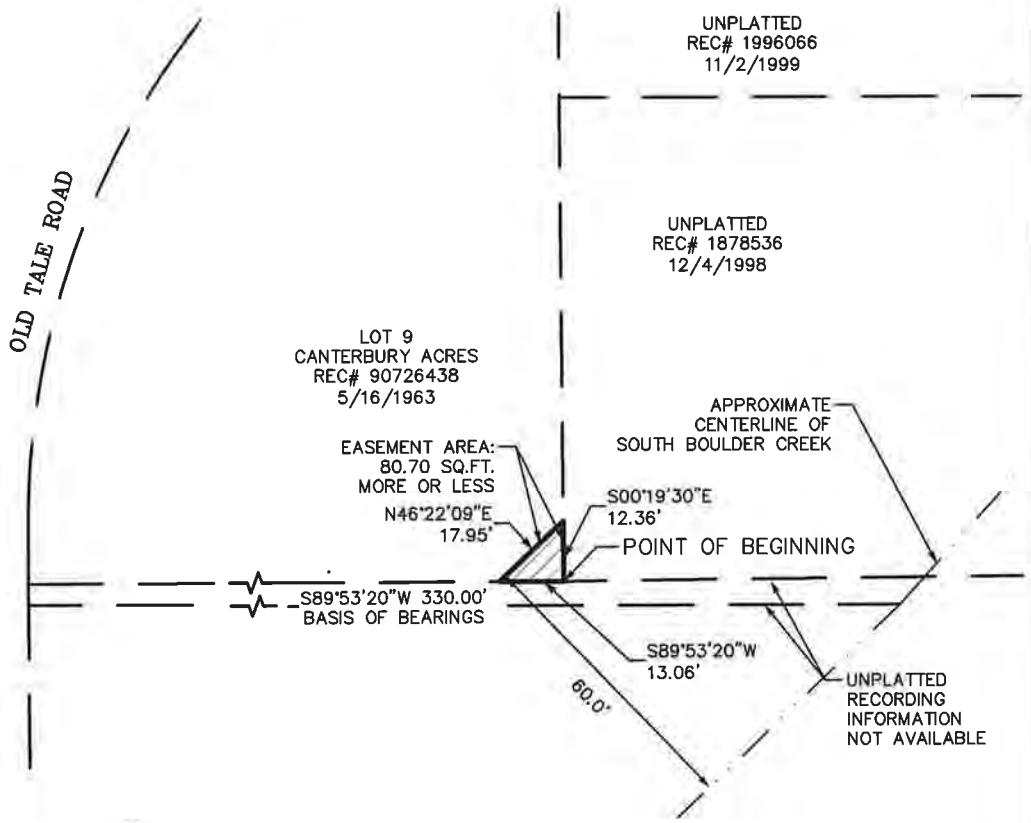
BY:EPRESCOTT FILE:1402 OLD TALE RD(D).DWG DATE:1/12/2015 2:56 PM

EXHIBIT B TO ANNEXATION AGREEMENT (Page 4 of 4)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 2 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2



GRAPHIC SCALE

30 0 15 30

(IN FEET)
1 inch = 30 ft.

COLORADO LICENSED
JOHN PRESCOTT
16406
1/12/15
PROFESSIONAL LAND SURVEYOR

JOB NUMBER: 14-65,019
DRAWN BY: E. PRESCOTT
DATE: JANUARY 12, 2015

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BY:EPRESCOTT FILE:1402 OLD TALE RD(D).DWG DATE:1/12/2015 2:58 PM

EXHIBIT C TO ANNEXATION AGREEMENT (Page 1 of 1)

Box above approximates the property boundaries of 1402 Old Tale Rd.
Red circle indicates approximate location of non-conforming structure:
Detached garage w/in 15 ft of N. property line

For Administrative Purposes Only
Property Address: 1409 Old Tale Road
Grantor: William J. Dick III
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and William J. Dick III (the "Applicant"). The City and the Applicant are referred to as the "Parties."

RECITALS

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

A. The Applicant is the owner of the property generally known as 1409 Old Tale Road and more particularly described as Lot 1, Canterbury Acres, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicant shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicant will sign this Agreement.

   B. Title Work. The Applicant will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicant shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicant will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

   E. Notice of Intent to Connect to City's Water Utility. If the Applicant chooses Option #C as described under Paragraph 4 below, the Applicant shall submit, on a form acceptable to the City Manager, a notice of intent to connect to the City's water utility at a later time. Such notice will be recorded with the Boulder County

Clerk and Recorder's Office in order to put subsequent purchasers on notice of the requirement to later connect to the City's utility systems, certifying as follows:

> The notice will include that the Property is subject to certain terms and conditions of this Annexation Agreement, and that said obligations will run with the land.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$24,211.18
Total	**$41,427.86**

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicant selects **Option #C** set forth below.

   A. Option #A: Payment in Full. The Applicant shall connect to the Water Main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension.

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

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

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

C. Option #C: Future Connection. The Applicant shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time of Applicant's Property is Sold; 2) at the time of Redevelopment of Applicant's Property, whichever occurs first. At the respective time and prior to the Applicant's connection to the Water Main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicant Responsible for Legal Disconnection of On-site Wastewater System. If the Applicant decides to continue to use an existing on-site wastewater system, the Applicant agrees that the Applicant will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site

wastewater system and connection to the City's sanitary sewer main, the Applicant is required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. Existing, nonstandard buildings and/or nonconforming uses will be allowed to continue to be occupied and operated in the City of Boulder. Only those nonstandard buildings and/or nonconforming uses for which the Applicant has provided a written description that is received by the City in accordance with Paragraph 2.C above will be considered legal. The Applicant and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The 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 in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the

City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that he will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicant retain the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the

annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicant.

21. 2014 Fee Schedule. If the Applicant agrees to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: _____
William J. Dick III

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this _____ day of _____, 2015, by William J. Dick III.

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

[SEAL]

_____
Notary Public

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map

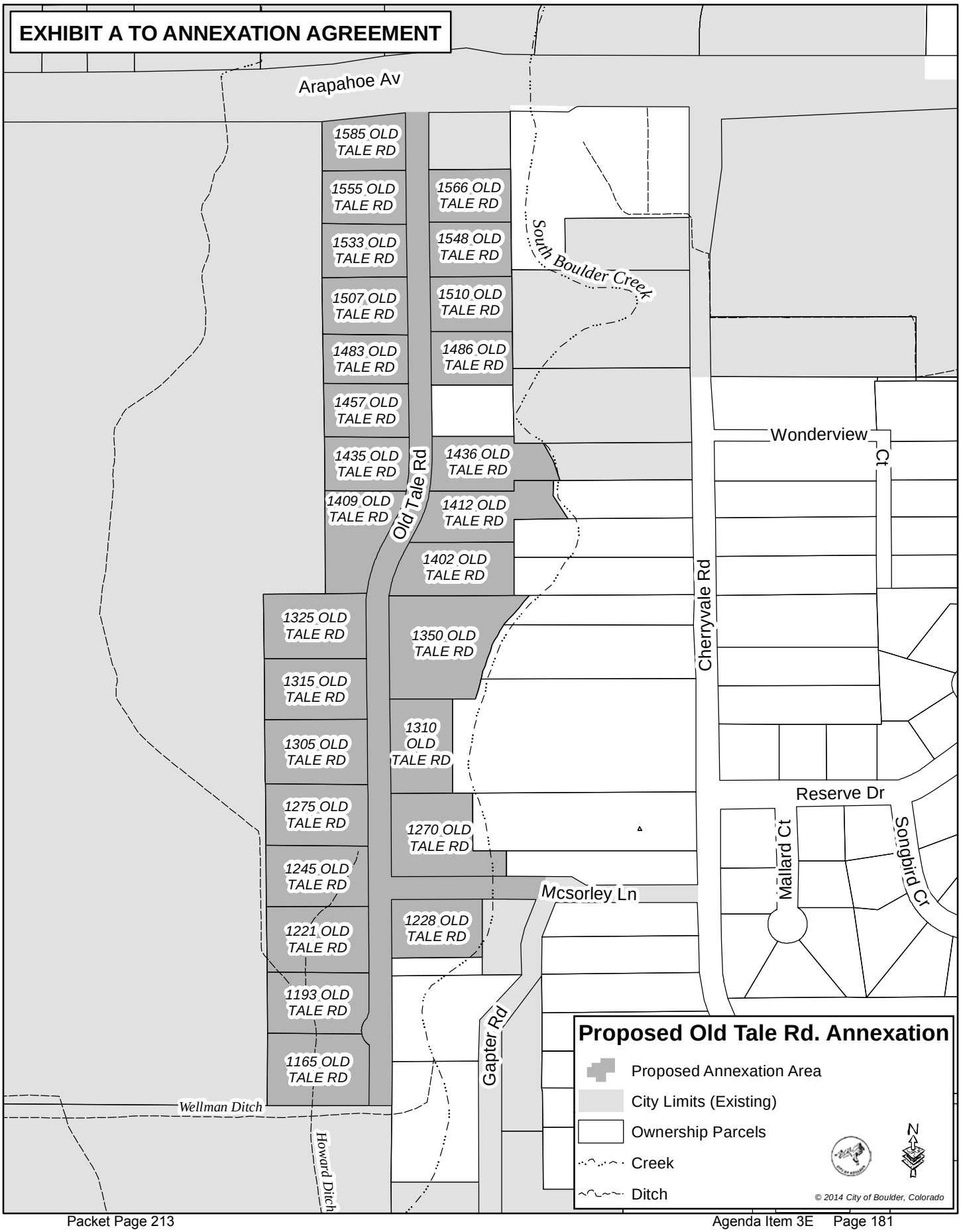
EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1566 OLD TALE RD
1533 OLD TALE RD
1548 OLD TALE RD
1507 OLD TALE RD
1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
1457 OLD TALE RD
1435 OLD TALE RD
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1409 OLD TALE RD
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1402 OLD TALE RD
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1310 OLD TALE RD
1305 OLD TALE RD
1275 OLD TALE RD
1270 OLD TALE RD
1245 OLD TALE RD
1228 OLD TALE RD
1221 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

For Administrative Purposes Only
Property Address: 1412 Old Tale Road
Grantors: John K. Bennett and
Penelope A. Bennett
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this 6th day of March, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and John K. Bennett and Penelope A. Bennett (the "Applicants"). The City and the Applicants are referred to as the "Parties."

RECITALS

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

A. The Applicants are the owners of the property generally known as 1412 Old Tale Road, Boulder, CO 80303 and more particularly described as Lot 10A, Canterbury Acres, Replat "A", County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

obligation to construct or finance the construction of the Water Main or reconstruct or finance the reconstruction of Old Tale Road and McSorley Road as a condition of this Agreement.

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicants in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicants shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicants will sign this Agreement.

   B. Title Work. The Applicants will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicants shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicants will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

E. Easement Dedications. To the extent the Property is located within 60 feet from the centerline of the South Boulder Creek, the Applicants shall dedicate to the City, at no cost, the following easements:

a. A flood control easement from 60 feet on either side of the centerline of South Boulder Creek as shown on **Exhibit B**. The easement shall be in a form acceptable to the City Manager. The easement will exclude any principal building containing a dwelling unit on the lot within the flood control easement area that is existing at the time of annexation.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$21,836.00
Total	**$39,052.68**

E. Execute a Promissory Note and Deed of Trust, if Applicants selected Payment Option #B, as described under Paragraph 4.B(i) below.

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

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

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

assessments described in Paragraph 3 shall be paid in accordance with the terms of the following payment plan:

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

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

C. Option #C: Future Connection. The Applicants shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) at the time Applicants' Property is Sold; or 2) at the time of Redevelopment of Applicants' Property. At the respective time and prior to the Applicants' connection to the Water Main, the Applicants will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicants Responsible for Legal Disconnection of On-site Wastewater System. If the Applicants decide to continue to use an existing on-site wastewater system, the Applicants agree that the Applicants will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site

wastewater system and connection to the City's sanitary sewer main, the Applicants are required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicants agree to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicants agree not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit C**. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses except that those nonstandard structures located in the flood control easement (**Exhibit B**) shall not be restored in the easement once removed, destroyed, demolished, or relocated. The Applicants and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The Applicants hereby waive any statutory vested rights that may have accrued under County jurisdiction that have not been perfected as common law vested rights. The Applicants acknowledge that nothing in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicants acknowledge that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicants shall provide an original of this Agreement signed by Applicants, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final

legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicants. The Applicants agree that they will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicants agree that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicants shall neither convey ownership nor further encumber the Applicants' Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicants agree not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicants retain the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicants' right to withdraw shall terminate upon the City Council's final legislative action approving the

annexation. In the event that the Applicants withdraw from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicants. The City agrees, within 30 days of a request by the Applicants after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicants submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicants.

21. Flood Control Easement Conditions.

A. The City will allow existing accessory structures identified on **Exhibit C** to remain within the flood control easement area until removed, destroyed, demolished, or relocated.

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

C. The Applicants shall neither construct any new buildings or structures nor rebuild or reconstruct any pre-existing accessory buildings or structures within the flood control easement area.

22. 2014 Fee Schedule. If the Applicants agree to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: John K. Bennett
John K. Bennett

STATE OF COLORADO)
) ss.
COUNTY OF ~~BOULDER~~ Denver)

The foregoing instrument was acknowledged before me, a Notary Public, this 6th day of March, 2015, by John K. Bennett.

Witness my hand and official seal.
My commission expires: 11/18/2017

[SEAL]

SARA B. KERNS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20134064351
COMMISSION EXPIRES 11/18/2017

Sara B. Kerns
Notary Public

Applicant:

By: Penelope A. Bennett
Penelope A. Bennett

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 6 day of March, 2015, by Penelope A. Bennett.

Witness my hand and official seal.
My commission expires: 01-21-2019

[SEAL]

Notary Public

CHRISTOPHER BRECEDA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20154002817
MY COMMISSION EXPIRES JAN. 21, 2019

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

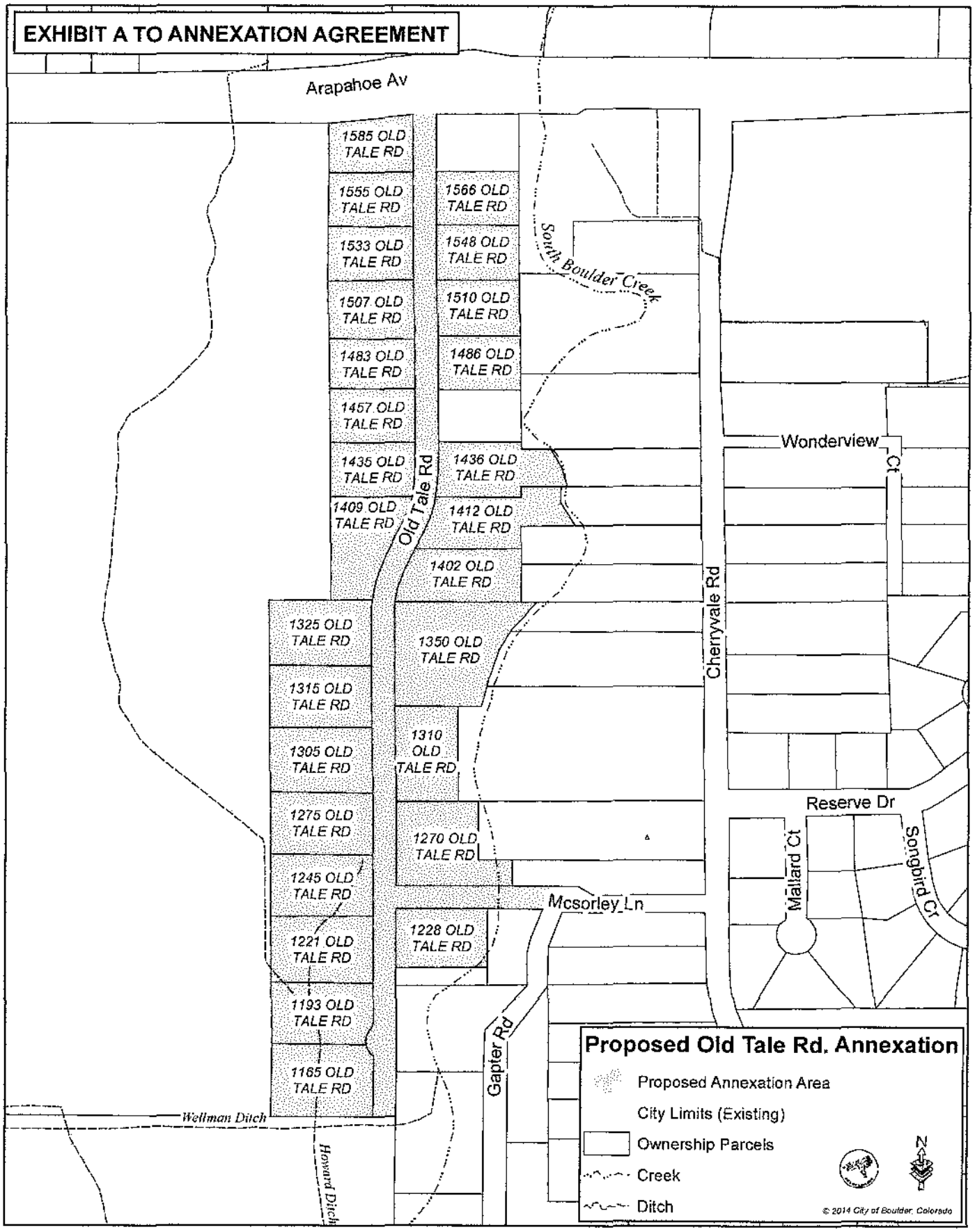
Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:

A: Old Tale Area Map
B: Flood Control Easement
C: Written Description of Nonstandard or Nonconforming Structures and accessory structures in flood easement area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Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

For Administrative Purposes Only
Property Address: 1412 Old Tale Road
Grantors: John K. Bennett and
Penelope A. Bennett
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

GRANT OF FLOOD CONTROL EASEMENT

JOHN K. BENNETT and PENELOPE A. BENNETT ("Grantors"), whose address is 1412 Old Tale Road, Boulder, CO 80303, for $1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city (the "City"), whose address is 1777 Broadway, Boulder, Colorado 80302, a flood control easement for the purpose of drainage conveyance and control of flood waters and installation and maintenance of improvements necessary to ensure conveyance of flood waters as determined by the Grantee, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached

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

This easement does not grant to the City a right to construct a public trail or other public transportation improvement in the easement area.

Grantors warrant their ability to grant and convey this easement.

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

IN WITNESS WHEREOF, Grantors have caused this instrument to be duly executed as of this 6th day of March, 2015.

GRANTOR:

By: John K. Bennett
John K. Bennett

[*NOTARY BLOCK FOLLOWS*]

EXHIBIT B TO ANNEXATION AGREEMENT (Page 2 of 5)

STATE OF COLORADO)
)ss.
COUNTY OF ~~BOULDER~~ Denver)

The foregoing instrument was acknowledged before me this 6th day of March, 2015, by John K. Bennett.

Witness my hand and official seal.
My commission expires: 11/18/2017

Sara B. Kerns
Notary Public

SARA B. KERNS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID #20134064351
MY COMMISSION EXPIRES 11/18/2017

GRANTOR:

By:_____
Penelope A. Bennett

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Penelope A. Bennett.

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

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 2 of 5)

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by John K. Bennett.

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

_____
Notary Public

GRANTOR:

By: Penelope A. Bennett
Penelope A. Bennett

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 6 day of March, 2015, by Penelope A. Bennett.

Witness my hand and official seal.
My commission expires: 01-21-2019

Chi Breceda
Notary Public

CHRISTOPHER BRECEDA
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20154002817
MY COMMISSION EXPIRES JAN. 21, 2019

EXHIBIT B TO ANNEXATION AGREEMENT (Page 4 of 5)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 1 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT OVER AND ACROSS A PORTION OF LOT 10A, CANTERBURY ACRES, REPLAT A AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON JULY 29, 1981, AT RECEPTION NO. 456852, LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING A NORTHERLY LINE OF SAID LOT 10A TO BEAR NORTH 89°53'20" EAST, A DISTANCE OF 120.00 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

BEGINNING AT THE MOST NORTHEASTERLY CORNER OF SAID LOT 10A,
THENCE ALONG THE EASTERLY LINES OF SAID LOT 10A THE FOLLOWING TWO (2) COURSES:
SOUTH 00°40'45" WEST, A DISTANCE OF 41.28 FEET;
THENCE SOUTH 32°58'25" EAST, A DISTANCE OF 69.92 FEET TO A POINT ON A SOUTHERLY LINE OF SAID LOT 10A;
THENCE ALONG SAID SOUTHERLY LINE, SOUTH 89°53'20 WEST, A DISTANCE OF 71.43 FEET TO A POINT LYING 60 FEET WESTERLY OF THE CENTERLINE OF SOUTH BOULDER CREEK;
THENCE ALONG A LINE LYING 60 FEET WESTERLY AND PARALLEL WITH SAID CENTERLINE, THE FOLLOWING TWO (2) COURSES:
NORTH 32°58'25" WEST, A DISTANCE OF 49.31 FEET;
THENCE NORTH 00°40'45" EAST, A DISTANCE OF 58.59 FEET TO A POINT ON A NORTHERLY LINE OF SAID LOT 10A;
THENCE ALONG SAID NORTHERLY LINE, NORTH 89°53'20" EAST, A DISTANCE OF 60.01 FEET TO THE MOST NORTHEASTERLY CORNER OF SAID LOT 10A AND THE POINT OF BEGINNING.

SAID EASEMENT CONTAINING 6,573 SQ. FT. OR 0.15 ACRES, MORE OR LESS

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

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR 16406 1/13/15

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

FSI JOB NO. 14-65,019

JOB NUMBER: 14-65,019
DRAWN BY: E. PRESCOTT
DATE: JANUARY 13, 2015 (E)

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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

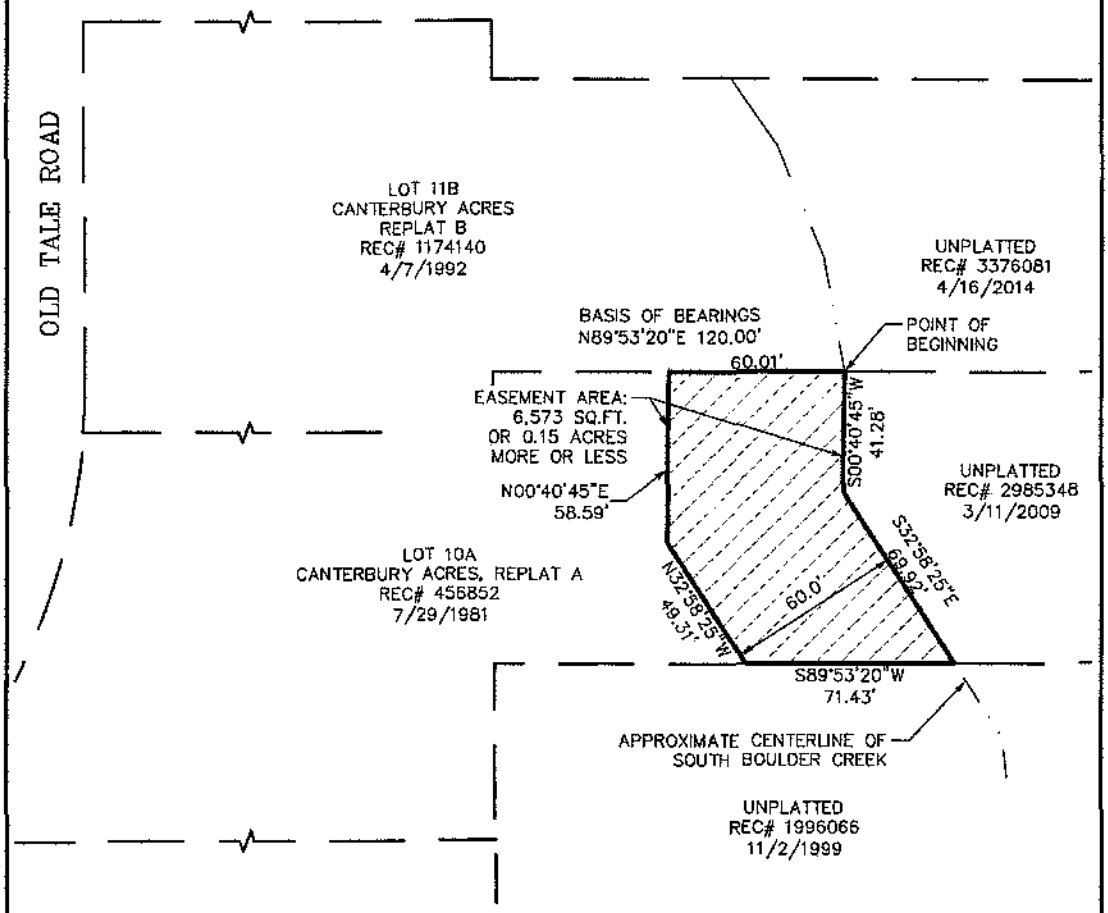
BY:EPRESCOTT FILE:1412 OLD TALE RD (E).DWG DATE:1/13/2015 2:30 PM

EXHIBIT B TO ANNEXATION AGREEMENT (Page 5 of 5)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 2 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2



COLORADO LICENSED
16406
1/13/15
PROFESSIONAL LAND SURVEYOR

GRAPHIC SCALE

50 0 25 50

(IN FEET)
1 inch = 50 ft.

JOB NUMBER: 14-65.019(E)
DRAWN BY: E. PRESCOTT
DATE: JANUARY 13, 2015

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BY:EPRESCOTT FILE:1412 OLD TALE RD (E).DWG DATE:1/13/2015 2:30 PM

EXHIBIT C TO ANNEXATION AGREEMENT (Page 1 of 1)

Black lines above approximates the property boundaries of 1412 Old Tale Rd. Pink infill indicates approximate extent of existing home.
Red circles indicate approximate location of <u>Non-conforming structures</u>: 1) detached garage, 2) detached outbuilding, 3) detached play structure
AND/OR
<u>Structures within flood easements</u>: 4) Playhouse & stairs in flood easement, 5) Portion of fence in flood easement

For Administrative Purposes Only
Property Address: 1435 Old Tale Road
Grantor: Joyce Peterson Thurmer
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Joyce Peterson Thurmer (the "Applicant"). The City and the Applicant are referred to as the "Parties."

RECITALS

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

A. The Applicant is the owner of the property generally known as 1435 Old Tale Road and more particularly described as Lot 2, Canterbury Acres, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicant shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicant will sign this Agreement.

   B. Title Work. The Applicant will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicant shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicant will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

   E. Notice of Intent to Connect to City's Water and Wastewater Utility. If the Applicant chooses Option #C as described under Paragraph 4 below, the Applicant shall submit, on a form acceptable to the City Manager, a notice of intent to connect to the City's water and wastewater utility, as applicable, at a

later time. Such notice will be recorded with the Boulder County Clerk and Recorder's Office in order to put subsequent purchasers on notice of the requirement to later connect to the City's utility systems, certifying as follows:

> The notice will include that the Property is subject to certain terms and conditions of this Annexation Agreement, and that said obligations will run with the land.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Sewer Permit, Inspection and Tap Fee	$426.93
Wastewater PIF	$4473.00
Stormwater and Flood PIF	$12,753.46
Total	**$34,870.07**

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicant selects **Option #C** set forth below.

   A. Option #A: Payment in Full. The Applicant shall connect to the Water Main and sanitary sewer main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main and sanitary sewer main provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension.

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

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

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

C. Option #C: Future Connection. The Applicant shall connect to the Water Main and sanitary sewer main at a time later than what is specified in Option #A and #B above, but no later than the time when 1) the Applicant's on-site wastewater system fails or is declared unsafe, or the Applicant is otherwise required to stop using the on-site wastewater system by the Boulder County Health Department or the State of Colorado; or 2) at the time Applicant's Property is Sold; or 3) at the time of Redevelopment of Applicant's Property, whichever occurs first. At the respective time and prior to the Applicant's connection to the Water Main and sanitary sewer main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicant Responsible for Legal Disconnection of On-site Wastewater System. If the Applicant decides to continue to use an existing on-site wastewater system, the Applicant agrees that the Applicant will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-

site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City's sanitary sewer main, the Applicant is required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. Existing, nonstandard buildings and/or nonconforming uses will be allowed to continue to be occupied and operated in the City of Boulder. Only those nonstandard buildings and/or nonconforming uses for which the Applicants have provided a written description that is received by the City in accordance with Paragraph 2.C above will be considered legal. The Applicant and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The 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 in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that she will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

17. Breach of Agreement. In the event the Applicant breaches or fails to perform any required action, or fails to pay any fee specified, under this Agreement or under any document that may also be required to be executed pursuant to this Agreement, the Applicant acknowledges that the City may take all reasonable actions to cure the breach, including but not limited to the filing of an action for specific performance of the obligations herein described. In the event the Applicant fails to pay any monies due under this Agreement or under any document that may also be required to be executed pursuant to this Agreement or fails to perform any affirmative obligation hereunder or under any document that may also be required to be executed pursuant to this Agreement, the Applicant agrees that the City may collect the monies due in the manner provided for in Section 2-2-12, B.R.C. 1981, as amended, as if the said monies were due and owing pursuant to a duly adopted ordinance of the City or may perform the obligation on behalf of the Applicant and collect its costs in the manner herein provided. The Applicant agrees to waive any rights 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.

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

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

20. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicant.

21. 2014 Fee Schedule. If the Applicant agrees to connect to the City Water Main and sanitary sewer main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connections be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: Joyce Peterson Thurmer
Joyce Peterson Thurmer

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of March, 2015, by Joyce Peterson Thurmer.

Witness my hand and official seal.
My commission expires: 10/3/2017

[SEAL]

Sandra Briggs
Notary Public

SANDRA BRIGGS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20004035114
MY COMMISSION EXPIRES 10/03/2017

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map

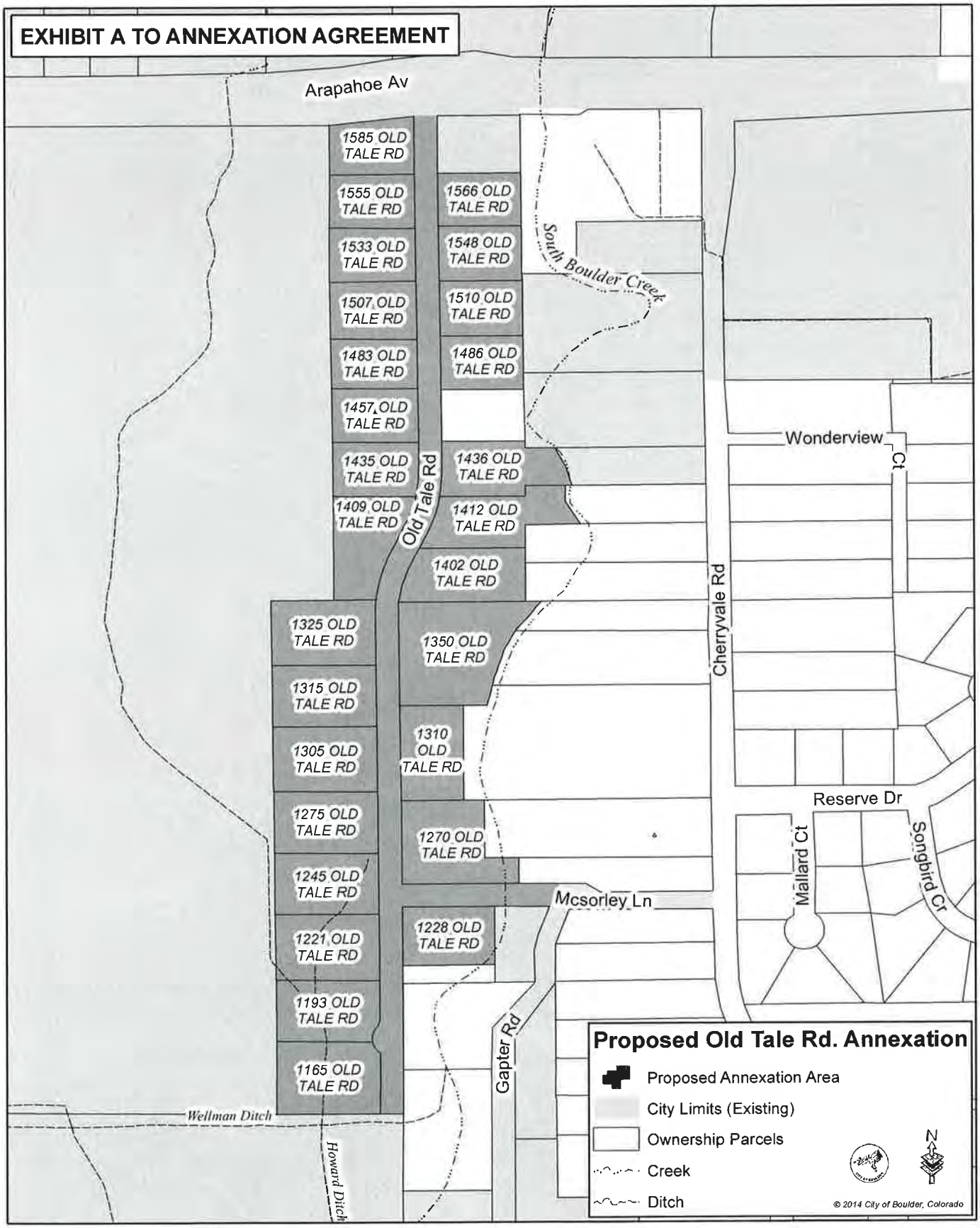
EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1566 OLD TALE RD
1533 OLD TALE RD
1548 OLD TALE RD
1507 OLD TALE RD
1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
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1275 OLD TALE RD
1270 OLD TALE RD
1245 OLD TALE RD
1228 OLD TALE RD
1221 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Cr
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

For Administrative Purposes Only
Property Address: 1436 Old Tale Road
Grantor: Thomas J. Perry
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Thomas J. Perry (the "Applicant"). The City and the Applicant are referred to as the "Parties."

RECITALS

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

A. The Applicant is the owner of the property generally known as 1436 Old Tale Road, Boulder, CO 80303 and more particularly described as Lot 11B, Canterbury Acres, Replat "B", County of Boulder, State of Colorado (the "Property").

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

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

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

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

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COVENANTS

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

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

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   C. Written Descriptions. The Applicant shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicant will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

   E. Easement Dedications. To the extent the Property is located within 60 feet from the centerline of the South Boulder Creek, the Applicant shall dedicate to the City, at no cost, the following easements:

a. A flood control easement from 60 feet on either side of the centerline of South Boulder Creek as shown on **Exhibit B**. The easement shall be in a form acceptable to the City Manager. The easement will exclude any principal building containing a dwelling unit on the lot within the flood control easement area that is existing at the time of annexation.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$18,529.70
Total	**$35,746.38**

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicant selects **Option #A** set forth below.

A. Option #A: Payment in Full. The Applicant shall connect to the Water Main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension.

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

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

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

C. Option #C: Future Connection. The Applicant shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) at the time Applicant's Property is Sold; or 2) at the time of Redevelopment of Applicant's Property. At the respective time and prior to the Applicant's connection to the Water Main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicant Responsible for Legal Disconnection of On-site Wastewater System. If the Applicant decides to continue to use an existing on-site wastewater system, the Applicant agrees that the Applicant will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City's sanitary sewer main, the Applicant is required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. Existing, nonstandard buildings and/or nonconforming uses will be allowed to continue to be occupied and operated in the City of Boulder. Only those nonstandard buildings and/or nonconforming uses for which the Applicant has provided a written description that is received by the City in accordance with Paragraph 2.C above will be considered legal. The Applicant and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The 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 in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that he will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred,

the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicant.

21. Flood Control Easement Conditions. The Applicant acknowledges that no accessory structures currently exist within the flood control easement area. The Applicant shall not construct any new buildings within the flood control easement area.

22. 2014 Fee Schedule. If the Applicant agrees to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: _____
Thomas J. Perry

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 5th day of March, 2015, by Thomas J. Perry.

Witness my hand and official seal.
My commission expires: 11 August 2016

[SEAL]

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

_____
Notary Public

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Flood Control Easement

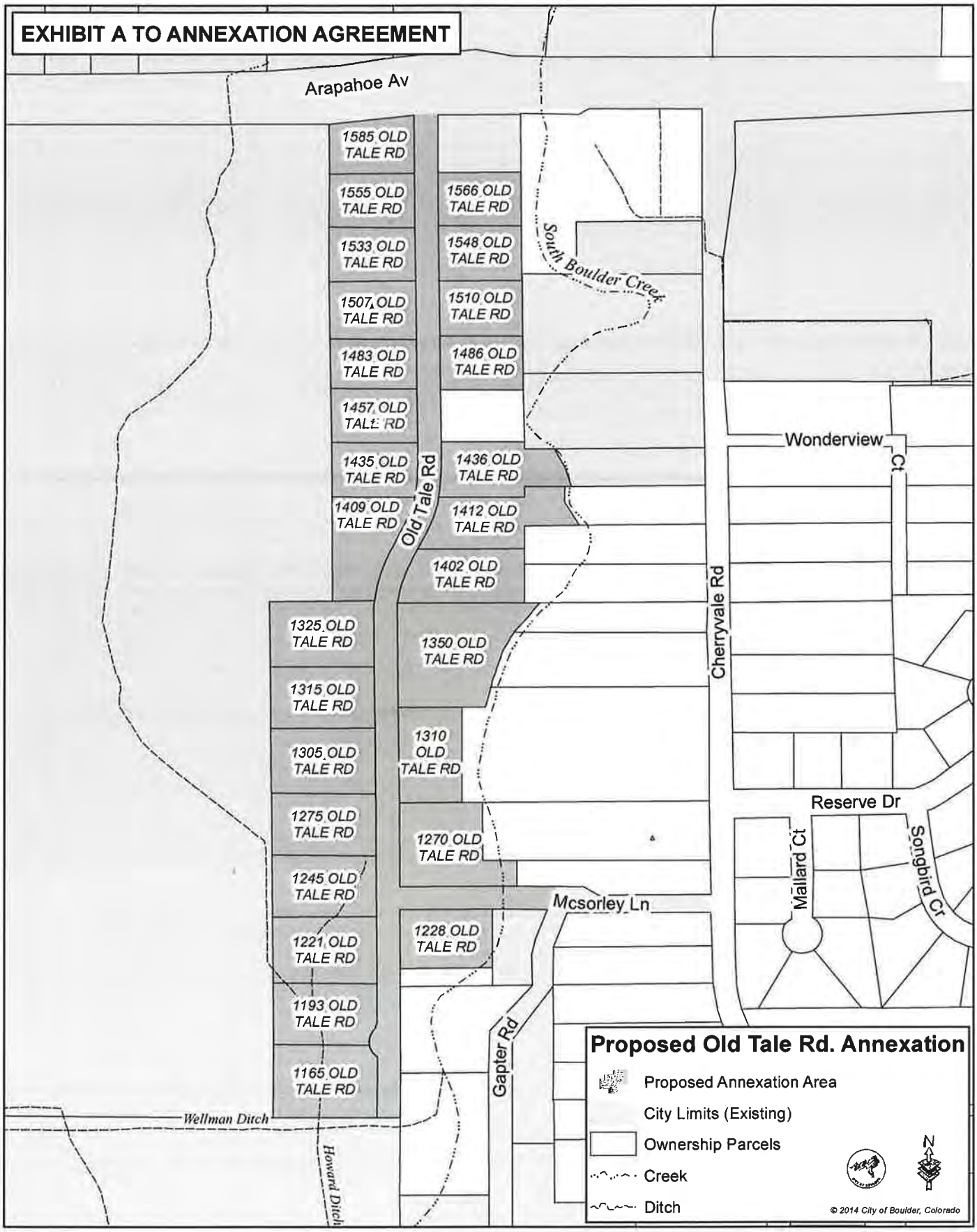


EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1566 OLD TALE RD
1533 OLD TALE RD
1548 OLD TALE RD
1507 OLD TALE RD
1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
1457 OLD TALE RD
1435 OLD TALE RD
1436 OLD TALE RD
1409 OLD TALE RD
1412 OLD TALE RD
1402 OLD TALE RD
1325 OLD TALE RD
1350 OLD TALE RD
1315 OLD TALE RD
1310 OLD TALE RD
1305 OLD TALE RD
1275 OLD TALE RD
1270 OLD TALE RD
1245 OLD TALE RD
1228 OLD TALE RD
1221 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 4)

For Administrative Purposes Only
Property Address: 1436 Old Tale Road
Grantor: Thomas J. Perry
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

GRANT OF FLOOD CONTROL EASEMENT

THOMAS J. PERRY ("Grantor"), whose address is 1436 Old Tale Road, Boulder, CO 80303, for $1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city (the "City"), whose address is 1777 Broadway, Boulder, Colorado 80302, a flood control easement for the purpose of drainage conveyance and control of flood waters and installation and maintenance of improvements necessary to ensure conveyance of flood waters as determined by the Grantee, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached

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

This easement does not grant to the City a right to construct a public trail or other public transportation improvement in the easement area.

Grantor warrants his ability to grant and convey this easement.

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

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed as of

this ___ day of _____, 2015.

GRANTOR:

By:_____
Thomas J. Perry

[*NOTARY BLOCK FOLLOWS*]

EXHIBIT B TO ANNEXATION AGREEMENT (Page 2 of 4)

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Thomas J. Perry.

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

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 3 to 4)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 1 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT OVER AND ACROSS A PORTION OF LOT 11B, CANTERBURY ACRES REPLAT B, AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON APRIL 7, 1992, AT RECEPTION NO. 1174140, LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING A SOUTHERLY LINE OF SAID LOT 11B TO BEAR SOUTH 89°53'20" WEST, A DISTANCE OF 120.00 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

BEGINNING AT THE SOUTHEASTERLY CORNER OF SAID LOT 11B;
THENCE ALONG A SOUTHERLY LINE OF SAID LOT 11B, SOUTH 89°53'20" WEST, A DISTANCE OF 61.00 FEET TO A POINT LYING 60 FEET WESTERLY OF THE CENTERLINE OF SOUTH BOULDER CREEK;
THENCE ALONG A LINE LYING 60 FEET WESTERLY AND SOUTHWESTERLY, AND PARALLEL WITH SAID CENTERLINE, THE FOLLOWING FIVE (5) COURSES:
THENCE NORTH 10°30'00" WEST, A DISTANCE OF 22.16 FEET;
THENCE NORTH 22°30'00" WEST, A DISTANCE OF 28.44 FEET;
THENCE NORTH 35°00'00" WEST, A DISTANCE OF 12.23 FEET;
THENCE NORTH 52°26'02" WEST, A DISTANCE OF 29.82 FEET;
THENCE NORTH 46°11'52" WEST, A DISTANCE OF 62.76 FEET TO A POINT ON A NORTHERLY LINE OF SAID LOT 11B;
THENCE ALONG THE NORTHERLY LINES OF SAID LOT 11B, THE FOLLOWING THREE (3) COURSES:
NORTH 89°40'30" EAST, A DISTANCE OF 31.18 FEET;
THENCE SOUTH 00°19'30" EAST, A DISTANCE OF 20.00 FEET;
THENCE NORTH 89°53'20" EAST, A DISTANCE OF 81.50 FEET TO THE NORTHEASTERLY CORNER OF SAID LOT 11B;
THENCE ALONG THE EASTERLY LINES OF SAID LOT 11B, THE FOLLOWING THREE (3) COURSES:
SOUTH 35°00'00" EAST, A DISTANCE OF 28.00 FEET;
THENCE SOUTH 22°30'00" EAST, A DISTANCE OF 41.32 FEET;
THENCE SOUTH 10°30'00" EAST, A DISTANCE OF 39.47 FEET TO THE SOUTHEAST CORNER OF SAID LOT 11B, AND THE POINT OF BEGINNING;

SAID EASEMENT CONTAINING 7,549 SQ. FT. OR 0.17 ACRES MORE OR LESS.

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

COLORADO LICENSED JOHN B. GUYTON 16406 PROFESSIONAL LAND SURVEYOR 1/13/15

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

FSI JOB NO. 14-65,019

JOB NUMBER: 14-65,019(F)
DRAWN BY: E. PRESCOTT
DATE: JANUARY 13, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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

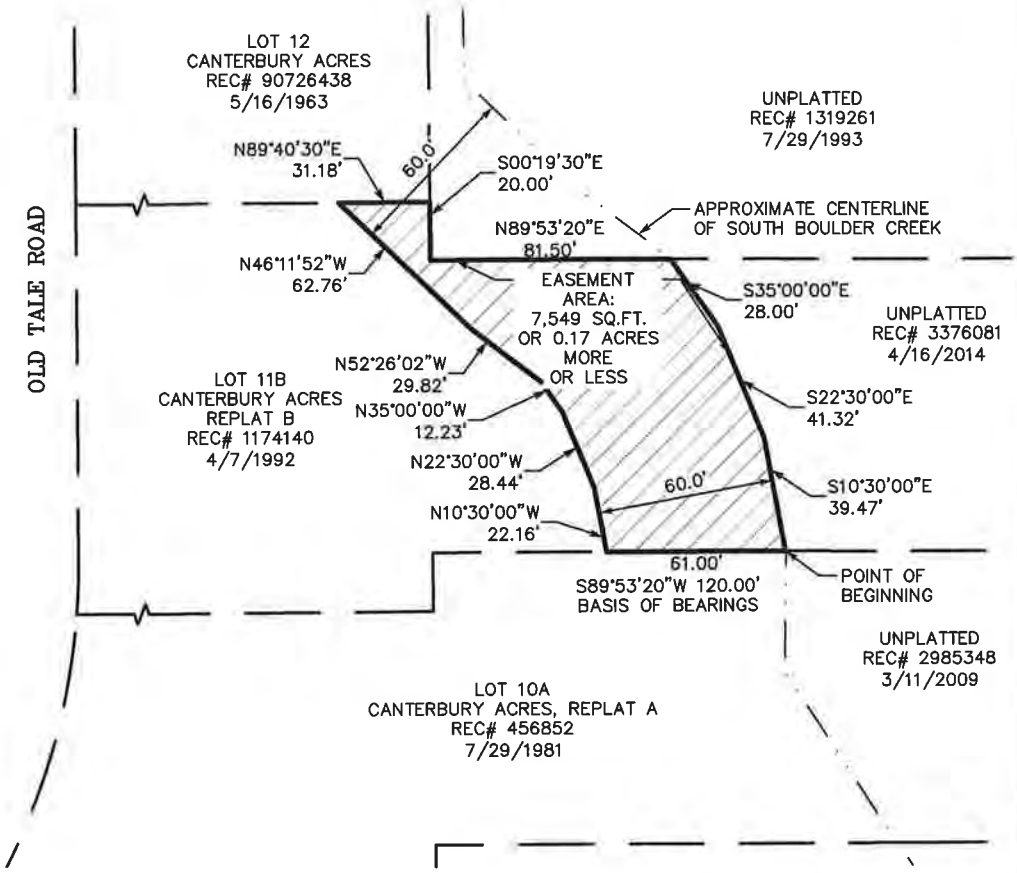
BY:EPRESCOTT FILE:1436 OLD TALE RD (F).DWG DATE:1/13/2015 2:34 PM

EXHIBIT B TO ANNEXATION AGREEMENT (Page 4 to 4)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 2 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2



GRAPHIC SCALE

50 0 25 50

(IN FEET)
1 inch = 50 ft.

COLORADO LICENSED
JOHN R. RUSSELL
16406
1/13/15
PROFESSIONAL LAND SURVEYOR

JOB NUMBER: 14-65,019(F)
DRAWN BY: E. PRESCOTT
DATE: JANUARY 13, 2015

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www.FlatironsInc.com

BY:EPRESCOTT FILE:1436 OLD TALE RD (F).DWG DATE:1/13/2015 2:34 PM

For Administrative Purposes Only
Property Address: 1457 Old Tale Road
Grantor: Cameron Bradley Peterson
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Cameron Bradley Peterson (the "Applicant"). The City and the Applicant are referred to as the "Parties."

RECITALS

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

A. The Applicant is the owner of the property generally known as 1457 Old Tale Road and more particularly described as Lot 3, Canterbury Acres, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicant shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicant will sign this Agreement.

   B. Title Work. The Applicant will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicant shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicant will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$18,572.96
Total	**$35,789.64**

E. Execute a Promissory Note and Deed of Trust, if Applicant selected Payment Option #B, as described under Paragraph 4.B(i) below.

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicant selects **Option #B** set forth below.

A. Option #A: Payment in Full. The Applicant shall connect to the Water Main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension.

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

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

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

C. Option #C: Future Connection. The Applicant shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time the Applicant's Property is Sold; or 2) at the time of Redevelopment of Applicant's Property, whichever occurs first. At the respective time and prior to the Applicant's connection to the Water Main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicant Responsible for Legal Disconnection of On-site Wastewater System. If the Applicant decides to continue to use an existing on-site wastewater system, the Applicant agrees that the Applicant will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City's sanitary sewer main, the Applicant is required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit B**. Section 9-10-

3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicant and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The 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 in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that he will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicant.

21. 2014 Fee Schedule. If the Applicant agrees to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: _____
Cameron Bradley Peterson

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 5th day of March, 2015, by Cameron Bradley Peterson.

Witness my hand and official seal.
My commission expires: 11 August 2016

[SEAL]

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

_____
Notary Public

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Written Description of Nonstandard or Nonconforming Structures

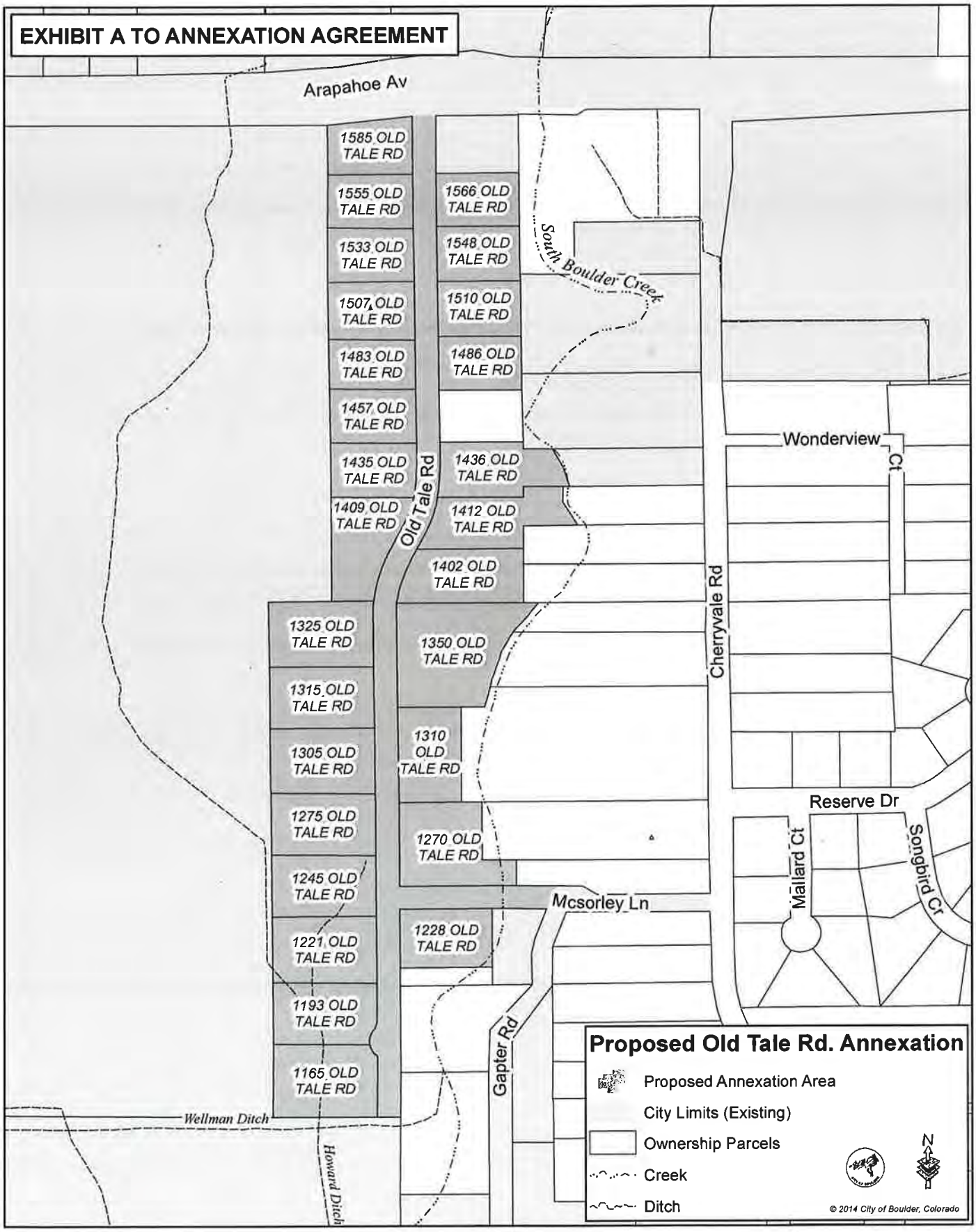
EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
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1566 OLD TALE RD
1548 OLD TALE RD
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1275 OLD TALE RD
1245 OLD TALE RD
1221 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
1350 OLD TALE RD
1310 OLD TALE RD
1270 OLD TALE RD
1228 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 1)

For Administrative Purposes Only
Property Address: 1483 Old Tale Road
Grantors: Jason Kiefer and Jennifer Kiefer
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Jason Kiefer and Jennifer Kiefer (the "Applicants"). The City and the Applicants are referred to as the "Parties."

RECITALS

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

A. The Applicants are the owners of the property generally known as 1483 Old Tale Road and more particularly described as Lot 4, Canterbury Acres, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicants in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicants shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicants will sign this Agreement.

   B. Title Work. The Applicants will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicants shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicants will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF YES	$12,100.44
Total	**$29,317.12**

E. Execute a Promissory Note and Deed of Trust, if Applicants selected Payment Option #B, as described under Paragraph 4.B(i) below.

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

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

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

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

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

C. Option #C: Future Connection. The Applicants shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time the Applicants' Property is Sold; or 2) at the time of Redevelopment of Applicants' Property, whichever occurs first. At the respective time and prior to the Applicants' connection to the Water Main, the Applicants will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

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

8. Historic Drainage. The Applicants agree to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicants agree not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit B**. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicants and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The Applicants hereby waive any statutory vested rights that may have accrued under County jurisdiction that have not been perfected as common law vested rights. The Applicants acknowledge that nothing in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicants acknowledge that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicants shall provide an original of this Agreement signed by Applicants, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicants. The Applicants agree that they will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicants agree that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred,

the Applicants shall neither convey ownership nor further encumber the Applicants' Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicants agree not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicants retain the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicants' right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicants withdraw from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicants. The City agrees, within 30 days of a request by the Applicants after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicants submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicants.

21. 2014 Fee Schedule. If the Applicants agree to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: _____
Jason Kiefer

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 5th day of March, 2015, by Jason Kiefer.

Witness my hand and official seal.
My commission expires: 11 August 2016

[SEAL]

_____
Notary Public

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

Applicant:

By: _____
Jennifer Kiefer

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 5th day of March, 2015, by Jennifer Kiefer.

Witness my hand and official seal.
My commission expires: 11 August 2016

[SEAL]

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

_____
Notary Public

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

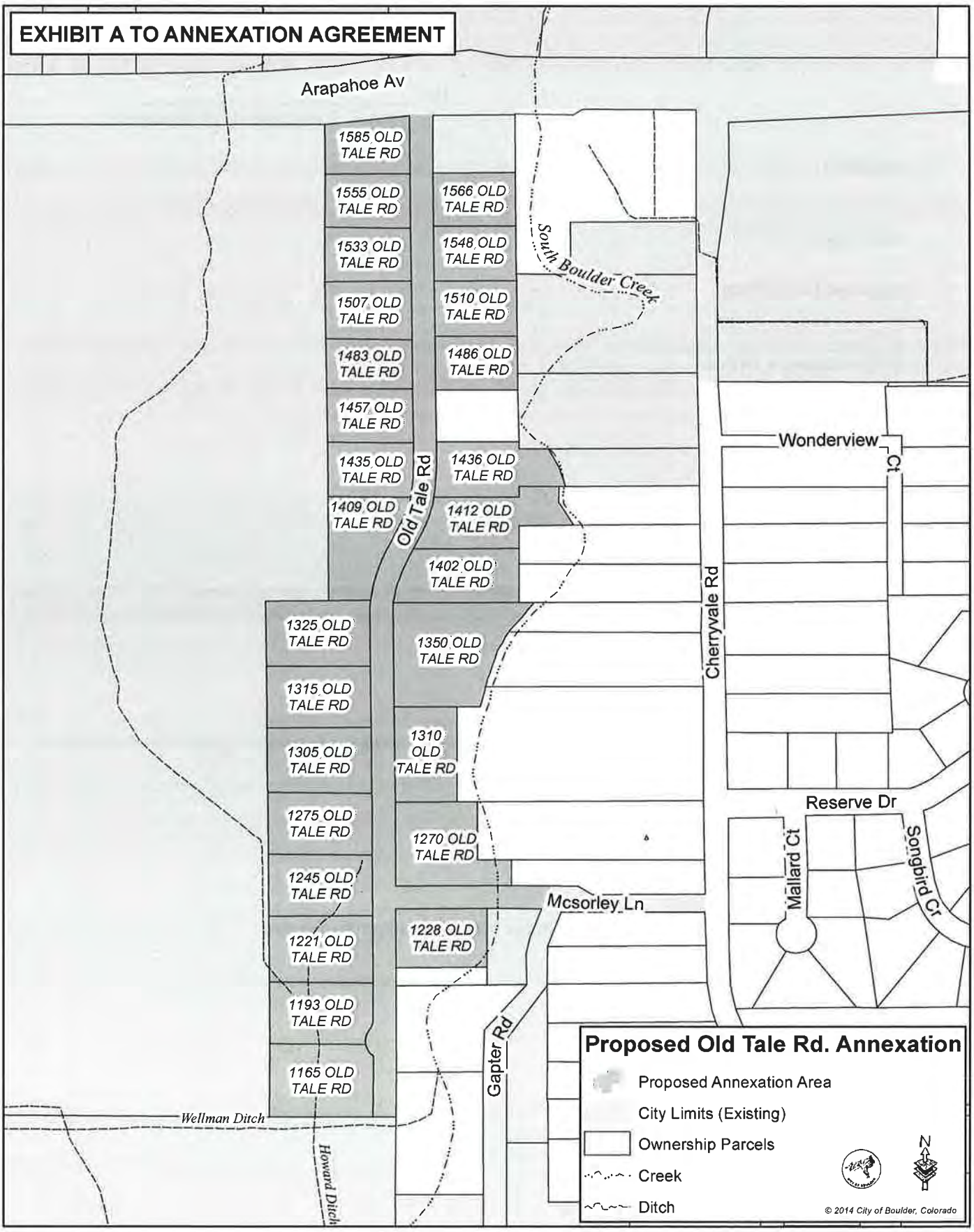
_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Written Description of Nonstandard or Nonconforming Structures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Proposed Old Tale Rd. Annexation
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City Limits (Existing)
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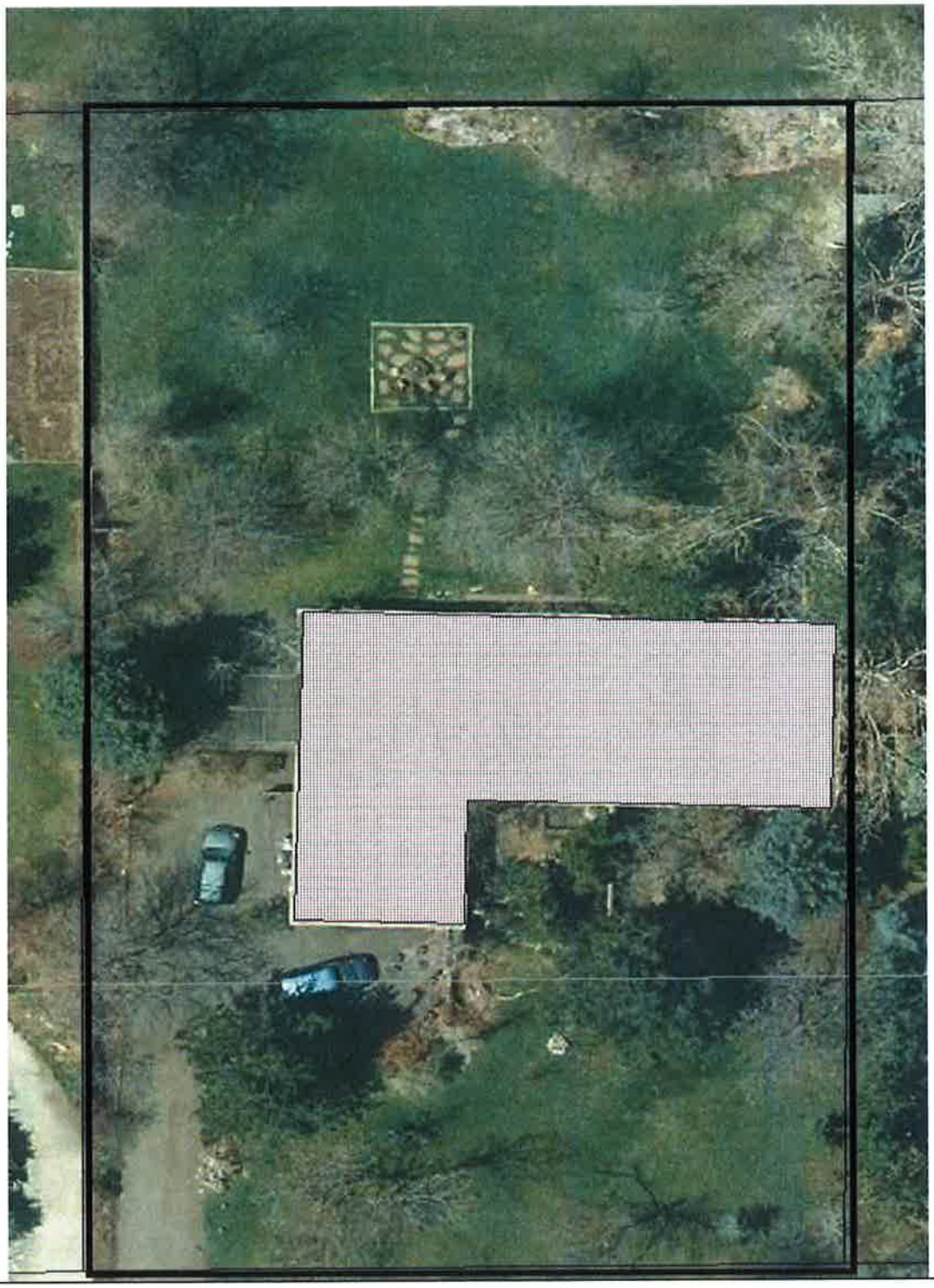
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 1)



Box above approximates the property boundaries of 1483 Old Tale Rd. Non-conforming uses: 1) shed (10'x12' N. property line), 2) shed used as home office (10'x16' N. property line), 3) deck & awning S. property line, 4) garage used as a workshop/play room

For Administrative Purposes Only
Property Address: 1507 Old Tale Road
Grantors: Richard L. Leddon III and
Jeanie C. Leddon
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this 6th day of March, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Richard L. Leddon III and Jeanie C. Leddon (the "Applicants"). The City and the Applicants are referred to as the "Parties."

RECITALS

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

A. The Applicants are the owners of the property generally known as 1507 Old Tale Road and more particularly described as Lot 5, Canterbury Acres, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

obligation to construct or finance the construction of the Water Main or reconstruct or finance the reconstruction of Old Tale Road and McSorley Road as a condition of this Agreement.

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicants in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicants shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicants will sign this Agreement.

   B. Title Work. The Applicants will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicants shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicants will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$18,863.42
Total	**$36,080.10**

E. Execute a Promissory Note and Deed of Trust, if Applicants selected Payment Option #B, as described under Paragraph 4.B(i) below.

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

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

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

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

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

C. Option #C: Future Connection. The Applicants shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time the Applicants' Property is Sold; or 2) at the time of Redevelopment of Applicants' Property, whichever occurs first. At the respective time and prior to the Applicants' connection to the Water Main, the Applicants will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

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

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10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit B**. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicants and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The Applicants hereby waive any statutory vested rights that may have accrued under County jurisdiction that have not been perfected as common law vested rights. The Applicants acknowledge that nothing in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicants acknowledge that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicants shall provide an original of this Agreement signed by Applicants, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicants. The Applicants agree that they will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicants agree that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred,

the Applicants shall neither convey ownership nor further encumber the Applicants' Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicants agree not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicants retain the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicants' right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicants withdraw from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicants. The City agrees, within 30 days of a request by the Applicants after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicants submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicants.

21. 2014 Fee Schedule. If the Applicants agree to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: _____
Richard L. Leddon III

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 6th day of March, 2015, by Richard L. Leddon III.

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

[SEAL]

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

_____
Notary Public

Applicant:

By: _____
Jeanie C. Leddon

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 6th day of March, 2015, by Jeanie C. Leddon.

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

[SEAL]

_____
Notary Public

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

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Written Description of Nonstandard or Nonconforming Structures

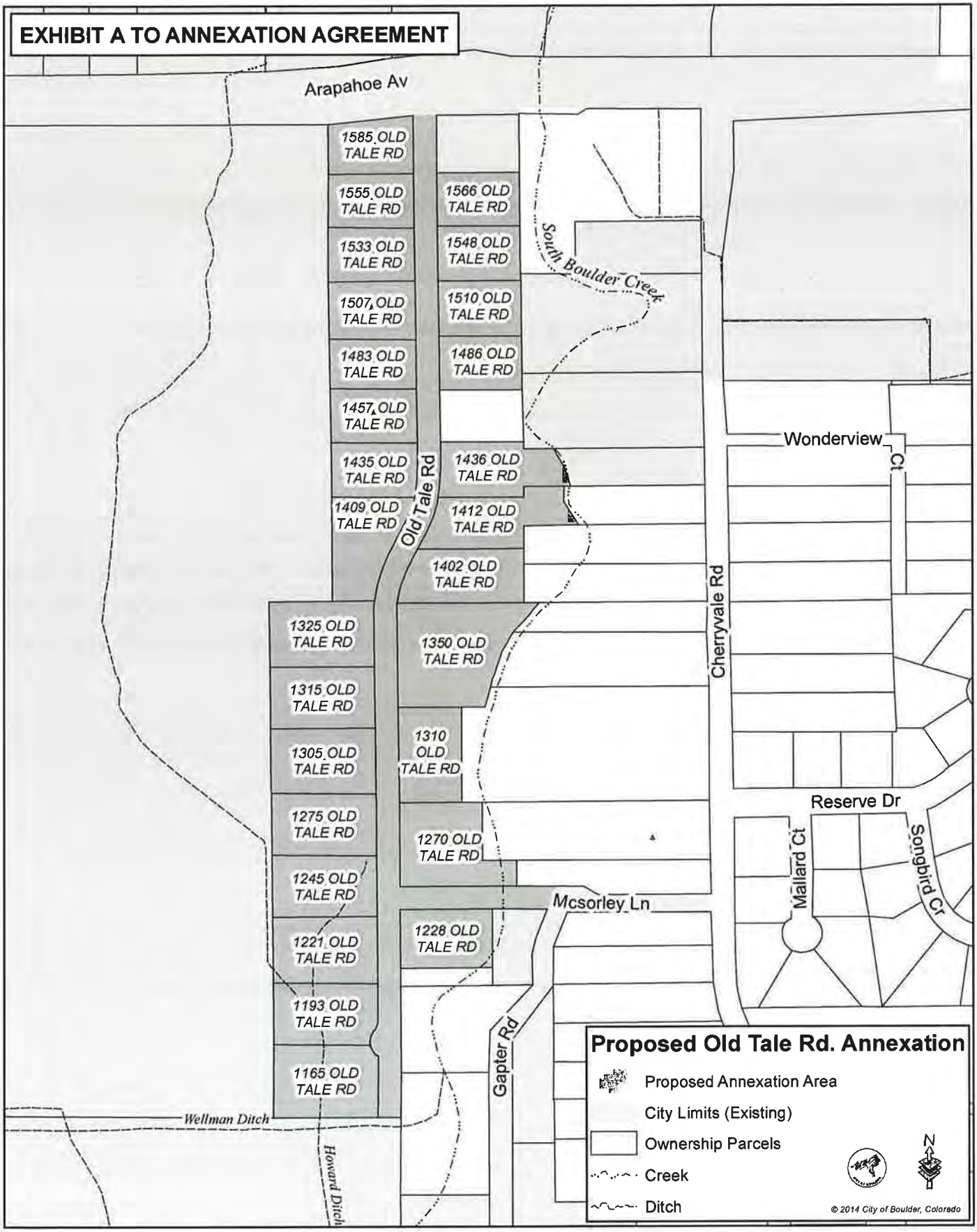
EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1566 OLD TALE RD
1533 OLD TALE RD
1548 OLD TALE RD
1507 OLD TALE RD
1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
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1436 OLD TALE RD
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1305 OLD TALE RD
1275 OLD TALE RD
1270 OLD TALE RD
1245 OLD TALE RD
1228 OLD TALE RD
1221 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 1)

Box above approximates the property boundaries of 1507 Old Tale Rd. Red circle indicates approximate location of non-conforming structure: shed (9' x 16')

For Administrative Purposes Only
Property Address: 1510 Old Tale Road
Grantors: Mark C. Vellequette and
Mary Beth Vellequette
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this 4th day of March, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Mark C. Vellequette and Mary Beth Vellequette (the "Applicants"). The City and the Applicants are referred to as the "Parties."

RECITALS

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

A. The Applicants are the owners of the property generally known as 1510 Old Tale Road, Boulder, CO 80303 and more particularly described as Lot 14, Canterbury Acres, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

obligation to construct or finance the construction of the Water Main or reconstruct or finance the reconstruction of Old Tale Road and McSorley Road as a condition of this Agreement.

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicants in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicants shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicants will sign this Agreement.

   B. Title Work. The Applicants will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicants shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicants will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$14,735.18
Total	**$31,951.86**

E. Execute a Promissory Note and Deed of Trust, if Applicants selected Payment Option #B, as described under Paragraph 4.B(i) below.

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

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

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

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

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C. Option #C: Future Connection. The Applicants shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) at the time Applicants' Property is Sold; or 2) at the time of Redevelopment of Applicants' Property. At the respective time and prior to the Applicants' connection to the Water Main, the Applicants will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

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EXECUTED on the day and year first above written.

Applicant:

By: _____
Mark C. Vellequette

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of March, 2015, by Mark C. Vellequette.

Witness my hand and official seal.
My commission expires: 5/3/17

[SEAL]

_____
Notary Public

MARY FAITH NOVOTNY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134029671
MY COMMISSION EXPIRES MAY 3, 2017

Applicant:

By: _____
Mary Beth Vellequette

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of March, 2015, by Mary Beth Vellequette.

Witness my hand and official seal.
My commission expires: 5/3/17

[SEAL]

_____
Notary Public

MARY FAITH NOVOTNY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20134029671
MY COMMISSION EXPIRES MAY 3, 2017

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Written Description of Nonstandard or Nonconforming Structures

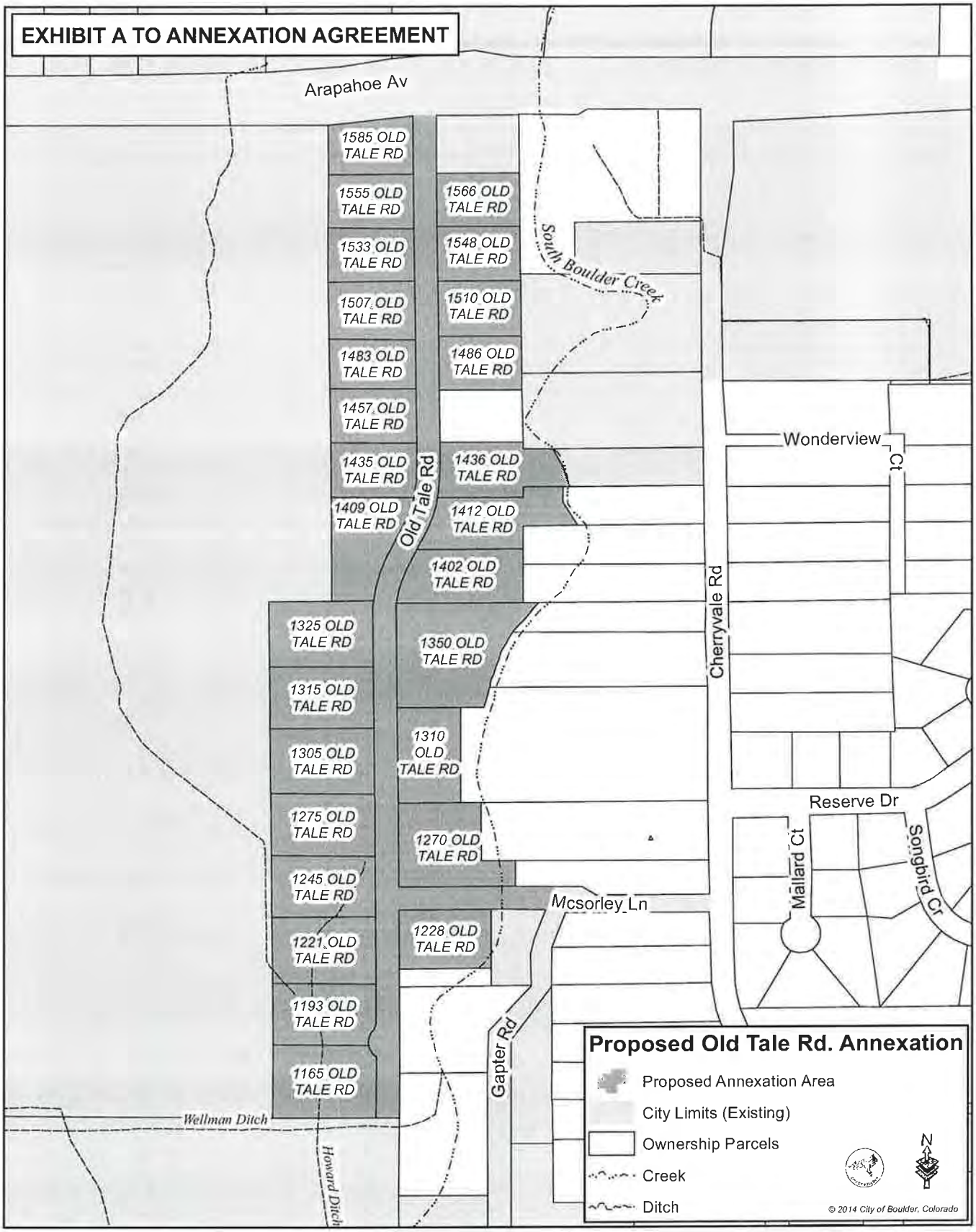
EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
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1507 OLD TALE RD
1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
1457 OLD TALE RD
1435 OLD TALE RD
1436 OLD TALE RD
1409 OLD TALE RD
1412 OLD TALE RD
1402 OLD TALE RD
1325 OLD TALE RD
1350 OLD TALE RD
1315 OLD TALE RD
1310 OLD TALE RD
1305 OLD TALE RD
1275 OLD TALE RD
1270 OLD TALE RD
1245 OLD TALE RD
1221 OLD TALE RD
1228 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Cr
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
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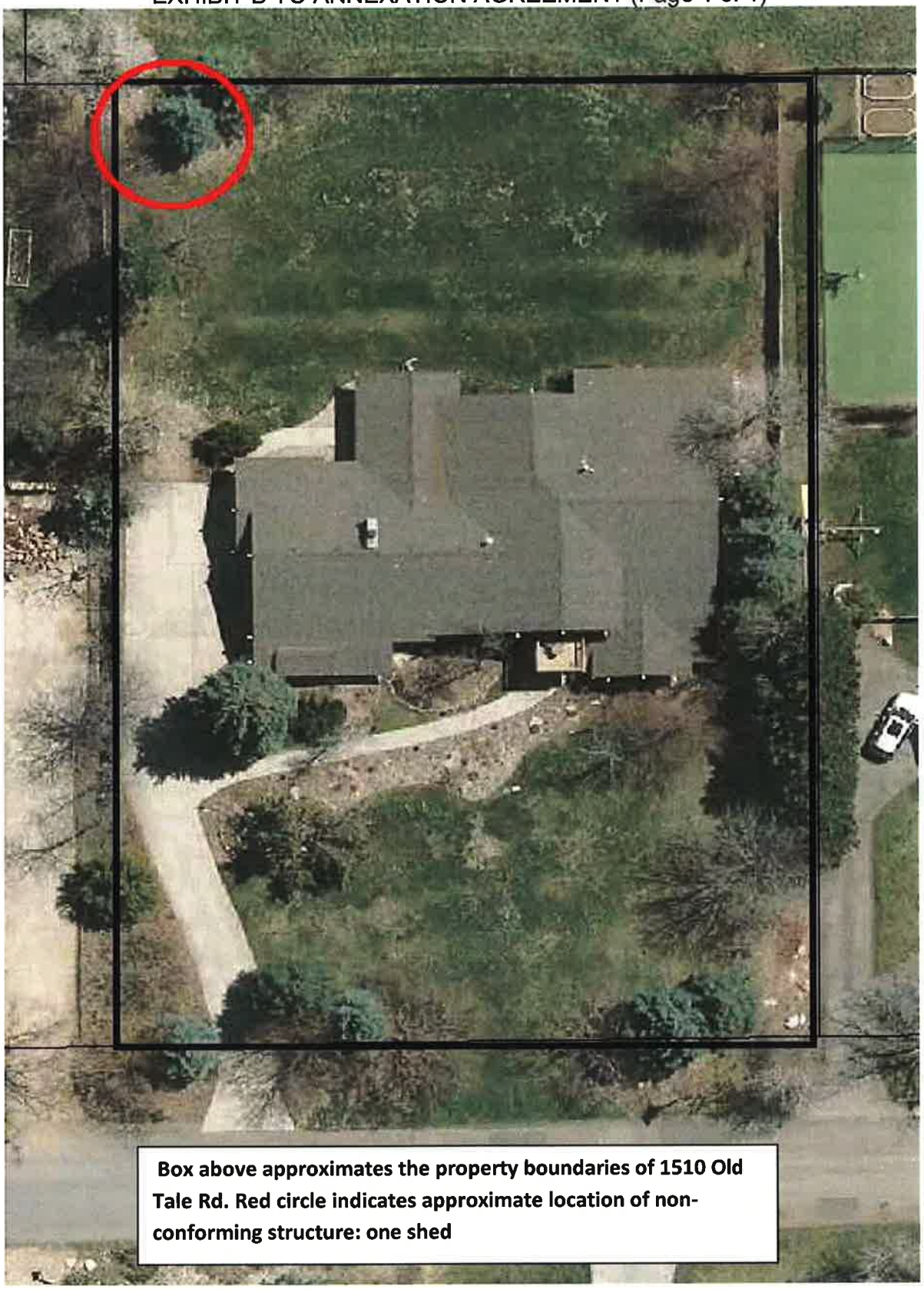
EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 1)



Box above approximates the property boundaries of 1510 Old Tale Rd. Red circle indicates approximate location of non-conforming structure: one shed

For Administrative Purposes Only
Property Address: 1533 Old Tale Road
Grantor: Laurie Duncan-McWethy
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Laurie Duncan-McWethy (the "Applicant"). The City and the Applicant are referred to as the "Parties."

RECITALS

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

A. The Applicant is the owner of the property generally known as 1533 Old Tale Road and more particularly described as Lot 6, Canterbury Acres, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicant shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicant will sign this Agreement.

   B. Title Work. The Applicant will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicant shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicant will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$20,371.34
Total	**$37,588.02**

E. Execute a Promissory Note and Deed of Trust, if Applicant selected Payment Option #B, as described under Paragraph 4.B(i) below.

4. Payment Options and Requirements for Fees, Taxes, and Public Improvement Costs. The Applicant selects **Option #A** set forth below.

A. Option #A: Payment in Full. The Applicant shall connect to the Water Main within 180 days after the City's final acceptance of the Water Main and shall comply with the terms of, and pay the costs and fees described in, Paragraph 3 above. The City Manager may, in her discretion, approve a different time for connection to the Water Main provided the Applicant demonstrates reasonable diligence to comply with the 180-day deadline and good cause for the extension.

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

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

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

C. Option #C: Future Connection. The Applicant shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) the time the Applicant's Property is Sold; or 2) at the time of Redevelopment of Applicant's Property, whichever occurs first. At the respective time and prior to the Applicant's connection to the Water Main, the Applicant will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicant Responsible for Legal Disconnection of On-site Wastewater System. If the Applicant decides to continue to use an existing on-site wastewater system, the Applicant agrees that the Applicant will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City's sanitary sewer main, the Applicant is required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

10. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as **Exhibit B**. Section 9-10-

3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses. The Applicant and the City agree that this section shall not be construed to permit the Property to constitute a nuisance or to cause a hazard under the City's life safety codes.

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The 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 in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that she will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

17. Breach of Agreement. In the event the Applicant breaches or fails to perform any required action, or fails to pay any fee specified, under this Agreement or under any document that may also be required to be executed pursuant to this Agreement, the Applicant acknowledges that the City may take all reasonable actions to cure the breach, including but not limited to the filing of an action for specific performance of the obligations herein described. In the event the Applicant fails to pay any monies due under this Agreement or under any document that may also be required to be executed pursuant to this Agreement or fails to perform any affirmative obligation hereunder or under any document that may also be required to be executed pursuant to this Agreement, the Applicant agrees that the City may collect the monies due in the manner provided for in Section 2-2-12, B.R.C. 1981, as amended, as if the said monies were due and owing pursuant to a duly adopted ordinance of the City or may perform the obligation on behalf of the Applicant and collect its costs in the manner herein provided. The Applicant agrees to waive any rights 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.

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

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

20. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicant.

21. 2014 Fee Schedule. If the Applicant agrees to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: Laurie Duncan-McWethy
Laurie Duncan-McWethy

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of March, 2015, by Laurie Duncan-McWethy.

Witness my hand and official seal.
My commission expires: 11 Aug. 2016

[SEAL]

Notary Public

LAUREL OLSEN-HOREN
NOTARY PUBLIC-STATE OF COLORADO
NOTARY ID # 20084026519
MY COMMISSION EXPIRES 08-11-2016

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Written Description of Nonstandard or Nonconforming Structures

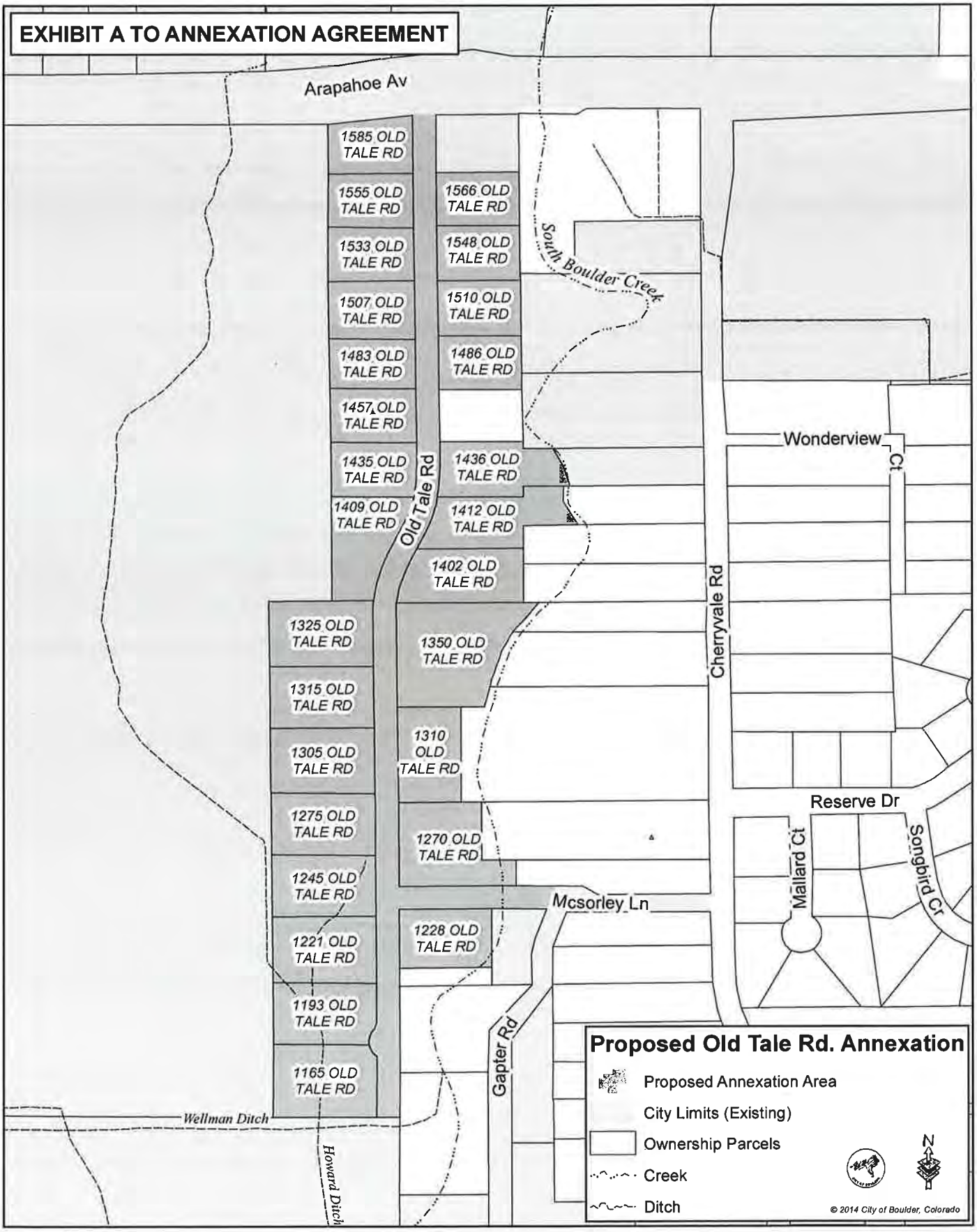


EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1566 OLD TALE RD
1533 OLD TALE RD
1548 OLD TALE RD
1507 OLD TALE RD
1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
1457 OLD TALE RD
1435 OLD TALE RD
1436 OLD TALE RD
1409 OLD TALE RD
1412 OLD TALE RD
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1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Cherryvale Rd
Wonderview Ct
Reserve Dr
Mallard Ct
Songbird Cr
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 1)

Box above approximates the property boundaries of 1533 Old Tale Rd. Red circles indicate approximate location of non-conforming structures: two sheds (8'x10' on driveway, smaller in yard)

For Administrative Purposes Only
Property Address: 1566 Old Tale Road
Grantors: Stewart Gregory Elliott and
Robin M. Elliott
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

ANNEXATION AGREEMENT

This Annexation Agreement ("Agreement"), made this _____ day of _____, 2015, by and between the City of Boulder, a Colorado home rule city (the "City"), and Stewart Gregory Elliott and Robin M. Elliott (the "Applicants"). The City and the Applicants are referred to as the "Parties."

RECITALS

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

A. The Applicants are the owners of the property generally known as 1566 Old Tale Road, Boulder, CO 80303 and more particularly described as Lot 16, Canterbury Acres, County of Boulder, State of Colorado (the "Property").

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

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

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

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

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

obligation to construct or finance the construction of the Water Main or reconstruct or finance the reconstruction of Old Tale Road and McSorley Road as a condition of this Agreement.

G. The City is interested in ensuring that certain terms and conditions of annexation be met by the Applicants in order to protect the public health, safety, and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

COVENANTS

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

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

   "Redevelopment" shall be defined as the subdivision of a property to create a new lot, issuance of a building permit for a new or replacement dwelling unit, issuance of a building permit for additional square footage to the existing structure, or the addition of three or more plumbing fixtures.

   "Sale" or "Sold" shall be defined as a transfer of title of ownership for money or other consideration.

2. Requirements Prior to First Reading of the Annexation Ordinance. Prior to the scheduling of first reading of the annexation ordinance, the Applicants shall do the following, unless otherwise approved by the City Manager:

   A. Annexation Agreement. The Applicants will sign this Agreement.

   B. Title Work. The Applicants will provide the City with title work current to within 30 days of signing this Agreement.

   C. Written Descriptions. The Applicants shall provide a written description of any nonconforming uses and/or nonstandard buildings existing on each Property, if any.

   D. Northern Colorado Water Conservancy District ("NCWCD"). If the Property is not already included in the Northern Colorado Water Conservancy District and the Boulder Municipal Subdistrict of the Northern Colorado Water Conservancy District, the Applicants will file the applicable applications for inclusion. The City agrees to pay out of the Natural Disaster Grant Funding, the processing fee and facilities fee due for the application of inclusion in the applicable districts.

E. Easement Dedications. To the extent the Property is located within 60 feet from the centerline of the South Boulder Creek, the Applicants shall dedicate to the City, at no cost, the following easements:

a. A flood control easement from 60 feet on either side of the centerline of South Boulder Creek as shown on **Exhibit B**. The easement shall be in a form acceptable to the City Manager. The easement will exclude any principal building containing a dwelling unit on the lot within the flood control easement area that is existing at the time of annexation.

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

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

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

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

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

Water Tap, Meter, Permit and Inspection Fee	$409.68
Water PIF	$16,807.00
Stormwater and Flood PIF	$11,853.24
Total	**$29,069.92**

E. Execute a Promissory Note and Deed of Trust, if Applicants selected Payment Option #B, as described under Paragraph 4.B(i) below.

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

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

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

assessments described in Paragraph 3 shall be paid in accordance with the terms of the following payment plan:

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

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

C. Option #C: Future Connection. The Applicants shall connect to the Water Main at a time later than what is specified in Option #A and #B above, but no later than 1) at the time Applicants' Property is Sold; or 2) at the time of Redevelopment of Applicants' Property. At the respective time and prior to the Applicants' connection to the Water Main, the Applicants will pay the costs and fees described in Paragraph 3 above based on the then applicable fee schedule.

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

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

7. Applicants Responsible for Legal Disconnection of On-site Wastewater System. If the Applicants decide to continue to use an existing on-site wastewater system, the Applicants agree that the Applicants will connect to the adjacent sanitary sewer main, in accordance with Section 11-2-9, B.R.C. 1981, upon any declaration by Boulder County Public Health to cease and desist using the on-site wastewater system, or other declaration that the on-site wastewater system constitutes a threat to the public health. Currently, under Boulder County Public Health Department policy, all on-site wastewater systems must be permitted and approved by 2023. At that time, any resident still using an on-site wastewater system must either have their system permitted and approved, or connect to

the adjacent sanitary sewer main. At the time of any disconnection of the on-site wastewater system and connection to the City's sanitary sewer main, the Applicants are required to abandon the existing on-site wastewater system in accordance with Boulder County Public Health and State of Colorado regulations.

8. Historic Drainage. The Applicants agree to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.

9. Ditch Company Approval. If the Property is abutting an existing irrigation ditch or lateral, the Applicants agree not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.

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

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

12. New Construction. All new construction commenced on the Property after annexation will comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.

13. Waiver of Vested Rights. The Applicants hereby waive any statutory vested rights that may have accrued under County jurisdiction that have not been perfected as common law vested rights. The Applicants acknowledge that nothing in this Agreement may be construed as a waiver of the City's powers to zone and regulate land uses for the benefit of the citizens and residents of Boulder.

14. Dedications. The Applicants acknowledge that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the projected impact of the development of the Property as set forth in this Agreement.

15. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicants shall provide an original of this Agreement signed by Applicants, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final

legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicants. The Applicants agree that they will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.

16. No Encumbrances. The Applicants agree that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicants shall neither convey ownership nor further encumber the Applicants' Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicants agree not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.

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

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

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

20. Right to Withdraw. The Applicants retain the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicants' right to

described above, this Agreement shall be null and void and shall have no effect regarding the Applicants. The City agrees, within 30 days of a request by the Applicants after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicants submitted pursuant to this Agreement to the City. The Parties agree that costs submitted to the City to cover survey work shall not be returned to the Applicants.

21. Flood Control Easement Conditions. The Applicants acknowledge that no accessory structures currently exist within the flood control easement area. The Applicants shall not construct any new buildings within the flood control easement area.

22. 2014 Fee Schedule. If the Applicants agree to connect to the City Water Main within 180 days from the effective date of the ordinance pursuant to Option A or B in Paragraph 4.A. and 4.B. of this Agreement, the Parties agree that the fees and assessments required in Paragraph 3.D of this Agreement for said initial connection be assessed at the rates applicable on December 31, 2014.

EXECUTED on the day and year first above written.

Applicant:

By: _____
Stewart Gregory Elliott

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of March, 2015, by Stewart Gregory Elliott.

Witness my hand and official seal.
My commission expires: 10/3/2017

[SEAL]

_____
Notary Public

SANDRA BRIGGS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20004035114
MY COMMISSION EXPIRES 10/03/2017

Applicant:

By: _____
Robin M. Elliott

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me, a Notary Public, this 4th day of March, 2015, by Robin M. Elliott.

Witness my hand and official seal.
My commission expires: 10/3/2017

[SEAL]

_____
Notary Public

SANDRA BRIGGS
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20004035114
MY COMMISSION EXPIRES 10/03/2017

CITY OF BOULDER:

By:_____
Jane S. Brautigam, City Manager

ATTEST:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

Date: _____

EXHIBITS:
A: Old Tale Area Map
B: Flood Control Easement

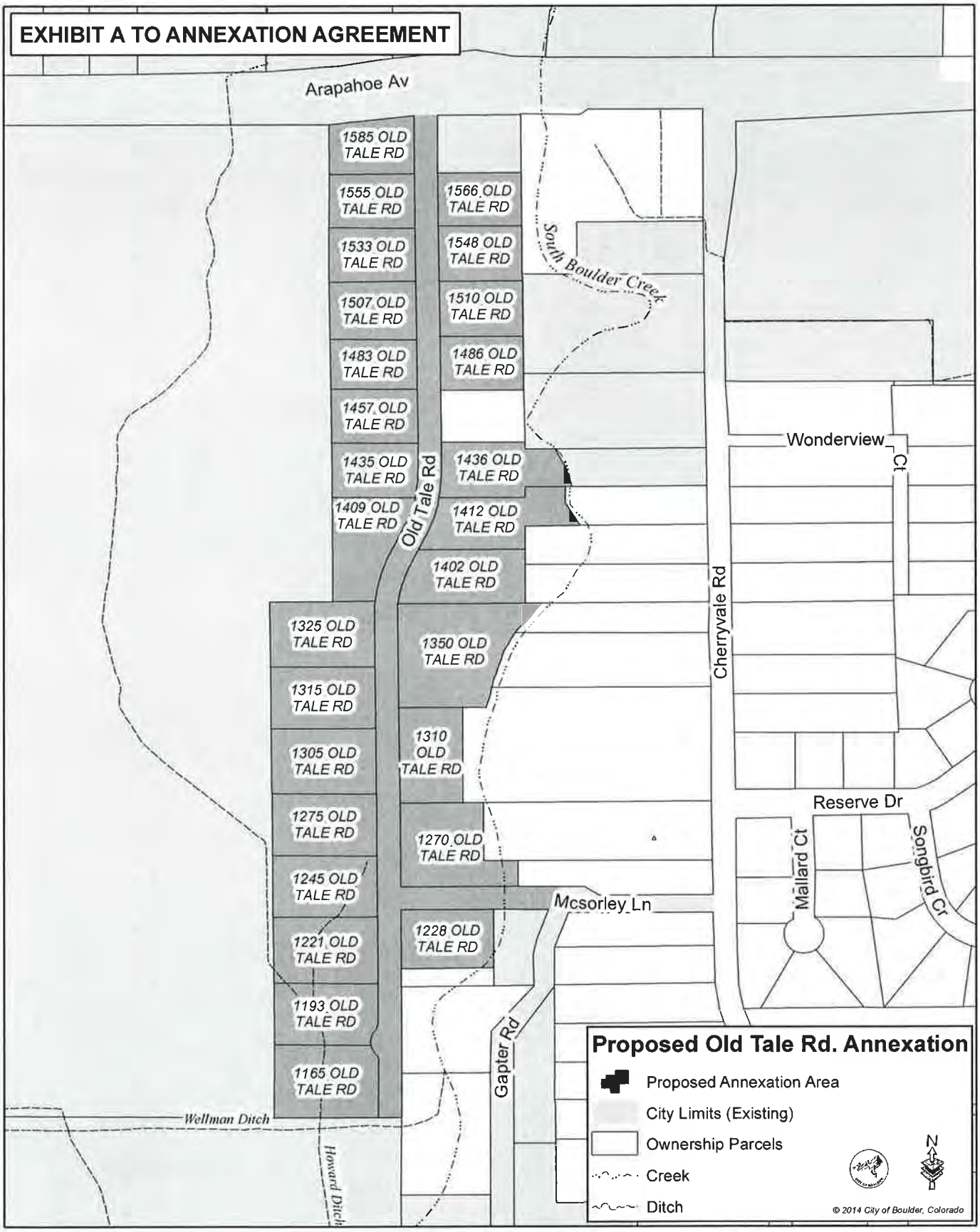


EXHIBIT A TO ANNEXATION AGREEMENT
Arapahoe Av
1585 OLD TALE RD
1555 OLD TALE RD
1566 OLD TALE RD
1533 OLD TALE RD
1548 OLD TALE RD
1507 OLD TALE RD
1510 OLD TALE RD
1483 OLD TALE RD
1486 OLD TALE RD
1457 OLD TALE RD
1435 OLD TALE RD
1436 OLD TALE RD
1409 OLD TALE RD
1412 OLD TALE RD
1402 OLD TALE RD
1325 OLD TALE RD
1350 OLD TALE RD
1315 OLD TALE RD
1305 OLD TALE RD
1310 OLD TALE RD
1275 OLD TALE RD
1270 OLD TALE RD
1245 OLD TALE RD
1221 OLD TALE RD
1228 OLD TALE RD
1193 OLD TALE RD
1165 OLD TALE RD
Old Tale Rd
South Boulder Creek
Wonderview Ct
Cherryvale Rd
Reserve Dr
Mallard Ct
Songbird Ct
Mcsorley Ln
Gapter Rd
Wellman Ditch
Howard Ditch
Proposed Old Tale Rd. Annexation
Proposed Annexation Area
City Limits (Existing)
Ownership Parcels
Creek
Ditch
N
© 2014 City of Boulder, Colorado

EXHIBIT B TO ANNEXATION AGREEMENT (Page 1 of 5)

For Administrative Purposes Only
Property Address: 1566 Old Tale Road
Grantors: Stewart Gregory Elliott and
Robin M. Elliott
Grantee: City of Boulder, Colorado
Case#: LUR2015-00004

GRANT OF FLOOD CONTROL EASEMENT

STEWART GREGORY ELLIOTT and ROBIN M. ELLIOTT ("Grantors"), whose address is 1566 Old Tale Road, Boulder, CO 80303, for $1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city (the "City"), whose address is 1777 Broadway, Boulder, Colorado 80302, a flood control easement for the purpose of drainage conveyance and control of flood waters and installation and maintenance of improvements necessary to ensure conveyance of flood waters as determined by the Grantee, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached

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

This easement does not grant to the City a right to construct a public trail or other public transportation improvement in the easement area.

Grantors warrant their ability to grant and convey this easement.

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

IN WITNESS WHEREOF, Grantor has caused this instrument to be duly executed as of

this ___ day of _____, 2015.

GRANTOR:

By:_____
Stewart Gregory Elliott

[*NOTARY BLOCK FOLLOWS*]

EXHIBIT B TO ANNEXATION AGREEMENT (Page 2 of 5)

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Stewart Gregory Elliott.

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

_____
Notary Public

GRANTOR:

By:_____
Robin M. Elliott

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2015, by Robin M. Elliott.

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

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 3 of 5)

LENDER'S CONSENT AND SUBORDINATION

The undersigned, a beneficiary under certain deeds of trust encumbering the property, hereby expressly consents to and joins in the execution and recording of this grant of easement and makes the deeds of trust subordinate hereto. The undersigned represents that he or she has full power and authority to execute this Lender's Consent and Subordination on behalf of the below-stated lender.

USAA FEDERAL SAVINGS BANK

By:_____
Printed Name:_____
Title:_____

ACKNOWLEDGMENT

State of _____)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this ___ day of _____,

20___, by _____ as _____ of USAA

Federal Savings Bank.

Witness my Hand and Seal.
My Commission Expires:_____

[Seal]

_____
Notary Public

EXHIBIT B TO ANNEXATION AGREEMENT (Page 4 of 5)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 1 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH,
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO

SHEET 1 OF 2

AN EASEMENT OVER AND ACROSS A PORTION OF LOT 16, CANTERBURY ACRES AS DESCRIBED IN THE RECORDS OF BOULDER COUNTY ON MAY 16, 1963, RECORDED AT RECEPTION NO. 90726438, LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE EASTERLY LINE OF SAID LOT 16 TO BEAR SOUTH 00°19'30" EAST, A DISTANCE OF 140.00 FEET, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 16,
THENCE ALONG THE SOUTHERLY LINE OF SAID LOT 16, SOUTH 89°40'30" WEST, A DISTANCE OF 16.45 FEET TO A POINT LYING 60 FEET WESTERLY OF THE CENTERLINE OF SOUTH BOULDER CREEK;
THENCE ALONG A LINE LYING 60 FEET WESTERLY OF AND PARALLEL WITH SAID CENTERLINE THE FOLLOWING TWO (2) COURSES:
NORTH 00°14'09" WEST, A DISTANCE OF 82.45 FEET;
THENCE NORTH 09°37'27" EAST, A DISTANCE OF 58.42 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 16;
THENCE ALONG SAID NORTHERLY LINE, NORTH 89°40'30" EAST, A DISTANCE OF 6.22 FEET TO THE NORTHEAST CORNER OF SAID LOT 16;
THENCE ALONG THE EASTERLY LINE OF SAID LOT 16, SOUTH 00°19'30" EAST, A DISTANCE OF 140.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 16 AND THE POINT OF BEGINNING;

SAID EASEMENT CONTAINING 1,999 SQ. FT. OF 0.05 ACRES, MORE OR LESS

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

COLORADO LICENSED 16406 PROFESSIONAL LAND SURVEYOR 1/13/15

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

FSI JOB NO. 14-65,019

JOB NUMBER: 14-65,019(I)
DRAWN BY: E. PRESCOTT
DATE: JANUARY 12, 2013

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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

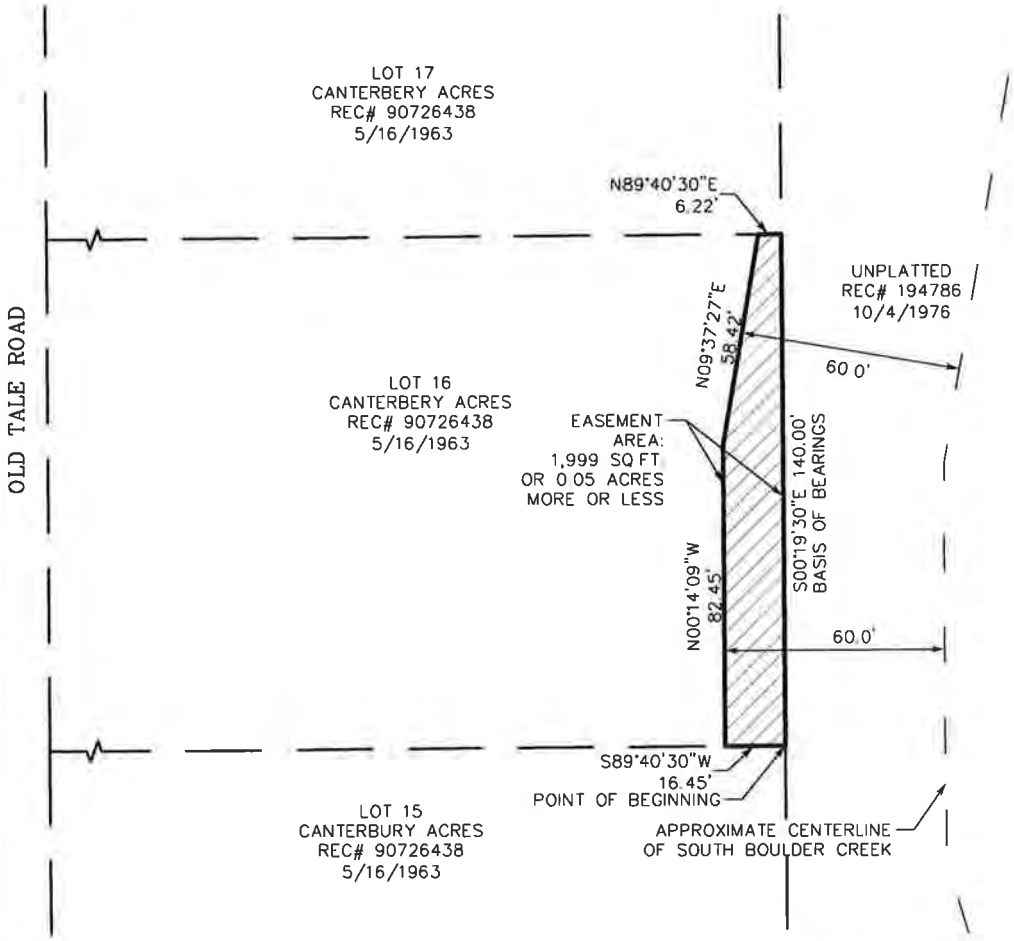
BY:EPRESCOTT FILE:1566 OLD TALE RD (I) DWG DATE:1/13/2015 2:41 PM

EXHIBIT B TO ANNEXATION AGREEMENT (Page 5 of 5)

EXHIBIT A TO FLOOD CONTROL EASEMENT (Page 2 of 2)

LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF BOULDER, STATE OF COLORADO

SHEET 2 OF 2



GRAPHIC SCALE

40 0 20 40

(IN FEET)
1 inch = 40 ft

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR
JOHN BURTON
16406
1/13/15

JOB NUMBER: 14-65,019(I)
DRAWN BY: E. PRESCOTT
DATE: JANUARY 13, 2015

THIS IS NOT A "LAND SURVEY PLAT" OR "IMPROVEMENT SURVEY PLAT" AND THIS EXHIBIT IS NOT INTENDED FOR PURPOSES OF TRANSFER OF TITLE OR SUBDIVISIONS OF LAND. RECORD INFORMATION SHOWN HEREON IS BASED ON INFORMATION PROVIDED BY CLIENT.

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

BY:EPRESCOTT FILE:1566 OLD TALE RD (I).DWG DATE:1/13/2015 2:42 PM

CITY OF BOULDER
CITY ATTORNEY'S OFFICE
CENTRAL RECORDS

2014 DEC -8 AM 10: 44

ANNEXATION PETITION
Submit with your application.

Annexation Information

Location of property to be annexed: Old Tale Road Neighborhood.

Legal Description: _____

Size of property: 24 properties Requested Zoning: RR

Impact Report

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

Districts

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

X Boulder Valley School District

_____ St. Vrain School District

_____ Boulder Rural fire District

_____ Cherryvale Fire District

_____ Left Hand Water District

_____ Other (list)

_____

_____

Property Owners

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

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

ANNEXATION PETITION

Signature of petitioners requesting annexation of property to the city of Boulder, Colorado	Date of signature of each petitioner	Mailing address of each petitioner	Description of property included within the area proposed for annexation owned by each person signing this petition. (Attach separate sheet, if necessary).
Sarah R. Kingdom	11/20/14		Lot 1 + PT VAC ST McSorleys
Synthia Anderson	11/20/2014	1193 Old Tale Rd.	Lot 7 + S15 FT LOT 6 McSorleys Sub
Joanne Simenson	11/20/2014	1315 Old Tale	Lot 2 McSorleys + PT Vac St
Kellie Masterson	11/25/2014	1402 Old Tale Rd.	Lot 9 Canterbury Acres
Barbara Corson	11-25-2014	1275 Old Tale Rd	Lot 4 McSorleys
Tom Corson	11-25-2014	1275 Old Tale Rd	Lot 4 McSorleys
Laurie Duncan-Williams	11.26.2014	1533 Old Tale Rd.	LOT 6 CATERBURY Acres
Bill Williams	11/26/14	1555 Old Tale rd	Lot 7 Canterbury Acres
Jacqueline Olsten	11/25/14	1462 Old Tale rd	Lot 12 Canterbury Acres
[illegible]	11/30/2014	1305 Old Tale Rd.	Lot 3 McSorleys

ANNEXATION PETITION

Signature of petitioners requesting annexation of property to the city of Boulder, Colorado	Date of signature of each petitioner	Mailing address of each petitioner	Description of property included within the area proposed for annexation owned by each person signing this petition. (Attach separate sheet, if necessary).
1. [illegible]	11-19-14	1486 Old Tale Rd.	LOT 13 CANTERBURY ACRES
2. [illegible]	11-19-14	1486 OLD TALE RD.	LOT 13 CATERBURY ACRES
3. [illegible]	11-19-14	1228 Old Tale Rd.	Lot 12 McSorleys
4. Constance Maenik	11-19-14	1165 Old Tale Rd	Lot 8 MC Sorley
5. Mary Ellen Dick	11-19-14	1409 Old Tale Rd	Lot 1 Canterbury Acre
6. Joyce P. Summer	11-19-14	1435 Old Tale Rd	Lot 2 Canterbury Acre
7. Harold H Bruff	11-19-14	1245 Old Tale Rd	Lot 5 MC SORLEY
8. [illegible]	11-19-14	1220 OLD Tale Rd	LOT 11 McSorley
9. [illegible]	11-19-14	1220 OLD Tale Rd	LOT 11 McSorley
10. Raymond A Ahlberg	11-19-14	1310 OLD TALE RD	LOT 10 McSORLEY
11. [illegible]	11/19/14	1483 Old Tale Rd	Lot 4 Canterbury Acres

ANNEXATION PETITION

Signature of petitioners requesting annexation of property to the city of Boulder, Colorado	Date of signature of each petitioner	Mailing address of each petitioner	Description of property included within the area proposed for annexation owned by each person signing this petition. (Attach separate sheet, if necessary).
12. [illegible]	11/19/2014	1510 Old Tale Rd.	Lot 14, Canterbury Acres
13. [illegible]	11/19/2014	1560 Old Tale RD	Lot 16 Canterbury Acres.
14. John R. Bennett	11/19/2014	1412 Old Tale Rd	Lot 10A " " Replatt A
15. Penelope A. Bennett	11/19/14	1412 Old Tale Rd.	Lot 10A Canterbury Acres, Replatt A
16. Tom Perry	11/19/14	1436 Old Tale Rd	Lot 11D Canterbury Acres, Replat B
17. [illegible]	11/11/14	1457 Old Tale Rd	Lot 3 Canterbury Acres
18. [illegible]	11/19/14	1507 Old Tale Rd	Lot 5 Canterbury Acres
19.			
20.			
21.			
22.			

CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

RICHARD LEDDON,

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

Circulator

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

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

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

Notary Public

CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

_____,

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

Circulator

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

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

Notary Public

Old Tale Road Neighborhood Annexation
Property Information

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

City of Boulder
Guidelines for Annexation Agreements

-Individual Annexations of Mostly Developed Residential Properties
in Area II-

June 25, 2002

I. Background:

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

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

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

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

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

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

III. Principles of Applying City Community Benefit Policy:

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

IV. Framework for Basic Annexation Conditions for All Properties:

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

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

V. Application of Community Benefit

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

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

B. Guidelines for properties with additional development potential.

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

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

C. Guidelines for specific property areas.

1. Enclave – Crestview East

a. All properties:
- Request that the applicant demonstrate compliance with the North Boulder Subcommunity Plan Design Guidelines upon redevelopment or other applicable developed zoning district standards.

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

c. Properties with subdivision potential – split MR/LR zoning:
- 50% of any newly constructed units should be permanently affordable to low and middle income households.

d. Properties with subdivision potential – split LR/ER zones:
- 25% of any newly constructed units should be permanently affordable to middle income households; and
- Market rate units permitted on site should pay twice the applicable cash-in-lieu amount required by inclusionary zoning provisions.

e. Properties with subdivision potential – ER zones:
- Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city's inclusionary zoning ordinance for each new dwelling unit (prior to building permit).

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

a. All properties:
- Request that the applicant demonstrates compliance with the North Boulder Subcommunity Plan Design Guidelines upon redevelopment or other applicable developed zoning district standards.

b. Properties along Fourmile Canyon Creek:
- Attempt to secure through negotiation, dedication of conservation, trail, and floodplain and drainage utility

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

3. Enclave – Pennsylvania Ave.

a. Three properties along the Wellman Canal (5255, 5303, and 5101):
- Attempt to secure through negotiation, dedication of a trail easement to the city to meet the objectives of the city's Transportation Master Plan.

b. For all properties:
- Request payment for share of sidewalk improvements along Pennsylvania Ave.

4. Enclave – 55th St.

a. Property with an MR land use designation (1415 55th St.):
If zoned LR-D,
- Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city's inclusionary zoning ordinance for each new dwelling unit. (at the time of building permit) or;
- Any newly constructed units must be permanently affordable to middle income households.

If zoned MR-D,
- 50% of any newly constructed units must be permanently affordable to low and middle income households.

b. Properties with an LR land use designation and further development potential (994, 836, 830 55th St. and 5495 Baseline Rd.):
- Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city's inclusionary zoning ordinance for each new dwelling unit (at the time of building permit).

5. Gould Subdivision

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

6. Western Edge

a. Two properties with a VLR land use designation and development potential (0 Linden Dr., and 3650 4th St.):

- Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city's inclusionary zoning ordinance for each new dwelling unit. (at the time of subdivision).

b. Properties at 3365 4th St., 3047 3rd St., 2975 3rd St., and 2835 3rd St.:

- An open space conservation easement, for the portion of the property that is west of the ABlue Line," should be dedicated to the city.

7. Old Tale Rd./Cherryvale Rd.

a. Properties along South Boulder Creek:

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

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 17, 2015

AGENDA TITLE:
Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8036 designating the building and property at 977 7th St., to be known as the Krueger-Cunningham Property, as an individual landmark under the city's Historic Preservation Ordinance.

Owner/Applicant: Janelle C. Krueger & Cosima Krueger-Cunningham

PRESENTERS:
Jane S. Brautigam, City Manager
Susan Richstone, Deputy Director of Community Planning & Sustainability
Lesli Ellis, Comprehensive Planning Manager
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner

EXECUTIVE SUMMARY

The purpose of this item is to allow the City Council to determine whether the proposed individual landmark designation of the building at 977 7th St. meets the purposes and standards of the Historic Preservation Ordinance *(Sections 9-11-1 and 9-11-2, B.R.C. 1981)*. The property owner is in support of the designation.

If approved, this ordinance (see **Attachment A**) would designate the building and property as an individual landmark. The findings are included in the ordinance. A landmark designation application was submitted by the property owners in November of 2014. At its February 4, 2015 meeting, the Landmarks Board voted 5-0 to recommend the landmark designation to the City Council. The second reading for this designation will be a quasi-judicial public hearing.

STAFF RECOMMENDATION

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

A motion to introduce and order published by title only Ordinance No. 8036 designating the building and property at 977 7th St., to be known as the Krueger-Cunningham Property, as an individual landmark under the City of Boulder's Historic Preservation Ordinance.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** Owners of locally designated landmarked properties are eligible for state and local tax credits for approved rehabilitations and repairs, and studies have found that historic preservation adds to economic vitality and tourism. Exterior changes to individually landmarked buildings require a Landmark Alteration Certificate, issued by the Community Planning and Sustainability Department at no charge. The additional review process for landmarked buildings may, however, add time and design expense to a project.

- **Environmental:** The preservation of historic buildings is inherently sustainable. Owners of individually landmarked buildings are encouraged to reuse and repair as much of the original building as possible when making exterior alterations, thereby reducing the amount of building material waste deposited in landfills. City staff can assist architects, contractors and homeowners with design and material selections and sources that are environmentally friendly. Also, the Historic Preservation website provides information on improving the energy efficiency of older buildings.

- **Social:** The Historic Preservation Ordinance was adopted to "…enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage." Section 9-11-1 (a), B.R.C., 1981. The primary beneficiaries of historic designation are the property owners of a historic landmark and adjacent neighbors, who are ensured that the character of the immediate area will be protected through the design review process. The greater community also benefits from the preservation of the community's character and history.

OTHER IMPACTS

- **Fiscal:** The designation of individual historic landmarks is an anticipated and ongoing function of the Historic Preservation Program.

- **Staff Time:** This designation application is within the staff work plan.

LANDMARKS BOARD ACTION

On February 4, 2015 the Landmarks Board voted 5-0 to recommend to City Council that the building and property at 977 7th St. be designated as a local historic landmark, finding that it meets the standards for individual landmark designations in sections 9-11-1 and 9-11-2, B.R.C. 1981, and is consistent with the criteria specified in section 9-11-5(c), B.R.C. 1981.

BACKGROUND

On Dec. 3, 2014, the city received an application from the property owners requesting designation of the house and property at 977 7th St. The owners have requested additional

restrictions be placed on the property as part of the landmark designation. *See Attachment D: Statement from the Applicant.*

PROPERTY DESCRIPTION

The house at 977 7th Street was constructed in 1928 and is located at the end of 7th St., one block north of Aurora Ave. The house is located on a 20,031 sq. ft. lot that slopes steeply downward towards the west, northwest, north and northeast. The bluff provides a visual connection between the native-stone house, Flagstaff Mountain, and Settler's Rock at the base of the Foothills. The house was designed in the by one of Boulder's most prominent architects, Glen Huntington. The property is located within the identified potential University Hill Historic District.

Figure 1. Location Map, 977 7th St.

Figure 2. Northeast corner, 977 7th S, 2015.

Figure 3. View from the south, 977 7th St, 2015.

The two-story house is constructed of dressed local field stone and has a steeply-pitched "Ecoshake" (class A fire rated) roof with five dormers on the south side and three dormers on the north side. A central stone chimney is located near the center of the house. Based originally on an L-shaped plan, the main entrance is on the south elevation and an alternate entrance is located on the north elevation with steps leading up to the door. A second-story balcony on the east elevation is attached to the alternate entrance. Two French doors overlook the front balcony and multi-light casement windows are located on all elevations. A stained wood lattice fence steps down along the grade of the south and east boundaries and on the southeast corner of the property.

Low stone walls also define the property boundary along 7th St. and along the southern boundary of the property. The rest of the property is enclosed by a deer fence and eight gates.

The 1991 Historic Building Inventory Record states that the house was designed by Glen Huntington and constructed by stone mason Caldwell G. House. Glen Huntington's January 10th, 1929 architectural drawings for the house have been located at the Boulder Carnegie Library, but no information has been found to verify if stonemason Caldwell House constructed the house. The Inventory Record states that Huntington and House also worked on the house at 963 7th Street, which is visually similar to 977 7th Street.

In 2004, the Krueger-Cunninghams built additions onto the west and south sides of the house which nearly doubled the size of the house. Most of the 2004 additions are not visible from the street. The addition project included major repairs and energy-efficiency upgrades to much of the house as well as the addition of decks on two levels on the northwest side of the house which are connected to each other by an outdoor stairway. This 2004 project also added two entrances on the west side of the house on the upper and lower stories. Cosima Krueger-Cunningham designed these additions in consultation with Boulder architect Thomas Doerr with informal input from Landmarks Board members.

Figure 4. Tax Assessor Card Photo, c. 1949.

Eugene C. Barker purchased the lot in 1925 and commissioned Glen Huntington to design a residence on the property. A *Daily Camera* article from Jan 5th, 1929 states that Huntington designed a "$6,000 flag type-one story stone residence on the knoll at Euclid avenue and Eighth streets….Prof. Barker plans to occupy it in the summer months and rent it during the winter."[1] Barker taught at the University of Texas in Austin and was on the summer faculty at the University of Colorado.

[1] "Texas Professor To Build $6,000 Residence Here" *Daily Camera*, Jan. 5, 1929.

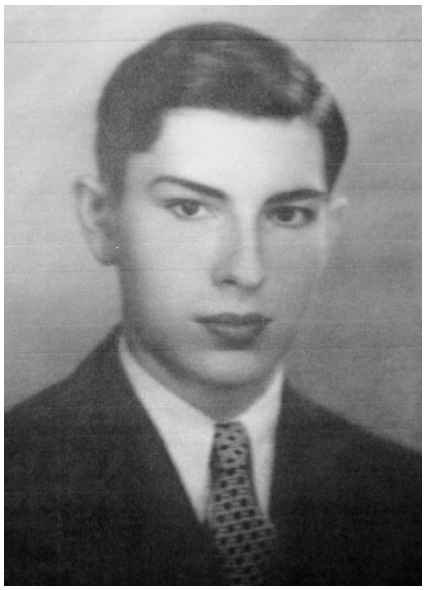
Eugene C. Barker, c. 1927.

Dr. Eugene Barker was born in 1874 in Walker, Texas. In 1895 he attended the University of Texas. Eugene married Matilda Weeden in 1903 and a few years later attended the University of Pennsylvania for a doctorate degree in philosophy, which he received in 1908. He returned to Austin, Texas and by 1913 he was head of the American History department at the University of Texas. He remained a faculty member of the University of Texas until he died in 1956. During his career he served as managing editor of the Southwestern History Quarterly, as president of the Mississippi Valley Historical association, and as president of the Texas State Historical Association. He authored books on Texas history including *A School History of Texas*, *Life of Stephen F. Austin*, and *The Austin Papers*. He also co-authored classroom textbooks on U.S. history and contributed numerous articles to the *Southwestern Historical Quarterly* that were generally about Texas, Mexico, and the American West. A 1929 *Daily Camera* article referred to him as a "Noted Texas Historian."[2]

The exact year that Dr. Barker joined the summer faculty at the University of Colorado is unclear, but it was most likely around 1925 when he purchased the property in the Rose Hill neighborhood. A *Daily Camera* article dated Feb. 27th, 1929 says that Barker "and his family are so in love with Boulder that they are to build here, plans having already been drafted for a home."[3] At the end of the summer Baker and his family would return to Austin, renting 977 7th Street out to other teachers and professors during the school year. The Barkers summered in Boulder until 1944, when they sold 977 7th Street and permanently returned to Austin. Barker was named a Professor Emeritus at the University of Texas, and the school dedicated the Barker Texas History Center for him, the first time the university dedicated a building to a living professor. Matilda died in 1954, and Eugene in 1956.

In 1945, Charles Wilson and his wife, Oma, purchased the house. Charles and Oma were married in 1909 and first moved to Nederland, Colorado in 1935 and then to Boulder in 1940. Charles worked as a farmer in Boulder and by 1950 the family moved to Kansas.

[2] "Dr. Barker, Noted Texas historian On Summer Faculty," *Daily Camera*, Feb. 27th, 1929.
[3] Ibid.



Ray E. Krueger, c. 1933. **Janelle C. Krueger, c. 1960.**

In August of 1950, Ray E. and Janelle C. Krueger purchased the property. Ray was an electrical engineer for many years. His early interest in ham radio—and indeed all things radio--led him to pursue degrees in electrical engineering at Purdue University and later astrophysics at the University of Colorado. He became a member of the Institute of Radio Engineers in 1946. During the 1940s he worked with radio astronomy pioneer Karl Jansky at the Bell Labs in Holmdel and Morristown, New Jersey and also with radio astronomy pioneer Grote Reber. During the late 1940s and early 1950s he worked at the Bureau of Standards (now NIST)--first in Washington, DC and then at the Boulder labs. In the City of Boulder 1955 directory, Ray is listed as an associate research physicist at the University of Colorado. In the same year, a *Daily Camera* article references Ray as a physicist at the Veteran Administration hospital in Denver. As an avid historian of physics and mathematics, Ray specialized in the history of scientific instrumentation and timekeeping. His fascination with historic timepieces evolved into a hobby clock repair business. Directories list him as owning the business "Ray Clock Laboratory" in 1960 and the "Scientific Clock Laboratory" in 1964. As a disabled veteran of World War II, Ray was forced to take early retirement from the career he loved due to severe and progressively disabling neurological damage suffered during his military service in the U.S. Army. Ray was a keen observer of and participant in civic affairs in the City of Boulder for many years. He especially appreciated the opportunity to propose--and subsequently to author--the City of Boulder's first-of-its-kind noise ordinance. He deeply appreciated the city's commitment to its enforcement.

His wife, Janelle, completed her nurse's training at Cleveland General and St. Luke's Nursing School in Cleveland, Ohio in 1948. She worked as a public health nurse in Washington, DC before moving to Boulder. Janelle received her Bachelor's degree in 1957 and her Master's degree in 1958, both from the University of Colorado. In 1958 Janelle was appointed Director of Nursing at the Boulder City-County Health Department. A few years later Janelle was appointed by Governor John Love to the Colorado Commission on the Aging, an organization that served to study the problems and needs of older people and to

recommend programs, policies, and legislation to improve services. In 1966, Janelle resigned from her position as Director of Nursing at the Boulder County Health Department to accept a fellowship in sociology at the University of Colorado. Janelle received her Ph.D. in Sociology from the University of Colorado at Boulder in 1969. She accepted a teaching position in the College of Nursing at the University of Arizona in Tucson, Arizona that same year and was promoted to tenured full professor at the U of A a couple of years later. In 1976 Janelle accepted a research position at the Western Interstate Commission on Higher Education (WICHE) in Boulder. Shortly afterwards she was appointed as Director of the Nurse Scientist Program at WICHE and traveled all over the Western states to supervise and support the principal investigators of WICHE's nursing research projects. Her professional work also took her to Canada, Mexico, the United Kingdom, and Denmark. In 1983 Janelle was appointed Dean of the College of Nursing at Arizona State University in Phoenix, Arizona. Her work at ASU was focused on the development of faculty research programs and on the establishment of health care centers and services for—and student recruitment from—medically underserved groups throughout Arizona, particularly the Navajo and other First Nations. Janelle was a member of the Phi Beta Kappa Society and was a Fellow of the American Academy of Nursing. The "Janelle C. Krueger Endowment" is a perpetually-funded scholarship program for qualifying nursing students at ASU. Janelle is the author of numerous papers and articles and the author/co-author of several books on health care delivery policy and planning, nursing research design, and the ethics of research with human subjects. She served as a peer-reviewer for a number of scholarly nursing journals. During her long and distinguished career, Janelle received numerous awards for her outstanding community service, mentoring, and contributions to the advancement of the nursing profession. She retired from ASU in 1993.

Ray E. Krueger passed away in 1995. His wife, Janelle C. Krueger, owns the property today. Their daughter, Cosima Krueger-Cunningham, is the sole heir to the property. Janelle, Cosima and Cosima's husband, Kirkwood M. Cunningham, reside together at 977 7th St.

ANALYSIS

Criteria for Review

Section 9-11-6(b), B.R.C. 1981, specifies that during the review for an application for local landmark designation, the council must consider "whether the designation meets the purposes and standards in subsection 9-11-1(a) and section 9-11-2, "*City Council May Designate or Amend Landmarks and Historic Districts*," B.R.C. 1981, in balance with the goals and policies of the Boulder Valley Comprehensive Plan" and provides that the City Council "shall approve by ordinance, modify and approve by ordinance, or disapprove the proposed designation."

<u>Historic, Architectural, and Environmental Significance</u>

Staff finds that the proposed application to landmark 977 7th St. will protect, enhance, and perpetuate a property reminiscent of a past era important in local history and preserve an important example of Boulder's historic architecture. Staff considers the application to meet the historic criteria for individual landmark designation as outlined below:

HISTORIC SIGNIFICANCE

Summary: The property at 977 7th St. meets historic significance criteria 1, 2 and 4.

1. **Date of Construction:** 1928.
   Elaboration: The house was built in 1928.

2. **Association with Persons or Events**: Ray E. Krueger and Janelle C. Krueger.
   Elaboration: Eugene C. Barker commissioned Boulder architect Glen Huntington to design the residence at 977 7th St. Eugene Barker was a distinguished Texas historian and professor emeritus of the University of Texas, and author of many books and articles. Barker and his family sold the house in 1945. In 1950, Ray E. Krueger and Janelle C. Krueger purchased the property. Ray was an electrical engineer, physicist, and science historian, and Janelle a widely-known Boulder public health nurse, author, researcher and distinguished dean and professor of nursing who served as director of nursing services for the Boulder City-County Health Department from 1958 until 1966. The Krueger-Cunningham family have owned the property for 65 years.

3. **Development of the Community:** None observed**.**

4. **Recognition by Authorities:** Historic Building Inventory Record
   Elaboration: The 1991 Historic Building Inventory Record indicates that this building is notable for its display of stone masonry and "may represent the work of noted Boulder stone mason Caldwell G. House." The form also indicates that the building may be eligible for listing on the National Register of Historic Places.

ARCHITECTURAL SIGNIFICANCE
Summary: The house at 977 7th St. meets historic significance criteria 2, 3 and 5.

1. **Recognized Period or Style:** Jacobean/Elizabethan
   Elaboration: The house has elements of the Jacobean/Elizabethan style popular in the 1920s and 1930s.

2. **Architect or Builder of Prominence:** Glen H. Huntington (architect), and possibly Caldwell G. House (stone mason)
   Elaboration: Prominent local architect Glen Huntington designed many notable buildings in Boulder, including fraternities and sororities, the Boulder County Courthouse, Boulder High School, the Glen Huntington Arms, the Glen Huntington Bandshell and many grand, revival style residences on University Hill. Caldwell House was a well-known stone mason who built the neighboring house, also designed by Huntington. The 1991 Survey notes that House may have constructed 977 7th St.

3. **Artistic Merit:** Skillful integration of design
   Elaboration: The house, clad in dressed native stone, is skillfully integrated into the steeply sloped site.

4. **Example of the Uncommon:** None observed

5. **Indigenous Qualities:** The house is constructed of dressed local field stone.

ENVIRONMENTAL SIGNIFICANCE

Summary: The house at 977 7th St. has environmental significance under criteria 1, 2, 4 and 5.

1. **Site Characteristics:** Natural landscape
   Elaboration: The lot slopes steeply to the west and north and features a rich diversity of plants and trees. The Krueger-Cunninghams have planted an orchard and several pollinator gardens on the property and have managed the entire property as a refuge for native pollinators and other wildlife for many years. The property is listed as a pesticide-free native pollinator habitat on several registers.

2. **Compatibility with Site:** Residential historic character
   Elaboration: The building is representative of the typical building patterns in University Hill and contribute to the residential character of the neighborhood. The property retains its historic relationship to its lot and surrounding neighborhood.

3. **Geographic Importance:** None observed.

4. **Environmental Appropriateness:**
   Elaboration: The house and surroundings are complementary and careful integrated.

5. **Area Integrity:** Potential University Hill Historic District
   Elaboration: The 900 block of 7th St. is located in the identified potential University Hill Historic District and retains a high degree of historic integrity to the original development of that neighborhood.

ATTACHMENTS

A: Ordinance No.8036
B: Sections 9-11-1 and 9-11-2, "*Purposes and Intent*," B.R.C., 1981
C: Significance Criteria for individual landmarks
D: Statement from the Applicant

ORDINANCE NO. 8036

AN ORDINANCE DESIGNATING THE BUILDING AND PROPERTY AT 977 7TH ST., CITY OF BOULDER, COLORADO, ALSO KNOWN AS THE KRUEGER-CUNNINGHAM PROPERTY, A LANDMARK UNDER CHAPTER 9-11, "HISTORIC PRESERVATION" B.R.C. 1981, AND SETTING FORTH DETAILS IN RELATION THERETO.

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

Section l. The council enacts this ordinance pursuant to its authority under Chapter 9-11, "Historic Preservation," B.R.C. 1981, to designate as a landmark a property having a special character or special historic, architectural, or aesthetic interest or value.

Section 2. The council finds that: 1) on or about November 21st, 2014, the owners of 977 7th Street submitted an application to Individually Landmark that property 2) the Landmarks Board held a public hearing on the proposed designation on February 4th, 2015; and recommended that the council approve the proposed designation.

Section 3. The council also finds that upon public notice required by law, the council held a public hearing on the proposed designation on April 21st, 2015 and upon the basis of the presentations at that hearing finds that the building and the property at 977 7th St. does possess a special character and special historic, architectural, or aesthetic interest or value warranting its designation as a landmark.

Section 4. The characteristics of the subject property that justify its designation as a landmark are: 1) its historic significance with association with the Krueger and Cunningham families, construction of the house in 1928 after designs by noted Boulder architect, Glen Huntington and; 2) its architectural significance influenced Jacobean/Elizabethan Revival architecture popular in

the 1920s and 1930s and; 3) environmental significance for its location on the 900 block of 7th St. in the identified potential University Hill Historic District that retains a high degree of historic integrity to the original development of that neighborhood and in that the house and surroundings are complementary and carefully integrated.

Section 5. The council further finds that the foregoing landmark designation is necessary to promote the public health, safety, and welfare of the residents of the city.

Section 6. There is hereby created as a landmark the building and property located at 977 7th Street, also known as the Krueger-Cunningham Property, whose legal landmark boundary encompasses a portion of the legal lots upon which it sits:

LOTS 1-2 & NLY 5FT LOT 3 BLK 3 WEST ROSE HILL & VACATED ST

as depicted in the proposed landmark boundary map, attached hereto as Exhibit A.

Section 7. The council directs that the department of Community Planning and Sustainability give prompt notice of this designation to the property owner and cause a copy of this ordinance to be recorded as described in Subsection 9-11-6(d), B.R.C. 1981.

Section 8. The council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY THIS 17TH DAY OF MARCH, 2015.

_____

Mayor

Attest:

_____
City Clerk

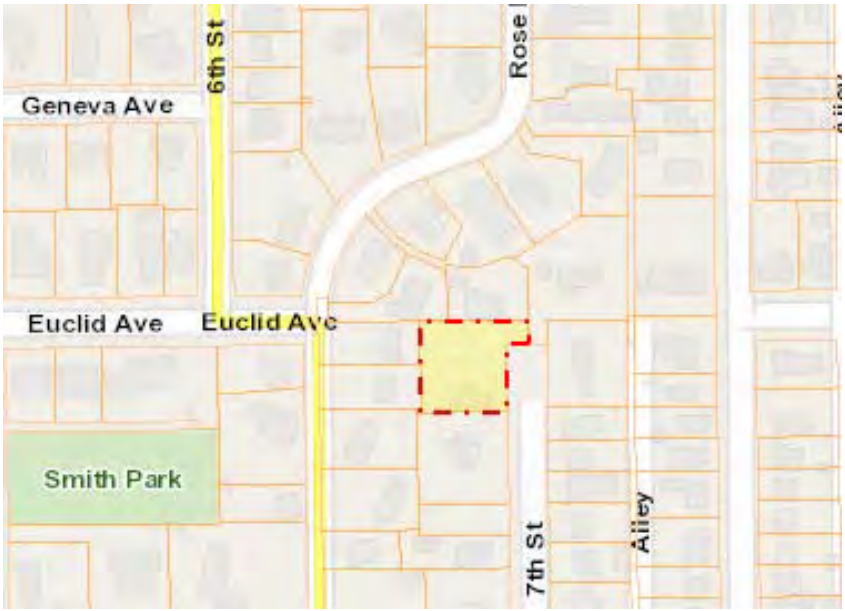
READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY THIS 21st DAY OF APRIL, 2015.

_____
Mayor

Attest:

_____
City Clerk

Exhibit A – Landmark Boundary Map for 977 7th St.



LOTS 1-2 & NLY 5FT LOT 3 BLK 3 WEST ROSE HILL & VACATED ST

9-11-1 & 9-11-2 Purposes and Intent
Boulder Revised Code, 1981

9-11-1: *Purpose and Legislative Intent* states:

(a) The purpose of this chapter 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 persons important in local, state, or national history or providing significant examples of architectural styles of the past. It is also the purpose of this chapter to develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage.

(b) The City Council does not intend by this chapter to preserve every old building in the city but instead to draw a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage by ensuring that demolition of buildings and structures important to that heritage will be carefully weighed with other alternatives and that alterations to such buildings and structures and new construction will respect the character of each such setting, not by imitating surrounding structures, but by being compatible with them.

(c) The City Council intends that in reviewing applications for alterations to and new construction on landmarks or structures in a historic district, the Landmarks Board shall follow relevant city policies, including, without limitation, energy-efficient design, access for the disabled and creative approaches to renovation.

9-11-2: *City Council may Designate or Amend Landmarks and Historic Districts* states:

(a) Pursuant to the procedures in this chapter the City Council may by ordinance:

(1) Designate as a landmark an individual building or other feature or an integrated group of structures or features on a single lot or site having a special character and historical, architectural, or aesthetic interest or value and designate a landmark site for each landmark;

(2) Designate as a historic district a contiguous area containing a number of sites, buildings, structures or features having a special character and historical, architectural, or aesthetic interest or value and constituting a distinct section of the city;

(3) Designate as a discontiguous historic district a collection of sites, buildings, structures, or features which are contained in two or more geographically separate areas, having a special character and historical, architectural, or aesthetic interest or value that are united together by historical, architectural, or aesthetic characteristics; and

(4) Amend designations to add features or property to or from the site or district.

(b) Upon designation, the property included in any such designation is subject to all the requirements of this code and other ordinances of the city.

SIGNIFICANCE CRITERIA
Individual Landmark
September 1975

On September 6, 1975, the City Council adopted Ordinance #4000 providing procedures for the designation of Landmarks and Historic Districts in the City of Boulder. The purpose of the ordinance is the preservation of the City's permitted cultural, historic, and architectural heritage. The Landmarks Board is permitted by the ordinance to adopt rules and regulations as it deems necessary for its own organization and procedures. The following Significance Criteria have been adopted by the board to help evaluate each potential designation in a consistent and equitable manner.

Historic Significance

The place (building, site, area) should show character, interest or value as part of the development, heritage, or cultural characteristics of the community, state or nation; be the site of a historic, or prehistoric event that had an effect upon society; or exemplify the cultural, political, economic, or social heritage of the community.

Date of Construction: This area of consideration places particular importance on the age of the structure.

Association with Historical Persons or Events: This association could be national, state, or local.

Distinction in the Development of the Community of Boulder: This is most applicable to an institution (religious, educational, civic, etc) or business structure, though in some cases residences might qualify. It stresses the importance of preserving those places which demonstrate the growth during different time spans in the history of Boulder, in order to maintain an awareness of our cultural, economic, social or political heritage.

Recognition by Authorities: If it is recognized by Historic Boulder, Inc. the Boulder Historical Society, local historians (Barker, Crossen, Frink, Gladden, Paddock, Schooland, etc), State Historical Society, The Improvement of Boulder, Colorado by F.L. Olmsted, or others in published form as having historic interest and value.

Other, if applicable.

Architectural Significance

The place should embody those distinguishing characteristics of an architectural type specimen, a good example of the common; be the work of an architect or master builder, known nationally, state-wide, or locally, and perhaps whose work has influenced later development; contain elements of architectural design, detail, materials or craftsmanship which represent a significant innovation; or be a fine example of the uncommon.

Recognized Period/Style: It should exemplify specific elements of an architectural period/style, i.e.: Victorian, Revival styles, such as described by *Historic American Building Survey Criteria*, Gingerbread Age (Maass), 76 Boulder Homes (Barkar), The History of Architectural Style (Marcus/Wiffin), Architecture in San Francisco (Gebhard et al), History of Architecture (Fletcher), Architecture/Colorado, and any other published source of universal or local analysis of a style.

Architect or Builder of Prominence: A good example of the work of an architect or builder who is recognized for expertise in his field nationally, state-wide, or locally.

Artistic Merit: A skillful integration of design, material, and color which is of excellent visual quality and/or demonstrates superior craftsmanship.

Example of the Uncommon: Elements of architectural design, details, or craftsmanship that are representative of a significant innovation.

Indigenous Qualities: A style or material that is particularly associated with the Boulder area.

Other, if applicable.

Environmental Significance

The place should enhance the variety, interest, and sense of identity of the community by the protection of the unique natural and man-made environment.

Site Characteristics: It should be of high quality in terms of planned or natural vegetation.

Compatibility with Site: Consideration will be given to scale, massing placement, or other qualities of design with respect to its site.

Geographic Importance: Due to its unique location or singular physical characteristics, it represents an established and familiar visual feature of the community.

Environmental Appropriateness: The surroundings are complementary and/or it is situated in a manner particularly suited to its function.

Area Integrity: Places which provide historical, architectural, or environmental importance and continuity of an existing condition, although taken singularly or out of context might not qualify under other criteria.

To: City of Boulder Landmarks Board, Staff and City Council Members
From: Cosima Krueger-Cunningham
Date: February 4, 2015
Subject: Historic Landmark application for our property at 977 7th Street, Boulder

Thank you for reviewing our application to landmark our property at 977 7th Street in Boulder. Our application for landmark status for our house at this time is contingent upon the City's accommodation of the following requests with respect to our property:

1. We request a permanent deed restriction or equivalent on our property that would **prohibit** the following changes in perpetuity:

a) any significant alterations to our house itself *by anyone other than the Krueger-Cunningham family,*
b) any subsequent building on our property *by anyone other than the Krueger-Cunningham family,*
c) any future subdivision of our entire property,
d) any possible future up-zoning of our entire property, and
e) any possible zoning variances on our entire property *except those applied for by the Krueger-Cunningham family that may be necessary to take advantage of appropriate renewable energy options for the house as they may arise in the future*.

2. Explanations of 1. a) (above) regarding future *maintenance on the house itself*:

First, we wish to complete all necessary ongoing and planned future maintenance projects on our house. Specifically, we plan to replace the exterior storm windows on our house in the near future. This will involve finding a contractor who can provide custom, energy-efficient, permanent storm window replacements that will be an exact visual match for the current exterior storm windows. We're currently following several promising leads. This Spring we are planning to have the exterior wood trim and siding on our house repaired, repainted and re-stained as needed. We plan to use the same or very closely-matched trim colors to the existing colors visible in the photos of our house that are included in the landmark application. We are also planning to have our wood lattice fence re-stained in a color identical to or very closely-matching its current color as seen in the landmark application photos. This level of maintenance on our house and fence seems to be needed about every ten years and we plan to follow through with a similar exterior house maintenance program in the future as the need arises.

Second, we are currently researching on-site solar PV, solar thermal and small-scale wind turbine options for our house. Our house currently has insufficient solar access to accommodate conventional roof-top solar panels due to its numerous gables, original roof engineering, and the towering row of neighboring Ponderosa Pine trees along the Southern property boundary. For this reason, we currently own 27 PV panels in the Cowdery Meadows Solar Garden which provide 100% and then some of our house's electricity needs. Our house's new and upgraded heating and hot water heating systems remain powered by natural gas. Our goal is to find an appropriate on-site solar thermal system to replace our house's reliance on natural gas. We are closely following the evolution of solar and small-scale wind turbine technology in conjunction with the evolution of aesthetically-acceptable design innovations for these technologies that might allow us to adopt one or more of them without sacrificing in any way our house's historic visual character and appeal.

We are 100% committed to preserving the existing historic appearance of our house. In order for us to be able to adopt any of these evolving renewable energy technologies, they would have to be either 100% invisible from the 7th Street turnaround or be so well integrated into the design of our house itself and/or our surrounding landscape that they would be either visually undetectable or visually insignificant to viewers of our house from the 7th Street turnaround. We wish to be free to take advantage of appropriate and visually harmonious renewable energy options for our house as they may become available in the future.

3. Explanation of request 1. b) (above) regarding future *landscaping of our property*:

First, we have planted an orchard and several pollinator gardens on our property. We have managed our entire property as a refuge for native pollinators and other wildlife for many years. Our property is listed as a pesticide-free native pollinator habitat on several registers. We wish for the "wild" parts of our property to remain essentially undisturbed so that they stand a fighting chance of retaining this pesticide-free, native pollinator habitat designation in perpetuity.

Second, we are not quite finished with an already-permitted perimeter fence and front drive gate project, a couple small sections of which are taking longer to complete than expected. We hope to complete this wood lattice fence and front drive gate project sometime in the near future. We wish to retain the right to replace the existing perimeter deer fence with a fencing material and design of our choosing, if necessary, at some point in the future.

Third, we plan to maintain and, perhaps ultimately, to replace a couple of small existing wood garden sheds, arbors, pavilions, and wood garden gates at various locations on our property as the need may arise. Most of these small existing structures are not currently visible from the 7th Street turnaround.

Fourth, we plan to plant more a) orchard trees, b) deciduous hedgerows, and c) low-fire-hazard windbreak trees at various locations on our property. Most, but not all, of this future landscaping will likely be to replace existing mature trees as needed.

3. We wish for the official name of our house to be "The Krueger-Cunningham House." Our house is occasionally referred to as the "Rose Hill Cottage." We are happy to have this latter informal appellation included in the landmark application record.

4. We request that this explanatory memorandum be permanently incorporated into our landmark application records for future reference.

Any questions or comments regarding this landmark application can be addressed to:

Cosima Krueger-Cunningham
977 7th Street
Boulder, CO 80302
303-442-2335, 303-448-0832 or 303-939-8519
cardamomseed@aol.com

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 17, 2015

AGENDA TITLE:
Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8037 designating the building and property at 1029 Broadway, to be known as the Evans Scholars House, as an individual landmark under the city's Historic Preservation Ordinance.
Owner/Applicant: Evans Scholar Program

PRESENTERS:
Jane S. Brautigam, City Manager
Susan Richstone, Deputy Director of Community Planning & Sustainability
Lesli Ellis, Comprehensive Planning Manager
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner

EXECUTIVE SUMMARY

The purpose of this item is to allow the City Council to determine whether the proposed individual landmark designation of the building at 1029 Broadway meets the purposes and standards of the Historic Preservation Ordinance *(Sections 9-11-1 and 9-11-2, B.R.C. 1981)*. The property owner is in support of the designation.

If approved, this ordinance (see **Attachment A**) would designate the building and property as an individual landmark. The findings are included in the ordinance. The landmark designation application was submitted by the property owner on March 20, 2014. At its August 6, 2014 meeting, the Landmarks Board voted 4-0 to recommend the designation to City Council. The applicants requested that the City Council hearing be postponed until Site Review application was completed. The project was approved by Planning Board on Jan. 8, 2015. The second reading for this designation will be a quasi-judicial public hearing.

STAFF RECOMMENDATION

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

A motion to introduce and order published by title only Ordinance No. 8037 designating the building and property at1029 Broadway, to be known as the Evan Scholar House, as an individual landmark under the City of Boulder's Historic Preservation Ordinance.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** Owners of locally designated landmarked properties are eligible for state and local tax credits for approved rehabilitations and repairs, and studies have found that historic preservation adds to economic vitality and tourism. Exterior changes to individually landmarked buildings require a Landmark Alteration Certificate, issued by the Community Planning and Sustainability Department at no charge. The additional review process for landmarked buildings may, however, add time and design expense to a project.

- **Environmental:** The preservation of historic buildings is inherently sustainable. Owners of individually landmarked buildings are encouraged to reuse and repair as much of the original building as possible when making exterior alterations, thereby reducing the amount of building material waste deposited in landfills. City staff can assist architects, contractors and homeowners with design and material selections and sources that are environmentally friendly. Also, the Historic Preservation website provides information on improving the energy efficiency of older buildings.

- **Social:** The Historic Preservation Ordinance was adopted to "…enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage." Section 9-11-1 (a), B.R.C., 1981. The primary beneficiaries of historic designation are the property owners of a historic landmark and adjacent neighbors, who are ensured that the character of the immediate area will be protected through the design review process. The greater community also benefits from the preservation of the community's character and history.

OTHER IMPACTS

- **Fiscal:** The designation of individual historic landmarks is an anticipated and ongoing function of the Historic Preservation Program.

- **Staff Time:** This designation application is within the staff work plan.

LANDMARKS BOARD ACTION

On August 6, 2014 the Landmarks Board voted 4-0 to recommend to City Council that the building at 1029 Broadway be designated as a local historic landmark, finding that it meets

the standards for individual landmark designations in sections 9-11-1 and 9-11-2, B.R.C. 1981, and is consistent with the criteria specified in section 9-11-5(c), B.R.C. 1981.

BACKGROUND

On March 20, 2014 the city received an application from the Evans Scholars foundation for an individual landmark designation of the property at 1029 Broadway. A Site Review application for the project was approved on Jan. 8, 2015. Plans for rehabilitation of the building and construction of an addition were reviewed and approved by the Landmarks Design Review Committee in January 2015.

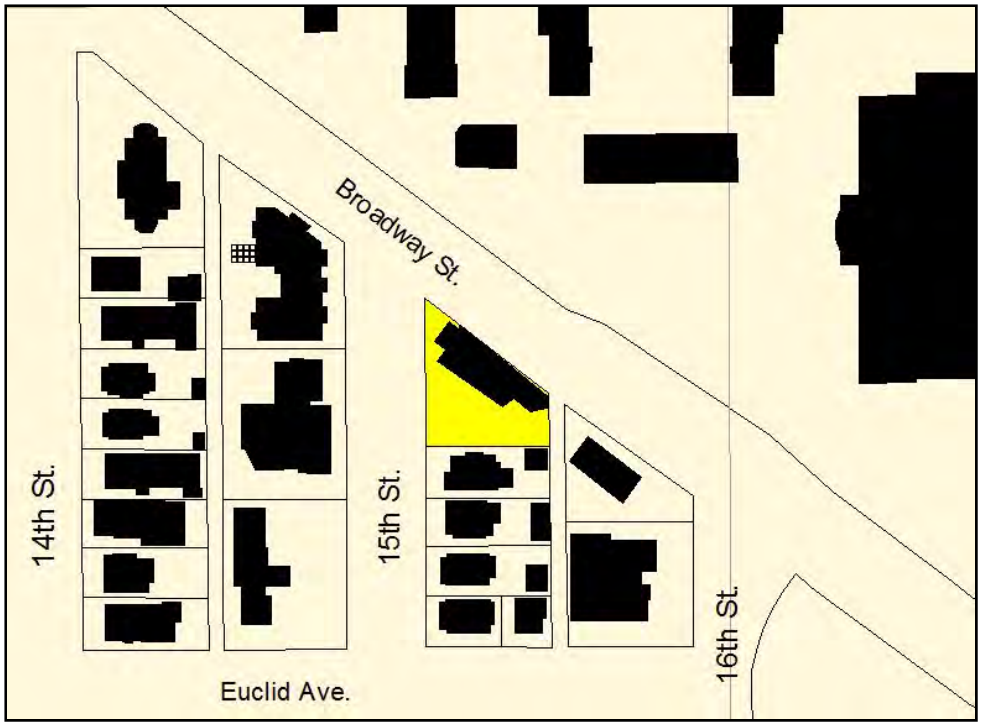


Figure 1. Location Map, 1029 Broadway.

PROPERTY DESCRIPTION

The property at 1029 Broadway is located on a 12,596 square foot polygon-shaped lot at southeast corner of 15th St. and Broadway. An alley runs along the east edge of the property. It is located in the potential University Hill Historic District.

Figure 2. Northeast corner of 1029 Broadway, 2014.

The two and a half story building was constructed in 1918 and is an example of Dutch Colonial Revival style, reflected in its gambrel roof, pedimented dormers, and evenly spaced windows. The building has an off-center entrance with a stone stoop and wrought iron balustrade. Two sets of three double-hung windows flank each side of the entrance. Double hung windows with stone sills are evenly placed on the rest of the facade. Seven pedimented dormers are located on the north face of the roof and feature one-over-one light windows along the façade. One-story additions are located on the east and west elevations. The west addition was constructed prior to 1931 and appears to have been a porch that was later enclosed. It is constructed of similar stone as the original building and features similar stone lintels and banding. The east extension was constructed in 1953 and incorporated a stone rubble wall that extends from the building's foundation. The east addition is clad in sandstone and features three aluminum clad windows. The building has a stone foundation and stone chimneys.

The 1991 Historic Building Inventory Form indicates that the building has gone through moderate changes. The entrance originally had a pedimented hood supported by columns, and the stoop has been altered. The form also indicated that a balustrade is missing on the second story balcony on the northern extension. The original divided-light windows have been replaced with double-hung windows. The Historic Building Inventory Form indicates that the building may be eligible for local landmark designation.

Figure 3: 1029 Broadway, North Façade, Tax Assessor Card photograph c.1949.

This property was originally addressed as 1500 South Broadway and first appears on Sanborn Fire Insurance Maps in 1931. The street address changed to 1029 Broadway in 1943. The tax assessor card indicates that the east extension was added in 1953.

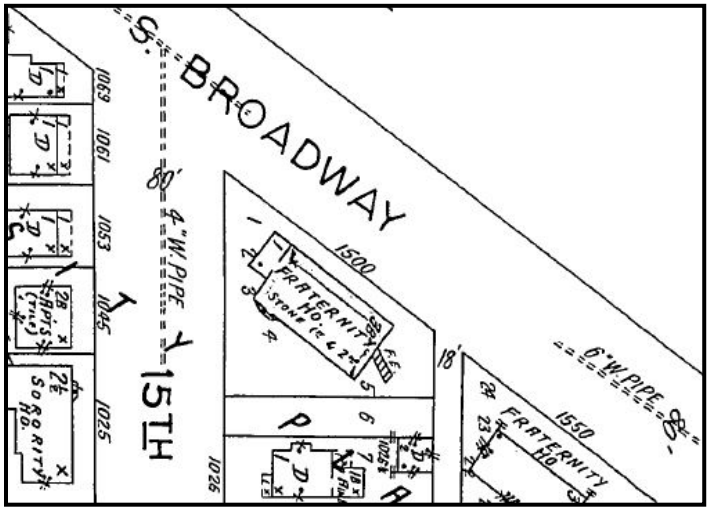


Figure 4. 1931 Sanborn map of 1500 (later 1029) S. Broadway.

Robert Urquhart bought the property in 1894 from the Denver & Boulder Land Investment Co. In 1911, the property was purchased by Hattie M. Swaisgood. Hattie worked at Turnure-Swaisgood Shoe Co., and was married to William, a Boulder Post Office employee. They lived at 946 Portland Place. <u>*See Attachment C: Deed and Directory Research.*</u>

In 1916, Hattie sold the property to the Beta Kappa Association. At this time, the address of the property was 1500 South Broadway. It is first listed in 1918, which coincides with the date of construction of the building listed on the Tax Assessor Card. The building was constructed for the Beta Kappa chapter of the Phi Gamma Delta fraternity.

The Beta Kappa society was organized at the University of Colorado in 1912, and they moved into the house in 1918. The fraternity published a periodical called, The Mile High Fiji, and in the November 12th, 1930 issue is an article titled, "Medieval English Designing Throughout Lower Floors Lends Distinctive Tone." The article includes a detailed description of the interior and exterior of the building and references the architect of the building as "Mr. Fisher." Documentation located at the Denver Public Library reveals that the Fisher & Fisher firm in Denver carried out the pre-1931 alterations of the building

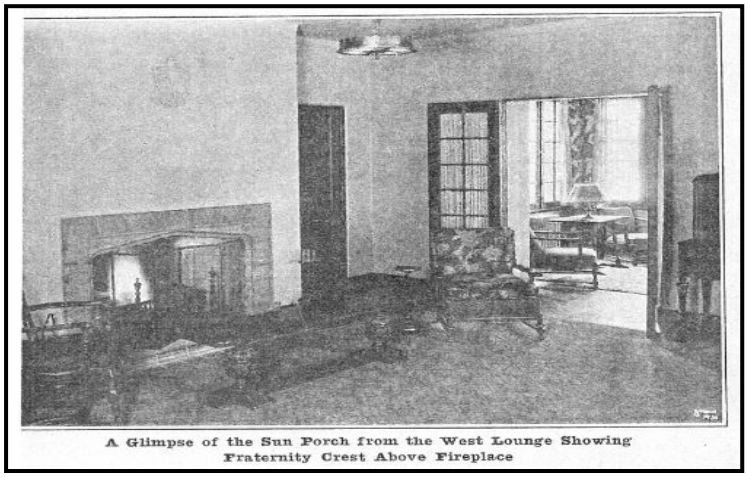


Figure 5. Photograph of interior of 1029 Broadway, 1930.

The Beta Kappa Association owned the house until 1968, for a total of 50 years. Many members were noted for being varsity football players, and during the mid 60s, the building quartered the Women's Reserve of the United States Naval Reserves. The fraternity's history in the house also included a death. Norman Bessee, a freshman at the University, died when a fire broke out in the house in 1944.

Figure 6. View of 1029 Broadway, "Women's Reserve USNR Quarters," c. 1965.

In 1968, the Evans Scholars Foundation purchased the property. Created in 1929 by legendary golfer Chick Evans, Jr., the foundation provides college scholarships to golf caddies. In 1940, the Evans Scholar foundation established its first chapter house at Northwestern University. Today, there are a total of 14 chapter houses at universities across the United States. When received, the scholarship provides full tuition and housing. The recipients are selected based on their caddie record, academic achievement, and financial need. At the Evans Scholarship Houses, the students live and work together, elect their own officers, and participate often in community service and in university programs.

The Evans Scholars Foundation continues to own the building today. They have been careful stewards of the building for over 40 years.

ANALYSIS

Criteria for Review

Section 9-11-6(b), B.R.C. 1981, specifies that during the review for an application for local landmark designation, the council must consider "whether the designation meets the purposes and standards in subsection 9-11-1(a) and section 9-11-2, "*City Council May Designate or Amend Landmarks and Historic Districts*," B.R.C. 1981, in balance with the goals and policies of the Boulder Valley Comprehensive Plan" and provides that the City Council "shall approve by ordinance, modify and approve by ordinance, or disapprove the proposed designation."

<u>Historic, Architectural, and Environmental Significance</u>

Staff finds that the proposed application to landmark 1029 Broadway will protect, enhance, and perpetuate a property reminiscent of a past era important in local history and preserve an important example of Boulder's historic architecture. Staff considers the application to meet the historic criteria for individual landmark designation as outlined below:

HISTORIC SIGNIFICANCE

Summary: The house at 1029 Broadway is believed to have historic significance under criteria 1, 3, and 4.

1. **Date of Construction:** 1918
   Elaboration: The house first appears in the city directories in 1918, two years after the property was purchased by the Beta Kappa Association. The Tax Assessor card also gives 1918 as the date of construction.

2. **Association with Persons or Events**: None observed.

3. **Development of the Community:** The Beta Kappa chapter of Phi Gamma Delta, Evan Scholars Foundation.
   Elaboration: This building is associated with the development of University Hill through the establishment of fraternity and sorority houses there and the long-term stewardship by the Evans Scholars Foundation.

4. **Recognition by Authorities:** The 1991 Historic Building Inventory Form identifies the building as associated with the development of University Hill and representative

of the Dutch Colonial Revival style. The 2005 Cultural Resource Re-evaluation Form identifies the building as being potentially eligible for local landmark designation.

ARCHITECTURAL SIGNIFICANCE
Summary: The house at 1029 Broadway is believed to have architectural significance under criteria 1.

1. **Recognized Period or Style:** Dutch Colonial Revival
   Elaboration: The house is an example of the Dutch Colonial Revival Style, as reflected in its gambrel roof, pedimented dormers, and evenly spaced windows. The stone rubble walls of the building make it a visual landmark in the neighborhood.
2. **Architect or Builder of Prominence:** Unknown.
3. **Artistic Merit:** None observed.
4. **Example of the Uncommon:** None observed
5. **Indigenous Qualities:** Native stone
   Elaboration: The building is constructed of uncoursed, stone walls.

ENVIRONMENTAL SIGNIFICANCE
Summary: The house at 1029 Broadway has environmental significance under criteria 2, 3 and 5.

1. **Site Characteristics:** None observed.
2. **Compatibility with Site:** Historic character
   Elaboration: The house retains its historic relationship to its lot and the adjacent University Hill neighborhood and the University of Colorado campus.
3. **Geographic Importance:** Familiar visual feature
   Elaboration: This house is prominently located on the southwest corner of Broadway and 15th Streets. The house serves as a strong visual landmark within the University Hill neighborhood.
4. **Environmental Appropriateness:** None observed.
5. **Area Integrity:** University Hill
   Elaboration: The property is located within the boundaries of the potential University Hill Residential Historic District and a potential National Historic District.

ATTACHMENTS:

A: Ordinance No. 8037

B: Sections 9-11-1 and 9-11-2, "*Purposes and Intent*," B.R.C., 1981

C: Significance Criteria for individual landmarks

ORDINANCE NO. 8037

AN ORDINANCE DESIGNATING THE BUILDING AND THE PROPERTY AT 1029 BROADWAY., CITY OF BOULDER, COLORADO, ALSO KNOWN AS THE EVANS SCHOLARS HOUSE, A LANDMARK UNDER CHAPTER 9-11, "HISTORIC PRESERVATION" B.R.C. 1981, AND SETTING FORTH DETAILS IN RELATION THERETO.

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

Section l. The council enacts this ordinance pursuant to its authority under Chapter 9-11, "Historic Preservation," B.R.C. 1981, to designate as a landmark a property having a special character or special historic, architectural, or aesthetic interest or value.

Section 2. The council finds that: 1) on or about March 20, 2014, property owner Evans Scholars Foundation applied to the City of Boulder to designate the building and a portion of the property at said property as a landmark; 2) the Landmarks Board held a public hearing on the proposed designation on August 6, 2013; and 3) on August 6, 2013, the board recommended that the council approve the proposed designation.

Section 3. The council also finds that upon public notice required by law, the council held a public hearing on the proposed designation on September 19, 2014 and upon the basis of the presentations at that hearing finds that the building and the property at 1029 Broadway does possess a special character and special historic, architectural, or aesthetic interest or value warranting its designation as a landmark.

Section 4. The characteristics of the subject property that justify its designation as a landmark are: 1) its historic significance is relevant to its construction in 1918, its association with the Evans Scholars Foundation and the Beta Kappa chapter of Phi Gamma Delta, who each owned

the property for nearly 50 years; and 2) its architectural significance indicative of the Dutch Colonial Revival Style, evidenced in its gambrel roof, pedimented dormers, and evenly spaced windows, and; 3) its environmental significance for its location within the potential University Hill Residential Historic District.

Section 5. The council further finds that the foregoing landmark designation is necessary to promote the public health, safety, and welfare of the residents of the city.

Section 6. There is hereby created as a landmark the building and property located at 1029 Broadway, also known as the Evans Scholars House, whose legal landmark boundary is identical to the boundary of the legal lots upon which it sits:

LOTS 1-6 BLK 1 UNIVERSITY PLACE, BOULDER, BOULDER COUNTY

as depicted in the proposed landmark boundary map, attached hereto as Exhibit A.

Section 7. The council directs that the department of Community Planning and Sustainability give prompt notice of this designation to the property owner and cause a copy of this ordinance to be recorded as described in Subsection 9-11-6(d), B.R.C. 1981.

Section 8. The council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY THIS 17TH DAY OF MARCH, 2015.

_____

Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY THIS 21ST DAY OF APRIL, 2015.

_____
Mayor

Attest:

_____
City Clerk

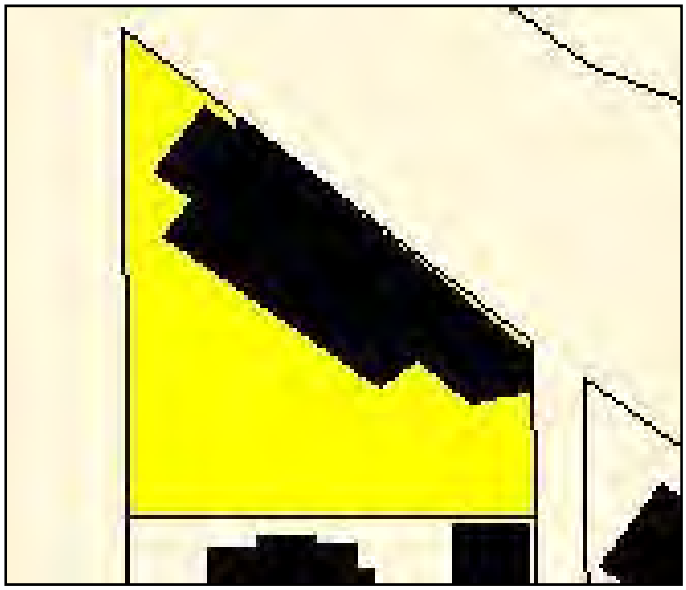


Exhibit A – Landmark Boundary Map for 1029 Broadway.

LOTS 1-6 BLK 1 UNIVERSITY PLACE, BOULDER, BOULDER COUNTY

9-11-1 & 9-11-2 Purposes and Intent
Boulder Revised Code, 1981

9-11-1: *Purpose and Legislative Intent* states:

(a) The purpose of this chapter 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 persons important in local, state, or national history or providing significant examples of architectural styles of the past. It is also the purpose of this chapter to develop and maintain appropriate settings and environments for such buildings, sites, and areas to enhance property values, stabilize neighborhoods, promote tourist trade and interest, and foster knowledge of the city's living heritage.

(b) The City Council does not intend by this chapter to preserve every old building in the city but instead to draw a reasonable balance between private property rights and the public interest in preserving the city's cultural, historic, and architectural heritage by ensuring that demolition of buildings and structures important to that heritage will be carefully weighed with other alternatives and that alterations to such buildings and structures and new construction will respect the character of each such setting, not by imitating surrounding structures, but by being compatible with them.

(c) The City Council intends that in reviewing applications for alterations to and new construction on landmarks or structures in a historic district, the Landmarks Board shall follow relevant city policies, including, without limitation, energy-efficient design, access for the disabled and creative approaches to renovation.

9-11-2: *City Council may Designate or Amend Landmarks and Historic Districts* states:

(a) Pursuant to the procedures in this chapter the City Council may by ordinance:

(1) Designate as a landmark an individual building or other feature or an integrated group of structures or features on a single lot or site having a special character and historical, architectural, or aesthetic interest or value and designate a landmark site for each landmark;

(2) Designate as a historic district a contiguous area containing a number of sites, buildings, structures or features having a special character and historical, architectural, or aesthetic interest or value and constituting a distinct section of the city;

(3) Designate as a discontiguous historic district a collection of sites, buildings, structures, or features which are contained in two or more geographically separate areas, having a special character and historical, architectural, or aesthetic interest or value that are united together by historical, architectural, or aesthetic characteristics; and

(4) Amend designations to add features or property to or from the site or district.

(b) Upon designation, the property included in any such designation is subject to all the requirements of this code and other ordinances of the city.

SIGNIFICANCE CRITERIA
Individual Landmark
September 1975

On September 6, 1975, the City Council adopted Ordinance #4000 providing procedures for the designation of Landmarks and Historic Districts in the City of Boulder. The purpose of the ordinance is the preservation of the City's permitted cultural, historic, and architectural heritage. The Landmarks Board is permitted by the ordinance to adopt rules and regulations as it deems necessary for its own organization and procedures. The following Significance Criteria have been adopted by the board to help evaluate each potential designation in a consistent and equitable manner.

Historic Significance

The place (building, site, area) should show character, interest or value as part of the development, heritage, or cultural characteristics of the community, state or nation; be the site of a historic, or prehistoric event that had an effect upon society; or exemplify the cultural, political, economic, or social heritage of the community.

Date of Construction: This area of consideration places particular importance on the age of the structure.

Association with Historical Persons or Events: This association could be national, state, or local.

Distinction in the Development of the Community of Boulder: This is most applicable to an institution (religious, educational, civic, etc) or business structure, though in some cases residences might qualify. It stresses the importance of preserving those places which demonstrate the growth during different time spans in the history of Boulder, in order to maintain an awareness of our cultural, economic, social or political heritage.

Recognition by Authorities: If it is recognized by Historic Boulder, Inc. the Boulder Historical Society, local historians (Barker, Crossen, Frink, Gladden, Paddock, Schooland, etc), State Historical Society, The Improvement of Boulder, Colorado by F.L. Olmsted, or others in published form as having historic interest and value.

Other, if applicable.

Architectural Significance

The place should embody those distinguishing characteristics of an architectural type specimen, a good example of the common; be the work of an architect or master builder, known nationally, state-wide, or locally, and perhaps whose work has influenced later development; contain elements of architectural design, detail, materials or craftsmanship which represent a significant innovation; or be a fine example of the uncommon.

Recognized Period/Style: It should exemplify specific elements of an architectural period/style, i.e.: Victorian, Revival styles, such as described by *Historic American Building Survey Criteria*, Gingerbread Age (Maass), 76 Boulder Homes (Barkar), The History of Architectural Style (Marcus/Wiffin), Architecture in San Francisco (Gebhard et al), History of Architecture (Fletcher), Architecture/Colorado, and any other published source of universal or local analysis of a style.

Architect or Builder of Prominence: A good example of the work of an architect or builder who is recognized for expertise in his field nationally, state-wide, or locally.

Artistic Merit: A skillful integration of design, material, and color which is of excellent visual quality and/or demonstrates superior craftsmanship.

Example of the Uncommon: Elements of architectural design, details, or craftsmanship that are representative of a significant innovation.

Indigenous Qualities: A style or material that is particularly associated with the Boulder area.

Other, if applicable.

Environmental Significance

The place should enhance the variety, interest, and sense of identity of the community by the protection of the unique natural and man-made environment.

Site Characteristics: It should be of high quality in terms of planned or natural vegetation.

Compatibility with Site: Consideration will be given to scale, massing placement, or other qualities of design with respect to its site.

Geographic Importance: Due to its unique location or singular physical characteristics, it represents an established and familiar visual feature of the community.

Environmental Appropriateness: The surroundings are complementary and/or it is situated in a manner particularly suited to its function.

Area Integrity: Places which provide historical, architectural, or environmental importance and continuity of an existing condition, although taken singularly or out of context might not qualify under other criteria.

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: MARCH 17, 2015

AGENDA TITLE: Introduction, first reading and consideration of a motion to order published by title only Ordinance No. 8038 allowing for production and sale of certain foods in residential zone districts, amending Section 9-6-3(e) "Specific Use Standards – Residential Uses"; amending Section 9-9-21 "Signs" and adding a new Chapter 6-17 "Cottage Foods and Fresh Produce"

PRESENTERS
Jane S. Brautigam, City Manager
David Driskell, Executive Director, Community Planning and Sustainability
Thomas A. Carr, City Attorney
Carl Castillo, Policy Advisor

EXECUTIVE SUMMARY

The purpose of this agenda item is for City Council to consider a proposed ordinance (**Attachment A**) that would allow for the production and sale of certain food products in residential zone districts.

In 2012, Colorado enacted House Bill 12-048, the Colorado Cottage Foods Act, subsequently modified in 2013 by House Bill 13-1158. The act significantly decreased the regulation of the sale of certain non-potentially hazardous food products sold by producers directly to consumers in certain locations, including at the producer's residence. The intent was to increase the number of venues where fresh locally sourced foods could be made available on a small-scale basis without the need for a license from the Colorado Department of Public Health and Environment nor inspection from the state or county departments of public health. However, while public health agencies were removed as a barrier to cottage food sales, local governments retained their local land use authority to prohibit such sales. Consequently, municipalities, like Boulder, whose residential zoning prohibits retail sales as a home occupation, create a barrier to cottage food and fresh produce sales that must be removed to allow the use.

At the 2015 Boulder City Council retreat, Council directed the city attorney to develop an ordinance that would allow for cottage food and fresh produce sales in residential districts of the city. The proposed ordinance allows for such sales by creating an exemption to certain provisions of the home occupation section of the land use code and by allowing for signs no larger than two feet square, all conditioned on the user: when selling cottage foods, complying with Colorado's Cottage Foods Act and producing those products in a home kitchen located on the premise where the sales are to occur; when selling fresh produce, offering only raw whole produce grown in a garden on the premise where the sales are to occur, obtaining a city business license and only offering products for sale between the hours of 7:00 a.m. and dusk. The ordinance also provides authority for the city manager to impose rules if necessary to address unintended consequences.

STAFF RECOMMENDATION

Suggested Motion Language:
Staff requests council consideration of this matter and action in the form of the following motion:
Motion to Introduce, adopt on first reading and order published by title only an ordinance allowing for production and sale of certain foods in residential zone districts, amending Section 9-6-3(e) "Specific Use Standards – Residential Uses"; amending Section 9-9-21 "Signs" and adding a new Chapter 6-17 "Cottage Foods and Fresh Produce"

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: Sale of cottage foods could have a beneficial impact on our community. Relatively small scale sales could provide additional income to some residents and promote some additional economic activity.
- Environmental: Food production generally has positive or at least few negative environmental impacts.
- Social: The ability to purchase and enjoy food produced closer to home has beneficial social impacts. There are also positive social impacts associated with gardening and animal husbandry.

OTHER IMPACTS

- Fiscal-Budgetary: None anticipated.
- Staff work necessary to implement this provision should be minimal and can be accomplished within normal work programs.

PUBLIC INPUT

The proposed ordinance originated from a community effort brought forth at a series of city council meetings. At those meetings, community members emphasized the importance of increasing the availability of locally grown food. At the 2015 Council Retreat, the city council considered placing this issue on the work plan for the Department of Community Planning and Sustainability. Unfortunately, other priorities

precluded the dedication of any significant department resources to this project in 2015. Because of the limited expected impact of residential food sales, council decided instead to direct the city attorney to draft an ordinance that would allow limited food sales in all residential districts. Accordingly, there has been no additional public input solicited on this matter. However, since council's decision was reported by the media, council has received over 20 emails supporting a cottage food ordinance.

BOARD AND COMMISSION INPUT

The Planning Board considered this ordinance at its March 5, 2015 meeting. The Board recommended one change to the proposed ordinance. Existing section 9-6-3(e)(1)(C) provides as follows:

> (C) The total area used for such purposes does not exceed one-half the first floor area of the user's dwelling unit.

The proposed ordinance does not exempt this requirement for sales of cottage foods and fresh produce. Thus, under the proposed ordinance, any area used for the production, processing and sale of cottage foods or fresh produce would be limited to a total area that does not exceed one-half the first floor area of the dwelling unit. This would apply to areas inside and outside of a dwelling unit, including areas used for chicken coops and bee hives as well as garden space used to produce fruits or vegetables.

The Planning Board recommended that gardens be partially or fully exempted from this requirement, based on concerns expressed by some in the community that such limit would unnecessarily restrict the size of gardens used to grow produce for sale. With its recommended change, the Planning Board voted unanimously to support the cottage foods ordinance.

Staff has a concern that in the absence of some limitation, a person could convert his or her entire property to a farming operation that might be inconsistent with a residential neighborhood. Accordingly, staff does not support the Planning Board's proposal to fully exempt gardening from the limitation on square footage. Instead, staff would look towards council's direction on whether a more specific standard may be applicable for such garden uses.

BACKGROUND

According to a 2013 review by the Harvard Food Law and Policy Clinic, 42 states have enacted laws that allow some level of cottage food operations. Almost all these laws have been enacted in the past five years as the public demand for access to local food has exploded. Colorado's passage of its own law in 2012 was part of this national movement. Under Colorado's Cottage Foods Act, foods allowed to be produced and sold include spices, teas, dehydrated produce, nuts, seed, honey, jams, jellies preserves, fruit butter, and baked goods, candies, certain baked goods and whole eggs (250 dozen per month maximum). While a retail license or wholesale food registration is not required for sale of these goods directly to consumers, there are labeling requirements, a limitation on the

amount of annual revenue that may be generated for each category of food ($5,000), a requirement for producers to take a food safety course (currently offered by Colorado State University), and a prohibition on selling value added fruits and vegetables (e.g., prepped, washed, cut and/or bagged). The Colorado Department of Public Health and Environment, Division of Environmental Health and Sustainability has made a brochure available with additional information on the Colorado Cottage Food Act (**Attachment B**).

In the 2012 bill that created the Colorado Cottage Foods Act, a legislative declaration was included by the General Assembly encouraging "*entities that regulate, affect or are interested in local food production and related matters to examine ways in which to revised zoning ordinances, building and health codes, and other legal barriers to accommodate and encourage the growing and use of local produce and the production of value-added foods that use local produce.*" (SB12-048, Section 1(1)) Heeding that advice, several Colorado municipalities have since made zoning changes to allow for cottage food and fresh produce sales in residential areas, including the City and County of Denver in 2014 and the City of Arvada in 2012. Both cities report having received no complaints about residential cottage foods sales since they became legal.

While Boulder has until now not allowed cottage food or fresh produce sales in residential areas, it has long allowed fresh produce to be grown and processed in residential zoned areas. Moreover, the city code does not currently restrict raising poultry or bees. There is a prohibition on keeping swine, hogs or pigs. To keep a horse, goat, sheep, cow, llama, burro, or other equine or bovine animal a person must have a half-acre of land per animal. Section 6-1-41, B.R.C. 1981. Moreover, at City Council's January 2014 retreat, the promotion of local food production and consumption was identified as a city priority. This was followed by the 2015 Boulder City Council retreat, where Council directed staff to develop an ordinance that would allow for cottage foods and fresh produce sales in residential districts of the city.

PROPOSED ORDINANCE

The proposed ordinance would add a new section to Chapter 6, "Health, Safety and Sanitation," B.R.C. 1981 regarding "Cottage Foods and Fresh Produce Sales" and amend two existing sections of the land use code (Chapter 9). Planning Board review and recommendation to council is required due to the changes to the land use code.

The new Chapter 6-17, "Cottage Foods and Fresh Produce Sales," B.R.C. 1981 sets forth the requirements for a cottage food home occupation. These requirements are as follows:

- When engaged in sale of cottage foods, comply with all provisions of the Colorado Cottage Food Act and have entirely produced the cottage foods in a home kitchen located on the same residential premise at which the sales are to occur from
- When engaged in sale of fresh produce, offer only raw whole produce items grown in a residential garden located on the residential premise at which the sales are to occur from, with such fresh produce being free of any processing

- Obtain a City of Boulder Sales and Use Tax License
- Offer products for sale only between 7:00 a.m. and dusk.

The new chapter also authorizes the city manager to make any rules that might be necessary. This will allow for flexibility for staff to address any unanticipated consequences of the new ordinance.

With respect to land use, the code permits certain home occupations in residential zone districts pursuant to Section 9-6-3(e), B.R.C. 1981 ("Specific Use Standards – Residential Uses"). Section 9-6-3(e) includes certain restrictions that effectively prohibit the sale of cottage foods and fresh produce. These include the following:

- Subsection 1(A) – The use must be conducted entirely within a building.
- Subsection 1(D) – There is no change to the outside appearance of the dwelling, including advertising signs.
- Subsection 1(E) – There are no sales other than incidental retail sales.
- Subsection 1(F) – There is no exterior storage of material or equipment.
- Subsection 1(G) – There is nothing used that creates any objectionable condition outside of the dwelling unit.

The proposed ordinance would exempt cottage food operations from these requirements. To be exempt the use would have to conform to the requirements of the new Chapter 6-17 described below. Home occupations are a conditional use. The proposed ordinance would make Cottage Foods an allowed use. The proposed ordinance also would amend the sign code (found within the land use code). The sign code currently permits certain signs in residential zone districts. Advertising signs require a sign permit. The proposed ordinance would amend Section 9-9-21(c) to allow cottage food signs without obtaining a sign permit. The signs must meet the size limits set forth in table 9-13 (*i.e.*, two square feet).

ATTACHMENTS

Attachment A - Proposed Ordinance
Attachment B - CDPHE Brochure on the Colorado Cottage Foods Act

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 9-6-3, "SPECIFIC USE STANDARDS – RESIDENTIAL USES," B.R.C. 1981, EXEMPTING COTTAGE FOODS AND FRESH PRODUCE FROM CERTAIN USE LIMITATIONS; ADDING A NEW CHAPTER 6-17 "COTTAGE FOODS AND FRESH PRODUCE SALES" SETTING FORTH REQUIREMENTS FOR SALES OF COTTAGE FOODS AND FRESH PRODUCE; AMENDING SECTION 9-9-21, "SIGNS," B.R.C. 1981 TO ALLOW FOR COTTAGE FOODS AND FRESH PRODUCE SIGNS AND SETTING FORTH RELATED DETAILS.

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

Section 1. A new Chapter 6-17 is added as follows:

Chapter 6-17 Cottage Foods and Fresh Produce Sales

6-17-1. - Legislative Intent and Purpose.

(a) The purpose of this chapter is to protect the public health, safety, and welfare of the residents by promoting local foods to create a healthier, more livable community.

(b) Findings. The city council finds as follows:

(1) Locally grown food can provide a healthy alternative to commercially produced food;

(2) Encouraging a diverse local agricultural economy can provide financial benefit to those engaged in activities such as gardening, beekeeping, preparing preserves and maintaining chickens; and

(3) It is important to protect the city's neighborhoods from adverse impacts associated with the foregoing activities.

6-17-2. – Requirements.

Requirements. To engage in the home occupation of cottage food and fresh produce production and sales, a person must meet the following requirements:

(a) Comply with all provisions of the Colorado Cottage Food Act as codified at C.R.S. § 25-4-1614;

(b) Cottage food products offered for sale shall be limited to products produced on the same premises from which the sales occur;

(c) Fresh produce offered for sale shall be limited to raw, whole produce items grown on the premises. The fresh produce shall not be processed or altered beyond the minimum required for a harvest cut and for rinsing off of soil and debris. Prohibited alterations include any additional cutting, slicing or juicing;

(d) Obtain a City of Boulder Sales and Use Tax License as required by Section 3-2-11, "Sales and Use Tax License," B.R.C. 1981;

(e) Marijuana shall not be considered a cottage food product or fresh produce under this chapter. The cultivation and sale of marijuana is governed by Chapter 6-14, "Medical Marijuana," B.R.C. 1981 and Chapter 6-16, "Recreational Marijuana," B.R.C. 1981. Nothing in this chapter is intended to supersede those provisions; and

(f) Offer products for sale only between the hours of 7:00 a.m. and dusk.

6-17-3. – Rulemaking.

Rulemaking Authority. The city manager may promulgate such rules as the manager considers necessary to implement and enforce this chapter. All such rules shall be adopted in accordance with the procedures set forth in Chapter 1-4, "Rulemaking," B.R.C. 1981.

Section 2. Section 9-6-3(e) B.R.C. 1981 is amended to read:

9-6-3. - Specific Use Standards – Residential Uses.

(e) Home Occupations:

(1) Standards: A home occupation is a permitted accessory use if the following conditions are met:

(A) Such use is conducted entirely within a principal or accessory building and is not carried on by any person other than the inhabitants living there.

(B) Such use is clearly incidental and secondary to the residential use of the dwelling and does not change the residential character thereof.

(C) The total area used for such purposes does not exceed one-half the first floor area of the user's dwelling unit.

(D) There is no change in the outside appearance of the dwelling unit or lot indicating the conduct of such home occupation, including, without limitation, advertising signs or displays.

(E) There is no on-site sale of materials or supplies except incidental retail sales.

(F) There is no exterior storage of material or equipment used as a part of the home occupation.

(G) No equipment or process is used in such home occupation that creates any glare, fumes, odors or other objectionable condition detectable to the normal senses at the boundary of the lot if the occupation is conducted in a detached dwelling unit, or outside the dwelling unit if conducted in an attached dwelling unit.

(H) No traffic is generated by such home occupation in a volume that would create a need for parking greater than that which can be accommodated on the site or which is inconsistent with the normal parking usage of the district.

(2) Cottage Food and Fresh Produce Exception. A home occupation use meeting the requirements of Chapter 6-17 "Cottage Foods and Fresh Produce," B.R.C. 1981, is exempt from the requirements of subparagraphs (1)(A), (D), (E), (F) and (G) above. Such use shall be permitted as an allowed use in all zone districts in which a home occupation is permitted as a conditional use.

(3~~2~~) Prohibitions: No person shall engage in a home occupation except in conformance with all of the requirements of paragraph (e)(1) of this section, except as provided in Paragraph (e)(2) of this section.

Section 3. Section 9-9-21(c), B.R.C. 1981 is amended to read:

9-9-21. – Signs.

(c) Signs Exempt From Permits:

(1) Specific Signs Exempted: The following signs are permitted in all zoning districts and are exempt from the permit requirements of this section, but shall in all other respects comply with the requirements of this code except as expressly excepted below:

(A) Construction Warning: A sign not exceeding sixteen square feet erected by a licensed construction contractor on property on which it is working to warn of danger or hazardous conditions. Such sign is also exempt from the setback, limitation on number of freestanding signs, and total sign area regulations of this section.

(B) Flags: Up to three different flags per property, subject to the following restrictions:

(i) The total area of all flags shall not exceed seventy square feet;

(ii) The area of each such flag shall be exempt from the sign area limitations of paragraph (d)(2) of this section, but shall not exceed forty square feet, with no one dimension of any flag greater than eight feet;

(iii) The flag pole or other structure on which such a flag is displayed shall be treated as part of any building to which it is attached for all height computations and not as an appurtenance or a part of the sign;

(iv) No freestanding flagpole shall exceed twenty feet in height outside of the principal building setbacks or thirty-five feet in height within the principal building setbacks; and

(v) No flag bearing an explicit commercial message shall constitute an exempt flag.

(C) Garage Sale: One garage sale sign per property in an agricultural or residential district placed on private property owned or leased by the person holding the garage sale, for a period not to exceed ten consecutive days and not more than twice in a calendar year. The sign must be within the total signage permitted for the parcel.

(D) Lost Animal: One lost animal sign per property placed on private property with the permission of the owner for a period not to exceed ten consecutive days, in an agricultural or residential district and within the total signage permitted for such parcel.

(E) Noncommercial: A work of art that in no way identifies or advertises a product, service, or business or impedes traffic safety, a political sign, or any other noncommercial sign. [15]

(F) Private Traffic: A private traffic directional sign guiding or directing vehicular or pedestrian traffic onto or off of a property or within a property that does not exceed three square feet per face in area and six feet in height, does not contain any advertising or trade name identification, and is not illuminated, internally illuminated, or indirectly illuminated. But a private traffic control sign that conforms to the standards of the state traffic control manual defined in subsection 7-1-1(a), B.R.C. 1981, may exceed three square feet per face in area but shall not exceed seven square feet per face or eight feet in height. Such sign also is exempt from the setback, limitation on number of freestanding signs, and total sign area regulations of this section. [16]

(G) Real Estate: One temporary, non-illuminated real estate sign per property or per dwelling unit street frontage, set back at least eighteen inches from the nearest public sidewalk, that does not exceed six square feet per face in area and a total of twelve square feet in area and four feet in height in the RR, RE, RL, RM, RMX, RH, and MH zones or sixteen square feet per face and a total of thirty-two square feet in area and seven feet in height in any other zone, but only if the sign remains in place no more than seven days after sale or rental of the subject property. The area of such a sign shall not be deducted from the allowable sign area or number of freestanding signs for the building or business unit. If the property owner or tenant is not using this real estate sign allowance, such person in possession of the property may place a noncommercial sign conforming with these limitations in lieu of such a real estate sign.

(H) Sign Required by Law: A sign required or specifically authorized for a public purpose by any federal, state, or city law of any type, including, without limitation, the number, area, height above grade, location or illumination authorized by the law under which such sign is required or authorized. But no such sign may be placed in the public right-of-way unless specifically authorized or required by law. Except for a warning sign or barricade of a temporary nature, any such sign shall be securely affixed to the ground, a building, or another structure. So much of such a sign as is required by law also is exempt from all other provisions of this section.

(I) Residential Wind Sign: A wind sign in a residential or an agricultural zone, within the limitations set forth in subsection (d) of this section, notwithstanding the prohibition of subparagraph (b)(3)(Q) of this section.

(J) Utility Warning: A sign not exceeding sixteen square feet erected by a public utility within a utility easement on property on which it is working to warn of danger or hazardous conditions or to indicate the presence of underground cables, gas lines, and similar devices. Such a sign also is exempt from the setback, limitation on number of freestanding signs, and total sign area regulations of this section.

(K) Vehicular: A sign displayed on a motor vehicle if not prohibited by this section.

(L) Window: A non-illuminated window sign of no more than four square feet in area and placed no more than twenty-five feet above finished grade, if the total area of such signs fills less than twenty-five percent of the area of the architecturally distinct window, and such signs do not exceed twenty-five percent of the total allowable sign area for the building or business unit. The area of a window sign not exempt from permit requirements under this subparagraph is calculated as a part of and limited by the total allowable sign area for the premises.

(M) Cottage Foods and Fresh Produce Signs. On any premises meeting the requirements of Chapter 6-17, a sign meeting the size restrictions applicable to residential detached dwellings in table 9-13 of this section.

Section 4. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

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

K:\ccad\o-cottage foods-1st-2349.docx

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of March, 2015.

.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 21st day of April, 2015.

.

_____
Mayor

Attest:

_____
City Clerk

K:\ccad\o-cottage foods-1st-2349.docx

Colorado Department of Public Health and Environment

Division of Environmental Health and Sustainability
Retail Food Program

Colorado Cottage Food Act becomes law

Senate Bill 12-048 allows for certain unlicensed food production

Inside:

FAQ's	2
Allowed and Prohibited Food	2
Labeling Requirements	3
Sample Label	3
Eggs	3
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Can I Sell My Cottage Foods to Restaurants?

Cottage food operators are not allowed to sell their cottage food products to local restaurants or grocery stores.

These types of sales are considered "wholesale" and are not allowed under the law.

Cottage food operators must sell their cottage food products directly to the consumer.

In 2012, the Colorado Legislature enacted Senate Bill 12-048 allowing individuals to sell certain types of "cottage food" products in an unlicensed home kitchen. This bill was modified during the 2013 legislative session by House Bill 13-1158. A copy of the bill can be found at:

http://www.colorado.gov/cs/Satellite/CDPHE-DEHS/CBON/1251583469766

Cottage food products include such items as spices, teas, dehydrated produce, nuts, seeds, honey, candies, jams, jellies and certain baked goods.

It also includes whole eggs except that a person may not sell more than 250 dozen per month.

Cottage food operations require no license or permit from the Colorado Department of Public Health and Environment and are not inspected by any state or local government entity.

Net sales for each product produced by a cottage food operation must not exceed $5,000 annually. Products must be sold directly by the cottage food operator to the end consumer.

Sales by consignment or to retail food or wholesale food establishments are prohibited.

Cottage food products must be labeled in accordance with the requirements as outlined in Section 35-21-105 CRS.

Eggs must be handled and labeled in accordance with the requirements outlined in Section 35-21-105 CRS.

Cottage food complaints: know the rules!

The Colorado Department of Public Health & Environment and local public health agencies may investigate any complaint received concerning cottage food operations. If your cottage food operation is the subject of a complaint, you must allow a state or local public health employee in your cottage food operation to conduct an inspection.

The employee will inspect your cottage food operation to determine compliance with applicable laws, rules and regulations.

If, as a cottage food producer, you produce foods that are not allowed by the provision of the *Colorado Cottage Foods Act,* the State or local public health agency has the authority to embargo and/or condemn the product in question. Since the production of foods not allowed under the *Colorado Cottage Foods Act* would require a license and a commercial facility, a local public health agency may use the enforcement provisions of the *Food Protection Act* to obtain compliance.

A publication of the Colorado Department of Public Health and Environment, Division of Environmental Health and Sustainability.

Reproduction permitted

What types of Cottage Foods can I produce?

As a cottage food operator, you are allowed to produce certain food items which are considered non-potentially hazardous. An exception to this is whole eggs which the number sold cannot exceed 250 dozen per month.

The table (at right) provides a listing of acceptable cottage food products.

If you have any questions regarding the production of a particular cottage food product please contact your local public health agency or the Division of Environmental Health and Sustainability at 303- 692-3645. A listing of local public health agencies by county can be found at:

http://www.colorado.gov/cs/Satellite/CDPHE-Main/CBON/1251588365684

Acceptable Cottage Food Products
Whole Eggs
Spices
Teas
Dehydrated Produce
Nuts
Seeds
Honey
Jams, Jellies and Preserves
Fruit Butter
Candies
Certain Baked Goods

Cottage Foods Disallowed Under Act
Fresh or dried meat or meat products including jerky
Canned fruits, vegetables, flavored oils, salsas, etc.
Fish and shellfish products
Canned pickled products (corn relish and pickles)
Raw seed sprouts
Baked goods such as cream, custard or meringue pies and cakes or pastries with cream cheese icing or fillings
Milk and dairy products including hard or soft cheeses and yogurt
Cut fresh fruits and vegetables or juices made from these ingredients
Ice and ice products
Barbeque sauces, ketchups or mustards
Foccaccia-style breads with vegetables or cheeses

Frequently Asked Questions

Question: How do I sell my cottage food products?

Answer: You may sell your products directly to the consumer from your residence, roadside stand, farmers' market, community supported agriculture organization, or other similar venue.

Question: Am I able to deliver my cottage food products?

Answer: Yes, you may deliver your cottage food products directly to the consumer.

Question: Do I need a permit or license for my cottage food operation?

Answer: No, you do not need a state permit or license for your cottage food operation. However, you should check with your city or county for any other requirements or recommendations they may have.

Question: Is there any limit to how much I can earn from my cottage food operation?

Answer: Yes, cottage food operators are limited to $5,000 in net sales per product each year. It is the operator's responsibility to comply with applicable laws, rules and regulations regarding the collection of sales tax.

Labeling Requirements for Cottage Foods

The cottage food law requires specific labeling for the sale of cottage food products.

A cottage food operation may only sell cottage food products which are offered with a label containing the following information (printed in English):

- The identification of the cottage food product;
- The producer's name and the address at which the cottage food was produced;
- The producer's current phone number or email address;
- The date on which the food was produced;
- A complete list of ingredients; and
- The following statement: "This product was produced in a home kitchen that is not subject to state licensure or inspection and that may also process common food allergens such as tree nuts, peanuts, eggs, soy, wheat, milk, fish and crustacean shellfish. This product is not intended for resale. "

A sample label is shown below and may assist with developing your cottage food product label.

Can I Make Salsas or Barbecue Sauce?

Processing of low-acid foods by retort canning or processing of acidified foods is not allowed by a cottage food operator.

These types of products must be commercially processed to ensure sterility under conditions of non-refrigerated storage and distribution.

Canning or processing acidified foods must be done in a state licensed or registered facility.

Chocolate Chip Cookie

Joe Baker
123 Safe Food Ave.
Anywhere, CO 80XXX
303-555-1234
jbbaker@cookie.com

Manufacture Date: March 15, 2012

Ingredients: Enriched flour (wheat flour, niacin, reduced iron, thiamine, mononitrate, riboflavin and folic acid), butter (milk, salt), chocolate chips (sugar, chocolate liqueur, cocoa butter, butterfat (milk), soy lecithin as an emulsifier), walnuts, sugar, eggs, salt, artificial vanilla extract, baking soda.

DISCLAIMER: This product was produced in a home kitchen that is not subject to state licensure or inspection and that may also process common food allergens such as tree nuts, peanuts, eggs, soy, wheat, milk, fish and crustacean shellfish. This product is not intended for resale.

Selling of Eggs

Eggs can be sold directly from the person's own premises, roadside stand, Farmers' Market, Community Supported Agricultural Organization, or any similar venue without health department licensing or inspection. The number of eggs sold is limited to 250 dozen per month and must be handled in accordance with the requirements of Section 35-21-105, C.R.S. The label on the egg package must contain the address at which the eggs originated and the date of packaging. Any eggs not treated for salmonella must include the following statement on the package: "Safe Handling Instructions: To prevent illness from bacteria, keep eggs refrigerated, cook eggs until yolks are firm, and cook any foods containing eggs thoroughly." The package must also include "These eggs do not come from a government-approved source."

Please refer to the Colorado Department of Agriculture's website for more information:

http://www.colorado.gov/cs/Satellite/Agriculture-Main/CDAG/1167928196642

Terms and Definitions

Home - Means a primary residence occupied by the producer producing the food allowed by the Colorado Cottage Foods Act.

Non-potentially Hazardous - Means any food or beverage that, when stored under normal conditions without refrigeration, will not support the rapid and progressive growth of microorganisms that cause food infections or food intoxications. Does not include low-acid or acidified foods.

Producer - Means a person who is a resident of Colorado and who prepares non-potentially hazardous foods in a home kitchen or similar venue for sale directly to consumers

Cottage Food operations requires training

Did you know?

Raw, uncut produce can be sold in Colorado without licensing or registration. The FDA's Good Agriculture Practices provide recommendations for safe practices to assure produce is safe for consumption.

http://www.fda.gov/food/resourceforyou/consumers/ucm114299

The Colorado Cottage Foods Act requires "producers to take a food safety course that includes basic food handling training and is comparable to, or is a course given by, the Colorado State University Extension Service or a state, county, or district public health agency, and must maintain a status of good standing in accordance with the course requirements, including attending any additional classes if necessary. Safe food handling courses should include topics on safe food sources, personal hygiene, sanitation of equipment, worker illness, food temperature control, safe water, sewage disposal, pest control, proper hand washing, and control of toxics.

Contact the CSU Extension Service or your local public health agency, who may offer this training.

Additional cottage food materials are posted on the Colorado Farm to Market website at:

http://cofarmtomarket.com/

C I T Y O F B O U L D E R
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 17, 2015

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 8033 approving supplemental appropriations to the 2015 Budget.

PRESENTERS:
Jane S. Brautigam, City Manager
Bob Eichem, Chief Financial Officer
Cheryl Pattelli, Director of Finance
David Driskell, Executive Director of Community Planning and Sustainability (CP&S)
Tracy Winfree, Interim Director of Open Space and Mountain Parks (OSMP)
Peggy Bunzli, Budget Officer
Trish Jimenez, Senior Financial Manager, Public Works and CP&S
Mike Orosel, Financial Manager, OSMP

EXECUTIVE SUMMARY

As described in the *Budget Philosophy and Process* section of the annual budget document, each year at least two supplemental ordinances (known as Adjustments to Base, where the "base" is the original annual budget) are presented to City Council for review and approval. Council receives what is often the first ordinance, the **Carryover and Budget Supplemental**, in April/May. In years where new initiatives are launched and other unique circumstances become apparent after annual budget approval, additional adjustments to base may be brought forward for council consideration. The proposed adjustments to the 2015 Budget included in this memo are an example of the latter scenario.

This packet includes budget supplemental line items that represent new budgeted amounts for 2015. A proposed ordinance is provided as **Attachment A** to this packet. Analysis and detailed narrative information on each budget supplemental request was included at the first reading in the Mar. 3, 2015 agenda, item 3G.

Council Feedback

Following first reading, council requested information on the hours that key Planning staff have been working. Key senior staff in the Community Planning and Sustainability Department have worked anywhere from an additional 340 to 540 hours during the past year, which translates into working an average of 48-55 hours per week (after vacations and holiday periods are removed). A significant portion of the additional hours worked are related to time spent at Planning Board, City Council and public meetings related to special planning projects. The key senior staff are exempt employees and are not eligible for overtime pay.

A graphic summarizing the Community Planning work plan for 2015 is included in **Attachment B**. This information is provided as follow-up to the Council's January retreat conversations about 2015 work plan priorities, and the subsequent discussion at Council's February 24th study session, summarizing the key work plan priorities for Community Planning in 2015. Importantly, given the volume of work, need for robust community outreach and engagement, and time required for calendaring items for board and council input and deliberation, it is anticipated that some of these work plan priorities will not begin until Q3 or Q4 of 2015, with completion in 2016.

On February 26th and March 3rd Council identified additional work items related to the approval on second reading of the height ordinance, and next steps in the ongoing effort to revitalize the Uni Hill commercial district. These work items are not fully reflected on the work plan document in Attachment B, and include:

- Update to the Downtown Design Guidelines;
- Potential next steps following completion of the Form Based Code pilot, including development of a similar tool in other areas of the city and/or completion of area plans in additional areas;
- Exploration of potential anchor uses and catalyst sites in and adjacent to Uni Hill, including potential development of the surface parking lots owned by the city and university, as well as potential for a CU-developed hotel and conference facility in the Grandview area;
- Potential establishment of a historic district designation on 13th street in the Uni Hill commercial area and exploration of tax and financial incentives to spur desired private investment.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt Ordinance No. 8033 approving supplemental appropriations to the 2015 Budget.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

This supplemental ordinance appropriates funding for a variety of citywide projects and services that positively affect economic, environmental or social sustainability in the community.

OTHER IMPACTS

- Fiscal:
  In the **General Fund**, this ordinance will appropriate $142,000 from fund balance.

  In **restricted funds**, this ordinance will appropriate $4,786,375 from fund balance.

- Staff time for this process is allocated in the Budget Division's regular annual work plan.

ANALYSIS

Supplemental Request Related to Community Planning

The supplemental request for Community Planning identifies five and a half positions needed to address both current resource deficiencies related to increased work load and to successfully complete additional work items requested at Council's January retreat.

Increased demands on staff resources over the past year is the result of both increased development activity and heightened expectations from the council, boards and community for additional analysis, information, and participation in shaping responsive policies and facilitating public review and input processes. Two areas where it has become clear in recent months that there is an ongoing deficiency in staff resources are urban design and housing policy.

The city's Senior Urban Designer is increasingly tapped as a resource to support major policy initiatives (such as Civic Area, Design Excellence and area planning) as well as ongoing development review, where expectations for high quality design outcomes are (and will remain) high. The proposed addition of an ongoing "Urban Designer I" position as part of the city team recognizes the importance of this function, the need for additional resource to meet current and projected work load, and the centrality of good design in a city where nearly all new development is infill and must be sensitive to context and the creation of a high quality public realm. The position will help support current project initiatives (e.g., Form-based Code and Civic Area) as well as ongoing development review needs and design support for other departments. It will also provide the opportunity to "build the bench" in the city team in relation to design skills, support succession planning, and provide better support to design-related boards such as the Design Advisory Board, Landmarks Board and Planning Board.

The Senior Housing Planner is proposed as a new, ongoing position in recognition of a key issue area that is the focus of current work efforts but which also represents an area of ongoing need and priority. The position will support successful completion of the current Housing Boulder initiative and then have primary responsibility for ongoing implementation of the housing strategy's priorities and continued monitoring of housing outcomes and policies. The addition of this position – shared between the city's Housing Division and Comprehensive Planning Division – recognizes that housing affordability will be an ongoing challenge in Boulder, and that responding successfully to this challenge will require the integration of policy and program approaches linking land use and community design with financial and regulatory tools. The position will also be responsible for ongoing research and analysis related to housing market trends and conditions, with the aim of helping the council and boards (including any new board charged with responsibility for housing) to be more proactive in advancing community priorities.

The remaining three and a half positions are all requested as fixed-term, in support of current work program priorities, including items added to the 2015/16 work plan at the January council retreat. These include a full-time, two-year Planner Associate position in Comprehensive Planning to support data research, analysis and mapping expectations for the 2015 Comprehensive Plan update and resilience planning; a two-year extension and repurposing of a Senior Project Manager position to both refill the vacant Civic Area Coordinator position and provide the necessary support for that ongoing effort as well as support for related efforts (Civic Use Pad, Uni Hill Revitalization, coordination with CU, and, potentially, evaluation and planning related to the Broadway campus of Boulder Community Health); the addition of 0.5 FTE to an existing part-time position in Comprehensive Planning to support community outreach and engagement on several initiatives, including working as a partner with Code for America to help ensure continuity of engagement initiatives set in motion by their work; and lastly, but definitely not least, a fixed term Administrative Support position to help ensure the success of all of these positions and the priority work efforts they will be undertaking.

In summary, the total personnel budget requested (including related non-salary expenses) is approximately $541,000 of which $223,000 is ongoing and $318,000 is fixed-term. Based on the nature of the work for each position, these proposed budget additions will be shared between the General Fund ($142,000), the Affordable Housing Fund ($59,000), and the Planning and Development Services Fund ($340,000).

Lastly, this Adjustment to Base for Community Planning includes requested non-personnel expenses for consultant support specific to two new initiatives: the Form-Based Code Pilot and work on Site Review Criteria and Community Benefit. The total estimated budget to support these two work efforts is $175,000 and will be funded from the Planning and Development Services Fund.

The Form-Based Code Pilot is proposed for a specified area of the city (Boulder Junction) in which there is a clear agreed upon vision for development and the

implementation tool of a form-based code could be most easily tested. A form-based code is an emerging tool in the planning field that is used to provide more certainty and direction for the form of built outcomes through a prescriptive approach, in which discussions and policy decisions regarding building height, bulk, setback and other issues occur prior to there being a specific building proposal. In its purest form, adoption of a form-based code creates the opportunity to have little or no public participation in the development review process, as issues of building form and even architecture are determined in advance, and the review is simply to confirm compliance. The form-based code pilot will be an opportunity for the Boulder community to better understand this tool, and decide if it's the right tool (and in what form) to guide better outcomes in Boulder, for use in both the pilot area and, subsequently, in other parts of the city. The proposed budget of $125,000 (paid for from the Planning and Development Services Fund) will cover the cost of consultant work for the pilot and, potentially, next steps.

The work on Site Review Criteria and Community Benefit is proposed to proceed in parallel with the Form-Based Code Pilot, but as a separate initiative, as it relates to development review citywide (recognizing that implementation of a citywide form-based code, should that be the direction decided upon, will take several years to implement). The proposed budget will cover anticipated consultant support for the effort, working under the direction of a staff project manager and with active participation from the community and boards. The proposed budget of $50,000 will be funded from the Planning and Development Services Fund.

Supplemental Request Related to Open Space and Mountain Parks (OSMP)

As noted at the council retreat, there are a number of high priority initiatives that OSMP needs to focus on doing well in the near future, including recovery from the 2013 Flood, North Trail Study Area (TSA) Process, continued implementation of the West TSA, Regional Trails and other initiatives. OSMP is requesting one-time and fixed-term increases to assure that the department is sufficiently resourced to deliver on these commitments.

In late 2014 and early 2015, OSMP staff developed more in-depth 2015 work plan priorities and milestones, which were presented to the Open Space Board of Trustees (OSBT) at its February meeting. The OSBT also discussed the North TSA scope, goals, objectives, and process framework in a study session on the same evening. Based on new information from the work plan process, including additional design and estimating work for flood recovery projects, it became apparent that significant one-time resources are needed for flood recovery in particular. Also, given council and OSBT interest in pursuing existing priorities with enough support to deliver quality results, staff is proposing added resources to support the environmental planning group and the ecological systems group. These teams are largely responsible for advancing the North TSA planning and evaluation process, reviewing and issuing permits for West TSA, and flood recovery projects, in addition to their regular duties.

OSMP is requesting a total supplemental appropriation of $4,212,375 from the Open Space fund balance to fund additional projects related to recovery from the 2013 Flood,

preparation of a draft plan for the North Trail Study Area (TSA) and implementation of the West TSA Plan.

Staff proposes accelerating flood recovery work to maximize FEMA reimbursement and to provide more timely repairs for the community. The OSBT was updated and provided positive feedback about this request for supplemental funding at its February meeting and will receive additional information at its March meeting. Recently completed engineering and design have resulted in updated cost information for projects, such as the Chapman trail and Bear Creek Canyon Road improvements. With the availability of this updated information, one-time dollars are being requested to bid projects for timely repair. The highest priority category of flood recovery projects that are reimbursable involve 14 projects that meet community desires or are needed for logistical purposes. Six projects are included in the second category of flood recovery that is not reimbursable. However, these latter projects are of high value to the community, given that they restore natural habitats; FEMA does not consider such work to be reimbursable. The total cost of these flood recovery projects is $3.86 million.

Additional funding of $190,000 for the North TSA is requested for a consultant to facilitate the public process, to support temporary services supporting planning, analysis and outreach, and to provide funding for ancillary costs. Additional costs for the Joder interim trail are included in this category as well.

Supplemental funding of $90,000 for West TSA Plan implementation is requested for unfunded projects. Additionally, funds totaling $290,000 previously allocated to Flagstaff summit improvements will be reallocated to other West TSA projects as the Flagstaff summit improvements will not be made in 2015.

Finally, funding of $76,800 is requested for a three-year fixed term ecologist position to assist with flood recovery and West TSA plan implementation permitting, and North TSA resource evaluation. Given the significant load of timely projects that all must be reviewed, analyzed and/or permitted through this work group, this added staff resource will help with timely delivery of projects and assessments.

Overview of Total Requests

In total, the city recommends $4,928,375 in appropriations from fund balance. Additional information can be found in the Mar. 3, 2015 agenda, item 3G, as follows:

- Attachment B – a detailed narrative description of each supplemental request
- Attachment C – a summary table of the supplemental requests by fund
- Attachment D – a schedule reflecting the impact of the supplemental appropriations for 2015 on the projected fund balance for each fund.

PUBLIC FEEDBACK

There were no questions from the public at this meeting.

ATTACHMENTS

A. Ordinance No. 8033 relating to supplemental appropriations to the 2015 Budget
B. 2015 Community Planning work plan graphic

ORDINANCE NO. 8033

AN ORDINANCE RELATING TO THE FINANCIAL AFFAIRS OF THE CITY OF BOULDER, COLORADO, MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING DECEMBER 31, 2015 SETTING FORTH DETAILS IN RELATION TO THE FOREGOING.

WHEREAS, Section 102 of the Charter of the City of Boulder provides that: "At any time after the passage of the annual appropriation ordinance and after at least one week's public notice, the council may transfer unused balances appropriated for one purpose to another purpose, and may by ordinance appropriate available revenues not included in the annual budget;" and

WHEREAS, the City Council now desires to make certain supplemental appropriations for purposes not provided for in the 2015 annual budget; and,

WHEREAS, required public notice has been given;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, that the following amounts are appropriated from additional projected revenues to the listed funds:

Section 1. General Fund

Appropriation from Fund Balance	$142,000

Section 2. Affordable Housing Fund

Appropriation from Fund Balance	$59,000

Section 3. Open Space Fund

Appropriation from Fund Balance	$4,212,375

Section 4. Planning and Development Services Fund

Appropriation from Fund Balance $515,000

Section 5. The City Council finds that this ordinance is necessary to protect the public health, safety, and welfare of the residents of the City and covers matters of local concern.

Section 6. If any part or parts hereof are for any reason held to be invalid, such shall not affect the remaining portion of this ordinance.

Section 7. The Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the Office of the City Clerk for public inspection and acquisition.

INTRODUCED, READ, ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of March, 2015.

_____
Mayor

Attest:

_____
City Clerk

READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of March, 2015.

_____
Mayor

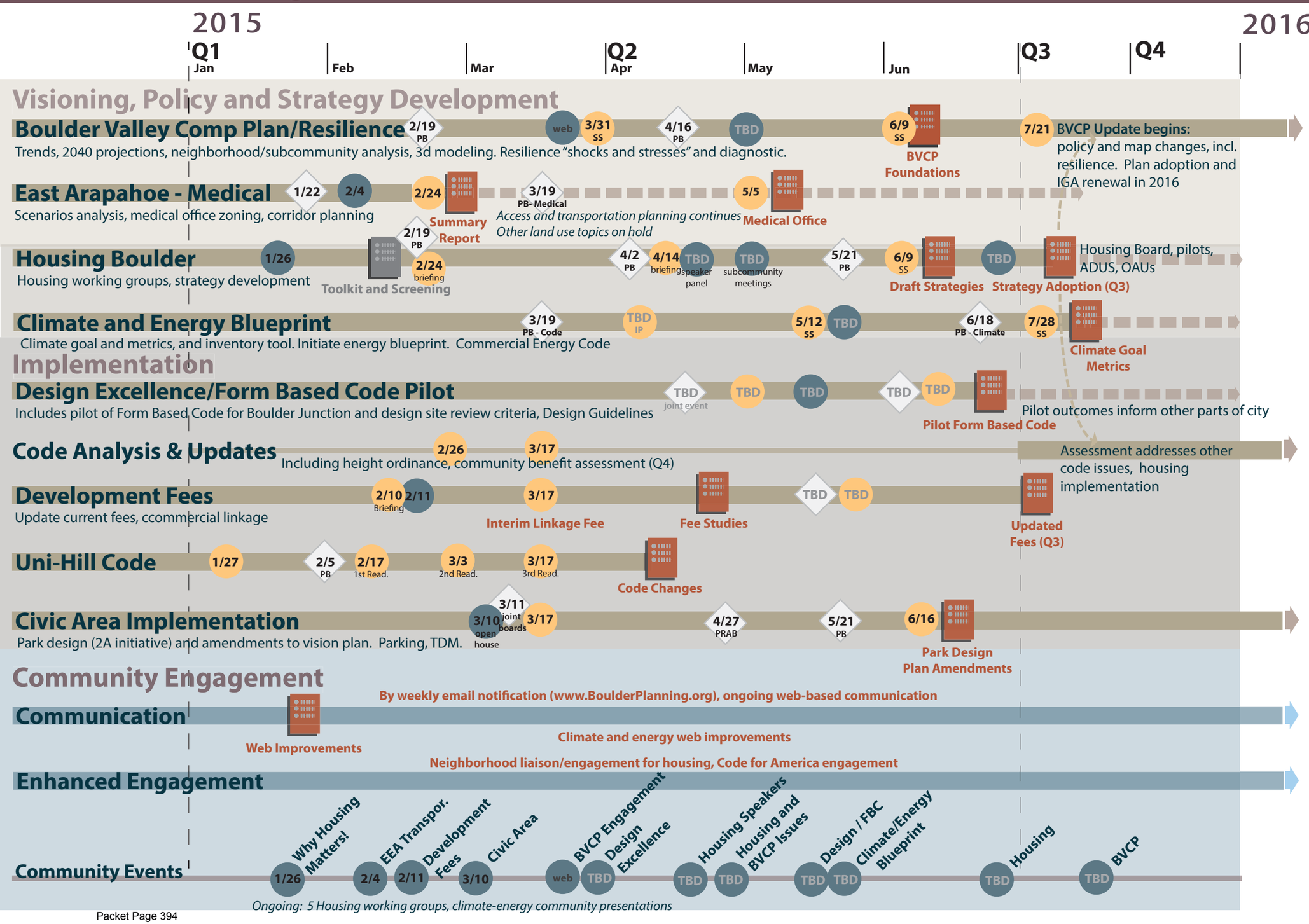
Attest:

_____
City Clerk

City of Boulder

Attachment B: 2015 Community Planning Work Plan Graphic

2015 Planning Timeline - Q1 & Q2



Q1 & Q2 - Proposed Outcomes:

COMMUNICATIONS & ENGAGEMENT

- Web and notification improvements
- Code for America
- Overall community and neighborhood engagement plan
- Climate/Energy Blueprint convenes

VISION, POLICY, STRATEGY

- BVCP foundation work: projections, trends 3d modeling, metrics, RGMS analysis
- East Arapahoe Scenario Analysis/Report
- Housing Toolkit, ideas, screening criteria
- Draft Housing Strategies

IMPLEMENTATION

- Uni-Hill Code Revisions
- Medical Office Zoning (East Arap)
- Form Based Code pilot
- Development fee(s) study, and possible updated fees

OTHER

- Climate inventory

Key

- *City Council*
- *Boards and Commissions*
  PB = Planning Board, BDAB = Design Advisory Board
  PRAB = Parks & Rec, EAB = Environmental,
  TAB = Transportation
- *Community Event*
- *Outcome*

Other planning projects not shown or on separate schedule: Access Management and Parking Strategy (AMPS), TMP Implementation, VRBOs, Chautauqua, Zero Waste

Updated - March 10, 2015

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 17, 2015

AGENDA TITLE: Second reading and consideration of a motion to adopt Ordinance No. 8034 amending the capital facilities impact fee in Section 4-20-62, "and Chapter 8–9, B.R.C. 1981 by the addition of a new affordable housing linkage fee on non-residential development, and setting forth related details.

PRESENTER/S
Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Tom Carr, City Attorney
David Gehr, Deputy City Attorney

EXECUTIVE SUMMARY

The purpose of this item is second reading of an ordinance (**Attachment A**) that would put in place a citywide housing linkage fee based upon the analysis in the 2009 TischlerBise Development Excise Tax Study (*pp. 16-20*). City Council approved first reading of the ordinance on March 3. A housing linkage fee is charged on new non-residential uses to mitigate impacts on the demand for affordable housing created by those uses. The 2009 study is the basis for the existing linkage fee in the DT-5 zoning district, currently only applied to the commercial floor area resulting from the downtown floor area ratio (FAR) bonus for office space. This fee is anticipated to be in place for an interim period until a new comprehensive housing linkage fee study is completed later this year. The impact fee is based on the Boulder Valley Comprehensive Plan (BVCP) goal of ten percent permenantly affordable housing. See BVCP, § 7.02, p. 49 (2010).

Impact fees are assessed at the time of building permit application and paid prior to final inspection. The ordinance has a proposed effective date of July 6, providing a window of time for projects with approved site reviews to apply for building permit without being required to pay the fee. **Attachment B** includes a list of site review approvals that have not yet applied for a building permit. **Attachment C** includes the

city's current Development Excise Tax, Housing Excise Tax and Capital Facility Impact Fee rates.

In addition to action on the housing linkage fee, staff is requesting council feedback on next steps (see "Next Steps section of this memo) for preparing new studies to support a comprehensive update of the city's current impact fees and excise taxes. **Attachment D** includes a memorandum from Carson Bise, president of TischlerBise, as a follow up to his discussion with City Council on February 10 and the community forum on February 11.

STAFF RECOMMENDATION

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

> Motion to adopt Ordinance No. 8034 amending the capital facilities impact fee in Section 4-20-62, "and Chapter 8–9, B.R.C. 1981 by the addition of a new affordable housing linkage fee on non-residential development, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic – The proposed fee would increase the costs of constructing non-residential square footage in the city. It would increase the city's ability to address workforce housing needs.
- Environmental – The fee would not have a direct impact on environmental issues.
- Social – The fee will provide additional funding to the city's affordable housing program, helping to mitigate impacts on the housing needs of lower income persons in the community. It will help non residential development mitigate the impacts that it has on Boulder's permanently affordable housing stock.

OTHER IMPACTS

- Fiscal - This fee would provide more funding for the city's affordable housing program.
- Staff time – Implementation of the fee would be possible within the city's current work plan.

BACKGROUND

Community members have expressed concerns that the economic recovery in the past few years combined with increased housing costs have only further increased the need for low, moderate and middle income housing in the community in addition to impacting city infrastructure.

Additionally, concerns have also been raised about the extent to which development-related fees and taxes are fully implementing the city's policy that "growth pay its own

way." Policy 1.30 *Growth to Pay Fair Share of New Facility Costs* of the Boulder Valley Comprehensive Plan states that "…. Growth will be expected to pay its own way, with the requirement that new development pay the cost of providing needed facilities and an equitable share of services, including affordable housing, and to mitigate negative impacts such as those to the transportation system."

The city contracted with the firm of TischlerBise in 2008 to prepare a Development Excise Tax and Impact Fee study in order to evaluate all of the components of the city's Development Excise Tax and consider potential changes related to impact fees. The impetus for the study was that the Development Excise Tax and Housing Excise Tax were at or near the limits the city could charge based on the ballot item approved by the voters, and the belief was that the level of the excise taxes did not cover the growth-related costs for the services included. While the studies were intended to address issues related to excise taxes, they were completed using impact fee study methods. The study describes the revenue needs of the city that result from new development. For affordable housing, it recommends using a cost per square foot of nonresidential development as an approach to collecting revenue necessary to mitigate the impacts created by new development.

As a result of the 2009 study and council direction:

1. At the beginning of 2010, the city implemented capital facility impact fees and allocated DET capacity to address growth-related costs for fire, human services, library, police, municipal facilities, parks and recreation capital improvements, transportation, and parkland. This was a significant change to the city's development-related tax/ fee structure and, due to concerns about the overall cost increase in fees and taxes (including Plant Investment Fees for the various city utilities), City Council reduced the Education Excise Tax to zero. In addition, City Council approved placing an increase to the Housing Excise Tax (based on the rates in the 2009 study) on the ballot. The ballot item did not pass. A copy of the ballot measure ordinance can be found in **Attachment E**. The vote on the matter was 7,181 (42%) in favor of the measure and 9,780 (58%) opposed.

2. In 2011, City Council amended Section 9-8-1 Table 8-2 "Floor Area Additions" B.R.C. 1981 to allow for floor area additions of up to a maximum of 1.0 for commercial uses in DT-5 zone district and establish a housing linkage fee that would apply to the additional commercial square footage.

The changes implemented in 2010 put in place *impact fees* to fund growth-related capital improvements for a number of city services formerly included in the DET. See Chapter 8-9, "Capital Facilities Impact Fee," B.R.C. 1981. Prior to 2010, the city had in place *excise taxes* approved by the voters in 1998. Impact fees and excise taxes are both used to fund capital improvements and address impacts of new development. An impact fee must be based on a study that establishes the nexus between the impact of development, amount of the fee and how the funds will be spent (see additional information below). An excise tax requires approval by the voters of the proposed tax.

Linkage fee Implementation in the DT-5 Zone District

The base FAR in the DT-5 is 1.7. Prior to 2011, developments in the Downtown could be approved for up to 2.7 FAR (a 1.0 FAR addition) if the additional square footage was for housing (.5) and/or structured parking (.5). In 2011, this "FAR bonus" provision in the code was amended to also allow additional square footage above the 1.7 base FAR for commercial uses. This change also put in place the city's first "linkage fee" for affordable housing, with the floor area addition subject to the established fee. The purpose of the change was to provide the opportunity for "Class A" office space in the downtown where there was very little available, particularly larger office floor plates.

The linkage fee is intended to offset some of the affordable housing impacts that the additional floor area would have on the community. The DT-5 linkage fee is currently set at $9.53 per square foot and has been applied to four downtown developments that have opted to use the commercial FAR bonus. Approximately $875,000 has been collected from the linkage fee into the city's affordable housing program.

Background on Impact Fees

An "impact fee" is a one time fee to fund capital improvements necessitated by new development. Boulder has been using impact fees since as early as the 1950's with the adoption of plant investment fees for water and wastewater under its home rule authority. Colorado law now explicitly authorizes municipalities to impose impact fees to defray the cost of any improvements that are necessary to accommodate new developments and also sets out requirements for the adoption of impact fees including:

1. The fee is for capital facilities needed to serve new development
2. The amount of the fee must be based upon "the reasonable impacts of proposed development on existing capital facilities" and must be assessed at a level no greater than necessary to defray the impacts directly related to the proposed development
3. A "capital facility" is "any improvement or facility that: (a) is directly related to any service that a local government is authorized to provide; (b) has an estimated useful life of five years or longer; and (c) is required by the charter or general policy of a local government pursuant to resolution or ordinance."
4. An impact fee cannot be imposed to remedy any deficiency in capital facilities that exists without regard to the proposed development.
5. The fee needs to be based on a study that quantifies the impacts.
6. The fee needs to be accounted for separately and earmarked for the capital expenses for which they were collected.

The impact fee statute can be found at § 29-20-104.5, C.R.S.

ANALYSIS

Current Impact Fee and Excise Tax Rates
Attachment C includes the city's current tax/fee schedule for the Development Excise Tax (DET), Housing Excise Tax (HET), and Capital Facility Impact Fees.

Implementation of a Housing Linkage Fee Citywide based on the 2009 TischlerBise Study
The following chart shows the rates included in the proposed ordinance, which are based on the 2009 study adjusted for cost increases. The table below includes all of the categories of uses that would be included based on the 2009 study. Please note that for certain uses the fee would be based on demand indicators such as number of rooms, beds or students as opposed to square footage. This would be an interim measure until a new linkage fee study is prepared.

Nonresidential (Floor Area)

	Fee per sq. ft.
Retail/Restaurant	$6.96
Business Park	$7.70
Office	$9.53
Hospital	$8.23
School	$2.24
Mini-Warehouse	$0.09
Warehousing	$3.11
Light Industrial	$5.62

Other Nonresidential

	Fee per Demand Indicator
Nursing Home (per bed)	$877.64
Day Care (per student)	$389.60
Lodging (per room)	$1,072.44

The funds collected would be placed in a dedicated fund and may be used to create additional permanently affordable housing that contributes to achieving the city's goal of increasing the proportion of permanently affordable housing units to an overall goal of at least ten percent of the total housing stock.

Since the fee is assessed at building permit, council members requested information on the standard or threshold for a complete building permit application. Applicants must submit materials that comply with the "Building Permit Submittal Checklist" to be considered complete.

Effective Date of the Ordinance
At the February 3 City Council meeting, council members indicated that, at the time the subject ordinance is brought forward, the appropriate effective date would need to be determined. Considerations identified include: fairness to applicants who have approved site reviews, potential impact to the viability of projects, providing a window of time for

projects to apply for building permit prior to the fee being effective, and past practice when adopting new fee schedules.

Staff has a proposed an effective date in the ordinance of July 6. This provides a four month window from first reading to the fee becoming effective, which would provide adequate time for those currently moving forward with projects to complete Technical Document Review and apply for a permit. The period of time from site review approval to building permit application is highly variable. Following site review approval, a project normally completes Technical Document Review prior to applying for a building permit. The Tec Doc process takes on average two months to complete.

Council members requested additional information on the projects with site review approval that have not yet applied for a building permit, including date of approval. **Attachment B** includes this information. The linkage fee would apply to net new square footage and to a change in use of existing square footage. Therefore, for example, in the case of the Eads/ Golden Buff project, the previously existing hotel rooms and non-residential square footage is credited. The linkage fee put in place at this time would be updated by the new study, with the appropriate fee level established based on updated data and analysis. Of the projects in **Attachment B**, five are currently in the Tec Doc review process.

Fee changes have either been adopted by ordinance as part of the annual budget adoption and then take effect the first business day of the new year or, when adopted through a separate ordinance, usually become effective 30 days after adoption.

In the case of code changes, some more complex amendments such as the compatible development code changes, took effect 90 days after adoption, and the 2012 building codes became effective 120 days after adoption due to concerns around the energy codes.

Non-residential development in recent years
Staff calculated how much revenue would have been collected over the past few years had the city implemented a citywide housing linkage fee at the time the linkage fee was implemented for the FAR bonus in the DT-5 zone in late 2011.

Based on analysis of building permit records, city staff estimates that between November 1, 2011 and the end of 2014, the city would have assessed between $7 and $8 million in fees on approximately one million square feet of new non-residential development. At current subsidy levels this amount would support the creation of 100-120 permanently affordable housing units. This preliminary analysis was based on additional square footage of nonresidential space included in building permit applications from November 2011 through the end of December 2014 (subtracting out the square footage that paid the existing linkage fee and some of the larger projects that had existing buildings on the site). Since the fee varies by type of non-residential use, this is a rough estimate and staff was not able to go back through every permit and verify the specific nature of the use. A more in depth analysis of the uses, square footage by uses, and demolitions would be needed to develop a more refined estimate. Impact fees are assessed on net new square footage and also for change in use.

NEXT STEPS

Preparation of New Studies
A high priority work plan item for 2015 is to contract with firms to prepare the studies necessary to update the city's development-related impact fees and excise taxes. Based on discussions with City Council and the suggestions from Carson Bise of TischlerBise (**Attachment D**), staff is recommending moving forward to issue an RFP that would contain the three main components below, with firms having the ability to bid on all or one or more of the components:

1. Update of the Impact Fee study for all of the components of the Capital Facility Impact Fee and update the Park land component of the Excise Tax Study.
2. Preparation of a study that would calculate a multi-modal impact fee that includes cost components for roads, intersection improvements, bike lanes, trails, transit and other multi-modal improvements based on the city's Transportation Master Plan. Some of the multi-modal infrastructure that could be considered includes first and final mile amenities, technology such as real time information displays, wayfinding, transit stop and station amenities, and potentially transit vehicles if they meet the state impact fee statute requirements to be considered a capital improvement.
3. Preparation of a study that would calculate a citywide housing linkage fee. The study should address the purpose of a linkage fee as it relates to the city's housing goals and objectives, its relationship to other city housing funding sources, and consideration of the need for mitigating impacts to middle income housing. The Housing Boulder initiative will likely result in new housing goals that may inform the impact fee study. Therefore, staff thinks it would be helpful to move forward with the RFP now and request that the consultant provide advice to the city on whether it is advisable to wait until the Housing Strategy is completed to prepare the study itself. Depending on the timing, the selected consultant could potentially provide advice to the city as the Housing Strategy is developed.

Among the issues that will need to be considered as the studies are developed and reviewed will be whether to implement all of the components as impact fees or to retain some of them as excise taxes and ask voters to approve changes to the existing excise taxes. Additionally, the RFP will request that respondents include a proposed process for stakeholder involvement.

ATTACHMENTS

A: Ordinance No. 8034
B: Recently Approved Site Review Projects that have not yet applied for Building Permits
C: City of Boulder current Development Excise Tax (DET), Housing Excise Tax (HET), and Capital Facility Impact Fee
D. Memorandum from TischlerBise
E. Ordinance No. 7679

ORDINANCE NO. 8034

AN ORDINANCE AMENDING THE CAPITAL FACILITIES IMPACT FEE IN CHAPTER 4-20-62, AND CHAPTER 8–9, B.R.C. 1981 BY THE ADDITION OF A NEW AFFORDABLE HOUSING LINKAGE FEE ON NON-RESIDENTIAL DEVELOPMENT, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Table 3 in Subsection 4-20-62(a), B.R.C. 1981, is amended to read:

4-20-62. - Capital Facility Impact Fee.

(a) Impact Fee Rate: No person engaged in nonresidential or residential development in the city shall fail to pay a development impact fee. Fees shall be assessed and collected according to the standards of Chapter 8-9, "Capital Facility Impact Fee," B.R.C. 1981, and the following rates:

. . .

Table 3: Impact Fee Rates for Nonresidential

Nonresidential Uses	Impact Fee Rates Per Square Foot of Nonresidential Floor Area				
	Municipal Facilities	Police	Fire	Affordable Housing	Total
Retail/Restaurant	$0.14	$0.50	$0.40	$6.96	$~~1.04~~8.00
Business Park	$0.17	$0.11	$0.10	$7.70	$~~0.38~~8.08
Office	$0.21	$0.17	$0.59	$9.53	$~~0.97~~10.50
Hospital	$0.18	$0.15	$0.51	$8.23	$~~0.84~~9.07
School	$0.04	$0.08	$0.13	$2.24	$~~0.25~~2.49
Mini-Warehouse	$0.00	$0.02	$0.00	$0.09	$~~0.02~~0.11
Warehousing	$0.07	$0.04	$0.04	$3.11	$~~0.15~~3.26
Light Industrial	$0.12	$0.06	$0.08	$5.62	$~~0.26~~5.88

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Other Nonresidential Uses	Impact Fee Rates for Other Nonresidential Uses Based on Unique Demand Indicators				
	Municipal Facilities	Police	Fire	Affordable Housing	Total
Nursing Home (per bed)	$19.80	$22.00	$53.89	$877.64	$~~95.69~~973.33
Day Care (per student)	$7.70	$19.80	$24.19	$389.60	$~~51.69~~441.29
Lodging (per room)	$24.19	$52.80	$67.10	$1072.44	$~~144.09~~1216.53

(b) Additional Floor Area—Affordable Housing Linkage Fee. Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, permits floor area components above the base floor area in the DT-5 zoning district. No person engaged in nonresidential development that is associated with constructing additional floor area components permitted under the requirements of Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, shall fail to pay a housing linkage fee of $9.53 per sq. ft. for such floor area.

Section 2. Section 8-9-1, B.R.C. 1981, is amended to read:

8-9-1. Purpose and legislative intent.

(a) Purpose: The purpose of this chapter is to charge an impact fee to applicants for nonresidential and residential development in the City to fund capital improvements needed to address demand attributable to new development for police, fire, library, human services, general municipal facilities and parks and recreation. The purpose of this section is to also charge an impact fee to applicants for nonresidential development in the city attributable to new development for affordable housing.

(b) Legislative Intent: The city council recites the following legislative findings and statements of intent that were taken into consideration in the adoption of this chapter:

(1) The fees collected pursuant to this chapter are not intended to fund operation, maintenance or replacement costs or otherwise fund the general costs of government.

(2) The capital facility impact fee applies regardless of the value of the property developed. The capital facility impact fee shall be imposed in addition to the development excise taxes imposed by chapters 3-8 and 3-9 and water, sanitary sewer and storm water and flood management plant investment fees imposed by sections 11-1-52, "Water Plant Investment Fee," 11-2-33, "Wastewater Plant

Investment Fee," and 11-5-11, "Storm Water and Flood Management Utility Plant Investment Fee," B.R.C. 1981, or other fees, taxes or charges of the City.

(3) The capital facility impact fee established in this chapter and section 4-20-62, "Capital Facility Impact Fee," B.R.C. 1981, is based in part on the methodology in the "Development Impact Fee Study" prepared by Tischler-Bise, Fiscal, Economic & Planning Consultants, dated January 8, 2009.

(4) The portion of the capital facility impact fee for affordable housing established in this chapter and section 4-20-62, "Capital Facility Impact Fee," B.R.C. 1981, is based in part on the methodology in the "Development Excise Tax" prepared by Tischler-Bise, Fiscal, Economic & Planning Consultants, dated January 9, 2009. The methodology used in that study is an approach based on the Boulder Valley Comprehensive Plan goal of at least ten percent of the total existing housing stock as permanently affordable housing. The fee is intended to defray the costs of providing permanently affordable housing that is associated with non-residential development.

(~~4~~5) The city council finds that the development impact fee study and this chapter define classifications that are generally applicable to broad classes of property; quantifies the reasonable impacts of proposed development on capital facilities; and establishes charges at a level no greater than necessary to defray such impacts directly related to proposed development.

(~~5~~6) The city council intends that the impact fees collected pursuant to this chapter are to be used to fund expenditures for capital facilities attributable to new development.

Section 3. The definition of "capital facility classification" in Section 8-9-2, B.R.C. 1981, is amended to read:

8-9-2. - Definitions.

Capital facility classification means each separate municipal capital facility area for which the capital facility impact fee is charged, including library, parks and recreation, human services, affordable housing, municipal facilities, police and fire.

Section 4. Section 8-9-5, B.R.C. 1981, is amended to read:

8-9-5. - Capital Facility Impact Fee to be Earmarked.

(a) The city shall establish and maintain an impact fee account for each category of public facility for which an impact fee is imposed. Each such account must be clearly identified as to the category of public facility for which the impact fee has been imposed.

(b) The city shall reflect the historical allocation of the impact fee in each annual budget. The funds collected will be allocated according to the following public facility categories; library, parks and recreation, human services, affordable housing, municipal facilities, police and fire and shall be used exclusively for the purpose of capital improvements related to each particular category.

Section 5. The increase in fees described in this ordinance shall be applied to all building permit applications that are made to the city on or after July 6, 2015.

Section 6. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city, and covers matters of local concern.

Section 7. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 3rd day of March, 2015.

.

_____
Mayor

Attest:

_____
City Clerk

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READ ON SECOND READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 17th day of March, 2015.

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_____
Mayor

Attest:

_____
City Clerk

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Recently Approved Site Review Projects that have not yet applied for Building Permits

Project	Use	Pre-existing non-residential	Total non residential SF	Net new non-residential	Site Review Approval Date	Estimated Fees
1725 28th (Eads / Golden Buff)	Hotels, Office & Retail	112-room Golden Buff Lodge (demolished), 10,625 sf restaurant (approximate) and 1,380 sf Eads building	375 hotel rooms, 42,900 office, retail	263 rooms, 30,895 sf office and retail	Feb. 19, 2013	$536,781
1750 14th (James Travel)	Residential & Office	10,379 sf	20,600 sf office	10,221 sf	Nov.3, 2014	$97,406
2655 N. 63rd (Western Disposal)	Industrial	0 sf	110,000 sf	110,000 sf	Oct. 18, 2014	$618,200
2550 Canyon (Residence Inn)	Hotel	5,818 sf (demolished)	163 hotel rooms	163 hotel rooms	Sept. 29, 2014	$134,314
5675 Arapahoe (Flatirons Storage)	Self Service and Climate Controlled Storage	18,898 sf	187,000 sf	168,102 sf	Jan. 5, 2015	$0
2930 Pearl (Pearl Place: Google)	Office	61,000 sf (to be demolished)	330,000 sf	269,000 sf Phase I = 147,567 sf Phase II = 121,433 sf	Jan.5, 2015	Phase I = $1,406,314 Phase II = 1,157,256
2880 Wilderness (Boulder Beer Expansion)	Brewery	15,022 sf	16,599 sf	1,577 sf	Dec. 12, 2014	$9,919
1215 Cedar (Washington Village II)	Attached & Detached Dwelling Units with Office	29,016 sf school (10,624 sf converted to residential/18,392 sf demolished)	2,650 sf office	2,650 sf	April 3, 2014	$25,255
3365 Diagonal (Kum & Go)	Gas Station & Convenience Store	2980 sf (to be demolished)	4,992 sf	2,012 sf	June 23, 2014	$14,004
2200 Broadway (Trinity Commons)	Residential, Community Meeting Space and Office	0 sf	5,015 meeting space and office	5,015 sf	June 3, 2014	$47,793

EXCISE TAXES

Section 3-8-3, and Section 3-9-2

Development Excise Taxes fund the cost of future capital improvements. The Housing Excise Tax was established to promote the development and provision of housing in the city that is affordable to low-income people.

Development and Housing Excise Taxes are assessed on new residential and nonresidential development and nonresidential additions. Excise taxes are paid prior to final inspection for new construction, or at the time of permit issuance for all other types of construction. The tax rate in effect at the time of application applies.

Tax Name	Nonresidential	Residential	
	Per Square Foot	*Per Detached Dwelling Unit*	*Per Attached Dwelling Unit or Mobile Home*
Development Excise Tax			
Park Land	N/A	$1,144.84	$795.98
Transportation	$2.48	$2,226.93	$1,650.29
Total	$2.48	$3,371.77	$2,446.27
Housing Excise Tax	$0.51	$0.23 per square foot	$0.23 per square foot

CAPITAL FACILITY IMPACT FEES

Section 4-20-62

Capital facility impact fees will be collected for capital improvements to serve new development. Residential development will be charged impact fees based on unit size. Residential additions will be charged on net additional square footage. Non-residential development will be charged impact fees based on square footage by type of use. Redevelopment will be charged for net new square footage and a change of use. Capital facility impact fees are paid prior to final inspection for new construction, or at the time of permit issuance for all other types of construction. The tax rate in effect at the time of application applies.

Impact Fee Rates for Single Family Residential per Dwelling Unit

Square Feet	*Library*	*Parks & Recreation*	*Human Services*	*Municipal Facilities*	*Police*	*Fire*	*TOTAL*
900 or less	$218	$1,489	$70	$133	$139	$99	$2,148
901-1000	$252	$1,728	$80	$154	$162	$115	$2,491
1001-1100	$282	$1,935	$91	$172	$182	$127	$2,789
1101-1200	$310	$2,126	$100	$189	$199	$140	$3,064
1201-1300	$335	$2,301	$109	$205	$216	$154	$3,320
1301-1400	$359	$2,463	$116	$219	$231	$163	$3,551
1401-1500	$382	$2,616	$123	$232	$244	$173	$3,770
1501-1600	$402	$2,758	$130	$247	$258	$183	$3,978

Impact Fee Rates for Single Family Residential per Dwelling Unit (con't)

Square Feet	Library	Parks & Recreation	Human Services	Municipal Facilities	Police	Fire	TOTAL
1601-1700	$421	$2,893	$136	$257	$271	$191	$4,169
1701-1800	$442	$3,017	$141	$268	$282	$200	$4,350
1801-1900	$458	$3,135	$148	$279	$294	$209	$4,523
1901-2000	$474	$3,248	$154	$289	$304	$216	$4,685
2001-2100	$489	$3,354	$158	$298	$313	$222	$4,834
2101-2200	$505	$3,457	$163	$308	$325	$229	$4,987
2201-2300	$519	$3,554	$167	$315	$333	$235	$5,123
2301-2400	$533	$3,649	$172	$326	$343	$241	$5,264
2401-2500	$545	$3,738	$176	$333	$350	$249	$5,391
2501-2600	$559	$3,824	$181	$341	$357	$254	$5,516
2601-2700	$570	$3,906	$185	$348	$366	$259	$5,634
2701-2800	$582	$3,986	$188	$354	$374	$265	$5,749
2801-2900	$593	$4,064	$191	$361	$381	$270	$5,860
2901-3000	$604	$4,138	$194	$368	$388	$275	$5,967
3001-3100	$614	$4,208	$197	$375	$394	$280	$6,068
3101-3200	$625	$4,279	$201	$381	$401	$285	$6,172
3201-3300	$635	$4,346	$205	$388	$408	$289	$6,271
3301-3400	$645	$4,413	$209	$393	$414	$294	$6,368
3401-3500	$653	$4,476	$212	$399	$419	$297	$6,456
3501-3600	$663	$4,538	$215	$405	$424	$301	$6,546
3601-3700	$673	$4,598	$217	$409	$429	$304	$6,630

Impact Fee Rates for Multifamily Residential per Dwelling Unit

Square Feet	Library	Parks & Recreation	Human Services	Municipal Facilities	Police	Fire	TOTAL
600 or less	$229	$1,573	$73	$139	$148	$171	$2,333
601-700	$278	$1,904	$90	$168	$179	$207	$2,826
701-800	$319	$2,192	$103	$194	$205	$238	$3,251
801-900	$356	$2,445	$116	$218	$229	$267	$3,631
901-1000	$390	$2,671	$125	$237	$251	$291	$3,965
1001-1100	$419	$2,875	$136	$256	$270	$313	$4,269
1101-1200	$448	$3,062	$143	$273	$287	$334	$4,547
1201-1300	$473	$3,234	$152	$288	$302	$353	$4,802
1301-1400	$494	$3,394	$160	$302	$318	$370	$5,038
1401-1500	$517	$3,543	$166	$314	$332	$388	$5,260
1501-1600	$537	$3,680	$173	$328	$345	$402	$5,465

Impact Fee Rates for Nonresidential

		Impact Fee Rates Per Square Foot of Nonresidential Floor Area			
		Municipal Facilities	***Police***	***Fire***	***TOTAL***
Nonresidential Uses	Retail / Restaurant	$0.14	$0.50	$0.40	$1.04
	Business Park	$0.17	$0.11	$0.10	$0.38
	Office	$0.21	$0.17	$0.59	$0.97
	Hospital	$0.18	$0.15	$0.51	$0.84
	School	$0.04	$0.08	$0.13	$0.25
	Mini-Warehouse	$0.00	$0.02	$0.00	$0.02
	Warehousing	$0.07	$0.04	$0.04	$0.15
	Light Industrial	$0.12	$0.06	$0.08	$0.26
		Impact Fee Rates for Other Nonresidential Uses Based on Unique Demand Indicators			
		Municipal Facilities	***Police***	***Fire***	***TOTAL***
Other Nonresidential Uses	Nursing Home (per bed)	$19.80	$22.00	$53.89	$95.69
	Day Care (per student)	$7.70	$19.80	$24.19	$51.69
	Lodging (per room)	$24.19	$52.80	$67.10	$144.09

Affordable Housing Linkage Fee (DT-5 nonresidential density bonus only) Nonresidential developments in the DT-5 zoning district that receive a density bonus (additional floor area) are assessed an affordable housing linkage fee of **$9.53** per square foot for the bonus floor area. This fee is due prior to the issuance of a building permit.

TischlerBise
Fiscal, Economic & Planning Consultants

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80 ANNANDALE ROAD | PASADENA, CA 91105-1404
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MEMORANDUM

TO: Susan Richstone, Deputy Director of Community Planning and Sustainability
City of Boulder, Colorado

FROM: Carson Bise, AICP
TischlerBise, Inc.

DATE: February 26, 2015

SUBJECT: Follow Up and Suggested Next Steps from Public Meetings

The purpose of this memorandum is to summarize my thoughts on the direction the City of Boulder should take in reference to pursuing various fee study updates. These thoughts are based on my interaction with Boulder City Council, city staff, and members of the public who attended the Community Forum on Paying for Growth. Areas of analysis are discussed in turn.

IMPACT FEE STUDY UPDATE

The City of Boulder currently collects impact fees for libraries, human services, parks and recreation, municipal services, police and fire. Transportation, park land and affordable housing are structured as Excise Taxes. It has been seven years since the City of Boulder's Impact Fee and Excise Tax Study was updated. In the years between the last update and now, there has been tremendous change, not only in the economic climate facing the nation and the City of Boulder, but also City's interest in further exploring issues related to ensuring the mitigation of the impacts of new development.

For example, in the seven years that have passed since the last Impact Fee and Excise Study process, the local economy and the City's budgetary/financial position have improved dramatically, as have the amount and type of development pressures the City is currently experiencing. Both of these factors are compelling reasons for an update to the Impact Fee and Excise Tax Study, as the methodologies should reflect the current development base, current projections of future development for the next five to ten years, planned capital improvements, as well as current funding arrangements.

Transportation Impact Fee

The City of Boulder currently collects an excise tax for transportation, rather than an impact fee. As discussed during my presentation to the City Council, an excise tax is primarily a revenue raising tool, whereas an impact fee is a land use regulation intended to fund growth-related infrastructure. Regardless of whether the City elects to continue with an excise tax in the future, or switch to an

impact fee, the methodology used should reflect the current thinking related to transportation in an urban, redevelopment setting that the City of Boulder operates within. Current transportation planning thought recognizes that significant national demographics changes, shifting market preferences for walkable urbanism, and the importance of place making are compelling local governments to encourage redevelopment in urban and suburban centers where there is existing infrastructure capacity. On average, urban residential development has fewer persons and vehicles available per unit, relative to suburban residential development; thus lowering vehicular trip generation rates. Urban settings also provide options for walking, biking, and transit travel, thus lowering the vehicular mode share. Finally, mixed land use (vertical and horizontal), more compact development, and a better jobs-housing balance work together to reduce average trip lengths in urban areas.

As shown in the table below, traditional, transportation impact fees were designed with a suburban worldview and designed to increase capacity for vehicle travel. Traditional impact fees are typically uniform across the entire jurisdiction, are driven by generic formulas, tend to focus on 20-year master plans or build-out guesstimates, and are designed to fund infrastructure that will move vehicles.

In contrast, the basis of "next-generation" transportation impact fees is the recognition that impact fees can actually function like a land-use regulation to help shape development patterns. Planning and policy objectives drive next-generation transportation impact fees, which vary geographically to reflect cost differences, and are intended to move people rather than vehicles alone. The evidence is very compelling that next-generation transportation fees must differentiate between urban and suburban areas.

Traditional Impact Fees	***Next Generation Impact Fees***
"pay to play" revenue source	contractual arrangement to build improvements
driven by generic formulas	driven by plans and policy
long range to buildout	five to ten year planning horizon
one and done	ongoing planning and budgeting process
suburban focus	apply transect concept
uniform across jurisdiction	vary geographically
moving vehicles	moving people
vehicle trips	inbound vehicle miles of travel
one size fits all	residential by dwelling size
loose cost analysis and generous credits	specific improvements with a funding strategy

Source: TischlerBise.

In calculating a “next generation” impact fee for the City of Boulder, TischlerBise strongly believes that the goal should be to calculate a multi-modal impact fee that includes costs components not only for any needed road capacity and intersection improvements, but also bike lanes, sidewalks, trails, transit

and other multi-modal improvements. The city's updated Transportation Master Plan provides the foundation for this next generation fee.

COMMERCIAL LINKAGE FEE

From conversations with City staff and Council members there seems to be significant interest in establishing a commercial linkage fee as way to ensure new development's impact on the needs for affordable housing are met. As part of TischlerBise's 2008 Impact Fee and Excise Tax Study a housing Excise Tax methodology was developed. The council referred a measure to the voters, which was ultimately defeated.

The City more recently adopted a linkage fee, using the methodology developed by TischlerBise, for projects to get additional floor area the Downtown. Prior to the adoption of the linkage fee downtown, only housing was eligible to receive the additional floor area. Additionally, at an upcoming City Council meeting City will consider implementing the 2008 Housing Excise Tax amount calculated by TischlerBise as a linkage fee, on a Citywide basis, as an interim measure, until an updated commercial linkage fee methodology can be calculated. The methodology used in the 2008 housing Excise Tax Study was similar to the approach used for the calculation of impact fees. The housing linkage fee was based on the goal that the City maintains at least ten percent of its existing housing stock as permanently affordable housing. The approach in the 2008 study was a plan based impact fee methodology that would charge new nonresidential development only for the cost of its projected impact on provision of affordable housing due to growth. The costs in the 2008 study reflect new growth's share of the City's anticipated costs to provide affordable housing. Any existing deficiencies in affordable housing in the City were anticipated to be addressed through other regulatory approaches and/or financial sources.

This interim linkage fee should be adequate in the short term. However, given the changes in the economy discussed previously, particularly as it relates to housing costs, salaries by industry, as well as the need to integrate a commercial linkage fee into the City's overall Housing Strategy, an updated linkage fee study should be prepared. An issue of paramount importance is revisiting the purpose of a linkage as it relates to goals and objectives related to housing, including the consideration of the need for mitigating impacts to middle income housing.

Please let me know if you have any questions about this memorandum.

ORDINANCE NO. 7679

AN ORDINANCE SUBMITTING A BALLOT ISSUE TO THE VOTERS AT THE TUESDAY, NOVEMBER 3, 2009 ELECTION, INCREASING THE HOUSING EXCISE TAX ON NEW DEVELOPMENT, OTHER THAN ON RESIDENTIAL DWELLING UNIT DEVELOPMENT, TO PROVIDE AFFORDABLE HOUSING FOR PEOPLE WITH LOW INCOMES; REPEALING PORTIONS OF THE EXISTING HOUSING EXCISE TAX ON RESIDENTIAL DEVELOPMENT; AND SETTING FORTH RELATED DETAILS.

The City Council finds and recites that:

A. In 1998 the voters approved a Housing Excise Tax to raise money for the provision of affordable housing for people who live and work in the city.

B. A diverse housing stock is necessary in this community in order to serve people of all income levels and to provide the opportunity for working people to have better access to jobs and upgrade their economic status.

C. A housing shortage for persons of very low-, low- and moderate-income is detrimental to the public health, safety and welfare. The inability of such persons to reside within the city negatively affects the community's jobs/housing balance and has serious and detrimental transportation and environmental consequences.

D. The Housing Excise Tax has historically been levied on development of new residential dwelling units. The city's inclusionary zoning regulations, reflected in chapter 9-13 of the Boulder Revised Code, also apply to that development.

E. Imposing the Housing Excise Tax on development other than residential dwelling unit development is appropriate because both residential and non-residential development generate jobs and the need for very low-, low-, and moderate-income housing in the city. However, residential dwelling unit development already contributes to the provision of affordable housing through the inclusionary zoning regulations.

F. If the voters approve this ordinance, the tax rates set forth herein will become the maximum Housing Excise Tax rates for new development other than residential dwelling unit development, and the current Housing Excise Tax on new residential dwelling units will be eliminated.

G. The purpose of this ordinance is to shift the tax burden from new residential dwelling units to other categories of new development.

H. If the voters approve this ballot measure, the City Council will be authorized to adopt such laws as are necessary to further the purposes of this ordinance.

I. It is appropriate for voters to approve collection, retention and expenditure of the full amount collected from the Housing Excise Tax.

J. The increased revenue that will be generated for affordable housing is necessary for the continued provision of critically important housing within the city.

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

Section 1. A general municipal coordinated election will be held in the city of Boulder, county of Boulder and state of Colorado, on Tuesday, November 3, 2009, between the hours of 7 a.m. and 7 p.m.

Section 2. At that election, there shall be submitted to the electors of the city of Boulder entitled by law to vote the question of whether to authorize an increase in the Housing Excise Tax; repeal a portion of the existing Housing Excise Tax; and collect, retain and spend the revenues generated from such tax notwithstanding any state revenue or expenditure limitations, pursuant to an ordinance consistent with the ballot question to be adopted by City Council.

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

BALLOT ISSUE NO. _____

CHANGES TO HOUSING EXCISE TAX

SHALL CITY OF BOULDER HOUSING EXCISE TAXES BE INCREASED FOR NEW DEVELOPMENT TO PRODUCE APPROXIMATELY $1,250,000 (IN THE FIRST YEAR) ANNUALLY; AND

PURSUANT TO ORDINANCE NUMBER 7679 AND FUTURE CITY COUNCIL ACTION:

SHALL THE PURPOSE OF THIS MEASURE BE TO SHIFT THE TAX BURDEN FROM NEW RESIDENTIAL DWELLING UNITS TO OTHER CATEGORIES OF NEW DEVELOPMENT; AND

SHALL THE EXISTING HOUSING EXCISE TAX BE ELIMINATED ON RESIDENTIAL DWELLING UNITS; AND

SHALL THE HOUSING EXCISE TAX ON NEW DEVELOPMENT OTHER THAN RESIDENTIAL DWELLING UNITS BE RAISED TO BETWEEN $3.00 AND $7.00 PER SQUARE FOOT BASED UPON THE FOLLOWING LAND USE CLASSIFICATIONS:

- COMMERCIAL USES
- INDUSTRIAL AND GENERAL NON RESIDENTIAL USES
- INSTITUTIONAL USES; AND

SHALL THE CITY COUNCIL BE AUTHORIZED TO PHASE IN THE NEW TAX RATES OVER FIVE YEARS OR MORE AND MAKE THE TAX SUBJECT TO AN ANNUAL INCREASE BEGINNING IN 2015 BASED UPON AN INDEX RELATED TO THE COST OF PRODUCING HOUSING IN THE AREA; AND

SHALL THE CITY COUNCIL BE AUTHORIZED TO REDUCE OR WAIVE ANY PORTION OF THE HOUSING EXCISE TAX WHEN DETERMINED TO BE IN THE PUBLIC INTEREST; AND

SHALL APPROVAL BE GRANTED FOR THE COLLECTION, RETENTION AND EXPENDITURE OF ALL REVENUES RECEIVED FROM SUCH TAX NOTWITHSTANDING ANY STATE REVENUE OR EXPENDITURE LIMITATION?

FOR THE MEASURE ____ AGAINST THE MEASURE ____

Section 3. The City Council will amend chapter 3-9 "Housing Excise Tax," B.R.C. 1981, as soon as practical after the passage of this measure to include the following elements:

1. The existing Housing Excise Tax on residential development shall be eliminated;
2. The Housing Excise Tax as approved by the voters may be imposed on all new development other than residential dwelling unit development;
3. The tax rates shall be phased in between January 1, 2010 and December 31, 2014, up to the amounts listed, or in such lesser amount or over such longer period as may be determined by the City Council;
4. The Housing Excise Tax rates may be increased by application of an index related to the cost of producing housing in the area applied to the maximum rate each year commencing in 2015;
5. The procedures by which the taxes will be assessed and collected;
6. Definitions of the taxation categories and other terms will be provided;
7. The Housing Excise Tax may be reduced or waived by City Council when determined to be in the public interest;
8. Credit offsets may be provided for uses in place prior to the assessment of the new Housing Excise Tax provisions.

Section 4. The maximum tax rate for 2010-2014 for new development other than residential dwelling unit development shall be the following amounts for the following categories assessed on a per square foot of floor area basis:

Commercial	$7.00
Industrial and General Non-Residential	$5.00
Institutional	$3.00

Section 5. If a majority of all the votes cast at the election on the measure submitted shall be for the measure, the City Council shall be authorized to amend the Boulder Revised Code and to adopt such other ordinances as may be necessary to implement the intent and purpose of this ordinance.

Section 6. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 8. This ordinance is necessary to protect the public health, safety and welfare of the residents of the city, and covers matters of local concern.

Section 9. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 21st day of July 2009.

Mayor

Attest:

City Clerk on behalf of the
Director of Finance and Record

READ ON SECOND READING, AMENDED AND ORDERED PUBLISHED BY TITLE ONLY this 4th day of August 2009.

Mayor

Attest:

City Clerk on behalf of the
Director of Finance and Record

READ ON THIRD READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of August 2009.

Mayor

Attest:

City Clerk on behalf of the
Director of Finance and Record

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: March 17, 2015

AGENDA TITLE
2015 Annual Appointments to Boards and Commissions

PRESENTERS
Jane S. Brautigam, City Manager
Patrick von Keyserling, Communications Director
Alisa D. Lewis, City Clerk and Director of Support Services
Dianne Marshall, Acting Deputy City Clerk

Executive Summary
Staff is requesting that Council make appointments to the City of Boulder Boards and Commissions for the 2015 Annual Boards and Commissions recruitment.

Attachment A is an excerpt from the BRC, 1981 Title II, Appendix – Council Procedure, IX – Nominations and Elections, outlining the process for nominating and appointing board and commission members.

List of Appointments

Arts Commission	Appoint one new member to fill a vacancy ending March 31, 2020.
Boulder Design Advisory Board	Appoint two new members (both design professionals) one to a five-year term through March 2020 and one to a three-year term through March 2018.
Boulder Junction Access District – Parking Commission	Appoint one new member for a five-year term through March 2020.
Boulder Junction Access District – Travel Demand Management (TDM) Commission	Appoint one new member for a five-year term through March 2020.

Beverages Licensing Authority	Appoint one new member for a five-year term through March 2020.
Board of Zoning Adjustment	Appoint one new member to a five-year term through March 2020.
Boulder Urban Renewal Authority	Ratify one Mayoral appointment to a five-year term through March 2020.
Colorado Chautauqua Association	Appoint one new member (city appointee) to a three-year term through March 2018.
Downtown Management Commission	Appoint one new member (property representative) to a five-year term through March 2020.
Environmental Advisory Board	Appoint one new member to a five-year term through March 2020.
Housing Authority	Ratify a Mayoral appointment to a five-year term through March 2020.
Human Relations Commission	Appoint one new member to a five-year term through March 2020.
Landmarks Board	Appoint one new member (architect/planner) to a five-year term through March 2020.
Library Commission	Appoint one new member to a five-year term through March 2020.
Open Space Board of Trustees	Appoint one new member to a five-year term through March 2020.
Planning Board	Appoint one new member to a five-year term through March 2020.
Parks and Recreation Advisory Board	Appoint two new members to five-year terms through March 2020.
Transportation Advisory Board	Appoint one new member to a five-year term through March 2020.

University Hill Commercial Area Management Commission	Appoint one new member to a five-year term through March 2020.
Water Resources Advisory Board	Appoint one new member to a five-year term through March 2020.

MATTERS TO CONSIDER IN MAKING APPOINTMENTS

The following people currently hold seats that are set to expire March 31, 2015, and are seeking reappointment.

Mara Abbott	Currently on EAB but has applied for TAB
Michelle Estrella	Currently on PRAB but has applied for OSBT
Edward Vincent Clancy	Reapplying for WRAB
Tim McMurray	Reapplying for BLA
Nikhil Mankekar	Reapplying for HRC
Tom Isaacson	Reapplying for OSBT
Bryan Bowen	Reapplying for Planning Board
Jessica Yates	Currently on TAB but has applied for OSBT

Applicants who have applied to more than one board.

Catherine Hunziker	Boulder Junction – Parking Boulder Junction – Travel Demand
Sarah Hutson	Human Relations Commission Parks and Recreation Advisory Board
Joel Koenig	Library Commission Open Space Board of Trustees
Jordan Mann	Boulder Junction – Parking Environmental Advisory Board
Mary Mesch	Colorado Chautauqua Housing Authority

Tony Smith	Boulder Urban Renewal Authority Housing Authority
Thomas Wells	Boulder Junction – Travel Demand Environmental Advisory Board Transportation Advisory Board

Attachment A – Process for B&C Nominations and Appointments
Attachment B – List of Applicants

BRC, 1981 – Title II, Chapter 1, Addendum

IX. - Nominations and Elections

The mayor and mayor pro tem shall be selected in the following manner:

A. On the second Tuesday in November, of every odd-numbered year, at 6:00 p.m. council members and council members elect shall gather in council chambers for the purpose of expressing interest in nomination for mayor and/or mayor pro tem for the new council. The mayor shall chair the meeting. Any council member with an unexpired term or council member elect may express his or her interest in serving as mayor or mayor pro tem. Any person expressing an interest shall make a speech regarding his or her qualifications for either or both positions. Each candidate shall make only one speech regardless of whether the council member is seeking either position or both positions. No speech shall exceed five minutes in length.

B. The council meeting convened pursuant to Charter Section 9, on the third Tuesday in November of odd-numbered years, shall be chaired by the council member with the most consecutive years of service on the council who did not express an interest in serving as mayor or mayor pro tem at the meeting on the second Tuesday in November. If there is more than one council member with the most consecutive years of service on council not seeking to be elected mayor or mayor pro tem, the city clerk shall place the names of each such council member in a container and select one who shall preside at the convening meeting.

C. In the interest of transparency and public participation, after the new council members are sworn in pursuant to Section 9 of the Charter, the meeting convened at 10:00 a.m. on the third Tuesday in November shall be continued until 6:00 p.m. At that time, the council shall hold a public hearing on the selection of the mayor and mayor pro tem.

D. The mayor pro tem shall serve for a period of one year. In even numbered years, council members interested in serving as mayor pro tem shall express interest and speak to their qualifications at the first meeting in November. In even numbered years, nominations and election for the mayor pro tem shall be held at the second meeting in November.

E. Nominations. At the conclusion of public testimony, council will consider nominations for mayor and mayor pro tem. Any council member may nominate anyone that expressed an interest and made a speech at the second Tuesday in November, including himself or herself, for either position. Provided, however, that the requirement of prior expression of interest shall be waived for any council member whose election was not decided before the second Tuesday in November. Nominations for mayor and acting mayor (generally referred to as mayor pro tem) are made orally. No second is required, but the consent of the nominee should have been obtained in advance. Any person so nominated may at this time withdraw his or her name from nomination. Silence by the nominee shall be interpreted as acceptance of candidacy.

F. Order of Vote. A motion then is made and seconded to close the nominations and acted on as any motion. The voting is accomplished by raising of hands unless there is only one nomination and a unanimous vote for the candidate. The names shall be called in alphabetical order or reverse alphabetical order depending upon a flip of a coin by the clerk, who shall thereafter alternate the order for all further election ballots during the same meeting.

G. Ballots. If it is the desire of the council to use paper ballots rather than a voice vote, such a procedure is proper. However, since there is no provision for a secret vote, each ballot must be signed by the council member casting the vote.

H. Elimination Process. If any of the candidates nominated receives five votes on the first ballot, such person is declared elected. If none of the candidates receives five votes on the first ballot, the candidate (plus ties) receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. If this elimination would leave one candidate or less for the office, another vote is taken, and once again the candidate (plus ties)

receiving the lowest number of votes is dropped as a candidate unless this elimination would leave one candidate or less for the office. In the event that one candidate or less is left for the office after the second vote, a flip of a coin shall be used in order to eliminate all but two candidates for the office.

I. Impasse Process. In the event that neither of the two final candidates receives five votes on the first ballot on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives such a majority vote, the meeting shall be adjourned for a period not to exceed twenty-four hours, and new nominations and new ballots shall be taken. If no candidate receives five votes on the first ballot at the adjourned meeting on which there are only two candidates, another vote shall be taken. If no candidate receives five votes on the second such ballot, the candidate who receives the votes of a majority of the council members present shall be declared elected. If no candidate receives a majority vote on the second such ballot at the adjourned meeting, a flip of a coin shall be used to determine which of the two final candidates shall be declared elected as mayor or mayor pro tem.

J. Appointment of Board Alternates. In the event that the Boulder Revised Code provides for the appointment of temporary alternate board members, such members shall be appointed as follows: The most recently departed member of the board needing a temporary alternate, who is eligible and able to serve, shall be appointed. In the event that more than one member departed at the same time, alternates shall be chosen in reverse alphabetical order, with appointments alternating between the eligible and able former members who departed at the same time. In the event that the most recently departed member is not eligible or able to serve, the next previously departed member shall be chosen, applying the procedure above if there is more than one potential appointee. No person shall be eligible for a temporary alternate appointment if he or she was removed from the board by the council. A temporary alternate shall be appointed only when a member's absence either results in the lack of a quorum or may prevent the board from taking action. No person appointed as a temporary alternate shall serve at two consecutive meetings of the board to which he or she is appointed unless it is necessary to complete an agenda item that has been continued to another meeting.

K. Boards and Commissions. Elections to fill positions on boards or commissions shall be conducted in the same manner. However, a majority of the council members present rather than a majority of the full council is sufficient to decide an election of this nature. Each board or commission vacancy shall be voted on separately.

L. Advertising of Vacancies After Partial Terms. Prior to advertising board and commission vacancies, when a person has already served on the board or commission and is seeking reappointment, council should make the decision of whether or not to advertise that particular vacancy.

Applicant List

Arts Commission Applicants

Tamil Maldonado Vega
2995 Glenwood Drive
Boulder, CO 80301
Occupation: Director, Barrio E'

Carolanne McKirnan
930 Grant Place
Boulder, CO 80302
Occupation: Artist

Jeptha Sheene
4151 Westcliffe Court
Boulder, CO 80301
Occupation: Realtor

Lisa Widdekind
33 South Boulder Circle
Boulder, CO 80303
Occupation: Emergency Management Program Coordina

Belgin Yucelen
3271 Wright Avenue
Boulder, CO 80301
Occupation: Artist

Applicant List

Beverages Licensing Authority Applicants

Robert Baile
4849 Kellogg Circle
Boulder, CO 80303
Occupation: Owner, Twisted Pine Brewery Company

Matthew Califano
1099 Marine Street
Boulder, CO 80302
Occupation: Event Planner, University of Colorado

Alyssa Lundgren
#8
540 Mohawk Drive
Boulder, CO 80303
Occupation: Director of Marketing, Brand and PR

Timothy McMurray
3335 25th Street
Boulder, CO 80304
Occupation: Restaurant Proprietor

Applicant List

Board of Zoning Adjustment Applicants

Jill Grano
2990 19th Street
Boulder, CO 80304
Occupation: Real Estate Broker

Tony Smith
2820 North 7th Street
Boulder, CO 80304
Occupation: Licensed General Contractor, Building Contr

Applicant List

Boulder Design Advisory Board Applicants

Jim Baily
3050 Vassar Drive
Boulder, CO 80305
Occupation: Retired - CU/Boulder - Campus Planer

Barbara Bronk
770 Locust Ave
Boulder, CO 80304
Occupation: Interior Designer

Hans Cerny
1225 Hartford Drive
Boulder, CO 80305
Occupation: Architect

David McInerney
Apt. B
3540 Broadway
Boulder, CO 80304-1855
Occupation: Landscape Architect/Urban & Environmental

Applicant List

Boulder Junction Access District - Parking Commission Applicants

Catherine Hunziker
#103
3100 Carbon Place
Boulder, CO 80301
Occupation: WishGarden Herbs, Inc. - Entrepreneur, prof

Jordan Mann
744 Marine Street
Boulder, CO 80303
Occupation: Navigant Consulting - Energy Efficiency Engi

Applicant List

Boulder Junction Access District - Travel Demand Management (TDM) Commission Applicants

Rita Bowman
#158
3003 Valmont Roade
Boulder, CO 80301-2148
Occupation: Psychotherapist

Andrew Bush
2345 Bluff Street
Boulder, CO 80304
Occupation:

Catherine Hunziker
#103
3100 Carbon Place
Boulder, CO 80301
Occupation: WishGarden Herbs, Inc. - Entrepreneur, prof

Alex Hyde-Wright
710 37th Street
Boulder, CO 80303
Occupation: Boulder County - Transportation Planner

Lincoln Miller
744 Marine Street
Boulder, CO 80302
Occupation: Boulder Housing Coalition - Affordable Housi

Thomas Wells
Unit 10
1830 22nd Street
Boulder, CO 80302
Occupation: Navigant Consulting - Energy Engineer

Applicant List

Boulder Urban Renewal Authority Applicants

Ross Meyer
#208
3061 29th Street
Boulder, CO 80301
Occupation: Small Business Owner, Health & Fitness

Dan Powers
885 Orman Drive
Boulder, CO 80303
Occupation: Non Profit Director

Tony Smith
2820 North 7th Street
Boulder, CO 80304
Occupation: Licensed General Contractor, Building Contr

Applicant List

Colorado Chautauqua Association Applicants

Rona Cantor
2333 Keystone Court
Boulder, CO 80304
Occupation: Retired/Office Mgr, Boulder Arts Academy

Mary Mesch
1090 Orange Place
Boulder, CO 80304
Occupation: Self-Employed Mediator

Thomas Thorpe
3815 Newport Lane
Boulder, CO 80304
Occupation: Architect (semi-retired) and Historic Building

Applicant List

Downtown Management Commission Applicants

Eli Feldman
410 Alpine Avenue
Boulder, CO 80304
Occupation: Conscience Bay Management LLC - Manag

Gary Gomulinski
736 Quince Circle
Boulder, CO 80304
Occupation: Citywide Banks - Commercial Banker

Applicant List

Environmental Advisory Board Applicants

Karen Crofton
#421
3301 Arapahoe Avenue
Boulder, CO 80303
Occupation: Rocky Mountain Institute - Principal Consult

Nikki Hodgson
#312
2960 Shadow Creek Drive
Boulder, CO 80303
Occupation: Outdoor Industry Assocation - Corporate Re

Jordan Mann
744 Marine Street
Boulder, CO 80303
Occupation: Navigant Consulting - Energy Efficiency Engi

Pankaj Sharma
B-13
1350 20th Street
Boulder, CO 80302
Occupation: CU - Research Scholar

Thomas Wells
Unit 10
1830 22nd Street
Boulder, CO 80302
Occupation: Navigant Consulting - Energy Engineer

Applicant List

Housing Authority Applicants

Daniel Hassan
4352 Vinca Court
Boulder, CO 80304
Occupation: Boulder Capital - Managing Partner

Mary Mesch
1090 Orange Place
Boulder, CO 80304
Occupation: Self-Employed Mediator

Tony Smith
2820 North 7th Street
Boulder, CO 80304
Occupation: Licensed General Contractor, Building Contr

Valerie Soraci
3018 Littleleaf Lane
Boulder, CO 80304
Occupation: Dragonfly Gardens - Landscape Design

Applicant List

Human Relations Commission Applicants

Sarah Hutson
3595 Hayden Place
Boulder, CO 80301
Occupation: RRC Associates/Research Analyst

Elzbieta Nolan
552 Arapahoe Ave
Boulder, CO 80302
Occupation: Lencora LLC/Consultant

Pankaj Sharma
B-13
1350 20th Street
Boulder, CO 80302
Occupation: CU - Research Scholar

Applicant List

Landmarks Board Applicants

Jonathan Hayden
Apartment 3E
1945 Canyon Bouldevard
Boulder, CO 80302
Occupation: Clarion Associates/University of Colorado/PI

Applicant List

Library Commission Applicants

Joel Koenig
313 Foxtail Court
Boulder, CO 80305
Occupation: Retired/Deloitte/Senior Partner/Executive Se

Timothy O'Shea
1990 Floral Drive
Boulder, CO 80304
Occupation: Engage Colorado/Entrepreneur

Applicant List

Open Space Board of Trustees Applicants

Alan Boles
525 College Avenue
Boulder, CO 80302
Occupation: Lawyer

Curt Brown
1258 Bear Mt. Ct.
Boulder, CO 80305
Occupation: Retired/Department of the Interior/Director of

Michelle Estrella
2400 Kenwood Drive
Boulder, CO 80305
Occupation: VP/Product Management - Zayo Group

Karen Hollweg
4440 Greenbriar Blvd.
Boulder, CO 80305
Occupation: Semi-retired/Science and Environmental Ed

James Illg
74 Huron Court
Boulder, CO 80303
Occupation: Retired

Tom Isaacson
3165 Noble Court
Boulder, CO 80301
Occupation: Lawyer Howrey LLP

Joel Koenig
313 Foxtail Court
Boulder, CO 80305
Occupation: Retired/Deloitte/Senior Partner/Executive Se

Stephen Lommele
1310 Lehigh Street
Boulder, CO 80305
Occupation: National Renewable Energy Laboratory (NR

Mark McIntyre
923 Poplar Place
Boulder, CO 80304
Occupation: Marketing Technologies, Sales Engineer an

Dennis Sedlacek
4435 Ludlow St.
Boulder, CO 80305
Occupation: IBM/AT&T/Retired Programmer

Mitchell Smith
360 Oneida Street
Boulder, CO 80303
Occupation: Array BioPharma Inc. - Software Engineer

Jessica Yates
5539 Stonewall Place
Boulder, CO 80303
Occupation: Lawyer - Snell & Wilmer LLP

Applicant List

Parks and Recreation Advisory Board Applicants

Amber Fahrenholtz
Unit D
703 Silver Lake Avenue
Boulder, CO 80304
Occupation: Bodin Realty International/Realtor

Anthony Gannaway
5438 Omaha Place
Boulder, CO 80303
Occupation: Polycom - Engineer

Sarah Hutson
3595 Hayden Place
Boulder, CO 80301
Occupation: RRC Associates/Research Analyst

Jennifer Kovarik
#16
910 Portland Place
Boulder, CO 80304
Occupation: Boulder County Public Health - Program Co

James Mapes
1160 Drexel Street
Boulder, CO 80305
Occupation: CU/Molecular Biologist

Mariam Meghjee
1175 Ithaca Drive
Boulder, CO 80305-6329
Occupation: Retired

Chris Ozeroff
2425 Bluff Street
Boulder, CO 80304
Occupation: ARCA biopharma, Inc. - Co-founder, SVP &

Bob Shoulders
Unit B
290 Spruce Street
Boulder, CO 80302
Occupation: Retention Consulting Associates/Health Fitn

Mark Van Akkeren
160 South 34th Street
Boulder, CO 80305
Occupation: Self-Employed - Coach/Consultant

Valerie Yates
805 Maxwell Avenue
Boulder, CO 80304
Occupation: Retired - Attorney

Applicant List

Planning Board Applicants

Louisa Baker
2895 Iliff Street
Boulder, CO 80305
Occupation: Attorney - Self Employed

Bryan Bowen
4738 16th Street
Boulder, CO 80304
Occupation: Caddis PC

Lee Payne
955 Quinn Street
Boulder, CO 80303
Occupation: Architect

Barry Weiss
503 Kalmia Avenue
Boulder, CO 80304
Occupation: VP/Sales & Accounts - Hewlett-Packard Co

Applicant List

Transportation Advisory Board Applicants

Mara Abbott
1601 Mariposa Avenue
Boulder, CO 80302
Occupation: Professional athlete, yoga instructor, person

Johnny Drozdek
1402 Johnson Court
Boulder, CO 80303
Occupation: Simpson Strong-Tie - Engineer

Tila Duhaime
2201 4th Street
Boulder, CO 80302
Occupation:

Fred Ecks
785 33rd Street
Boulder, CO 80303
Occupation: Retired/Semi-Retired Software Engineer and

Debra Garelick
4735 Hancock Drive
Boulder, CO 80303
Occupation: Cherry Creek Properties, LLC

Carmel Gill
730 Willbowbrook Road
Boulder, CO 80302
Occupation: Level 3 Communications - Lawyer

Eric Gordon
Apt. A
4620 15th Street
Boulder, CO 80304
Occupation: CU/Boulder, Western Water Assessment, Pr

Loren Pahlke
1440 Kendall Drive
Boulder, CO 80305
Occupation: Retired - Technical Wrtier

Paul Perlmutter
2824 4th Street
Boulder, CO 80304
Occupation: Retired

William Rigler
Apt. 105
1315 Rosewood Avenue
Boulder, CO 80304
Occupation: Naropa University - Director

David Vollmar
#103
1480 Quince Avenue
Boulder, CO 80304
Occupation: Twitter - Software Engineer

Thomas Wells
Unit 10
1830 22nd Street
Boulder, CO 80302
Occupation: Navigant Consulting - Energy Engineer

Applicant List

University Hill Commercial Area Management Commission Applicants

William Campbell
1020 Rosehill Drive
Boulder, CO 80302
Occupation: CU/Boulder - PhD Candidate, Researcher

Monique Cole
808 10th Street
Boulder, CO 80302
Occupation: Retired - Real Estate Broker, Investor

Lisa Nelson
1086 10th Street
Boulder, CO 80302
Occupation: Metropolitian State University of Denver - Ad

Greg Schultz
875 14th Street
Boulder, CO 80302
Occupation: Mapleton Real Estate Group, LLC - Real Est

Applicant List

Water Resources Advisory Board Applicants

Michael Barnes
1715 View Point Road
Boulder, CO 80305
Occupation: Kennedy Jenks Consultants - Engineer

Edward Vincent Clancy
4086 26 Street
Boulder, CO 80304
Occupation: ACTA Technology Inc.., Chief Technology O

Marshall Shapiro
825 Orman Drive
Boulder, CO
Occupation: Attain LLC - Senior Consultant/Test Manage

Council Working Agreements

Council Process:

- The council will work on general discipline in being prepared to ask questions and make comments.
- The council asks the mayor to intervene if discussion on agenda items extends beyond a reasonable time frame.
- The council will engage in the practice of colloquy to fully explore the different sides of a specific point.
- The mayor will ask the city clerk to set the timer lights for council members if discussions begin to exceed efficient debate. Members should respect the lights as a time reminder, but will not be bound by them as absolute limits.
- Rather than restating a point, council members should simply say "I agree."
- The council agenda committee may, with advance notice, adjust each public speaker's time to two rather than three minutes during public hearings for items on which many speakers want to address the council.
- Council members will grant each other permission to mentor and support each other on how each person contributes to the goal of being accountable for demonstrating community leadership.
- In order to hear each other respectfully and honor the public, council will avoid body language that could convey disrespect, side conversations, talking to staff, whispering to neighboring council members, passing notes, and leaving the council chambers.
- Regarding not revisiting past discussions, the council should check-in with fellow members periodically to ensure that this is not an issue.
- During a council meeting, any form of electronic messages, including emails and texts, that relate to matters being considered and which arrived at any time during that meeting shall not be read by council members, nor shall any messages on matters under consideration be sent by council members.

Council Communication:

- Council members agree to keep quasi-judicial roles scrupulously separate between members of boards and members of council, avoid expressing ideas to board members on things coming before the board, and carefully disclose or recuse themselves when there is involvement with board members on a topic.
- Council agrees to e-mail the city manager about issues that they run into that staff or boards may be working on so that the manager can be actively involved in managing issues and keeping the full council informed well in advance of items coming before council for action.
- Members will keep the full council informed on issues from committees, public groups or other agencies that they are following, through hot line e-mails, brief verbal reports at the end of council meetings or other means.
- The council will find ways to support majority council decisions and adequately inform the public, through responsive letters that explain how divergent points of view were heard and honored in decisions, via standard e-mail responses for hot issues, by occasional council Letters to the Editor to clarify the facts, or by seeking out reporters after meetings to explain controversial decisions.

Council Committees:

- Council committee meetings will be scheduled to accommodate the council members on the committee.
- Notice of the times and places for each committee meeting will be noticed once per month in the Daily Camera.
- The council agenda will include time for reports from committees under Matters from Members of Council, noting that written communications from the committees are appropriate as well.

Selection of Mayor and Mayor Pro Tem:

- Council members will make a good faith effort to the select the mayor and mayor pro tem in an open and transparent process.
- After the council election, members seeking election as mayor or mayor pro tem should:
  - make their interest in the positions known to their fellow members as soon as possible;
  - focus their communication with other council members on the positive attributes the member brings to the positions; and
  - refrain from any negative remarks about any person seeking election as mayor or mayor pro tem.
- Nominated individuals' presentations may include, but need not be limited to the following:
  - the skills and attributes the member would bring to the mayoral position;
  - the member's ability to efficiently run council meetings, respect the views of the minority while allowing the majority to rule, and perform other mayoral duties;
  - how the member would represent the city and city council and mayor position at gatherings outside of city council meetings
  - how the member would serve on and appoint other council members to regional and national boards and commissions; and
  - how the member would promote trust of the community and other council members.
- Council members should work to avoid divisiveness by being inclusive during the mayoral selection process.

Agreed: Members of the Boulder City Council

Approved by Council: January 21, 2014

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
HOUSING/LAND USE/PLANNING	Comprehensive Housing Strategy	Council	Briefing - with other related efforts, workplan	SS - objectives, recommended early action items	Briefing	Direction on policy options	Adopt strategy and action plan			
		Staff Activities	Housing choice analysis; needs assessment; best practices; trends data; workplan	Opportunity site inventory; potential tools with "bang for buck" analysis	Develop policy options and recommendations; stakeholder engagement					
	North Boulder	Council	IP - update and preliminary policy choices	Briefing - options and feedback	Update and direction					
		Staff Activities	Public meeting with options	Preferred options and refined action plan	Action plan					
	East Arapahoe/Sustainable Streets and Centers	Council		Briefing - issues, scope, and feedback	SS - preferred scenarios, draft plan, and action plan	Plan "Lite" - council action	Next Corridor - 30th St or Colorado			
		Staff Activities	Joint East Arapahoe workshop to "test" planning workshop	East Arapahoe scope of work, public workshop, scenario modeling, character definition	Scenario refinement ad recommendations	Develop East Arapahoe action plan				
	Resilience	Council		Briefing - scope agenda		SS - scoping session	SS	Direction or IP	Direction or IP	Direction or IP
		Staff Activities	Agenda setting workshop 4/28	Hire Asst. City Manager, begin strategy development	Scope strategy components	Scoping	Resilience work	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
	Boulder Valley Comprehensive Plan	Council				SS - scoping session	SS	Direction or IP	Direction or IP	Direction or IP
		Staff Activities				Scoping analysis and partner outreach	Issues identification	Strategy analysis and development	Strategy analysis and development	Strategy analysis and development
	Other	Council	Annexation Strategy - Direction (options and feedback)	Usable open space - Code Change	Economic Sustainability Strategy implementation - Code Change					
			Density/ROW Dedication Calculations - Code Change	Parking generation and reduction - Code Change						
			County Assessor valuations for landscape and lighting upgrades - Code Change	Renewable energy sources - Code Change						
		Staff Activities	Annexation Strategy - analyze costs and options	Planning Board for above code changes	Planning Board for above code changes					
			Planning Board for above code changes							

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
TRANSPORTATION	Transportation Master Plan	Council	IP (includes scope for AMPs)	SS (includes AMPS)	Acceptance - establish work program and coordination	Continue implementing pilots	Coordination with BVCP	Coordination with BVCP	Coordination with BVCP	Coordination with BVCP
		Staff Activities	Scenario and sensitivity analysis	Joint board workshop, TAB	Develop final update for board recommendation and council acceptance	Implement and coordination with BVCP and Resilience				
	Community EcoPass	Council	Feasibility Study - joint release with County	Rolls into TMP update						
		Staff Activities								
	Regional Transportation	Council	Briefing	Briefing		Briefing		Briefing		Briefing
		Staff Activities								
	Electric Vehicle Parking Ordinance/Energy Services	Council	Council agenda	SS			IP	IP	IP	IP
		Staff Activities								
	Access Management and Parking Strategies	Council	Scope	SS - Guiding principles, work program and process (includes TMP update)	Round 1 Code Changes - Auto and parking planning, zoning regs, EV charging stations	Update - Work plan and policy issues	Long Term Round 2 - Parking code changes and other policy issues	Council endorsement of ongoing work plan		
		Staff Activities	Finalize work program	Short term parking code regulation changes	Long term parking code changes	Long term parking code changes	Additional workplan items and public process tbd	Finalize document		
			TDM tool kit development for TMP integration	Long term parking code regulation changes	Additional workplan items tbd	Additional workplan items and public process tbd				
			Short term parking code ordinance changes	Public outreach and joint board meeting						
			Research/best practices	Additional workplan items tbd						
			Develop communications strategy							
ADD'L HOUS/PLAN/TRANS	Comp. Financial Strategy/Capital Bond	Council	Direction	SS	SS - finalize ballot?	Ballot?				
		Staff								
	Cap. Bond 1 Implement.	Staff		Construction			85% complete		100% Complete	
	Flood Recovery	Staff		Repairs and FEMA Reimbursement	FHWA/FEMA work	FHWA/FEMA work	Building Better Boulder		Building Better Boulder	
	Boulder Junction Phase 1 Implementation	Staff			South side of Pearl opens	Ongoing redevelopment coordination		Goose Creek Bridge opens		Depot Square opens
	Boulder Junction Phase 2 - City owned site	Staff		Coordination	Coordination		Coordination			
	Yards mobilized to move for Pollard option	Staff		Grading, prairie dogs, moving	Final prep			Yards moves continue		
	Safe Routes to School	Staff			Public process to prioritize projects		Application			
	Implement Transpo.Tax	Staff		Expand maintenance, hire						

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
LIVABILITY	Homelessness/Human Services	Council Items	Shelter/ Funding: Update on position and relationship with Boulder Shelter; Shelter funding and issues update and other funders.	SS - Human Services Strategy Update and Homeless Action Plan (including funding priorities and partnerships)	IP - Homelessness Issues	SS - Human Services Strategy Update and Homeless Action Plan (including funding and service priorities)				
					Regional Planning update/services and housing					
					2014 Point in Time Report					
					SS - Services and Regional coordination update	IP - Services and Regional coordination	IP - Services and Regional	SS - Services and Regional coordination	SS - Services and Regional	IP - Services and Regional
		Staff Activities	Facilitate monthly Boulder Homeless Planning Group re:	HS Strategy Update and Homeless Action Plan Update	HS Strategy Update and Homeless Action Plan -					
			Convene regional meeting with Denver/Boulder/MDHI							
			County Ten Year Plan meeting with focus on meeting housing	County Ten Year Plan meeting with focus on meeting housing						
	Neighborhood/Park Events and Other Events	Council Items	GOCO grant application		GOCO grant acceptance					
						SS - Special Events with Street Closures and Block Party Permitting				
		Staff Activities	Review current PR permits and developm pilot program	Conduct pilot neighborhood event (link with Hill and GOCO school yard grant)	Conduct pilot neighborhood event	Review neighborhood park planning and event pilot success and plan schedule for 2015	Finalize njeighborhood event schedule for 2015	Conduct neighborhood events	Conduct neighborhood events	Review pilot program and propose permit changes required to make improvements
			Link with park planning outreach	Summer recreation programs - arts, music, health, wellness	Continue summer art series and volunteer events					
			GOCO school yard grant	Submit GOCO grant	GOCO grant award - start civic area community park					
				Review and analysis of existing special event permitting	Develop recommendations					
	Arts	Council Items		SS - Library & Arts, including Community Cultural Plan				Adoption of Community Cultural Plan		
		Staff Activities		Work with new director						

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
LIVABILITY	Code Enforcement	Council Items	SS	SS (includes Social Issues Strategy information)						
		Staff Activities								
	University Hill	Council Items	IP - 14th St Public/Private Partnership	Update - 14th St Public/Private Partnership	Update - 14th St Public/Private Partnership					
			Bears/Trash							
				SS - Hill Reinvestment Strategy	Update - Hill Reinvestment Strategy					
		Staff Activities	14th St - Hill Alt. Mode survey	14th St - Finalize analysis and develop recommendation to proceed with the Global Agreement						
			14th St - Finalize LOI							
			14th St - Financial Analysis							
			14th St - Additional access analysis							
			14th St - Board outreach							
			Pilot Parklet Competition	Parklet Implementation						
			Outreach to CU and stakeholders for support of Reinvestment Strategy	Fox Theatre mural by CU students	start pilot RSD program (to run through 2016)					
			Recommendation for staffing Strategy implementation and prelim. analysis of future org structure options	Hire a fixed term Hill Coordinator						
	Civic Area	Council Items					SS - Park Program and Improvements			
		Staff Activities	Civic Activity Team established	Coordinate music in park series		Review summer series success and revise for 2015	Prepare first phase of park improvements for 2015	Conduct adult fitness and health classes	Conduct visitor event at civic area around art installations	
			Hire Civic Area staff for P&R	Add seasonal park staff for outdoor education and orientation		Expand Ready to Work crew	Revise summer programs and plan for 2015	Install temporary adult fitness playground	Coordinate horticulture gardens with Farmers' Market event	
			Prepare GOCO grant for nature play and park planning	Conduct volunteer event around upgrades to Peace Garden and edible plant exhibit		Complete park planning outreach	Conduct art competition for summer installation	Install south side nature play area		
			Work with Park Foundation to develop plan for art and entertainment	Coodinate with CU for partnership with GUB and Civic Area park plan		Develop 1% for Arts demonstration project in partnership with foundations and non-profits		Expand seasonal staffing and horticulture/edible garden displays		

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
LOCAL FOOD	Civic Area	Council Items	IP - update on implementation		SS - catalyst projects					
		Staff Activities								
	Ag Plan	Council Items	IP				Acceptance			
		Staff Activities								
	Other or not categorized	Council Items								
		Staff Activities	CU/BVSD partnerhip for neighborhood garden	Form cross-dept team	Develop work plan to achieve council vision					
			Burk Park/Horizon School playground	Housing links with YSI programs and local gardening pilot						
			Design guidelines for edible landscape in local parks							
CLIMATE AND ENERGY	Zero Waste Master Plan	Council Items	IP	SS - options and feedback		Acceptance and action plan		Implementation - commercial focus		
		Staff Activities	Stakeholder input on options and rulemaking on curbside compost		Public feedback on strategies	Draft plan and action plan for public review		Implementation - program enhancements and ordinance development		
	Municipalization	Council Items		SS - workplan	Briefing - energy services	Briefing - energy services	Update - energy services	Update - energy services	Update - energy services	Update - energy services
				SS - energy services						
		Staff Activities		Xcel/city task force; refine recommendations						
	Climate Commitment	Council Items		Briefing - framework, preliminary goals/targets, strategy development	SS - goals/targets, feedback on strategy scenarios, draft document	Approval				
		Staff Activities	Working groups meet	Scenario development; GHG inventory complete	Strategy formulation; city organization initiative launched		Launch action plan			
	Valmont Butte	Council Items			SS					
		Staff Activities								

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
OPEN SPACE	Charter Issues	Council Items			Address disposition process and use of Realization Point for pro bike race					
		Staff Activities								
	Highway 93 Underpass	Council Items								
		Staff Activities			In process					
	Eldo to Walker Ranch	Council Items								
		Staff Activities	City/County review of contractor proposals for potential mountain bike connection	Routes - weather dependent						
	IBM Connector	Council Items								
		Staff Activities		City/County requirement complete and await railroad to replace bridge						
	Trailhead as part of transportation system	Council Items								
		Staff Activities			status update					
	Other or not categorized	Council Items								
		Staff Activities			additional signage					

	Project	Council or Staff?	2014				2015			
			1st Quarter	***2nd Quarter***	***3rd Quarter***	***4th Quarter***	***1st Quarter***	***2nd Quarter***	***3rd Quarter***	***4th Quarter***
OTHER	Emerald Ash Borer (EAB)	Council	IP							
			Develop preliminary management plan	Implement pilot plan	Monitoring	Evaluate long term forest management plan and EAB strategy	Management plan and response	Response	EAB	EAB
	Civic Use Pad	Council	SS - Public/private partnership	Approval of MOU with St. Julien Partners	Update on negotiations with St. Julien Partners					
	Human Services Strategy	Council		SS		SS		Public hearing		
	Various	Council	IGA with CDOT/County for US 36 bikeway maintenance	Pilot dog waste composting project - Valmont and OSMP possible site	Transportation code changes for AMPS	Smoking ban - public hearing				
			IGA for bikeway maintenance/ US 36 enhancements	CEAP call up for Baseline Underpass east of Broadway	Comprehensive Annual Finanical Report					
			Old Pearl Street ROW vacation	DRCOG TIP Priorities for city applications	Appointment of independent auditor					
			Transportation code changes - bike parking, TDM, etc.	Mobile food vehicles - ordinance change to expand podding in downtown	Update on investment policies - action					
			NPP - zone expansions and removal		Modification of construction use tax filing - IP then action					
					Pearl Street Mall regulations - code changes					

COUNCIL MEMBERS

Matthew Appelbaum	Mayor
Suzanne Jones	Mayor Pro Tem
Macon Cowles	Council Member
George Karakehian	Council Member
Lisa Morzel	Council Member
Tim Plass	Council Member
Andrew Shoemaker	Council Member
Sam Weaver	Council Member
Mary Young	Council Member

COUNCIL EMPLOYEES

Thomas A. Carr	City Attorney
Jane S. Brautigam	City Manager
Linda P. Cooke	Municipal Judge

KEY STAFF

Mary Ann Weideman	Assistant City Manager
Bob Eichem	Chief Financial Officer
Alisa D. Lewis	City Clerk
Patrick von Keyserling	Communications Director
David Driskell	Executive Director of Community Planning and Sustainability and Acting Director of Housing
Molly Winter	Downtown, University Hill Management & Parking Services Director
Heather Bailey	Executive Director of Energy Strategy and Electric Utility Development
Michael Calderazzo	Fire Chief
Joyce Lira	Human Resources Director
Karen Rahn	Human Services Director
Don Ingle	Information Technology Director
Eileen Gomez	Labor Relations Director
David Farnan	Library and Arts Director
James Cho	Acting Municipal Court Administrator
Tracy Winfree	Acting Open Space and Mountain Parks Director
Jeff Dillon	Acting Parks and Recreation Director
Greg Testa	Police Chief
Maureen Rait	Executive Director of Public Works
Cheryl Pattelli	Director of Fiscal Services
Mike Sweeney	Acting Transportation Director
Jeff Arthur	Utilities Director

2015 City Council Committee Assignments

INTERGOVERNMENTAL ORGANIZATIONS

Beyond the Fences Coalition	Morzel, Plass (Castillo – staff alternate)
Boulder County Consortium of Cities	Young, Morzel (alternate)
Colorado Municipal League (CML) – Policy Committee	Jones, Cowles (Castillo – staff alternate)
Denver Regional Council of Governments (DRCOG)	Jones, Plass
Housing Authority (Boulder Housing Partners)	Shoemaker
Metro Mayors Caucus	Appelbaum
National League of Cities (NLC)	Appelbaum, Cowles
Resource Conservation Advisory Board	Morzel (at large seat), Plass
Rocky Flats Stewardship	Morzel, Plass (1st alternate), Castillo (2nd alternate)
University of Colorado (CU)/City Oversight	Cowles, Shoemaker, Weaver
US36 Mayors and Commission Coalition	Appelbaum
US36 Commuting Solutions	Karakehian, Morzel (alternate)
Urban Drainage and Flood Control District	Jones

LOCAL ORGANIZATIONS

Boulder Museum of Contemporary Art (BMoCA)	Young
Boulder Convention and Visitors Bureau	Plass, Cowles (alternate)
Dairy Center for the Arts	Jones
Downtown Business Improvement District Board	Weaver, Young

INTERNAL CITY COMMITTEES

Audit Committee	Cowles, Morzel, Shoemaker
Boards and Commissions Committee	Plass, Shoemaker
Boulder Urban Renewal Authority (BURA) Mayoral Appointment	Karakehian
Charter Committee	Karakehian, Morzel, Weaver
Civic Use Pad/ 9th and Canyon	Karakehian, Morzel, Young
Council Employees Salary Review	Cowles, Shoemaker
Council Retreat Committee	Jones, Morzel
Evaluation Committee	Morzel, Plass
Housing Strategy Process Sub-Committee	Morzel, Shoemaker, Young
Legislative Committee	Jones, Karakehian, Weaver
School Issues Committee	Morzel, Plass, Shoemaker

SISTER CITY REPRESENTATIVES

Jalapa, Nicaragua	Jones
Kisumu, Kenya	Morzel
Llasa, Tibet	Shoemaker
Dushanbe, Tajikistan	Weaver
Yamagata, Japan	Plass
Mante, Mexico	Young
Yateras, Cuba	Karakehian, Cowles (alternate)
Sister City Sub-Committee	Morzel, , Karakehian

Approved 02-17-2015

April 7, 2015 Special Presentation 5:30-6 PM (televised) Business Meeting Start Time: 6:00 PM Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 3/26 :: Final 4/1
Agenda Section	**Item Name**	**Time**	**Minutes**			
SPECIAL PRESENTATIONS	Celebrating ballot measures: 1. Diary Center, 2. Museum 3. WiFi in Civic Plaza	30	Minutes			
	Challenge to Mayors Prmoting Safety for Walkers and Bikers declaration					
OPEN COMMENT		45	Minutes			
CONSENT	Proposed Appropriations for Ballot Item 2A Capital Projects and Appropriations for Recreational Marijuana	15	Minutes			Bob Eichem/Elena Lazarevska
	1st reading to consider amendments to Title 9 for Medical Office			no		Jeff Hirt/Melinda Melton
	Study Session Summary for 2/24 Planning Work Plan Update					David Driskell/Melinda Melton
	Water and Wastewater Service Agreement with the City of Boulder and Avery Brewing					Edward Stafford/Erin Raney
	Study Session Summary for 2/24 TMP Implementation Follow Up (moved from 3/17)					Randall Rutsch/Erin Raney
	1st reading ordinance rezoning 1900 Folsom			no		Chandler Van Schaack/Melinda Melton
PUBLIC HEARINGS	2nd Reading of Ordinance to Approve Cable Franchise Agreement with Comcast	60	Minutes		no	Carl Castillo/Dianne Marshall
	2nd Reading Cottage Foods Ordinance	60	Minutes	yes	yes	Tom Carr/Heather Hayward
			Minutes			
MATTERS FROM CITY MANAGER	Consideration of a Motion to Revise the City of Boulder's 2015 State and Federal Legislative Agenda	30	Minutes	no	no	Carl Castillo/Dianne Marshall
	Analysis and preliminary options for the Bee Safe Boulder Resolution	30	Minutes	no	yes	Rella Abernathy/Melinda Melton
	Direction on Response to Proposed Development on the Department of Commerce Campus	15	Minutes	no	no	Carl Castillo/Dianne Marshall
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL	Update from Council Employee Evaluation Committee	10	Minutes	no	no	Aimee Kane
CALL-UPS			Minutes			
	Total Estimated Meeting Time (Hours:Minutes)	**4:55**				

April 21, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 4/9 :: Final 4/15
Agenda Section	**Item Name**	**Time**				
SPECIAL PRESENTATIONS			Minutes			
OPEN COMMENT		45	Minutes			
CONSENT	Study Session Summary 3/31: Boulder Civic Area direction for Civic Area Master Plan and Parkland Site Plan	15	Minutes			Joanna Crean/Melinda Melton
	Proposed Appropriations for Ballot Item 2A Capital Projects and Appropriations for Recreational Marijuana Revenue					Bob Eichem/Elena Lazarevska
PUBLIC HEARINGS	2nd reading Ordinance for Annexation of Old Tale Road Neighborhood	90	Minutes	yes	yes	Beverly Johnson/Melinda Melton
	2nd reading Landmark Designation Ordinance for 977 7th Street	15	Minutes		yes	James Hewat/Melinda Melton
	2nd reading Landmark Designation Ordinance for 1029 Broadway	15	Minutes		yes	James Hewat/Melinda Melton
MATTERS FROM CITY MANAGER	Briefing on cooperative transit TIGER grant application with CU	20	Minutes			Randall Rutsch/Rene Lopez
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL			Minutes			
CALL-UPS			Minutes			
	Total Estimated Meeting Time (Hours:Minutes)	**3:20**				

May 5, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 4/23 :: Final 4/29
Agenda Section	**Item Name**	**Time**	**Minutes**			
SPECIAL PRESENTATIONS	Declaration for the Gamms Donation to the Dairy Center for the Arts	10	Minutes			
OPEN COMMENT		45	Minutes			
CONSENT	First Adjustment to Base - First Reading	15	Minutes	No	No	Elena Lazarevska/Bob Eichem
PUBLIC HEARINGS	2nd Reading and Consideration of Approval of Amendments to Title 9 for Medical Office	60	Minutes	no	yes	Jeff Hirt/Melinda Melton
	Oliver acquisition	20	Minutes	no	yes	Jim Schmidt/Cecil Fenio
	Bee Safe Boulder Resolution: Staff recommendation and council direction	60	Minutes	no	yes	Rella Abernathy/Melinda Melton
	2nd reading ordinance rezoning 1900 Spine	60	Minutes	no	yes	Chandler Van Schaack/Melinda Melton
MATTERS FROM CITY MANAGER	Motion to accept the Boulder County Age Well Plan Update	30	Minutes	no	yes	Betty Kilsdonk/Linda Gelhaar
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL			Minutes			
CALL-UPS			Minutes			
	Total Estimated Meeting Time (Hours:Minutes)	**5:00**				

May 19, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 5/7 :: Final 5/13
Agenda Section	**Item Name**	**Time**	**Minutes**			
SPECIAL PRESENTATIONS			Minutes			
OPEN COMMENT		45	Minutes			
CONSENT	First Adjustment to Base - Second Reading	15	Minutes			Elena Lazarevska/Bob Eichem
PUBLIC HEARINGS	Concept Review for 96 Arapahoe	90	Minutes			
			Minutes			
MATTERS FROM CITY MANAGER			Minutes			
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL			Minutes			
CALL-UPS			Minutes			
	Total Estimated Meeting Time (Hours:Minutes)	**2:30**				

June 2, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 5/21 :: Final 5/27
Agenda Section	**Item Name**	**Time**	**Minutes**			
SPECIAL PRESENTATIONS			Minutes			
OPEN COMMENT		45	Minutes			
CONSENT	Notice of Sale for Stormwater/Flood Bonds	15	Minutes		no	Bob Eichem/Elena Lazarevska
	Study Session Summary for 5/12 Commercial and Industrial Energy Efficiency Ordinance Options					Kendra Tupper/Melinda Melton
	Study Session Summary 4/28: Human Services Strategy			No		Todd Jorgensen/Linda Gelhaar
PUBLIC HEARINGS			Minutes			
			Minutes			
MATTERS FROM CITY MANAGER			Minutes			
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL			Minutes			
CALL-UPS			Minutes			
	Total Estimated Meeting Time (Hours:Minutes)	**1:00**				

June 16, 2015 Start Time: 6:00 PM Business Meeting Location: Council Chambers, 1777 Broadway				CAO to Prepare Ord.?	Power Point	Contact Preliminary: 6/4 :: Final 6/10
Agenda Section	**Item Name**	**Time**	**Minutes**			
SPECIAL PRESENTATIONS			Minutes			
OPEN COMMENT		45	Minutes			
CONSENT	Bond Ordinance - Sale of the Stormwater/Flood Bonds	15	Minutes		no	Bob Eichem/Elena Lazarevska
PUBLIC HEARINGS	Public Hearing and Acceptance of the revised Civic Area Master Plan and approval of the Parkland Site Plan	60	Minutes		yes	Joanna Crean/Melinda Melton
			Minutes			
MATTERS FROM CITY MANAGER	Questions and Guiding Principles for the Utility Rate Structure Analysis	45	Minutes	no	yes	Eric Ameigh/Erin Raney
MATTERS FROM CITY ATTORNEY			Minutes			
MATTERS FROM MEMBERS OF COUNCIL			Minutes			
CALL-UPS			Minutes			
	Total Estimated Meeting Time (Hours:Minutes)	**2:45**				

Council Recess - June 17 to July 12

	A	B	C	D	E	F	G	H	I	J
1	**Date**	**Status**	**Topic**		**Location**	**Contacts**	**Materials Due**	**Draft Summary Due**	**Final Summary Due**	**Deadline Email Sent**
21	03/31/15	Approved	Sister City Dinner	5-6:30 PM	Lobby	Alisa Lewis/Dianne Marshall	03/01/15	N/A	N/A	
22		Approved	Civic Area - Civic Area Master Plan and Parkland Site Plan Development Update	6:30-8 PM	Chambers	Joanna Crean, Melinda Melton	03/19/15	04/09/15	04/15/15	
23		Approved	Planning Topics: BVCP, Resilience Strategy, Design Excellence - Form Based Code Pilot and Development Fees	8-9 PM	Chambers	Susan Richstone/Melinda Melton	03/19/15	04/09/15	04/15/15	
24										
25	04/14/15	Approved	Board and Commission Reception	5-6 PM	Lobby	Alisa Lewis/Dianne Marshall	04/06/15	N/A	N/A	N/A
26		Approved	Fire Department Operations, Deployment, Light Rescue Vehicle Response and Master Plan update	6-7:30 PM	Chambers	Michael Calderazzo/Laurie Ogden	04/02/15	04/23/15	04/29/15	
27		Approved	2014-2015 Financial Overview and Ballot Measures	7:30 - 9 PM	Chambers	Bob Eichem/Elena Lazarevska	04/02/15	N/A	N/A	
28										
29	04/28/15	Approved	Briefing: Housing Boulder	5-6 PM	Chambers	Jay Sugnet/Melinda Melton		05/07/15	05/13/15	01/15/15
30		Approved	Human Services Strategy	6-8 PM	Chambers	Todd Jorgensen/Linda Gelhaar	04/16/15	05/07/15	05/13/15	
31		OPEN		8-9 PM	Chambers		04/16/15	05/07/15	05/13/15	
32										
33	05/12/15	Approved	Boulder's Energy Future	6-8 PM	Chambers	Heidi Joyce/Heather Bailey	04/30/15	05/21/15	05/27/15	10/19/14
34		Approved	Commercial and Industrial Energy Efficiency Ordinance Options	8-9 PM	Chambers	Kendra Tupper/Melinda Melton	04/30/15	05/21/15	05/27/15	02/10/15
35										
36	05/26/15	Approved	Briefing: Community Culture Plan	5:30-6 PM	Chambers	Matt Chasansky/Carrie Mills	N/A	N/A	N/A	
37		Approved	Hill Reinvestment Strategy Update and Policy Direction	6-7:30 PM	Chambers	Molly Winter/Ruth Weiss	05/14/15	06/04/15	06/10/15	12/15/14
38		Approved	AMPS Update	7:30-9 PM	Chambers	Molly Winter/Ruth Weiss	05/14/15	06/04/15	06/10/15	12/15/14
39										
40	06/09/15	Approved	Housing Boulder	6-7:30 PM	Chambers	Jay Sugnet/Melinda Melton	05/28/15	06/18/15	06/24/15	01/15/15
41		Approved	BVCP/Resilience	7:30-9 PM	Chambers	Lesli Ellis/Melinda Melton				
42										
43	06/23/15	Council Recess June 17-July 12								
44	06/30/15	Council Recess June 17-July 12								
45										
46	07/14/15	Approved	Community Cultural Plan	6-7:30 PM	Chambers	Matt Chasansky/Carrie Mills	07/02/15	07/23/15	07/29/15	12/04/14
47		Approved	Ballot Measures	7:30-9 PM	Chambers	Elena Lazarevska/Bob Eichem	07/02/15	07/23/15	07/29/15	
48										
49	07/28/15	OPEN	Briefing:	5:30-6 PM	Chambers		N/A	N/A	N/A	
50		Approved	Climate Commitment Goal and Strategy Proposal	6-7:30 PM	Chambers	Brett KenCairn/Melinda Melton	07/16/15	08/06/15	08/12/15	01/21/15
51		Tentative	30th and Pearl City-owned Site Options	7:30-9 PM	Chambers	David Driskell/Melinda Melton				
52										
53	08/11/15	Approved	2016 CIP Study Session	6-7:30 PM	Chambers	Elena Lazarevska/Bob Eichem	07/30/15	08/20/15	08/26/15	12/22/14
54		OPEN		7:30-9 PM	Chambers					
55										
56	08/25/15	OPEN	Briefing:	5:30-6 PM	Chambers		N/A	N/A	N/A	
57		Approved	TMP Implementation Follow Up (pending first check-in on 2/24)	6-7:30 PM	Chambers	Randall Rutsch/Rene Lopez	08/13/15	09/03/15	09/09/15	02/03/15
58		Approved	Envision East Arapahoe Transportation Analysis and Medical Office Use	7:30-9 PM	Chambers	Randall Rutsch/Rene Lopez	08/13/15	09/03/15	09/09/15	
59										
60	09/08/15	Approved	2016 Budget Study Session	6-7:30 PM	Chambers	Elena Lazarevska/Bob Eichem	08/27/15	09/17/15	09/23/15	12/22/14
61		Approved	Emerald Ash Borer	7:30-9 PM	Chambers	Kathleen Alexander/Sally Dieterich	08/27/15	09/17/15	09/23/15	01/29/15
62										
63	09/22/15	OPEN	Briefing:	5:30-6 PM	Chambers		N/A	N/A	N/A	
64		Approved	2016 Budget Study Session	6-7:30 PM	Chambers	Elena Lazarevska/Bob Eichem	09/10/15	10/01/15	10/07/15	12/22/14
65		OPEN		7:30-9 PM	Chambers		09/10/15	10/01/15	10/07/15	
66										
67	09/29/15	OPEN		6-7:30 PM	Chambers		09/17/15	10/08/15	10/14/15	
68		OPEN		7:30-9 PM	Chambers					
69										
70	10/13/15	OPEN		6-7:30 PM	Chambers		10/01/15	10/22/15	10/28/15	
71		OPEN		7:30-9 PM	Chambers					
72										
73		OPEN	Briefing:	5:30-6 PM	Chambers		N/A	N/A	N/A	

	A	B	C	D	E	F	G	H	I	J
1	**Date**	**Status**	**Topic**		**Location**	**Contacts**	**Materials Due**	**Draft Summary Due**	**Final Summary Due**	**Deadline Email Sent**
74	10/27/15	OPEN		6-7:30 PM	Chambers		10/15/15	11/05/15	11/11/15	
75		OPEN		7:30-9 PM	Chambers					
76										
77	11/10/15	Approved	AMPS Update	6-7 PM	Chambers	Molly Winter/Ruth Weiss	10/29/15	11/19/15	11/25/15	12/19/14
78		OPEN		7-9 PM	Chambers					
79										
80	11/24/15	Thanksgiving Holiday Week								
81										
82	12/08/15	Approved	Utility Rate Study: Preliminary Findings	6-7:30 PM	Chambers	Eric Ameigh/Jeff Arthur/Rene Lopez	11/25/15	12/17/15	12/23/15	12/10/14
83		OPEN		7:30-9 PM	Chambers					
84										
85	12/22/15	Christmas Holiday Week								
86	12/29/15	New Years Holiday Week								

TO: Members of Council
FROM: Mary Moline, City Clerk's Office
DATE: March 17, 2015
SUBJECT: Information Packet

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1. CALL UPS

A. Use Review for a 3,509 square foot tavern with an outdoor patio, which will not exceed 712 square feet in area, at 921 Pearl Street (LUR2014-00081). Proposed hours of operation are 9 a.m. to 12:00 a.m. Sunday through Thursday and 9 a.m. to 2 a.m. Friday and Saturday.

B. Concept Plan Review 1900 Folsom (LUR2014-00085)

C. Knapp Subdivision Final Plat Application no. TEC2013-00057: Final Plat to subdivide one 0.5-acre developed lot at 3050 15th St. in the RL-1 zone district to create 2 new residential lots: Lot 1 (9,605 s.f.) and Lot 2 (12,176 s.f.). Lot 1 will contain an existing single family home.

D. Site and Use Review application, no. LUR2014-00057 to construct one new 2,850 square foot, single story Bank of America building with a drive thru facility on the pad site at 1965 28th St. The proposal also includes improvements to the existing parking area serving the pad site as well to the parking area adjacent to the Hazels liquor store. The project site is zoned Business Regional 1 (BR-1).

2. INFORMATION ITEMS

A. Approval of Boulder Arts Commission Recommendations for 2015 Major Arts Grants
RESPOND BY MARCH 30, 2015

B. Report on Economic Sustainability Strategy 2014 Action Items

3. BOARDS AND COMMISSIONS

A. Human Relations Commission – February 23, 2015
B. Landmarks Board – March 4, 2015
C. Parks and Recreation Advisory Board – January 26, 2015
D. Planning Board – January 22, 2015
E. Planning Board – January 8, 2015
F. Transportation Advisory Board – February 9, 2015

4. DECLARATIONS

None

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning & Sustainability
Susan Richstone, Deputy Director of Community Planning & Sustainability
Charles Ferro, Development Review Manager
Sloane Walbert, Planner I

Date: March 9, 2015

Subject: **Call-Up Item:** Use Review for a 3,509 square foot tavern with an outdoor patio, which will not exceed 712 square feet in area, at 921 Pearl Street (LUR2014-00081). Proposed hours of operation are 9 a.m. to 12:00 a.m. Sunday through Thursday and 9 a.m. to 2 a.m. Friday and Saturday.

EXECUTIVE SUMMARY
On Mar. 5, 2015, the Planning Board approved (5-1, Gray opposed, Payton recused) the above-referenced application with conditions as provided in the attached Notice of Disposition (**Attachment A)**, finding the project consistent with the relevant criteria of section 9-2-15, "Use Review," B.R.C. 1981. Approval of the application would permit a 3,509 square foot tavern located at 921 Pearl Street with an outdoor patio of no greater than 712 square feet in size. The establishment would close no later than 12:00 a.m. on Sunday through Thursday nights and 2:00 a.m. on Friday and Saturday nights. The property is located in the DT-2 (Downtown 2) zone district.

Per the use standards found in section 9-6-1, B.R.C. 1981, approval of a Use Review is required for taverns that are over 1,500 square feet in floor area or which close after 11 p.m. in the DT-2 zone district. Additionally, taverns with an outdoor seating area of 300 square feet or more within 500 feet of residential zoning district are allowed in the DT-2 zone district if approved through Use Review.

The Planning Board decision is subject to City Council call-up within 30 days concluding on Apr. 6, 2015. City Council is scheduled to consider this application for call-up at the Mar. 17, 2015 public meeting. The staff memorandum of recommendation to Planning Board

and other related background materials are available on the city website for Planning Board at the following link.

BACKGROUND

Existing Site/Site Context

The subject property is a roughly 11,500 square foot lot located in Central Boulder west of the Pearl Street pedestrian mall, between 9th and 10th Streets. Refer to Figure 1 for a Vicinity Map. The West End of Pearl is characterized by an active mix of restaurant, tavern, retail, office and residential uses. The proposed 3,509 square foot tenant space is located on the ground floor of the existing mixed-use building (see Figure 3). The space was previously occupied by a restaurant use (Bacaro Venetian Taverna), which operated under an approved Use Review from 1997 for a restaurant over 1,500 square feet and an outside eating area of more than 300 square feet, within 500 feet of a residential zoning district. The approval from 1997 did not limit the business to specific hours of operation and the use was permitted to operate until 2 a.m. Since the original approval, the use had evolved into predominantly a nightclub with live DJs and music on a rooftop patio. The space is adjacent to a restaurant use (Chipotle Mexican Grill), which has an approved use review from 1997 for a restaurant over 1,500 square feet in area with an outside eating area of less than 300 square feet.

Figure 1: Vicinity Map

The site and adjacent area on the north side of Pearl Street is zoned DT-2 (Downtown 2), which is defined as *"a transition area between the downtown and the surrounding residential areas where a wide range of retail, office, residential, and public uses are permitted. A balance of new development with the maintenance and renovation of existing buildings is anticipated, and where development and redevelopment consistent with the established historic and urban design character is encouraged"* (section 9-5-2(c)(3)(A), B.R.C. 1981).

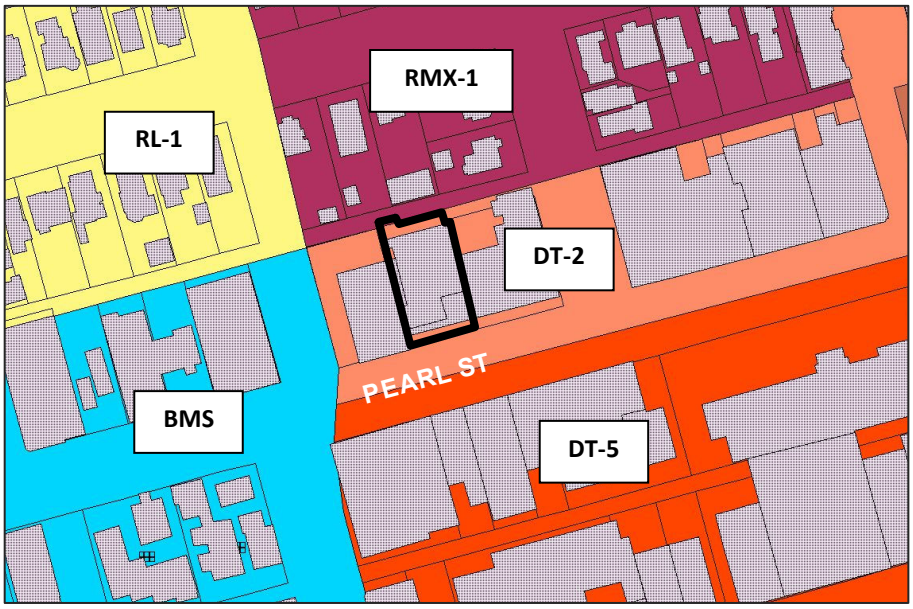


Figure 2: Zoning Map

PROPOSED PROJECT
The applicant is requesting approval of a Use Review to allow the "World of Beer" tavern use to locate in the existing tenant space at 921 Pearl St. The use is considered a "tavern" because the principal business is the sale of malt, vinous, and spirituous liquors for consumption on the premises (section 9-16-1, B.R.C. 1981). However, World of Beer will operate similar to a restaurant use and will serve a full menu during all hours of operation. The franchised use specializes in craft beer and strives for a tasting room ambiance rather than a typical bar. Due to the price and quality of beer selections, revenue from liquor sales is expected to comprise 60 percent of total sales.

Figure 3: Tenant Space

The proposed 3,509 square foot tavern use would include a 712 square foot outdoor patio at ground floor level, for a total of 4,221 square feet (interior and exterior space). Note that the rooftop patio formerly used by Bacaro will not be utilized by this tenant in order to minimize impacts on the adjacent residential use. Office tenants in the building will henceforth have sole use of the rooftop patio. The applicant initially proposed hours of operation from 9:00 a.m. to 2:00 a.m., seven days per week. However, in response to neighborhood feedback the applicant revised the proposed hours immediately prior to the Planning Board hearing. The applicant stated that they would be willing to cease food and beverage service on the outdoor patio at 11 p.m. seven days a week. Additionally, the applicant stated that they would be willing to close at midnight Sunday through Wednesday. See summary of the Planning Board hearing below for more information regarding approved hours of operation, as conditioned by the Planning Board.

The building is located in the Central Area General Improvement District (CAGID) and there is no off-street parking requirement for the nonresidential use. At this time no exterior modifications are planned to be made to the site or building. The West Pearl Streetscape Improvements adjacent to the proposed use were completed last year. Refer to **Attachment C** for the proposed floor plan and applicant's complete management plan describing the operating characteristics and how potential impacts will be mitigated.

Development Review Process
On Feb. 3, 2015, city staff approved the Use Review application to allow the proposed tavern use. Per the use standards found in section 9-6-1, B.R.C. 1981, approval of a Use Review is required for taverns that are over 1,500 square feet in floor area or which close after 11 p.m. in the DT-2 zone district. Additionally, taverns with an outdoor seating area of 300 square feet or more within 500 feet of residential zoning district are allowed in the DT-2 zone district if approved through Use Review. The Use Review is a staff-level decision subject to call-up by the Planning Board or by the public within 14 days of staff's decision. The application was called up for discussion by the Planning Board on Feb. 5, 2015 and considered by Planning Board at the Mar. 5, 2015 public hearing.

Public Comment and Participation
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. Hence, all notice requirements of section 9-4-3, "Public Notice Requirements," B.R.C. 1981 have been met. In addition, based on a motion from Planning Board on Feb. 5, 2015, a new notice was sent to all property owners and tenants within 600 square feet of the subject property informing them of the request and the upcoming public meeting. Staff received numerous inquiries and comments on the project from surrounding residents. Some residents communicated support for the proposal. Others had concerns about the impacts of the tavern use, which primarily related to the following:

- Excessive noise, especially late at night and early in the morning
- Intoxicated persons
- Parking on residential streets.

See section below regarding the Planning Board meeting for more information about public comment given at the public hearing.

In addition, pursuant to section 9-2-4, "Good Neighbor Meetings and Management Plans," B.R.C. 1981, additional public notice was provided for a neighborhood meeting, which was held on Dec. 9, 2014. The building owner spoke at the meeting, who is a resident of the Mapleton Hill neighborhood, as well as several representatives of World of Beer. Questions that were discussed during the meeting including hours of operation, potential for noise, and excessive drinking. The restaurant operator addressed concerns and described the proposed operations and management, including security, techniques used to minimize excessive intoxication, and appropriate delivery times. The owner and operator indicated that any concerns that may arise will be immediately addressed by management and operator.

ANALYSIS
Staff finds the proposal consistent with the criteria for Use Review set forth in Section 9-2-15(e), B.R.C. 1981. Refer to **Attachment B** for a full criteria analysis.

Planning Board Hearing
At their Mar. 5, 2015 public hearing, the Planning Board approved the subject Use Review with conditions with a vote of 5-1 (Gray opposed, Payton recused). The Board approved the use to close at midnight on Sunday through Thursday and 2 a.m. on Friday and Saturday nights. The use will be required to cease service of food and beverage on the outdoor patio at 11 p.m. seven days a week. Additionally, the applicant will be required to schedule deliveries between 8:00 a.m. and 5:00 p.m., Monday through Friday.

Nine members of the public spoke at the public hearing. Two representatives of local breweries spoke in support of the proposed use and described the positive relationship they have with World of Beer. These representatives also emphasized the importance of these types of establishments for the support of local breweries. Additionally, the owner of the building, who is also a resident of the neighborhood, explained how the proposed use would be an improvement over the previous use (Bacaro) by the closure of the rooftop patio. Several neighbors, including several who live directly across the alley, expressed concerns about the proposed 2 a.m. closing

time, especially during weeknights, and the tavern use. Some also expressed concerns about the condition of the alley and difficulty in accessing parking for their homes.

Consistent with the land use code section 9-4-4(c), B.R.C. 1981, if the City Council disagrees with the decision of the Planning Board, it may call up the application for a public hearing within a 30-day call up period, which expires on Apr. 6, 2015. The City Council may consider this application for call-up at the Mar. 17, 2015 public meeting.

ATTACHMENTS:

A. Planning Board Notice of Disposition dated Mar. 5, 2015
B. Use Review Criteria Analysis
C. Project Plans and Management Plan

CITY OF BOULDER
Community Planning & Sustainability
1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

CITY OF BOULDER PLANNING BOARD NOTICE OF DISPOSITION

You are hereby advised that on March 5, 2015 the following action was taken by the Planning Board 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:	**WORLD OF BEER**
DESCRIPTION:	**USE REVIEW for a 3,509 square foot tavern with an outdoor patio closing no later than 12:00 a.m. midnight Monday through Friday and 2:00 a.m. Saturday and Sunday. The outdoor patio shall not exceed 712 square feet in size and service on such patio shall cease no later than 11 p.m. seven days a week.**
LOCATION:	**921 PEARL STREET**
COOR:	**N03W07**
LEGAL DESCRIPTION:	**See Exhibit A**
APPLICANT:	**Jason Rappaport, World of Beer USA**
OWNER:	**West Pearl LLC**
APPLICATION:	**Use Review, LUR2014-00081**
ZONING:	**DT-2 (Downtown – 2)**
CASE MANAGER:	**Sloane Walbert**
VESTED PROPERTY RIGHT:	**NO; the owner has waived the opportunity to create such right under Section 9-2-19, B.R.C. 1981.**

This decision may be called up before the City Council on or before **April 6, 2015**. If no call-up occurs, the decision is deemed final on **April 7, 2015**.

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

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND SIGNED FINAL PLANS 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 BOARD 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, Boulder Revised Code 1981) the development within three years shall cause this development approval to expire.

At its public hearing on March 5, 2015 the Planning Board approved the request with the following motion:

On a motion by **J. Putnam,** seconded by **B. Bowen,** as amended, the Planning Board voted 5-1 (**C. Gray** opposed, **L. Payton** recused) to approve Land Use Review # LUR2014-00081 incorporating the staff memorandum as findings of fact and subject to the recommended conditions of approval except that:

(1) Condition 1.b. shall be replaced with the following:

Address: 921 PEARL ST

The approved use shall be closed from 2 a.m. through 9 a.m. Saturday and Sunday, and from midnight through 9 a.m. on Monday, Tuesday, Wednesday, Thursday, and Friday;

(2) Strike from the management plan, on page three, first full paragraph, sixth sentence, related to scheduling of deliveries : "use its best effort to" so as to require scheduling of deliveries between 8:00 a.m. and 5:00 p.m.

A. Brockett, offered a friendly amendment to the main motion, which was accepted by **J. Putnam,** to additionally amend Condition 1.b. that the Applicant will cease service of food and beverage on the patio at 11 p.m. seven days a week.

C. Gray, moved to amend the main motion to include a Thursday night closing at 12 a.m. The motion to amend was seconded by **L. May,** and passed on a 5-1 vote (B. Bowen opposed).

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all plans dated February 2, 2015 and the management plan dated March 10, 2015,** on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval. Further, the Applicant shall ensure that the approved use is operated in compliance with the following restrictions:

   a. The Applicant shall operate the business in accordance with the management plan dated March 10, 2015, which is attached to this Notice of Disposition as Exhibit B.

   b. The approved use shall be closed from 2 a.m. through 9 a.m. Saturday and Sunday, and from midnight through 9 a.m. on Monday, Tuesday, Wednesday, Thursday and Friday. The Applicant will cease service of food and beverage on the patio at 11 p.m. seven days a week.

   c. The size of the approved use shall be limited to 3,509 square feet, not including the approved outdoor patio use.

   d. The size of the patio area shall not exceed 712 square feet. All trash located within the outdoor dining area, on the restaurant property and adjacent streets, sidewalks and properties shall be picked up and properly disposed of immediately after closing.

   e. Trash and bottles shall not be removed to outside trash containers between the hours of 10:00 p.m. and 8:00 a.m.

   f. Food, supply, and beverage deliveries made in the alley shall not block parking spaces of adjacent property owners and shall not be made before 8:00 a.m.

2. Prior to issuance of a building permit, the Applicant shall obtain a **right-of-way lease** pursuant to section 8-6-6, B.R.C. 1981 for the portions of outdoor seating area that project into the public right-of-way, as shown on the approved plans.

3. The Applicant shall **not expand or modify the approved use**, except pursuant to Subsection 9-2-15(h), B.R.C. 1981.

4. Upon the execution of the development agreement required by section 9-2-9-,B.R.C., 1981, **this approval supersedes the conditions of approval contained in Exhibit C** (Planning Department Notice of Disposition dated October 17, 1997).

By:_____
David Driskell, Secretary of the Planning Board

Address: 921 PEARL ST

EXHIBIT A

Legal Description
921 Pearl Street

LOT 3, EXCEPT the Easterly 4 feet thereof, TOURTELLOT & SQUIRES ADDITION TO BOULDER, County of Boulder, State of Colorado, TOGETHER WITH that portion of Section 25, Township 1 North, Range 71 West of the 6th P.M., described as follows: Beginning at the Southwest corner of Lot 3 Tourtellot & Squires Addition to Boulder, thence Northerly along the Westerly line of said lot 3 a distance of 150 feet to the Northwest corner of said Lot; thence Southwesterly along an extension of the Northerly line of said Lot 3 and along the South line of Lot 7 of said Addition a distance of 2 feet; thence Southerly parallel to the Westerly line of said Lot 3 a distance of 150 feet to the Northerly line of Pearl Street; thence Northeasterly along the Northerly line of Pearl Street 2 feet to the Point of Beginning.

EXHIBIT B

Revised 3/10/2015

MANAGEMENT PLAN – WORLD OF BEER, BOULDER

JTR Boulder LLC dba World of Beer ("WOB") will be a full service restaurant specializing in tavern fare and craft beer located at 921 Pearl Street, Boulder, Colorado. We are a national franchise that will offer our patrons a full menu of meal options and over five hundred (500) different craft beer selections from over fifty (50) countries, including a large selection from local Colorado breweries. WOB may be classified in zoning terms as a tavern, but it will operate as a full service restaurant. Due to the price and quality of the beer selections, our food sales account for approximately forty percent (40%) of total sales. Therefore, with this Land Use Review application, we request to change the existing "Land Use" from a "Restaurant" (with fifty percent (50%) or more food sales) to a "Tavern" (with less than fifty percent (50%) food sales).

This establishment will hold a hotel & restaurant class liquor license, which requires the sale and service of full meals and therefore the kitchen will be open and the full menu will be available to our patrons during all hours of operation (until 2:00 AM on Saturday and Sunday, and 12:00 midnight Monday through Friday). A copy of our menu is attached. As you will see, our "tavern fare" isn't the average bar grub. We strive to elevate classic comfort food and kick it up several notches with bold, modern flavors and ample portions. Each dish is carefully crafted to pair with our beer selections, giving you the ultimate craft tavern experience.

WOB is actively involved in the community hosting charitable events and supporting numerous Colorado craft breweries. Our demographic is consistent with the professional clientele associated with the local breweries and local charities.

WOB will provide the neighborhood with a social gathering place for our key demographic: the professionals in the downtown commercial area and surrounding residents. We expect approximately three hundred (300) people to patronize our restaurant daily. WOB plans to be open to the public Monday through Thursday from 11:00 AM to 12:00 midnight, Friday 11:00 AM to 2:00 AM Saturday morning, Saturday 9:00 AM to 2:00 AM Sunday morning, and Sunday 9:00 AM to 12:00 midnight. We have consistent business during all operating hours, but have

increased traffic during Lunch from 11:00 AM to 2:00 PM, Happy Hour from 4:00 PM to 6:00 PM and Dinner from 7:00 PM to 10:00 PM.

The majority of these patrons will walk from home, bike, take local RTD bus routes such as the Hop, or park in the public garages nearby. There is currently a B-Cycle Station located on Pearl and 11th, less than two (2) blocks from WOB and bikers will be encouraged to use the five (5) city bike racks that are located on the sidewalk directly in front of WOB. WOB will use its best efforts to encourage alternative transportation, such as RTD and local taxi services. Our employees are instructed to help their patrons arrange transportation by providing phone numbers or calling for local taxi services.

WOB will never be a nightclub. We are a national franchise that has strict operating procedures for brand consistency mandated by the Franchisor, and WOB does not utilize DJs as part of their standard operating procedures. Audio is played as background music during all hours of operation and is purposely monitored so patrons can hold conversations at normal levels.

WOB's annual WOBtoberfest event will never be held at this Boulder location.

WOB will not be using the second floor rooftop patio that was used by the prior restaurant tenant. We will use the street level patio on the south side of the building, but there will not be amplified music, live music or live entertainment offered on the street level patio at any time. WOB will cease service of food and beverage on the patio at 11:00 PM, seven (7) days a week.

WOB will use its best efforts to manage and control unruly behavior of its patrons upon entering and leaving the premises and occupying the patio. All employees are TIPS or ServSafe certified for responsible vending to properly manage alcohol consumption and are trained to check IDs for everyone who appears thirty-five (35) years old or younger. WOB uses specialty glassware as a part of its standard operating procedure, in which higher ABV beers are served in smaller specialty glasses than lower ABV beers, which are generally served in pint glasses. WOB does not serve pitchers or yard glasses and encourages their patrons to drink water while consuming alcohol.

Employees are not permitted to drink alcoholic beverages while working their shift. Security will be on site during greater volume hours as needed to monitor the main entrance and the rear door that accesses the alley. Management and/or Security will regularly monitor the rear hallway and alley to ensure that WOB's patrons do not loiter in the back alley. If necessary, WOB would also consider hiring off-duty police officers to provide additional security and monitor the surrounding area.

WOB will be hiring approximately 50-60 employees for this location. First Shift will begin at 8:00 AM and Third Shift will end at 3:00 AM on Saturdays and Sundays. WOB will have approximately 10-15 employees during First Shift, 15-20 employees during Second Shift, and 15-25 employees during Third Shift. Employees will be instructed to walk, bike, take public transit, or park in the public parking garages nearby. WOB has two (2) dedicated parking spaces. WOB will schedule all food, supply and beverage deliveries to be made in the back alley between 8:00 AM and 5:00 PM, Monday through Friday. We expect an average of ten (10) deliveries per week.

WOB will maintain the exterior of its premises in a neat and clean manner at all times, including sweeping up cigarette butts and other garbage and removing graffiti. All employees are instructed to pick up any trash and litter within our patio and the adjacent sidewalk as it is discovered throughout the day. In any case, all trash located within our outdoor patio and the adjacent sidewalk will be picked up and properly disposed of immediately after closing. After 10:00 PM, all trash, recyclables and compostables will be held inside the building and will be disposed of by the opening morning shift after 8:00 AM or later to reduce noise late at night.

Neighborhood residents are encouraged to contact the WOB on-site General Manager to work to resolve any complaints or issues that may arise. The cellphone number of the General Manager will be available to all neighbors. In the event that there are complaints about late night noise from neighborhood residents, WOB will work with the neighborhood in good faith, including if necessary, the use of mediation services recommended by the City of Boulder.

EXHIBIT C

NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department based on the purposes and intent of the Land Use Regulations as set forth in Chapter 9-4, B.R.C. 1981, as applied to the proposed development:

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND SIGNED MYLAR PLANS MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE MYLAR PLANS. IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN SIXTY (60) DAYS OF THE FINAL DECISION DATE, THE PLANNING BOARD APPROVAL AUTOMATICALLY EXPIRES.

NAME OF PROJECT:	Tourtellot & Squires Use Review
DESCRIPTION:	Restaurant over 1,500 square feet with an outside eating area of more than 300 square feet, within 500 feet of a residential zoning district.
LEGAL DESCRIPTION:	See Attachment A
LOCATION:	921 Pearl Street
COOR:	N3W7
APPLICANTS:	Tourtellot & Squires, LLC
OWNERS:	929 Pearl Street, LLC
APPLICATION:	Use Review: #UR-97-11
ZONING:	RB2-X Regional Business Zone
CASE MANAGER:	Margaret King
DECISION:	Approval
VESTED PROPERTY RIGHT:	NO; the owner has waived the opportunity to create such right under Section 9-4-15, B.R.C., 1981.
Approved on:	October 17, 1997
By:	Robert O. Cole, Acting Director Dept. of Community Design, Planning & Development

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

Appeal to Planning Board expires: October 31, 1997

Pursuant to Section 9-4-8 of the Land Use Regulations (Boulder Revised Code, 1981), this approval shall expire three years after the final approval date unless development has proceeded as specified in Section 9-4-8.

Conditions of Approval

1. All development shall be in compliance with the site and development plans dated August 5, 1997 on file with the City of Boulder Planning Department.

2. The development shall be in compliance with the written statement, dated August 12, 1997. The applicant shall not expand or modify the approved use except pursuant to Section 9-4-9(g), B.R.C., 1981.

Criteria for Review:
Overall, the project was found to be consistent with the criteria for Use Review set forth in Section 9-2-15(e), B.R.C. 1981.

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

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

The site and adjacent area on the north side of Pearl Street is zoned DT-2 (Downtown 2), which is defined as "a transition area between the downtown and the surrounding residential areas where a wide range of retail, office, residential, and public uses are permitted. A balance of new development with the maintenance and renovation of existing buildings is anticipated, and where development and redevelopment consistent with the established historic and urban design character is encouraged" (section 9-5-2(c)(3)(A), B.R.C. 1981). The intent of the DT-2 zoning district is to provide a mid-level transition area between higher intensity downtown commercial area and surrounding neighborhood commercial streets and lower intensity residential areas. As restaurants and taverns are a predominant use in the area, the proposed tavern may be considered compatible with the area and the zoning, dependent on implementation of the management plan. Additionally, the proposed project is consistent with the zoning as it is on a ground floor furthest away on the property from the nearby residential. Consistent with the "regional business" land use designation, the proposed use would contribute to the economic vitality of the downtown area and would enhance the area's unique "sense of place."

✓ (2) Rationale: The use either:

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

The proposed tavern is consistent with the regional business district vision for the area and will add to the service character of the West Pearl portion of downtown where other restaurants, bar establishments and retail are common and cater to citywide and neighborhood residents. Like other restaurants and taverns in the vicinity and within similar neighborhoods around the downtown, conditions of approval will be applied to an approval to mitigate any adverse impacts to the surrounding residential neighborhoods.

The building is located within the Central Area Improvement District (CAGID, which provides several parking structures and on-street parking in close proximity to serve the tavern. There are approximately 2,000 parking spaces within ¼-mile radius of the site. Additionally, there is a Neighborhood Parking Permit (NPP) program in the Mapleton neighborhood to the north,

which is enforced Monday through Friday, 8 a.m. to 6 p.m. Enforcement in the evening hours could be considered in the future if residents experience parking shortages.

The site is also within walking distance for several hundred downtown residential dwelling units, and several hundred downtown employers. As a downtown business, World of Beer employees will be eligible to receive a downtown employee Eco Pass. There are a number of transit stops within two blocks of the site, serving bus routes including the HOP, DASH, SKIP, CLIMB, 205, 119, Y, 208, 225, AB, BV, and several others.

N/A (B) Provides a compatible transition between higher intensity and lower intensity uses;
Not applicable.

N/A (C) Is necessary to foster a specific city policy, as expressed in the Boulder Valley Comprehensive Plan, including, without limitation, historic preservation, moderate income housing, residential and non-residential mixed uses in appropriate locations, and group living arrangements for special populations; or
Not applicable.

N/A (D) Is an existing legal non-conforming use or a change thereto that is permitted under subsection (e) of this section;
Not applicable.

✓ (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 proposed tavern use in itself will not present a higher intensity of use than that of the existing neighboring restaurants and taverns, which are common to the vicinity and are generally of a lesser intensity than the larger mix of uses on the Pearl Street mall. In the context, with restaurants to the east and directly adjacent, the activity of the tavern is compatible in the context. A robust management plan will mitigate the impacts of extended hours and an outdoor patio.

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

The infrastructure for the existing building is already in place and has been for decades. The restaurant will not create an impact to infrastructure in a downtown area that is already well served.

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

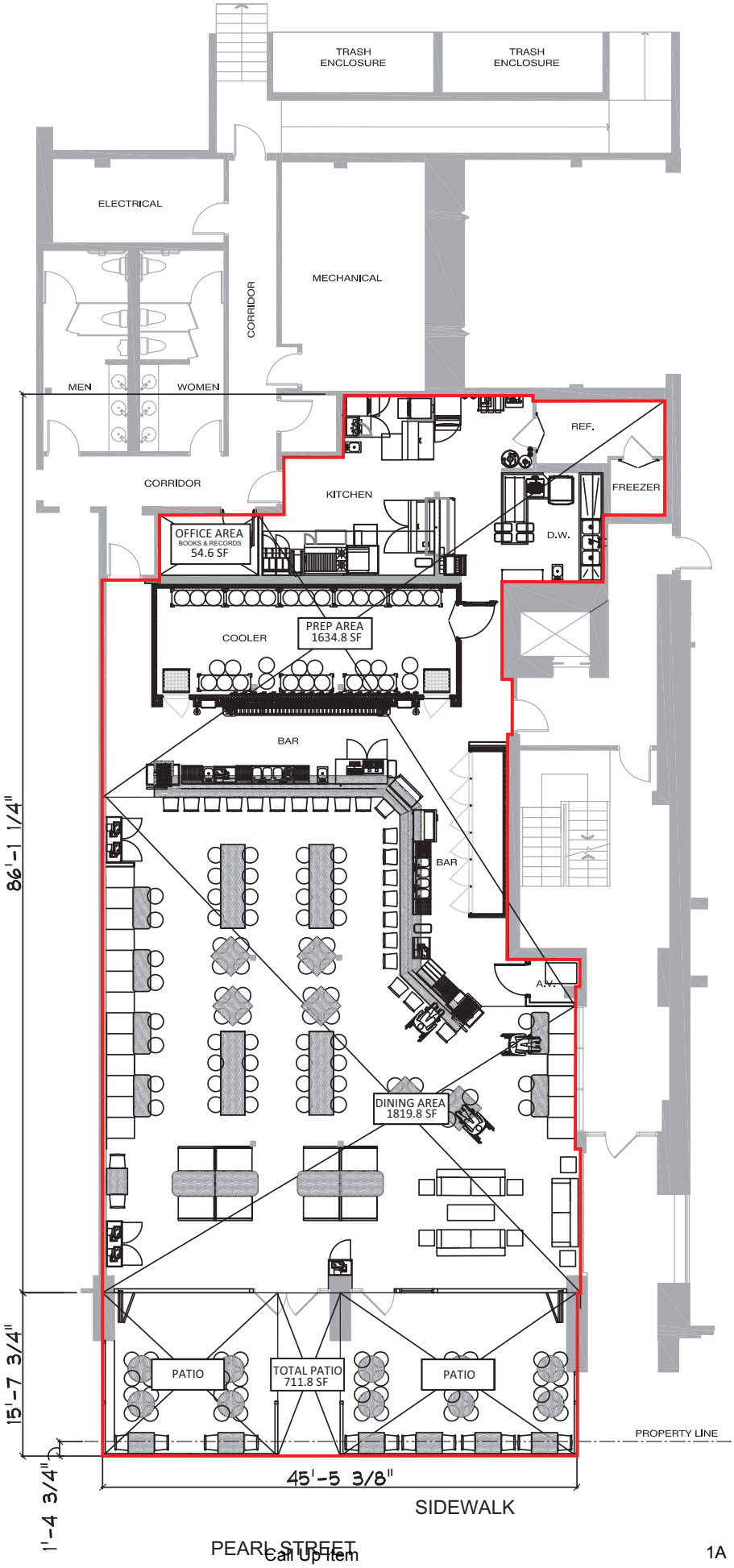
West Pearl is predominately commercial in nature as is the existing property. Because the tavern is at street level in a mixed use building, the use will enhance the predominate character of West Pearl street by activating the streetscape. The addition of a tavern will not change, but rather would add to this established character.

N/A (6) Conversion of Dwelling Units to Non-Residential Uses: There shall be a presumption against approving the conversion of dwelling units in the residential zoning districts set forth in subsection 9-5-2(c)(1)(a), B.R.C. 1981, to non-residential uses that are allowed pursuant to a use review, or through the change of one non-conforming use to another non-conforming use. The presumption against such a conversion may be overcome by a finding that the use to be approved serves another compelling social, human services, governmental, or recreational need in the community including, without limitation, a use for a day care center, park, religious assembly, social service use, benevolent organization use, art or craft studio space, museum, or an educational use.
Not applicable.

2/2/2015

JTR BOULDER LLC
DBA WORLD OF BEER
921 PEARL STREET
BOULDER, CO 80302

PROPOSED LICENSED PREMISES



3,509.2 SF INTERIOR
+ 711.8 SF PATIO
4,221.0 SF TOTAL AREA

Revised 3/10/2015

MANAGEMENT PLAN – WORLD OF BEER, BOULDER

JTR Boulder LLC dba World of Beer ("WOB") will be a full service restaurant specializing in tavern fare and craft beer located at 921 Pearl Street, Boulder, Colorado. We are a national franchise that will offer our patrons a full menu of meal options and over five hundred (500) different craft beer selections from over fifty (50) countries, including a large selection from local Colorado breweries. WOB may be classified in zoning terms as a tavern, but it will operate as a full service restaurant. Due to the price and quality of the beer selections, our food sales account for approximately forty percent (40%) of total sales. Therefore, with this Land Use Review application, we request to change the existing "Land Use" from a "Restaurant" (with fifty percent (50%) or more food sales) to a "Tavern" (with less than fifty percent (50%) food sales).

This establishment will hold a hotel & restaurant class liquor license, which requires the sale and service of full meals and therefore the kitchen will be open and the full menu will be available to our patrons during all hours of operation (until 2:00 AM on Saturday and Sunday, and 12:00 midnight Monday through Friday). A copy of our menu is attached. As you will see, our "tavern fare" isn't the average bar grub. We strive to elevate classic comfort food and kick it up several notches with bold, modern flavors and ample portions. Each dish is carefully crafted to pair with our beer selections, giving you the ultimate craft tavern experience.

WOB is actively involved in the community hosting charitable events and supporting numerous Colorado craft breweries. Our demographic is consistent with the professional clientele associated with the local breweries and local charities.

WOB will provide the neighborhood with a social gathering place for our key demographic: the professionals in the downtown commercial area and surrounding residents. We expect approximately three hundred (300) people to patronize our restaurant daily. WOB plans to be open to the public Monday through Thursday from 11:00 AM to 12:00 midnight, Friday 11:00 AM to 2:00 AM Saturday morning, Saturday 9:00 AM to 2:00 AM Sunday morning, and Sunday 9:00 AM to 12:00 midnight. We have consistent business during all operating hours, but have

increased traffic during Lunch from 11:00 AM to 2:00 PM, Happy Hour from 4:00 PM to 6:00 PM and Dinner from 7:00 PM to 10:00 PM.

The majority of these patrons will walk from home, bike, take local RTD bus routes such as the Hop, or park in the public garages nearby. There is currently a B-Cycle Station located on Pearl and 11th, less than two (2) blocks from WOB and bikers will be encouraged to use the five (5) city bike racks that are located on the sidewalk directly in front of WOB. WOB will use its best efforts to encourage alternative transportation, such as RTD and local taxi services. Our employees are instructed to help their patrons arrange transportation by providing phone numbers or calling for local taxi services.

WOB will never be a nightclub. We are a national franchise that has strict operating procedures for brand consistency mandated by the Franchisor, and WOB does not utilize DJs as part of their standard operating procedures. Audio is played as background music during all hours of operation and is purposely monitored so patrons can hold conversations at normal levels.

WOB's annual WOBtoberfest event will never be held at this Boulder location.

WOB will not be using the second floor rooftop patio that was used by the prior restaurant tenant. We will use the street level patio on the south side of the building, but there will not be amplified music, live music or live entertainment offered on the street level patio at any time. WOB will cease service of food and beverage on the patio at 11:00 PM, seven (7) days a week.

WOB will use its best efforts to manage and control unruly behavior of its patrons upon entering and leaving the premises and occupying the patio. All employees are TIPS or ServSafe certified for responsible vending to properly manage alcohol consumption and are trained to check IDs for everyone who appears thirty-five (35) years old or younger. WOB uses specialty glassware as a part of its standard operating procedure, in which higher ABV beers are served in smaller specialty glasses than lower ABV beers, which are generally served in pint glasses. WOB does not serve pitchers or yard glasses and encourages their patrons to drink water while consuming alcohol.

Employees are not permitted to drink alcoholic beverages while working their shift. Security will be on site during greater volume hours as needed to monitor the main entrance and the rear door that accesses the alley. Management and/or Security will regularly monitor the rear hallway and alley to ensure that WOB's patrons do not loiter in the back alley. If necessary, WOB would also consider hiring off-duty police officers to provide additional security and monitor the surrounding area.

WOB will be hiring approximately 50-60 employees for this location. First Shift will begin at 8:00 AM and Third Shift will end at 3:00 AM on Saturdays and Sundays. WOB will have approximately 10-15 employees during First Shift, 15-20 employees during Second Shift, and 15-25 employees during Third Shift. Employees will be instructed to walk, bike, take public transit, or park in the public parking garages nearby. WOB has two (2) dedicated parking spaces. WOB will schedule all food, supply and beverage deliveries to be made in the back alley between 8:00 AM and 5:00 PM, Monday through Friday. We expect an average of ten (10) deliveries per week.

WOB will maintain the exterior of its premises in a neat and clean manner at all times, including sweeping up cigarette butts and other garbage and removing graffiti. All employees are instructed to pick up any trash and litter within our patio and the adjacent sidewalk as it is discovered throughout the day. In any case, all trash located within our outdoor patio and the adjacent sidewalk will be picked up and properly disposed of immediately after closing. After 10:00 PM, all trash, recyclables and compostables will be held inside the building and will be disposed of by the opening morning shift after 8:00 AM or later to reduce noise late at night.

Neighborhood residents are encouraged to contact the WOB on-site General Manager to work to resolve any complaints or issues that may arise. The cellphone number of the General Manager will be available to all neighbors. In the event that there are complaints about late night noise from neighborhood residents, WOB will work with the neighborhood in good faith, including if necessary, the use of mediation services recommended by the City of Boulder.

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning + Sustainability
Susan Richstone, Deputy Director of Community Planning + Sustainability
Charles Ferro, Development Review Manager
Chandler Van Schaack, Planner I

Date: March 17, 2015

Subject: Call-Up Item: Concept Plan Review 1900 Folsom (LUR2014-00085)

EXECUTIVE SUMMARY

On March 5, 2015 the Planning Board reviewed and commented on the above-referenced application. City Council may vote to call-up the Concept Plan to review and discuss within 30 days of the Planning Board hearing. The call up period concludes on **April 6, 2015** (the end of the 30-day call up period falls on a weekend and so is extended to the following Monday). There is one City Council meeting within this time period for call-up consideration on March 17, 2015. The staff memorandum to Planning Board, minutes, meeting audio, and other related background materials are on the city website for Planning Board, available here (Follow the links: *2015 ➔03 MAR ➔03.05.2015 PB Packet).* The draft minutes from the Planning Board hearing are provided in **Attachment A** and the Concept Plan submittal package is provided in **Attachment B**.

It should be noted that this Concept Plan review was submitted concurrent with an application to rezone the property from BT-2 (Business- Transitional 2) to BR-1 (Business- Regional 1), both of which were heard by the Planning Board at their March 5, 2015 meeting. At the Planning Board hearing, there were no neighborhood comments; however, several written comments from the neighborhood had been received previously and are included with the staff memorandum to the Planning Board. The Planning Board supported the proposed rezoning and made a recommendation of approval. The draft ordinance has been scheduled for first reading at City Council on April 7, 2015.

Regarding the Concept Plan proposal, overall the board expressed support for the proposal; however, the board recommended some site plan changes with regard to access and open space and also recommended changes to the architecture to make the massing more consistent.

Consistent with recently amended land use code section 9-2-13(a)(2), B.R.C. 1981 City Council has the opportunity to call up the application to review and comment on the concept plan within a 30-day call up period which expires on April 6, 2015.

ATTACHMENTS

A. Draft March 5, 2015 Planning Board Minutes
B. Concept Plan Submittal

CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
March 5, 2015
1777 Broadway, Council Chambers

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

PLANNING BOARD MEMBERS PRESENT:
Aaron Brockett, Chair
Bryan Bowen
Crystal Gray
John Gerstle
Leonard May
Liz Payton
John Putnam

PLANNING BOARD MEMBERS ABSENT:
None

STAFF PRESENT:
Charles Ferro, Director of Current Planning
Hella Pannewig, Assistant City Attorney
Susan Meissner, Administrative Assistant III
Sloane Walbert, Planner I
Chandler Van Schaack, Planner I
David Thompson, Civil Engineer II- Transportation
Carl Castillo, Assistant City Attorney

PUBLIC HEARING ITEM 5B:

Public hearing and Planning Board consideration of the following items:

(a) Recommendation to City Council on a request to rezone the property at 1900 Folsom Street from BT-2 (Business Transitional – 2) to BR-1 (Business Regional – 1) (application no. LUR2014-00084) and

(b) Review and comment on a Concept Plan (application no. LUR2014-00085) proposal to redevelop the 1.28-acre property following rezoning with a new 48' tall, four-story, 151,405 sq. ft. mixed-use building with two levels of office space and two levels containing 35 residential units.

Applicant: Adrian Sopher
Property Owner: John Volkmar

Staff Presentation:
C. Van Schaack presented the item to the board.

Board Questions:
C. Van Schaack answred questions from the board.

Applicant Presentation:
Adrian Sopher, the applicant, presented to the board.

Public Hearing:
No one from the public spoke.

Board Comments:
Rezoning:

- The board agreed that the rezoning was in compliance with the BVCP and makes sense given the current zoning conditions. They felt that a 0.5 FAR seemed too low for that location and thought the proposed use was appropriate.
- **C. Gray** felt that the lower height made it compatible with the adjacent buildings.

Motion:
On a motion by **J. Putnam**, seconded by **B. Bowen**, the Planning Board voted 7-0 to recommend approval of rezoning request number LUR2014-00084 to City Council incorporating the staff memorandum as findings of fact.

Concept Plan:

- The board thought the use was appropriate for the neighborhood and agreed that it would be appropriate to have office space on the bottom floor with residential above.
- Consider landscape design and sightlines as they relate to the curb cut to ensure optimal pedestrian and biking safety.
- Enhance the pedestrian experience around the building through architecture and landscape.
- The board appreciated that the project will have underground parking and only one curb cut. Remove the drive lane around the back of the building if possible and move cars underground as quickly as possible upon entering the site.
- Reduce the number of surface parking spots and consider using permeable pavers for the remaining handicap and/or service parking spots.
- Convert the area gained from removing surface parking spots to private open space for residents.
- Unbundle and share parking in the garage between daytime and nighttime uses.
- Create a space in the building for residents to store and work on bikes and skis.
- Members agreed that the existing building was not salvageable. **L. Payton** suggested that the next building be of a caliber and construction typology that would make it enduring.
- Most members liked the general direction of the architecture but felt that it should be significantly simplified. Given that the building is three instead of four stories, it does not need to work to break up the massing.
- **L. Payton** suggested that the building relate to the adjacent Mike's Camera building for cohesion; design it to have a clear top, bottom and middle.

- **B. Bowen** liked the proposed imagery and architectural character in the applicant's submittal materials. Consider co-op housing choreography principles for hallways and shared spaces.
- The board liked the glazed element on the southwest corner of the building; the breakdown of the building creates interest, relates well to the Mike's Camera building, and enlivens the street.
- Most members liked the ground level windows along Folsom. **L. Payton** felt that a glass facade made for an uncomfortable pedestrian experience and recommended adding a sill and/or reducing the size of the windows.
- Provide renderings showing the pedestrian experience around the buildings. Create an appealing experience; Walnut and Folsom are important corridors.
- Consider introducing opportunities for co-op living in this building and incorporating planters on south-facing balconies.
- Members agreed that it would not be necessary for the applicant to return for a second concept review, but thought that it could be helpful.

Note: Due to the size and number of pages of the plan set, Attachment B was too large to include in the memo. Therefore, a complete set of plans is available in the City Council office of the City Manager's Office.

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning + Sustainability
Susan Richstone, Deputy Director of Community Planning + Sustainability
Charles Ferro, Development Review Manager
Chandler Van Schaack, Planner I

Date: March 17, 2015

Subject: Call-Up Item: Knapp Subdivision Final Plat Application no. TEC2013-00057: Final Plat to subdivide one 0.5-acre developed lot at 3050 15th St. in the RL-1 zone district to create 2 new residential lots: Lot 1 (9,605 s.f.) and Lot 2 (12,176 s.f.). Lot 1 will contain an existing single family home.

EXECUTIVE SUMMARY:

On **March 5, 2015**, Planning Board approved (5-2, C. Gray and L. Payton opposed) the subject application with the condition found in the disposition of approval, provided as **Attachment A**.

The subject property is 21,781 sq. ft. (0.5-acres) in size and currently contains a detached single-family dwelling unit. This Final Plat request is to subdivide the existing lot to create two new residential lots: Lot 1 (9,605 s.f.) will contain the existing single family home, and Lot 2 (12,176 s.f.) will be sold as a vacant, developable lot. The proposed subdivision is in a flag lot configuration, with Lot 2 proposed to be located behind Lot 1 to the east. Both lots would be accessed via a 30' portion of lot that runs along the south edge of the proposed Lot 1 (See **Figure 2** for the proposed subdivision layout). Both lots will share access using the existing driveway, which will be located on Lot 2 following the subdivision of the lots and subject to a shared access easement. In order for the existing home on Lot 1 to continue to meet the minimum side yard setback requirements for the RL-1 zone, a portion of the existing home will be demolished prior to building permit issuance for either lot (as required by the subdivision agreement). All minimum development standards will be met, including compatible development standards and solar access.

The Planning Board's approval is subject to a 30-day call-up period by City Council which expires on **April 6, 2015**. City Council is scheduled to consider this application for call-up at its **March 17, 2015** public meeting.

Figure 1: Vicinity Map and Current Lot Configuration

Figure 2: Proposed Subdivision Layout

The staff memorandum to Planning Board, minutes, meeting audio, and other related background materials are on the city website for Planning Board, available here (Follow the links: *2015 ➔03 MAR ➔03.05.2015 PB Packet).*

BACKGROUND:

Project Site.

As shown above in **Figure 1**, 3050 15th St. is located in North Boulder on 15th Street north of Elder Ave. The property is zoned RL-1 (Residential- Low 1), which is defined as *"Single-family*

detached residential dwelling units at low to very low residential densities" per section 9-5-2(c)(1)(A), B.R.C. 1981. The surrounding neighborhood is also zoned RL-1. Pursuant to section 9-8-1, Table8-1, "Intensity Standards," the minimum lot area for the RL-1 zone district is 7,000 square feet; however, the lots located along 15th Street on this block range in size from approximately 10,000 square feet 22,400 square feet.

Project History.
On January 12, 2015, following staff review and approval of a Preliminary Plat and Final Plat for consistency with the city's Final Plat Subdivision criteria and lot standards, city staff approved the Knapp Subdivision. Final plat approvals may be called up by the board or by the public within 14 days of staff's decision. Following the Planning Board meeting on January 22, 2015 at which the Planning Board did not call up the decision, a member of the public called up staff's decision on January 25, 2015.

ANALYSIS:
Subsection 9-12-8(b), B.R.C. 1981 lists all of the information that is required to be placed on a final plat. Staff has reviewed the plat and determined that the applicant has included all of the required information on the plat document. Section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981 includes all of the substantive regulatory requirements that need to be met in order to have an approvable final plat. The proposed subdivision meets all of the necessary lot standards set forth in Section 9-12-12, B.R.C. 1981. **Attachment C** includes a detailed analysis of the subdivision standards.

Planning Board Hearing.
At their March 5, 2015 public hearing, the Planning Board approved the subject Final Plat request in one motion with a vote of 5-2 (C. Gray and L. Payton opposed). There were no public comments regarding the proposal.

If the City Council disagrees with this decision, it may call up the applications within the 30-day call up period which expires on **April 6, 2015**. City Council is scheduled to consider these applications for call-up at its **March 17, 2015** public meeting.

ATTACHMENTS:
A. Notice of Disposition dated March 5, 2015
B. Proposed Final Plat
C. Final Plat Criteria and Lot Standards Analysis

CITY OF BOULDER
Community Planning & Sustainability
1739 Broadway, Third Floor • P.O. Box 791, Boulder, CO 80306-0791
phone 303-441-1880 • fax 303-441-3241 • web www.bouldercolorado.gov

CITY OF BOULDER PLANNING BOARD
NOTICE OF DISPOSITION

You are hereby advised that on **March 05, 2015** the following action was taken by the Planning Board 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**
PROJECT NAME:	**KNAPP SUBDIVISION**
DESCRIPTION:	**Final Plat to subdivide one 0.5-acre developed lot in the Garden Home Subdivision to create 2 new residential lots: Lot 1 (9,605 s.f.) and Lot 2 (12,176 s.f.). Lot 1 will contain the existing single family home.**
LOCATION:	**3050 15TH STREET**
COOR:	**N05W06**
LEGAL DESCRIPTION:	**The North Half of Lot 8, Garden Home Subdivision, City of Boulder, County of Boulder, State of Colorado**
APPLICANT:	**James McCutcheon**
OWNER:	**Charles L. Knapp & Ellen C. Smith-Knapp**
APPLICATION:	**TEC2013-00057**
ZONING:	**RL-1**
CASE MANAGER:	**Chandler Van Schaack**

This decision may be called up before the City Council on or before **April 6, 2015**. If no call-up occurs, the decision is deemed final on **April 7, 2015**.

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

At its public hearing on March 05, 2015 the Planning Board approved the request with the following motion:

On a motion by **A. Brocket**, seconded by **J. Putnam**, the Planning Board voted 5-2 (**C. Gray** and **L. Payton** opposed) to approve Technical Document Review # TEC2013-00057 for the Knapp Subdivision incorporating this staff memorandum and the Final Plat Subdivision Review Criteria as findings of fact.

CONDITIONS OF APPROVAL:

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

By: _____
David Driskell, Secretary of the Planning Board

KNAPP SUBDIVISION FINAL PLAT

A REPLAT OF THE NORTH 1/2 OF LOT 8, GARDEN HOME SUBDIVISION, LOCATED IN THE SW 1/4 OF SECTION 19, T1N, R70W OF THE 6TH P.M. CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

TOTAL AREA = 0.500 ACRES

SHEET 1 OF 1

DEDICATION

KNOW ALL MEN BY THESE PRESENTS: THAT ELLEN C. SMITH-KNAPP AND CHARLES L. KNAPP ARE THE OWNERS OF THAT PARCEL OF LAND SITUATED IN THE CITY OF BOULDER, AND LYING WITHIN THE SW 1/4 OF SECTION 19, T1N, R70W OF THE 6TH P.M., DESCRIBED AS FOLLOWS:

THE NORTH HALF OF LOT 8, GARDEN HOME SUBDIVISION, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.

HAVE CAUSED SAID PROPERTY TO BE LAID OUT, SURVEYED, SUBDIVIDED AND PLATTED UNDER THE NAME OF "KNAPP SUBDIVISION," A SUBDIVISION IN THE CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, AS SHOWN ON THE ACCOMPANYING PLAT.

THE UNDERSIGNED DO GRANT TO THE CITY OF BOULDER THAT PORTION OF SAID REAL PROPERTY DESIGNATED AS "SHARED ACCESS EASEMENT" FOR ITS USE AND THE USE OF THE PUBLIC FOREVER, AS AN EASEMENT FOR INGRESS AND EGRESS OVER AND ACROSS THAT PORTION OF SAID REAL PROPERTY, SO SHOWN HEREON FOR THE BENEFIT OF LOT 1. SAID EASEMENT SHALL REMAIN THE MAINTENANCE RESPONSIBILITY OF SAID OWNERS AND SHALL NOT BECOME THE MAINTENANCE RESPONSIBILITY OF THE CITY.

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

FOR THE APPROVAL OF "KNAPP SUBDIVISION" AND THE DEDICATIONS AND CONDITIONS WHICH APPLY THERETO THIS _____ DAY OF _____, 20___.

BY: _____ ELLEN C. SMITH-KNAPP

BY: _____ CHARLES L. KNAPP

STATE OF COLORADO)
) SS.
COUNTY OF BOULDER)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 20__, BY ELLEN C. SMITH-KNAPP AND CHARLES L. KNAPP.

WITNESS MY HAND AND SEAL.
MY COMMISSION EXPIRES: _____

[SEAL]

_____
NOTARY PUBLIC

LENDER'S CONSENT AND SUBORDINATION

THE UNDERSIGNED, A BENEFICIARY UNDER A CERTAIN DEED OF TRUST ENCUMBERING THE PROPERTY, HEREBY EXPRESSLY CONSENTS TO AND JOINS IN THE EXECUTION AND RECORDING OF THIS SUBDIVISION PLAT, DEDICATION AND EASEMENTS SHOWN HEREON AND MAKES THE DEED OF TRUST SUBORDINATE HERETO. THE UNDERSIGNED REPRESENTS THAT HE OR SHE HAS FULL POWER AND AUTHORITY TO EXECUTE THIS LENDER'S CONSENT AND SUBORDINATION ON BEHALF OF THE LENDER STATED BELOW.

RESOURCE MORTGAGE CORPORATION

BY: _____
AUTHORIZED REPRESENTATIVE

ACKNOWLEDGEMENT

STATE OF _____)
) SS.
COUNTY OF _____)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 20___, BY _____ AS AUTHORIZED REPRESENTATIVE OF MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC. A SEPARATE CORPORATION THAT IS ACTING SOLELY AS A NOMINEE FOR LENDER AND LENDER'S SUCCESSORS AND ASSIGNS FOR RESOURCE MORTGAGE CORPORATION.

WITNESS MY HAND AND SEAL.
MY COMMISSION EXPIRES: _____

[SEAL]

_____
NOTARY PUBLIC

LENDERS CONSENT AND SUBORDINATION

THE UNDERSIGNED, A BENEFICIARY UNDER A CERTAIN DEED OF TRUST ENCUMBERING THE PROPERTY, HEREBY EXPRESSLY CONSENTS TO AND JOINS IN THE EXECUTION AND RECORDING OF THIS SUBDIVISION PLAT, DEDICATION AND EASEMENTS SHOWN HEREON AND MAKES THE DEED OF TRUST SUBORDINATE HERETO. THE UNDERSIGNED REPRESENTS THAT HE OR SHE HAS FULL POWER AND AUTHORITY TO EXECUTE THIS LENDER'S CONSENT AND SUBORDINATION ON BEHALF OF THE LENDER STATED BELOW.

BOULDER MUNICIPAL EMPLOYEES FEDERAL CREDIT UNION

BY: _____
AUTHORIZED REPRESENTATIVE

ACKNOWLEDGEMENT

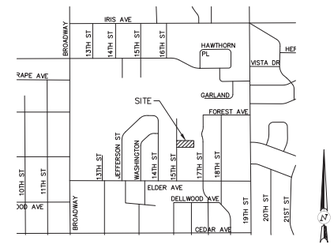
STATE OF _____)
) SS.
COUNTY OF _____)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 20___, BY _____ AS _____ OF BOULDER MUNICIPAL EMPLOYEES FEDERAL CREDIT UNION.

WITNESS MY HAND AND SEAL.
MY COMMISSION EXPIRES: _____

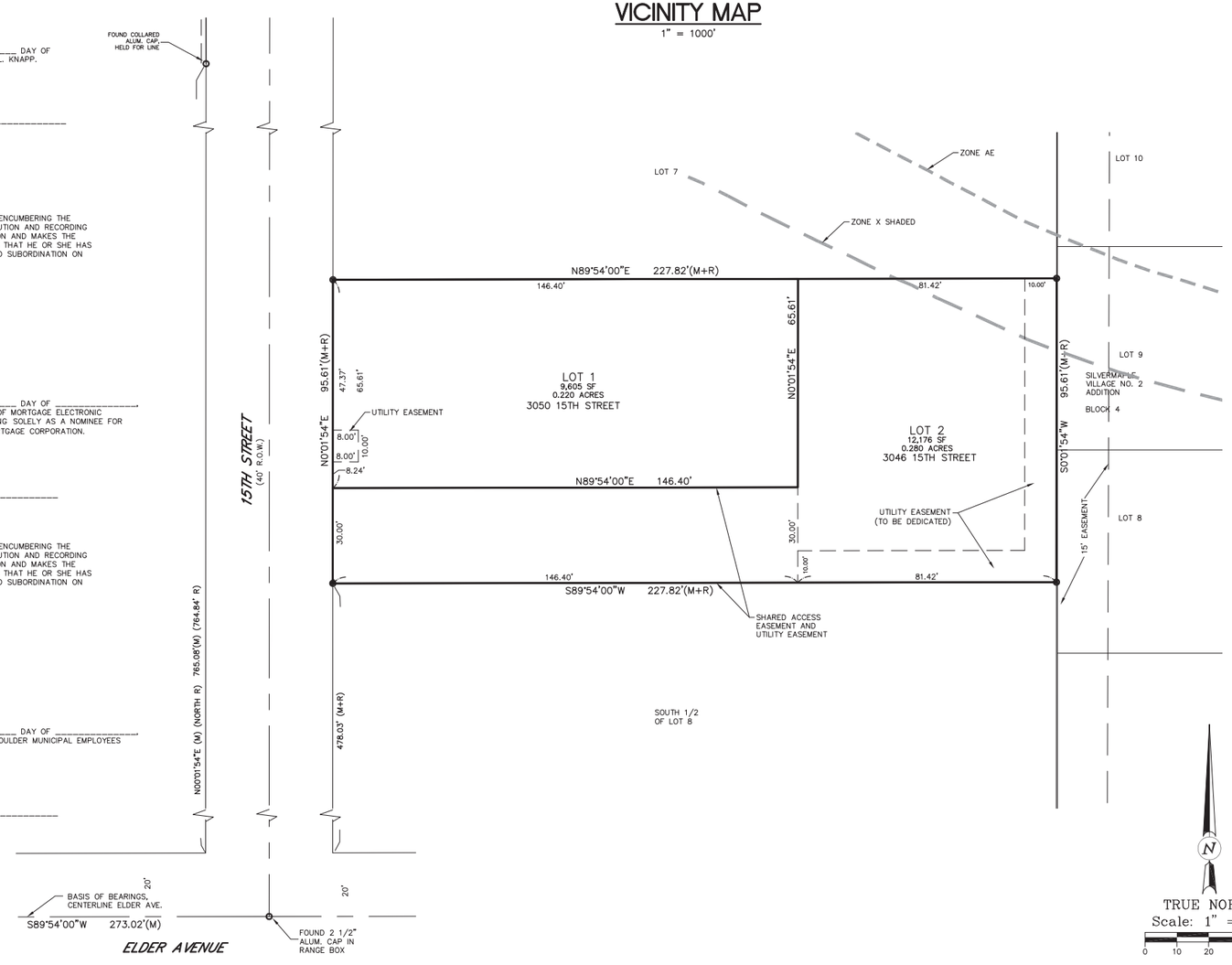
[SEAL]

_____
NOTARY PUBLIC



VICINITY MAP

1" = 1000'



LEGEND

○	FOUND MONUMENT AS NOTED
●	FOUND #5 REBAR WITH RED PLASTIC CAP, P.L.S. 24302.
(R)	RECORD COURSE PER PLAT
(M)	MEASURED COURSE PER THIS SURVEY

SURVEY NOTES

1. THE BASIS OF BEARINGS IS THE CENTER LINE OF ELDER AVE. AND BEARS S89°54'W PER GARDEN HOME SUBDIVISION PLAT.
2. THE SIZE AND TYPE OF MONUMENTS FOUND ARE SHOWN HEREON.
3. THE SURVEY FIELD WORK ON THIS SITE WAS COMPLETED ON 7/08/13.
4. NOTICE: ACCORDING TO COLORADO LAW, YOU MUST COMMENCE ANY LEGAL ACTION BASED ON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED SUCH DEFECT. IN NO EVENT, MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON. CRS-13-80-105 (3)(a)
5. FIRST COLORADO TITLE COMPANY, LLC, POLICY NO. 113-00-880032, DATED SEPTEMBER 3, 2013 WAS SOLELY RELIED UPON FOR RECORDED RIGHTS-OF-WAY, EASEMENTS AND ENCUMBRANCES IN THE PREPARATION OF THIS SURVEY.
6. LAND SURVEY PLATS REFERENCED OR USED FOR THIS SURVEY: FLAGSTAFF SURVEYING INC., LAND SURVEY PLAT, LS-12-0300; FLATIRONS, INC., IMPROVEMENT SURVEY PLAT, LS-13-0068; BONSALL SUBDIVISION, REC. NO. 549483; GARDEN HOME SUBDIVISION, REC. NO. 441958; IMPROVEMENT SURVEY PLAT BY SCOTT COX AND ASSOC., 7-03-12.
7. LOTS ARE TO BE USED FOR SINGLE FAMILY RESIDENCES.
8. THE NORTHEAST PORTION OF THIS PROPERTY LIES WITHIN ZONE X, SHADED (AREAS OF 0.2% ANNUAL CHANCE FLOOD) AND THE REST LIES WITHIN ZONE X, (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS SHOWN ON FLOOD INSURANCE RATE MAP, CITY OF BOULDER COLORADO, BOULDER COUNTY FIRM MAP NUMBER 08013C0392 J EFFECTIVE DATE: DECEMBER 18, 2012.
9. THE PROPERTY IS ZONED RL-1.

SURVEYOR'S CERTIFICATE

I, A. JOHN BURI, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT WAS PREPARED UNDER MY SUPERVISION AND IS BASED ON A BOUNDARY SURVEY MADE BY SCOTT, COX & ASSOCIATES, INC., AND TO THE BEST OF MY KNOWLEDGE AND BELIEF CORRECTLY SHOWS THE LOCATION AND DIMENSIONS OF THE LOTS, IN SUBSTANTIAL COMPLIANCE WITH C.R.S. 38-51-106.

A. JOHN BURI, PLS 24302
FOR AND ON BEHALF OF
SCOTT, COX & ASSOCIATES, INC.

APPROVALS

_____
DIRECTOR OF PLANNING

_____
DIRECTOR OF PUBLIC WORKS AND UTILITIES

CITY MANAGER'S CERTIFICATE

IN WITNESS WHEREOF, THE CITY OF BOULDER HAS CAUSED ITS SEAL TO BE HEREUNTO AFFIXED BY ITS CITY MANAGER THIS _____ DAY OF _____ 20__.

ATTEST:

_____ CITY CLERK

_____ CITY MANAGER

CLERK AND RECORDER'S CERTIFICATE

STATE OF COLORADO)
) SS.
COUNTY OF BOULDER)

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT _____ O'CLOCK ___, M., THIS _____ DAY OF _____, 20_____, AND IS RECORDED AT RECEPTION # _____.
FEES PAID: $_____.

_____ CLERK AND RECORDER

_____ DEPUTY

SCOTT, COX & ASSOCIATES, INC.
consulting engineers • surveyors
1530 55th Street • Boulder, Colorado 80303
(303) 444 - 3051

Designed by AJB	Date	Scale	Drawing no.	Sheet
Drawn by JAS	02/14/14	1" = 20'	13330B-1	1
Checked by AJB	Revision	Description	Date	Project no. 13330B

FINAL PLAT

Call Up
3050 15th St

Section 9-12-8, "Final Plat," B.R.C. 1981

(a) A final plat may be submitted at the same time as a preliminary plat.

The Preliminary and Final Plat applications were submitted concurrently.

(b) In order to obtain city manager review of a final plat, the subdivider shall submit a final plat that conforms to the approved preliminary plat, includes all changes required by the manager or the planning board, and includes the following information:

(1) A map of the plat drawn at a scale of no less than one inch equals one hundred feet (and of a scale sufficient to be clearly legible) with permanent lines in ink and whose outer dimensions are twenty-four inches by thirty-six inches on a reproducible Mylar sheet (maps of two or more sheets shall be referenced to an index placed on the first sheet);

Standard met.

(2) A one inch equals one hundred feet reduction of the plat;

Standard met.

(3) The title under which the subdivision is to be recorded;

Standard met.

(4) Accurate dimensions for all lines, angles and curves used to describe boundaries, public improvements, easements, areas to be reserved for public use and other important features. (All curves shall be circular arcs and shall be defined by the radius, central angle, tangent, arc and chart distances. All dimensions, both linear and angular, are to be determined by an accurate control survey in the field that must balance and close within a limit of one in ten thousand. No final plat showing plus or minus dimensions will be approved.);

Standard met.

(5) The names of all abutting subdivisions, or, if the abutting land is unplatted, a notation to that effect;

Standard met.

(6) An identification system for all lots and blocks and names for streets;

Standard met.

(7) An identification of the public improvements, easements, parks and other public facilities shown on the plat, a dedication thereof to the public use and areas reserved for future public acquisition;

Standard met.

(8) The total acreage and surveyed description of the area;

Standard met.

(9) The number of lots and size of each lot;

Standard met.

(10) Proposed ownership and use of outlots;

Not Applicable, as no outlots are included.

(11) A designation of areas subject to the one-hundred-year flood, the estimated flow rate used in determining that designation, and a statement that such designation is subject to change;

Not applicable, as the property is not within a floodplain.

(12) A description of all monuments, both found and set, that mark the boundaries of the property and a description of all control monuments used in conducting the survey;

Standard met.

(13) A statement by the land surveyor that the surveyor performed the survey in accordance with state law;

Standard met.

(14) A statement by the land surveyor explaining how bearings, if used, were determined;

Standard met.

(15) The signature and seal of the Colorado registered land surveyor;

Standard met.

(16) A delineation of the extent of the one hundred year floodplain, the base flood elevation, the source of such delineation and elevation and a statement that they are subject to change;

Not applicable, as the property is not within a floodplain.

(17) The square footage of each lot;

Standard met.

(18) Certification for approval by the following:

(A) Director of planning,

Standard met.

(B) Director of public works and utilities,

Standard met.

(C) Director of parks and recreation, if park land is dedicated on the plat, and

Not applicable

(D) Director of real estate and open space, if open space land is dedicated on the plat;

Not Applicable

(19) Signature blocks for all owners of an interest in the property; and

Standard met.

(20) A signature block for the city manager's signature.

Standard met.

(c) The subdivider shall include with the final plat:

(1) Engineering drawings, certified by a professional engineer registered in the State of Colorado, for proposed public and private utility systems meeting the requirements of the City of Boulder Design and Construction Standards;

Standard met.

(2) An update to the preliminary title report or attorney memorandum based upon an abstract of title current as of the date of submitting the plat;

Standard met.

(3) Covenants for maintenance of private utilities or improvements, as prescribed by subsection 9-12-12(c), B.R.C. 1981;

Standard met.

(4) Copies of documents granting any easements required as part of the plat approval, the county clerk and recorder's recording number and proof of ownership of the property underlying the easement satisfactory to the city attorney;

Standard met.

(5) Evidence that adequate utility services, including electrical, natural gas, telephone and other services, are provided for each lot within the subdivision; and

Standard met.

(6) Agreements with ditch companies, if needed.

Not Applicable.

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

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

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

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

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

Standard met. The proposed new lot is in a flag lot configuration, with 30' of frontage on 15th St. A Shared Access Easement will be dedicated through the Final Plat which will allow both lots to utilize the existing curb cut.

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

Standard met.

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

Standard met.

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

Standard met. Both of the proposed new lots meet the 7,000 s.f. minimum lot size requirement for the RL-1 zone district, with Lot 1 being 9,605 square feet and Lot 2 being 12,176 square feet, respectively. In order for the existing home on Lot 1 to continue to meet the minimum side yard setback requirements for the RL-1 zone, a portion of the existing home will be demolished prior to building permit issuance for either lot. Following the demolition of the portion of the existing home, Lot 1 will comply with all applicable zoning standards, including FAR. Any new development on Lot 2 will be subject to compatible development standards.

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

Standard met. Both lots will front on 15th Street only.

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

Standard met.

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

Not applicable, as neither of the proposed lots will be a corner lot.

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

Standard met. Both of the proposed new lots are large enough to accommodate the setback requirements of section 9-7-1.

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

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

(J) Where a subdivision borders an airport, a railroad right-of-way, a freeway, a major street, or any other major source of noise, the subdivision is designed to

reduce noise in residential lots to a reasonable level and to retain limited access to such facilities by such measures as a parallel street, a landscaped buffer area, or lots with increased setbacks.

Not applicable, as the subject property borders a residential street that terminates a half-block to the north. There is no thru-traffic on 15th St., so noise levels are minimal.

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

Standard will be met at time of building permit application.

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

Standard met.

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

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

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

Standard met.

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

The applicant has demonstrated that following subdivision any new development on the new lots will be able to meet all applicable solar access standards for the RL-1 zone district.

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

The applicant has demonstrated that new development on the proposed new lot will be able to meet minimum setback requirements as well as all applicable solar access standards for the RL-1 zone district. Standard met.

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

The applicant has demonstrated that new development on the proposed new lot will be able to meet minimum setback requirements as well as all applicable solar access standards for the RL-1 zone district. Any new development will also have to show compliance with applicable zoning standards through the building permit review process. Standard met.

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

The applicant has demonstrated that any new development on the proposed new lot will be able to meet compatible development standards as well as solar access standards for the RL-1 zone district. Any new development will also have to show compliance with applicable zoning standards through the building permit review process. Standard met.

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

A Landscape Plan will be required at time of redevelopment of the new lot.

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

There is an existing sidewalk in front of the subject property, as well as an existing curb cut. No additional transportation improvements are required as part of the proposed subdivision.

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

Not applicable, as there are no new streets proposed.

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

Not applicable, as there are no new streets proposed.

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

Not applicable, as there are no new streets proposed.

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

Not applicable, as both lots take access from 15th Street, which is a local street.

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

Standard met.

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

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

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

Standard met.

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

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

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

Standard met. There is an existing sidewalk along 15th St.

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

Standard met. Existing street signs for 15th St. are already in place.

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

Standard met. No new traffic control signs are required.

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

Standard met. No crosswalks will be required.

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

Standard met. No new bicycle lanes are required.

(N) Private streets are not permitted.

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

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

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

Standard met.

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

Standard met.

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

Standard met.

(D) Newly installed telephone, electric, and cable television lines and other similar utility service are placed underground. Existing utilities are also placed underground unless the subdivider demonstrates to the manager that the cost substantially outweighs the visual benefit from doing so. But transformers, switching boxes, terminal boxes, meter cabinets, pedestals, ducts, electric transmission and distribution feeder lines, communication long distance trunk and feeder lines, and other facilities necessarily appurtenant to such facilities and to underground utilities may be placed above ground within dedicated easements or public rights-of-way.

Standard met. All new utilities will be underground, and the existing overhead powerline serving the existing home on Lot 1 will be removed and undergrounded.

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

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

Standard met.

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

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

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

Standard met. All necessary infrastructure is existing.

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

Not applicable. All necessary infrastructure is existing.

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

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

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

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

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

Standard met. All necessary infrastructure is existing.

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

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

Standard met. All necessary infrastructure is existing.

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

Not applicable, as no new fire lanes are required.

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Driskell, Executive Director of Community Planning + Sustainability
Susan Richstone, Deputy Director of Community Planning + Sustainability
Charles Ferro, Development Review Manager
Chandler Van Schaack, Planner I

Date: March 17, 2015

Subject: Call-Up Item: Site and Use Review application, no. LUR2014-00057 to construct one new 2,850 square foot, single story Bank of America building with a drive thru facility on the pad site at 1965 28th St. The proposal also includes improvements to the existing parking area serving the pad site as well to the parking area adjacent to the Hazels liquor store. The project site is zoned Business – Regional 1 (BR-1).

EXECUTIVE SUMMARY:
On March 5, 2015, Planning Board approved (5-2, J. Gerstle and L. May opposed) the subject application with the conditions found in the disposition of approval, provided as **Attachment A**.

Figure 1: Vicinity Map

The intent of this proposal is to amend the 1955 28th St. PUD to construct a new 2,850 square foot, single story Bank of America branch with a drive-thru facility on the former Wendy's pad site at 1965 28th Street (depicted in green in **Figure 1** above). The Bank massing has been designed to be similar to its surroundings, with a 20'4" roof height which is lower than neighboring buildings and below the maximum height of 35' allowed by the zone district. The Bank proposal places the drive-through on the west side of the building, where it is least visible from 28th St. and allows the building to be positioned closer to the street, consistent with the existing buildings to the south. The Bank materials consist of a mix of stone, brick, metal panel and stucco. The applicant is proposing a modification to the minimum side yard setback to allow for a 9' setback where 12' is the minimum required by the BR-1 zone district standards.

The proposal includes reconfiguration of the entire 1955 28th St. parking area and drive aisles in order to order to reduce vehicular speeds and maintain the previously approved number of parking spaces, and the addition of a new 7' concrete pedestrian multi-use path running north-south across the site consistent with the adopted BVRC Connections Plan.

Parking lot landscaped areas would also be reconfigured, and new interior parking lot landscaping added to the southern portion of the lot in conformance with the parking lot landscaping standards. The proposal adds landscaping buffers in excess of the required size to the perimeter of the Bank of America site, and provides significant landscaping within and around the proposed drive-thru loop. Additional site improvements include providing pedestrian access from the 28th St. sidewalk to the bank and adding colored (red) concrete to the drive aisle in front of Hazel's to improve pedestrian safety. The 13 existing bicycle racks located on the site will be maintained, and a total of 14 new bicycle parking spaces will be added to the site (6 spaces in front of Bank of America and 8 spaces in front of Hazel's). Please refer to **Attachment B** for complete plans.

The original approvals allowed for 135 parking spaces to serve all of the retail uses on-site. Under the current proposal, the parking area will be reconfigured and re-striped in order to maintain 134 parking spaces following construction of the proposed Bank of America building.

The Planning Board's approval is subject to a 30-day call-up period by City Council which expires on **April 6, 2015**. City Council is scheduled to consider this application for call-up at its **March 17, 2015** public meeting.

The staff memorandum to Planning Board, minutes, meeting audio, and other related background materials are on the city website for Planning Board, available here (Follow the links: *2015 ➔03 MAR ➔03.05.2015 PB Packet).*

BACKGROUND:

Site Context.
The subject site is located within the Boulder Valley Regional Center (BVRC) on the west side of 28th Street between Walnut Street and Pearl Street, and as such is subject to the BVRC Design Guidelines (the Guidelines). The character of this area is predominantly commercial and retail oriented, with Target and the 29th Street Shopping Center located immediately across 28th Street to the east. To the north is the existing Google office building (formerly Circuit City) and

pad restaurant and retail shops. To the south is the Marshall's Plaza shopping center including Marshall's, Office Depot, REI and Bed Bath & Beyond.

The 1955 28th St. PUD where the project site is located is comprised of three parcels held under common ownership. Currently, the PUD is developed with a large retail liquor store (Hazel's) and a smaller retail mattress store (Denver Mattress), and includes a large surface parking area that is shared between uses. The proposed Bank of America site is located at the northeast corner of the PUD, and currently contains a surface parking lot providing parking for the two existing retail uses.

The proposed Bank of America site was the previously location of a drive-thru Wendy's restaurant, which was originally approved in 1977 through a Special Review. In 1995, a separate Site Review was approved (as a part of the 1955 28th St. PUD), which included a 35,980 square foot retail building (currently Hazel's Liquors) as well as an additional 4,000 square foot pad site (currently Denver Mattress) to the west and south of the Wendy's site. In 2012, staff approved a Site Review Amendment for the demolition and removal of the existing Wendy's restaurant pad building and the temporary reconfiguration of the parking lot, vehicular access, and landscaping and lighting to serve the Hazel's retail liquor store. The proposed Bank of America building would be located where the former Wendy's stood.

ANALYSIS:

Overall, the project was found to be consistent with the criteria for Amendments to Approved Site Plans set forth in section 9-2-14(m), B.R.C. 1981. The proposed Bank of America building uses high quality materials and is compatible in terms of size and location to other existing buildings nearby, and the proposed site layout includes several measures that will deemphasize the automobile and enhance bicycle and pedestrian safety, including provision of a direct pedestrian access off the 28th Street multi-use path and providing new bicycle parking at the bank entrance. In addition, the proposed location of the drive-thru on the west side of the bank building will minimize the visual impact of the drive-thru facility while also minimizing traffic impacts. The proposed improvements to the Hazel's site, including a new 7' multi-use path running north-south across the site, re-aligning the vehicular drive aisle to reduce traffic speeds, adding colored concrete to the pedestrian crossing in front of Hazel's and adding new bicycle parking, will also help to improve bicycle and pedestrian safety and general circulation within the site. A consistency analysis of the proposed project with the site review criteria is provided in **Attachment C**.

The project was also found to be consistent with the Use Review criteria found in Section 9-2-15(e) and the Conditional Use Standards for Drive-Thru Uses found in section 9-6-9(c), B.R.C. 1981. Specifically, the operating characteristics of the proposed drive-thru use are such that the use will provide a direct service to the surrounding area while remaining compatible with and having a minimal negative impact on the use of nearby properties. In addition, given the variety of high intensity, regional business uses within and surrounding the site, the proposed use will not change the predominant character of the surrounding area. Please see **Attachment C** for staff's complete analysis of the review criteria.

Planning Board Hearing. At their March 5, 2015 public hearing, the Planning Board approved the subject Site and Use Review request with a vote of 5-2 (J. Gerstle and L. May opposed).

Board members Gerstle and May opposed the motion due to the project including a drive-thru facility. There were no public comments regarding the proposal.

The 30-day call up period expires on **April 6, 2015**. City Council is scheduled to consider these applications for call-up at its **March 17, 2015** public meeting.

ATTACHMENTS:

A. Notice of Disposition dated March 5, 2015
B. Applicant's Proposed Plan
C. Site and Use Review Criteria Analysis

CITY OF BOULDER
Community Planning & Sustainability

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

CITY OF BOULDER PLANNING BOARD NOTICE OF DISPOSITION

You are hereby advised that on **March 5, 2015** the following action was taken by the Planning Board 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:	**BANK OF AMERICA**
DESCRIPTION:	**Site Review Amendment and Use Review to establish one new 2,850SF, single story "Bank of America" branch with drive-thru on vacant site.**
LOCATION:	**1955 28TH ST**
COOR:	**N03W04**
LEGAL DESCRIPTION:	**See Attached 'Exhibit A'**
APPLICANT:	**Bruce Dierking**
OWNER:	**Andre Family Partnership, Ltd.**
APPLICATION:	**Site and Use Review, LUR2014-00057**
ZONING:	**BR-1**
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.**

APPROVED MODIFICATIONS FROM THE LAND USE REGULATIONS:

- **Section 9-7-1, "Form and Bulk Standards," – Building Setbacks: request to modify the side yard setback to allow for a 9' setback where 12' is the minimum required by the BR-1 zone district standards.**

This decision may be called up before the City Council on or before **April 6, 2015**. If no call-up occurs, the decision is deemed final on **April 7, 2015**.

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

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND SIGNED FINAL PLANS 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 BOARD 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, Boulder Revised Code 1981) the development within three years shall cause this development approval to expire.

At its public hearing on **March 5, 2015** the Planning Board approved the request with the following motion:

On a motion by **J. Putnam**, seconded by **A. Brockett**, the Planning Board voted 5-2 (**J. Gerstle** and **L. May** opposed) to approve the Site and Use Review application LUR2014-00057, adopting the staff memorandum as findings of fact, including the attached analysis of review criteria, and subject to the recommended conditions of approval.

CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all approved plans** prepared by the Applicant on November 6, 2014 on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval.

2. The Applicant shall **comply with all previous conditions** contained in any previous approvals, except to the extent that any previous conditions may be modified by this approval, including, but not limited to, the following: the Development Agreement recorded May 16, 1996 at Reception No. 1608284, the Amended Development Agreement recorded August 22, 1997 at Reception No. 1724916 and the Development Agreement recorded May 22, 2012 at Reception No. 03224469.

3. Prior to building permit issuance, the Applicant shall submit a Technical Document Review application for the following items, subject to the approval of the City Manager:

   a. **Final architectural** plans, including material samples and colors, to insure compliance with the intent of this approval and compatibility with the surrounding area. The architectural intent shown on the approved plans dated November 6, 2014 is acceptable. Planning staff will review plans to assure that the architectural intent is performed.

   b. A **final site plan** which includes detailed floor plans and section drawings.

   c. A **final utility plan** meeting the City of Boulder Design and Construction Standards.

   d. A **final storm water report and plan** meeting the City of Boulder Design and Construction Standards.

   e. A **detailed landscape** plan, including size, quantity, and type of plants existing and proposed; type and quality of non-living landscaping materials; any site grading proposed; and any irrigation system proposed, to insure compliance with this approval and the City's landscaping requirements. Removal of trees must receive prior approval of the Planning Department. Removal of any tree in City right of way must also receive prior approval of the City Forester.

By:_____
David Driskell, Secretary of the Planning Board

EXHIBIT A
LEGAL DESCRIPTION

PARCEL 1:

A tract of land located in the Northwest ¼ of the Southwest ¼ of Section 29, Township 1 North, Range 70 West of the 6th P.M., County of Boulder, State of Colorado, described as follows:

Commencing at the intersection of the East line of the Southwest ¼ of the Northwest ¼ of said Section 29 and the South right-of-way line of Pearl Street extended Easterly in the City of Boulder, State of Colorado, thence South 74° 54'50" West, 263.97 feet along the South right-of-way line extended Easterly and the South right-of-way line of said Pearl Street; thence South 15° 05' 10" East, 135.00 feet at right angles to the South right-of-way of said Pearl Street; thence South 02° 47'40" East, 110.00 feet; thence South 74° 54'50" West, 150.28 feet parallel with the South right-of-way line of said Pearl Street; thence South 00° 06'40" East, 89.55 feet to the true point of beginning;

Thence North 00° 06'40" West, 89.55 feet;

Thence South 74° 54'50" West, 221.39 feet parallel with the South right-of-way line of said Pearl Street to the East right-of-way line of 26th Street as described in Deed recorded in Book 1292 at Page 562 of the records of Boulder County, Colorado;

Thence South 00° 58'00" East, 263.69 feet along the East right-of-way line of said 26th Street to the South line of that tract of land as described in deed recorded in Book 1283 at Page 216 of the records of Boulder County, Colorado;

Thence North 81° 42'50" East, 515.01 feet along the South line of that tract of land as described in said Book 1283 at Page 216 to the Southeast comer thereof;

Thence North 00° 05'10" West, 157.96 feet along the East line of that tract ofland as described in said Book 1283 at Page 216 to a point from which the true point of beginning bears South 89° 54'50" West;

Thence South 89° 54'50" West, 299.91 feet to the true point of beginning.

PARCEL B-1:

A tract of land located in the Northwest ¼ of the Southwest ¼ of Section 29, Township 1 North, Range 70 West of the 6th P.M., County of Boulder, State of Colorado, described as follows:

Commencing at the point of intersection of the South right-of-way line of Pearl Street extended Easterly with the East line of the Southwest ¼ of the Northwest ¼ of Section 29; thence South 74° 56'20" West, 263.97 feet along the South right-of-way line of Pearl Street extended Easterly; thence South 15° 03'40" East, 135.00 feet; thence South 02° 46' 10" East, 110.00 feet; thence South 74° 56' 20" West, 16.56 feet to the true point of beginning;

Thence continuing South 74° 56'20" West, 133.72 feet to the West line extended Northerly of that tract of land as described in Lease Agreement recorded on Film 676 as Reception No. 921491 of the records of Boulder County, Colorado;

Thence South 00° 05'10" East, 89.55 feet along the West line extended Northerly of that tract of land as described on said Film 676 as Reception No. 921491 to the Northwest comer thereof;

Thence North 89° 54'50" East, 129.18 feet along the North line of that tract of land as described on said Film 676 as Reception No. 921491 to a point on a line that bears South 00° 05'10" East, from the true point of beginning;

Thence North 00° 05'10" West, 124.10 feet to the true point of beginning.

Address: 1955 28th St.

RESTAURANT SITE:

A tract of land located in the Northwest ¼ of the Southwest ¼ of Section 29, Township 1 North, Range 70 West of the 6th P.M., County of Boulder, State of Colorado, described as follows:

Commencing at the point of intersection of the South right-of-way line of Pearl Street extended Easterly with the East line of the Southwest ¼ of the Northwest ¼ of said Section 29; thence South 74° 56'20" West, 263.97 feet along the South right-of-way line of Pearl Street extended Easterly; thence South 15° 03 '40" East, 135.00 feet; thence South 02° 46' 10" East, 110.00 feet to the true point of beginning;

Thence South 74° 56'20" West, 16.56 feet;

Thence South 00° 05'10" East, 124.10 feet to the North line of that tract of land as described in Lease Agreement recorded on Film 676 as Reception No. 921491 of the records of Boulder County, Colorado;

Thence North 89° 54'50" East, 170.82 feet along the North line of that tract of land as described on said Film 676 as Reception No. 921491 to the West right-of-way line of 28th Street (U.S. Highway No. 36);

Thence North 00° 05' 1 0" West, 172.97 feet along the West right-of-way line of said 28th Street to the most Southerly comer of that tract of land as described in Deed recorded on Film 613 as Reception No. 857016 of the records of Boulder County, Colorado;

Thence North 67° 53' West, 82.79 feet along the Southerly line of that tract of land as described on said Film 613 as Reception No. 857016 to a point on a line that bears North 45° 46'20" East from the true point of beginning;

Thence South 45° 46'20" West, 108.94 feet to the true point of beginning.

Note: Due to the size and number of pages of the plan set, Attachment B was too large to include in the memo. Therefore, a complete set of plans is available in the City Council office of the City Manager's Office.

Case #: LUR2014-00057

Project Name: Bank of America

Date: November 28, 2014

CRITERIA FOR REVIEW

No site review application shall be approved unless the approving agency finds that:

(1) Boulder Valley Comprehensive Plan:

✓ (A) The proposed site plan is consistent with the land use map and the service area map and, on balance, the policies of the Boulder Valley Comprehensive Plan.

The site is located at 1955-1965 28th St. within the Boulder Valley Regional Center (BVRC) and within the city limits. The BVRC is one of the city's three regional centers, along with the Historic Downtown and the University of Colorado (CU) with the University Hill business district. These three regional centers represent the highest level of land use intensity within the city, and each center has a distinct function and character, provides a wide range of activities and draws from the entire city as well as the region. Within this context, staff has found the application for this project to add a drive-thru bank to be consistent with the existing 2010 Boulder Valley Comprehensive Plan (BVCP) land use designation for the site of Regional Business. The Regional Business land use designation applies to the Downtown and BVRC areas, which are described in the 2010 BVCP as follows:

> "Within these areas are located the major shopping facilities, offices, financial institutions, and government and cultural facilities serving the entire Boulder Valley and neighboring communities. These areas will continue to be refurbished and upgraded and will remain the dominant focus for major business activities in the region."

In addition, staff has found the proposal to be consistent with the following BVCP policies:
2.14 Mix of Complementary Land Uses
2.17 Variety of Activity Centers
2.18 Role of the Central Area
2.30 Sensitive Infill and Redevelopment
2.37 Enhanced Design for Private Sector Projects

N/A (B) The proposed development shall not exceed the maximum density associated with the Boulder Valley Comprehensive Plan residential land use designation. Additionally, if the density of existing residential development within a three-hundred-foot area surrounding the site is at or exceeds the density permitted in the Boulder Valley Comprehensive Plan, then the maximum density permitted on the site shall not exceed the lesser of:

Not applicable. There are no residential units in the existing development and no new residential units are proposed.

N/A (i) The density permitted in the Boulder Valley Comprehensive Plan, or,

N/A (ii) The maximum number of units that could be placed on the site without waiving or varying any of the requirements of chapter 9-8, "Intensity Standards," B.R.C. 1981.

✓ (C) The proposed development's success in meeting the broad range of BVCP policies considers the economic feasibility of implementation techniques required to meet other site review criteria.

While the proposed project is to construct one new drive-through bank on the subject site, the project is part of a larger PUD managed by the applicant that includes two existing retail businesses, (Hazel's and Denver Mattress). The improvements proposed to the site as part of this project will not only allow for the creation of a new drive-thru bank, but will also benefit the existing retail establishments and will serve to support the economic health of the PUD overall. The project meets a broad range of BVCP policies as well as other site review criteria in an economically feasible manner.

(2) Site Design: Projects should preserve and enhance the community's unique sense of place through creative design that respects historic character, relationship to the natural environment, multi-modal transportation connectivity and its physical setting. Projects should utilize site design techniques which are consistent with the purpose of site review in subsection (a) of this section and enhance the quality of the project. In determining whether this subsection is met, the approving agency will consider the following factors:

(A) Open Space: Open space, including, without limitation, parks, recreation areas, and playgrounds:

✓ (i) Useable open space is arranged to be accessible and functional and incorporates quality landscaping, a mixture of sun and shade and places to gather;

The original approval for SI-94-29 included a pedestrian area to the southwest of the Soundtrack building along the north side of the Walnut Driveway, which will be maintained following approval of this proposal. In addition, the proposal includes landscaping improvements to the proposed Bank of America site, including a new pedestrian access from the existing 10' multi-use path along 28th Street.

N/A (ii) Private open space is provided for each detached residential unit;

Not applicable, as there are no residential units included in this project.

N/A (iii) The project provides for the preservation of or mitigation of adverse impacts to natural features, including, without limitation, healthy long-lived trees, significant plant communities, ground and surface water, wetlands, riparian areas, drainage areas and species on the federal Endangered Species List, "Species of Special Concern in Boulder County" designated by Boulder County, or prairie dogs (Cynomys ludiovicianus), which is a species of local concern, and their habitat;

Not applicable, as the subject site is already fully developed in an urban context and as such does not contain any significant natural features.

N/A (iv) The open space provides a relief to the density, both within the project and from surrounding development;

Not applicable, as there are no residential units included in this project.

N/A (v) Open space designed for active recreational purposes is of a size that it will be functionally useable and located in a safe and convenient proximity to the uses to which it is meant to serve;

Not applicable, as the proposal is commercial, not recreational or residential.

N/A (vi) The open space provides a buffer to protect sensitive environmental features and natural areas; and

Not applicable, as the subject site is already fully developed and urban in character, as is the surrounding area. There are currently no sensitive natural features located on or adjacent to the site.

✓ (vii) If possible, open space is linked to an area- or city-wide system.

The proposed redevelopment of the former Wendy's site includes adding a pedestrian access to the site from the existing 10' multi-use path along 28th St. In addition, the proposal includes adding a 7' multi-use path connecting the existing sidewalk along Walnut St. on the south side of the site to the existing crusher fines path on the adjacent property to the north, consistent with the adopted BVRC Connections Plan The new path across the site will facilitate pedestrian and bicycle movement between properties as well as between existing city transportation facilities to the north and south.

N/A (B) *Open Space in Mixed Use Developments (Developments that contain a mix of residential and non-residential uses)*

Not applicable. There are no residential units in the existing development and no new residential units are proposed.

N/A (i) The open space provides for a balance of private and shared areas for the residential uses and common open space that is available for use by both the residential and non-residential uses that will meet the needs of the anticipated residents, occupants, tenants, and visitors of the property; and

N/A (ii) The open space provides active areas and passive areas that will meet the needs of the anticipated residents, occupants, tenants, and visitors of the property and are compatible with the surrounding area or an adopted plan for the area.

(C) Landscaping

The proposal includes upgrades to the existing landscaping on the former Wendy's site. The existing parking lot landscaping in the Hazel's parking area will be reconfigured, and will continue to meet city landscaping requirements.

✓ (i) The project provides for aesthetic enhancement and a variety of plant and hard surface materials, and the selection of materials provides for a variety of colors and contrasts and the preservation or use of local native vegetation where appropriate;

The proposal includes several landscaping improvements on the Bank of America site and provides for a variety of plant and hard surfaces. A new 7' multi-use path running north-south across the site is also proposed.

N/A (ii) Landscape design attempts to avoid, minimize, or mitigate impacts to important native species, plant communities of special concern, threatened and endangered species and habitat by integrating the existing natural environment into the project;

Not applicable, as the subject site is already fully developed and as such does not contain any endangered species or habitat.

✓ (iii) The project provides significant amounts of plant material sized in excess of the landscaping requirements of sections 9-9-12, "Landscaping and Screening Standards" and 9-9-13, "Streetscape Design Standards," B.R.C. 1981; and

The proposal includes reconfiguring parking lot landscaped areas and adding new interior parking lot landscaping to the southern portion of the lot in conformance with the parking lot landscaping standards. The proposal also adds landscaping buffers in excess of the required size to the perimeter of the Bank of America site, and provides significant landscaping within and around the proposed drive-thru loop.

✓ (iv) The setbacks, yards, and useable open space along public rights-of-way are landscaped to provide attractive streetscapes, to enhance architectural features, and to contribute to the development of an attractive site plan.

The proposal includes adding new landscaping to all of the building setbacks around the proposed Bank of America building, and provides a new low site wall to the 28th St. frontage. In addition, the proposed pedestrian access off of the new 28th St. multi-use path will be landscaped to frame both the entrance feature as well as the front of the bank to passers-by.

(D) *Circulation:* Circulation, including, without limitation, the transportation system that serves the property, whether public or private and whether constructed by the developer or not:

✓ (i) High speeds are discouraged or a physical separation between streets and the project is provided;

The intent of the proposed parking lot reconfiguration is to further reduce vehicle speeds and improve pedestrian safety. While the 2012 Site Review Amendment improved the previous parking lot by adding pedestrian crosswalks to all of the major pedestrian walkways and widening the multi-use path along 28th St. from 5.5 feet to 10 feet, since that time the applicant has noted that the straight drive aisle in the middle of the site has not been effective at reducing vehicular speeds. Per the applicant, there have been several "close calls" between pedestrians and vehicles; thus, the applicant is proposing to bend the main drive aisle to the east, thereby making it so that vehicles must make two small turns in order to pass through the site from south to north. In addition, the applicant is proposing to add a large area of colored concrete in front of the Hazel's store (as currently exists at the 28th St. Whole Foods) to act as a traffic calming measure. Overall, the proposed parking lot improvements will serve to reduce vehicular speeds and improve pedestrian circulation and safety.

✓ (ii) Potential conflicts with vehicles are minimized;

As mentioned above, the proposal includes several measures to slow down cars and improve pedestrian safety. In addition to the change in circulation and addition of colored concrete at the main store entry to Hazel's, the applicant is proposing to add a new 7' wide colored concrete multi-use path running north-south across the site. This will improve safety for pedestrians and bicyclists travelling within and across the site by creating a visual break in the drive aisles and providing a designated travel route where currently there is not one.

✓ (iii) Safe and convenient connections are provided that support multi-modal mobility through and between properties, accessible to the public within the project and between the project and the existing and proposed transportation systems, including, without limitation, streets, bikeways, pedestrianways and trails;

As previously discussed, a new 7' multi-use path will be provided running north to south across the site consistent with the adopted Boulder Valley Regional Center (BVRC) Connections Plan, and a new pedestrian access will be provided to the bank building from the existing 28th St. multi-use path. Currently there are 13 inverted U bike racks on site. All of the existing bicycle and pedestrian facilities will be maintained, and an additional 14 bike parking spaces will be provided (4 in front of the Bank of America building and 8 in front of Hazel's).

✓ (iv) Alternatives to the automobile are promoted by incorporating site design techniques, land use patterns, and supporting infrastructure that supports and encourages walking, biking, and other alternatives to the single-occupant vehicle;

Site design techniques that support alternate modes of transportation include the addition of colored concrete at the main store entry to Hazel's, the addition of a new 7' wide colored concrete multi-use path running north-south across the site, the creation of a new

pedestrian access to the bank site from the 28th St. path and the addition of 14 new bicycle parking spaces.

✓ (v) Where practical and beneficial, a significant shift away from single-occupant vehicle use to alternate modes is promoted through the use of travel demand management techniques;

Site design techniques that support alternate modes of transportation include the addition of colored concrete at the main store entry to Hazel's, the addition of a new 7' wide colored concrete multi-use path running north-south across the site, the creation of a new pedestrian access to the bank site from the 28th St. path and the addition of 14 new bicycle parking spaces.

✓ (vi) On-site facilities for external linkage are provided with other modes of transportation, where applicable;

As mentioned above, the proposal includes the addition of a new 7' multi-use path running north-south across the site as shown in the BVRC Connections Plan as well as a new pedestrian access from the 28th St. multi-use path.

N/A (vii) The amount of land devoted to the street system is minimized; and

Not applicable, as there are no new streets or right-of-way being dedicated through this proposal.

✓ (viii) The project is designed for the types of traffic expected, including, without limitation, automobiles, bicycles, and pedestrians, and provides safety, separation from living areas, and control of noise and exhaust.

The project is well-designed to accommodate both vehicular and bike/pedestrian traffic. The proposal includes maintaining 134 out of 135 previously approved car parking spaces in order to meet the high demand for parking generated by the existing and proposed uses, and also provides a total of 27 bike parking spaces across the site.

(E) Parking

✓ (i) The project incorporates into the design of parking areas measures to provide safety, convenience, and separation of pedestrian movements from vehicular movements;

As mentioned above, the proposal includes several measures to slow down cars and improve pedestrian safety. In addition to the change in circulation and addition of colored concrete at the main store entry to Hazel's, the applicant is proposing to add a new 7' wide colored concrete multi-use path running north-south across the site. This will improve safety for pedestrians and bicyclists travelling within and across the site by creating a visual break in the drive aisles and providing a designated travel route where currently

there is not one. All of the existing pedestrian walkways and crosswalks will be maintained following the proposed reconfiguration.

✓ (ii) The design of parking areas makes efficient use of the land and uses the minimum amount of land necessary to meet the parking needs of the project;

The proposed parking layout represents an efficient use of the land, and uses the minimum amount of land necessary to meet the parking requirements of the development by maximizing the number of compact spaces.

✓ (iii) Parking areas and lighting are designed to reduce the visual impact on the project, adjacent properties, and adjacent streets; and

The parking area will meet city landscaping standards, reducing the visual impact of the parking areas, and all new lighting will be compliant with current lighting standards.

✓ (iv) Parking areas utilize landscaping materials to provide shade in excess of the requirements in Subsection 9-9-6 (d), "Parking Area Design Standards," and Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981.

The proposal includes reconfiguring parking lot landscaped areas and adding new interior parking lot landscaping to the southern portion of the lot in conformance with the parking lot landscaping standards. The proposal also adds landscaping buffers in excess of the required size to the perimeter of the Bank of America site, and provides significant landscaping within and around the proposed drive-thru loop.

(F) Building Design, Livability, and Relationship to the Existing or Proposed Surrounding Area

✓ (i) The building height, mass, scale, orientation, and configuration are compatible with the existing character of the area or the character established by an adopted plan for the area;

The subject site is located within the Boulder Valley Regional Center (BVRC) on the west side of 28th Street between Walnut Street and Pearl Street, and as such is subject to the BVRC Design Guidelines (the Guidelines). The character of this area is predominantly commercial and retail oriented, with Target and the 29th Street Shopping Center located immediately across 28th Street to the east. To the north is the Google office building (formerly Circuit City) and pad restaurant and retail shops. To the south is the Marshall's Plaza shopping center including Marshall's, Office Depot, REI and Bed Bath & Beyond.

The Bank massing has been designed to be sensitive and appropriate to its surroundings, with a 20'4" roof height which is lower than neighboring buildings. The Bank proposal places the drive-through on the west side of the building, where it has the least visibility to the adjacent roadway and allows the building to be pushed closer to the street consistent with the existing Denver Mattress building to the south. The proposed building will support a lively street presence, placing the majority of glazed areas on the south and east sides of

the building adjacent to 28th street. The Bank materials will be a mix of high quality stone, brick, metal panel and stucco to complement the character of surrounding developments. In addition, a new pedestrian access from the existing 28th Street multi-use path, landscaped and with new bike parking nearby, will be provided so that pedestrians and bicyclists can access the bank without having to enter the parking lot.

Staff finds the proposed building to be in keeping with the goals of the BVRC Design Guidelines (the Guidelines) to continue to upgrade the BVRC through high-quality redevelopment, make the BVRC a memorable, people-oriented place, develop a more fine-grained and complete transportation network and incorporate a greater diversity of land uses. Specifically, staff finds the proposed project to be consistent with the following policies contained in the Guidelines:

Overall Site Layout
3.1.B. Locate buildings close to the street
3.1.D. Maximize street-frontage of buildings

The proposal places the Bank of America building roughly 20' from the property line, which is consistent with the neighboring Denver Mattress building to the south. The drive-through has been placed on the west side of the building so that it is fully screened from 28th Street. A new pedestrian access will create a visual connection to the building entrance from the 28th Street multi-use path, and will enhance visual interest to passers-by.

Circulation
3.1.E. Lay out site to support pedestrian circulation
3.1.K. Provide vehicular and pedestrian links
3.2.B. Connect with adjacent parking lots or drives
3.3.B. Provide interior pedestrian links to adjacent properties
3.3.D. Use distinctive paving
3.3.G. Provide bicycle facilities shown on Connections Plan

As previously discussed, the proposal includes reconfiguring the parking lot and drive aisles in order to slow down vehicular traffic and improve pedestrian circulation. In addition, a new 7' multi-use path will be provided running north to south across the site consistent with the adopted Boulder Valley Regional Center (BVRC) Connections Plan, a new pedestrian access will be provided to the bank building from the existing 28th St. multi-use path, and colored concrete will be added to the main drive aisle in front of Hazel's in order to slow down cars and improve pedestrian safety.

Bicycle Parking
3.4.A. Ensure bicycle parking is ample and secure

Currently there are 13 inverted U bike racks on site. All of the existing bicycle and pedestrian facilities will be maintained, and an additional 14 bike parking spaces

will be provided (4 in front of the Bank of America building and 8 in front of Hazel's).

Automobile Parking
3.5.D. Screen parking from the street
3.5.E. Landscape the interior and perimeter of parking lots

The proposal includes reconfiguring parking lot landscaped areas and adding new interior parking lot landscaping to the southern portion of the lot in conformance with the parking lot landscaping standards. The proposal also adds landscaping buffers in excess of the required size to the perimeter of the Bank of America site, and provides significant landscaping within and around the proposed drive-thru loop.

Building Design
5.2.A. Orient the building to the street
5.2.C. Emphasize building entrances
5.2.E. Provide pedestrian interest on the ground level
5.2.J. Select high-quality exterior materials

The proposed building will support a lively street presence, placing the main entrance on the southern elevation and the majority of glazed areas on the south and east sides of the building adjacent to 28th street. The Bank materials will be a mix of high quality stone, brick, metal panel and stucco to complement the character of surrounding developments and reflect vernacular building materials in the Boulder area. In addition, a new pedestrian access from the existing 28th Street multi-use path, landscaped and with new bike parking nearby, will be provided which will help to add visual interest and frame the entrance to passers-by.

The BVRC Guidelines also include the following policy:

5.1.F. Drive-throughs are discouraged:

> "Free-standing drive-through buildings (e.g., fast food or banking) are discouraged. If drive-through service is found to be appropriate, consider incorporating the service into a larger building with other uses."

Staff finds that this site is an appropriate location for drive-thru service due to the fact that the drive-thru is located to the west of the proposed building, which maximizes the building frontage along 28th Street and minimizes the visual impacts associated with automobile queues. The building's location on the northern edge of the site also minimizes impacts to surrounding uses and provides a buffer for the proposed drive-thru use, as the area immediately adjacent to the drive-thru is mainly undeveloped land serving as storm water detention for the neighboring property and bordered on the north by a parking lot. Additionally, access to and from the proposed drive-thru would be entirely contained within an existing parking area, meaning that no new curb cuts or traffic impacts would be

generated on 28th Street. Finally, the proposed drive-thru facility would not affect pedestrian or bicycle access, as a new access point off the 28th Street multi-use path will allow bicyclists and pedestrians to access the bank without having to cross the drive-thru lanes, and the new proposed 7' multi-use path would provide a safe way for bicyclists and pedestrians to get across the site without interacting with traffic entering and exiting the bank. Overall, given the regional context of the site and surrounding area and the relatively low impacts of the proposed facility, staff finds that the subject site is uniquely appropriate for a new drive-thru use.

✓ (ii) The height of buildings is in general proportion to the height of existing buildings and the proposed or projected heights of approved buildings or approved plans for the immediate area;

The proposed Bank of America building will be a single story building with a height of 20'4", which is lower than adjacent buildings and is well within the 35' maximum height limit for the BR-1 zone.

✓ (iii) The orientation of buildings minimizes shadows on and blocking of views from adjacent properties;

The Bank site has an existing, well established grove of trees on the north side of the site. It is anticipated that any shading from the proposed bank will shade the trees and have no impact on neighboring buildings to the north. In addition, the project is within Solar Access Area III and is therefore not subject to any solar access restrictions.

✓ (iv) If the character of the area is identifiable, the project is made compatible by the appropriate use of color, materials, landscaping, signs, and lighting;

The surrounding area is regional retail in character, and includes a wide variety of architectural styles. The proposed building and site design are consistent with the existing character of the area. The Bank materials will be a mix of high quality stone, brick, metal panel and stucco accents to complement the character of surrounding developments and reflect vernacular building materials in the BVRC.

✓ (v) Projects are designed to a human scale and promote a safe and vibrant pedestrian experience through the location of building frontages along public streets, plazas, sidewalks and paths, and through the use of building elements, design details and landscape materials that include, without limitation, the location of entrances and windows, and the creation of transparency and activity at the pedestrian level;

As stated previously, the Bank proposal places the drive through on the west side of the building, where it has the least visibility to adjacent roadways, and will be screened by the proposed building and landscaping. The proposed building entrance faces south, and will support a lively street presence by placing the majority of glazed areas on the south and east sides of the building adjacent to 28th street. A direct connection from the 28th street

multi-modal path is provided for pedestrians, which will also serve to enhance transparency and visual interest at the pedestrian level.

✓ (vi) To the extent practical, the project provides public amenities and planned public facilities;

The proposal includes adding 14 new bicycle parking spaces as well as a new 7' multi-use path running north-south across the site consistent with the adopted BVRC Connections plan.

N/A (vii) For residential projects, the project assists the community in producing a variety of housing types, such as multifamily, townhouses and detached single family units, as well as mixed lot sizes, number of bedrooms and sizes of units;

Not applicable. There are no residential units in the existing development and no new residential units are proposed.

N/A (viii) For residential projects, noise is minimized between units, between buildings, and from either on-site or off-site external sources through spacing, landscaping, and building materials;

Not applicable. There are no residential units in the existing development and no new residential units are proposed.

✓ (ix) A lighting plan is provided which augments security, energy conservation, safety, and aesthetics;

A lighting plan meeting current city lighting standards will be required at time of building permit.

N/A (x) The project incorporates the natural environment into the design and avoids, minimizes, or mitigates impacts to natural systems;

Not applicable, as the site is already fully developed in an urban context and this does not contain any significant natural systems.

✓ (xi) Buildings minimize or mitigate energy use; support on-site renewable energy generation and/or energy management systems; construction wastes are minimized; the project mitigates urban heat island effects; and the project reasonably mitigates or minimizes water use and impacts on water quality.

The applicant will be required to meet current energy code requirements for commercial buildings, which include the 2012 International Energy Conservation Code (IECC) standard as well as the 2010 American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE) 90.1 standards, with additional local amendments requiring a 30 percent increase in performance requirements. This requirement is considered aggressive and represents a significant step toward improved energy efficiency

in buildings in balance with the cost impact for new construction. As discussed as a part of the adoption process in October, 2013, the adopted codes, if supported by continued improvements in cost-efficient building and energy management technology, could achieve a "net zero" building code in the future (in which buildings, on balance, produce as much energy as they consume).

✓ (xii) Exteriors or buildings present a sense of permanence through the use of authentic materials such as stone, brick, wood, metal or similar products and building material detailing;

The Bank materials will be a mix of high quality stone, brick, metal panel and stucco to complement the character of surrounding developments and reflect vernacular building materials within the BVRC.

✓ (xiii) Cut and fill are minimized on the site, the design of buildings conforms to the natural contours of the land, and the site design minimizes erosion, slope instability, landslide, mudflow or subsidence, and minimizes the potential threat to property caused by geological hazards;

As previously mentioned, the site is already fully developed and thus does not require cut or fill. The existing grade will be largely maintained, with existing drainage patterns to be preserved and pervious area to be increased slightly.

N/A (xiv) In the urbanizing areas along the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the building and site design provide for a well-defined urban edge; and

Not applicable.

N/A (xv) In the urbanizing areas located on the major streets shown on the map in Appendix A of this title near the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the buildings and site design establish a sense of entry and arrival to the City by creating a defined urban edge and a transition between rural and urban areas.

Not applicable.

N/A (G) Solar Siting and Construction: For the purpose of ensuring the maximum potential for utilization of solar energy in the City, all applicants for residential site reviews shall place streets, lots, open spaces, and buildings so as to maximize the potential for the use of solar energy in accordance with the following solar siting criteria:

Not applicable. There are no residential units in the existing development and no new residential units are proposed.

N/A (H) *Additional Criteria for Poles Above the Permitted Height:* No site review application for a pole above the permitted height will be approved unless the approving agency finds all of the following:

N/A (I) *Land Use Intensity Modifications:*

N/A (J) *Additional Criteria for Floor Area Ratio Increase for Buildings in the BR-1 District:*

N/A (K) *Additional Criteria for Parking Reductions: The off-street parking requirements of section 9-9-6,, "Parking Standards," B.R.C. 1981, may be modified as follows:*

N/A (L) *Additional Criteria for Off-Site Parking:* The parking required under section 9-9-6, "Parking Standards," B.R.C. 1981, may be located on a separate lot if the following conditions are met:

USE REVIEW CRITERIA

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

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

The subject property is located within the BR-1 zone district, which is defined in section 9-5-2(c)(2)(I), B.R.C. 1981, as "Business centers of the Boulder Valley, containing a wide range of retail and commercial operations, including the largest regional-scale businesses, which serve outlying residential development; and where the goals of the Boulder Urban Renewal Plan are implemented." *The financial institution use is consistent with such purpose. Per section 9-6-1, "Use Standards," B.R.C. 1981, drive-thru uses are allowed if approved through the Use Review process.*

_____ (2) Rationale: The use either:

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

The proposed Bank of America will provide a direct service to the surrounding area by increasing the banking options for residents and visitors. The proposed drive-thru will also add to the variety of commercial services available within the BVRC, and will further help to implement the high-quality redevelopment of the BVRC as intended by the BVRC Design Guidelines.

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

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

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

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

The proposed project is to construct a 2,850 square foot, single story Bank of America building with a drive-thru facility. The project site is part of the larger 1955 28th Street PUD, which currently includes two large-scale retail businesses, Hazel's and Denver Mattress. The project site was originally approved in 1977 as a Wendy's drive –thru, which remained on the site until 2012 when the building was demolished and the site reconfigured as a temporary parking lot with the intention of developing it as a pad site at a later time. Given the site's history as a drive-thru use, its location within the BVRC and the high-intensity regional commercial character of the surrounding area, the proposal to add a new drive-thru banking facility with standard hours of operation and ample parking (a total of 134 parking spaces are provided across the site as part of this proposal) to the subject site will be compatible with and have minimal negative impact on the use of surrounding properties.

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

All of the infrastructure required to serve the proposed development is already existing. The proposed project will improve storm drainage on site by reducing the amount of impervious surface area.

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

As mentioned above, the site is located on the west side of 28th Street within the Boulder Valley Regional Center (BVRC). The character of this area is predominantly commercial and retail

oriented, with Target and the 29th Street Shopping Center located immediately across 28th Street to the east. To the north is the Google office building (formerly Circuit City) and pad restaurant and retail shops. To the south is the Marshall's Plaza shopping center including Marshall's, Office Depot, REI and Bed Bath & Beyond.

The Bank massing has been designed to be sensitive and appropriate to its surroundings, with a 20'4" roof height which is lower than neighboring buildings. The Bank proposal places the drive-through on the west side of the building, where it has the least visibility to the adjacent roadway and allows the building to be pushed closer to the street consistent with the existing Denver Mattress building to the south. The proposed building will support a lively street presence, placing the majority of glazed areas on the south and east sides of the building adjacent to 28th street. The Bank materials will be a mix of high quality stone, brick, metal panel and stucco to complement the character of surrounding developments and reflect vernacular building materials in the Boulder area. Please see the Site Review criteria above for an analysis of the project's consistency with the adopted BVRC Design Guidelines.

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. There are no residential units in the existing development.

Section 9-6-9(c) Drive-Thru Uses:

The following criteria will apply to any drive-thru use:

(1) No drive-thru facility is allowed in any Downtown (DT) district unless the property is located directly abutting Canyon Boulevard.

Not Applicable, as the project site is not located within the downtown area.

(2) Hazardous and other adverse effects on adjacent sites and streets are avoided.

The proposed drive-thru is located to the west of the proposed building, which maximizes the building frontage along 28th Street and minimizes the visual impacts associated with automobile queues. The building's location on the northern edge of the site also minimizes impacts to surrounding uses and provides a buffer for the proposed drive-thru use, as the area immediately adjacent to the drive-thru is mainly undeveloped land serving as storm water detention for the neighboring property and bordered on the north by a parking lot. In addition, access to and from

the proposed drive-thru would be entirely contained within an existing parking area, meaning that no new traffic impacts would be generated on 28th Street.

(3) The location of any access to the drive-thru facility from an adjacent street does not impair its traffic-carrying capacity.

Not Applicable, as access to the proposed drive-thru would be taken from within the existing parking area, and no new curb cuts are proposed.

(4) Internal circulation and access to and egress from the site do not substantially impair the movement of other modes of transportation, such as bicycles and pedestrians, to and through the site.

The proposed drive-thru facility would not affect pedestrian or bicycle access to and movement within the site, as the drive-thru would be located on the west side of the building, while a new access point off the 28th Street multi-use path to the east of the building will allow bicyclists and pedestrians to access the bank without having to cross the parking area or drive-thru lanes. In addition, the new proposed 7' multi-use path would provide a safe way for bicyclists and pedestrians to get across the site between Walnut Street and the adjacent site to the north without interacting with traffic entering and exiting the bank.

(5) Clearly marked pedestrian crosswalks are provided for each walk-in customer access to the facility adjacent to the drive-thru lanes.

The existing parking area includes clearly marked pedestrian crosswalks, and the proposed drive-thru is located so as to minimize pedestrian/vehicular conflicts. Specifically, the parking for the proposed bank does not require customers to cross the drive-thru lanes. A sidewalk is provided at the main entrance of the south side of the building, which will allow customers to either access the parking area directly or utilize the nearby 28th Street multi-use path to access the parking spaces.

(6) The drive-thru use is screened from adjacent rights-of-way and properties through placement of the use, screening, landscaping, or other site design techniques.

As previously discussed, the drive-thru use would be screened from 28th Street by the proposed bank building. In addition, new landscaping is proposed on the north and west sides of the drive-thru, which would help to screen the drive-thru from the adjacent property. The portion of the adjacent property immediately to the north of the drive-thru is a landscaped area currently used for stormwater detention, which will provide an additional buffer.

(7) Environmental impacts, including, without limitation, noise, air emissions, and glare are not significant for the employees of the facility or the surrounding area.

The drive-thru is located so as to minimize environmental impacts for employees of the facility. Rather than extend around the entire building as is commonly the case with drive-thru facilities, the drive-thru is located entirely on the west side of the building. This allows the main office windows

on the east side of the building to remain unobstructed, thereby reducing associated environmental impacts for employees.

(8) Any curb cuts serving the use are not located within two hundred feet of any intersection of the rights-of-way of any two of the major streets or major arterials shown on the map of major streets.

As mentioned in the staff memorandum, the PUD is comprised of three separate parcels under common ownership. The existing curb cut serving the Hazel's and Denver Mattress retail stores is located on a separate parcel than the proposed drive-thru use, and as such is not considered to serve the drive-thru. Access to the proposed drive-thru loop would be taken from within the existing parking area.

(9) The location, size, design, and operating characteristics of the proposed facility are such that the drive-thru operation will be reasonably compatible with and have minimal negative impact on the use of nearby properties.

The proposed project is to construct a 2,850 square foot, single story Bank of America building with a drive-thru facility. The project site is part of the larger 1955 28th Street PUD, which currently includes two large-scale retail businesses, Hazel's and Denver Mattress. The project site was originally approved in 1977 as a Wendy's drive –thru, which remained on the site until 2012 when the building was demolished and the site reconfigured as a temporary parking lot with the intention of developing it as a pad site at a later time. Given the site's history as a drive-thru use, its location within the BVRC and the high-intensity regional commercial character of the surrounding area, the proposal to add a new drive-thru banking facility with standard hours of operation and ample parking (a total of 134 parking spaces are provided across the site as part of this proposal) to the subject site will be compatible with and have minimal negative impact on the use of surrounding properties.

(10) The noise generated on the site is inaudible to adjacent residential uses, measured at or inside the property line of property other than that on which the sound source is located.

Not applicable, as there are no residential uses immediately adjacent to the subject site.

(11) Nonconforming drive-thrus shall comply with the criteria of subsection 9-10-2(d), B.R.C. 1981.

Not applicable, as the proposed use is allowed through the Use Review process and is not replacing an existing non-conforming drive-thru use.

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
David Farnan, Director of the Library & Arts Department
Matt Chasansky, Manager of the Office of Arts & Culture

Date: March 11, 2015

Subject: **Information Item: Approval of Boulder Arts Commission Recommendations for 2015 Major Arts Grants** RESPOND BY MARCH 30, 2015

EXECUTIVE SUMMARY

The Boulder Arts Commission (BAC), established in 1979 to provide support to local artists and art organizations, is chartered with promoting and encouraging development and public awareness of, and interest in, the visual, fine and performing arts in the city. The BAC is committed to fostering a climate in which residents value art as a civilizing force, and recognize art as a basic community need.

Each year, the BAC solicits proposals for the Major Grants program. Approved grant projects must be completed by the end of the current fiscal year. Eighty percent of the grant award is given upon City Council approval. The final twenty percent are granted upon the submittal of a final report and approval by the BAC.

Recently, the BAC completed the 2015 Major Grants process, utilizing the online culture grant application tool. This year, 25 applications were received, requesting a total of $207,583. The 2015 budget for the Major Grants program is $100,000. The commission is recommending the approval of 11 grants, totaling $98,541.

EVALUATION CRITERIA

PROJECT NARRATIVE

- Is of a high overall artistic quality: The project narrative indicates the ability to achieve high overall artistic quality. (weighted at 15% of score)
- Promotes artistic diversity and innovation: The project creates art that is unique, innovative and promotes artistic diversity. (weighted at 10% of score)
- Plans for documentation of the project: Plans for documentation appear complete and appropriate for the project. (weighted at 5% of score)

COMMUNITY IMPACT

- Attracts a substantial and diverse audience: Marketing plans for the project are well defined, with a clear target audience and methods for reaching them. (weighted at 15% of score)
- Is of benefit to the residents of Boulder: The project has clear realizable plans to engage the community, sparking interaction and conversation about art. (weighted at 15% of score)

DEMONSTRATES A REASONABLE BUDGET
(weighted at 5% of score)

ADDITIONAL MAJOR GRANT RATING CRITERIA

- Is substantially impactful to the community: The project has the clear capacity to engage a large, diverse section of the community, make significant, long-lasting, positive impact and increase awareness of and participation in the arts in the community. (weighted at 25% of score)
- Demonstrates other pending or secured funding sources: The project budget shows funding sources other than the applicant organization and the Boulder Arts Commission that are either secured or actively being sought. (weighted at 10% of score)

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACT GOALS

- Economic: Recognizing the arts' role in economic vitality, the Boulder Arts Commission continues to focus grant funding on efforts which will position the City of Boulder as a cultural center known for quality arts offerings.
- Environmental: The investments in culture and creative projects in our city are one component of vibrant and sustainable urban living. As it is true that thoughtful cities are a solution to environmental challenges, programs like the ones represented in these grants will promote that vibrancy, and develop attachment to city life in Boulder. In addition, some of the BAC-funded grants in 2015 incorporate an environmental component and promote environmental awareness.
- Social: The arts reach all corners of the community, ranging from free tickets to events, to art in the schools, as well as bridging diverse cultures, and catalyzing the creative ecosystem of professionals, workforce, and consumers in the creative economy. Projects recommended for funding in 2015 include: international festivals, programs for youth, public art, and many free events for the community.

2015 BOULDER ARTS COMMISSION RECOMMENDATIONS

1. Boulder Chorale: $6,725
   Project: One Song, One Boulder

2. Boulder County Arts Alliance (Fiscal Sponsor of Communikey): $9,821
   Project: Communikey Festival 2015

3. Boulder County Arts Alliance (Fiscal Sponsor of Michelle Ellsworth): $10,000
   Project: Clytigation: State of Exception

4. Boulder County Arts Alliance (Fiscal Sponsor of NoBo Arts District): $10,000
   Project: PLACE: Placemaking by Art and Community Engagement

5. Boulder County Arts Alliance (Fiscal Sponsor of Truth Be Told): $10,000
   Project: Truth Be Told's All Stories Project

6. Boulder Philharmonic Orchestra: $10,000
   Project: Masterworks Opening Concert

7. The Catamounts NFP: $8,075
   Project: The Regional Premiere of DISNEY at madelife

8. Frequent Flyers Productions, Inc.: $6,000
   Project: Star Sailors

9. LOCAL Theater Company: $10,000
   Project: LOCAL Lab 2015 New Play Fest

10. Motus Theater: $10,000
    Project: SALSA

11. 3rd Law Dance/Theater: $7,920
    Project: Fall 2015 Dance Concert

NEXT STEPS

Please review the attached information and send any questions or comments to Matt Chasansky. (phone: 303-441-4113, email: chasanskym@boulderlibrary.org).

Unless there are objections, the artists and organizations will be notified of the results on March 31, 2015.

INFORMATION PACKET
MEMORANDUM

To: Members of City Council

From: Jane S. Brautigam, City Manager
Mary Ann Weideman, Assistant City Manager
Bob Eichem, Chief Financial Officer
David Driskell, Executive Director of Community Planning and Sustainability
Susan Richstone, Deputy Director of Community Planning and Sustainability
Liz Hanson, Economic Vitality Coordinator
Jennifer Pinsonneault, Business Liaison

Date: March 17, 2015

Subject: Information Item: Report on Economic Sustainability Strategy 2014 Action Items

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EXECUTIVE SUMMARY

This memorandum provides a report on the progress and implementation of the 2014 Action Items in the Economic Sustainability Strategy (ESS).

City Council adopted the ESS (**Attachment A**) on October 29, 2013. The strategy is an integrated approach to Boulder's continued economic vitality. As a key tool to implement the economic vitality strategy area of the city's Sustainability Framework, the ESS is consistent with the Boulder Valley Comprehensive Plan (BVCP) and helps to guide the implementation of adopted BVCP policies (particularly economic policies). The ESS is also based on the 2012 Primary Employer Study and reflects a cross-departmental effort by staff from the city's Economic Vitality (EV) Team, Community Planning and Sustainability (CP&S), Housing, and Transportation to ensure that the new strategy document is coordinated with other existing and proposed city plans, strategies, and programs.

In addition to strategies related to People, Place, and Process (see below), the adopted ESS identifies 2104 action items. Major accomplishments on those action items in 2014 include completion of the Transportation Master Plan Update, Northwest Mobility Study, North Boulder Subcommunity Action Plan, and significant progress on tenant finish permit process improvements, Comprehensive Housing Strategy and Civic Area Plan (see **Attachment B).**

FISCAL IMPACT

None. The document's 2014 Action Items are based on the existing work plan. Any future actions would be prioritized and funded through the development of the annual work plan.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

Economic: The ESS is the key tool to implement the economic vitality strategy areas of the city's Sustainability Framework. The Sustainability Framework is based on the goals and policies of the Boulder Valley Comprehensive Plan and the city's priority based budgeting process and is used to assess and evaluate plans and programs against the desired outcomes defined by City Council and the community. The intent of the strategy is to support the city's economic vitality by building on its strengths and addressing challenges. This strategy is based on simultaneously maintaining and enhancing the existing community of businesses while also positioning Boulder to grow new segments of its economy associated with larger economic, environmental, and social trends.

Environmental: Part of Boulder's economic sustainability strategy is to prepare Boulder and its businesses to be able to both minimize the impacts of environmental changes as well as position Boulder as a leader in the emerging market for technical, technological and social innovations, which is an essential element in Boulder's Climate Commitment.

Social: The application of a comprehensive "sustainability lens" acknowledges that efforts to ensure and enhance economic vitality must be approached and implemented in conjunction with the environmental, social and cultural quality that are the foundation of Boulder's long-term health and quality of life. Aspects of the strategy include placemaking efforts, workforce development, and housing and transportation strategies.

BACKGROUND

Primary Employer Definition and Study

In 2006, the City of Boulder defined "primary employer" by ordinance as:

> *A business or organization of any number of employees that generates more than 50 percent of its revenues from activities outside of Boulder County, and shall include, but is not limited to those facilities of such business and organization devoted to manufacturing, research and development, data processing, telecommunications and publishing, but shall not include hotels, motels, retailers, or food service facilities.*

Whether primary employers have five or 500 employees, they bring "new money" into the Boulder economy, support local secondary employers (e.g. caterers, printers, restaurants), and pay substantial property taxes, sales and use taxes and permit fees to the city.

In 2012, the city, with consultants, prepared a Primary Employer Study to analyze the needs of primary employers in relation to the city's industrial and commercial areas. At the August 28, 2012 Study Session, City Council received the Primary Employer Study, which included findings from a report authored by the University of Colorado (CU) Leeds School of Business, Business Research Division (BRD), and a survey conducted by the Boulder Economic Council

(BEC) and four stakeholder meetings. The results featured a summary of the issues, needs, and challenges of Boulder's primary employers as well as profiles of Boulder's commercial and industrial space and primary employers.

During the August 2012 study session, City Council expressed support for the exploration of near-term actions to improve codes and processes that affect primary employers and the development of an ESS. On December 11, 2012, city staff sent an Information Packet to City Council to provide an update on the proposed framework and work plan for the ESS. After city staff work and analysis and input from local partners (Boulder Chamber, Boulder Economic Council, etc.) and local primary employers and commercial property owners, City Council adopted the ESS (**Attachment A**) on October 29, 2013.

Economic Sustainability Strategy: Overview

The adopted ESS states a vision:

> *Boulder will continue to be recognized throughout the world as a city where employers and employees innovate, create, and thrive in a manner consistent with Boulder's environmental and social values.*

To achieve this vision, the city and its partners will focus on strategies and actions in three inter-related categories:

People –workforce, quality of life and social issues
Place – physical environment (infrastructure, amenities, buildings)
Process – ease of doing businesses (city processes, programs, codes and procedures)

A **"place-based"** approach to economic sustainability seeks to create vibrant, amenity-rich business districts that vary in their focus and intensity but all of which offer environments that support key industry clusters, retain talented workers and enhance a unique and sustainable "Boulder" quality of life. Each area of the city is different and a place-based approach looks at Boulder's various employment areas to identify desired change and then develop tailored strategies and actions for achieving that change.

Key strategies in each of the three focus areas were outlined in the city's Economic Sustainability Strategy:

People

- Expand opportunities for workers to live within the city
- Expand regional transit alternatives for commuters
- Support programs to develop highly skilled workforce needed by Boulder employers

Place

- Support vitality of employment areas throughout city through place-based approach
- Enhance East Boulder employment area for companies and workers
- Continue to develop Gunbarrel community center
- Ensure Downtown Boulder's continued success
- Develop programs to encourage upgrades of Boulder commercial buildings
- Support development based on unique assets and opportunities of University Hill

Process

- Ensure codes reflect employer needs for flexibility in use and workplaces
- Encourage commercial and industrial building owners to increase energy efficiency
- Improve application and permitting processes to make it easier to work with city
- Expand city's economic vitality efforts

ANALYSIS

This section assesses the progress made in accomplishing strategy objectives through implementation of 2014 action items. A detailed summary of the status of action items is included in **Attachment B**.

2014 Action Items: People

Ongoing support of workforce development continued through collaborative efforts with partner organizations in 2014. Significant progress was made on programs that support workforce transportation and housing, and those that foster "productive collisions" for local workers to enhance collaboration and the exchange of ideas.

- The Transportation Master Plan update and Northwest Mobility Study were both completed and significant progress was made on the city's Access Management and Parking Strategy
- Progress was made on the city's Comprehensive Housing Strategy including the launch of the Housing Boulder initiative and website, completion of a community engagement plan and draft toolkit of housing options, and establishment of working groups.
- The Boulder Civic Area Project and University Hill Revitalization Strategy provided opportunities for input from business owners, employers and workers.

2014 Action Items: Place

Several projects related to Place were included in the work plan and significant progress was made on improvements to major employment centers in 2014.

- The city's Envision East Arapahoe project included work with commercial and industrial property owners, employers and workers to identify challenges and unmet needs for employee transportation, workforce housing and amenities.
- The North Boulder Subcommunity Action Plan was finalized in 2014 and included work in arts and placemaking, transportation, access and parking, and land use and development in the area.
- In partnership with Hill stakeholders, the city developed plans for improvements and redevelopment in the area. A Hill Community Development Coordinator was hired to work with other city departments and strategic partners including business owners.

2014 Action Items: Process

Changing priorities and work demands delayed progress on some of the 2014 action items related to city processes, programs, codes and procedures. One contributing factor was recovery

from the September 2013 flood which resulting in additional demands and a need for reprioritization of CP&S work plans. Another factor was concern expressed by members of the community prompted by a higher than usual number of construction projects in the city.

- Despite the increased volume of building permit applications (including many related to flood recovery), city staff introduced several improvements to make the tenant finish permit process more timely and predictable for applicants.
- An ordinance allowing assessed value to be calculated using a professionally appraised fair market value in determining requirements for site improvements and upgrades was adopted by City Council in December 2014.

NEXT STEPS

In 2015, work to support the key strategies outlined in the ESS will continue. EV staff will work with other CP&S staff and Housing and Transportation staff to update ESS action items based on the 2015 work plan. EV staff will continue to track action item progress through meetings with project managers and work on project teams, and provide an update to the City Council early in 2016 on action item progress and accomplishments in 2015.

ATTACHMENTS

Attachment A: Economic Sustainability Strategy (Adopted October 29, 2013)

Attachment B: Economic Sustainability Strategy: 2014 Year End Report

CITY OF BOULDER

ECONOMIC SUSTAINABILITY STRATEGY

Adopted by City Council 10-29-13

INTRO

Boulder's highly educated workforce, superb quality of life, high concentration of companies in growing industries, and synergies with the University of Colorado and 14 federal labs are the foundation of its economic success. The city attracts talented entrepreneurs who have created a unique business community focused on cutting edge innovation and vision, earning Boulder recognition as one of the nation's best cities for start ups in 2013. In fact, Richard Florida, author of *The Rise of the Creative Class*, named Boulder the most creative city in the U.S. in 2012 based on a detailed analysis of how more than 350 metro areas ranked in technology (new ideas, inventions, high-tech companies), talent (skilled, ambitious individuals), and tolerance (non-judgmental, open-minded).

Economic vitality in the city of Boulder is a public-private collaboration to promote a healthy economy that supports the outstanding quality of life enjoyed by its residents. Boulder is following a sustainable path to economic development, adopting strategies that foster innovation, competitiveness, and entrepreneurship, and maintaining a positive business climate, while enhancing community character and preserving environmental quality.

This success didn't just happen—many ingredients came together to support Boulder's economic vitality. However, in terms of city-led efforts, many of the most important actions were not undertaken to promote economic development. On the contrary, many were initiated in response to growth pressures and the sense that the community's unique sense of place and quality of life would otherwise be lost. But, from preserving open space to protecting historic buildings in the downtown, many of those same actions have played a significant role in securing Boulder's current economic success. The uniqueness of place, compactness, connectedness and recreational amenities—combined with the innovation engines of CU and the labs—have helped attract and retain a talented and entrepreneurial workforce, fostering the growth of leading edge companies across a range of key industries.

SUSTAINING BOULDER'S ECONOMIC VITALITY

Since 2003, Boulder has had an economic vitality program aimed at working with community partners to create and sustain a favorable business climate. The program focuses in particular on the needs of primary employers—those that are the primary drivers of the city's economic health—helping to ensure that they are supported in their desire to be a growing and continuing part of Boulder's economy and community life. While the city does not focus on business attraction, it has become more proactive in working with partners to understand the needs of employers and respond accordingly. Two Economic Vitality programs—the Flexible Rebates program and Microloan program—are examples of how the city has responded to identified needs.

But while Boulder is fortunate to enjoy economic success today, challenges are on the horizon. The cost and lack of office space that meets contemporary standards; limited opportunities for home-grown businesses to remain in Boulder as their space needs change; and the impact of housing costs on employee retention are often cited as challenges that could impede Boulder's future economic vitality. Developing a more strategic approach to economic vitality can help respond to today's challenges and help ensure continued economic success in the future.

Boulder Farmers' Market

CREATING AN ECONOMIC SUSTAINABILITY STRATEGY

The Economic Sustainability Strategy (ESS) is an integrated, cross-cutting approach to Boulder's continued economic vitality. This strategy is not a typical economic development approach, but will support the city's economic vitality by building on its strengths and addressing challenges. This strategy is based on simultaneously maintaining and enhancing the existing community of businesses while also positioning Boulder to grow new segments of its economy associated with larger economic, environmental and social trends. The strategy is focused on Boulder's primary employers. While the retail base cannot be ignored as a significant part of our economic vitality, it is not a focus of this strategy.

Use of the term "economic sustainability" instead of "economic development" or even "economic vitality" reflects two key tenets. First, economic sustainability focuses on long-term conditions and outcomes, with a critical look at how current and anticipated issues and trends may affect the community's future economic vitality. It identifies near- and long-term strategies and actions that can help ensure success over time. Second, the application of a comprehensive "sustainability lens" acknowledges that efforts to ensure and enhance economic vitality must be approached and implemented in conjunction with the environmental, social and cultural qualities that are the foundation of Boulder's long-term health and quality of life.

This recognition now includes the acknowledgement that significant and far reaching changes are taking place in climatic systems that are having impacts both globally and locally. These impacts are leading to changes in international, national and state policies that will likely influence both regulatory and market activities. Part of Boulder's economic sustainability strategy is to prepare our community and our businesses to be able to both minimize the impacts of these changes as well as position Boulder as a leader in the emerging market for technical, technological and social innovations, which is an essential element in the orientation of Boulder's new Climate Commitment strategy.

A Boulder View

HOW WILL THE ECONOMIC SUSTAINABILITY STRATEGY BE USED?

The Economic Sustainability Strategy is the key tool to implement the Economic Vitality strategy area of the city's Sustainability Framework. The Sustainability Framework is based on the goals and policies of the Boulder Valley Comprehensive Plan and the city's priority based budgeting process and is used to assess and evaluate plans and programs against the desired outcomes defined by City Council and community. In many cases, priority strategies will be implemented by, integrated with or used to inform other city priorities and processes. For example, the

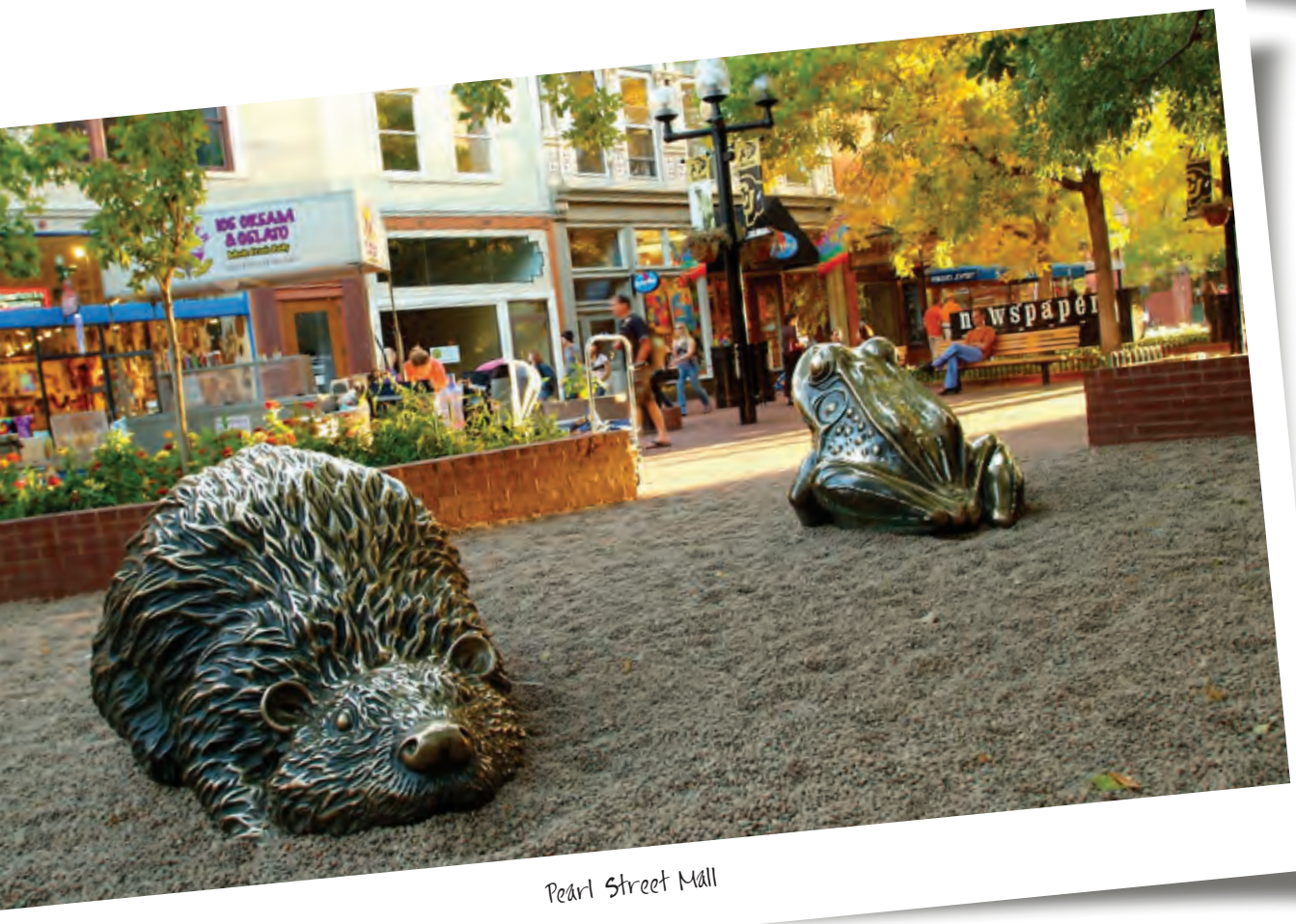
need for expanded workforce housing opportunities is identified in the Economic Sustainability Strategy as an important need for Boulder's primary employers, and the community's long-term economic health, with that priority being implemented through the Comprehensive Housing Strategy work effort already underway. Identifying the strategic priority in the Economic Sustainability Strategy helps underscore the importance of affordable housing to Boulder's economy, and will help ensure that the economic impacts of housing decisions are given due weight in the housing strategy development process.

Implementation of the Economic Sustainability Strategy will rely on both the city and community partners, including businesses, institutions, commercial property owners and non-profit organizations that work with businesses. While the city plays a central role in the development of "place" (through planning, investment and regulation) as well as in "process" (balancing community perspectives and priorities in the review and approval of new development), those approaches alone will not achieve the vision. Leveraging community assets is critical to maintaining a strong and diverse economy, and many actions surrounding people, workforce, training and collaboration require leadership by community partners.

KEEPING THE ECONOMIC SUSTAINABILITY STRATEGY ALIVE

The Economic Sustainability Strategy is a strategy, not a plan. It is a living document designed to be a flexible tool with actions that are updated annually as community needs and priorities change. It will be regularly evaluated through informal and formal (surveys, focus groups, etc.) feedback to ensure that actions are achieving desired results.

A "place-based" approach to economic sustainability seeks to create vibrant, amenity-rich business districts that vary in their focus and intensity and provide environments that support key industry clusters, retain talented workers and enhance a unique and sustainable "Boulder" quality of life. Each area of the city is different and a place-based approach looks at Boulder's various employment areas to identify desired change and then develop tailored strategies and actions for achieving that change.



Pearl Street Mall

ECONOMIC SUSTAINABILITY STRATEGY VISION

Boulder will continue to be recognized throughout the world as a city where employers and employees innovate, create, and thrive in a manner consistent with Boulder's environmental and social values.

To achieve this vision, the city and its partners will focus on strategies and actions in three inter-related categories:

PEOPLE – workforce, quality of life and social issues

PLACE – physical environment (infrastructure, amenities, buildings)

PROCESS – ease of doing businesses (city processes, programs, codes and procedures)

Strategies describe how the city can best respond to issues raised in the 2012 Primary Employer Study and other research conducted by the city while furthering the Economic Sustainability Strategy vision and the goals articulated in the Boulder Valley Comprehensive Plan (BVCP). The strategies are based on a "place-based" approach to economic vitality, improving city codes and process and addressing broader policy issues.

Action items identify how strategies will be implemented. Some actions can be accomplished by the city through improvements in internal processes and procedures. Others involve coordination with external stakeholders or require further analysis, particularly when an issue to be addressed may lead to policy changes or major program additions or enhancements. Action items are categorized as priority actions to be completed in 2014 or longer term actions that may begin in 2014 but be completed at a later date.

BOULDER'S ECONOMY

Boulder is a highly desirable place to work, live, and play. The city is an important employment center for the area and has a diverse and healthy economy. Boulder businesses represent a wide variety of industries and the city has a high concentration of aerospace, bioscience, clean tech, data storage, digital media, natural and organic products, outdoor recreation and software companies. While the majority of the city's employers are small businesses, several Fortune 300 corporations have a presence in Boulder. This diversity has contributed to the city's economic vitality and helped mitigate effects of recent economic downturns.

Many people choose to work or live in Boulder because of its high quality of life, sense of place and extensive amenities. Boulder boasts hundreds of miles of bike and walking trails, excellent bus service, easy access to open space and the mountain backdrop, numerous and varied art, cultural, dining, entertainment and shopping options, excellent schools, and high quality healthcare. These community characteristics have created a strategic economic advantage that is difficult to replicate, but requires careful consideration and planning to ensure its viability into the future.

Boulder is a land-constrained, compact community by design, reflecting the city's commitment to a sustainable urban form while protecting the area's scenic beauty, open space and recreational opportunities. With relatively little undeveloped land available for commercial development, the city is strategic about economic vitality. Boulder's economic sustainability efforts recognize the importance of jobs already in the city; and business retention and support for homegrown companies is a priority. While the Economic Sustainability Strategy is intended to help implement the results of the 2012 Primary Employer Study, Boulder's economic sustainability is much broader. Economic sustainability also results from the unique mix of a successful and healthy tourist industry, partnerships with universities and federal laboratories, and many arts, cultural, entertainment and retail options. The city

Twisted Pine Brewing Company's newly expanded ale house and outdoor deck

also recognizes the importance of the primary employers that make up the core of the local economy. Primary employers are defined by city ordinance as:

A business or organization of any number of employees that generates more than 50 percent of its revenues from activities outside of Boulder County, and shall include, but is not limited to those facilities of such business and organization devoted to manufacturing, research and development, data processing, telecommunications and publishing, but shall not include hotels, motels, retailers, or food service facilities.

Primary employers bring new money into the local economy, support secondary employers (restaurants, printers, banks, etc.) and pay substantial property taxes, sales and use taxes and permit and development fees to the city. Many of the city's economic vitality efforts, including business outreach and assistance, a flexible rebate program and a microloan program, have focused on primary employers.

Rally Software CEO Tim Miller (photo courtesy of Don Cudney)

In 2012, city staff, along with the University of Colorado Leeds Business Research Division and the Boulder Economic Council, conducted a primary employer study identifying the issues, trends and needs of Boulder's primary employers relative to the city's existing industrial and commercial space.

Key findings from the 2012 Primary Employer Study include:

- Boulder has approximately 554 primary employers
  8.2% of all Boulder employers
- Boulder's primary employers employ an estimated 26,059 individuals
  29% of all individuals employed in Boulder (excluding self-employed)
- Boulder's primary employers occupy approximately:
  538 commercial buildings (29% of all commercial buildings in city)
  7.5 million square feet of commercial space (35% of total)
- Primary employers are concentrated in three main areas:
  East Boulder (44%), Gunbarrel (15%) and Downtown (15%).
- A significant number of primary employers expect to expand in the next few years and many anticipate needing more space and moving to a new location.

The four key issues identified in the Primary Employer Study were:

1. Availability of suitable space for expansion
2. Lack of flexibility in allowed uses
3. High cost of land / cost of doing business
4. Lack of amenities in some areas of the city

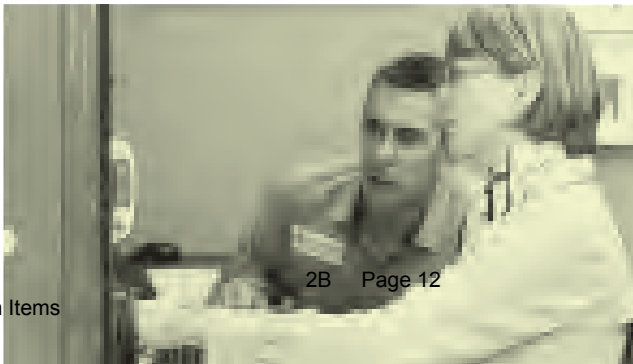
PEOPLE

Upslope Brewing's Founder Matt Cutter, Director of Sales and Marketing Henry Wood, and Director of Brewing Operations Dany Pages. In 2012, Upslope opened a new brewery and taproom in Flatiron Park in East Boulder.

Boulder has a well educated, highly skilled and creative workforce. The city has the nation's highest percentage of college graduates and a very high concentration of individuals employed in scientific and technical occupations including aerospace engineers, architects, biochemists, environmental scientists and software developers. This high concentration of talent reflects the presence of the University of Colorado at Boulder, federal labs, and technology-intensive industries which draw companies and entrepreneurs from around the world.

Boulder's workforce draws from several key sources. The desirability of Boulder's quality of life and a collaborative and supportive business climate has attracted people with world-class talent and skills for many decades, and the workforce includes many who chose Boulder as a place to live and found a job here. The innovation economy workforce also includes technically trained and "creative class" workers drawn to growing Boulder companies, residents who grew up and remained in Boulder and University of Colorado and other area college graduates who find work and careers in the city. City-wide, inflation-adjusted median income has decreased for Boulder households since 2000. Poverty rates and other negative economic indicators are increasing among certain populations (e.g. Latino residents, seniors, children).

Photos from left to right: Eetrex, Rally Software (photo courtesy of Don Cudney), Populus



ISSUES & CHALLENGES

1 An educated, creative and productive workforce has always been vital to Boulder's economic prosperity, and will be even more so in the future as other communities, other states, even other nations cultivate the education, creativity and productivity of their workforces. Workforce training and high quality education needs to be a focus, especially in the Science, Technology, Education and Math (STEM) fields.

2 Boulder's workforce is drawn to employment areas with a wide variety of amenities, uses, and services (e.g. restaurants, retail), recreational amenities, the arts, and increased walkability to public transportation, bicycle, and pedestrian facilities. East Boulder and Gunbarrel are primary employment centers that lack the same diversity of amenities that are available to downtown workers.

3 Changing work patterns and technology have resulted in more individuals operating small businesses and start-ups from their homes, with occasional visitors or part-time employees. Current city regulations for home occupations do not always reflect these types of home-based businesses that many times are compatible with residential uses. (Note: see Process: 2014 Action chart)

4 While most of the individuals who work in Boulder are residents within Boulder County, between half and two-thirds of Boulder employees live outside the city limits. While the city has a high concentration of self employed and residents who work from home, over 59,000 employees commute into the city for work (2013 City of Boulder estimate), using the U.S. 36 Corridor (26%) and the Diagonal Highway 119 (18%) (Boulder Economic Council Commuting Patterns Study 2012). Ongoing transportation challenges include traffic congestion and public transit improvements.

5 As technology changes, there will be increased demand for workforce with specialized skills. Current K-12 and post K-12 higher education options, including non-university training, professional and technical schools, and community colleges, may need to be expanded and customized to meet the needs of employers, workers and residents. In addition, demographic trends indicate between 2020 and 2025 Colorado will require a significant in-migration of employees to fill vacancies from retirees.

STRATEGIES

1 Expand opportunities for workers to live within the city, including moderately priced market rate housing.

2 Expand regional transit alternatives with local partners so that commuters have more transportation options other than single occupant vehicles.

3 Work with employers, educators and partners to develop and support programs designed to help attract workers with highly specialized skills and experience, and provide workforce training opportunities.

EVOL Foods is headquartered at the base of the foothills and manufactures in Boulder.

PEOPLE

Photos from left to right: Namaste Solar, Seth Ellis Chocolatier

PEOPLE: 2014 ACTION CHART

	ACTIONS	RESPONSIBLE PARTIES	TIMING
action 1.1	Increase collaboration with employers, universities and colleges, and state and local workforce and economic development partners to **support ongoing development of the workforce** available to Boulder employers.	Community Planning & Sustainability, Boulder Economic Council	Ongoing
action 1.2	Ensure that the city's **Transportation Master Plan update**, city involvement in the **RTD Northwest Area Mobility Study**, and the city's **Access Management and Parking Strategy** focus on developing strategies and funding mechanisms for addressing the local and regional commuting challenges and opportunities for Boulder workers.	Public Works – Transportation and Downtown & University Hill Management Division/ Parking Services	In progress – TMP adopted by 2014, AMPS implementation in 2014 and NAMS study will conclude in Spring 2014.
action 1.3	Through the city's **Comprehensive Housing Strategy** currently under development, understand and develop approaches for the needs, desires and preferences of Boulder workers who do not live inside the city limits. Expand housing opportunities for those working in Boulder.	Division of Housing and Community Planning & Sustainability	In progress
action 1.4	Support local business and industry organizations to **foster "productive collisions"** of local workers which provide opportunities for exchanges of ideas and collaboration. Enhance opportunities through civic area, Innovation HQ, and downtown development.	Community Planning & Sustainability, Boulder Economic Council	Ongoing

PEOPLE: LONGER TERM ACTIONS

1 Work with strategic partners – industry associations, business organizations, and education institutions – and employers to develop a plan to help attract workers in select fields.

2 Work with the Boulder Chamber and other community partners to implement the Innovation Blueprint 3.0, in particular to "expand mentoring and training programs for entrepreneurs, female and minority business leaders, facilitate cross-industry collaboration, and develop talent among our university student population".

3 Implement programs to foster attractive and affordable housing options for in-commuters.

Photos from left to right: LogRhythm, Boulder Chamber Event, Rally Software Founder and CTO Ryan Martens (photo courtesy of Don Cudney)

PLACE

Ligit (photo courtesy of Tres Birds) recently moved into a renovated space on the second floor of Twenty Ninth Street.

The workplace needs of today's employers are vastly different from those of just a few years ago. The city's employment areas need to make a similar transformation. Each area of the city is different and a more place-based approach would identify desired change and tailored strategies for achieving that change. There is enormous opportunity to improve Boulder's employment areas to provide a greater diversity of uses and services, increased walkability, improved quality of the built environment, and increased access to public transportation, bicycle and pedestrian facilities. Public investment in infrastructure is also a key component.

The city has three major employment centers, generally described as Downtown, East Boulder, and Gunbarrel. Primary employers have also clustered in other areas like the Twenty Ninth Street area (Crossroads subcommunity), Boulder Junction, the North Boulder subcommunity, as well as smaller commercial centers such as University Hill. However, with the development of the city, those employment areas on the west side of Boulder benefit from the smaller, tighter street grid and pre-war development pattern with a mix of uses, amenities and services. East Boulder and Gunbarrel employment areas were developed in a more post-war pattern with large superblocks, and a lack of a connected street grid, access to nearby restaurants, amenities and services.

The city's urban form is shaped by the location and design of streets, paths and open spaces; the mix of uses and activities that are allowed in each area of the city; and the design and intensity of development

Photos from left to right: West Pearl Street in downtown Boulder, Boulder's mountain backdrop, numerous recreational options (Copyright © 2012 - Rob O'Dea)

and public improvements. The city's goal is to evolve toward an urban form that supports sustainability, from a citywide scale down to the "15 minute neighborhood" scale. This "sustainable urban form" is defined with 5 components: Compact; Connected; Complete; Green; Attractive and Distinct; and Inclusive.

For each employment area the same components of a sustainable urban form can be applied. Density should be in appropriate locations to create and support viable commercial opportunities; there should be an integrated multi-modal transportation system, with daily needs within easy access of home, work or school without driving a car.

As the city works towards its climate commitment goals, the built environment, including our commercial and industrial buildings, and the activities within those buildings play a significant role related to energy use and greenhouse gas emissions. Regulatory changes, financial incentives, innovations and education together will help our commercial and industrial buildings become more efficient, attractive, and cost efficient for employers and property owners.

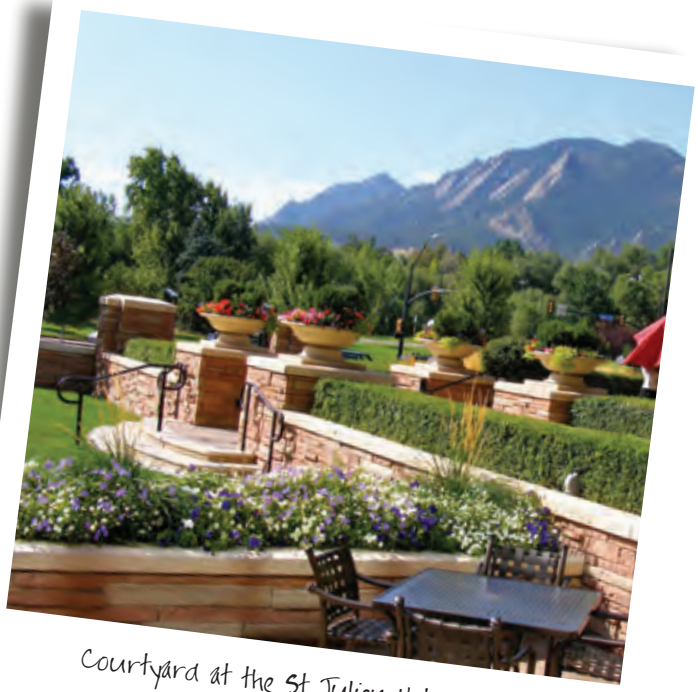
The 2012 Primary Employer Study highlights the unique characteristics and needs of specific Boulder areas where most primary employers are located. Desired public and private amenities like restaurants, shopping, parking, bike paths, and transportation – and the needs of primary employers – differ greatly between Downtown, East Boulder, and Gunbarrel.

Downtown restaurants, retail, district parking, and the Pearl Street Mall serve downtown employees, residents, and visitors. Downtown zoning includes non-industrial primary employer offices in addition to financial services and other professional offices. Employers love downtown for the many opportunities for "casual collisions" on the mall or in a coffee shop. Some companies find the parking district convenient, while others do not choose a downtown location because they don't want their employees or visitors to pay for parking. High demand has resulted in very limited office space availability. The completion of the vision for the civic area, including office, arts, and event/performance spaces provides the opportunity to explore public-private partnerships.

East Boulder houses a mix of manufacturers, research and development, and a wide range of industrial uses, and is the city's largest employment center for primary employers. Free and abundant parking is seen as a plus for most employers. Bike paths and sidewalks provide pedestrian access. There are some lunchtime options within Flatiron Park and in the area of the 55th and Arapahoe intersection, but many employees drive to Twenty Ninth Street, downtown, or other commercial areas for more eating options. Additional amenities such as pedestrian connections, restaurants and other services are desired. Shuttle buses or other transportation options have been requested.

Gunbarrel is evolving, with new housing, retail, brewery/restaurant, and hotel development all under construction. Gunbarrel is home to many larger companies, and employers desire more eating options and services in this portion of Boulder. As in East Boulder, parking is free for employees and visitors. More Gunbarrel housing options – in type and price –would allow more Gunbarrel workers to consider living closer to work.

As a mature, compact city with little remaining vacant land, the city has an opportunity to revitalize areas of the city that are not reaching their full potential. Strategic planning to address the unique needs and priorities of each employment area and ensure that economic sustainability and place-making is a primary outcome is the essence of the place-based approach. While supporting and sustaining these vibrant places, the city can help to retain and attract primary employers as well as enhance the unique character of Boulder's subcommunities and advance other community sustainability goals. Strategic planning has been done in downtown, 28th St. and Boulder Junction. The new buildings proposed and under construction are fulfilling the vision of the planning efforts for the area, and helping to address needed office space for employers. The primary employer study identified that additional demand for office space remains strong, even with these new developments.



Courtyard at the St Julien Hotel and Spa

Photos from left to right: Spectra Logic's Boulder headquarters, interior of a W.W. Reynolds building (photo courtesy of Britt Augustine), Pearl Street Mall

ISSUES & CHALLENGES

1 Main employment centers of East Boulder and Gunbarrel lack a diversity of amenities, uses, and services (e.g. restaurants, retail), increased walkability, recreational amenities, the arts, and increased access to public transportation, bicycle, and pedestrian facilities to meet the needs of Boulder's workforce.

2 As an older community, Boulder has an older commercial building stock as compared to newer, remodeled space in neighboring or similar cities. As a result, "tired" buildings may not provide the amenities or upgrades desired by employers.

3 There is limited availability of high quality, large floor plate commercial space to meet the demand of growing Boulder larger primary employers. Many larger employers look for the efficiencies provided by larger floor plates.

4 The very low supply (low vacancy rate) of downtown office space presents a challenge due to the high desirability and demand for downtown space (and its numerous amenities and concentration of companies) by Boulder primary employers.

STRATEGIES

1 Support the vitality of Boulder's varied employment areas throughout the community (e.g. Twenty Ninth Street, South Boulder, and North Boulder) through a place-based approach that builds upon the unique amenities to those areas, in addition to the city's main employment centers.

2 Enhance the East Boulder employment area to create a more desirable place for companies and workers with desired amenities and mixed use: eating and drinking places, retail services, the arts, and increased multi-modal access to public transportation and bicycle and pedestrian facilities.

3 Continue the efforts in the Gunbarrel community center, to create a more inviting and diverse place for companies and workers, with desired amenities and increased access to public transportation and bicycle and pedestrian facilities.

4 Ensure Downtown Boulder's continued success as a vibrant, desirable location for a rich mix of uses by finding opportunities to upgrade and create additional space for key industries as well as high quality outdoor spaces, including implementation of the civic area plan.

5 Encourage and incentivize the upgrading of Boulder commercial buildings in appearance, tenant amenities, energy efficiency, and other sustainability measures.

6 Support a multi-pronged, community development based strategy to maximize the unique assets and opportunities of University Hill.

Downtown Boulder is home to Bing's maps team and imagery processing office

PLACE

Photos from left to right: Chautauqua Park (photo courtesy of LogRhythm), Amgen's Boulder headquarters

PLACE: 2014 ACTION CHART

	ACTIONS	RESPONSIBLE PARTIES	TIMING
action 2.1	**Implement the Civic Area Plan Phase 1** including investment strategies, financing tools, capital improvements, flood protection, safety improvements, and feasibility planning for future phases.	City Manager's Office, Finance, Community Planning & Sustainability, Public Works, Parks & Recreation, Library and Arts	Begin early 2014
action 2.2	Work to support public and private investment in amenities in the East Boulder employment area through the **East Arapahoe area planning effort.**	Community Planning & Sustainability, Public Works – Transportation	In progress – Scoping to City Council in 1st Quarter 2014
action 2.3	Examine the **mix and type of businesses located in and around North Boulder** as part of the Subcommunity Plan update, including analysis of the feasibility of fully developing the Village Center.	Community Planning & Sustainability	In progress - Adoption by 3rd Quarter 2014
action 2.4	In partnership with **the Hill** stakeholders, provide resources and coordination for the implementation of the **Residential Service District and the innovation district concept.** Develop a cross departmental Hill team to ensure coordination of and communication about Hill programs and activities.	Downtown & University Hill Management Division	In progress – implementation through 2014
action 2.5	**Continue implementation of Boulder Junction** to support economic development, and community goals for transit-oriented development.	Community Planning & Sustainability, Transportation Division, Housing Division	Ongoing

PLACE: LONGER TERM ACTIONS

1 Support areas like Diagonal Plaza to maximize redevelopment opportunities and strengthen economic health.

2 Explore incentives and financial tools for commercial property owners to upgrade their building stock, catalyze commercial energy upgrades, and provide employee amenities.

3 Through the Sustainable Streets and Centers project and East Arapahoe area planning, study East Boulder and Gunbarrel zoning (e.g. open space, parking, and floor area requirements) and consider updates to reflect current employment trends and needs of primary employers.

4 Complete the implementation of Phase 1 of the Transit Village Area Plan, and continue to Phase 2 of implementation.

Photos from left to right: Entrance to Lijit's new office (photo courtesy of tres birds), The Hill, Google's Boulder office

PROCESS

A collection of code books

Many issues related to primary employers' space, location, and expansion are purely defined by the market. To support the retention and attraction of today's talented workforce and progressive employers, however, the city can make it easier to do business in Boulder and have a direct influence on a number of important issues:

- The city's comprehensive plan sets broad economic policy and land use direction.
- The city's zoning districts define the uses allowed in different areas occupied by primary employers.
- Developing new space or upgrading existing buildings require review and permits by the city.
- Business retention, expansion, outreach, and incentives through the city's economic vitality program.

Photos from left to right: Seth Ellis Chocolatier, Mobile Assay, LogRhythm

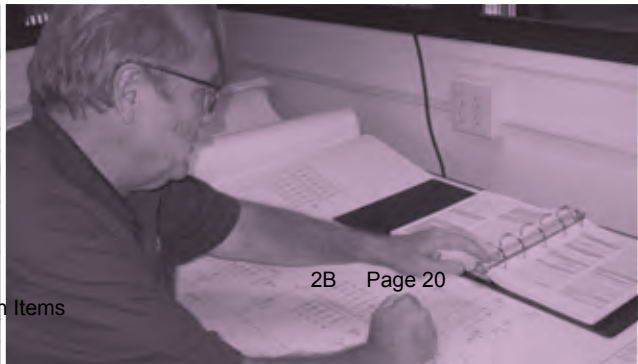
The comprehensive plan recognizes that land use regulations impact the ability of businesses to evolve. One of the city's largest roles in supporting and fostering economic sustainability is through land use authority. Therefore, the city's regulations and review processes need to provide flexibility to allow businesses to be responsive to emerging technologies and evolving industry sectors. There are daily interactions between employers and Boulder's city government. These occur when companies get services from the city and are subject to city regulations and programs. These include licensing and taxing, permitting and development review, the adoption of legislation, and business assistance and business retention services provided by the Economic Vitality program. Over the past few years, the city has placed additional focus on the improvement of these business services, as part of the city's vision to strive for service excellence. Efforts implemented and underway include expanded economic vitality services, a web business portal, and new ways to communicate about city news and projects that matter to businesses.

Many Boulder primary employers lease their space. They often grow quickly and move frequently, triggering remodeling to meet tenants' needs. Remodeling construction requires some combination of city development review and permits. Timing windows are routinely affected by lease timing and company operations. As companies plan their moves from space to space (often every few years), the cost, predictability, and timing of building improvement projects and permits (including code-triggered upgrades) become key factors in their decisions to stay and grow in Boulder.

The city's economic vitality program provides support for business relocation, retention, and expansion. One tool is the flexible rebate business incentive program in which the city manager can approve customized rebates of sales and use taxes and permit and development review fees to key primary employers. A microloan program provides an additional funding source for Boulder small businesses.

A recent kitchen upgrade in a W.W. Reynolds building (photo courtesy of Britt Augustine)

Photos from left to right: TIGON Enertec, Zoning use chart, City permit reviewer/inspector



ISSUES & CHALLENGES

1. The city's discretionary review process can result in a wide range of outcomes that can increase the level of risk and associated costs (which affects the ability to build the development potential according to the zoning code).

2. Because most primary employers are lessees (81 percent) and move frequently, employers and property owners may not invest capital in building upgrades.

3. Certain city zoning regulations on the uses of commercial space (and size of uses) may unnecessarily limit use flexibility.

4. Upgrading older buildings can result in significant building improvement requirements (e.g. energy code, accessibility, wiring, utilities) that may be unexpected to a property owner or a business tenant.

5. Land cost is a significant factor; Boulder's commercial land cost is generally higher than surrounding communities and this affects decisions to upgrade and develop commercial property.

City building official / permit reviewer

STRATEGIES

1. Ensure that Boulder's land use and other codes respond to changes that support 21st century employer needs for flexibility in commercial uses and employee workplaces.

2. Encourage owners of Boulder's industrial and commercial building stock to update their buildings so that they become models of 21st century energy efficiency.

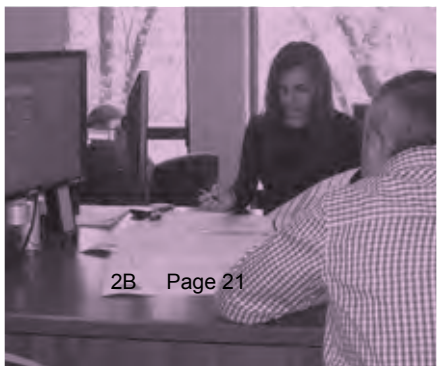
3. Make doing business with the city easier, through improved application and permitting processes.

4. Continue and expand the city's economic vitality efforts in business retention and expansion, outreach, incentives, and assistance.

Twisted Pine Brewery's expanded ale house

PROCESS

Photos from left to right:
Community engagement outreach event held by the city, Planning and Development Services Center



PROCESS: 2014 ACTION CHART

	ACTIONS	RESPONSIBLE PARTIES	TIMING
action 3.1	**Update commercial and industrial zoning use charts and definitions to provide more flexibility** for space options, respond to the dynamic nature of Boulder's primary employers, and to allow and encourage desired amenities.	Community Planning & Sustainability	In progress
action 3.2	Continue to improve the **commercial tenant finish permit process** to make it more timely and predictable (with predictable requirements) for applicants and property owners.	Public Works and Community Planning & Sustainability	In progress
action 3.3	**Update home-based occupation regulations** to reflect current industries and businesses, the use of the Internet, and to balance potential impacts to residential neighborhoods while allowing flexibility for home-based businesses.	Community Planning & Sustainability	Complete by end of 2014
action 3.4	**Continue to improve energy efficiency in commercial buildings and business operations** through the implementation and evaluation of voluntary programs. Work with building owners and businesses on the 2014 pilot with Pecan Street that further policy and strategy development aimed at reducing energy waste in commercial buildings.	Community Planning & Sustainability	Ongoing
action 3.5	Revise the land use regulations to allow, through Site Review, the **density and floor area that would otherwise be permitted prior to the dedication of land for public right-of-way** in areas where the city has adopted connections plans.	Community Planning & Sustainability	In progress
action 3.6	Update the land use regulations for required site improvements and upgrades by **changing how the assessed value is calculated**, by allowing the option of using the professionally appraised fair market value of the structure.	Community Planning & Sustainability	In progress

PROCESS: LONGER TERM ACTIONS

1. Evaluate updates to zoning bulk and intensity methods (height, stories, FAR, building size, open space, setbacks, parking).
2. Examine policies and regulations around complementary uses and amenities in employment centers, such as eating establishments, retail and services.
3. Consider increased funding for flexible rebate incentives.
4. Modify/enhance development review processes (review thresholds, review times, fees, predictability).

Photos from left to right: City permit reviewer, LogRhythm, Interior of Advanced Thin Films

Economic Sustainability Strategy: 2014 Year End Report

PEOPLE	
2014 Action Items	2014 Activities and Project Status

1.1 - Increase collaboration with employers, universities and colleges, and state and local workforce and economic development partners to **support ongoing development of the workforce** available to Boulder employers.	• Town/Gown Forum held Jan. 2014 at CU
	  ○ 300 attendees representing many sectors
	  ○ City Manager Jane Brautigam on panel
	  ○ Transportation, Resiliency, Engaging lower income populations, Workforce housing and Broadband access identified as areas of common interest
	• Discussed partnership opportunities with CU Office of Industry Collaboration
	• Referred employers to Workforce Boulder County and other workforce resources

1.2 - Ensure that the city's **Transportation Master Plan update**, city involvement in the **RTD Northwest Area Mobility Study**, and the city's **Access Management and Parking Strategy** focus on developing strategies and funding mechanisms for addressing the local and regional commuting challenges and opportunities for Boulder workers.	• 2014 Transportation Master Plan accepted by City Council on Aug. 15, 2014; Action Plan includes strategies to address workforce transportation challenges
	• Northwest Area Mobility Study adopted by RTD Board on Jun. 24, 2014; priorities include US 36 Bus Rapid Transit (BRT) and exploring arterial BRT on Colorado 119 and US 287
	• Access Management and Parking Strategy addressed diverse needs including those of business owners, employers and workers
	  ○ Best Practices Summary
	  ○ City Council Study Session (Jun. 10, 2014)
	  ○ City Council Study Session (Jul. 29, 2014)
	  ○ City Council Study Session (Oct. 28, 2014)

1.3 - Through the city's **Comprehensive Housing Strategy** currently under development, understand and develop approaches for the needs, desires and preferences of Boulder workers who do not live inside the city limits. Expand housing opportunities for those working in Boulder.	• Housing Boulder initiative considered workforce housing needs and included opportunities for input from employers and workers
	  ○ Housing Policies
	  ○ Working Groups
	  ○ Housing Choice Survey and Analysis
	  ○ Housing Market Analysis
	  ○ Community Engagement Plan
	  ○ City Council Study Session (Sep. 27, 2014)
	  ○ City Council Agenda Item (Sep 2, 2014)
	  ○ Draft Toolkit of Housing Options

Economic Sustainability Strategy: 2014 Year End Report

PEOPLE (Continued)	
2014 Action Items	2014 Activities and Project Status

1.4 - Support local business and industry organizations to **foster "productive collisions"** of local workers, which provide opportunities for exchanges of ideas and collaboration. Enhance opportunities through civic area, Innovation HQ, and downtown development.	• Continued to work with Boulder County Independent Business Alliance (BIBA), Downtown Boulder, Inc., Innovation Center for the Rockies, Boulder Chamber, Naturally Boulder, Boulder Tomorrow and other organizations to foster collaboration and exchange of ideas
	• Boulder Small Business Development Center (SBDC) announced move to Boulder Library, providing new opportunities for collaboration and business assistance
	• Boulder Chamber's Innovation Blueprint 3.0 website launched to facilitate access to information and connections related to Boulder's innovation-driven economy
	• Boulder Civic Area Project provided opportunities for input from business owners, employers and workers
	  ○ Civic Area Vision Plan, adopted by City Council in Sep. 2013, is inclusive design that can be enjoyed by business owners, entrepreneurs and workers; includes areas for commercial activity, e.g., innovation space, meeting space, farmers' market
	• University Hill Revitalization Strategy included business owners, employers and workers in area
	  ○ 2014 Hill Employee Transportation Survey
	  ○ Began to investigate potential measures to foster year-round economic vitality of area (Phase I report)

PLACE	
2014 Action Items	2014 Activities and Project Status

2.1 - Implement Civic Area Plan Phase 1 including investment strategies, financing tools, capital improvements, flood protection, safety improvements, and feasibility planning for future phases.	• Ballot Item 2A passed in Nov. 2014, including funding for improvements to Civic Area
	• Boulder Civic Area Project phases in progress including work on Civic Area Master Plan and Civic Area Park Site Plan:
	  ○ Activation
	  ▪ Short-term site improvements (ongoing)
	  ▪ Safety enhancements (ongoing)
	  ▪ Events (2014 Summer Games)
	  ○ Transformation
	  ▪ Research (surveys, technical reports)
	  ▪ Design (Tom Leader Studio and consultant support team selected)
	  ▪ Civic Area branding developed

Economic Sustainability Strategy: 2014 Year End Report

	○ Realization ▪ *Reimagining Place: Civic Area Site Transformation Public Kick Off* (Sep. 2014) ▪ *Civic Area Site Transformation Open House* (Sep. 2014) ▪ *Co-create the Space – Civic Area Workshop Series* launched in Nov. 2014 ▪ Working groups (Arts, Innovation, Local Food) established ▪ Capital projects and new facilities to be informed by work on master and site plans • Changes in Civic Area internal project management team
2.2 - Work to support public and private investment in amenities in the East Boulder employment area through the **East Arapahoe area planning effort**.	• Envision East Arapahoe project work included: ○ Identifying focus areas and began refining assumptions and estimates for employment and residential buildout ○ Presenting project vision, goals and potential scenarios for input from businesses and community at public meetings ○ Developing performance indicators including safety, health and social, livability, accessibility and connectivity, environmental sustainability, and economic vitality ○ City Council Study Session (May 27, 2014) ○ City Council Study Session (Feb. 24, 2015) ○ Long-term land use planning for the study area on hold to allow work on other priority planning projects in 2015 ○ Work continues on planning corridor access and connections, multimodal transportation improvements, and bus rapid transit, biking and walking enhancement; exploring transportation connections and medical office zoning near Boulder Community Health to address immediate needs of health care providers • Continued to work with employers in area to identify challenges and unmet needs for employee transportation, workforce housing and amenities • Met with major property owner to discuss their plans for enhancements to area and explore options to expand access to alternative transportation

Economic Sustainability Strategy: 2014 Year End Report

PLACE (Continued)	
2014 Action Items	2014 Activities and Project Status
2.3 - Examine the **mix and type of businesses located in and around North Boulder** as part of the Subcommunity Plan update, including analysis of the feasibility of fully developing the Village Center.	• North Boulder Subcommunity Action Plan finalized in Oct. 2014; Action Plan Snapshot summarizes work in: ○ Arts and Placemaking, including analyzing and adjusting regulations to allow desired live-work uses and exploring arts-oriented anchor land use ○ Transportation, Access and Parking, including evaluating enhancement of pedestrian connections, bicycle facilities, bus connections and parking ○ Land Use and Development**,** including evaluating affordable service industrial and artist's space strategies • Community workshop Apr. 2014; Open House Sep. 2014 • Work on Village Center feasibility analysis delayed by flood remapping
2.4 - In partnership with **the Hill** stakeholders, provide resources and coordination for the implementation of the **Residential Service District and the innovation district concept**. Develop a cross departmental Hill team to ensure coordination of and communication about Hill programs and activities.	• Ballot Item 2A passed in Nov. 2014, including funding for improvements to University Hill Commercial District ○ Preliminary plans developed for creation of event street on Pennsylvania Avenue, commercial area street tree improvements and irrigation, and pedestrian lighting improvements in residential area • Hired Hill Community Development Coordinator in Sept. 2014 to work on interdepartmental University Hill Reinvestment Strategy and build strategic partnerships with the community, business owners, CU and other stakeholders • City Council passed an ordinance that declared a moratorium on adding residential units within the University Hill Business Main Street (BMS) district until Mar. 18, 2015 • Began the Residential Service District (RSD) as a multi-year pilot cleanup program in high-density residential areas • Expanded distribution of regular communications about Hill activities and opportunities • Entered into memorandum of understanding for the mixed-use redevelopment of the 14th Street UHGID parking lot; developed pilot parklet on Pennsylvania Avenue; installed Boulder B-cycle bike-sharing station on College Avenue; established partnership with Boulder-based nonprofit eGO CarShare service for location on Hill • Preliminary exploration of innovation district concept

Economic Sustainability Strategy: 2014 Year End Report

PLACE (Continued)	
2014 Action Items	2014 Activities and Project Status
2.5 - Continue implementation of Boulder Junction to support economic development, and community goals for transit-oriented development.	• Work continued on redeveloping the Boulder Junction area into a mixed-use, pedestrian-oriented neighborhood with regional transit connections and public spaces that will benefit entire community • Work continued on RTD Depot Square at Boulder Junction, a mixed use transit-oriented development which will include affordable rental housing units, a Hyatt Place Hotel, restored Boulder Jaycees depot, managed parking structure, underground RTD bus station, and street-level open plaza • Construction was completed on Solana at 3100 Pearl Parkway, a four-building, 319-unit apartment complex with retail spaces, parking structure, recreation center, multi-use paths and interior courtyard spaces • Boulder Junction Access District established to help manage parking in area • Boulder Junction Transportation Demand Management District established to provide multiple transportation options; residents and employees in district will be provided with an EcoPass, Boulder B-cycle membership and a car-share membership

PROCESS	
2014 Action Items	2014 Activities and Project Status
3.1 - Update commercial and industrial zoning use charts and definitions to provide more flexibility for space options, respond to the dynamic nature of Boulder's primary employers, and to allow and encourage desired amenities.	• Based on work efforts on the density/right-of-way ordinance discussed below and prioritization of Housing Boulder short-term action items, this action item was not advanced in 2014.
3.2 - Continue to improve the **commercial tenant finish permit process** to make it more timely and predictable (with predictable requirements) for applicants and property owners.	• Staff continues to work with customers to ensure tenant finish permits are reviewed within a seven working day window. In some cases, staff has been able to approve minor finishes over the counter. Staff is developing a more refined checklist to ensure customers are submitting a complete application in order to facilitate a quick review without the requirement for a re-submittal.
3.3 - Update **home-based occupation regulations** to reflect current industries and businesses, the use of the Internet, and to balance potential impacts to residential neighborhoods while allowing flexibility for home-based businesses.	• Based on work efforts on the density/right-of-way ordinance discussed below and prioritization of Housing Boulder short-term action items, this action item was not advanced in 2014.

Economic Sustainability Strategy: 2014 Year End Report

PROCESS (Continued)	
2014 Action Items	2014 Activities and Project Status
3.4 - Continue to improve energy efficiency in commercial buildings and business operations through the implementation and evaluation of voluntary programs. Work with building owners and businesses on the 2014 pilot with Pecan Street that further policy and strategy development aimed at reducing energy waste in commercial buildings.	• Expanded Partners for a Clean Environment (PACE) program to serve as the one-stop-shop for business sustainability implementation. Through advising services, PACE assists building owners and businesses on best practice implementation in the areas of energy efficiency, waste diversion and reduction, water conservation and employee transportation offerings. • Established working group of local expert and stakeholders including commercial property owners and businesses to discuss options for rating and reporting energy use and implement energy efficiency strategies. • Continued to offer voluntary commercial building energy rating and reporting program through ENERGY STAR Portfolio Manager online rating tool developed by EPA. • PACE's energy component, EnergySmart, served 455 Boulder businesses in 2014. Of those, 418 (93%) advised on energy efficiency opportunities and 118 made upgrades. • Implemented Community Power Partnership pilot project with Pecan Street Research Institute to understand how electricity is being used in Boulder residences and businesses and what tools and information are needed to better manage resource use and contribute to innovative community solutions. Fourteen businesses participated in the pilot program in 2014 and have real time energy use devices (eGauge) installed. The city is receiving anonymous, aggregated data from the businesses and will be evaluating it for insights and research purposes throughout 2015. • Continued to share information about resources and financial incentives for improving energy efficiency with businesses through city website and outreach
3.5 - Revise the land use regulations to allow, through Site Review, **the density and floor area that would otherwise be permitted prior to the dedication of land for public right-of-way** in areas where the city has adopted connections plans.	• Draft ordinance reviewed by Planning Board May 1, 2014 • Following recommendation of approval, Planning Board requested rehearing of item on June 5, 2014. The Board reversed its recommendation to denial on Aug. 7, 2014. • Based on the board recommendation and concerns raised in the community regarding density, staff did not advance the ordinance to City Council. An Information Packet was sent to City Council on Oct. 21, 2014 to inform City Council of the status and the suggestion that the item should be considered as a long-term action item in 2015.
3.6 - Update the land use regulations for required site improvements and upgrades by **changing how the assessed value** is calculated, by allowing the option of using the professionally appraised fair market value of the structure.	• Completed on Dec. 16, 2014 with City Council adoption of Ordinance No. 8018 amending Title 9, "Land Use Code," B.R.C. 1981, to add valuation method for existing structures for determination of upgrade requirements

City of Boulder
BOARDS AND COMMISSIONS MEETING SUMMARY FORM

NAME OF BOARD/COMMISSION: Human Relations Commission
DATE OF MEETING: Feb. 23, 2015
NAME/TELEPHONE OF PERSON PREPARING SUMMARY: Robin Pennington 303-441-1912
NAMES OF MEMBERS, STAFF AND INVITED GUESTS PRESENT: **Commissioners –** Amy Zuckerman, Shirly White, Nikhil Mankekar, José Beteta **Staff –** Carmen Atilano, Robin Pennington, Karen Rahn, Kim Pearson **Commissioners absent -** Emilia Pollauf
WHAT TYPE OF MEETING (CIRCLE ONE) **[REGULAR]** [SPECIAL] [QUASI-JUDICIAL]
AGENDA ITEM 1 - CALL TO ORDER – The Feb. 23, 2015 HRC meeting was called to order at 6:01 p.m. by **A. Zuckerman.**
AGENDA ITEM 2 – AGENDA ADJUSTMENTS – None.
AGENDA ITEM 3 – APPROVAL OF MINUTES – N. Mankekar moved to approve the Jan. 26, 2015 minutes with corrections**. S. White seconded. Motion carries 4-0.**
AGENDA ITEM 4 – COMMUNITY PARTICIPATION (non-agenda action items) –None.
AGENDA ITEM 5 – ACTION ITEMS A. 2015 HRC Work Plan The HRC discussed and approved its 2015 Work Plan. Community members Cynthia Beard, Darren O'Connor, Jen Watson and Lexi Delgado addressed the commission regarding the need for community dialog on race relations. **N. Mankekar moved** to accept the 2015 HRC Work Plan as amended. **J. Beteta seconded. Motion carries 4-0.**
AGENDA ITEM 6 – DISCUSSION/INFORMATIONAL ITEMS A. Event Reports – **A. Zuckerman** and **N. Mankekar** attended the Boulder Coalition and Alliance on Race meeting the week of Feb. 16. **J. Beteta** made an announcement about the Feb. 25 meeting on Immigration Reform hosted by the YMCA. **N. Mankekar** attended the Boulder County roundtable discussion of police-community relations on Feb. 21. C. Atilano gave an update on the upcoming Boulder County Circles Poverty Simulation. B. Follow Up Tasks – Submit the amended Jan. 26, 2015 minutes, include Living Wage as an on-going agenda item for HRC monthly meetings, update the 2015 HRC Work Plan, invite Chief Testa to the March 16 HRC meeting to provide information on community policing, include the HRC event funding RFPs and CIF application in the March packet.
AGENDA ITEM 7 – IMMEDIATE ACTION ITEMS – None.
AGENDA ITEM 8 – Adjournment – **N. Mankekar moved** to adjourn the Feb. 23, 2015 meeting. **S. White seconded** the motion. **Motion carries 4-0.** The meeting was adjourned at 8:29 p.m.
TIME AND LOCATION OF ANY FUTURE MEETINGS, COMMITTEES OR SPECIAL HEARINGS: The next regular meeting of the HRC will be March 16, 2015 at 6 p.m. in Council Chambers, Municipal Building, 1777 Broadway St.

CITY OF BOULDER
LANDMARKS BOARD
March 4, 2015
1777 Broadway, Council Chambers Room
6 p.m.

The following are the *"unapproved and unsigned"* action minutes of the March 4, 2015 City of Boulder Landmarks Board meeting. A digital recording and a permanent set of these minutes (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). You may also listen to the recording on-line at: www.boulderplandevelop.net.

BOARD MEMBERS:
Mark Gerwing, Chair
Kate Remley
Fran Sheets
Deborah Yin
*Liz Payton **Planning Board representative without a vote*

STAFF MEMBERS:
David Gehr, Senior Assistant City Attorney
James Hewat, Senior Historic Preservation Planner
Marcy Cameron, Historic Preservation Planner
Lesli Ellis, Comprehensive Planning Manager
Angela Smelker, Historic Preservation Intern

1. **CALL TO ORDER**
   The roll having been called, Chair **M. Gerwing** declared a quorum at 6:00 p.m. and the following business was conducted.

2. **APPROVAL OF MINUTES**
   On a motion by **M. Gerwing**, seconded by **K. Remley**, the Landmarks Board approved (4-0) the minutes as amended of the February 4, 2015 board meeting.

3. **PUBLIC PARTICIPATION FOR ITEMS NOT ON THE AGENDA**
   - Chuck Sanders, 2055 Kohler Drive, representing Historic Boulder, Inc., spoke in support of the landmark designation of the Atrium Building located at the corner of 13th St and Canyon Blvd.
   - Kristen Lewis, 511 Pleasant St., representing Historic Boulder, Inc., spoke in support of the landmark designation of the Atrium Building located at the corner of 13th St and Canyon Blvd.
   - Abby Daniels, Historic Boulder, 1123 Spruce St., spoke in support of the landmark designation of the Atrium Building located at the corner of 13th St and Canyon Blvd.

4. DISCUSSION OF LANDMARK ALTERATION AND DEMOLITION APPLICATIONS ISSUED AND PENDING

- **Statistical Report**

5. ACTION ITEMS

A. Public hearing and adoption of amendments to the General Design Guidelines for Local Historic Districts and Individual Landmarks to create pool guidelines pursuant to the rulemaking procedures set forth in Chapter 1-4, B.R.C. 1981.

Motion

On a motion by **M. Gerwing**, seconded by **K. Remley**, the Landmarks Board approved (4-0) the proposed guidelines to become Section 2.7 "Pools" of the General Design Guidelines for Historic District and Individual Landmarks pursuant to the rulemaking procedures set forth in Chapter 1-4, B.R.C. 1981 and adopt the staff memorandum dated March 4, 2015 as findings of the board.

6. MATTERS FROM THE LANDMARKS BOARD, PLANNING DEPARTMENT AND CITY ATTORNEY

A. Update Memo

B. Subcommittee Update

1) Demolition
2) Design Guidelines and Code Revisions
3) Outreach and Engagement
4) Potential Resources

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The meeting adjourned at 8:13 p.m.

CITY OF BOULDER,
BOULDER,
COLORADO
BOARDS AND COMMISSIONS MEETING MINUTES

To listen to the Parks and Recreation Advisory Board meetings in their entirety, please go to the following link:
www. boulderparks-rec.org

Name of Board/Commission: Parks and Recreation Advisory Board

Date of Meeting: January 26, 2015

Contact Information Preparing Summary: Sally Dieterich 303-413-7242

Board Members Present: Mike Conroy, Myriah Conroy, Kelly Wyatt, Marty Gorce, Tom Klenow, Mike Guzek
Board Members Absent: Michelle Estrella

Staff Present: Jeff Dillon, Yvette Bowden, Alison Rhodes, Tina Briggs,

Guests Present: Mike Svetz, PROS Consulting
Julianna Watson, Youth Opportunities Advisory Board (YOAB) member
Allison Bayley, City of Boulder Human Services Department

Type of Meeting: Advisory/Regular

Agenda Item 1: Call to Order
The meeting was called to order at 6:00 p.m. Chair Conroy requested agenda item 7 (Matters from the Department) be moved to follow agenda item 5 (Items for Action). The motion was approved and the motion to approve the agenda was approved.

Agenda Item 2: Future Board Items and Tours
Future items:

- 2/23/15 PRAB meeting – Valmont City Park Concept Plan public hearing
- 2/23/15 PRAB meeting – Capital Improvement Program (CIP) Planning Strategy update – possible study session at a later date
- 2/23/15 PRAB meeting – Aquatic Feasibility Plan final recommendations
- 2/23/15 PRAB meeting – Thunderbird Lake year-end report

Agenda Item 3: Public Participation

- Miriam Meghjee, resident, spoke about the importance of having a warm pool available to residents.

Agenda Item 4: Consent Agenda
A. Approval of minutes from December 15, 2014
Minutes from December 15, 2014 were approved as written.
B. Park Development Update
Written updates were provided to the board as part of the packet materials. These are items that require no board action or discussion.

Agenda Item 5: Items for Action
There were no Items for Action.

Agenda Item 6: Items for Discussion/Information

A. 2016-21 Capital Improvement Program (CIP) and Capital Investment Strategy (CIS)

Dillon provided the update on the status of the Capital Improvement Program (CIP).

- Master plan is complete and projects have been identified for the next five years
- Staff will complete a thorough review of proposed CIP projects through 2021 to make certain they align with master plan goals
- Will review total capital needs beyond six years to possibly create a ten year plan
- Will review available funds to upgrade facilities to current standards and determine what investments are needed
- Develop strategy to develop $40 million aquatics improvements, $60 million for Valmont City Park development, Civic Area project, etc.
- .25 % sales tax approval provided 30 more years of funding
- 2015 year end – $2.2 million debt retirement
- 3/23/15 PRAB meeting will include a CIP public hearing and recommendation

Agenda Item 7: Matters from the Department

A. Youth Opportunities Advisory Board (YOAB) Presentation

Briggs spoke on a joint project between YOAB and the department and how it provides a youth perspective to the department. YOAB guests attending and speaking were Julianna Watson and Allison Bayley. They shared the youth engagement background on their parks project results:

- YOAB selects different projects each year
- YOAB created photo language and sticker surveys
- Results showed the opinions that parks are outdated for teens, that kids had priority and that parks were not welcoming for teens
- Strong desire for parks with a community of kids and teens together with more inclusive opportunities such as sports, concerts and things that teens enjoy

B. Aquatic Feasibility Plan – Draft Recommendations

Rhodes and Mike Svetz from PROS Consulting provided background information on this item and a verbal update.

- First introduced in November 2014
- Update provided in December 2014
- Feasibility direction plan is clear and ties into the master plan
- Performed evaluation of condition of facilities
- Evaluated supply and demand due to desire for additional facilities by public
- Will re-visit EBCC leisure pool schedule to arrange more warm water walking times
- Will evaluate use of NBRC leisure pool area for warm water walking prior to 9:00 am
- 1/28/15 East Boulder Senior Center open house – open discussion of the draft plan
- 2/23/15 PRAB meeting – Staff will provide the feasibility plan report

C. City Council Retreat Update

Dillon provided a brief update on the council retreat process.

- 1/20/15 – Council study session - discussed all boards/commissions council goal submittals to determine if further discussion would be warranted at the retreat
- Discussion centered on adding philanthropy partnerships to 2015 work plan – decision to move forward at staff level, not as a council action or work plan item this year
- Retreat - no park issues discussed, but cottage industry local foods added - focus will be development and planning

D. Valmont City Park Planning Update

Dillon provided this verbal update.

- Plan is close to completion
- Most recent public meeting some public proposed some changes to the disc golf and ball field areas
- User groups requested to move three ball fields and three soccer fields to eliminate an overlap which would improve facilitate scheduling
- Aquatics facility – space would be added to have room for a recreation center/fitness center facility
- Cost estimates are being developed

Agenda Item 8: Matters from Board Members

A. Board Member Recruitment

Conroy (Mike) requested that board members aid in the recruitment process for two five year term PRAB vacancies.

B. Greenways Advisory Committee Representative Appointment

The board did not choose to appoint a PRAB representative to the Greenways Advisory Committee at this time. They agreed to discuss this option with outgoing PRAB Greenways representative Michelle Estrella to obtain more background information.

Next Board Meeting: February 23, 2015

Adjourn: There being no further business to come before the board at this time; the meeting was adjourned at 8:38 p.m.

Approved by:

_____

Mike Conroy
Board Chair

Attested:

_____

Sally Dieterich
Board Secretary

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

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

PLANNING BOARD MEMBERS PRESENT:
Aaron Brockett, Chair
Crystal Gray
John Gerstle
Liz Payton
John Putnam

PLANNING BOARD MEMBERS ABSENT:
Bryan Bowen
Leonard May

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

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

2. **APPROVAL OF MINUTES**
   There were no minutes scheduled for approval

3. **PUBLIC PARTICIPATION**
   No one from the public spoke.

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

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

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

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

5. PUBLIC HEARING ITEMS

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

Applicant: **Bruce Dierking**
Owner: **Andre Family Partnership, RLLLP**

Staff Presentation:
C. Van Schaack presented the item to the board.

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

Applicant Presentation:
Bruce Dierking, the applicant, presented to the board.
Jim Larson, the architect, presented to the board.

Board Questions:
Bruce Dierking, the applicant, answered questions from the board.
Jim Larson, the architect, answered questions from the board.
Carol Adams, the landscape architect, answered questions from the board.
Ray Ashad, a representative from Bank of America, answered questions from the board.

Public Hearing:
No one from the public spoke.

Board Comments:

- Board members appreciated the improvements to the parking lot to better accommodate pedestrians and cyclists.

- **C. Gray** liked the applicant's use of landscaping and screening.

- **L. Payton** noted that the BVCP land use map shows open space running through the north portion of the parking lot, coincident with the path of the slough, and that the BVRC connections plan shows the slough being daylighted on the other side of 28th St

- **L. Payton** and **J. Gerstle** recommended that the proposed building be moved to the south; avoid covering the Boulder Slough in the event that the city wishes to daylight it in the future per long range and preservation goals. Safeguard opportunities to maximize open space as the city urbanizes.

- **Brockett** noted that the slough is paved over, also runs under Hazel's and would not make a good open space. There is currently no plan to turn this into a trail or public amenity.

- **J. Putnam** cautioned that requiring the applicant to move the building to the south to avoid the slough area could feel like an exaction; it would make a portion of the property undevelopable.

- Board members generally agreed that the city should discuss its policy regarding drive-through windows. They promote the use of vehicles when the city is trying to encourage other mode share options.

- **Gray**, **J. Putnam** and **A. Brockett** thought that the design met the current criteria. While they did not generally support drive-thru uses, they supported the application based upon the current regulations and zoning. The site sits within the vehicle-oriented zone of town and the applicant designed the building based on that presumption. Bank of America could be at a competitive disadvantage if it is not allowed to have a drive-thru when other banks in the area have them.

- **L. Payton** and **J. Gerstle** felt that the drive thru use violated the BVRC guidelines and the Site Review Criteria; drive-thrus and single occupancy vehicles are discouraged in the documents. They felt that the city must act now to uphold its goals.

- Though current codes prohibit drive-thru typologies for bikes and pedestrians, the board encouraged staff to look at means for addressing this to allow them.

Motion:

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

The motion failed.

On a motion by **L. Payton**, seconded by **J. Gerstle**, the Planning Board voted 2-3 (**C. Gray, A. Brockett** and **J. Putnam** opposed, **L. May** and **B. Bowen** absent) to amend the main motion to require that the bank building be moved south such that it does not intrude into the long range plan for the Boulder Slough and connections plan, and that the drive-through portion of the building be removed.

The motion to amend failed.

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

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

Applicant: **Coburn Development Inc.**
Owner: **Kara Goucher.**

Staff Presentation:
C. Ferro introduced the item.
S. Walbert presented the item to the board.

Board Questions:
S. Walbert answered questions from the board.

Applicant Presentation:
Pete Webber, the architect, presented to the board.

Board Questions:
Pete Webber, the architect, answered questions from the board.

Public Hearing:
No one spoke.

Board Comments:

- **J. Gerstle** had called the item up due to the alley setback. After hearing the presentations by staff and the applicant, he thought the proposal was reasonable and met the review criteria.

- All board members present agreed that the proposal met the review criteria.

- **L. Payton** sympathized with the owners' needs and desire for a garage but noted that Boulder is losing many small historic structures. She encouraged the owner to celebrate the unique and historical attributes of the property.
- **Gray** appreciated the design and approach to the garage.

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

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

A. Envision East Arapahoe Update and Scenarios Analysis

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

L. Ellis presented the item.

Board Comments:

Schedule:
- The board agreed with the proposal to postpone the land use decisions along East Arapahoe given the upcoming Comp Plan update.

- Board members thought it was important to address the medical uses at this time.

- There was some concern that improvements to the pedestrian experience along East Arapahoe could not be achieved now without a larger plan in place for road improvements and land use changes.

Scenarios and Tools:
- **L. Payton** commended the outreach efforts. She cautioned that the surveys may capture some comments twice given that several board members and citizens attended multiple feedback sessions. She thought that people generally liked the transportation improvements.

- The board thought the visualizations of different scenarios were important tools to help the public to better understand their options. They will be helpful in the community dialogue

about density.

- Provide a wider variety of scenario choices and show several different options for the same intersections. Reduce the number of pedestrians in the photos; this may be misleading as several of the proposals may not increase pedestrian traffic to the extent currently depicted.

- If form-based code were implemented along East Arapahoe in the future, visualization tools would be especially helpful and public spaces and areas between buildings could be addressed.

- **J. Putnam** asked that staff consider different, efficient and compelling ways to convey information about densities of employment and residential uses, and create an indicators dashboard noting impacts on greenhouse gas emissions, and other important factors. He also thought that the scenarios to date were too similar; add options that show trade-offs and highlight the pros and cons of the options.

- Assure that up-zoning and changes to the area don't squeeze out art and service industrial uses. Determine how much space for these uses is necessary before the plans are developed. Consider subsidizing these uses if necessary; they are important the community, contribute to Boulder's sustainability goals and should not be lost.

Medical Office Zoning Options:

- The board members appreciated that new medical uses will be allowed in the hospital area in the near future.

- **A. Brockett** recommended implementing a conditional use overlay zone for the time-being to allow some temporary relief without impeding the development of a more fully developed plan with modified zoning.

- **C. Gray** requested that staff consider limiting medical uses to existing office buildings north of Arapahoe via use review until a larger plan is in place. Be intentional about ground floor uses to encourage pedestrian activity; she did not want to see new developments in the interim that would limit future placemaking efforts.

- **J. Putnam** recommended that staff analyze the potential impacts of displacing existing business. He did not feel it was necessary to limit medical uses to existing buildings at this time. Support businesses in the area related to the medical uses; existing businesses could also potentially benefit from the adjacencies.

6. DEBRIEF MEETING/CALENDAR CHECK

- The February 5th meeting will start at 5 p.m.to allow **D. Driskell** to report on Council

Retreat items.

- **S. Richstone** discussed Council's questions related to height exemptions. **D. Driskell** will talk about this further with the Planning Board on February 5th.

- Council is considering forming a housing process subcommittee with some representatives from Planning Board.

- **A. Brockett** noted that two of the items on the agenda were call-ups. While he acknowledged that calling up an item is the prerogative of any board member, he encouraged board members to ask questions of staff in attendance at the meeting and to ask other board members for input prior to calling an item up. It is possible to have a mini-hearing at that time.

- **Gray** discussed the drive-thru issue. She thought TAB could provide some insights about the role that they play in traffic in the community. **S. Richstone** will ask **K. Bracke** whether this is already being discussed.

7. ADJOURNMENT

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

APPROVED BY

Board Chair

2/19/15

DATE

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

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

PLANNING BOARD MEMBERS PRESENT:
Aaron Brockett, Chair
Bryan Bowen
Crystal Gray
John Gerstle
Leonard May
Liz Payton

PLANNING BOARD MEMBERS ABSENT:
John Putnam

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

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

2. **APPROVAL OF MINUTES**
   There were no minutes scheduled for approval

3. **PUBLIC PARTICIPATION**
   No one from the public spoke.

4. **DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS/ CONTINUATIONS**
   There were no items.

5. PUBLIC HEARING ITEMS

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

Applicant: **Rick Burkett**
Property Owner: **Evans Scholar Foundation**

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

Staff Presentation:
C. Ferro introduced the item.
E. McLaughlin presented the item to the board.

Board Questions:
E. McLaughlin answered questions from the board.
J. Hewatt answered questions from the board.

Applicant Presentation:
Rick Burkett, the applicant, presented to the board.
Rick Polmear, a representative from Evans Scholars, presented to the board.

Board Questions:
Rick Burkett, the applicant, answered questions from the board.

Public Hearing:
No one from the public spoke.

Board Comments:

- The board generally liked the project and thought that it met the site review criteria for a building exceeding 35 feet.

- **L. Payton** was pleased that the applicant would landmark the building.

- The Landmarks Design Review Committee reviewed the project four times and provided direction to the applicant to make the addition's roofline and fenestration pattern differ from the original building. While most members agreed with this direction, they thought that the interface between the rooflines was awkward and that the window proportions could be altered to better complement the existing building.

- There was some disagreement as to whether the addition should step back from the facade of the original building slightly to better differentiate the old from the new.

- Consider shortening the eaves of the gambrel roof to align with the existing gamble roof. The difference in height between the ridge lines is acceptable.

- The board felt comfortable with the requested parking reduction and non-conforming use.

- Some members requested that the applicant return to the Landmarks Design Review Committee for one final consultation. Others did not feel that it was necessary and did not wish to prolong the project further. The applicant volunteered to return to the DRC but did not wish to go in front of the full board.

Motion:

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

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

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

Two motions were proposed that did not pass:

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

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

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

Board Disclosures:
J. Gerstle recused himself from this item.

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

Staff Presentation:
C. Ferro introduced the item.
S. Walbert presented the item to the board.

Board Questions:
S. Walbert answered questions from the board.

Applicant Presentation:
Becky Rico, an attorney for the applicant, presented the item to the board.
Marcel De Lange, the architect, presented the item to the board.

Board Questions:
Becky Rico, an attorney for the applicant, answered questions from the board.
Marcel De Lange the architect, answered questions from the board.
Terry Britton, the applicant, answered questions from the board.

Public Hearing:
No one from the public spoke.

Board Comments:

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

- **L. May**, **B. Bowen** and **A. Brockett** did not feel that design guidelines would result in improved architecture and felt that the conditions already attached to the annexation agreement were sufficient.

- **L. Payton** supported most of the staff's proposed changes to the conceptual design elements but wanted tweaks in the language to make the design subtle enough to not be overly visible from open space, such as preventing highly reflective surfaces and using earth tones.

- Other members did not feel that it was necessary to dictate the style but would support the prohibition of highly visible or reflective materials.

- **C. Gray** and **L. Payton** requested adding a condition that building materials be high quality, natural such as brick or stone, and non-reflective. Bright colored surfaces and mirrored windows would not be permitted.

Motion:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6. DEBRIEF MEETING/CALENDAR CHECK

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

7. ADJOURNMENT

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

APPROVED BY

Board Chair

2/19/15

CITY OF BOULDER
BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING
MINUTES

Name of Board/ Commission: Transportation Advisory Board

Date of Meeting: 09 February 2015

Contact Information Preparing Summary: Rene Lopez 303.441.3208

Board Members Present: Daniel Stellar, Jessica Yates, Dom Nozzi, Andria Bilich, Zane Selvans
Board Members Absent: None

Staff Present: Michael Gardner-Sweeney, Acting Director of Public Works for Transportation
Kathleen Bracke, GO Boulder Manager
Randall Rutsch, Sr. Trans Planner, GO Boulder
Chris Hagelin, Sr. Trans Planner, GO Boulder
Marni Ratzel, Sr. Trans Planner, GO Boulder
Carl Castillo, Policy Advisor, City Manager's Office
Rene Lopez, Board Secretary
Consultants Present: Chuck Sisk, RTD Board of Representatives
Chris Quinn, Planning Project Manager, RTD

Type of Meeting: Advisory/ Regular

Agenda Item 1: Call to Order **[6:01 p.m.]**
The meeting was called to order at 6:01 p.m.

Agenda Item 2: Approval of minutes from 12 January 2015 **[6:01p.m.]**
Motion to approve the meeting minutes from 12 January 2015 TAB meeting as presented: Motion by: Bilich, Seconded by: Stellar
Vote: 5:0

Agenda Item 3: Public Participation **[6:01 p.m.]**

Julie McCabe – Re: Transportation Master Plan Update should be encouraging the public to use public transportation and not just pedestrian/bicycle options. Real time GPS mapping and ease of payment need to be included on our buses.

Agenda Item 4: Invitation to RTD Board Representative Chuck Sisk of RTD **[6:06 p.m.]**

Chuck Sisk, RTD Board of Representatives
Chris Quinn, Planning Project Manager, RTD.

Summary from Presentation:

Northwest Area Mobility Study (NAMS) – challenges with the rail, establish a BRT system and how the remaining Fastracks would look in the Northwestern corridor.

- NAMS Priorities:
  1. Completion of the remaining US 36 BRT commitments
  2. Arterial BRT
     a. SH 119 Highest priority
     b. US 287 or SH 7
  3. I-25 Reverse commute
  4. Northwest rail completion
  5. Remaining arterial BRT corridors
- Arterial BRT corridors: $304M and the expected ridership by 2035 will be 27,800 boardings per day with largest increases projected on US 287.
- $17.3M of $304M for Boulder System Improvements minus BRT Share
- US 36 BRT Status: Upgrades, Real Time information, Branding and fleet replacements
- US BRT Service Plan: Express, Local and schedule free service

Board discussion and comments included: **[6:34 p.m.]**

- Questions regarding boarding processes in BRT – ticket vending machines, smart cards and possible bus fleet changes to decrease boarding times

accordingly. Council is to be informed whenever such committee direction has been provided, and may choose to subsequently revisit such direction.

Council's Legislative Committee is also turned to during non-legislative periods to provide suggestions on revisions to the legislative agenda and to plan agendas for meetings with legislators.

As has been done in years past, council is again adopting a goal that modifications to this legislative agenda require consistency, when applicable, with the six criteria described below:

1. Uniformity with current city council goals;
2. Expected relevance in the upcoming or present state and federal legislative sessions;
3. Uniqueness of issue or impact to the City of Boulder;
4. Viability, or likelihood of achieving goal;
5. Opportunity for providing funding for City of Boulder; and,
6. High probability of metrics of success in order to allow the position to be deleted from future agendas if achieved.

Departures from these criteria are made in unique circumstances as determined by council, such as when adoption of a city position is important to support its regional partners, even while the legislation is otherwise of limited consequence to the city.

The city welcomes the opportunity to discuss the city's Legislative Agenda. Please direct any questions to City Council members or to the city's Policy Advisor at 303-441-3009.

Board discussion and comments included: **[7:19 p.m.]**

- Comments regarding reactivity rather than proactivity with the legislative agenda – options for initiating a proactive effort on an item
- Remarks that additional revenue sources may be necessary
- Comments regarding Stop/Yield implementation in cities, and institutional history regarding this issue
  - "Idaho Stops" Colorado Municipal League opposes this action, Boulder a small minority looking into this.
- Transportation maintenance fees – look at user based funding mechanisms for transportation – vehicle miles travelled (VMT) taxes are an option that should be looked into.
  - VMT funding mechanisms are in the legislative agenda but have little political support.
- Comments regarding managed lanes within city limits – an option for Boulder

Public Hearing Comments:

No board action beyond input is requested at this time.

Agenda Item 6: Staff briefing and TAB input regarding City Council 6-month TMP Implementation check-in February 24, 2015 (Bracke, Rutsch) **[7:40 p.m.]**

Randall Rutsch presented this item.
Kathleen Bracke presented this item

Executive Summary from Packet Materials:

The 2014 Transportation Master Plan (TMP) represents the continued refinement of the city's transportation and sustainability goals. The 2014 TMP is built on more than 20 years of consistent policy direction in transportation and includes a refined focus on sustainability, including greenhouse gas (GhG) reductions, and a broader integration of sustainability planning across city departments.

While all areas of the TMP were updated, the work effort producing the 2014 TMP included extensive technical work in transit planning, developing a detailed inventory of GhG emissions from the transportation sector, implementation of the "living lab" approach to improving the transportation system for all modes, development of the low stress bike network, and additional measurable objectives to track progress in safety, vehicle miles travelled per capita for residents and non-resident employees, and creation of 15-minute neighborhood access tool.

The work and results of the 2014 TMP are being integrated in other city work efforts, including Envision East Arapahoe, the Access and Parking Management Strategy (AMPS), Civic Area implementation, Housing Boulder, Climate Commitment, and the upcoming Boulder Valley Comprehensive Plan update.

- Questions regarding operational funding
    - 10% increase in service hours on opening day with expectations for increased usage, and 59 new busses for the corridor.
- Comments regarding BRT decreased service – the plan should provide the same or better service then before – some routes, such as S service east and mid-day express service may have decreased service – can some of these issues be addressed?
    - No final service plans have been decided on.
- How will service decreases be communicated to the public?
    - Public hearings, and graphical information
- Comments regarding practicality of BRT and this corridors specific needs.
    - Bicycle storage areas instead of luggage compartments on corridor
- Comments regarding high frequency service causes bus "clumping"
    - BRT operations will have real time management and scheduling flexibility and a dedicated lane.
- Remarks regarding RTD's interest in increasing ridership –
    - First and final mile efforts and increased ridership are important to RTD – revenue from fares is only 21-22% currently.

Public Hearing Comments:

No board action beyond input is requested at this time.

Agenda Item 5: City of Boulder Legislative Agenda (Carl Castillo) **[7:01 p.m.]**

Carl Castillo, Policy Advisor, City Manager's Office, presented this item.

Executive Summary from Packet Materials:

PURPOSE OF THE LEGISLATIVE AGENDA

The purpose of the city's 2015 State and Federal Legislative Agenda (the "Legislative Agenda") is to formalize city positions on legislation expected to be considered by the Colorado General Assembly and the U.S. Congress. The city offers the Legislative Agenda as a guideline to legislators for reference when considering legislation impacting the City of Boulder. Strategic, targeted, and/or abbreviated versions of the information contained in this agenda will also be created throughout the year for use in further legislative communications.

The Legislative Agenda was developed in advance of the convening of the 2015 Colorado General Assembly and the 114th U.S. Congress. Consequently, it does not address legislation by bill number. Instead, it describes the underlying interest the city has on specific issues. With the coordination of the city's Policy Advisor, it will be used by individual council members and city staff to inform city positions taken on specific bills once these legislative sessions begin. At that point, council may also consider amendments to the Legislative Agenda and address specific bills that have been proposed.

The city often attempts to influence state and federal policies through other avenues, beyond the legislative agenda, such as by submitting comments on administrative rulemakings or "sunset" reviews of expiring legislation, or by making direct appeals to federal and state administrative officials. While the Legislative Agenda is not designed to direct such action, it can be looked toward as a resource to inform such city efforts.

Council may revisit the Legislative Agenda at any point. It may do so as a body, or through its Legislative Committee. Council created this committee for the purpose of convening on an ad hoc basis with the Policy Advisor and other city staff as necessary when one or more of the following circumstances exist:

1. There is an immediate need for council members to participate with staff in developing a legislative strategy to advance or defeat a bill which is clearly addressed by the city's legislative agenda or other council-approved policy documents, or;

2. There is action expected on pending legislation that affects a matter which council has previously provided general direction on and that could significantly impact the city, but which council did not provide sufficient specific direction on (either through its legislative agenda or other approved policy documents) and with timing that will not allow for council direction to be obtained. In these limited situations, the Policy Advisor may turn to the committee for direction on such legislation so that the city can advocate

The 2014 TMP includes an extensive Action Plan reflecting anticipated work items for the immediate (2014-2016), mid (2017-2020) and long term (2020+). The upcoming study session is intended to provide council with the results of work on implementing the 2014 TMP in the six months since acceptance by City Council in August 2014. The work program for implementing the TMP is consistent with the council's priorities and city's efforts to promote long-term sustainability and resiliency. Highlights of the implementation work efforts include:

- Continuation of the living laboratory approach for bicycle innovations, including piloting corridor-based complete street repurposing or rightsizing projects;
- Work with local and regional agency partners to push for real-time travel information, continued work on the community wide Eco Pass program, and improving the service plan for the upcoming US36 Bus Rapid Transit system;
- Refinement of Transportation Demand Management (TDM) strategies in coordination with the city's Access Management and Parking Strategy (AMPS), including refinements for enhancing the city's TDM Tool Kit for new development;
- Secured $11.5 million in funding for local transportation improvement projects and regional BRT projects through Denver Regional Council of Governments (DRCOG) competitive funding process;
- Continued collaboration with integrated land use and transportation projects including Envision East Arapahoe, Civic Area, AMPS, Housing Boulder, Climate Commitment, and scoping process for Boulder Valley Comprehensive Plan update.
- Completed 2014 Boulder Valley Employee survey and compiling results along with other updates to transportation related evaluation measures to gauge on-going progress toward accomplishing the TMP goals. The next Transportation Report on Progress document and web-based dashboard is scheduled for completion by end of 2015.

Board discussion and comments included: **[7:49 p.m.]**

- University protected bike lanes – feedback and experiences are helpful to staff
    - Maintenance and adjustments should be prompt and efficient to show the public responsiveness
- Bike Corral program – great idea.
- Artistic bike racks -- design efforts have not been functional
- Low stress network – overlay maintenance/snow removal plan with bikeways system to see if changes to snow removal routes would be advantageous
- Remarks for parking cash-out support
- TDM Toolkit – parking reductions bundled with other services to developers
- Enforcement – voice for more rigorous monitoring of not complying with approved TDM plans
- EcoPass analysis feedback –
    - Parking needs to be managed efficiently to see a community wide EcoPass as a successful next step
    - Remarks regarding the engagement with RTD on community wide EcoPass
    - Strategic with RTD with regard to City's priorities to prevent a zero-sum game
- 6 month check-in – progress is impressive
- Living Lab Phase I– currently exploring 4 corridors to better understand them and getting input from the public
- Roll out some of these measures in Summer 2015 so that phase 2 can build on that
- Phase II timing – timeline phase I evaluation available Aug-Sep 2015, phase II begins in June/July 2015 – not able to get feedback from phase I first – need to adjust project timeline to address this

Public Hearing Comments:

No board action beyond input is requested at this time.

Agenda Item 7: Matters **[8:22 p.m.]**

A.) Matters from the Board Included:

- AMPS Joint Board Meeting Update
    - Selvans – great groups and venue, spent too much time on consultant presentation to set-up conversations at tables, prefer more time for table discussions
    - Bilich- shortened presentation time would be helpful

B.) Matters from staff/Non Agenda: **[8:24 p.m.]**

- Regional studies update (Bracke)
    - Still working through service plan issues, met with RTD staff and have acknowledged some of the issues

- Direct service from Boulder Junction to DIA – on going process
- MCC group and Boulder County – working together to evaluate US36 BRT service planning and other regional transit issues, including RTD Fare Study
- SH7 coalition is formed and will meet quarterly for BRT planning along SH7 corridor from Boulder to Brighton
- FLEX – regional entities meeting for planning of routes to enhance inter-regional service (Boulder to Fort Collins)

- Envision East Arapahoe Public Meeting report (Bracke)
  - Focused on transportation planning components for Open House event
  - New tools to engage public by creating models for public to work on – good input from community members
- City Council Retreat Report (Sweeney)
  - Development fees – work program to explore commercial linkage fee for housing and review/update transportation impact fees
- Colorado Bike Summit (Bracke)
  - Staff able to share the living lab approach with statewide communities
  - National Mayors challenge – looking for Boulder to participate in this and have representation to create safer communities
  - League of American bicyclists – platinum cities working together to get to diamond level and helping to elevate other cities

Agenda Item 7: Future Schedule Discussion: **[8:34 p.m.]**
None

Agenda Item 8: Adjournment **[8:34 p.m.]**
There being no further business to come before the board at this time, by motion regularly adopted, the meeting was adjourned at 8:34 p.m.
Motion: moved to adjourn; Selvans, seconded by: Yates
Motion passes 5:0

Date, Time, and Location of Next Meeting:
The next meeting will be a regular meeting on Monday, 09 March 2015 in the Council Chambers, 2nd floor of the Municipal Building, at 6 p.m.; unless otherwise decided by staff and the Board.

APPROVED BY:

Board Chair

3/9/15
Date

ATTESTED:

Board Secretary

10 March 2015
Date

An audio recording of the full meeting for which these minutes are a summary is available on the Transportation Advisory Board web page.