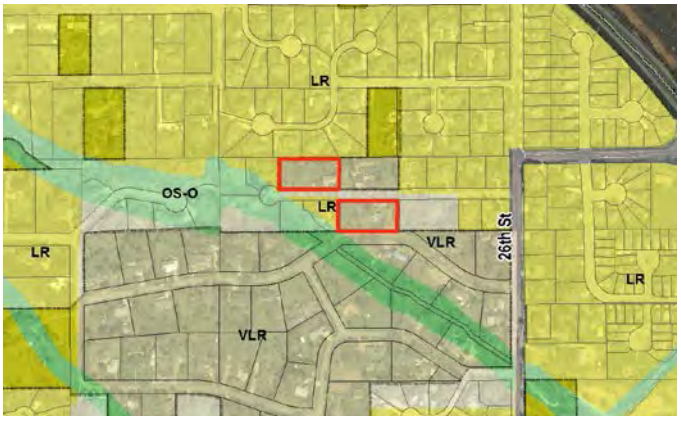
14) 2473 Sumac Ave. & 2455 Topaz Dr. – *VLR to LR*

Request #14
2473 Sumac Ave. & 2455 Topaz Dr.
Initiated by owners

Request:
1) Change the BVCP land use designation from Very Low Density Residential (VLR) to Low Density Residential (LR) and 2) change the North Boulder Subcommunity Plan land use designation from Rural Residential (RR) to Estate Residential (ER).



Staff Recommendation: No
Staff recommends that the request not be considered further as part of the 2015 BVCP major update for the following reasons:

1. The change in land use would be inconsistent with the North Boulder Subcommunity Plan, which designates the properties as Rural Residential.
2. The land use designation for both parcels was changed from Low Density Residential (LR) to Very Low Density Residential (VLR) as part of the 2010 update to the Comprehensive Plan.
3. The 2013 flood represents a changed circumstance that reinforces the North Boulder Subcommunity Plan's policy for very low density in flood constrained areas.

ANALYSIS:

1.) Consistent with the purposes of the major update?
This request is for a land use change, which is consistent with the purposes of the major update.

2.) Consistent with current policies in the BVCP or relevant subcommunity or area plans?
The request is inconsistent with *Policy 2.06 – Preservation of Rural Areas and Amenities*, which states "The city and county will attempt to preserve existing rural land use and character in and adjacent to the Boulder Valley where environmentally sensitive areas, hazard areas, agriculturally significant lands, vistas, significant historic resources, and established rural residential areas exist." and *Policy 3.19 – Preservation of Floodplains*, which states that "Comprehensive planning and management of floodplain lands will promote the preservation of natural and beneficial functions of floodplains whenever possible."

The request is inconsistent with the North Boulder Subcommunity Plan, The request is also inconsistent with the goal of the North Boulder Subcommunity Plan to preserve neighborhood character with a very low density land use pattern in "Flood Constrained Areas." The parcels are in areas affected by flood events. While the re-mapping of Fourmile Canyon Creek flood hazard, adopted in 2007 by FEMA, reduced the flood hazard on these properties, close to one-third of 2473 Sumac remains in the high hazard zone. Significant portions of 2473 Sumac and 2455 Topaz remain in the 100-year floodplain, and both properties have portions remaining in the flood conveyance zone as well. Both properties were within the flood extent from 2013.

3.) Compatible with adjacent land uses and neighborhood context?
The surrounding land uses are low density and very low density residential. Per the North Boulder Subcomunity Plan, the land use classification of "Low Density Residential" for these parcels would not be compatible with the neighborhood context.

4.) Was the proposed change requested or considered as part of a recent update to the Comp Plan or other planning process?

The land use classification of these parcels was considered as part of the 2010 update to the comprehensive plan:

> *(Excerpt from final review): Staff is recommending maintaining the North Boulder Subcommunity Plan Rural Residential land use and changing the BVCP land use from Low Density Residential to Very Low Density Residential for 2475 Topaz and three nearby properties, 2455 Topaz, 2503 Sumac, and 2473 Sumac, for the following reasons:*
>
> *• Consistent with Rural Residential land use adopted in NBSP for these properties;*
> *• Consistent with intent of North Boulder Subcommunity Plan (NBSP) to preserve neighborhood's existing character with very low density land use;*
> *• Consistent with BVCP 2.08 policy on preserving established rural residential character;**
> *• Consistent with BVCP policy 4.20 on preserving floodplains (2455 Topaz, 2473 Sumac)*.*
>
> **2010 BVCP Policy 2.06*
> **2010 BVCP Policy 3.19*

Furthermore, a recent re-evaluation of the North Boulder Subcommunity Plan ion 2013-2014 did not involve changes to the land use designations as determined in the original plan.

5.) Is there any change in circumstances, community needs, or new information that would warrant the proposal be considered as part of this update?

The 2013 flood represents a changed circumstance. That event reinforces the North Boulder Subcommunity Plan's policy for very low density in flood constrained areas.

In addition, the city is undertaking the Fourmile Canyon Creek Greenways Improvements project, which may pertain to the subject properties. The first step is a Community and Environmental Assessment Process (CEAP) process with preliminary flood mitigation alternatives. Staff plans to present this process and alternatives to the Greenways Advisory Committee (GAC) in the second quarter of 2016. Once the GAC provides support for concepts, it would progress to the City Council review stage at a date to be determined.

CEAP is the start of a multi-year process to possibly change the official floodplain boundaries. This process involves prioritization into the city's Capital Improvements Plan (CIP) and approvals through the Federal Emergency Management Agency (FEMA). Any floodplain regulatory changes impacting the development opportunities for the properties will likely not be in place for several more years, according to city flood engineering staff.

6.) Are there enough available resources to evaluate the proposed change (city and county staffing and budget priorities)?

This request would require a moderate to significant amount of staff time. Analysis of the surrounding area and the impact of potentially allowing for the Low Density Residential category absent a broader neighborhood discussion about density/intensity would require careful consideration.

1P

OUR LEGACY. OUR FUTURE.

BOULDER VALLEY COMPREHENSIVE PLAN

BOULDER VALLEY COMPREHENSIVE PLAN
2015 MAJOR UPDATE:
REQUEST FOR REVISION

1) **Type of Amendment (check all that apply):**

- [x] Land Use Map Amendment
- [ ] Changes to the Area II/III boundary
- [ ] Service Area contractions or Minor Changes to the Service Area Boundary
- [x] Other Map Amendment

2) **Please provide the following information**

a. Brief description of the proposed amendment:
Change zoning from ULR to LR
In the NBSCP from RR to ER of subject 2 properties.

b. Brief reason or justification for the proposed amendment:
1. provide building sites ~~from~~ for middle income housing
2. Be consistent with neighborhood + NBSCP + BVCP
3. consistent w/ current flood mitigation efforts

a. Map(s) proposed for amendment: BVCP use designation map ~~and~~
- tried to print out map but could not.. Planning will print it.

b. Brief description of location of proposed amendment:
a. 2473 Sumac Ave, Boulder (Sumac Estates)
b. 2455 Topaz DR. Boulder (Sumac Estates)

Section: _____ Township: _____ Range: _____

c. Size of parcel: a. 37,089 sf b. 36,707 sf.

OUR LEGACY. OUR FUTURE.
BOULDER VALLEY COMPREHENSIVE PLAN

3) **Applicant:**

Name: a. Paula Breymeier
Address: 2473 Sumac Ave
Boulder Co 80304
Phone: 303-883-9496

b. Donald Kopland & Barbara Cohen
2455 Topaz Drive
Boulder Co 80304
303-667-7471

4) **Owner:**

Name: Same
Address:
Phone:

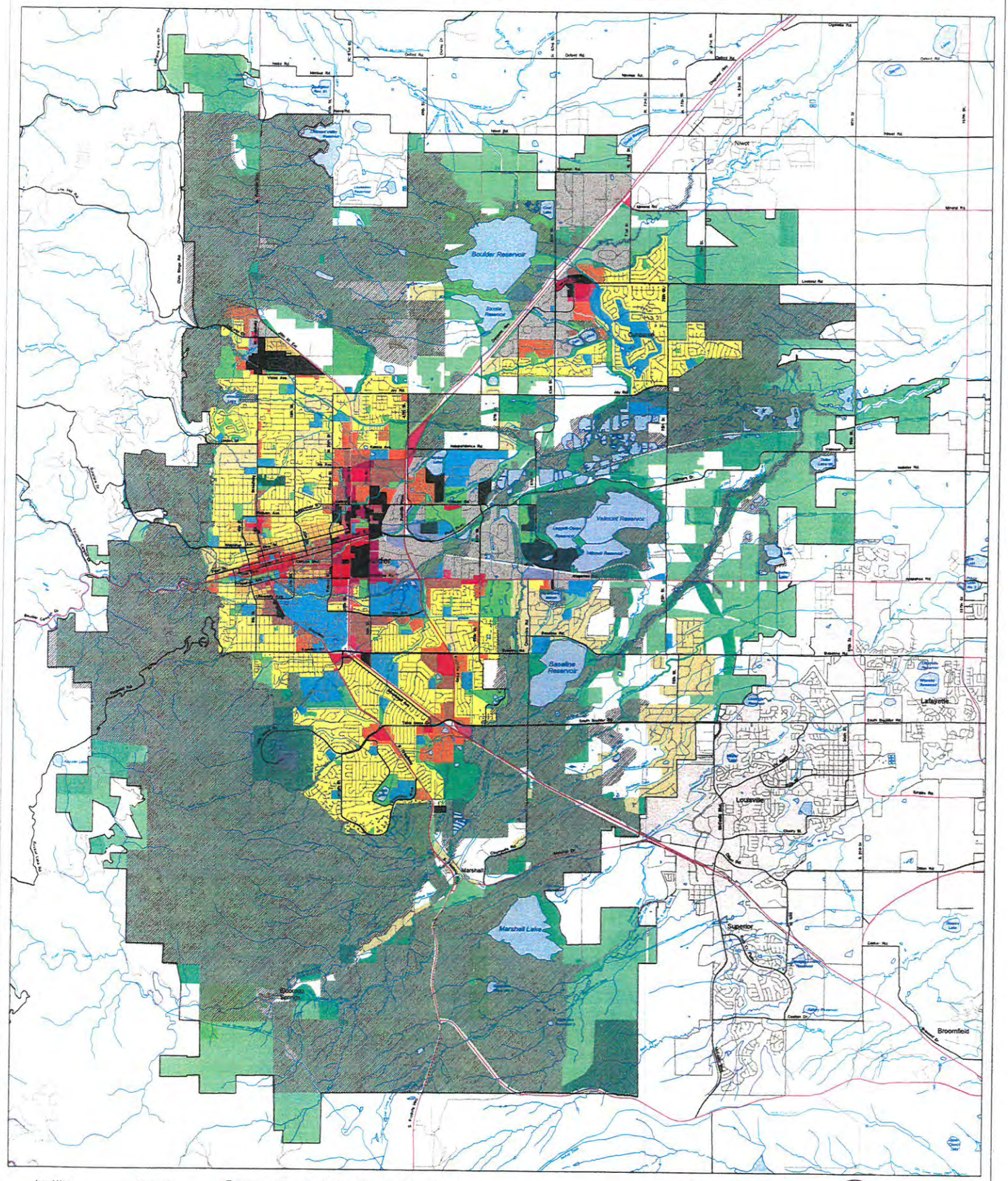
5) **Representative/Contact:**

Name: Same
Address:
Phone:

6) **Does the applicant have a development application or some interest in a property that in any manner would be affected by this amendment proposal? (If yes, please explain):**

Both applicants are owners of the subject properties.

Boulder Valley Comprehensive Plan Land Use Designation Map



Legend

Land Use

Residential
- Very Low Density Residential
- Low Density Residential
- Manufactured Housing
- Medium Density Residential
- Mixed Density Residential
- High Density Residential

Business
- Community Business
- General Business
- Service Commercial
- Transitional Business
- Regional Business

Industrial
- Community Industrial
- General Industrial
- Light Industrial
- Performance Industrial

Mixed Use
- Mixed Use Business
- Mixed Use Industrial
- Mixed Use Residential

Open Space and Mountain Parks
- Open Space, Acquired
- Open Space, Development Rights
- Open Space, Other

Other
- Agricultural
- Park, Urban and Other
- Public
- Environmental Preservation

- Area II Boundry
- Area III Boundry
- Natural Ecosystem Overlay
- Other City Limits
- Highway
- Major Road, Minor Road
- Local Street
- Creek
- Intermittent Creek
- Ditch
- Lakes

1:25,000

Miles

0 1 2

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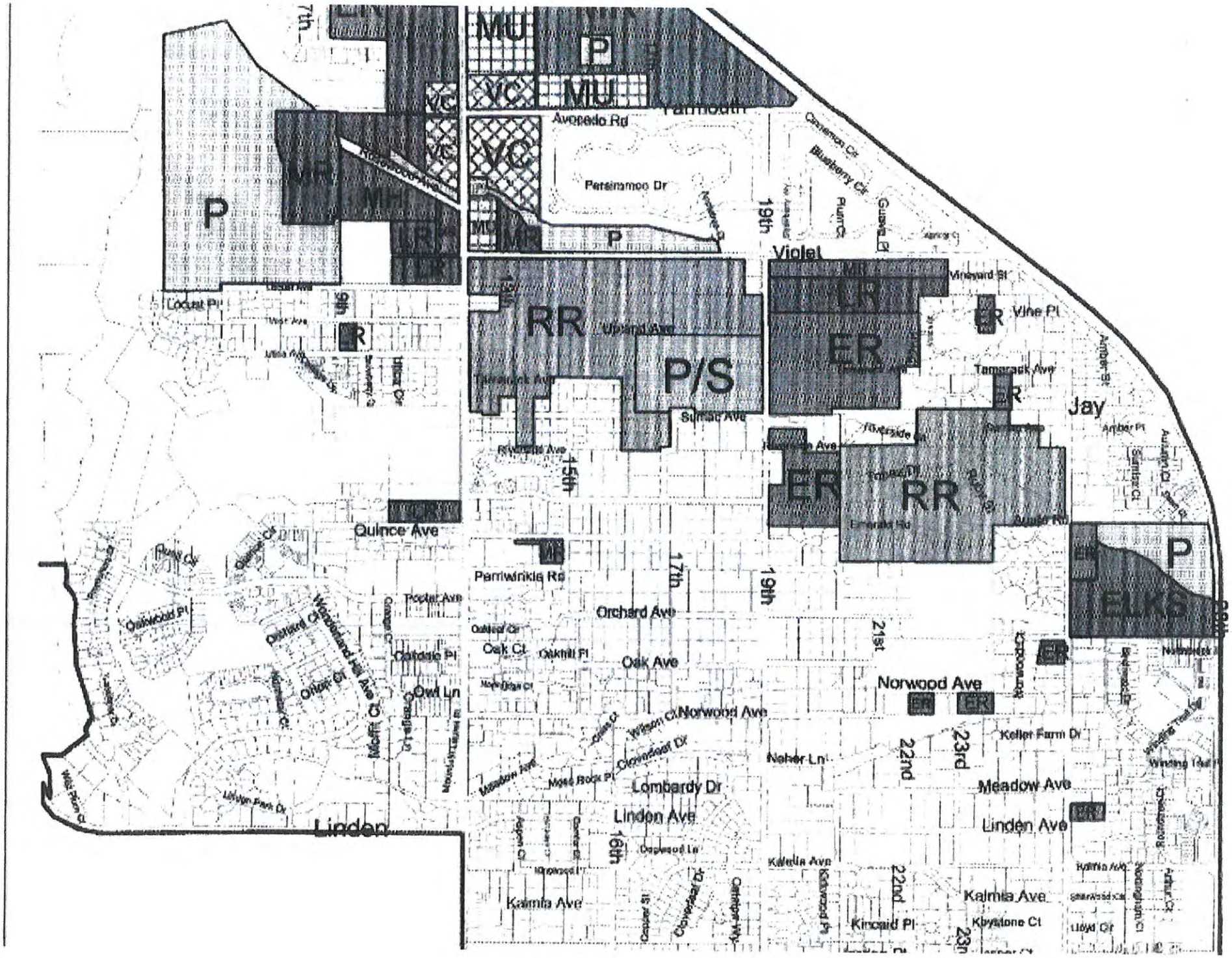
Map produced by the City of Boulder Planning and Development Services Information Resources Group.

SUBJECT TO REVISION


MU
P
VC
MU
Yarmouth
Avocado Rd
Persimmon Dr
P
P
RR
Upland Ave
P/S
Sumac Ave
Violet
ER
Vine Pl
Tamarack Ave
Jay
ER
RR
P
ELKS
Quince Ave
Periwinkle Rd
Orchard Ave
Oak Ct
Oak Ave
Norwood Ave
Keller Farm Dr
Meadow Ave
Lombardy Dr
Linden Ave
Linden
Kalmia Ave
Kincaid Pl
Kalmia Ave
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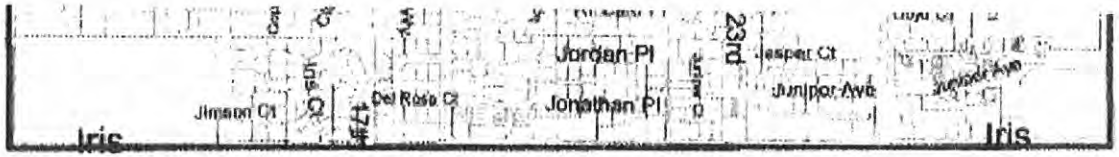


PROPOSED LAND USE

VC VILLAGE CENTER: mixed use retail, office, residential, park (see p.16 for specific densities and mix of uses).
MU MIXED USE: office and residential with some limited neighborhood-serving restaurant uses at Broadway & Violet (see p. 12 and p. 16)
I INDUSTRIAL
MR MEDIUM DENSITY RESIDENTIAL: mixed density residential uses at an overall average of 8-12 dwelling units/acre
MH MOBILE HOMES
LR LOW DENSITY RESIDENTIAL: densities at an overall average of approximately 5 dwelling units/acre
ER ESTATE RESIDENTIAL: densities at an overall average of approximately 2 dwelling units/acre
RR RURAL RESIDENTIAL: densities at approximately 1 dwelling units/acre (see p.10 for possible higher densities along Broadway corridor).
ELKS ELKS CLUB SITE: four options can be considered for this area. Appropriate uses include: recreation, park, education and/or residential.
P/S PARKS/SCHOOL
P PARKS

White areas indicate no changes to existing land use/ zoning

34

Narrative

1. Provide additional building sites for middle income housing.

The current zoning of RR requires close to an acre for a building site. It was changed in 2011 to that designation. from ER. For decades before that it required only 1/2 an acre for a building site By changing the zoning, it has made these lots affordable only for the very rich and has increased the amount of property available in Boulder for extremely large houses.

Boulder is changing and this neighborhood is changing with it. In the past this used to be a working class neighborhood that had a country feel. The 2011 zoning change that affected 2475 Topaz Avenue changed it to RR from ER. It currently has a multi-million dollar house on it that was just finished and does not have the "rural feel" promoted as the reason for rezoning that lot. The kind of development that happened on Meadow and Kalmia is moving into this neighborhood. The super rich are building here because of the lot size and the propinquity to downtown. Last spring a scraper property in Githens Acres sold for 1.25 million, and another tear down property in Githens is now listed for 1.2 million for just the lot. Maintaining the "rural feel", a major rationale for rezoning our properties, is not going to be achieved by the RR zoning. We are just pushing out middle income households. Do we want to contain the mega-houses to Githens Acres or do we want to have it sprawl beyond those boundaries?

If we return the zoning to 1/2 acre lot per building site on Sumac, it then would increase the building sites available for middle income housing by four units and also increase the amount of cash available for affordable housing. It would also effect the intention of having Boulder grow by in-fill, a goal of the BVCP, instead of spreading out to undeveloped land.

2. Be consistent with the neighborhood and the North Boulder Subcommunity Plan goals and the Boulder Valley Comprehensive Plan policies.

Currently Sumac Estates (Sumac Avenue off of N. 26th St) has 9 of its 13 properties or more than 3/4th of them zoned ER. ER was the original zoning for all the properties on this part of Sumac. Returning the zoning to its historical designation would be entirely consistent with the neighborhood.

The North Boulder Subcommunity plan states in its goals that there is a "need for more affordable housing" and "improve and reinforce opportunities for all members of our community".(not just the super-rich). It also emphasizes the need to "foster a sense of community....that includes...appropriate scale." It states the importance of the "maintenance of existing zoning in established residential neighborhoods" which the recent 2011 downzoning violated. One of the objectives stated for future growth is to "preserve existing character of the County enclaves and in established residential

areas." The lots zoned ER are affordable for much of the population in North Boulder. The NBSCP states that North Boulder's "share of future growth is expected to be a large percentage of the City's new residential growth". The recent downing is antithetical to that stated objective. The NBSCP states that Crestview East should be MR, LR, or ER. Only Githens Acres is to be designated to be RR. Sumac Estates is not a part of Githens Acres and its look and feel is not the same.

The Boulder Valley Comprehensive Plan states "The city will work with neighborhoods to protect and enhance neighborhood character and livability and preserve the relative affordability of
existing housing stock. The city will seek appropriate building scale and compatible character in new development or redevelopment". (Neighborhoods 2.10.) Should 1/4 of Sumac avenue be filled with mega-houses in the future?

Changing the zoning from RR back to ER, the BVCP stated objectives will be fulfilled.
"Emerging trends facing the community include:
The growing difficulty of providing affordable housing attractive to families with children in a
land-constrained community".

"7.01 Local Solutions to Affordable Housing:
The city and county will employ local regulations, policies, and programs to meet the housing needs of their low and moderate income households and workforce.

"The city recognizes that affordable housing provides a significant community benefit and will continually monitor and evaluate its policies, programs and regulations to further the city's affordable housing goals."

3. Compatible with current flood mitigation plans

The City is undertaking significant flood mitigation for the Four Mile Canyon Creek to the west of these properties. These significant improvements will most likely change the flood mapping and further remove more properties from flooding. In addition the City intends to reduce the flooding potential of the creek as it runs through Githens Acres in the future with more mitigation. I understand that they intend to buy two more properties and create a large channel to contain the water as it has done further east across 28th Street. This project was put on hold in the past because of lack of funds. However , the 2013 flood changed this situation.

From: **Ellis, Lesli** [redacted]
Subject: Sumac and Topaz properties
Date: September 30, 2015 at 1:06 PM
To: [redacted]

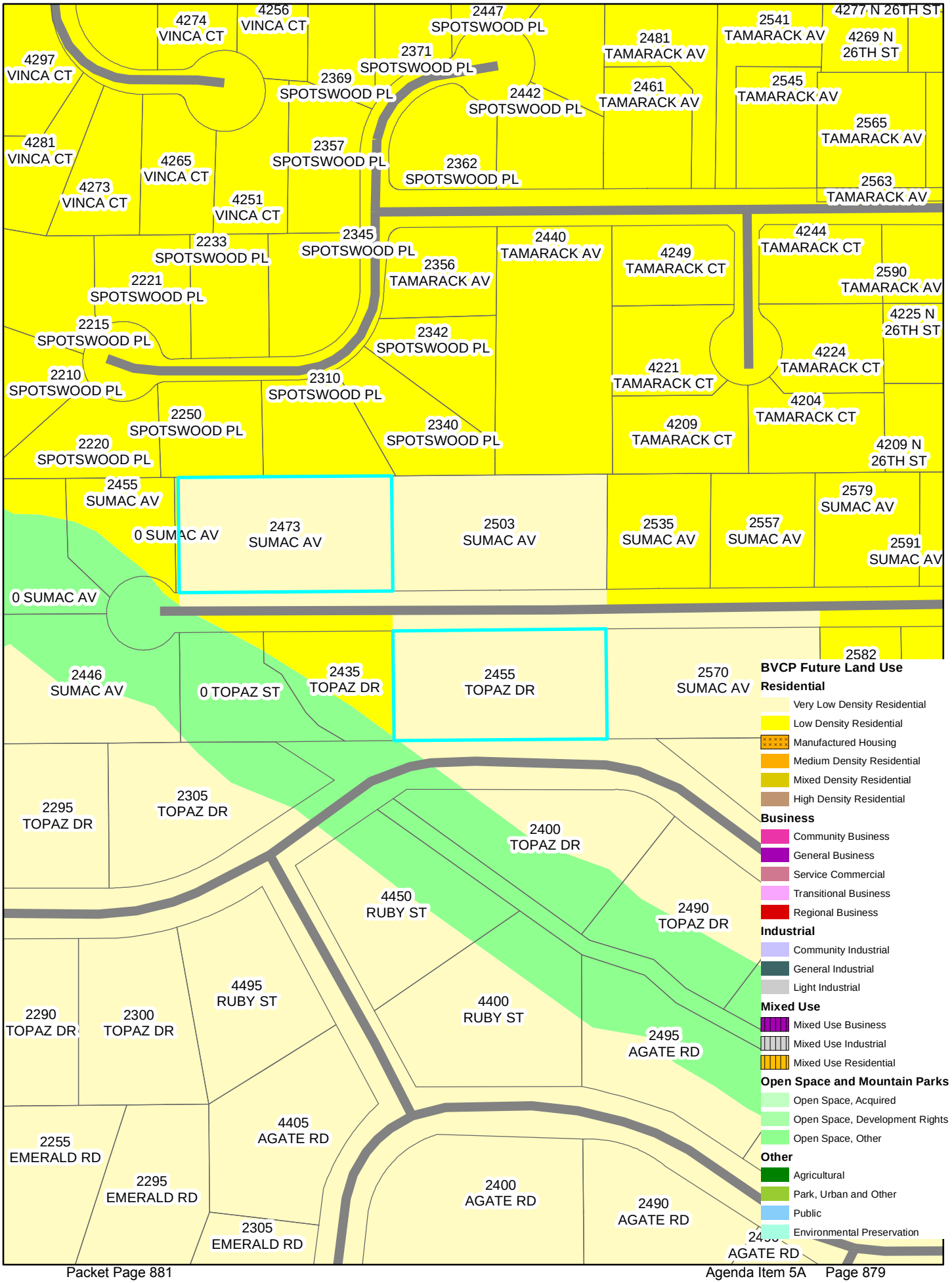
Hi Paula –

Per our conversation we'll assist you with printing pdfs of your maps later this week or early next week.

Lesli

Lesli K. Ellis, AICP CEP
Comprehensive Planning Manager

City of Boulder
Planning, Housing + Sustainability
1739 Broadway, 3rd Floor
Boulder, CO 80302
Mailing Address: P.O. Box 791 (80306)
Office Phone: [redacted]
Email: [redacted]
Website: www.bouldercolorado.gov/planning


4274 VINCA CT
4256 VINCA CT
2447 SPOTSWOOD PL
2481 TAMARACK AV
2541 TAMARACK AV
4277 N 26TH ST
4269 N 26TH ST
4297 VINCA CT
2371 SPOTSWOOD PL
2369 SPOTSWOOD PL
2442 SPOTSWOOD PL
2461 TAMARACK AV
2545 TAMARACK AV
2565 TAMARACK AV
4281 VINCA CT
4265 VINCA CT
2357 SPOTSWOOD PL
2362 SPOTSWOOD PL
4273 VINCA CT
4251 VINCA CT
2563 TAMARACK AV
2233 SPOTSWOOD PL
2345 SPOTSWOOD PL
2440 TAMARACK AV
4249 TAMARACK CT
4244 TAMARACK CT
2356 TAMARACK AV
2590 TAMARACK AV
2221 SPOTSWOOD PL
2215 SPOTSWOOD PL
2342 SPOTSWOOD PL
4225 N 26TH ST
4224 TAMARACK CT
2210 SPOTSWOOD PL
2310 SPOTSWOOD PL
4221 TAMARACK CT
4204 TAMARACK CT
2250 SPOTSWOOD PL
2340 SPOTSWOOD PL
4209 TAMARACK CT
2220 SPOTSWOOD PL
4209 N 26TH ST
2455 SUMAC AV
2579 SUMAC AV
0 SUMAC AV
2473 SUMAC AV
2503 SUMAC AV
2535 SUMAC AV
2557 SUMAC AV
2591 SUMAC AV
0 SUMAC AV
2582
2446 SUMAC AV
0 TOPAZ ST
2435 TOPAZ DR
2455 TOPAZ DR
2570 SUMAC AV
2295 TOPAZ DR
2305 TOPAZ DR
2400 TOPAZ DR
4450 RUBY ST
2490 TOPAZ DR
4495 RUBY ST
2290 TOPAZ DR
2300 TOPAZ DR
4400 RUBY ST
2495 AGATE RD
4405 AGATE RD
2255 EMERALD RD
2295 EMERALD RD
2400 AGATE RD
2490 AGATE RD
2305 EMERALD RD
AGATE RD
BVCP Future Land Use
Residential
Very Low Density Residential
Low Density Residential
Manufactured Housing
Medium Density Residential
Mixed Density Residential
High Density Residential
Business
Community Business
General Business
Service Commercial
Transitional Business
Regional Business
Industrial
Community Industrial
General Industrial
Light Industrial
Mixed Use
Mixed Use Business
Mixed Use Industrial
Mixed Use Residential
Open Space and Mountain Parks
Open Space, Acquired
Open Space, Development Rights
Open Space, Other
Other
Agricultural
Park, Urban and Other
Public
Environmental Preservation

Zacharias, Caitlin

From: [redacted]
Sent: Monday, November 30, 2015 11:46 AM
To: Zacharias, Caitlin
Subject: proposed land use changes 2473 Sumac and 2455 Topaz

Ms. Zacharias:

My family lives in the home at 2582 Sumac. We have lived here since 1990. I actively participated in the efforts to contest the attempt to rezone 2475 Topaz through a series of eight separate hearings with City Planning, City Council, County Planning and County Commissioners as such an effort was precluded by the North Boulder Subcommunity Plan. The owners of 2473 Sumac and 2455 Topaz actively participated on behalf of the landowner as they too hoped to have their properties rezoned so as to increase density on their properties as well. I oppose any proposed change and concur with the following correspondence provided to you via email by Peter Mazula:

"Dear Caitlin,

I am strongly opposed to changing the Boulder Valley Comprehensive Plan (BVCP) land use for 2473 Sumac and 2455 Topaz. The land use for these properties has been Rural Residential (RR or RR-1 or RR-E) since the North Boulder Subcommunity Plan (NBSP) was adopted 20 years ago, and the BVCP land use for these properties was changed to very low density residential (VLR) in 2011 to agree with the NBSP at the last BVCP update. All four bodies unanimously approved the BVCP land use change in 2011, which included five of the nine current council members (Applebaum & Morzel as city council members, and Brockett, Shoemaker, & Young as planning board members) and two of the three current county commissioners (Dominico as county commissioner and Jones as planning board member).

Both applicants want to up-zone their properties like the land speculator tried to do with 2475 Topaz (now 2570 Sumac) in the last BVCP update in 2011. And both applicants have tried to sell their properties within the last four years, advertising that their properties can be subdivided, which they cannot.

The applicants are claiming to be part of the Sumac Estates subdivisions at the east end of Sumac Avenue at 26th Street, which is not true. These subdivisions were annexed more than five years before the NBSP was adopted.

When the NBSP was negotiated and adopted, the Sumac Avenue property owners west of the Sumac Estates subdivisions were part of a county enclave that banded together and negotiated for lower density (RR) in the NBSP. None of those Sumac/Topaz owners sought higher density at the time, and to date, all annexations of Sumac Avenue lots west of the Sumac Estates subdivisions (including three at the west end of Sumac Avenue that the city purchased for flood mitigation after the NBSP was adopted) have been done with lower density zoning (RR or RR-1 or RR-E) consistent with the NBSP (and BVCP land use as amended in 2011).

Our street has a unique rural character and is part of the city bike/greenways path/system that is enjoyed by many bikers and walkers daily. Adding more density would shift/add traffic, negatively affecting neighborhood and public safety.

Nothing has changed in the neighborhood to justify the applicants' request for higher density, and the land use for the applicants' properties was thoroughly vetted in connection with the last BVCP update. Their requested land use is incompatible with the character of the neighborhood and inconsistent with the NBSP and BVCP. In addition, higher density is incompatible with Fourmile Canyon Creek flood hazards. Such hazards were proven in September 2013 when both properties were completely flooded by Fourmile Canyon Creek. I will send three videos via separate emails showing the Fourmile Canyon Creek flooding at the west end of Sumac Avenue in the early morning of September 12, 2013 after the flood waters had receded by at least a foot.

In conclusion, I strongly oppose the applicants request to change the land use designation for 2473 Sumac and 2455 Topaz in the BVCP. Nothing has changed in the neighborhood since the last BVCP update, and the flood hazard rational for lower density has been proven beyond a doubt. There is no reason for this request to go forward. Hopefully that will be your recommendation to the City Council and Planning Board as well.

Thank you.

Peter Mazula
[redacted]
Boulder, CO 80304
[redacted]

Howard Bittman

Zacharias, Caitlin

From: Olivier J. Brousse [redacted]
Sent: Monday, November 30, 2015 1:20 PM
To: Zacharias, Caitlin
Subject: Re: Application to change the Boulder Comprehensive Plan (BVCP) land use at 2455 Topaz

Dear Caitlin,

I was disapointed to hear about a recent application from the owner at 2455 Topaz to change zoning of his property from Very Low Density to Low density, and urge City of Boulder staff and the planning board to deny this request as it did previously in 2011, when a proposed change in designation was voted down 7-0 by the planning board. The reasons for this are the same as those listed by staff when it recommended that the property be zoned Very Low Density :

- Consistent with Rural Residential land use adoptedin NBSP for these properties;
- Consistent with intent of North Boulder Subcommunity Plan (NBSP) to preserve neighborhood's existing character with very low density land use;
- Consistent with BVCP 2.08 policy on preserving established rural residential character;
- Consistent with BVCP policy 4.20 on preserving floodplains (2455 Topaz, 2473 Sumac).

These recommendations were also in line with members of the community who expressed their opinion on the matter, both at the 2011 hearings within the City of Boulder and at similar hearings in Boulder County.

Also relevant to this matter is the fact that the applicant attempted to sell his Boulder County property within the past years, and mentioned to prospective buyers the possibility of sub-division upon annexation.
This in addition to the existence of a rental unit on the property, already resulting in higher density and parked cars than neighboring properties. It therefore appears that all arguments from the applicant in favor of rezoning and subsequent subdivision are only motivated by prospects of additional, speculative financial gain, after selling and leaving the area. This is in clear disregard to opinions of existing neighbors, the many pedestrians and bicycle riders enjoying the character of the Githens Acres neighborhood, and the preferences of the North Boulder community at large as reflected in the North Boulder Sub Community plan.

In light of the above I urge city of Boulder staff and the planning board to additionally weigh in the opinion that the fate of a long established neighborhood like Githen Acres (this would make a precedent) should not be decided by neighbors who have enjoyed its character for many years, only to request a change for personal financial gain when they leave.

Thank you for your consideration,

Olivier J. Brousse
[redacted] Boulder

Zacharias, Caitlin

From: allen goldstone [redacted]
Sent: Monday, November 30, 2015 8:58 AM
To: Zacharias, Caitlin
Cc: Jim Snow
Subject: Riverside to Sumac CEAP update

Dear Caitlin,

We are the neighborhood association for 40 homes known as Githens Acres Neighborhood Association (GANA) which

is located adjacent to Fourmile Canyon Creek just west of 26th Street.

Here is our response to the proposed amendment to the 2012 CEAP.

As we understand it, the 2012 CEAP was focused on flood improvements at the intersection of 19th Street and Fourmile Canyon Creek, and the paving of a soft trail between Riverside and Sumac.

As neighbors that live close to the site, we would like to express our concerns about the nature and the timing of the current proposed amendment.

As we understand it, this amendment to the CEAP contemplates a paved surface in an area that was not studied in the CEAP that would be extremely close to Fourmile Canyon Creek (within feet), entirely within the regulatory wetland area. The proposed path would be less than 40 feet away from a private residence and by necessity could be required to share a driveway with motorized vehicles that gives the resident access to her carport.

We believe that the proposed connection between Sumac Ave. and Topaz Drive is a significant departure from the intent of the North Boulder Sub-community Plan (NOBO). In the Plan it shows a proposed connection between Sumac and Topaz significantly away from the Creek. That proposed connection was and is consistent with the NOBO plan's vision, stressing that riparian corridors and natural conditions should be preserved (Appendix F), and multi-use surfaces, if any, should be a safe distance away from creeks. It is also consistent with a Sumac/Topaz path that was informally used through the years by pedestrians at the NOBO proposed location.

Given this significant departure from the Plan, we believe that the new connection would require an amendment to the North Boulder Sub-community Plan and that if this connection is pursued, it should involve appropriate City Boards and, ultimately, City Council. The last time a similar issue was raised concerning construction of a multi-use path along Fourmile Canyon Creek, there was substantial community resistance. The result after a time-consuming process was approval of a plan that was significantly different than what was originally proposed. We are concerned that the timing of this amendment to a three-year-old CEAP, involving sensitive and conflicting interests from private owners in Boulder County, would bypass an appropriate public process. We look forward to engage in further discussions on the subject.

Sincerely,

James Snow

Allen Golstone

Co-chairs,
Githens Acres Neighborhood Association

Zacharias, Caitlin

From: [redacted]
Sent: Monday, November 30, 2015 10:51 AM
To: Zacharias, Caitlin
Subject: BVCP 2015 Update-Land Use Changes For 2473 Sumac & 2455 Topaz

Dear Caitlin,

I am strongly opposed to changing the Boulder Valley Comprehensive Plan (BVCP) land use for 2473 Sumac and 2455 Topaz. The land use for these properties has been Rural Residential (RR or RR-1 or RR-E) since the North Boulder Subcommunity Plan (NBSP) was adopted 20 years ago, and the BVCP land use for these properties was changed to very low density residential (VLR) in 2011 to agree with the NBSP at the last BVCP update. All four bodies unanimously approved the BVCP land use change in 2011, which included five of the nine current council members (Applebaum & Morzel as city council members, and Brockett, Shoemaker, & Young as planning board members) and two of the three current county commissioners (Dominico as county commissioner and Jones as planning board member).

Both applicants want to up-zone their properties like the land speculator tried to do with 2475 Topaz (now 2570 Sumac) in the last BVCP update in 2011. And both applicants have tried to sell their properties within the last four years, advertising that their properties can be subdivided, which they cannot.

The applicants are claiming to be part of the Sumac Estates subdivisions at the east end of Sumac Avenue at 26th Street, which is not true. These subdivisions were annexed more than five years before the NBSP was adopted.

When the NBSP was negotiated and adopted, the Sumac Avenue property owners west of the Sumac Estates subdivisions were part of a county enclave that banded together and negotiated for lower density (RR) in the NBSP. None of those Sumac/Topaz owners sought higher density at the time, and to date, all annexations of Sumac Avenue lots west of the Sumac Estates subdivisions (including three at the west end of Sumac Avenue that the city purchased for flood mitigation after the NBSP was adopted) have been done with lower density zoning (RR or RR-1 or RR-E) consistent with the NBSP (and BVCP land use as amended in 2011).

Our street has a unique rural character and is part of the city bike/greenways path/system that is enjoyed by many bikers and walkers daily. Adding more density would shift/add traffic, negatively affecting neighborhood and public safety.

Nothing has changed in the neighborhood to justify the applicants' request for higher density, and the land use for the applicants' properties was thoroughly vetted in connection with the last BVCP update. Their requested land use is incompatible with the character of the neighborhood and inconsistent with the NBSP and BVCP. In addition, higher density is incompatible with Fourmile Canyon Creek flood hazards. Such hazards were proven in September 2013 when both properties were completely flooded by Fourmile Canyon Creek. I will send three videos via separate emails showing the Fourmile Canyon Creek flooding at the west end of Sumac Avenue in the early morning of September 12, 2013 after the flood waters had receded by at least a foot.

In conclusion, I strongly oppose the applicants request to change the land use designation for 2473 Sumac and 2455 Topaz in the BVCP. Nothing has changed in the neighborhood since the last BVCP update, and the flood hazard rational for lower density has been proven beyond a doubt. There is no reason for this request to go forward. Hopefully that will be your recommendation to the City Council and Planning Board as well.

Thank you.

Peter Mazula
[redacted]
Boulder, CO 80304

Zacharias, Caitlin

From: [redacted]
Sent: Monday, November 30, 2015 10:53 AM
To: Zacharias, Caitlin
Subject: BVCP 2015 Update-Land Use Changes For 2473 Sumac & 2455 Topaz-Video #1
Attachments: IMG_0761.mov

Dear Caitlin,

Attached is the first of three videos taken of the Fourmile Canyon Creek flooding in the early morning of September 12, 2013 at the west end of Sumac Avenue west of 26th Street in North Boulder. This video is provided in support of my opposition to the BVCP land use change being requested by the owners of 2473 Sumac and 2455 Topaz. Please confirm receipt and that you could open the file. Thanks.

Peter Mazula

Staff note: The three videos are available upon request.

Zacharias, Caitlin

From: [redacted] 2015 10:56 AM
To: Zacharias, Caitlin
Subject: BVCP 2015 Update-Land Use Changes For 2473 Sumac & 2455 Topaz-Video #2
Attachments: IMG_0760.mov

Dear Caitlin,

Attached is the second video which shows Fourmile Canyon Creek flooding on 2473 Sumac in the early morning of September 12 2013 after the flood waters had receded at least a foot. Please confirm receipt and that you could open the file. Thanks.

Peter Mazula

Zacharias, Caitlin

From: [redacted]
Sent: Monday, November 30, 2015 10:58 AM
To: Zacharias, Caitlin
Subject: BVCP 2015 Update-Land Use Changes For 2473 Sumac & 2455 Topaz-Video #3
Attachments: IMG_0759.mov

Dear Caitlin,

Attached is the third video which shows Fourmile Canyon Creek flooding on 2455 Topaz in the early morning of September 12 2013 after the flood waters had receded at least a foot. Please confirm receipt and that you could open the file. Thanks.

Peter Mazula

Zacharias, Caitlin

From: Mick [redacted]]
Sent: Friday, November 20, 2015 1:31 PM
To: Zacharias, Caitlin
Subject: Proposed land use changes for 2455 Topaz and 2473 Sumac

Hi Caitin. At the meeting at Crestview Elementry Wednesday night, my neighbors and I were shocked to find out that the properties south and west of me are trying change there land use in the BVCP to enable them higher density. The reason this surprised us that we went thru a 2 year process starting in 2010 on the same issue about the property at 2475 Topaz who tried to change zoning to build 2 houses. The city and county agreed in the end that changing any land use was distinctly going against the north Boulder subcommunity plan. As a result, the agreed on map put 2475 Topaz, 2503 Sumac (my property), and both 2473 Sumac and 2455 Topaz as VLR land use and RR zoning. There is no one in our neighborhood who is for changing this. We plan on attending the meeting on December 15th. Is this a public comment meeting? We are very well versed in the history of the BVCP and NBSCP, flood issues of these properties, and past discussions. Who do we send our comments to? Will these be forwarded to city counsel and planning? Who do we send things to for county planning? Can all those involved be notified to review the previous decision on 2475 Topaz (now listed as 2570 Sumac since it was annexed and one house built on the lot)? When are comments due so they can get incorporated into the agenda for discussion.
Thanks. Mick Shopnitz. 2503 Sumac Ave.

Sent from Xfinity Connect Mobile App

Zacharias, Caitlin

From: Mick [redacted]
Sent: Wednesday, November 25, 2015 2:39 PM
To: Zacharias, Caitlin
Cc: Morzel, Lisa
Subject: 2013 flood picture of 2455 Topaz
Attachments: IMG_0069.JPG

This photo is taken from my driveway looking south. Sumac avenue is the foreground and the rest is 2455 Topaz extending to Topaz Avenue.

Sent from Xfinity Connect Mobile App

Zacharias, Caitlin

From: Mick [redacted]
Sent: Wednesday, November 25, 2015 2:29 PM
To: Zacharias, Caitlin
Cc: Morzel, Lisa
Subject: BVCP land use change for 2455 Topaz and 2473 Sumac

Hi Caitlin. This is my official response to council and planning. I am also planning to get a signed petition by everyone on Sumac. With the possible exception of one person, everyone except the applicants for land use change are against the changes proposed. Let me respond by rebutting the 3 points in the land use change application by Mr. Koplen and Ms. Breymeier.

1- They claim they are part of Sumac estates and not Githens Acres. There is no mention of the previous exact same process that took place 5 years ago to change the BVCP land use to higher density for 2475 Topaz (now listed as 2570 Sumac since annexation). Back then Mr. Curlander used this exact argument to try to change his land use. To my knowledge Sumac Estates was created when the developer St. Germaine bought, annexed and rezoned the 6 lots at the east end of Sumac. All are smaller lots and the west end of our street was left as almost 1 acre rural lots.. None of these lots are Sumac Estates including 2455 Topaz and 2473 Sumac. In fact what I discovered 5 years ago was that although Mr. Curlander claimed a unique status of his lot, my lot and the 2 lots now trying to change their land use were all exactly the same. Same size, shape, location, and designation. Our argument to city and council was that the North Boulder Subcommunity Plan maps from 1995 clearly showed our lots as part of the same designation as Githens Acres. They were to be left as VLD. Over 2 years of hearings resulted in the city and county agreeing and bringing the BVCP maps up to date and agreeing with the NBSCP maps. Nothing has changed. Now we have 2 landowners who were actually very involved then restarting the very same thing. We feel this has been settled already at great time and expense to private parties and government. Our question is why would we open this up again? I should add I live at 2503 Sumac. The properties requesting changes are directly across the street south of me and adjacent to the west of me.

2- The applicants claim are area is being exploited by rich people buying up houses for extreme amounts of money and then rebuilding huge houses that do not fit our neighborhood. They use the property I mentioned above at 2475 Topaz (now 2570 Sumac) as an example. They claim they will build middle class affordable housing. The lots they will build on will be 16000 to 18000 square feet probably annexed to the city to get city services. What will be built are houses with 5000 square feet or more. This is not affordable housing. Just more houses that only wealthy people can afford. We feel one house per lot is much more preferable than this. In fact this whole argument is a joke to appeal to the perceived need for more infill density and housing. The NBSCP recognized this area as unique and rural. Let us leave it that way. As you come down Sumac off North 26th street you start in higher density city but 1/3 of the way down the block it becomes rural connecting to a dirt bike path and open space at the end of the road. This totally changes if development is allowed. As is, Sumac and Topaz are streets used daily by innumerable cyclists, runners, and walkers. Leave it alone as it was meant to be.

3- Finally the applicants make a flood argument that is the most laughable. Their entire discussion is in future tense. The properties in discussion are both in flood plane as well as flood way. They say future mitigation will take them out of flood danger. You cannot change land use on things that have not happened and may not for years to come. In the 2013

we were all under water. In fact, the property on 2455 Topaz did not have one square inch of dry land on it. Topaz Street in front of it disappeared and became a 5 foot deep water channel. I plan to submit a photo if possible of the 2455 Topaz property during the flood if I able.

Thanks. We plan to speak or have one spokesperson for all of us at the December 15th meeting.
Mick Shopnitz. [redacted].

Sent from Xfinity Connect Mobile App

Zacharias, Caitlin

From: Drew Simon [redacted]
Sent: Monday, November 30, 2015 12:39 PM
To: Zacharias, Caitlin
Subject: 2455 Topaz and 2473 Sumac – Proposed Land Use Changes

To: Caitlin Zacharias
[redacted]

From: Drew Simon
[redacted]
Boulder, CO 80304

I am writing in **strong opposition** to the proposed BVCP land use changes relating to 2455 Topaz and 2473 Sumac.

As a 23-year Sumac homeowner and a close neighbor to these properties, I have experienced the many changes that have taken place in North Boulder. I have experienced the impact of growth and increased density on our neighborhood and on our community.

The North Boulder Sub-Community Plan was approved *specifically* to help mitigate the negative impacts of such growth. In multiple ways, it reaffirms the goal and *importance of maintaining the special rural character* of this area. No streets embody that goal more than 2400 & 2500 blocks of Sumac and Topaz. No proposed land use change could do more to undermine it.

Fortunately, within the past 24 months this exact issue was considered – *and rejected* - in regard to the Curlander property (2475 Topaz; now 2570 Sumac). While allowing annexation, the City rejected any proposed increase in density, specifically siting the importance of supporting the goals outlined in North Boulder Sub-Community Plan.

Other than allowing the owners of these two properties to become amateur land developers, no neighborhood or community interest would be served nor benefit derived by increasing the density in this neighborhood. On the contrary, allowing such unnecessary development and increased density would seem to fly in the face of the hard and thoughtful work that went into the development of the North Boulder Sub-Community Plan and appear to make a mockery of that effort.

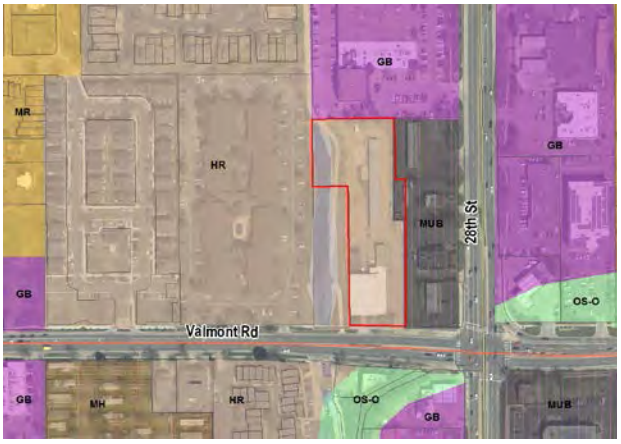
Again, I ask you to reject these proposals. Thank you for your consideration.

Respectfully,

Drew Simon

15) 2775 Valmont Rd. – *HR to unspecified designation*

Request #15 – *2 requests*
2775 Valmont Rd.
Initiated by two members of the public



Request:
The requests seek a) to not allow noise-generating businesses or outdoor activity on the property and (b) to incorporate landscaping.

Staff Recommendation: No
Staff recommends that these requests not be considered further as part of the 2015 BVCP major update for the following reasons:

1) The nature of the requests is not consistent with the purposes of the major update.
2) Planning Board unanimously approved the Boulder Food Park on Aug. 6, 2015.

ANALYSIS:

1.) Consistent with the purposes of the major update?
The requests regard the Boulder Food Park, which was unanimously approved by Planning Board on August 6, 2015. They are not requests for a land use map amendment, changes to the Area II/III boundary, Service Area Contraction, Minor Change to the Service Area Boundary, Other Map Amendment, or Policy or Text Amendment; as such, they are not consistent with the purposes of the major update.

2.) Consistent with current policies in the BVCP or relevant subcommunity or area plans?
The requests are consistent with *Policy 2.13 - Protection of Residential Neighborhoods Adjacent to Non-residential Zones*, which states the following:

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

The management plan for the Boulder Food Park, however, addresses the management of potential impacts on neighboring residents (c.f. memorandum to Planning Board, August 6, 2015).

3.) Compatible with adjacent land uses and neighborhood context?
Because the requests are not seeking to change the land use designation of the property, which is High Density Residential (HR), this criterion is not applicable. Moreover, the zoning of the property is BC-1; the Boulder Food Park is therefore a permitted use on this property. In addition, neighboring properties have designations of High Density Residential, General Business, and Mixed Use Business, which are of a similar intensity of use.

4.) Was the proposed change requested or considered as part of a recent update to the Comp Plan or other planning process?
Yes. The food business referred to in the requests is the "Boulder Food Park" (LUR2015-00060) that was approved unanimously by Planning Board on August 6, 2015 with the condition of approval that the

"management plan shall be amended to require that outdoor games be discontinued at 8 p.m.). Council subsequently took no action to call up the Use Review (Sept. 1, 2015). The memorandum to Planning Board (August 6, 2015) details a management plan for the use in which noise concerns, among others, were addressed:

> *(Excerpt) Noise: There will be NO live music played outside (amplified or acoustic). Live or amplified acoustic music may be played in the indoor tavern area only. On no more than two (2) days per week, special events may take place where live music will be played indoors during tavern business hours.*
>
> *Amplified music may be played in the outdoor seating areas during regular tavern business hours via a typical restaurant / tavern sound system. The intent of the outdoor music is ONLY to provide background music to enhance ambiance and not to create noise pollution to residents. We will comply with all City of Boulder regulations regarding approved decibel levels, as directed by Section 5-9-3 of the Boulder Revised Code.*

5.) Is there any change in circumstances, community needs, or new information that would warrant the proposal be considered as part of this update?

No.

6.) Are there enough available resources to evaluate the proposed change (city and county staffing and budget priorities)?

The requests are not consistent with the purposes of the major update and as such cannot be evaluated by staff within this context.

OUR LEGACY. OUR FUTURE.

BOULDER VALLEY COMPREHENSIVE PLAN

BOULDER VALLEY COMPREHENSIVE PLAN
2015 MAJOR UPDATE:
REQUEST FOR REVISION

1) Type of Amendment (check all that apply):

- [x] Land Use Map Amendment
- [ ] Changes to the Area II/III boundary
- [ ] Service Area contractions or Minor Changes to the Service Area Boundary
- [ ] Other Map Amendment

2) Please provide the following information

a. Brief description of the proposed amendment:

1. Only allow a ~~business~~ business that will not create noise
2. No outdoor activity
3. Land needs Trees, shrubs, Flowers etc.

b. Brief reason or justification for the proposed amendment:

Maintain the peace and quiet of the neighborhood make it more visually attractive

a. Map(s) proposed for amendment: I am enclosing the maps printed with the assistance of planning dept. employee.

b. Brief description of location of proposed amendment:

2775 Valmont Rd between Folsom and 28th North side

Section: 20 Township: 1N Range: 70

c. Size of parcel: 83,000 Square Feet

OUR LEGACY. OUR FUTURE.

BOULDER VALLEY COMPREHENSIVE PLAN

3) **Applicant:**

Name: Karen Aronson

Address: 2707 Valmont Rd D202
Boulder CO. 80304

Phone: 303 442-1822

4) **Owner:**

Name: Stephen Tebo

Address: P.O Box T
Boulder CO 80306

Phone: 303 447-8326

5) **Representative/Contact:**

Name:

Address:

Phone:

6) **Does the applicant have a development application or some interest in a property that in any manner would be affected by this amendment proposal? (If yes, please explain):**

No

TITLE

LEGEND

N

1:1200

MapLink
City of Boulder GIS

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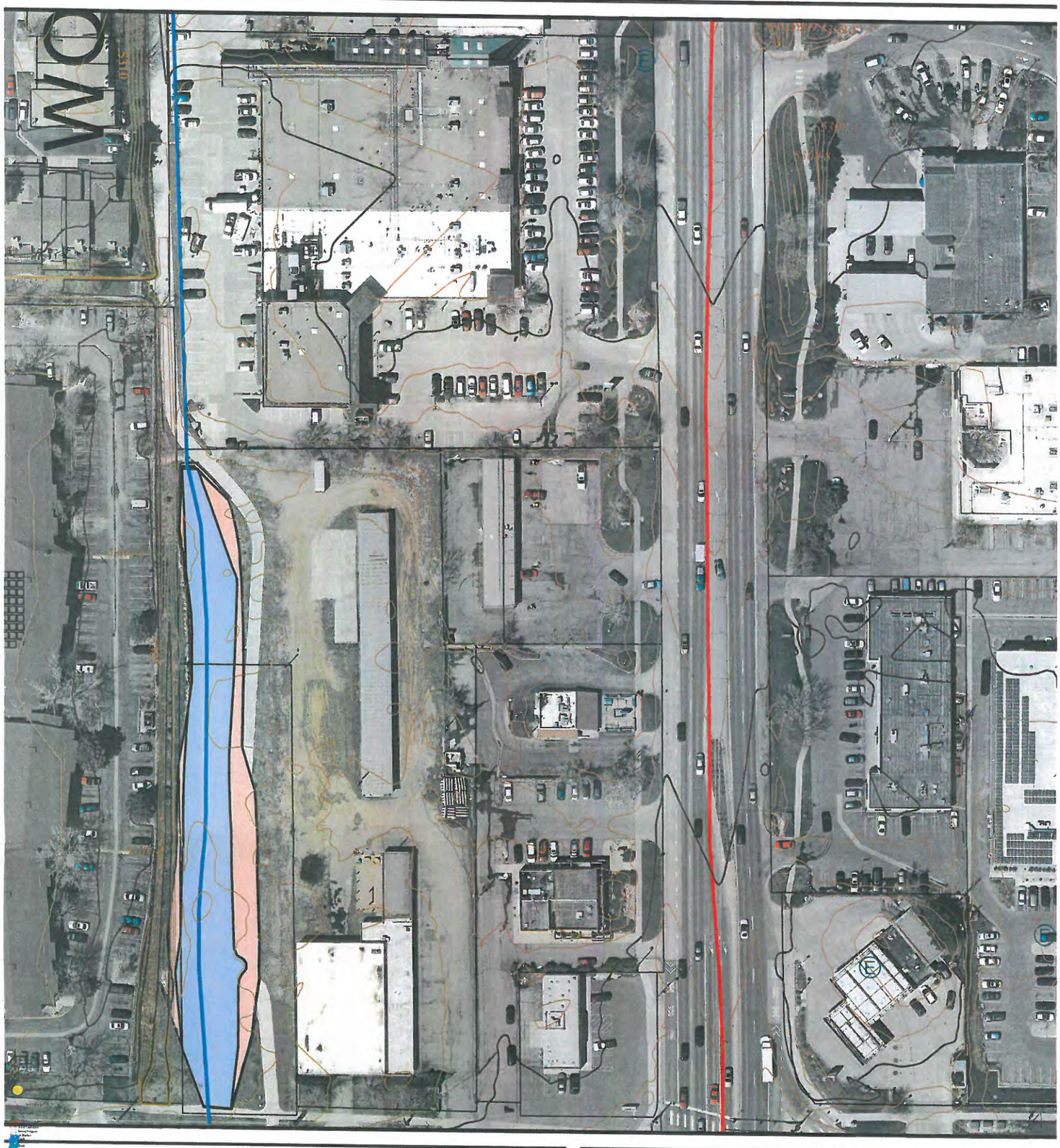
Tue 08 Sep 2015 11:30

TITLE



LEGEND

Tue 08 Sep 2015 11:31

N

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City of Boulder GIS

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OUR LEGACY. OUR FUTURE.

BOULDER VALLEY COMPREHENSIVE PLAN

BOULDER VALLEY COMPREHENSIVE PLAN
2015 MAJOR UPDATE:
REQUEST FOR REVISION

1) Type of Amendment (check all that apply):

- [x] Land Use Map Amendment
- [ ] Changes to the Area II/III boundary
- [ ] Service Area contractions or Minor Changes to the Service Area Boundary
- [ ] Other Map Amendment

2) Please provide the following information

a. Brief description of the proposed amendment: Maintain a non-outdoor food business the area

b. Brief reason or justification for the proposed amendment: to protect the quiet and peace of the neighborhood.

a. Map(s) proposed for amendment: — enclosed — provided by the city.

b. Brief description of location of proposed amendment: 2775 Valmont Road Boulder, Colorado

Section: 20 Township: 1N Range: 70

c. Size of parcel: 83,000 Square Feet

OUR LEGACY. OUR FUTURE.
BOULDER VALLEY COMPREHENSIVE PLAN

3) **Applicant:**

Name: William Pappas

Address: 2707 Valmont Road #103A
Boulder Colorado 80304-4954

Phone: 303-449-1858

4) **Owner:**

Name: Stephen Tebo

Address: P.O. Box T
Boulder CO 80306

Phone: 303 447 8326

5) **Representative/Contact:**

Name:

Address:

Phone:

6) **Does the applicant have a development application or some interest in a property that in any manner would be affected by this amendment proposal? (If yes, please explain):**

NO

TITLE

LEGEND

N

1:1200

MapLink
City of Boulder GIS

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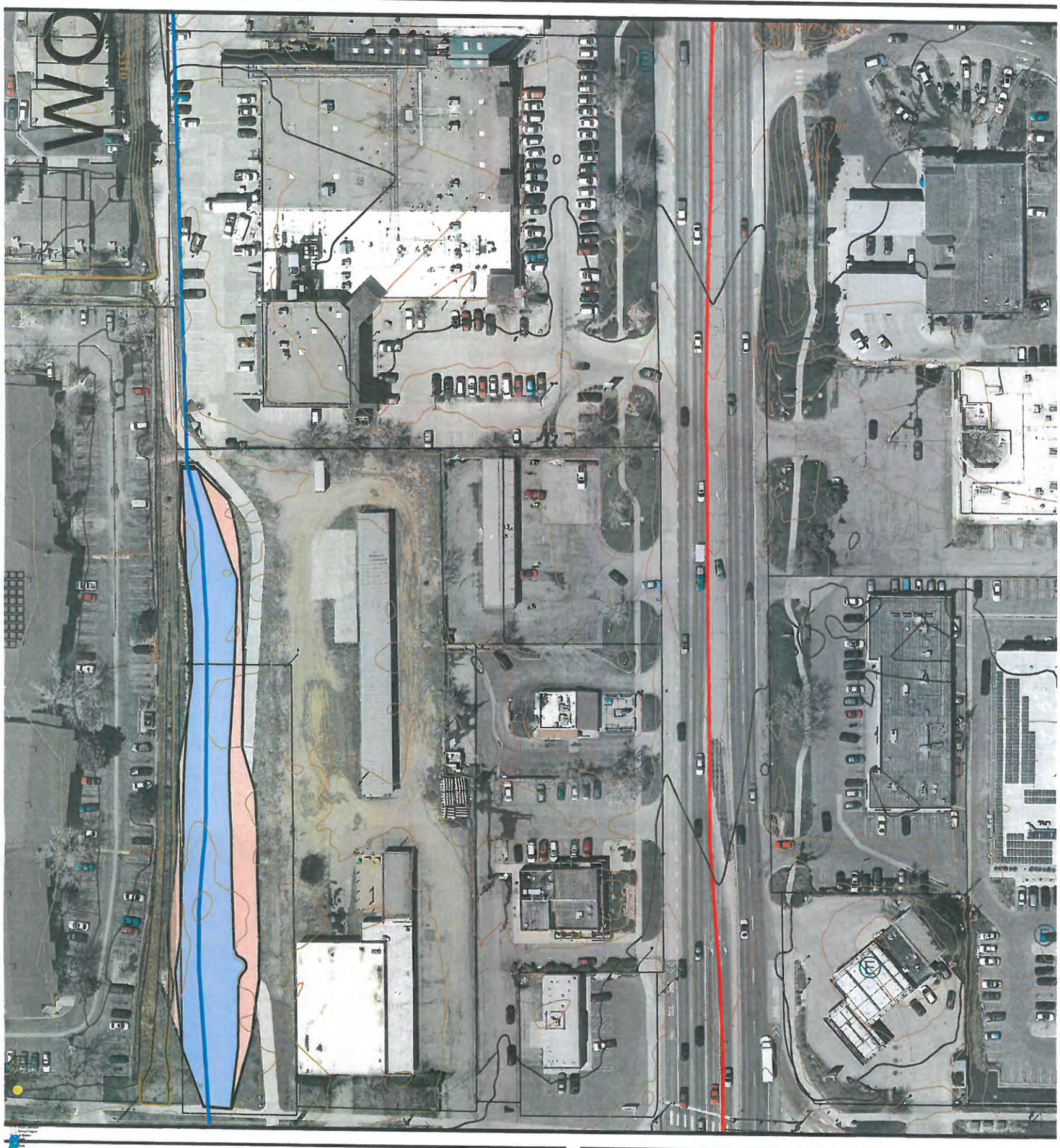
Tue 08 Sep 2015 11:30

TITLE



LEGEND

Tue 08 Sep 2015 11:31

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MapLink
City of Boulder GIS

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POLICY AND TEXT REQUESTS: 8 requests

Content from the forms on the following pages is cropped in PDF view.
A summary of the complete content is provided below.

Request 16) Enhance public benefit (Chapter 2- Built Environment)

Description Review and further identify areas and individual sites that are strategically located and could be used effectively to balance housing and commercial development projects with extraordinary community benefit, particularly lots that are not yet developed. Work with property owners and existing businesses to provide value to them; enhance the public benefit in as many of the subsections of this chapter as possible; and use available tools, such as landmarking and use/zoning changes, where appropriate.

Reason or Justification Many of the objectives of the BVCP, which are intended to balance development of the built environment are not being adequately developed, funded, or supported by the City. We need to identify and protect strategic sites and fund and implement the social and environmental goals of the BVCP.

Request 17) Clarification regarding ditches (Chapter 2- Built Environment, Chapter 9- Agriculture and Food, VI- Urban Service Criteria and Standards)

See pp 912-913 of Attachment E.

Request 18) Reflect public interest in renewable energy and reduction of carbon footprint (Chapter 4- Energy and Climate)

Description This section should be expanded to reflect current public interest in renewable energy and reduction of carbon footprint. The city should identify appropriate sites and establish funding mechanisms for renewable energy projects on existing properties, to promote innovation, increase reliability/storage, and move toward the city's climate change goals.

Reason or Justification Owning and operating an electric utility is not enough to meet the city's climate change goals. We need to develop renewable energy sources and implement new technologies. This will require physical sites and infrastructure investments that are not considered in the current BVCP.

POLICY AND TEXT REQUESTS: 8 requests

Request 19) Addition of conditional use category; addition of conditional use in IS-1 zoning district (Title 9 Land Use Code)

Description I am requesting to either (1) add a new (Conditional) Use category for Community Gatherings, or (2) include Outdoor Entertainment as a Conditional Use in the IS-1 zoning particularly, and in any other zones that would be appropriate, to promote benefcial community use of existing commercial and industrial spaces located adjacent residential zones.

Reason or Justification Many of the objectives of the BVCP, which are intended to balance development of the built environment are not being adequately developed, funded, or supported by the City. We need to identify and protect strategic sites and fund and implement the social and environmental goals of the BVCP.

Request 20) Amendment to use schedule (Title 9 Land Use Code)

Description As part of revitalizing commercial and industrial areas, especially those that are being surrounded by new housing development, the city should provide for more flexibility in the use/zoning table to allow existing sites and facilities to develop community-oriented uses such as urban gardens/permaculture sites, gathering spaces, expanded retail, maker space, indoor and outdoor art and culture venues, children's education and activities, etc. Appropriate projects should be funded by the city, developers, and others to make these existing sites more valuable and preserve them from re-development for financial purposes only.

Reason or Justification Many of the objectives of the BVCP, which are intended to balance development of the built environment are not being adequately developed, funded, or supported by the City. We need to identify and protect strategic sites and fund and implement the social and environmental goals of the BVCP.

Request 21) Evaluation criteria for new development and establishment of funding mechanisms

Description Evaluation Criteria and Funding for Sustainability Framework - Develop holistic, triple-bottom-line-based evaluation criteria for new development that includes all of the components of the Sustainability Framework and others as identified in the 5-year BVCP updates. Establish strong funding mechanisms for projects that show extraordinary community benefit. These could include public-private partnerships, development fees that go beyond affordable housing, appropriate State and Federal grant programs, philanthropic sources, etc.

Reason or Justification Many of the objectives of the BVCP, which are intended to balance development of the built environment are not being adequately developed, funded, or

POLICY AND TEXT REQUESTS: 8 requests

supported by the City. We need to improve the process, prioritizing social and environmental goals, and fund the pieces that won't get funded by private developers.

Request 22) Initiation of Phase II – Transit Village Area Plan (TVAP)

See p. 923-931 of Attachment E, (excerpt from Land Use Change Request 8- pp. 132-144)

Request 23) Public input process regarding work plan

Description Action Plans - Prior to the yearly Action Plan meetings, develop a process for public input to identify projects with significant public benefit and strong alignment with BVCP goals. Invite and evaluate new proposals for public-private partnerships, identify funding needs and strategies, and consider zoning/regulatory changes, that would support projects with extraordinary community benefit.

Reason or Justification Many of the objectives of the BVCP, which would serve to balance development are not being adequately developed, funded, or supported by the City. We need to open up the process, prioritize social and environmental goals, and address these issues in a meaningful way.

POLICY AND TEXT:

8 Requests

16) Enhance public benefit *(Chapter 2- Built Environment)*

OUR LEGACY. OUR FUTURE.
BOULDER VALLEY COMPREHENSIVE PLAN

BOULDER VALLEY COMPREHENSIVE PLAN
2015 MAJOR UPDATE :
REQUEST FOR REVISION

1) Type of Amendment: (●) Policy Amendment ( ) Other Text Amendment

2) Please provide the following information

a. Location of policy or text in comprehensive plan (check one):

( ) Introduction
(●) I. Boulder Valley Comprehensive Plan Policies:

Which section? Select one:

1 2 3 4 5 6 7 8 9
( ) (●) ( ) ( ) ( ) ( ) ( ) ( ) ( )

Write in policy number: _____

( ) II. Amendment Procedures
( ) III. Land Use Map Descriptions
( ) IV. Implementation
( ) V. Referral Process
( ) VI. Urban Services Criteria and Standards

b. Page number of proposed amendment 33

c. Brief description of initial ideas for proposed amendment:

Review and further identify areas and individual sites that are strategically located and could be used effectively to balance housing and commercial development projects with extraordinary community benefit, particularly lots that are not yet developed. Work with property owners and existing businesses to provide value

d. Brief reason or justification for the proposed amendment:

Many of the objectives of the BVCP, which are intended to balance development of the built environment are not being adequately developed, funded, or supported by the City. We need to identify and protect strategic sites and fund and implement the social and environmental goals of the BVCP.

3) Applicant:

Name: Edward Jabari

Address: 4715 Broadway Street
Boulder, CO 80304

Phone: (720) 587-9176

17) Clarification regarding ditches

(Chapter 2- Built Environment, Chapter 9- Agriculture and Food, VI- Urban Service Criteria and Standards)

Remove the word "ditches" from the first narrative sentence in Paragraph 5 (entitled "The Public Realm") on page 24 which begins "The public realm includes...."

Alternatively, define to which ditches the BVCP refers (see explanation below).

Ditches are not necessarily (and are not be definition) part of the "public realm". Ditches come in many flavors and include irrigation ditches, drainage ditches, storm flow ditches, etc. Some ditches within the BVCP geography are private ditches. Many of these private serve the primary function of delivering water from natural streams to farm headgates for irrigation use on agricultural properties. Both the City and the County honor their shared agricultural heritage - considering ditches to be part of the "public realm" (and similar to street, sidewalks, parks, etc.) frequently causes ditch companies (and owners of private ditches) considerable discomfort when development projects are proposed for properties on which private ditches are located. Ditches frequently do not have recorded easements; however, most have prescriptive easements which are defined by the area required to operate and maintain them and include other elements including ingress and egress to accomplish such activities. Development projects frequently encroach on these prescriptive easements, limiting O&M activities and cutting off access. Encouraging ditch-side public pathways serves to increase the liability of private companies and individuals which are not afforded governmental immunity. It is also dangerous, as pedestrians are places in conflict with ditch O&M equipment and personnel. The City and County have preserved substantial agricultural acreage and need to recognize that the infrastructure which serves them can't become public domain without consequence. This general comment also applies to "ditch" references in Policy Nos. 2.20 on page 29 (remove the phrase "and irrigation ditches"); 2.29 on page 31 (open ditches should be protected - no conflict here other than the means by which this has occurred in the past); 2.37(b) on page 32 ("relate positively" - the context depends on the audience - "positive" to developers/planners is generally different than "positive" to ditch owners/operators); and 9.01 on page 56 (need more emphasis on engaging ditch owners/operators to agree on what actions "protect" historic and existing ditch systems). Finally, under the Urban Service Criteria and Standards section (Roman Numeral VI, under Stormwater and Flood Management (3)(d)(v) ["Operational Effectiveness"] on page 92 - change "or the appropriate irrigation ditch company" to "and the appropriate irrigation ditch owner".

18) Reflect public interest in renewable energy and reduction of carbon footprint

(Chapter 4- Energy and Climate)

OUR LEGACY. OUR FUTURE.
BOULDER VALLEY COMPREHENSIVE PLAN

BOULDER VALLEY COMPREHENSIVE PLAN
2015 MAJOR UPDATE :
REQUEST FOR REVISION

1) Type of Amendment: (●) Policy Amendment ( ) Other Text Amendment

2) Please provide the following information

a. Location of policy or text in comprehensive plan (check one):

( ) Introduction
(●) I. Boulder Valley Comprehensive Plan Policies:

Which section? Select one:

1 2 3 4 5 6 7 8 9
( ) ( ) ( ) (●) ( ) ( ) ( ) ( ) ( )

Write in policy number: _____

( ) II. Amendment Procedures
( ) III. Land Use Map Descriptions
( ) IV. Implementation
( ) V. Referral Process
( ) VI. Urban Services Criteria and Standards

b. Page number of proposed amendment 40

c. Brief description of initial ideas for proposed amendment:

This section should be expanded to reflect current public interest in renewable energy and reduction of carbon footprint. The city should identify appropriate sites and establish funding mechanisms for renewable energy projects on existing properties, to promote innovation, increase reliability/storage, and move toward

d. Brief reason or justification for the proposed amendment:

Owning and operating an electric utility is not enough to meet the city's climate change goals. We need to develop renewable energy sources and implement new technologies. This will require physical sites and infrastructure investments that are not considered in the current BVCP.

3) Applicant:

Name: Edward Jabari

Address: 4715 Broadway Street
Boulder, CO 80304

Phone: (720) 587-9176

19) Addition of conditional use category; addition of conditional use in IS-1 zoning district

(Title 9 Land Use Code)

OUR LEGACY. OUR FUTURE.
BOULDER VALLEY COMPREHENSIVE PLAN

BOULDER VALLEY COMPREHENSIVE PLAN
2015 MAJOR UPDATE :
REQUEST FOR REVISION

1) Type of Amendment (check all that apply):

- [x] Land Use Map Amendment
- [ ] Changes to the Area II/III boundary
- [ ] Service Area contractions or Minor Changes to the Service Area Boundary
- [ ] Other Map Amendment

2) Please provide the following information

a. Brief description of the proposed amendment:
I am requesting to either (1) add a new (Conditional) Use category for Community Gatherings, or (2) include Outdoor Entertainment as a Conditional Use in the IS-1 zoning particularly, and in any other zones that would be appropriate, to promote benefcial community use of existing commercial and industrial spaces located adjacent residential zones.

b. Brief reason or justification for the proposed amendment:
Many of the objectives of the BVCP, which are intended to balance development of the built environment are not being adequately developed, funded, or supported by the City. We need to identify and protect strategic sites and fund and implement the social and environmental goals of the BVCP.

a. Map(s) proposed for amendment: As appropriate

b. Brief description of location of proposed amendment:
Commercial and Industrial zones which are located adjacent to residential zones and could provide for extraordinary community benefit with minimal re-development

Section: _____ Township: All _____ Range: _____

c. Size of parcel: _____

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3) Applicant:

Name: Edward Jabari

Address: 4705 Broadway Street, Boulder, CO 80304

Phone: (720) 587-9176

4) Owner:

Name: Robert Naumann

Address: 626 Cascade Ave.
Boulder, CO 80302

Phone: (303) 449-1589

5) Representative/Contact:

Name: Edward Jabari

Address: 4705 Broadway Street
Boulder, CO 80304

Phone: (720) 587-9176

6) Does the applicant have a development application or some interest in a property that in any manner would be affected by this amendment proposal? (If yes, please explain):

Yes, I would like to expand the uses of my existing site (currently a garden center) to provide extraordinary benefit to the communities surrounding this property.

20) Amendment to use schedule

(Title 9 Land Use Code)

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1) Type of Amendment: (●) Policy Amendment ( ) Other Text Amendment

2) Please provide the following information

a. Location of policy or text in comprehensive plan (check one):

( ) Introduction
(●) I. Boulder Valley Comprehensive Plan Policies:

Which section? Select one:

1 2 3 4 5 6 7 8 9
( ) ( ) ( ) ( ) (●) ( ) ( ) ( ) ( )

Write in policy number: _____

( ) II. Amendment Procedures
( ) III. Land Use Map Descriptions
( ) IV. Implementation
( ) V. Referral Process
( ) VI. Urban Services Criteria and Standards

b. Page number of proposed amendment 42

c. Brief description of initial ideas for proposed amendment:

As part of revitalizing commercial and industrial areas, especially those that are being surrounded by new housing development, the city should provide for more flexibility in the use/zoning table to allow existing sites and facilities to develop community-oriented uses such as urban gardens/permaculture sites, gathering

d. Brief reason or justification for the proposed amendment:

Many of the objectives of the BVCP, which are intended to balance development of the built environment are not being adequately developed, funded, or supported by the City. We need to identify and protect strategic sites and fund and implement the social and environmental goals of the BVCP.

3) Applicant:

Name: Edward Jabari

Address: 4715 Broadway Street
Boulder, CO 80304

Phone: (720) 587-9176

21) Evaluation criteria for new development and establishment of funding mechanisms

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1) Type of Amendment: (●) Policy Amendment ( ) Other Text Amendment

2) Please provide the following information

a. Location of policy or text in comprehensive plan (check one):

( ) Introduction
(●) I. Boulder Valley Comprehensive Plan Policies:

Which section? Select one: 1 (●) 2 ( ) 3 ( ) 4 ( ) 5 ( ) 6 ( ) 7 ( ) 8 ( ) 9 ( )

Write in policy number: _____

( ) II. Amendment Procedures
( ) III. Land Use Map Descriptions
( ) IV. Implementation
( ) V. Referral Process
( ) VI. Urban Services Criteria and Standards

b. Page number of proposed amendment 11

c. Brief description of initial ideas for proposed amendment:

Evaluation Criteria and Funding for Sustainability Framework - Develop holistic, triple-bottom-line-based evaluation criteria for new development that includes all of the components of the Sustainability Framework and others as identified in the 5-year BVCP updates. Establish strong funding mechanisms for projects that

d. Brief reason or justification for the proposed amendment:

Many of the objectives of the BVCP, which are intended to balance development of the built environment are not being adequately developed, funded, or supported by the City. We need to improve the process, prioritizing social and environmental goals, and fund the pieces that won't get funded by private

3) Applicant:

Name: Edward Jabari

Address: 4715 Broadway Street
Boulder, CO 80304

Phone: (720) 587-9176

22) Initiation of Phase II – *Transit Village Area Plan (TVAP)*

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1) Type of Amendment (check all that apply):

- [x] Land Use Map Amendment
- [ ] Changes to the Area II/III boundary
- [ ] Service Area contractions or Minor Changes to the Service Area Boundary
- [ ] Other Map Amendment

2) Please provide the following information

a. Brief description of the proposed amendment:

Change Land Use Map showing properties with addresses 3550 - 3850 Frontier Avenue, Boulder, CO from Community Industrial to Mixed Use Business

b. Brief reason or justification for the proposed amendment:

Mixed Use Business is the land use designation most consistent with the uses and intensity described in the Transportation Village Area Plan

a. Map(s) proposed for amendment: BVCP Land Use Designation Map

b. Brief description of location of proposed amendment:

Parcel A, B & C as shown in the attached survey. Parcel B has the address 3550 Frontier Avenue, Parcel C has the address 3850 Frontier Avenue, and Parcel A does not have an address

Section: 29 Township: 1 North Range: 70 West

c. Size of parcel: Parcel A: 40,054 SF, Parcel B: 7.245 Acres, Parcel C: 2.564 Acres

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3) Applicant:

Name: Flax Pond LLC

Address: 929 Pearl Street, Suite 300, Boulder, CO

Phone: 303-225-7906

4) Owner:

Name: Flax Pond LLC

Address: 929 Pearl Street, Suite 300, Boulder, CO

Phone: 303-225-7906

5) Representative/Contact:

Name: Eli Feldman

Address: 929 Pearl Street, Suite 300, Boulder, CO

Phone: 303-225-7906

6) Does the applicant have a development application or some interest in a property that in any manner would be affected by this amendment proposal? (If yes, please explain):

No current development application. Owner of the property.

FLAX POND LLC
929 Pearl Street, Suite 300
Boulder, Colorado 80302
303-225-7905

October 2, 2015

Via Email and U.S. Mail
BVCPchanges@bouldercolorado.gov
City of Boulder
Department of Community Planning and Sustainability
Attn: Caitlin Zacharias
P.O. Box 791
Boulder, CO 80306-0791

RE: Application for BVCP Land Use Amendment

I am the president of Flax Pond LLC, the owner of approximately 11 acres of land located at 3550 and 3850 Frontier Avenue, within the Boulder Junction Phase 2 planning area, as more particularly described in the attached application and exhibits. As a landowner, Flax Pond hereby submits a specific request to change the Boulder Valley Comprehensive Plan (BVCP) land use designation for its property from Community Industrial to Mixed Use Business. In addition, as a citizen of Boulder, I request that the city initiate the necessary land use and zoning changes for the entire area known as Phase 2 of Boulder Junction, to fully implement the vision of the Transit Village Area Plan (TVAP).

I. Request for Initiation of Boulder Junction Phase 2 Land Use Changes

Fifteen years ago, the city began planning a new transit hub at the geographic center of the city, together with a new transit-oriented neighborhood that would break from the car-oriented development pattern that exists elsewhere in the city. In 2004, the city and Regional Transportation District (RTD) purchased the "Pollard Motors" site at the corner of 30th and Pearl, for purposes of constructing a new transit hub and anchoring the new transit-oriented neighborhood. The city's vision for the 160-acre area surrounding the transportation hub was formally adopted in 2007 as the Transit Village Area Plan (TVAP), and later renamed Boulder Junction. The TVAP is the product of extensive outreach, public input, hearings, planning studies and substantial effort over a long period of time. It represents the consensus and the vision for the future development of Boulder Junction. It's land use designations and policies should be implemented in connection with the update of the BVCP.

At the time of adoption, the city anticipated that Boulder Junction would be implemented over a 30-year time horizon, divided into two phases. Phase 1 lies east of 30th Street and west of the railroad tracks. Phase 2 lies east of the railroad tracks and west of Foothills Highway. A market absorption analysis was conducted and based on

the estimated amount of development that could be absorbed in the Boulder market, TVAP anticipated that Phase 1 would be implemented in the first 10-15 years after the plan's adoption in 2007. Phase 2 was anticipated to follow Phase 1, and also take 10-15 years to complete. But, Phase 1 happened much faster than most had anticipated. TVAP states that Planning Board and the City Council may consider the market absorption of properties with similar uses in Phase 1 when considering BVCP land use map and zoning changes for Phase 2 properties. The rapid development and high occupancy in Phase 1 of Boulder Junction is perhaps the best evidence of the strong market demand for housing and commercial space in this geographic area.

The TVAP Implementation Plan lays out the following criteria for city initiation of Phase 2 land use and zoning changes:

1. Substantial Redevelopment of Phase 1;

2. Plan in place for providing public improvements to Phase 2; and

3. Market support for Phase 2 land uses.

As set forth below, these conditions have been met.

1. Substantial redevelopment of Phase 1 has occurred. Every key public infrastructure improvement designed for Phase 1 has been completed, or is nearing completion. These include the Junction Place Bridge over Goose Creek, underground RTD Bus-Rapid Transit (BRT) station, multi-way boulevard along Pearl Parkway, rehabilitation of the historic Depot building, pocket park along Goose Creek, new Junction Place Street and two traffic signals, addition of multi-use paths and mid-block pedestrian crossings, bike lanes on 30th Street, district parking structure, and stormwater improvements to the Boulder slough. The city has spent more than $10M on these local infrastructure improvements, and approximately $500M has been spent regionally on the US36 highway corridor, which will serve Boulder Junction and the BRT.

In addition to completing the key public infrastructure for Phase 1, the vast majority of private landowners within Phase 1 have either completed redevelopment projects, or obtained site and use review approval to commence redevelopment of their land. Completed or approved projects include the 319-unit Solana Apartments, a 150-room Hyatt Hotel, 71 permanently affordable residential units, the 10.5-acre mixed-use and mixed-income neighborhood on the former Sutherland site, known as "S'PARK," and "The Commons," a 100,000 SF highly sustainable office project in the Steelyards. Except for the city-owned Pollard Motors site, every significant parcel in Phase 1 of Boulder Junction has redeveloped, or has been approved for redevelopment through site and use review.

2. There is a plan in place for providing public improvements to Phase 2. TVAP set forth specific infrastructure improvements and estimated costs and sources of funds for upgrades to Old Pearl, Bluff Street west of 30th, traffic signal at Frontier and

Pearl, bridge over Goose Creek east of the tracks, Frontier extension to Goose Creek, ped/bike/multi-use paths, and stormwater improvements. The cost of the Phase 2 infrastructure was estimated at $11.3M. Funds were anticipated to come from development-related taxes such as excise taxes and construction use taxes, as well as the Transportation Capital Improvement Program, and the Transportation Improvement Program.

3. There is market support for Phase 2 land uses. The city is experiencing a housing crisis, for lack of affordable units for middle-income residents, lack of accessible units for handicapped and elderly residents, and lack of family-oriented units. Vacancy rates in Boulder are at all-time lows for residential, office and commercial properties. The Boulder Primary Employer Study concluded in 2012 that (1) there is limited availability of suitable space for primary employer expansion, (2) there is a lack of flexibility in allowed uses, (3) the cost of land and cost of doing business is high, and (4) there is a lack of amenities in some areas of the city. These deficiencies persist.

Demand is so robust that it is resulting in development outside the boundaries of Boulder Junction, for example the Google office campus west of 30th and a large portion of Reve south of the Boulder Junction planning area. To realize the TVAP vision and concentrate development in the Boulder Junction planning area, and to achieve maximum utilization of the city's infrastructure investments and BRT, the city must change the land use and zoning in Phase 2. Otherwise, the city will continue to respond to development proposals that are not integrated with Boulder Junction, and lack necessary infrastructure, detailed cohesive planning, and adjacency to transit.

The city said that it "will monitor [TVAP] implementation … as part of each mid-term and five-year update to the Boulder Valley Comprehensive Plan (BVCP)." And "appropriate components of the Implementation Action Plans will be incorporated into the BVCP Action plan." TVAP Implementation Plan, p. 1. **In the context of this major five-year update to the BVCP, we request that the city initiate the Phase 2 land use and zoning changes to make the underlying land use consistent with the TVAP.** Not only are the TVAP criteria satisfied for commencing Phase 2 land use and zoning changes, but making the land use consistent with the TVAP is perhaps the single most effective means by which the city can advance its overarching goals with respect to climate change, multi-modal transportation, economic vitality, social equity and diversity, and affordable housing.

The major investments of time and money have been made. The BRT will start service in a matter of months, carrying riders along the massively improved US36 corridor. The local infrastructure improvements to Phase 1 are complete. By making the remaining investment in the Phase 2 infrastructure, and changing the land use, the entire Boulder Junction area - not just the western half - will be capable of taking advantage of the transit, bike and pedestrian amenities. The underutilized and inefficient industrial buildings in Phase 2 will give way to high efficiency affordable housing, commercial space and retail amenities, and a vibrant walk-able, bike-able neighborhood with premier transit access. Implementing the TVAP will ease concerns among established

neighborhoods outside of Boulder Junction that new development will be focused in this geographic area, where new buildings can leverage the transit infrastructure and co-located housing, retail and office functions.

While this is an Application for BVCP Land Use Map Amendment specifically concerning 11 acres of land south of Pearl Parkway in Boulder Junction Phase 2, we are simultaneously requesting an additional, and very important action be taken by the City at this time: **Authorize the staff to initiate the Phase 2 land use and zoning changes to make the underlying land use throughout Phase 2 consistent with the TVAP.** This is obviously a matter of citywide concern and is properly addressed in a major five-year BVPC update. Postponing consideration of land use in Phase 2 until the 2020 BVCP update would: (1) frustrate the city's Transportation Master Plan goals with respect to utilization of the BRT, and the ability of the new road, bridge, sidewalk, and utility improvements to serve their purposes, (2) delay the city's Climate Action Plan goal of 80% reduction in greenhouse gas emissions by 2050, and a reduction of 20% in vehicle miles of travel in the Boulder Valley by 2035, and (3) encourage ad hoc projects to develop outside of the area plan boundary. Until Phase 2 is redeveloped, the vision for the BRT, the city's Climate Action Plan, and the city's Transportation Master Plan will not be fully achieved.

II. Application for BVCP Land Use Map Amendment

Enclosed herein is an Application for BVCP Land Use Map Amendment concerning 11 acres of land south of Pearl Parkway, known as 3550 and 3850 Frontier Avenue. The current land use under the BVCP is Community Industrial for all of the land, and the zoning is IS-1 and IS-2 on the various parcels. The land use and zoning is inconsistent with the TVAP's designation of "Industrial Mixed Use 2," in both intensity and use. TVAP states that Industrial Mixed-Use 2 will have "Three- to four-story mixed-use buildings. Predominate use may be residential, office or industrial. Structured parking." At p. 17. We request that the land use be changed to match the TVAP description, so the zoning change may follow in due course. Specifically, we hereby request that the BVCP land use be changed to Mixed Use Business, which is the existing land use category most consistent with the TVAP vision.

The subject land is currently occupied by two 1960's-vintage metal warehouse buildings, totaling 190,000 square feet. As a result of their age and construction, the buildings lag behind modern standards of energy efficiency, and several acres of land are taken up by surface parking lots. These current conditions are inconsistent with TVAP and the city's overarching climate, transportation and housing goals.

The warehouses are occupied by a variety of distributors and other industrial tenants that primarily have a low ratio of workers to square footage, and use the vast majority of the space for storing goods. Several major employers - characterized as technical office users and computer engineering and design firms - have expressed a desire to lease space in these existing warehouse buildings. This is no surprise, as employees could make use of the new BRT facility, ample parking exists on site, interior

finishes could be completed quickly, and rents are relatively affordable. However, the current land use and zoning forbids technical office users and any professional office users larger than 5,000 SF. Given that the buildings are too large to break into 5,000 SF suites, and a huge component of our local office market is made up of technical office users, office users are effectively prohibited from occupying even the existing buildings. In this context, the land use and zoning map are directly at odds with the city's policy goals.

Changing the land use to Mixed Use Business will support the city's Climate Action Plan and Transportation Master Plan, by encouraging energy-efficient building construction, a resource-efficient land use pattern, and comprehensive transportation demand management strategies that will encourage transit use, reduce vehicle miles traveled, and reduce energy consumption. It will advance the city's social goals by increasing affordable housing supply, family housing supply, expanding employment and transportation options for all members of the community, and providing parks and civic spaces, which connect to neighboring residential areas.

Changing the land use to Mixed Use Business will advance the "Core Values" of the BVCP, which include "compact, contiguous development and infill that supports evolution to a more sustainable urban form," "culture of creativity and innovation," "a welcoming and inclusive community," "great neighborhoods and public spaces," "a vibrant economy based on Boulder's quality of life and economic strength," "a diversity of housing types and price ranges," and "an all-mode transportation system to make getting around without a car easy and accessible to everyone."

Finally, the requested amendment of the BVCP Land Use Map satisfies all of the criteria set forth in the BVCP, including:

(a) The proposed change is consistent with the policies and overall intent of the comprehensive plan. In fact, it is consistent with the specific intent of the TVAP, as well as the overall intent of the comprehensive plan.

(b) The proposed change would not have significant cross-jurisdictional impacts that may affect residents, properties or facilities outside the city. The cross-jurisdictional impacts will be positive.

(c) The proposed change would not materially affect the land use and growth projections that were the basis of the comprehensive plan. The land use and growth projections included in TVAP were, and remain consistent with the comprehensive plan.

(d) The proposed change does not materially affect the adequacy or availability of urban facilities and services to the immediate area or to the overall service area of the City of Boulder. In fact, the proposed change will pave the way for the creation of improved urban facilities and access to services.

(e) The proposed change would not materially affect the adopted Capital Improvements Program of the City of Boulder. The infrastructure improvements for Phase 2 are already a component of the city's Capital Improvements Program.

(f) The proposed change would not affect the Area II/Area III boundaries in the comprehensive plan.

For all of these reasons, and for the reasons set forth in Section I of this letter, the land use for the subject property should be amended to Mixed Use Business.

Thank you for consideration. Please do not hesitate to contact me with any questions.

Eli Feldman
President, Flax Pond LLC

23) Public input process regarding work plan

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1) Type of Amendment: (●) Policy Amendment ( ) Other Text Amendment

2) Please provide the following information

a. Location of policy or text in comprehensive plan (check one):

(●) Introduction

( ) I. Boulder Valley Comprehensive Plan Policies:

Which section? Select one: 1 2 3 4 5 6 7 8 9

Write in policy number: _____

( ) II. Amendment Procedures

( ) III. Land Use Map Descriptions

( ) IV. Implementation

( ) V. Referral Process

( ) VI. Urban Services Criteria and Standards

b. Page number of proposed amendment 7

c. Brief description of initial ideas for proposed amendment:

Action Plans - Prior to the yearly Action Plan meetings, develop a process for public input to identify projects with significant public benefit and strong alignment with BVCP goals. Invite and evaluate new proposals for public-private partnerships, identify funding needs and strategies, and consider

d. Brief reason or justification for the proposed amendment:

Many of the objectives of the BVCP, which would serve to balance development are not being adequately developed, funded, or supported by the City. We need to open up the process, prioritize social and environmental goals, and address these issues in a meaningful way.

3) Applicant:

Name: Edward Jabari

Address: 4715 Broadway Street
Boulder, CO 80304

Phone: (720) 587-9176