

**October 5, 2020: CU Response to City Comments**

Alignment Status: "Yes" = General Agreement between City and CU public statements; "Analysis Needed" = analysis and negotiation required;  
"Clarification Needed" = Clarification is needed to understand the University's objective; "No" = City/CU disagreement

Topic #	Topic Item	
	<b>Application Detail</b>	
<b>1</b>	<b>Key Issue</b>	<b>Level of detail needed for submittal (i.e. site plan)</b>
	City Policies or Council Direction	No direct guidance in BVCP.
	CU Statement (Feb. 2, 2019)	The Application includes all items specified as being required therein. Submission of a site plan is not a requirement for annexation and CU Boulder will not submit a site plan with the Application; however, CU Boulder participated in the development of the Guiding Principles, which set forth detailed agreements with respect to future development on the Property. The University is providing additional detail in this Written Statement.
	Staff Response to Feb. 2, 2019 CU Statement	Informational Comment During their study session on Oct. 9, 2018, City Council members showed interest in further clarifying aspects identified in the Guiding Principles (e.g. defining a "village concept") and exploring a scenario-based approach outlining standards and design guidelines for different circumstances. See comments below for more information on those topics.
	CU Response - January 16, 2020	Future discussions on level of detail for submittals will occur after all key issues have been resolved.
	City Response - August 31, 2020	City Council and Planning Board members have expressed concerns about the lack of specificity in the submitted annexation application. City and University staff appear to be in agreement that guiding principle concepts can be further defined. City staff urges the applicant to consider any additional information that can be provided to provide greater certainty about future development in lieu of a site plan.
	CU Response - October 5, 2020	CU is working on overarching design guidelines for CU Boulder South to address Council and Planning Board concerns regarding future development and will provide a draft of the design guidelines to the City by November 1.  BVCP Guiding Principles stated that the University does not have a master plan at this site, but is working towards future standards in the future in Section 2.d. under "Land Use Mix", the following text appears:  "The exact amount, types and location of residential and non-residential space will be refined to minimize impacts as a long-term master plan is developed and as transportation analysis is conducted."  In addition, under "Land Use Mix" on page 4 of the Guiding Principles, we have agreed that:  <b>1. Housing for University needs.</b> Housing on the site will meet the needs of University faculty, staff and non-freshmen students in order to address the fact that Boulder housing is currently unaffordable to faculty, staff and students. Providing workforce and non-freshmen housing will contribute positively to the community's housing affordability goals and aid the University in its recruitment and retention. Housing should be mutually beneficial to the community and University and integrated with needs of the community rather than built as isolated enclaves.  <b>2. Residential units and non-residential space.</b> a. Housing will be the predominant use of the site for areas not used for flood mitigation (i.e., with a target of 1,100 residential units and the final number guided by transportation performance and other site constraints), although the site may include a mix of residential and non-residential and facilities. The site will emphasize housing units over nonresidential space (jobs) to help balance jobs and housing in the community. b. Except for recreation facilities, development will be phased such that non-residential space will be phased after a significant amount of housing is built. Later phases will be dependent on demonstrating that initial phases achieve objectives of mitigating impacts. c. The overall non-residential space footprint will be minimized and support and benefit the convenience of the residents, employees, and visitors to residential and recreational uses of the property. d. The exact amount, types and location of residential and non-residential space will be refined to minimize impacts as a long-term master plan is developed and as transportation analysis is conducted. e. Academic facilities will include space for research and/or education pertaining to natural environment such as ecological restoration, floodplains, and related topics.  <b>Use restrictions.</b> The site will not include large-scale sport venues (i.e., football stadium), high rise buildings (maintaining substantial consistency with the City's height limits), large research complexes such as those on east campus, roadway bypass between Highway 93 and Highway 36, or first year student housing.
<b>2</b>	<b>Key Issue</b>	<b>Submittal and Other Administrative Notes</b>
	City Policies or Council Direction	N/A
	CU Statement (Feb. 2, 2019)	N/A

<p>Staff Response to Feb. 2, 2019 CU Statement</p>	<p>Decision-making Authority Pursuant to B.R.C. 9-4-2 Development Review Procedures, the Planning Board will provide a recommendation to City Council regarding the approval or denial of the annexation application, and City Council holds Decision Authority. Case Manager The case manager for this application is: Phil Kleisler, Planner II kleislerp@bouldercolorado.gov 303-441-4497</p> <p>Annexation Map 1. Legal Description – remove the easements appurtenant to the property and include only the parcel description. 2. Vicinity Map - revise to appear smaller in scale (such as 1" = 200' with notation that full-sized map is on Sheets 2 and 3). 3. Map a. Check each dimension shown on the map to ensure accuracy and that there is no overlapping text, including call on north property line and the label for CDOT (Bk 880, Page 92) which overlaps subtitle. b. Please reduce the size of the map so that the entire parcel appears on Sheet 2. (Perhaps, if the scale were 1" - 400' it would fit). If possible, please remove extra labels/diagrams not needed on the map since it will be shrunk to be an exhibit attached to the annexation ordinance. c. Remove the depiction of the 60' wide easement from the north property line and associated references to deeds and easements. d. Remove references to references to "See TCE" since the title commitment exceptions are not included. e. Remove label to "Right-of-Way Access Restriction Film 763, Rec. 010051, See TCE #20) since there is another label for the CDOT ramp. f. Remove the circle symbols for each survey pin (useful on the survey, but not necessary for this map). g. Remove references to Carl C. Deepe Ditch and Irrigation Lateral. h. Remove reference to "Parcel to Discharge Floodwaters (See TCE #10 and Note #10)</p> <p>Legal Description (8.5 x 11 paper) to attach to ordinance: 1. Remove the references to the easements appurtenant to the property. 2. Revise to ensure accuracy of each dimension to be consistent with the actual measurements as discussed with the surveyor).</p> <p>Addressing City staff proposes that both parties coordinate on assigning appropriate street names and building numbers during the University's Design Development phase. A copy of the City of Boulder address policy is attached for reference.</p> <p>Inactive Applications (9-2-6.e) Notify the case manager in writing if, at any point in the development review process, the applicant is unable to respond to staff comments by providing additional or corrected materials within sixty days. The City manager may extend the sixty-day period if requested by the applicant prior to its expiration and upon the applicant's demonstrating good cause for the additional delay.</p>
<p>CU Response - January 16, 2020</p>	<p>The annexation map and Legal Description have been updated and are enclosed.</p>
<p>City Response - August 31, 2020</p>	<p>Noted.</p>
<p>CU Response - October 5, 2020</p>	<p>Complete.</p>
<p><b>3</b></p>	<p><b>Key Issue</b></p>
<p>City Policies or Council Direction</p>	<p>Pursuant to B.R.C. §9-2-18 Zoning of Annexed Land, zoning of annexed land or land in the process of annexation shall be considered an initial zoning and shall be consistent with the goals and land use designations of the Boulder Valley Comprehensive Plan.</p>
<p>CU Statement (Feb. 2, 2019)</p>	<p>The University recognizes that the City will be making future decisions regarding the specific boundaries of the City's Flood Mitigation Project. The City's decisions may require the reduction of the University-required minimum 129 acres designated under the BVCP Land Use Designation as Public/Semi-Public for future CU Boulder development on the Property. In addition, CU Boulder recognizes that the existing tennis courts may be adversely impacted by the final Project plan and the anticipated site of recreational fields in the area designated under the BVCP as "PK-UO" may need to be relocated. The City is in the planning phase of the Project and has therefore yet to determine the land area necessary for the Project.</p> <p>Given the future decisions to be made, the University requests the City initially zone the entire property "Public" under the City's Land Use Code in order to provide the flexibility to accommodate changes to the land use boundaries (as established in the BVCP) that may be necessary as a result of changes to the Project plans. Upon finalization of the Project boundaries, the City may, at its discretion, rezone any area used outside of the aggregate 129 acres designated for University development and the 30 acres to be used for recreational fields (unless such fields can be reasonably accommodated within the Project area).</p>

<p>Staff Response to Feb. 2, 2019 CU Statement</p>	<p>Identify options for alternative use of 30 – 36 acres of land necessary for flood mitigation that is currently planned for University housing. On Feb. 5, 2019, City Council directed staff to move forward with preliminary design for the original Variant 1, 500-year concept for South Boulder Creek flood mitigation. At the current conceptual level of design, City staff anticipates approximately 30 – 36 acres of land designated Public in the Boulder Valley Comprehensive Plan (BVCP) Land Use Map will be impacted. The amount of acreage needed will be further refined during the preliminary design process. CU Boulder’s application states that the University must retain in perpetuity its development rights to a minimum of 129 acres and that any diminishment of that area either (i) be proportionally replaced with land currently designated Open Space – Other (OS-O) under the BVCP, (ii) the City shall compensate the University in cash for the fair market value of the applicable area, or (iii) provide land agreeable to the University in another location.</p> <p>City staff proposes that we jointly explore the following options to address this issue. Please indicate if any of these options are unacceptable to the University. Options acceptable to both City and University staff will be analyzed further and presented to City boards and City Council for direction in a preferred approach and community engagement.</p> <ul style="list-style-type: none"> <li>• Option 1: Receive an opinion of value for possible City purchase of land before it is annexed into the City.</li> <li>• Option 2: Explore land available off site for CU to use for development purposes. Please summarize the University’s criteria for selecting off-site locations. Council members have expressed interest in exploring the Planning Reserve in north Boulder as a potential off-site location. Indicate if the Planning Reserve may or may not meet the University’s selection criteria.</li> <li>• Option 3: Determine necessary changes to the University’s development program to allow for University needs to be met within a smaller Development Tract (i.e. the 93 – 99 acres of “Public” land not impacted by the flood mitigation project). For example, the City and University could explore additional density within the smaller Development Tract in ways that meets the University’s needs and still addresses applicable guiding principles (e.g. viewshed protection, etc.).</li> </ul> <p>City staff does not currently support using a portion of the OS-O area for housing, as that concept is not consistent with the Boulder Valley Comprehensive Plan. The other options, including but not limited to those noted above, should be pursued prior to examining the suitability of housing in the OS-O area.</p> <p>Initial Zoning As part of the Major Update to the Boulder Valley Comprehensive Plan (BVCP) in 2017, the site’s Land Use Designations were changed to:</p> <ul style="list-style-type: none"> <li>• Public / Semi-Public (128.9 Acres) Characteristics and Location: PUB land use designations encompass a wide range of public and private non-profit uses that provide a community service. They are dispersed throughout the City. Uses: This category includes municipal and public utility services (e.g., the municipal airport, water reservoirs and water and wastewater treatment plants). It also includes: educational facilities (public and private schools and the University); government offices, such as City and county buildings, libraries and the jail; government laboratories; and nonprofit facilities (e.g., cemeteries, places of worship, hospitals, retirement complexes) and may include other uses as allowed by zoning.</li> </ul>
<p>CU Response - January 16, 2020</p>	<p>Key Issue #1 - From letter dated 3/28/19 Option 1: Receive an opinion of value for possible City purchase of land before it is annexed into the City.</p> <p><i>CU Response: Per the May 20, 2019 letter to City Council, CU Response: We do not see a purchase of an additional 30-36 acres of land as a viable option for the City due to City Council’s agreement on February 5 that the price of \$65 million plus for the deeper version of Variant I 500 that staff presented was too expensive. We currently estimate the value for developable land in South Boulder as between \$1 and \$2 million per acre, resulting in a total price ranging between \$30 and \$72 million. Including the cost of the additional land would again put the cost of Variant I 500 at \$65 million plus.</i></p> <ul style="list-style-type: none"> <li>• Option 2: Explore land available off site for CU to use for development purposes. Please summarize the University’s criteria for selecting off-site locations. Council members have expressed interest in exploring the Planning Reserve in north Boulder as a potential off-site location. Indicate if the Planning Reserve may or may not meet the University’s selection criteria.</li> </ul> <p><i>CU Response: Per the May 20, 2019 letter to City Council, CU Response: In our estimation, there is no reasonably proximate, developable and comparable land available which can be offered by the City in exchange. The suggested property in Planning Reserve III north of the City is not proximate, not comparable, not developable and not currently annexable under the BVCP.</i></p> <ul style="list-style-type: none"> <li>• Option 3: Determine necessary changes to the University’s development program to allow for University needs to be met within a smaller Development Tract (i.e. the 93 – 99 acres of “Public” land not impacted by the flood mitigation project). For example, the City and University could explore additional density within the smaller Development Tract in ways that meets the University’s needs and still addresses applicable guiding principles (e.g. viewshed protection, etc.).</li> </ul> <p><i>CU Response: Per the May 20, 2019 letter to City Council, CU Response: As stated in our application and in prior communications, the University requires a full 129 acres for development out of our 308 acres. The University currently has no concept plan for development.</i></p>
<p>City Response - August 31, 2020</p>	<p>The recent selection of the Variant 1, 100-year option provides the University with 129 acres of land currently designated Public in the BVCP. It is staff’s understanding that the University is now open to a development program consisting of predominantly housing, provided that there are “multiple access points”.</p>
<p>CU Response - October 5, 2020</p>	<p>Confirmed, the University is now open to a development program consisting of predominantly housing, provided that there are multiple access points, including access to Highway 93.</p>

4		Key Issue	Payment In-lieu of Taxes
	City Policies or Council Direction		N/A
	CU Statement (Feb. 2, 2019)		N/A
	Staff Response to Feb. 2, 2019 CU Statement		The City proposes that CU Boulder make an annual Payment In-lieu of Taxes (PILOT) after it is annexed into the City. Such an agreement will be negotiated prior to annexation. PILOT agreements are intended to help offset losses in property taxes due to non-taxable land within the City. This agreement would include City services not currently provided by the University (e.g. Fire and Rescue).
	CU Response - January 16, 2020		Key Issue #3 - From letter dated 3/28/19 Establish a Payment In-lieu of Taxes Agreement. The City proposes that CU Boulder make an annual Payment In-lieu of Taxes (PILOT) after it is annexed into the City. Such an agreement will be negotiated prior to annexation. PILOT agreements are intended to help offset losses in property taxes due to non-taxable land within the City. This agreement would include City services not currently provided by the University (e.g. Fire and Rescue).  Per the May 20, 2019 letter to City Council, CU Response: The University will not agree to make a payment in-lieu of taxes to the City.
	City Response - August 31, 2020		City staff are open to discussing other ways for offsetting the demand for City services resulting from future development on the site.
	CU Response - October 5, 2020		CU will not pay PILOT due to its status as a tax exempt entity. Please see Key Issue 45 Emergency Connectivity (line 326) for additional information related to the provision of land for a future public safety facility.
Review Process			
5		Key Issue	Establish a review process for the City to review and comments on future development plans
	City Policies or Council Direction		No direct guidance in BVCP.
	CU Statement (Feb. 2, 2019)		CU Boulder will offer the City and the community the opportunity to provide input to the Campus Master Plan (as defined below).  In addition, in response to the feedback received from City Council and City staff, during the Conceptual Design phase (as defined below) prior to CU Boulder's submission of CU Boulder's conceptual design documents for development of the Property ("Concept Design") to the DRB (as defined below) for review and approval, CU Boulder will deliver the Concept Design to the City. The City will have a period of 60 days following its receipt of the Concept Design to review and deliver comments to CU Boulder. Exhibit A (attached hereto) sets forth in greater detail the City's review process and conforms substantially to the Memorandum of Understanding agreement dated October 11, 2016 between the City and CU Boulder regarding CU Boulder's hotel and conference center. "Conceptual Design" shall mean a phase of design document development during which the DRB will evaluate the overall development of the Property. The Conceptual Design phase will focus on improvement and site development planning, architectural character, and relationships to surrounding buildings/spaces. For more information on what will be included in the Concept Design provided to the City, please see Exhibit A.
	Staff Response to Feb. 2, 2019 CU Statement		City staff requests a 90-day review period to facilitate review and input from the City's Planning Board and City Council
	CU Response - January 16, 2020		CU will agree to a 60 day review period.
	City Response - August 31, 2020		Given the size and complexity of future development activity, City staff finds that a 30- or 60-day window will not allow for an internal review, followed by input from the Planning Board and City Council. A 60-day review window may be appropriate if more specific details of future development are provided prior to annexation. It appears that the City and CU Boulder are not in agreement on this topic and as such, further discussions are necessary.  City staff are interested in the following reviews: 1. Each ten-year update (or new) Campus Master Plan; 2. The initial plan and subsequent updates to the CU South Master Plan; and 3. During the Conceptual Design phase for future development on CU South, prior to CU Boulder's submission of conceptual design documents for development of the Property to the University's Design Review Board for review and approval.  City comments would include two categories: 1. Compliance Review to verify that the proposed development activity complies with the terms of the Agreement; and 2. Discretionary Comments intended to further the City's goals and policies. CU Boulder will attach great weight to the City's Discretionary Comments and may recommend plan amendments to the Design Review Board.

	CU Response - October 5, 2020	<p>CU will agree to the following reviews:</p> <ol style="list-style-type: none"> <li>1. Each ten-year update (or new) <b>Campus Master Plan</b>; The University is under statutory requirements with State offices, legislature and the Board of Regents to provide 10 year campus updates. During the public engagement associated with these updates, the Master Plan is shared with the public and the City for comment through CU-coordinated engagement efforts. The 2021 Master Plan update is currently underway and outreach is planned for the first half of 2021, which includes town/gown public town halls and a meeting with City council. This is consistent with past practices and recognizes this is a statutory process between the campus, the Regents and the state.</li> <li>2. <b>CU South Master Plan</b>; Before the CU South Master Plan is finalized, CU will provide a draft to the City for a 90 days for the following reviews: <ul style="list-style-type: none"> <li>- Compliance Review to verify that the proposed development activity complies with the terms of the Agreement; and</li> <li>- Discretionary Comments intended to further the City's goals and policies. CU Boulder will give strong consideration to the City's Discretionary Comments and may recommend plan amendments to CU's Design Review Board.</li> </ul> </li> <li>3. During the <b>Conceptual Design phase for future development</b> on CU South, prior to CU Boulder's submission of conceptual design documents for development of the Property to the University's Design Review Board for review and approval. CU will provide the City with 60 days for the following reviews: <ul style="list-style-type: none"> <li>- Compliance Review to verify that the proposed development activity complies with the terms of the annexation agreement; and</li> <li>- Discretionary Comments intended to further the City's goals and policies. CU Boulder will give strong consideration to the City's Discretionary Comments and may recommend plan amendments to the Design Review Board.</li> </ul> </li> </ol>
6	<b>Key Issue</b>	<b>Implement the South Boulder Creek Phase I Flood Mitigation Study subject to final design</b>
	City Policies or Council Direction	The Guiding Principles state that the site will provide adequate areas for construction, maintenance and operation of City flood control dams, appurtenances and associated flood storage, including freeboard to reduce flood risks.
	CU Statement (Feb. 2, 2019)	<p>Subject to Regent approval, and in consideration of City's annexation of CU Boulder South, the University will convey fee simple title in up to 80 acres of the Property (the "Flood Property ") to the City by special warranty deed (the " Deed "). The City agrees to use the land conveyed by the University only for development, construction, operation, maintenance, and redevelopment of the Project; this use limitation shall be memorialized in a restrictive covenant in the Deed that will grant the University a reversionary right to the fee simple title in the Flood Property in the event an uncured breach of such restrictive covenant persists for a period of 365 days following University's delivery to City of written notice of breach. If the recreational fields are not able to be accommodated within the flood mitigation project footprint, the University will retain the right to an easement to allow sufficient access and use of recreational fields in an area that is mutually agreed upon.</p> <p>If successful design and development of the Project requires the use of land in excess of 80 acres, then subject to University's reasonable approval and agreement, City may purchase additional land contiguous to the Flood Property at fair market value as determined by a third-party appraisal. This area shall be subject to the same reversionary right detailed in the preceding paragraph.</p> <p>If City or a City-related entity wishes to acquire additional portions (for example in OS-O area) of the Property for open space or other uses, then subject to University's approval (determined in its sole discretion) and agreement, City may purchase such land at fair market value as determined by a third-party appraisal.</p> <p>Any conveyance of University-owned land contemplated herein shall be subject to, and limited by, approval by its Board of Regents.</p>
	Staff Response to Feb. 2, 2019 CU Statement	<ul style="list-style-type: none"> <li>• Further analysis is needed to determine the extent of land in excess of 80 acres that would be needed for the flood mitigation project and the value of that land before providing comments regarding potential purchase of the land. It is currently estimated the Variant 1, 500-year flood mitigation concept (approved by Council on Feb. 5, 2019) would need approximately 90 acres of CU South property for flood mitigation structures and the detention area. However, the amount of acreage needed will be further refined through the preliminary design process.</li> <li>• It is our understanding that CU does not want to be responsible for owning and operating the dam and therefore the City would need to own the land in fee title. City staff is not in agreement with CU Boulder's proposed restrictive covenant granting the University reversionary right to the fee simple title. The State Engineer's Office will require the City show it has permanent responsibility for and access to the flood mitigation structures and detention area and that those rights cannot be revoked at a later date.</li> <li>• On Feb. 5 City Council directed that the next steps of design should focus on the engineering needs of the project and on accommodating future sports fields in the detention area. See later comments regarding location options to address CU's interests in future recreational fields.</li> <li>• See later comments on regarding City interests in acquisition of additional portions of the property for Open Space.</li> <li>• The property is located in the floodplain of South Boulder Creek. Any development within the floodplain is subject to the City's floodplain regulations and will require floodplain development permit(s).</li> </ul>
	CU Response - January 16, 2020	<ul style="list-style-type: none"> <li>• See our initial submittal regarding up to 80 acres max with the option for the City to purchase additional acreage specifically for the flood mitigation project. The reversionary right will not be effective unless the City does not use the 80 acres for flood mitigation.</li> <li>• CU shall meet FEMA Floodplain regulations</li> </ul>
	City Response - August 31, 2020	Future development within a floodplain (e.g., concessions, restrooms) is subject to the City's floodplain regulations and will require floodplain development permit(s). City staff proposes that floodplain development permits for CU South be administered consistent with how other University campuses are administered. Such standards could be included as part of the annexation agreement for this site. Alternatively, the City and University could enter into a separate agreement that would apply to all campus locations, including CU South.

	CU Response - October 5, 2020	CU Boulder understands that the V1 100 design only requires approximately 36 acres of land for construction, maintenance and operation of City flood control dams, appurtenances and associated flood storage, including freeboard to reduce flood risks. The 80 acres we offer is more than adequate to satisfy this requirement of the Guiding Principles as well as additional acreage to meet the goals of OSMP.
<b>7</b>	<b>Key Issue</b>	<b>Obtain necessary easements.</b>
	City Policies or Council Direction	The Guiding Principles state that specific real property ownership, easements, and/or agreements will be established during annexation for the area necessary for floodwater improvements and other uses (plus or minus some land area).
	CU Statement (Feb. 2, 2019)	The University will provide the necessary rights for the City to achieve its Flood Mitigation Project upon finalization of the Flood Mitigation Project. Real property ownership is addressed above.
	Staff Response to Feb. 2, 2019 CU Statement	The City would need conveyance of the flood mitigation project area prior to proceeding with Final Design of the project.
	CU Response - January 16, 2020	We agree so long as we have a completed annexation agreement without contingencies and CU has agreed to the schematic project design which aligns substantially to the final project design.
	City Response - August 31, 2020	The City and CU Boulder appear to be in agreement about this topic.
	CU Response - October 5, 2020	Complete!
<b>8</b>	<b>Key Issue</b>	<b>Avoid excavation within the OS-O area, maintain PUB acreage, and avoid impacts to existing tennis courts.</b>
	City Policies or Council Direction	On Sept. 20 Council indicated a preference to avoid the area of proposed excavation shown on OS-O in Variant 1, 500-year, Option A.
	CU Statement (Feb. 2, 2019)	The University must retain in perpetuity its development rights to a minimum of 129 acres. The current land use designation of the University's 129 acres of developable area of the Property is "Public" under the BVCP (the "CU Development Tract"). Any diminishment of the area of the CU Development Tract shall (a) be subject to University's written approval and, at University's option, the diminished area shall be proportionally replaced with land currently designated OS-O under the BVCP (such replacement land shall be subject to University's approval, shall be contiguous with and become a part of the remaining CU Development Tract area, and shall be zoned Public (PUB) by the City). Alternatively, at University's option and approval, City shall compensate University in cash for the fair market value of the applicable area or with land agreeable to the University in another location.
		If successful design and development of the Project (a) requires relocation of CU Boulder's tennis facility, (b) materially and adversely affects CU Boulder's use and enjoyment of the tennis courts, or (c) impairs CU Boulder's ability to maintain the courts to NCAA Division I standards, then CU Boulder will have the option to reconstruct the tennis facility on land currently designated OS-O and contiguous to the remaining CU Development Tract area in a location determined by CU Boulder at its sole discretion. Such replacement land shall be subject to University's approval, shall be contiguous with and become a part of the remaining CU Development Tract area, and shall be zoned Public (PUB) by the City. City shall bear all actual costs of CU Boulder's design, development and construction of a comparable replacement tennis facility.
		The City may demolish, at its sole cost and expense, the building currently located in the area of the Property designated as PK-UO under the BVCP. The City agrees to pay CU Boulder the replacement value of the building.
	Staff Response to Feb. 2, 2019 CU Statement	<ul style="list-style-type: none"> <li>The Variant 1, 500-year concept approved by City Council on Feb. 5, 2019 is estimated to use approximately 36 acres of PUB land for the structures and detention area. The number of acres for flood mitigation structures and detention area in PUB, will be refined through additional modeling by the City's flood mitigation consultants during preliminary design. More information will be provided to CU once that analysis is complete.</li> <li>The existing tennis courts are located in the area of future detention for the Variant 1, 500-year concept. The City typically prohibits buildings for human occupancy, such as offices, restrooms, and concessions in flood detention areas. Further analysis of the anticipated depth and frequency of inundation where the current tennis courts are located is needed to determine whether the City would allow the existing tennis courts and associated parking to remain in the detention area. If it is required that the tennis courts be moved out of the detention area for the purposes of public safety or functionality of the flood mitigation project, the City will procure an appraisal of the value of the existing tennis facility. The City will contribute an agreed upon value of the existing tennis facility toward CU's design and construction of a new facility.</li> <li>If required for the purposes of public safety or functionality of the flood mitigation project, the City will procure an appraisal of the value of the existing storage building. The City and CU will need to develop an agreement regarding the who pays the cost of removal and any required remediation associated with building demolition.</li> <li>The City seeks further consultation and input on decisions regarding any material changes to OS-O. Additionally, on September 20, 2018, Council stated a preference for implementing the July 11, 2018 OSBT recommendations that the University protect and/or convey the OS-O designated land to the City.</li> </ul>
	CU Response - January 16, 2020	It will be the sole determination of the University if the tennis courts and storage building need to be moved if they fall anywhere within the flood project's detention area. Should the University determine that the tennis courts and storage facility need to be relocated, the City will agree to demolish those facilities at the City's sole cost and then pay to the University the replacement cost of the same.
	City Response - August 31, 2020	The City and CU Boulder appear to be in agreement about the process for resolving this topic.
	CU Response - October 5, 2020	Complete!
<b>9</b>	<b>Key Issue</b>	<b>Groundwater Monitoring</b>
	City Policies or Council Direction	Prior to a final agreement related to the flood mitigation land area, the City will conduct a groundwater assessment which verifies the feasibility and provides the basis for design and construction of implementing measures to convey groundwater through the dam in a manner that substantially replicates existing flow patterns.
	CU Statement (Feb. 2, 2019)	Agreed
	Staff Response to Feb. 2, 2019 CU Statement	The City will continue to access the groundwater monitoring wells installed on CU South per the terms in the Amendment to Amended and Restated Permission to Enter Property Agreement dated December 11, 2017 and last amended March 26, 2018. Additional subsurface investigations on CU South will be needed during preliminary design of the flood mitigation project. City staff will work with CU staff to update the property agreement for this purpose.
	CU Response - January 16, 2020	CU and City have executed an agreement effective December 31, 2019 that grants the City access for additional ground water studies.
	City Response - August 31, 2020	This topic appears resolved.
	CU Response - October 5, 2020	Complete!

<b>10</b>	<b>Key Issue</b>	<b>Aesthetic design of flood mitigation infrastructure</b>
	City Policies or Council Direction	The project team includes a landscape architecture firm that will help coordinate project landscaping and aesthetics that will be vetted with CU and made available to the public, boards and council.
	CU Statement (Feb. 2, 2019)	The City will include CU Boulder in the landscape and aesthetic planning of the Project. The Project design team shall collaborate with the University with respect to Recreational Field placement as well as the potential placement of bleachers on the slopes of the retention structure walls. University shall bear the sole cost and expense of design, development and construction of the Recreational Fields and the bleachers, as applicable.
	Staff Response to Feb. 2, 2019 CU Statement	<ul style="list-style-type: none"> <li>• The City typically provides high aesthetic quality of flood mitigation structures in urban areas. The flood mitigation project team includes a landscape architecture firm that will help coordinate project landscaping and aesthetics. The project team will consult with CU staff when conducting aesthetic design of project elements.</li> <li>• City Council on Feb. 5 directed staff to focus on the engineering needs of the flood mitigation project and not focus on accommodating sports fields in the detention area. If following additional modeling and design of the project it is determined that it is feasible to include sports field turf in the detention area without impacting the functionality or cost of the flood mitigation project, then the City would work with CU Boulder staff to determine if there were opportunities for incorporating recreational field placement and bleachers into the design.</li> <li>• Parks and Recreation staff would like to be involved in any design coordination of athletic facilities/fields.</li> <li>• OSMP staff and Open Space Board of Trustees request consultation and input on infrastructure design including decisions regarding any material changes to OS-O if not conveyed to the City.</li> </ul>
	CU Response - January 16, 2020	City shall collaborate with the University in the consideration of placing Recreational Fields including bleachers and all other sports/turf fields in the detention area.  City staff will be permitted to review future CU plans during their allotted 60 day review period as previously stated. If the OS-O is not conveyed to the City, the University retains ownership and does not agree to consult with OS Board of Trustees on infrastructure design including decisions regarding any material changes to OS-O.
	City Response - August 31, 2020	Comment noted.
	CU Response - October 5, 2020	Complete!
<b>11</b>	<b>Key Issue</b>	<b>Determine suitable recreational uses for the area within the flood mitigation detention area.</b>
	City Policies or Council Direction	Explore opportunities for passive and active recreation activities, or other uses compatible with the floodwater mitigation system and where possible, conserve and/or restore areas within the flood mitigation facilities with high ecological value and mitigate impacts.
	CU Statement (Feb. 2, 2019)	Upon completion of the construction of the flood mitigation dam and related retention areas, CU Boulder must have no less than 30 appropriately graded acres available for construction of recreational/athletics fields (the " Rec Fields ") in the area of the Property designated as PK-UO under the BVCP. The Rec Fields must be situated on the Property in a manner that provides reasonable ingress and egress (including ADA accessibility) for site visitors, teams, service vehicles, as well as proximate space for related facilities such as concessions, restrooms, and storage. If the Rec Fields cannot be located in the flood detention area, the University may construct the Rec Fields on 30 appropriately graded acres within the OS-O-designated land, contiguous to the CU Development Tract.
	Staff Response to Feb. 2, 2019 CU Statement	<p>Identify options for addressing CU Boulder's stated interest in 30+ acres of land for University sports fields and potential re-location of tennis courts, if required due to the flood mitigation project.</p> <p>Early analysis indicates that functional ball fields will not be feasible within the detention area of the Variant 1, 500-year design in the PK-U/O land use area because the depth of the additional excavation would limit the ability to properly drain the fields.</p> <p>City staff proposes that we jointly explore the following options to address this issue. Please indicate if any of these options are unacceptable to the University. Options acceptable to both City and University staff will be analyzed further and presented to City boards and City Council for direction in a preferred approach and community engagement.</p> <ul style="list-style-type: none"> <li>• Option 1: Determine suitability of the existing tennis courts remaining in the detention area and of using a portion of the flood mitigation detention area in the PK-U/O and PUB land use areas for recreational field turf. Further analysis of the anticipated depth and frequency of inundation where the current tennis courts are located is needed to determine whether the City would allow the existing tennis courts and associated parking to remain in the detention area. If following additional design of the project it is determined that it is feasible to include sports field turf in a portion of the detention area without impacting the functionality or cost of the flood mitigation project, then the City would work with CU Boulder staff to evaluate opportunities for recreational field turf placement. The City typically prohibits buildings for human occupancy, such as offices, restrooms, and concessions in flood detention areas. Parking would likely also be restricted in the detention area, but further analysis of the anticipated depth and frequency of inundation would be needed to make this determination. CU Boulder would be responsible for all costs of construction and recreational field cleanup following a storm event.</li> <li>• Option 2: Determine suitability and acceptability of using a portion of land designated as OS-O in the BVCP for recreation and other uses consistent with the BVCP CU South Guiding Principles. On September 20, 2018, Council stated a preference for implementing the July 11, 2018 OSBT recommendations that the University protect and/or convey the OS-O designated land to the City. However, if not conveyed to the City, if any portion of OS-O is found suitable and allowed for this recreational purpose, OSMP staff and Open Space Board of Trustees request consultation and input on decisions regarding any material changes to OS-O, which could include requirements that the area be permanently restricted to such recreational uses (i.e. no further development permitted such as housing).</li> <li>• Option 3: Explore other potential off-site locations within Boulder in coordination with City Parks and Recreation. Please summarize the University's criteria for selecting off-site locations. Council members have expressed interest in exploring the Planning Reserve in north Boulder as a potential off-site location. Indicate if the Planning Reserve may or may not meet the University's selection criteria.</li> </ul>

	<p>CU Response - January 16, 2020</p>	<p><b>Key Issue #2 - From letter dated 3/28/19</b>  <b>Identify options for addressing CU's stated interest in 30+ acres of land for University sports fields and potential re-location of tennis courts, if required due to the flood mitigation project. Early analysis indicates that functional ball fields will not be feasible within the detention area of the Variant 1, 500-year design in the PK-U/O land use area because the depth of the additional excavation would limit the ability to properly drain the fields. CU Boulder's annexation application states that:</b></p> <p><i>Per the May 20, 2019 letter to City Council, CU Response: Upon completion of the construction of the flood mitigation dam and related retention areas, CU Boulder must have no less than 30 appropriately graded acres available for construction of recreational/athletics fields (the " Rec Fields ") in the area of the Property designated as PK-U/O under the BVCP. The Rec Fields must be situated on the Property in a manner that provides reasonable ingress and egress (including ADA accessibility) for site visitors, teams, service vehicles, as well as proximate space for related facilities such as concessions, restrooms, and storage. If the Rec Fields cannot be located in the flood detention area, the University may construct the Rec Fields on 30 appropriately graded acres within the OS-O-designated land, contiguous to the CU Development Tract.</i></p> <p>Option 1: Determine suitability of the existing tennis courts remaining in the detention area and of using a portion of the flood mitigation detention area in the PK-U/O and PUB land use areas for recreational field turf. Further analysis of the anticipated depth and frequency of inundation where the current tennis courts are located is needed to determine whether the City would allow the existing tennis courts and associated parking to remain in the detention area. If following additional design of the project it is determined that it is feasible to include sports field turf in a portion of the detention area without impacting the functionality or cost of the flood mitigation project, then the City would work with CU Boulder staff to evaluate opportunities for recreational field turf placement. The City typically prohibits buildings for human occupancy, such as offices, restrooms, and concessions in flood detention areas. Parking would likely also be restricted in the detention area, but further analysis of the anticipated depth and frequency of inundation would be needed to make this determination. CU Boulder would be responsible for all costs of construction and recreational field cleanup following a storm event.</p> <p><i>CU Response: It will be the sole determination of the University if the tennis courts and storage building need to be moved if they fall anywhere within the flood project's detention area. Should the University determine that the tennis courts and storage facility need to be relocated, the City will agree to demolish those facilities at the City's sole cost and then pay to the University the replacement cost of the same.</i></p> <p>• Option 2: Determine suitability and acceptability of using a portion of land designated as OS-O in the BVCP for recreation and other uses consistent with the BVCP CU South Guiding Principles. On September 20, 2018, Council stated a preference for implementing the July 11, 2018 OSBT recommendations that the University protect and/or convey the OS-O designated land to the City. However, if not conveyed to the City, if any portion of OS-O is found suitable and allowed for this recreational purpose, OSMP staff and Open Space Board of Trustees request consultation and input on decisions regarding any material changes to OS-O, which could include requirements that the area be permanently restricted to such recreational uses (i.e. no further development permitted such as housing).</p> <p><i>CU Response: Again, the University would agree to construct the Rec Fields on 30 appropriately graded acres within the OS-O-designated land, contiguous to the CU Development Tract.</i></p>
	<p>City Response - August 31, 2020</p>	<p>The attached map indicates areas potentially suitable for future recreation facilities. Specifically, 34 acres east and north of the existing tennis courts, including 4.6 acres of currently open water (2.7 acres in the northern pond and 1.9 acres in the southern pond) and 12 acres north of the embankment to be constructed. Please indicate which portions of this land could meet the University's requirement as stated above. Additionally, the City proposes that mutually agreeable fencing and a minimum side setback be established from adjacent City open space land.</p> <p>The City proposes that future plans and projects within the Park Urban/Other area include a delineation of protected and endangered species habitat and other regulated resources. Future facilities should be sited in ways that minimize disturbance and where feasible, enhance habitat characteristics for protected and endangered species. If some of the above acreage are determined inadequate by CU Boulder, the City proposes an earnest evaluation of additional potential sites on the PUB, elsewhere on the CU Boulder campus, or off-site locations within proximity to the site.</p>
	<p>CU Response - October 5, 2020</p>	<p>Based on the City's existing map of sensitive areas dated November 2016 there will be no impacts to areas identified as sensitive habitat. The current City response includes 12 acres north of the embankment which seems to include land we do not control (US 36 on ramp) and includes a pond, the access road to the property and a transition up the embankment and, as such, is not suitable for recreation fields. The available land designated by the City next to the retention area of the project is approximately 12 acres and looks to be suitable. The remaining 18 acres we require would be placed in OS-O contiguous to PUB.</p> <p>CU agrees to identify appropriate fencing between the properties and a 20' setback (where 10' is typically required) along the eastern edge of the property between CU .</p>
<p>12</p>	<p><b>Key Issue</b></p>	<p><b>Flood detention drainage design for recreational fields</b></p>
	<p>City Policies or Council Direction</p>	<p>The City will ensure that the detention area will be designed to meet State water rights drain time requirements. The system will also be designed to drain following a storm event without causing negative downstream floodplain impacts.</p>
	<p>CU Statement (Feb. 2, 2019)</p>	<p>The City will ensure drainage of the detention area is designed appropriately and will conduct routine maintenance and inspections (at the City's expense) to ensure no improper or excess flow discharge occurs during flooding events. The City will ensure that the flood detention area used for recreational/athletics field development will be engineered to sufficiently drain within a reasonable period of time to ensure that the Rec Fields can remain functional after a flood. The City will ensure that Rec Fields do not have ongoing water ponding issues not related to a flood event.</p>
	<p>Staff Response to Feb. 2, 2019 CU Statement</p>	<p>Hydraulic modeling will be included in preliminary design to ensure draining of the detention area following a storm event will not result in negative impacts to existing floodplains. As described previously, additional analysis is needed to evaluate the ability to include functional recreational fields in the detention area.</p>
	<p>CU Response - January 16, 2020</p>	<p>The City shall confirm and maintain that sufficient and timely draining of the recreation/athletic fields is engineered and that all fields will remain fully functional after a flood. City engineering will ensure Rec Fields do not have ongoing water ponding issues not related to a flooding event.</p>

	City Response - August 31, 2020	The City's flood mitigation facility will be designed to drain during a flooding event. We cannot, however, confirm how future local drainage will be designed without site plans. The City is not planning to design or provide engineering details for the future recreation fields. The City is providing potential areas for recreation fields, but until recreation fields are designed, the City cannot offer assurance about future flooding events. The extent of ponding and flooding can only be confirmed with engineered plans for the recreation fields.
	CU Response - October 5, 2020	For the sake of clarity, the University will design and construct the recreational fields. At this point, it is unclear what the impacts of the flood mitigation project will be to the water table in this area. We confirm our statements from February 2, 2019 and January 16, 2020. The agreed upon acreage in the detention area underlying the recreational fields needs to be properly engineered to ensure ponding does not occur during non-flooding periods and so that such area adequately drains following a flood event to be suitable for year-round recreation use. If the design engineering of the flood mitigation project cannot ensure that this standard will be met, then all (or a portion) of the rec fields will need to be placed in the OS-O. Please note that CU Boulder will be responsible for the design and construction of the recreational fields in a manner that provides for the fields themselves to drain properly.
<b>13</b>	<b>Key Issue</b>	<b>Site Access (S. Loop Rd, Tantra)</b>
	City Policies or Council Direction	As part of standard practice, the City mitigates for any damage or modifications to existing structures, including access roads, that results from a flood mitigation project.
	CU Statement (Feb. 2, 2019)	The City will bear any and all costs of modification, realignment and/or reconstruction of existing access roads on the Property, if CU Boulder determines in its reasonable discretion that the design of the Project necessitates such changes.  The City shall also be responsible for any repair costs related to damages attributable to flood mitigation causes or caused by the City to any future CU Boulder road or improvements.
	Staff Response to Feb. 2, 2019 CU Statement	The City is committed to an equitable apportionment of costs associated with the flood mitigation project. This will need to be done through further negotiation and agreement.  Flooding events are acts of nature. The City will not agree to blanket indemnifications on the property. The City will work with the CU Boulder to design infrastructure that will be resilient during and after flooding events.
	CU Response - January 16, 2020	Future agreements shall incorporate language on the City bearing any and all costs for the modification, realignment, and/or reconstruction of existing access roads on the Property, if CU Boulder believes the design of the project necessitates such change.
	City Response - August 31, 2020	Determinations about site impacts and associated financial responsibilities should be resolved with the annexation. As stated above, as part of standard practice, the City mitigates for any damage or modifications to existing structures, including access roads, that results from a flood mitigation project.
	CU Response - October 5, 2020	CU agrees that the City shall pay for reconstructing South Loop Dr. to accommodate the dam infrastructure and in a manner that re-establish access to the area south of the proposed dam. CU shall review the construction plans during the City's bidding process and such plans will be subject to the mutual approval of the City and CU. Our understanding is that this road base is being built to an 80' width to accommodate future multi modal improvements. The City will be responsible for a 25' paved section to replace the existing access road. CU will be responsible for the expansion of that road in the future to meet multi-modal standards. The City shall work with the floodplain design to locate the road in the least flood prone area feasible in order to minimize impacts from future flood events. If damage to the road is caused by the construction or operation of the flood mitigation project, the City shall be liable for any repair or replacement costs.
<b>14</b>	<b>Key Issue</b>	<b>Future claims and damages</b>
	City Policies or Council Direction	As part of standard practices, and as required by the State Engineer's Office, the City takes responsibility for the performance and safety of its dams and flood mitigation structures.
	CU Statement (Feb. 2, 2019)	The City will bear the costs and responsibilities of any claims or damages resulting from the failure of the design, construction, performance and/or safety of the Project and related structures and appurtenances. City shall be responsible for its negligent acts and omissions.
	Staff Response to Feb. 2, 2019 CU Statement	The City will be the permit holder for the project and responsible for compliance with applicable state and federal regulations. Nothing in the annexation agreement will be construed to constitute any waivers in the Colorado Governmental Immunity Act.
	CU Response - January 16, 2020	Comment noted.
	City Response - August 31, 2020	This topic appears to be resolved.
	CU Response - October 5, 2020	Agreed. Please document this in the annexation agreement.
<b>15</b>	<b>Key Issue</b>	<b>Wetland and habitat mitigation for project direct impacts</b>
	City Policies or Council Direction	The project team will secure all necessary environmental permits and mitigate for the project's direct environmental impacts. At the concept design stage, the project team had anticipated restoring habitat on OS-O to fulfill any wetland and habitat mitigation requirements. The Guiding Principles state that in the area protected by the existing CU levee floodplain functions, including wetlands and flood mitigation, may be restored as part of compensatory mitigation for impacts elsewhere on site.
	CU Statement (Feb. 2, 2019)	If any jurisdictional wetlands are damaged or displaced as a result of the flood mitigation needs of the City, it is the responsibility of the City to secure any applicable wetland permits and mitigate the loss of the wetlands through Section 404 of the Clean Water Act.
	Staff Response to Feb. 2, 2019 CU Statement	<ul style="list-style-type: none"> <li>The City is responsible for obtaining all necessary environmental permits and mitigate for loss of wetlands through Section 404 of the Clean Water Act.</li> <li>On September 20, 2018, Council stated a preference for implementing the July 11, 2018 OSBT recommendations that the University protect or convey the OS-O land to the City as part of annexation, with the City having responsibility for subsequent management and any restoration, including utilizing this area for wetland and habitat mitigation purposes needed for the flood mitigation project.</li> <li>In addition to Section 404 permitting, the City expects that CU Boulder will also follow the requirements of the City's wetlands requirements.</li> </ul>
	CU Response - January 16, 2020	After key issues around the annexation have been resolved, further discussion of the details intended here is warranted.
	City Response - August 31, 2020	Comment Noted

	CU Response - October 5, 2020	CU agrees that the City shall be responsible for the mitigation of wetlands on any land on this site that it ultimately owns as a result of this annexation agreement. CU reserves the right to conduct any required wetland mitigation in the OS-O area (whether owned by OSMP or CU) that is required due to impacts related to development of the Public area of CU South in compliance with the Guiding Principles statement that in the Area Protected by Levee System/Area of Greater Open Space and Ecological Value: Compensatory Mitigation: floodplain functions (including wetlands and flood mitigation) may be restored as part of compensatory mitigation for impacts elsewhere on site.
<b>Levee Removal</b>		
<b>16</b>	<b>Key Issue</b>	<b>Remove the existing levee system.</b>
	City Policies or Council Direction	Remove the existing levee system and restore underlying land to improve riparian connectivity between CU South OS-O area and South Boulder Creek. The existing CU levee does not affect the overall hydrology for the flood mitigation project but armoring of specific land areas inside of the existing CU levee may be required to avoid scour and erosion during a storm event.
	CU Statement (Feb. 2, 2019)	CU Boulder remains open to the removal of the berm/levee by the City per our letter of October 1, 2018 to City Council. If the levee is removed, the following are required: 1) the City will ensure, at its sole cost and expense, that construction and/or operation of the Project and related structures and appurtenances and/or removal of the berm/levee shall not increase the FEMA 100- year or 500-year floodplain, as may be established from time to time, and will not extend or increase any wetland area on any of the Property, now or in the future; 2) CU Boulder will be provided the first option to use or sell the berm/levee material if the berm/levee is removed; and 3) the City will be responsible for securing all federal, state, and other governmental approvals to remove the berm/levee.
	Staff Response to Feb. 2, 2019 CU Statement	<ul style="list-style-type: none"> <li>• The City will be responsible for securing all federal state, and other governmental approvals as needed for the flood mitigation project.</li> <li>• The City will not intentionally create additional wetlands or expand the floodplain on the "Development Tract," (PUB land use area outside of the flood mitigation detention area) but cannot guarantee the site's wetland and floodplain mapping or designation performed in the future by federal, state or local regulatory agencies.</li> <li>• City only intends to remove the levee if the land including the levee is under City ownership, where the berm material is considered appurtenant to the land. Acquisition of that land could include discussions and negotiations regarding timing for removal, staging, transport and/or potential uses of the fill by both parties.</li> <li>• The City cannot be responsible for future changes to the flood plain that are regulated by FEMA.</li> </ul>
	CU Response - January 16, 2020	Future negotiations will include discussion of the ownership rights to the berm/levee material, once the 6 key issues have been resolved.
	City Response - August 31, 2020	The City shall be fully responsible for any future increase to the floodplain as a result of the City's Project.
	City Response - August 31, 2020	Conveyance of OS-O land will be a critical part of a community benefits package for the annexation. The City only intends to remove the levee if the land including the levee is under City ownership, where the berm material is considered appurtenant to the land. Acquisition of that land could include discussions and negotiations regarding timing for removal, staging, transport and/or potential uses of the fill by both parties. Discussions are needed to understand the second comment regarding being responsible for future increases in the floodplain on the site.
	CU Response - October 5, 2020	If the University and City agree that the City will purchase OS-O acreage beyond the 80 acres offered as part of the annexation community benefits, CU agrees that the levee material is appurtenant to the land if we sell/convey the OS-O land directly under the levy, provided that the value of the levee dirt is accounted for in the valuation of the land.
<b>17</b>	<b>Key Issue</b>	<b>Determine use of levee fill material</b>
	City Policies or Council Direction	Early project cost estimates assumed use of levee fill removal for the project.
	CU Statement (Feb. 2, 2019)	If the levee/berm is removed, CU Boulder, as the owner of the fill, retains the right to the material, and will either use or sell the material.
	Staff Response to Feb. 2, 2019 CU Statement	See City comments regarding acquisition of OS-O land. The City only intends to remove the levee if the land including the levee is under City ownership. The City asserts that the existing CU levee is an appurtenance to the land that would be included in the acquisition of OS-O land and the City would retain the right to use or sell the material, however acquisition of that land could include discussions/negotiations regarding timing for removal, staging, transport and/or potential uses of the fill by both parties.
	CU Response - January 16, 2020	Future negotiations will include discussions of the possibility of CU selling the OS-O land upon which the berm/levee resides. CU retains ownership rights to this berm/levee material even though it resides on top of potential City land. City shall bear all costs associated with removing said berm/levee.
	City Response - August 31, 2020	The City considers the levee material as an appurtenant to the land. It appears that there is disagreement about if and how the levee material would be used in the future or valued in a transaction.
	CU Response - October 5, 2020	CU agrees that the City can take down the levee as long as it doesn't increase flood plain impacts to the land designated as PUB. CU has offered 80 acres to the City as part of this project, which, under the current design allows up to 44 acres of land for the City to offer to Open Space in compensation for the 5 acres of open space required for the project. CU agrees that the levee material is appurtenant to the land if we sell/convey the OS-O land directly under the levee, provided that the value of the levee dirt is accounted for in the valuation of the land. Should the 44 acres be designated on land including the levee, the City must compensate CU for the appraised value of the levee material.
<b>18</b>	<b>Key Issue</b>	<b>Determine responsible party for securing approvals.</b>
	City Policies or Council Direction	The City will be responsible for all federal, state and other governmental approvals for the flood mitigation project.
	CU Statement (Feb. 2, 2019)	The City will be responsible for securing all federal, state, and other governmental approvals to remove the berm/levee. The City is also responsible for all associated costs and fees.
	Staff Response to Feb. 2, 2019 CU Statement	The City will be responsible for all federal, state and other governmental approvals for the flood mitigation project.
	CU Response - January 16, 2020	Comment noted.
	City Response - August 31, 2020	This topic appears resolved.
	CU Response - October 5, 2020	Complete!
<b>19</b>	<b>Key Issue</b>	<b>Impacts to floodplain on CU South</b>

City Policies or Council Direction	The flood mitigation project will detain water on CU South, which will affect the floodplain in the area of detention and also following removal of the existing CU levee (in PK-U/O and OS-O land use areas). The detention area will be defined with a flood mitigation easement with CU. The 100-year and 500- year floodplain would not increase in the PUB land use area.
CU Statement (Feb. 2, 2019)	The University intends to convey the area used for flood mitigation purposes to the City. The City must ensure, at its sole expense, that construction and/or operation of the flood mitigation dam and related structures and removal of the berm/levee shall not increase the FEMA 100-year or 500-year floodplain areas on any of the Property, now or in the future.
Staff Response to Feb. 2, 2019 CU Statement	The City will design the flood mitigation project in accordance with state and federal regulations including FEMA's applicable requirements for avoiding adverse impacts to the floodplain. At the conclusion of the project the City will submit a Letter of Map Revision for acceptance by FEMA. Future flood mapping is out of the City's purview given the decision-making authority of FEMA and the State of Colorado. It is possible that in the future criteria could change, models could improve, or through climate change design storms and hydrology could change that would impact the future designation of floodplains. For these reasons, the City would not be able to ensure that the floodplain designations on CU South would not change in the future.
CU Response - January 16, 2020	Proper design and engineering by the City shall be conducted to ensure that future approved FEMA floodplain mapping does not increase the existing floodplain. CU shall be consulted throughout the design and engineering process.
City Response - August 31, 2020	More discussion is needed to better understand this comment. For example, the floodplain will be altered as part of the flood mitigation project.
CU Response - October 5, 2020	The University requires that the floodplain designation for the area designated as Public remains above (or outside) the 500-year flood plain with any changes the City makes to the property including removal of the levee.
<b>20 Key Issue</b>	<b>Future claims or damages</b>
City Policies or Council Direction	As part of standard practices, and as required by the State Engineer's Office, the City takes responsibility for the performance and safety of its construction projects
CU Statement (Feb. 2, 2019)	The City will bear the costs and responsibilities of any claims or damages resulting from the failure of the design, construction, performance and/or safety of the Project and related structures and appurtenances. City shall be responsible for their negligent acts and omissions.
Staff Response to Feb. 2, 2019 CU Statement	The City will be the permit holder for the flood mitigation project and responsible for compliance with applicable state and federal regulations.  The City will not waive any of the provisions of the Colorado Governmental immunity act.
CU Response - January 16, 2020	Comment noted.
City Response - August 31, 2020	This comment appears resolved.
CU Response - October 5, 2020	Complete!
<b>Open Space</b>	
<b>21 Key Issue</b>	<b>Open Space Conveyance Area east and outside of the existing levee</b>
City Policies or Council Direction	On Sept. 20 Council stated a preference for implementing the July 11 OSBT Recommendation: Convey 44 acres east and south of the existing CU levee to OSMP, with subsequent management and any restoration to be funded by OSMP.
CU Statement (Feb. 2, 2019)	If City or a City-related entity wishes to acquire additional portions (for example in OS-O area) of the Property for open space or other uses, then subject to University's approval (determined in its sole discretion) and agreement, City may purchase such land at fair market value as determined by a third-party appraisal. Any conveyance of University-owned land contemplated herein shall be subject to approval by The Regents of the University of Colorado.
Staff Response to Feb. 2, 2019 CU Statement	On September 20, 2018, Council stated a preference for implementing the July 11, 2018 OSBT recommendations that the University convey 44 acres east and south of the existing CU levee to OSMP as part of annexation, with subsequent management and any restoration.
CU Response - January 16, 2020	<i>Key Issue #4(i) - From letter dated 3/28/19</i>  <i>On September 20, 2018, Council stated a preference for implementing the July 11, 2018 OSBT recommendations that the University: (i) convey 44 acres of OS-O land east and south of the existing CU levee to the City,</i>  <i>CU Response: The University, as stated in our application, is open to discussing sale of a portion of the OS-O designated land to the City for Open Space.</i>
City Response - August 31, 2020	Conveyance of the OS-O land east and south of the existing levee to the City of Boulder is a high priority. Staff seeks to implement the Sept. 20, 2018 OSBT recommendation, as noted above, as part of the community benefit package to be considered with the annexation.
CU Response - October 5, 2020	CU has offered 80 acres to the City as part of this project, under which, the current project design utilizes 36 acres and allows 44 acres of land for the City to offer to Open Space in compensation for the 5 acres of open space required for the project. The University agrees that the City may apply this to the acreage of OS-O land east and south of the existing CU levee. Should the City desire additional acreage, CU will offer to sell additional OS-O acreage (except that required for recreational fields) at fair market value.  If the parties cannot agree on the fair market value of the OS-O land contemplated for sale (the "Subject Property"), each party shall appoint an appraiser (except as otherwise provided in this paragraph), the costs for which shall be paid by the appointing party. If either City or CU does not appoint an appraiser within ten business days after receipt of the other party's designation of an appraiser, then the appraiser selected by the party selecting the appraiser shall act as the sole appraiser in determining fair market value (the costs for such sole appraiser shall be shared equally by the parties). If both parties have designated an appraiser then each appraiser shall, within forty-five days of the later appointment, independently determine the fair market value of the Subject Property. If the two determinations of fair market value are within ten percent of each other (using the higher determination as a reference), the two determinations shall be averaged, and such average shall be the fair market value of the Subject Property. If the two appraisers disagree by an amount greater than ten percent (using the higher determination as a reference), the two appraisers shall select a third appraiser within ten business days (the costs for which shall be shared equally by the parties) who shall, within forty-five days, independently and without knowledge of the two appraisals previously made, determine the fair market value, and the fair market value of the Subject Property shall be the average of the two appraisals which are closest in value.

22	Key Issue	Open Space Conveyance Area protected by Levee, within OS-O area
	City Policies or Council Direction	On Sept. 20 Council stated a preference for implementing the July 11 OSBT Recommendation: Convey 40 acres west and north of the existing CU levee to OSMP and restore approximately 17.4 acres as part of the flood mitigation project. Support through annexation conveyance and/or permanent protection of the remaining OS-O area inside the levee (appx. 35 acres) for long-term protection and possible restoration.
	CU Statement (Feb. 2, 2019)	If City or a City-related entity wishes to acquire additional portions (for example in OS-O area) of the Property for open space or other uses, then subject to University's approval (determined in its sole discretion) and agreement, City may purchase such land at fair market value as determined by a third-party appraisal. Any conveyance of University-owned land contemplated herein shall be subject to approval by The Regents of the University of Colorado.
	Staff Response to Feb. 2, 2019 CU Statement	On September 20, 2018, Council stated a preference for implementing the July 11, 2018 OSBT recommendations that the University convey 40 acres west and north of the existing CU levee and convey or protect the remaining 35 acres of OS-O to OSMP as part of annexation. Conveyance of the OS-O land would include features and material thereon (e.g. the existing CU levee) as real property appurtenances.
	CU Response - January 16, 2020	<p>Key Issue #4 (ii and iii) - From letter dated 3/28/19</p> <p>On September 20, 2018, Council stated a preference for implementing the July 11, 2018 OSBT recommendations that the University: (ii) convey 40 acres of OS-O land west and north of the existing CU levee and (iii) convey or protect the remaining 35 acres of OS-O land. Conveyance of the OS-O land would include features and material thereon (e.g. the existing CU levee) as real property appurtenances.</p> <p><i>CU Response: The University, as stated in our application, is open to discussing sale of a portion of the OS-O designated land to the City for Open Space.</i></p>
	City Response - August 31, 2020	Conveyance of the OS-O land within this area to the City of Boulder is a high priority. Staff seeks to implement the Sept. 20, 2018 OSBT recommendation, as noted above, as part of the community benefit package to be considered with the annexation.
	CU Response - October 5, 2020	Should the City desire additional acreage beyond the 80 acres offered under community benefits, we will sell the OS-O, pending approval of the University of Colorado Board of Regents, on mutually agreeable terms and fair market value as established by an independent, 3rd party appraisal. If the PK-U/O area provides less than 30 acres for CU Boulder's future recreational fields, then an area equivalent to the shortfall in area shall be allocated from adjacent OS-O land, which will reduce the amount of OS-O area available for purchase.
23	Key Issue	Restoration and other uses/activities allowed in OS-O
	City Policies or Council Direction	<p>Guiding Principles state that the City will...collaborate with CU to protect and improve the delivery of open space, restore high ecological value areas and/or provide areas for recreation in lower ecological value areas. The City and CU will work together to achieve greater open space acreage as part of either larger City open space conservation areas or limited-structural build, such as community gardens, recreation, solar gardens, etc.</p> <p>However, OSBT recommended that all of OS-O be conveyed to OSMP or permanently protected as Open Space, which would not allow for community gardens, recreational ball fields, solar gardens, etc.</p>
	CU Statement (Feb. 2, 2019)	<p>CU Boulder remains committed to the BVCP Guiding Principles, as stated. The City and CU Boulder will work together to achieve greater open space acreage as part of either larger City open space conservation areas or limited-structural builds, such as community gardens, recreation, solar gardens, etc.</p> <p>Restoration of any portion of the Property designated OS-O under the BVCP for ecological benefits desired by the City or related entity will be done in partnership with CU Boulder with costs borne by the City or related entity. If City or a City-related entity wishes to acquire additional portions (for example in OS-O area) of the Property for open space or other uses, then subject to University's approval (determined in its sole discretion) and agreement, City may purchase such land at fair market value as determined by a third-party appraisal. Any conveyance of University-owned land contemplated herein shall be subject to approval by The Board of Regents of the University of Colorado.</p>
	Staff Response to Feb. 2, 2019 CU Statement	<p>Clarification is needed to determine whether the University agrees with OSBT recommendations for conveyance or permanent protection of all of OS-O, which would not allow community gardens, recreational ball fields, solar gardens. See previous comments regarding options for addressing CU Boulder's interests in recreational fields.</p> <p>When CU Boulder develops the PUB land use area in the future, wetlands or other habitat mitigation may be required. The City is open to CU restoring for mitigation purposes any areas that would be permanently protected as City open space through the annexation agreement, with costs borne by the University.</p>
	CU Response - January 16, 2020	<p>CU Response: At this time it appears the City is settling on some level of Variant I. CU remains committed to collaborating with the City on uses and activities in the OS-O area except for acreage that may be swapped for acreage in the Public area to allow for the development of the flood project.</p> <p>Restoration of any portion of the Property designated OS-O under the BVCP for ecological benefits desired by the City or related entity will be done in partnership with CU Boulder with costs borne by the City or related entity. If City or a City-related entity wishes to acquire additional portions (for example in OS-O area) of the Property for open space or other uses, then subject to University's approval (determined in its sole discretion) and agreement, City may purchase such land at fair market value as determined by a third-party appraisal. Any conveyance of University-owned land contemplated herein shall be subject to approval by The Board of Regents of the University of Colorado."</p>
	City Response - August 31, 2020	Conveyance of the OS-O land to the City of Boulder is a high priority. Staff seeks to implement the Sept. 20, 2018 OSBT recommendation, as noted above, as part of the community benefit package to be considered with the annexation.
	CU Response - October 5, 2020	This section addresses restoration. For any portion of the OS-O area the City buys from CU, the City is solely responsible for restoration. Note that the issue of the City buying any OS-O land is addressed above in issue #21.
24	Key Issue	Realign Dry Creek Ditch #2 and Secure Water Rights
	City Policies or Council Direction	On Sept. 20 Council stated a preference for implementing the July 11 OSBT Recommendation: Realign ditch to west of open space conveyance and restoration area, to extent practical and acceptable to the ditch board and CU and acquire sufficient water rights to support City's restoration goals.

	CU Statement (Feb. 2, 2019)	Any realignment of Dry Creek Ditch No. 2 is to be designed in a manner that does not increase the existing 100-year or 500-year floodplain, as may be determined from time to time, and will not increase the presence of wetlands on the CU Boulder Development Tract. CU Boulder will be fairly compensated by the City for any land area that ceases to be developable due to building setbacks from the Dry Creek Ditch No. 2.  If the University agrees, the City may, at its sole cost, realign Dry Creek Ditch No. 2.  If the University agrees, the City may acquire or lease the University's water rights in Dry Creek Ditch No. 2.
	Staff Response to Feb. 2, 2019 CU Statement	The City would want First Right of Refusal on water rights as a condition of the provision of water service, per §11-1-19. The City would waive this requirement if water rights are conveyed to the City for open space and restoration purposes.  Once decisions are made regarding ownership and permanent protection of open space and restoration on OS-O and ownership of the water rights, the City may seek to realign the Dry Creek No. 2 ditch for the purpose of providing irrigation to City open space and restoration areas. Any design modifications and realignment of the ditch for the purposes of irrigation would require collaboration and approval from the Dry Creek No. 2 Ditch Company.
	CU Response - January 16, 2020	Water Rights regarding Dry Creek Ditch No. 2 will be discussed in the future after the 6 key issues have been resolved.
	City Response - August 31, 2020	Conveyance of the water rights in Dry Creek Ditch #2 is a high priority. Staff seeks to implement the Sept. 20, 2018 OSBT recommendation as part of the community benefit package to be considered with the annexation.
	CU Response - October 5, 2020	The University cannot commit to any disposal of water rights at this time. All of the University water rights are under review by a consultant.
	<b>Transportation Impacts</b>	
<b>25</b>	<b>Key Issue</b>	<b>Performance- based transportation</b>
	City Policies or Council Direction	Guiding Principles state that... The transportation needs generated by future development at the site will not unduly impact the transportation networks that serve the property. Impacts to local and regional networks will be mitigated through implementation of performance- based standards. The City and CU will complete additional planning and transportation analysis to further develop performance-based standards, including but not limited to maximum amount of parking, trip budgets, transit use, pedestrian and trail connections and access to transit passes. Planning considerations will be addressed collaboratively by the City and CU and will include innovative and long-range technologies, including electric vehicles, autonomous vehicles, etc. as well as possible joint options with City-funded transit.
	CU Statement (Feb. 2, 2019)	CU Boulder remains committed to the Guiding Principles and will work with the City to identify a performance-based transportation plan at the time that a Concept Design is presented to the City by CU Boulder.
	Staff Response to Feb. 2, 2019 CU Statement	The multi-modal traffic access study must be completed, and the study's conclusions / recommendations concurred by City staff prior to the annexation application being heard by Planning Board. This study will need to inform the performance standards that will be included in the annexation agreement.
	CU Response - January 16, 2020	Key Issue #5 - From letter dated 3/28/19 Conduct a transportation analysis to determine necessary public improvements, access/circulation and performance standards. The City and University both agree that performance-based transportation standards will be developed (e.g. trip budget). It is City staff's understanding that a transportation analysis will be conducted prior to annexation to inform these standards, though the application states that they will be developed at the time of University's Concept Design (i.e. post annexation). Clarification and further discussions are needed around the issue of when these standards will be developed. City staff views multi-modal connections through the site and to the RTD Park-N-Ride as critical factors in mitigating transportation-related impacts of future development. As such, City staff will recommend to City Council that, as part of the University's development program, CU Boulder:  <ul style="list-style-type: none"> <li>• Construct a 12' wide multi-use path with 2' wide shoulders on each side of the path along the west boundary of the site on an alignment consistent with what's in the Transportation Master Plan (TMP) from SH-93 to Table Mesa Drive;</li> <li>• Construct an east / west 12' wide multi-use path with 2' wide shoulders on each side of the path on the north side of South Loop Drive between Table Mesa Drive and the US-36 Bikeway path on an alignment consistent with the TMP;</li> <li>• Enhance the existing bike and pedestrian connection on Table Mesa Drive / S. Boulder Rd from the RTD Park-and-Ride Lot to South Loop Drive. This work would involve the construction of a 12' wide multi-use path and the construction of a buffered bike lane on the east side of Table Mesa Road; and</li> <li>• Obtain the CDOT Access Permit for the new access point (curb-cut) from SH-93. CU Boulder shall pay for the construction of the new intersection and traffic control (stop sign and/or traffic signal) as required by CDOT. CU Response: No. As we stated, CU Boulder remains committed to the Guiding Principles and will work with the City to identify a performance-based transportation plan at the time that a Concept Design is presented to the City by CU Boulder.</li> </ul> <i>CU Response: We are open to discussing these requests with the City when more detail can be provided, in the context of the entire agreement and with resolution of other key issues.</i>
<b>Trans, Pl</b>	City Response - August 31, 2020	Comment Noted
	CU Response - October 5, 2020	CU and the City are working jointly on a transportation analysis to set a baseline against which further analysis can be judged in the future when CU is ready to commence development. CU will work with the City to ensure good connections and alignments are created. Please provide updated information regarding the impacts and potential conflicts of the selected flood mitigation project on TMP alignments.
<b>26</b>	<b>Key Issue</b>	<b>Multi-modal hub</b>
	City Policies or Council Direction	Guiding Principles state that... Implement a multimodal mobility hub and transit connections between the CU South Boulder property and other Boulder campus locations to manage employee and resident access and mobility.

	CU Statement (Feb. 2, 2019)	As agreed to in the Guiding Principles, CU Boulder will create a multi-modal hub for transportation when a requisite number of employees and residents are occupying and accessing the Property at a level that justifies the creation of such multi-modal hub.  On other areas of the Boulder campus, CU Boulder typically includes Vehicular Area Guidelines in the Design Guidelines. Examples of these include: <ul style="list-style-type: none"> <li>• Enhance existing streets throughout for safer multi-modal movement and improved appearance utilizing surfacing, lighting, signage, bicycle parking, and site accessories.</li> <li>• Recognize that campus policy is to give pedestrians and bicycles priority over service and private vehicles in multimodal areas.</li> <li>• Provide facilities and amenities to encourage alternative means of travel to and from campus, such as information kiosks, bus shelters, maps, and visitor directions.</li> </ul>
	Staff Response to Feb. 2, 2019 CU Statement	Prior to the annexation application being heard by Planning Board, specific information about the standards and construction timing for a mobility hub will be developed. The multi-modal traffic access study will evaluate the level of transit service to provide convenient service and connectivity between CU Boulder campuses and residential facilities.
	CU Response - January 16, 2020	CU Response: We are open to discussing these requests with the City when more detail can be provided, in the context of the entire agreement and with resolution of other key issues.
	City Response - August 31, 2020	Comment Noted. The City recommends a meeting to further discuss minimum requirements for a future multi-modal hub (e.g., features, location). The City expects a greater level of detail within the annexation agreement.
	CU Response - October 5, 2020	CU and the City are working jointly on a transportation analysis to set a baseline against which further analysis can be judged in the future when CU is ready to commence development.
<b>27</b>	<b>Key Issue</b>	<b>Multi-Modal Access</b>
	City Policies or Council Direction	
	CU Statement (Feb. 2, 2019)	
	Staff Response to Feb. 2, 2019 CU Statement	<ul style="list-style-type: none"> <li>• City staff will recommend to City Council that CU Boulder construct a 12' wide multi-use path with 2' wide shoulders on each side of the path along the west boundary of the site on an alignment consistent with what's in the Transportation Master Plan (TMP) from SH-93 to Table Mesa Drive. CU Boulder will grant access to the public for the multi-use path.</li> <li>• City staff will recommend to City Council that CU Boulder construct an east / west 12' wide multi-use path with 2' wide shoulders on each side of the path on the north side of South Loop Drive between Table Mesa Drive and the US-36 Bikeway path on an alignment consistent with the TMP. CU Boulder will grant access to the public for the multi-use path.</li> <li>• City staff will recommend to City Council that CU Boulder enhance the existing bike and pedestrian connection on Table Mesa Drive / S. Boulder Rd from the RTD Park-and-Ride Lot to South Loop Drive. This work would involve the construction of a 12' wide multi-use path and the construction of a buffered bike lane on the east side of Table Mesa Rd.</li> <li>• City staff will recommend to City Council that CU Boulder reserve the right-of-way and permit access by the public for any of the other multi-use paths shown in the TMP on the site.</li> <li>• City staff will recommend to City Council that CU Boulder maintain the existing paths on the site and grant access to the public.</li> <li>• The main internal streets on the site shall be designed and constructed by CU Boulder and shall include multi-modal design features.</li> </ul>
	CU Response - January 16, 2020	CU Response: CU is years away from creating a development plan for the area and the suitability of a mobility hub will depend upon the final flood project scale and boundaries and whether housing is constructed on the site.
	City Response - August 31, 2020	See comment above in topic #26.
	CU Response - October 5, 2020	CU has agreed through the Guiding Principles to incorporate connected and safe pedestrian, bike and transit systems through CU South integrated into the broader City and regional bicycle and pedestrian network, including safe street crossings, trailhead(s), soft surface recreation trails, and a trail link(s) to the South Boulder Creek Trail in coordination with OSMP. When creating and maintaining recreational opportunities such as trail connections through the property, do so with consideration for likely and potential impacts to adjacent open space, and for mitigation of those impacts, as appropriate. Once the design of the flood project informs more detail on the need to move or construct new paths, we will work closely with the City to meet as many of these standards as possible.
<b>28</b>	<b>Key Issue</b>	<b>Access / Circulation</b>
	City Policies or Council Direction	
	CU Statement (Feb. 2, 2019)	
	Staff Response to Feb. 2, 2019 CU Statement	CU Boulder shall obtain the CDOT Access Permit for the new access point (curb-cut) from SH-93. CU Boulder shall pay for the construction of the new intersection and traffic control (stop sign and/or traffic signal) as required by CDOT. The existing multi-use path must be integrated into the design of the intersection.
	CU Response - January 16, 2020	CU Response: If access is required from SH-93 prior to CU's development of the area and is needed for the City to conduct, perform, execute, maintain, or in any other way operate their Project, now or in the future, the City is fully responsible for all costs and permits related to vehicle access from SH-93. City is also responsible for any multi-use path that is requested or necessitated prior to CU's development of the area.
	City Response - August 31, 2020	The City does not anticipate taking access from SH-93.
	CU Response - October 5, 2020	Provided that the City does not require hwy 93 access during construction of the flood project, CU agrees with the Staff Response from 2/2/2019.
<b>29</b>	<b>Key Issue</b>	<b>Connected multi-modal system</b>

	City Policies or Council Direction	Guiding Principles state that... Incorporate connected and safe pedestrian, bike and transit systems through CU South integrated into the broader City and regional bicycle and pedestrian network, including safe street crossings, trailhead(s), soft surface recreation trails and a trail link(s) to the South Boulder Creek Trail in coordination with OSMP. When creating and maintaining recreational opportunities, such as trail connections through the property, do so with consideration for likely and potential impacts to adjacent open space, and for mitigation of those impacts, as appropriate.
	CU Statement (Feb. 2, 2019)	On other areas of the Boulder campus, CU Boulder typically includes Vehicular Area Guidelines in the Design Guidelines. Examples of these include:  <ul style="list-style-type: none"> <li>• Place generously-sized bicycle parking areas along multimodal streets and near campus activity centers and student residence halls and courts.</li> <li>• Orient bus shelters to allow sufficient views of arriving buses and to provide shelter from prevailing winter winds and snow. Include seating, trash receptacles, bus schedules, and brightly lit interiors. Use vandal-resistant materials including break-resistant glazing and coated black steel structures and roofs.</li> <li>• Establish drop-off zones near major activity centers for convenient use. Provide seating for waiting, attractive landscaping, emergency telephones, and adequate lighting.</li> <li>• Provide landscaping in and around parking lots to soften hardscape appearances from streets, break up extended rows of cars, and provide shade.</li> <li>• Ensure adequate lighting for safe use and clear pathways from parking lots to adjacent building entrances. Design sufficient setbacks between parking lots and streets, which could include raised landscaping, berms, and/or walls to block views into the lot.</li> <li>• Include loading and service vehicle parking spaces adjacent to major buildings. Screen or buffer views to service areas where possible with a combination of screen walls, opaque enclosures, gates, and landscaping. Limit service parking to designated spaces only.</li> <li>• Provide raised curbs selectively along campus walkways to discourage all modes of transportation from crossing or parking on lawns or adjacent landscaping.</li> </ul>
	Staff Response to Feb. 2, 2019 CU Statement	<ul style="list-style-type: none"> <li>• The site development should provide children’s play areas if the anticipated CU Boulder housing would accommodate families. The BVCP calls out a Level of Service standard for playgrounds at 1/4 mile. Depending upon the proximity of future development on CU South, a playground may be warranted. At a minimum, sidewalk and path connections should be planned to connect future residents to the existing Tantra Park.</li> <li>• All landscaping within public rights-of-way and along private streets will meet the City’s minimum street tree and planting strip requirements.</li> <li>• Any roads or trails on land conveyed to the City, including any potential connectors to adjacent City Open Space, will either be designated by the City and become a part of the City’s Open Space system or abandoned by restoring the underlying land at the City’s expense. Designated roads and trails will need to be accessed from designated trailheads and access points. OSMP staff would like to remind CU of the following: all OSMP fences and boundaries must be respected at all times; and no gates, trail connections or other access points will be allowed from the CU property onto City Open Space without prior approval from the Open Space Board of Trustees and in accordance with the gate policy of OSMP.</li> <li>• In the spirit of the Guiding Principles, the City will coordinate with CU Boulder on the development of any new trail, or the designation or abandonment of any existing roads and trails, on land conveyed to the City. However, final determination on any of the above will be at the City’s sole discretion</li> </ul>
	CU Response - January 16, 2020	CU Response: CU will perform to the University standards listed and will consider playgrounds as appropriate to any housing developed on the site. Landscaping along right-of-ways will follow CU guidelines.
	City Response - August 31, 2020	More discussion is needed regarding these comments, particularly relating to urban parks and landscaping standards. The Urban Service Criteria & Standards (BVCP Chapter 7) provide minimum requirements or thresholds for facilities and services that must be delivered prior to approving new urban development in the unincorporated area, and they provide the City a basis for linking the phasing of growth to the planning provision of a full range of urban services in Area II (particularly in annexations).
	CU Response - October 5, 2020	City comments are not relevant to multi-modal systems. We stand by our prior comment from January 16th, 2020.
30	<b>Key Issue</b>	<b>Protect neighborhoods from Transportation Impacts</b>
	City Policies or Council Direction	Guiding Principles state that... The street design will minimize impacts into nearby residential neighborhoods, such as Tantra Park, Basemar, Martin Acres and High View.
	CU Statement (Feb. 2, 2019)	As agreed to in the Guiding Principles, CU Boulder will minimize impacts into nearby residential neighborhoods. CU Boulder shall be given access to City streets and roadways at such points as are reasonably necessary to develop the Property and consistent with applicable provisions of the state highway access code and City’s site access standards. The City will be given the opportunity to provide input during the Concept Design for CU Boulder South.
	Staff Response to Feb. 2, 2019 CU Statement	The multi-modal traffic access study will evaluate ways to minimize impacts to adjacent neighborhoods and other key issues.
	CU Response - January 16, 2020	CU Response: Per our May 20, 2019 letter, "We are open to discussing these requests with the City when more detail can be provided, in the context of the entire agreement and with resolution of the major issues above."
	City Response - August 31, 2020	Comment noted.
	CU Response - October 5, 2020	CU and the City are working jointly on a transportation analysis to set a baseline against which further analysis can be judged in the future when CU is ready to commence development.
31	<b>Key Issue</b>	<b>No Bypass</b>
	City Policies or Council Direction	Guiding Principles state that... Discourage any outside traffic from cutting through the property to avoid impacts to the Table Mesa Drive/Broadway connection.

	CU Statement (Feb. 2, 2019)	CU Boulder has committed to not creating a "bypass" roadway between SH 93 and US 36. CU Boulder will evaluate options for managing and restricting future traffic through traffic calming, speed reduction, and other design measures to ensure that a bypass roadway is not created between SH 93 and US 36.
	Staff Response to Feb. 2, 2019 CU Statement	Agreed. Provisions will need to be made to allow transit buses and emergency response vehicles access through the site. Additionally, the multi-modal traffic access study will evaluate ways to discourage through traffic.
	CU Response - January 16, 2020	CU Response: Per our May 20, 2019 letter, "We are open to discussing these requests with the City when more detail can be provided, in the context of the entire agreement and with resolution of the major issues above."
	City Response - August 31, 2020	Comment noted.
	CU Response - October 5, 2020	Agreement between staff and CU Boulder indicated by the CU Feb 2 comment and subsequent Staff response.
	<b>Building Mass, Height, and Design</b>	
<b>32</b>	<b>Key Issue</b>	<b>Viewsheds</b>
	City Policies or Council Direction	Guiding Principles state that... Buildings will be designed and sited in a manner to protect views and contribute positively to the character of the City's "gateway". Building location, massing and height will protect and complement views of the mountain backdrop, particularly the viewsheds from the US Highway 36 bike path, the South Boulder Creek Trail, US Highway 36 and State Highway 93.
	CU Statement (Feb. 2, 2019)	CU Boulder has high standards for future development across all of its campus, and shares the same values as the City regarding gateway character and preservation of the mountain backdrop. CU Boulder agrees, and notes that CU Boulder's PK-U/O and OS-O designated land is located closest to the US 36, the primary access point to the City. These areas will act as the "gateway" to the City by contributing towards the City of Boulder's BVCP Community Identity and Land Use Pattern Policy 2.05 Design of Community Edges and Entryways.  Preliminary viewshed analysis of the mountain backdrop demonstrate that buildings up to 110' will not impede views of the mountain backdrop, and we are restricting buildings to 55' through the Guiding Principles.  On other areas of the Boulder campus, CU Boulder includes Landscaping Guidelines that address the relationship between the campus and the natural foothills landscape, campus land contours, drainage, and plantings in relation to buildings.  <ul style="list-style-type: none"> <li>• Identify and preserve view corridors, especially to the mountain backdrop.</li> <li>• The 2007 Design Guidelines include Community Interface Guidelines, which address campus corners, edges, entrances, and connections between other CU Boulder campuses and the City.</li> <li>• Create large-scale landscape designs at campus corners including mass plantings and clear durable functional identification signage. Consult the campus signage standards for all signage designs.</li> <li>• Provide campus edge landscaping, signage, site accessories, and material selections to create a break between adjacent uses while maintaining a sense of continuity, softening views of perimeter parking lots, and improving safety for all modes of movement along the campus interconnections with the community.</li> <li>• Enhance transitions to and from the campus through appropriate lighting levels, simple and functional signage, appropriately scaled plant material, and elimination of clutter.</li> <li>• Link CU Boulder properties through functional circulation systems, similar landscaping and accessories, and directional signage.</li> </ul>
	Staff Response to Feb. 2, 2019 CU Statement	Viewshed Protection : Both the City and CU Boulder agree that identifying and protecting high- quality view corridors is important. City staff proposes a height ceiling concept as a method for protecting views of the mountain backdrop.  The height ceiling concept would include determining an elevation that no building can exceed. For example, the highest point on the southwest hillside is 5,465 (per City GIS) - roughly 100 feet from the lowest point of the Development Tract. A height ceiling at or around that elevation would allow 4 – 5 story buildings in the lower areas of the Development Tract, with progressively shorter buildings as the elevation increases toward the west. This approach could provide design latitude while protecting views of the mountain backdrop.  Outdoor Lighting: City staff propose that future lighting comply with the City's outdoor lighting standards to reduce impacts to wildlife in the South Boulder Creek riparian area. This would involve (i) compliance with the City's outdoor lighting standards and (ii) submit, at an appropriate time determined by the University, a Letter of Certification that the University's planned lighting complies with B.R.C. 9-9-16.g.
	CU Response - January 16, 2020	CU Response: Viewshields will be negotiated after the 6 key issues have been resolved.
	City Response - August 31, 2020	Comment Noted.
	CU Response October 5, 2020	CU agrees to the "ceiling" concept subject to drafting of more descriptive language on the method of determination. CU also agrees to comply with the specifications under City's outdoor lighting standards.
<b>33</b>	<b>Key Issue</b>	<b>Building Height</b>
	City Policies or Council Direction	Guiding Principles state that... Building heights will maintain general consistency with the City's height limits, with buildings varying in height and visual interest. Building heights will transition gently from the open space and to neighborhoods to the west.

	CU Statement (Feb. 2, 2019)	CU Boulder has agreed to "maintain general consistency with the City's height limits" which means that CU Boulder will abide by a height limit of 55 feet for the construction of buildings on CU Boulder South, with building height being measured as the vertical distance from the average of the finished ground level to the average height of a finished roof.  Natural grades and contours of the Property will allow for gentle transitions from open space and to neighborhoods to the west.
	Staff Response to Feb. 2, 2019 CU Statement	<p><b>Building Height</b> Buildings within the City of Boulder have been constructed with the City's height limit since 1971. More information is needed to determine if staff are supportive of using an alternate method for measuring building height, such as an analysis indicating a need to use an alternative approach.</p> <p>City and University staff are in agreement that future development will be designed with natural contours. However, more information is needed to quantify how this standard will be achieved. Please provide specific standards or a diagram showing how the University plans to meet this goal</p> <p><b>Regarding Varying Height</b> Please indicate your willingness to include the following standard as a guide for future master planning and site planning: §M-1-28(b) Please propose amendments as necessary.</p> <p><b>Regarding Transitions to Neighborhood:</b> City staff proposes that the annexation include a suite of tools the University would use to avoid or minimize noise and visual conflicts between adjacent residential land uses and future development. Examples include interface zones, transitional areas, site and building design and cascading gradients of density in the design of the site.</p>
	CU Response - January 16, 2020	CU Response: See our response above on Feb 2, 2019. City and CU staff are currently discussing standards for benchmark heights across the property.
	City Response - August 31, 2020	Please provide more specific information about why the measurements for building height, as prescribed in Article V, Section 84 of the Charter of the City of Boulder, cannot be applied to buildings on this site. Please also provide information about how the site will be designed to follow natural contours.
	CU Response - October 5, 2020	CU is a state entity and not subject to City code, however, in this case we can measure height consistent with the City's measurement methodology as follows: Height means the vertical distance from the lowest point within twenty-five feet of the tallest side of the structure to the uppermost point of the roof. The lowest point shall be calculated using the natural grade. The tallest side shall be that side whose lowest exposed exterior point is lower in elevation than the lowest exposed exterior point of any other side of the building.
34	<b>Key Issue</b>	<b>Wetlands</b>
	City Policies or Council Direction	Guiding Principles state that... Wetlands will be maintained, preserved, protected, restored and enhanced in a manner consistent with the City's Land Use Code.
	CU Statement (Feb. 2, 2019)	Agreed
	Staff Response to Feb. 2, 2019 CU Statement	<p>The City will require a wetland delineation of the flood mitigation project area for environmental permitting. Prior to the first reading of the annexation ordinance, all wetlands on the site must be delineated in compliance with the City's Stream, Wetland and Water Body ordinance. As previously discussed with CU Boulder staff, the City recommends that CU Boulder and the City conduct a joint wetland delineation, with costs split proportionate to the land area required for each purpose.</p> <p>As a condition of annexation, CU Boulder will be responsible for obtaining all necessary environmental permits and mitigate for environmental impacts resulting from any development on CU land, including a City of Boulder Stream, Wetland and Water Body permit.</p> <p>Any activities performed in the wetland or wetland buffer areas shall be regulated by the City's Stream, Wetlands and Water Body Protection ordinance and may require a wetland permit.</p>
	CU Response - January 16, 2020	CU Response: More discussion and detail is required for CU to respond.
	City Response - August 31, 2020	Comment noted. City staff recommend a meeting with the applicable staff to answer questions about these requirements.
	CU Response - October 5, 2020	CU agrees to conduct a joint wetlands delineation study prior to the first reading of the annexation ordinance. Expense for the delineation will be borne proportionally by each entity according to the final land ownership interests as determined by the annexation agreement. CU agrees that as a condition of annexation, CU Boulder will be responsible for obtaining all necessary environmental permits and mitigate for environmental impacts resulting from any development on CU land, including a City of Boulder Stream, Wetland and Water Body permit.
35	<b>Key Issue</b>	<b>Steep Slopes</b>
	City Policies or Council Direction	Guiding Principles state that... Development on slopes at or exceeding 15 percent will be minimized in a manner consistent with the City's Land Use Code.
	CU Statement (Feb. 2, 2019)	Agreed
	Staff Response to Feb. 2, 2019 CU Statement	<p><b>Hillside Development</b> The CU South Shapins Study (2002) identified potential building pads on portions of the western slopes, particularly the southwest slopes. The conceptual plan developed in 2017 included 66.2 acres identified as "Natural No Build Area Including Wetlands" along the eastern and western areas of the site.</p> <p>Section 9-2-17 of the City's Land Use Code states that "in annexations of hillside areas, the City council may impose conditions designed to mitigate the effects of development on lands containing slopes of fifteen percent or greater." As shown on page 18 of this map packet, several areas along the western portion of the site contain slopes that exceed 15 percent.</p> <p>Please provide a narrative or illustration describing areas along the western hillside that you do and do not anticipate exploring for future development. If you do anticipate development along the western hillside(s), please describe your approach to ensuring compatibility with adjacent land uses (e.g. housing type, density, building height, etc.) and specific steps to be taken to account for the suitability for future development and access (e.g. noise mitigation, lighting, etc.)</p>

	CU Response - January 16, 2020	CU Response: Once the City has selected a final flood mitigation project and negotiated with CU what final area will be available for development, recognizing that we will have no detailed development plans at time of annexation, we can agree to identify the areas available for development that have a 15% or greater slope and will agree not to develop within such areas. There will be no details beyond this to provide a narrative or illustration of before annexation is required.
	City Response - August 31, 2020	The City and CU Boulder appear to preliminarily agree on how to address this topic (e.g., steep slope avoidance, limited impact zone).
	CU Response - October 5, 2020	Complete.
<b>Site Design &amp; Quality</b>		
<b>36</b>	<b>Key Issue</b>	<b>Clustered, Village Design</b>
	City Policies or Council Direction	Guiding Principles state that... Residential development will be of high quality and contextually appropriate to neighboring properties.  Development will be compact, clustered in a village style. Any non-residential buildings will be human- scaled.
	CU Statement (Feb. 2, 2019)	Agreed.
	Staff Response to Feb. 2, 2019 CU Statement	During the study session on Oct. 9, City Council asked for more specific definitions for terms like "village concept". Below are examples of existing definitions with sources. Please respond to the following two questions:  1. Indicate your willingness to include these definitions in the annexation agreement and/or offer any suggested amendments.  2. Indicate when, in the University's process, design guidelines for CU South will be developed and how the City can provide input into the guidelines.  "High Quality": Building Design Quality and Aesthetics. Design high-quality buildings that are compatible with the character of the area through simple, proportional, and varied design, high quality and natural building materials that create a sense of permanence, and building detailing, materials and proportions (referenced from Boulder Land Use Code §M-1-3).  "Compact, clustered in a village style": The heart of the village will have a recognizable center, discrete physical boundaries, and a pedestrian scale and orientation. Residential buildings will be located in a contiguous group, with adjacent and fronting lots oriented toward each other in some ordered geometric way—as on a street, a green, or a paved square—and forming a distinct boundary with the surrounding countryside. Future planning will emphasize an orderly mix of land uses that meets the daily needs of on-site residents. This mix is intended to contain convenience retail, food services, personnel, and other student service uses as determined through further planning and consistent with University needs. Direct pedestrian linkages will be provided between residential and non-residential uses.  Human-scaled: 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 (referenced from Boulder Land Use Code §M-1-3). Usable open space is arranged to be accessible and functional and incorporates quality landscaping, a mixture of sun and shade and places to gather. Open space designated 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. The open space will provide a buffer to protect sensitive environmental features and natural areas. (Referenced from B.R.C. §9-2-14(h)-2(A))
	CU Response - January 16, 2020	CU Response: See response to "Review Process on Future Development Plans" above. CU has offered the City and community to have input on the campus Master Plan, and then a 60 day review and input on conceptual plans for the overall development of the site.
	City Response - August 31, 2020	Members of City Council and the Planning Board recently reiterated interest in further defining concepts that are included in the CU South Guiding Principles (e.g., village concept). Please review the proposal above and indicate whether the language would be acceptable to include in an annexation agreement. Staff's intent in proposing these concepts was for each to be incorporated into future design guidelines for the site. Staff appreciates the opportunity to review future plans at the conceptual design stage. However, future reviews alone will not provide certainty about how the concepts within the guiding principles will be implemented.
	CU Response - October 5, 2020	CU is working on overarching design guidelines for CU Boulder South and will work to provide those to the City by November 1.
<b>37</b>	<b>Key Issue</b>	<b>Structures within the 500- year floodplain</b>
	City Policies or Council Direction	Guiding Principles state that... All enclosed academic structures, offices, or residential uses will be constructed outside of the FEMA 500-year floodplain.
	CU Statement (Feb. 2, 2019)	As agreed to in the Guiding Principles, no habitable structures or academic buildings will be built on the Property within the FEMA 500-year floodplain.  Notwithstanding the foregoing, If additional land is required for the flood mitigation project outside of the PK-UO designated portion of the Property or if the City Council selects a flood mitigation project that would change the boundaries of the 500-year flood plain, or if the City proposes any other boundary changes, and University agrees to such adjustment, the City shall change the BVCP to allow development in the 500-year flood plain.

Staff Response to Feb. 2, 2019 CU Statement	<p>The flood mitigation project will be designed to mitigate for a 500-year storm event. As such, the detention area for the flood mitigation project will be in the 500-year floodplain. Although the City's floodplain regulations would allow buildings for human occupancy in the 500-year floodplain, the City would restrict such buildings in a flood mitigation detention area. Any future development in the detention area could affect the volume of water that would be detained, and therefore reduce the effectiveness of the mitigation project.</p> <p>If necessary, City staff will coordinate the review of Land Use Map changes. Such changes, if made prior to annexation, require approval of the City of Boulder Planning Board and City Council, with a Call-up option for the Boulder County Board of County Commissioners. The land use change may be processed prior to public hearings on the annexation application.</p> <p>Critical Facilities. Any structure in the floodplain consider a critical facility or lodging facility (including student housing) will require an emergency management plan approval prior to issuance of a floodplain development permit, that meets the requirements of the City's floodplain development regulations. All structures in the floodplain will be required to comply with the City's floodplain development regulations in effect at the time of permitting and may require a floodplain development permit.</p>
CU Response - January 16, 2020	<p>CU Response: As long as the University retains the right to develop no less than 129 acres in the area designated as Public, the University commits that no habitable structures or academic buildings will be built on the site within the FEMA 500-year flood plain. CU will follow FEMA regulations regarding floodplain development and will submit a floodplain development permit to the City of Boulder. CU is not required to follow the Critical Facilities Ordinance or High Hazard zone requirements, as those are local regulations. If the University does not retain the right to develop the full 129 acres in the area designated as Public and is granted the right to develop some acreage in the area designated as OS-O, the University will be allowed to develop in the 500 year flood plain, if any, in those OS-O designated acres.</p>
City Response - August 31, 2020	<p>City Council directed staff to proceed with the Variant 1, 100-year concept, which anticipates 129 acres of land available for future University development. Please see comments above (Topic #6) concerning floodplain management.</p>
CU Response - October 5, 2020	<p>CU's January 16 response still stands.</p>
<p><b>38</b> <b>Key Issue</b></p>	<p><b>Building Standards</b></p>
City Policies or Council Direction	<p>Guiding Principles state that... It will model future resilience and sustainability for design, construction, and maintenance strategies. Development will meet the equivalent of the U.S. Green Building Council's Gold or Platinum LEED standards or other applicable sustainability standards for residential development.</p>
CU Statement (Feb. 2, 2019)	<p>CU Boulder's development will model future resiliency and sustainability for design, construction and maintenance strategies. CU Boulder is required by the state to build to USGBC LEED Gold or equivalent.</p>
Staff Response to Feb. 2, 2019 CU Statement	<p>City staff proposes that future development meeting the USGBC LEED Gold standard achieve 12 points within the Energy and Atmosphere credit number two: Minimum Energy Performance. The University would share a copy of the LEED application once submitted and the final LEED certification once received by the USGBC.</p>
CU Response - January 16, 2020	<p>CU Response: CU Boulder's development will model future resiliency and sustainability for design, construction and maintenance strategies. CU Boulder is required by the state to build to USGBC LEED Gold or equivalent.</p>
City Response - August 31, 2020	<p>There appears to be general agreement about how to address this topic.</p>
CU Response - October 5, 2020	<p>Complete.</p>
<p><b>39</b> <b>Key Issue</b></p>	<p><b>Public access to site</b></p>
City Policies or Council Direction	<p>Guiding Principles state that... Access will continue to be allowed on the site consistent with public access provided on other CU campuses.</p>
CU Statement (Feb. 2, 2019)	<p>Agreed.</p>
Staff Response to Feb. 2, 2019 CU Statement	<p>Prior to annexation, submit a pre-development access management plan that describes, at a high level, how trash, public parking, signage and public access timing will be managed.</p> <p>Parks and Recreation• CU Boulder should consider the development of a formal running track with field sports as part of the Campus Master Plan update. Throughout the past several years, the City has gotten increasing numbers of track and field athletes approaching the City and requesting a new facility for these types of sports. This is in large part to decreased access of the public on to CU Boulder tracks and limited availability on Boulder Valley School District tracks. A new track and field venue at CU South, with some level of public access, would solve many of these types of challenges.</p> <ul style="list-style-type: none"> <li>• Similarly, City staff requests that CU Boulder consider a publicly accessible dog park in their future plans for CU South. This area has long performed as an off-leash dog area for all the various residential areas adjacent to the site and this area of the City could use a designated dog park. Currently, the City provides dog parks in the east part of the City (East Boulder Community Park, Valmont) and the north at Foothills Community Park.</li> <li>• Parks and Recreation staff will review and coordinate with the applicant to determine the appropriate park uses and sizes (for any shared parks and recreation facilities) according to the Parks and Recreation Design Standards and needs assessment of park amenities for the CU south area.</li> </ul>
CU Response - January 16, 2020	<p>CU Response: Access will continue to be allowed on the site consistent with public access provided on other CU campuses. CU will consider site amenities for public enjoyment during later designing phases.</p>
City Response - August 31, 2020	<p>City staff appreciates the University's recent interest in engagement in a dialogue with Parks &amp; Recreation and BVSD concerning future park and recreation uses.</p>
CU Response - October 5, 2020	<p>We commit to continuing the conversations with Parks and Recreation staff and BVSD to determine the future uses/needs for public recreation and the total acreage and placement they require. We agree to collaborate with City Parks and Recreation on mutually acceptable design standards for development of parks and rec facilities.</p>
<p><b>Land Use Mix</b></p>	<p><b>Prohibited Uses</b></p>
<p><b>40</b> <b>Key Issue</b></p>	<p><b>Prohibited Uses</b></p>
City Policies or Council Direction	<p>Guiding Principles state that... The site will not include large-scale sport venues (i.e., football stadium), high rise buildings (maintaining substantial consistency with the City's height limits), large research complexes, such as those on East Campus, roadway bypass between Highway 93 and Highway 36 or first-year student housing.</p>

	CU Statement (Feb. 2, 2019)	Agreed.
	Staff Response to Feb. 2, 2019 CU Statement	Prior to annexation, definitions for a large-scale sports venue and large research complex will be developed.
	CU Response - January 16, 2020	CU Response: Definitions will be provided after the 6 key issues have been resolved.
	City Response - August 31, 2020	Comment noted.
	CU Response - October 5, 2020	The guiding principles and examples above provide sufficient guidance along with the other restrictions CU has agreed to such as the 55 foot height limitation, viewshed protection and housing as the predominant use of the site (specifically not including non-first year student housing).
<b>41</b>	<b>Key Issue</b>	<b>Housing the Predominant Use</b>
	City Policies or Council Direction	Guiding Principles state that... Housing will be the predominant use of the site for areas not used for flood mitigation (i.e., with a target of 1,100 residential units and the final number guided by transportation performance and other site constraints), although the site may include a mix of residential and non-residential and facilities. The site will emphasize housing units over non-residential space (jobs) to help balance jobs and housing in the community.
	CU Statement (Feb. 2, 2019)	CU Boulder will prioritize building housing for faculty, staff, graduate students and non-first year students on the Property to facilitate the goal shared by CU Boulder and the City to provide more housing on University property. CU Boulder is committed to not building first year student housing on the Property and no fraternities or sororities will be located on this Property. CU Boulder cannot commit to a specific development plan at this time as no development plans currently exist.
	Staff Response to Feb. 2, 2019 CU Statement	No further comments by City staff.
	CU Response - January 16, 2020	CU Response: Should the City select a flood mitigation project that places an east-west dam across the entire north-end of the property, thereby isolating the developable property from Table Mesa and the local community, the University will need to determine if, and to what degree, housing remains suitable and feasible behind the dam. If housing is deemed suitable, the University commits that development on the site will be compact and clustered in a village style. (BVCP GP)
	City Response - August 31, 2020	City staff understands that the University's stance on this issue has evolved to include that housing will be the predominant use provided that multiple points of access are provided.
	CU Response - October 5, 2020	Now that the City has selected Variant 1-100 year, the University can recommit to housing being the predominant use with multiple points of access to the property.
<b>42</b>	<b>Key Issue</b>	<b>Housing for University needs</b>
	City Policies or Council Direction	Guiding Principles state that... Housing on the site will meet the needs of University faculty, staff and non-freshmen students in order to address the fact that Boulder housing is currently unaffordable to faculty, staff and students. Providing workforce and non-freshmen housing will contribute positively to the community's housing affordability goals and aid the University in its recruitment and retention. Housing should be mutually beneficial to the community and University and integrated with needs of the community rather than built as isolated enclaves.
	CU Statement (Feb. 2, 2019)	Agreed. If CU Boulder builds the anticipated 1,100 units on the Property, this would increase the City's total housing stock by over 2.4%, providing housing for CU Boulder staff, faculty and students, thereby relieving pressures on existing local housing stock and transportation arteries into the City.
	Staff Response to Feb. 2, 2019 CU Statement	For any future residential development the requirements of B.R.C. 9-13, Inclusionary Housing or any future affordable housing program that may replace Inclusionary Housing would apply unless the owner is otherwise exempt from zoning regulations.
	CU Response - January 16, 2020	CU Response: See the response above for "Housing for Predominant Use". CU is not subject to City zoning, or the Inclusionary Housing or affordable housing programs.
	City Response - August 31, 2020	The intent of the comment above was to be responsive to any future changes in property ownership (i.e., if the site is sold to a private property owner). While annexation agreements "run with the land", the City and CU Boulder should agree on contingencies that address future conveyance of the property to a non-state entity.
	CU Response - October 5, 2020	The University continues to intend that housing developed on the site will be to address faculty/staff and student needs. The potential of a future change in ownership of the property should be addressed in an additional separate section dedicated to this topic.
<b>43</b>	<b>Key Issue</b>	<b>Non-residential Uses</b>
	City Policies or Council Direction	Guiding Principles state that... The overall non-residential space footprint will be minimized and support and benefit the convenience of the residents, employees and visitors to residential and recreational uses of the property.  The exact amount, types and location of residential and non-residential space will be refined to minimize impacts as a long-term master plan is developed and as transportation analysis is conducted.  Academic facilities will include space for research and/or education pertaining to natural environment, such as ecological restoration, floodplains and related topics.
	CU Statement (Feb. 2, 2019)	Agreed.
	Staff Response to Feb. 2, 2019 CU Statement	The City acknowledges that a transportation analysis will be completed during the annexation review to determine the maximum amount of non-residential space and residential units.
	CU Response - January 16, 2020	Our long-term master plan and eventual development plans will inform a transportation many years from now. Further, non-residential uses as a percentage on the property may expand to 100% if the University should deem the property to be unsuitable for housing with the selection of Variant I.
	City Response - August 31, 2020	City staff understands that the University's stance on this issue has evolved to include that housing will be the predominant use provided that multiple points of access are provided.
	CU Response - October 5, 2020	CU agrees that housing will be the predominant use provided that multiple points of access to the site are provided. CU and the City are working jointly on a transportation analysis to set a baseline against which further analysis can be judged in the future when CU is ready to commence development.
<b>44</b>	<b>Key Issue</b>	<b>Phasing of Non-residential Development</b>
	City Policies or Council Direction	Guiding Principles state that... Except for recreation facilities, development will be phased such that non-residential space will be phased after a significant amount of housing is built. Later phases will be dependent on demonstrating that initial phases achieve objectives of mitigating impacts.
	CU Statement (Feb. 2, 2019)	Agreed.

Staff Response to Feb. 2, 2019 CU Statement	Please propose a standard or definition for a "significant amount" housing. For example, would the University master plan include a general phasing schedule that would be referenced here?
CU Response - January 16, 2020	CU Response: Our long-term master plan and eventual development plans will inform what will be developed on the site many years from now. Further, non-residential uses may be the first and only type of development on the site with the selection of Variant I.
City Response - August 31, 2020	Staff has significant concerns around a solely non-residential development program and understands that the University's current position is that that future housing is dependent upon having "multiple access points" to the site. Assuming that housing is the predominant use, a definition and/or phasing plan for "significant amount of housing" is needed, as well as which mitigation measures will be used to determine the timing of later phases (per the guiding principles).
CU Response - October 5, 2020	Now that the City has selected Variant 1-100 year, the University can recommit to housing being the predominant use with multiple points of access to the property. A phasing schedule will be available once the University has finished a micro master plan for development of the Public Area of CU South and initial plans for development on the site, which the City will have opportunity to provide input on as provided in this annexation agreement (see line 40 above for detail on the pre-development and development review tracks).
<b>Public Safety/Emergency Connectivity</b>	
<b>45</b>	<b>Key Issue</b>
City Policies or Council Direction	<b>Emergency Connectivity</b> Guiding Principles state that... Limited ingress and egress via local connections may be provided for emergency, life safety situations. Develop an Emergency Service and Evacuation Plan to address emergencies and use of emergency access and connections.
CU Statement (Feb. 2, 2019)	CU will provide limited ingress and egress connections for specific individuals/organizations/providers/units who are certified to provide services in emergency and life safety situations. Planning of these connections and identification of relevant parties will be determined later during property planning efforts.  The City can anticipate emergency connectivity to be similar to those of other CU Boulder properties within the City limits.
Staff Response to Feb. 2, 2019 CU Statement	Collaborate on a public safety facility. City staff proposes that the City and University jointly explore a public safety facility to collocate CU Boulder Police and City of Boulder Fire & Rescue personnel and vehicles. A joint facility could benefit both organizations greatly by achieving an extremely short response call time to future CU South residents and visitors and meet a City goal of relocating Fire Station #4.  Please indicate if this concept is acceptable to the University. Should CU Boulder be amenable to this concept, City staff proposes a meeting between the appropriate staff to begin discussing this concept further.  Fire & Rescue 1. All buildings greater than 2000 sq. ft. must have a fire sprinkler system (new buildings) 2. Fire Department access must, at a minimum meet the City of Boulder Design and Construction Standard for emergency access concerning road widths, turn-arounds, and turning radius 3. Fire hydrants shall be spaced and installed in accordance with the City of Boulder Design and Construction Standard. 4. The size of the site will require a second emergency access entrance/exit. This is something that needs to be considered with the master planning of the site. 5. No emergency access can exceed 8% grade.
CU Response - January 16, 2020	Key Issue #6 - From letter dated 3/28/19  City staff proposes that the City and University jointly explore a public safety facility to collocate CU Boulder Police and City of Boulder Fire & Rescue personnel and vehicles. A joint facility could benefit both organizations greatly by achieving an extremely short response call time to future CU South residents and visitors and meet a City goal of relocating Fire Station #4. Please indicate if this concept is acceptable to the University. Should CU Boulder be amenable to this concept, City staff proposes a meeting between the appropriate staff to begin discussing this concept further.  <i>CU Response: CU Boulder is open to exploring this concept.</i>
City Response - August 31, 2020	<b>The City looks forward to further discussions on this topic.</b>
CU Response - October 5, 2020	The University is offering to provide up to two acres, subject to approval by the University of Colorado Regents, for a public safety facility at a location which is mutually agreed to by both parties.
<b>Land Use Designation Changes</b>	
<b>46</b>	<b>Key Issue</b>
City Policies or Council Direction	<b>Land use change process</b> Guiding Principles state that... The Land Use Map may be amended to enable the City and CU to implement a shared vision for the site. The standard process detailed in the BVCP will guide any future land use designation changes.
CU Statement (Feb. 2, 2019)	Agreed, consistent with CU Boulder Response under Flood Mitigation: Section 3(C).

Staff Response to Feb. 2, 2019 CU Statement	<p>If necessary, City staff will coordinate the review of Land Use Map changes. Such changes, if made prior to annexation, require approval of the City of Boulder Planning Board and City Council, with a Call-up option for the Boulder County Board of County Commissioners. The land use change may be processed prior to public hearings on the annexation application.</p> <p>To be eligible for a Land Use Map change, the proposed change:</p> <ol style="list-style-type: none"> <li>1. on balance, is consistent with the policies and overall intent of the comprehensive plan;</li> <li>2. would not have significant cross-jurisdictional impacts that may affect residents, properties or facilities outside the City;</li> <li>3. would not materially affect the land use and growth projections that were the basis of the comprehensive plan;</li> <li>4. 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;</li> <li>5. would not materially affect the adopted Capital Improvements Program of the City of Boulder; and</li> <li>6. would not affect the Area II/Area III boundaries in the comprehensive plan.</li> </ol>
CU Response - October 5, 2020	At this time it appears that no land use map changes will be required with the current flood project selection of Variant 1-100.
<b>Urban Services and Utilities</b>	
<b>47 Key Issue</b>	<b>Water and Wastewater Service Agreement</b>
City Policies or Council Direction	The Guiding Principles state that future agreements between the City and University will be contingent on the ability of the City to provide adequate urban facilities and services and the University's contribution to cover the cost of the necessary services and utilities on site and to address off-site impacts to systems.
CU Statement (Feb. 2, 2019)	Consistent with CU Boulder's Main Campus, CU Boulder South shall be subject to the Water and Wastewater Service Agreement of January 1997 between the parties
Staff Response to Feb. 2, 2019 CU Statement	<p>Further analysis is needed to understand the extent to which the 1997 agreement is in alignment with current City water and wastewater service practices. A new agreement or amendments to the 1997 agreement may be needed to provide CU South development-specific service or connection details.</p> <p><b>Utilities</b></p> <ol style="list-style-type: none"> <li>1. A water system distribution analysis is needed prior to connection to the City's water distribution system, in order to assess the impacts and service demands of the proposed development. Conformance with the City's Treated Water Master Plan, October 2011 is necessary.</li> <li>2. A collection system analysis is needed prior to connection to the City's wastewater collection system, to determine any system impacts based on the proposed demands of the development. The analysis will need to show conformance with the City's Wastewater Collection System Master Plan, July 2016.</li> <li>3. On-site and off-site water main and wastewater main construction per the City of Boulder Design and Construction Standards (DCS) as necessary to serve the development, as well as perpetuate the overall system, may be required. All proposed public utilities for this project shall be designed in accordance with the DCS.</li> </ol>
CU Response - January 16, 2020	CU Response: Consistent with CU Boulder's Main Campus, CU Boulder South shall be subject to the Water and Wastewater Service Agreement of January 1997 between the parties.
City Response - August 31, 2020	An arrangement for the provision of water and wastewater will be resolved prior to annexation of the site.
CU Response - October 5, 2020	CU requests any amendments the City might propose to the 1997 agreement so that we can take those under advisement.
<b>48 Key Issue</b>	<b>Stormwater Plant Investment Fees</b>
City Policies or Council Direction	N/A
CU Statement (Feb. 2, 2019)	N/A
Staff Response to Feb. 2, 2019 CU Statement	At the time of development, CU will be responsible for paying all Plant Investment Fees applicable at that time.
CU Response - January 16, 2020	CU Response: Agree in concept. Need more detail.
City Response - August 31, 2020	Additional information will be provided. The Plant Investment Fees will be set at the time of development.
CU Response - October 5, 2020	CU agrees. CU also currently has PIF credits which we would apply to this development if they are still available at the time CU commences development.
<b>49 Key Issue</b>	<b>Stormwater requirements</b>
City Policies or Council Direction	Guiding Principles state that... Stormwater impacts of new development will be mitigated based on established criteria for minor and major storm events and applicable stormwater quality requirements. Preservation or restoration of existing undeveloped areas will be considered to attenuate peak runoff from the site and to mitigate stormwater quality impacts.
CU Statement (Feb. 2, 2019)	CU Boulder will adhere to State stormwater regulations/requirements.

Staff Response to Feb. 2, 2019 CU Statement	<p>Stormwater/Drainage Storm water quality enhancement and detention ponding are issues that need to be addressed prior to commencement of construction. A Storm Water Report and Plan, prepared in accordance with the City of Boulder Design and Construction Standards (DCS), needs to be provided by the applicant to the City. The report and plan need to also address the following issues:</p> <ul style="list-style-type: none"> <li>• Water quality for surface runoff using "Best Management Practices"</li> <li>• Minimize Directly Connected Impervious Areas (MDCIA)</li> <li>• Detention ponding facilities</li> <li>• Water Quality Capture Volume (WQCV)</li> <li>• Storm sewer construction</li> <li>• Irrigation Ditches and Laterals</li> <li>• Groundwater discharge</li> <li>• Wetland mitigation</li> <li>• Erosion control during construction activities</li> </ul> <p>Discharge of groundwater to the public storm sewer system is anticipated to accommodate construction and operation of the proposed developments. City and/or State permits will be required for this discharge. The applicant is advised to contact the City of Boulder Storm Water Quality Office at 303-413-7350 regarding permit requirements. All applicable permits must be in place prior to building permit application. Additionally, special design considerations for the properties to handle groundwater discharge as part of the development may be necessary.</p> <p>A construction storm water discharge permit is required from the State of Colorado for projects disturbing one (1) acre of land or more. The applicant is advised to contact the Colorado Department of Public Health and Environment.</p>
CU Response - January 16, 2020	CU Response: Further discussion is required. The University is not subject to submitting building permit application and works regularly and in good faith with the City on water discharge and meeting state regulations/permitting.
City Response - August 31, 2020	City staff finds the University's response adequate.
CU Response - October 5, 2020	Complete!
<b>50</b>	<b>Key Issue</b>
City Policies or Council Direction	N/A
CU Statement (Feb. 2, 2019)	N/A
Staff Response to Feb. 2, 2019 CU Statement	If the property is to be served by a City of Boulder electric utility, space for an electric substation may be needed depending on the load to be served. City staff proposes that the annexation agreement include a provision requiring the City and University to determine a mutually suitable location for a substation at an appropriate time during the University's review process. The City also recommends that CU coordinates with Xcel Energy to determine what their infrastructure needs may be related to the development.
CU Response - January 16, 2020	CU Response: Agreed.
City Response - August 31, 2020	The comment appears to be resolved.
CU Response - October 5, 2020	Complete!