

**CITY OF BOULDER
PLANNING BOARD AGENDA ITEM**

MEETING DATE: August 18, 2016

AGENDA TITLE: Public Hearing and recommendation to City Council regarding annexation of enclaves in the vicinity of 55th Street and Arapahoe Avenue.

Applicant: City of Boulder

Owners: Multiple owners (See chart in [Attachment B](#))

REQUESTING DEPARTMENT:

Tom Carr, City Attorney

David Driskell, Executive Director; Planning, Housing + Sustainability

Susan Richstone, Deputy Director for Planning; Planning, Housing + Sustainability

Chris Meschuk, Senior Planner; Planning, Housing + Sustainability

Kathy Haddock, Senior Assistant City Attorney

Heather Bailey, Director of Energy Strategy and Electric Utility Development

Robert Harberg, Principal Engineer, Public Works - Utilities

OBJECTIVE:

Define the steps for Planning Board consideration of this request:

1. Hear staff presentations
2. Planning Board discussion
3. Planning Board recommendation to council

SUMMARY

Proposal: Annex 15 parcels that are enclaves near 55th Street and Arapahoe Avenue

Project Name: Annexation of 55th Street and Arapahoe Avenue enclaves

Location: See map in [Attachment A](#)

Size of Tract: See chart in [Attachment B](#)

Proposed Zoning: See chart in [Attachment B](#)

Comprehensive Plan: Consistent with goal to annex enclaves within Area II.

KEY ISSUES

1. Is the proposed annexation consistent with State of Colorado statutes pertaining to the annexation of a property into the City of Boulder?
2. Is the proposed annexation consistent with the Boulder Valley Comprehensive Plan (BVCP)?
3. Is the initial zoning of of each property consistent with the BVCP?

BACKGROUND

For the city to create a municipal electric utility, the Public Utilities Commission has ordered that separate electric facilities must be constructed for Xcel to continue serving unincorporated properties while the city serves annexed properties with different electrical facilities. In analyzing the city maps, staff discovered that this requirement will create unnecessary and expensive additional construction and electric facilities unless identified enclave properties are annexed into the city. Annexation offers many community benefits, including implementation of BVCP policies, supporting consistency in policies and laws throughout the city (rather than specific properties being under county jurisdiction, even though they are functionally a part of the city), reducing the costs of the electrical separation plan and eliminating the need for duplicate facilities. The city began to address this issue with annexation of city-owned properties with electrical service (July 28, 2016 Planning Board agenda item).

Staff identified 15 private parcels at 55th Street and Arapahoe Avenue for which it would cost over \$3.5 million to build duplicate facilities and serve them as unincorporated properties. These properties, however, are expected to annex eventually in accordance with the BVCP. This request is for a recommendation to City Council to annex these 15 enclave parcels. The map in **Attachment A** shows all of the properties to be annexed as identified by address and a parcel number. The chart in **Attachment B** corresponds to the parcel number on the map and provides street address, land area, building square footage, county zoning, BVCP designation, potential city zoning, development potential and current city utilities for each parcel. Fourteen of the parcels are either commercial or industrial uses. The property at 1415 55th St. is a residential property and the property owner does not object to her property being included in this annexation.

Because the annexation is initiated by the city, the annexation package does not follow typical guidelines. The city will pay the annexation fees and waive excise taxes that would otherwise be paid by the property owner at the time of annexation. Utility fees will be deferred until redevelopment or connection to utilities. Easement and right-of-way dedications will also be deferred until redevelopment.

The proposed zoning of each parcel is consistent with the BVCP land use designation as well as most of the current uses on each property. Two of the current uses at 5565 Arapahoe Av. (Hospice Care & Share Thrift Store and Green Tree Medicinals) are not consistent with the BVCP land use but will be allowed to continue as non-conforming uses under the proposed initial city zoning for that site.

Because these properties are enclaves, the city can annex them unilaterally without a hearing or notice, except by publication. Staff attempted to reach each property owner prior to notices being mailed and succeeded with speaking with 14 of the 15 landowners. Staff was not able to locate contact information for one of the owners before notices were mailed (**Attachment C**). Two of the property owners indicated that they do not want to be part of the city. City staff was able to respond to the questions relating to utilities and future use of the property to the satisfaction of the remaining property owners. One of the landowners asked about connection to the city stormwater system to alleviate a drainage problem affecting a few of the properties. A few of the owners had questions about existing or potential marijuana businesses. Staff advised all

landowners they spoke with of the initial zoning for their property and that all business uses will be grandfathered (two of the current businesses will be nonconforming uses). However, all businesses will need to obtain the appropriate licenses to operate any business requiring licensure. For most parcels, that means business licenses for sales and use taxes and marijuana business licenses for the marijuana businesses. Marijuana businesses will be given a year to obtain the required license.

First reading on the annexation ordinance will be held on Aug. 16, 2016 and second reading and public hearing will be on Sept. 6, 2016.

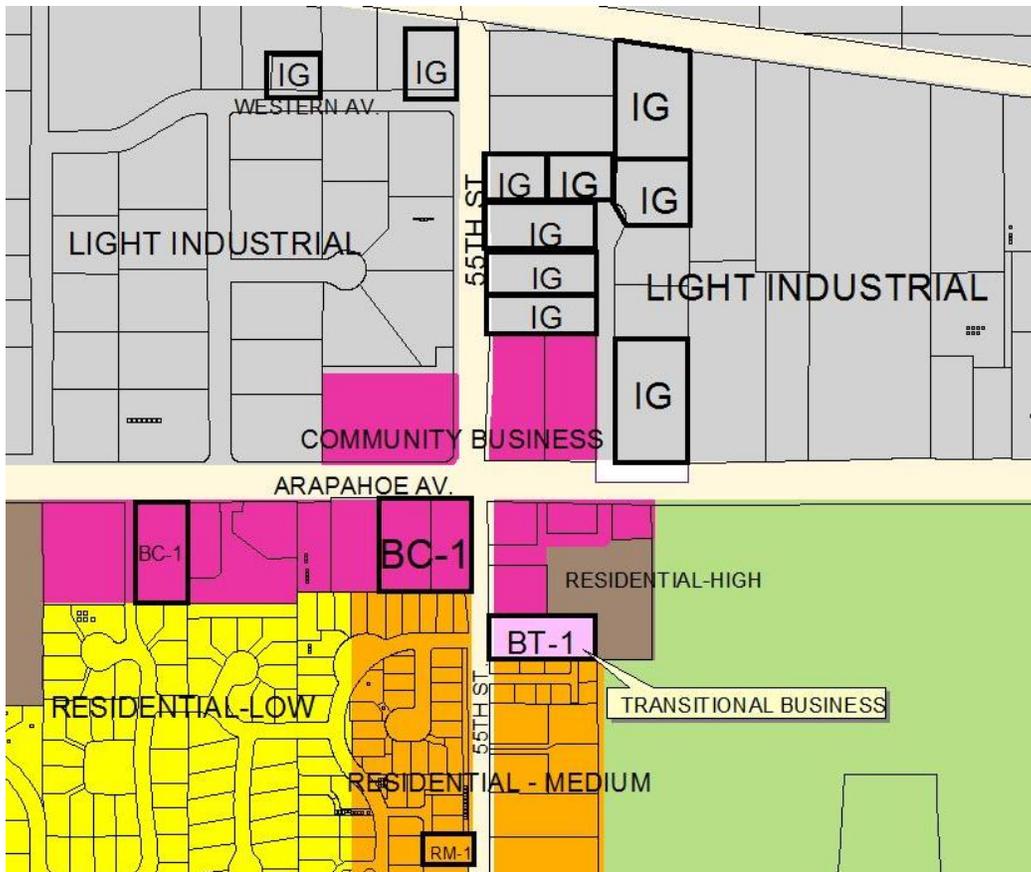
ANALYSIS

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

Annexations must comply with the Municipal Annexation Act of 1965, section 31-12-101, et. seq., C.R.S. Enclaves can be annexed without a hearing, but published notice must be provided once a week for four weeks with the first publication at least 30 days before the adoption of the ordinance. Section 31-12-106(1), C.R.S. Notice has been published of the annexations.

<p>2. Is the proposed annexation consistent with the Boulder Valley Comprehensive Plan?</p>
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Land Use Designation. The proposed zoning on all the properties is consistent with the BVCP land use designations. The map below shows the proposed zoning on each parcel to be annexed and the zoning for the annexed areas surrounding each enclave.



BVCP Policies

Annexation of land must be consistent with the following policy:

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

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

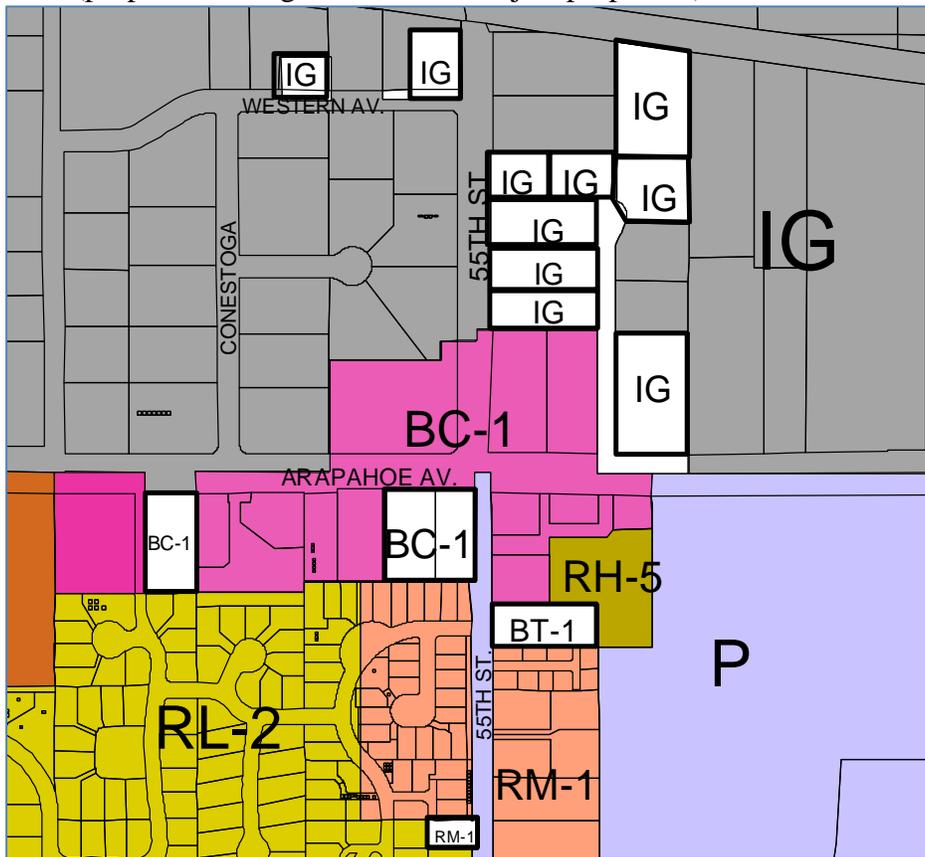
Currently, eight of the 15 properties are on city wastewater services and three are connected to city water. Full city services will be available to the subject properties with annexation, however, these properties will not be required to connect to city utilities until requested by the property owner or construction of a new building or additional square footage of an existing building.

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

These properties are part of an existing county enclave and in fully developed Area II neighborhoods, thus annexation of the properties would further this policy.

c) **Annexation of existing substantially developed areas will be offered in a manner and on terms and conditions that respect existing lifestyles and densities. The city will expect these areas to be brought to city standards only where necessary to protect the health and safety of the residents of the subject area or of the city.**

The proposed initial zoning of all 15 properties is consistent with the surrounding zoning as shown below (proposed zoning indicated on subject properties).



The proposed initial zoning of 14 of the properties is consistent with the current county zoning. One property (5565 Arapahoe Av.), currently has a commercial zoning designation in the county but a Light Industrial BVCP land use designation. The proposed initial zoning of Industrial-General for the parcel is consistent with the BVCP but not with current use of the site. Two of the current businesses (Hospice Care & Share Thrift Store and Green Tree Medicinals) on the site will be allowed to stay as nonconforming uses once in the city.

d) **In order to reduce the negative impacts of new development in the Boulder Valley, the city will annex Area II land with significant development or redevelopment potential only if the annexation provides a special opportunity or benefit to the city. For annexation considerations, emphasis will be given to the benefits achieved from the creation of permanently affordable housing. Provision of the following may also be considered a special opportunity or benefit: receiving sites for transferable development rights (TDRs), reduction of future employment projections, land and/or facilities for**

public purposes over and above that required by the city's land use regulations, environmental preservation, or other amenities determined by the city to be a special opportunity or benefit.

e) Annexation of substantially developed properties that allows for some additional residential units or commercial square footage will be required to demonstrate community benefit commensurate with their impacts.

Eleven of the 15 parcels in the annexation group have development potential totaling approximately 105,000 sq. ft. of commercial and industrial space. Upon annexation, these properties will be eligible for redevelopment, consistent with their initial city zoning.

Annexations require a community benefit as described in BVCP Policy 1.24, which is most commonly related to affordable housing. The community benefit in the current situation, however, is the cost savings to the city utility in not having to duplicate electric facilities to serve these properties.

PUBLIC COMMENT AND PROCESS

Notices ([Attachment C](#)) were sent to all of the property owners on Aug. 5, 2016 and notice of the annexations was published as required by the Colorado Municipal Annexation Act.

Boulder County staff was contacted and did not object to annexation of these properties.

Council will hold a public hearing on the annexation at second reading on Aug. 16, 2016. Notice of the annexation was provided to property owners by telephone calls (to those that could be reached) and mail, as well as the required publication.

STAFF FINDINGS AND RECOMMENDATION

1. Staff finds the proposed annexations to be consistent with State statutes.
2. Staff finds the proposed annexations to be consistent with the BVCP.
3. Staff finds the application for the initial zoning shown on the attached chart for each property to be consistent with the BVCP Land Use Map.

Planning Board recommend to City Council approval of the proposed annexations of the 15 parcels shown on the attached map with the initial zoning shown on the attached chart.

Approved By:

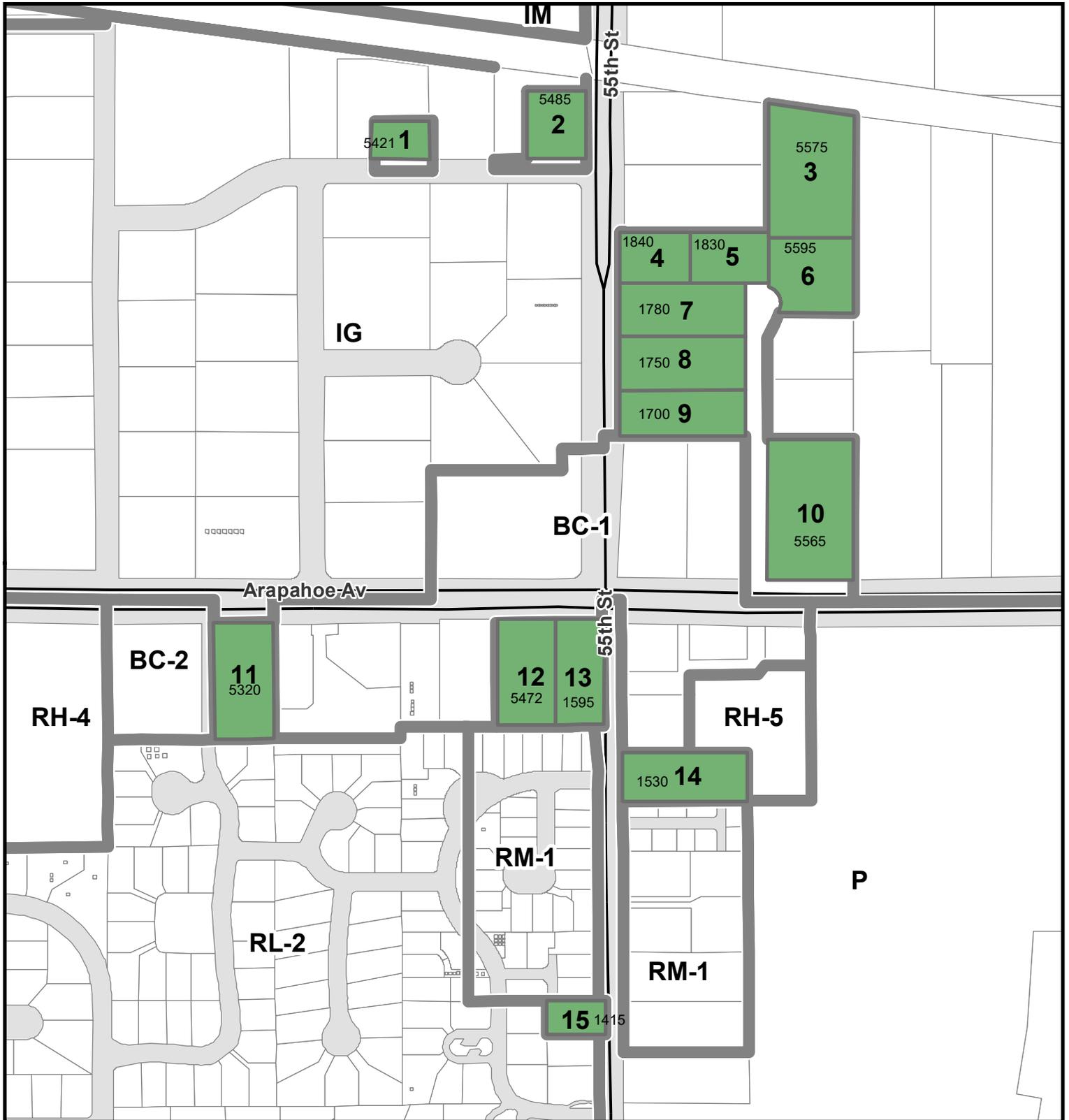


David Driskell, Executive Director
Department of Community Planning and Sustainability

ATTACHMENTS:

- A:** Map of parcels to be annexed.
- B:** Chart of parcels to be annexed.
- C:** Letter to property owners.

City of Boulder Vicinity Map



55th and Arapahoe Enclave Annexations



1 inch = 350 feet



The information depicted on this map is provided as graphical representation only. The City of Boulder provides no warranty, expressed or implied, as to the accuracy and/or completeness of the information.

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55th and Arapahoe Enclave Annexation - Property List

	Parcel Address	Owner	Parcel Size	Current Tenants	BVCP Land Use	County Zoning	Proposed Initial Zoning	Current Building Size	Development Potential	Current City Utilities
1	5421 Western Ave.	Bruce F. Lindeke	0.35 ac	Bolind, Inc. (commercial printing), IMAGINE!/CORE Labor (employment center for the disabled)	Light Industrial	Light Industrial	IG	8,088 sq. ft.	None	sewer
2	5485 Western Ave.	Murphy Steele Partners LLC	0.63 ac	Go Green Flooring (retail); Way of the Crane Martial Arts School; Boulder Ki Aikido (dojo); Street Wiz Self Defense Workshops	Light Industrial	Light Industrial	IG	10,425 sq. ft.	Yes (3,300 sq.ft.)	sewer
3	5575 Arapahoe Ave.	5575 Arapahoe LLC	1.71 ac	Roger Reutimann (sculptor); Organo-Lawn (vehicle storage); His Way Herbs (marijuana manuf.); Redwood Landscape	Light Industrial	Light Industrial	IG	15,576 sq. ft.	Yes (21,606 sq.ft.)	none
4	1840 N.55th St.	Neal L. Andrews Jr.	0.56 ac	Ferguson Plumbing Supplies	Light Industrial	Light Industrial	IG	7,630 sq. ft.	Yes (4,669 sq.ft.)	sewer/water
5	1830 N.55th St.	Colorado Green Building Company LLC	0.63 ac	Appears vacant	Light Industrial	Light Industrial		13,824 sq. ft.	None	none
6	5595 Arapahoe Ave.	5595 Arapahoe LLC	0.96 ac	Boom Town LLC, Cannixtracts LLC, His Way Herbs, Medicine Man	Light Industrial	Light Industrial	IG	26,624 sq. ft.	None	none
7	1780 N.55th St.	55th Street LLC	1.06 ac	Surna (engineering systems for cannabis); Hydro Innovations (climate control systems); Wild Goose Engineering (canning systems or beer industry)	Light Industrial	Light Industrial	IG	9,200 sq. ft.	Yes (13,843 sq.ft.)	none
8	1750 N.55th St.	Tebo/Kruse LLC	1.06 ac	Allen Scientific Glass; Boulder Dinner Theater Scene Shoppe	Light Industrial	Light Industrial	IG	23,000 sq. ft.	None	none

55th and Arapahoe Enclave Annexation - Property List

9	1700 N.55th St.	1700 N.55th LLC	0.91 ac	Audio Information Network; Corkscrews Wine Storage; RM3 Labs (marijuana manuf.); Sweet Mary Jane (marijuana products)	Light Industrial	Light Industrial	IG	16,816 sq. ft.	Yes (2,762 sq.ft.)	none
10	5565 Arapahoe Ave.	5565 Arapahoe LLC	1.90 ac	Hospice Care & Share Thrift Store; Glass Doctor; Green Tree Medicinals (marijuana dispensary)	Light Industrial	Commercial	IG	29,840 sq. ft.	Yes (11,593 sq.ft.)	sewer/water
11	5320 Arapahoe Ave.	Herbert Keishold Trust et.al.	1.09 ac	Boulder Wellness Center (marijuana dispensary); Root Medical Marijuana (marijuana dispensary); Boulder Valley Center for Derrmatology; Integrative Psychiatric Healing Center	Community Business	Commercial	BC-1	10,519 sq. ft.	Yes (15,617 sq.ft.)	sewer
12	5472 Arapahoe Ave.	Arapahoe LLC	0.96 ac	Enterprise Rent-a-Car; Auto Repair Place	Community Business	Commercial	BC-1	13,022 sq. ft.	Yes (10,008 sq.ft.)	sewer
13	1595 N.55th St.	AJ Investments LLP	0.81 ac	Shell Service Station	Community Business	Commercial	BC-1	1,125 sq. ft.	Yes (18,386 sq.ft.)	sewer/water
14	1530 N.55th St.	MG Properties LLC	0.95 ac	Scott Cox and Associates (Engineering/Professional Office)	Transitional Business	Transitional	BT-1	?	Yes	sewer
15	1415 N.55th St.	Susan D. Palmer	0.31 ac	Single Family Residential	Residential - Medium Density	Suburban Residential	RM-1	?	Yes	none



City of Boulder

Real Estate Services
 Office of the City Attorney
 P.O. Box 791, Boulder CO 80306
 Ph. 303-441-3020, Fax. 303-441-3859

August 5, 2016

Dear Property Owner,

We are writing to make you aware of plans the City of Boulder has to annex your commercial or industrial property, and to invite you to talk with staff and participate in a public process that will begin soon.

As you may know, the city is working to create an electric utility that could support cleaner electricity, improved reliability and equal or better rates for Boulder customers. As part of this effort, the city engineers are determining which assets Boulder will need to take over from Public Service Company of Colorado, more commonly known as Xcel Energy. The engineers have studied city maps and discovered a number of enclaves that are eligible for annexation. Your property falls within one of these enclaves.

Colorado law defines an enclave as property that is completely surrounded by other properties that are already part of the city. Under the state law, the city may annex enclaves unilaterally. Annexation means that your property would no longer be within unincorporated Boulder County; instead, it would fall within the City of Boulder.

The city is interested in annexing your property for a variety of reasons. If the city creates its own utility, it is likely Boulder would have to construct duplicate facilities so that PSCo could continue to provide you and your neighbors electric service. The city wishes to avoid the cost of this otherwise unnecessary construction and the impact of this construction on you and surrounding neighborhoods that are already within city boundaries.

The possibility of a new electric utility is not the only reason the city is interested in bringing your property into city limits. The Boulder Valley Comprehensive Plan, which is jointly adopted by the county and the city, has identified these properties for city services and annexation since 1977. A more general factor that supports annexation, from the city's perspective, is more efficient delivery of urban services, such as police and fire protection, street and utility maintenance, stormwater and flood protection.

In most cases, property owners who want these and other valuable city services, which can include water and sewer, petition the city for annexation. This is known as a "property owner petition." There are some significant advantages for you as a property owner when the city seeks a unilateral annexation.

Under a unilateral process, the city cannot impose many of its usual requirements. This means that:

- The city will pay all annexation fees, and you will not owe any fees at this time. If you decide later to connect to either water or sewer (if not already legally connected), or to redevelop your property, applicable utility connection and plant investment fees will be required.

- The Housing Excise Tax will be waived.
- Zoning will be made as similar as possible to the current county zoning for your property, consistent with the Boulder Valley Comprehensive Plan Land Use map.
- Non-conforming uses on the properties within the current footprint and square footage will be grandfathered. (Any businesses requiring licensure by the city would still need to meet all city requirements for the license.)
- Water and sewer fees for out-of-city customers will be reduced to lower in-city fees.
- No dedication of right-of-way or easements will be required unless the property is redeveloped.

Upon annexation, your property will be subject to city taxes and city laws but will also enjoy the benefits of city services. Many properties that have been annexed have experienced higher property values.

The city is about to begin the process of unilateral annexation. The current timeline is:

- City Council will have its first reading of these annexations on Aug. 16, 2016, there will be no public hearing on that day.
- Planning Board will hold a public hearing and consider these annexations on Aug. 18, 2016, and make a recommendation to City Council.
- City Council will have its second and final reading, and public hearing on Sept. 6, 2016.

I invite you to call me at 720-564-2033 as soon as possible if you have questions or concerns. We also would like to have contact information for you so I can contact you more directly than mail. Please send me the name, telephone number and e-mail for the person or people you would like me to contact with future information regarding this annexation or other issues. You are also welcome to attend the public hearings before Planning Board on Aug. 18, and City Council on Sept. 6 to share your thoughts.

Thank you.

Sincerely,



Doug Newcomb

Property Agent

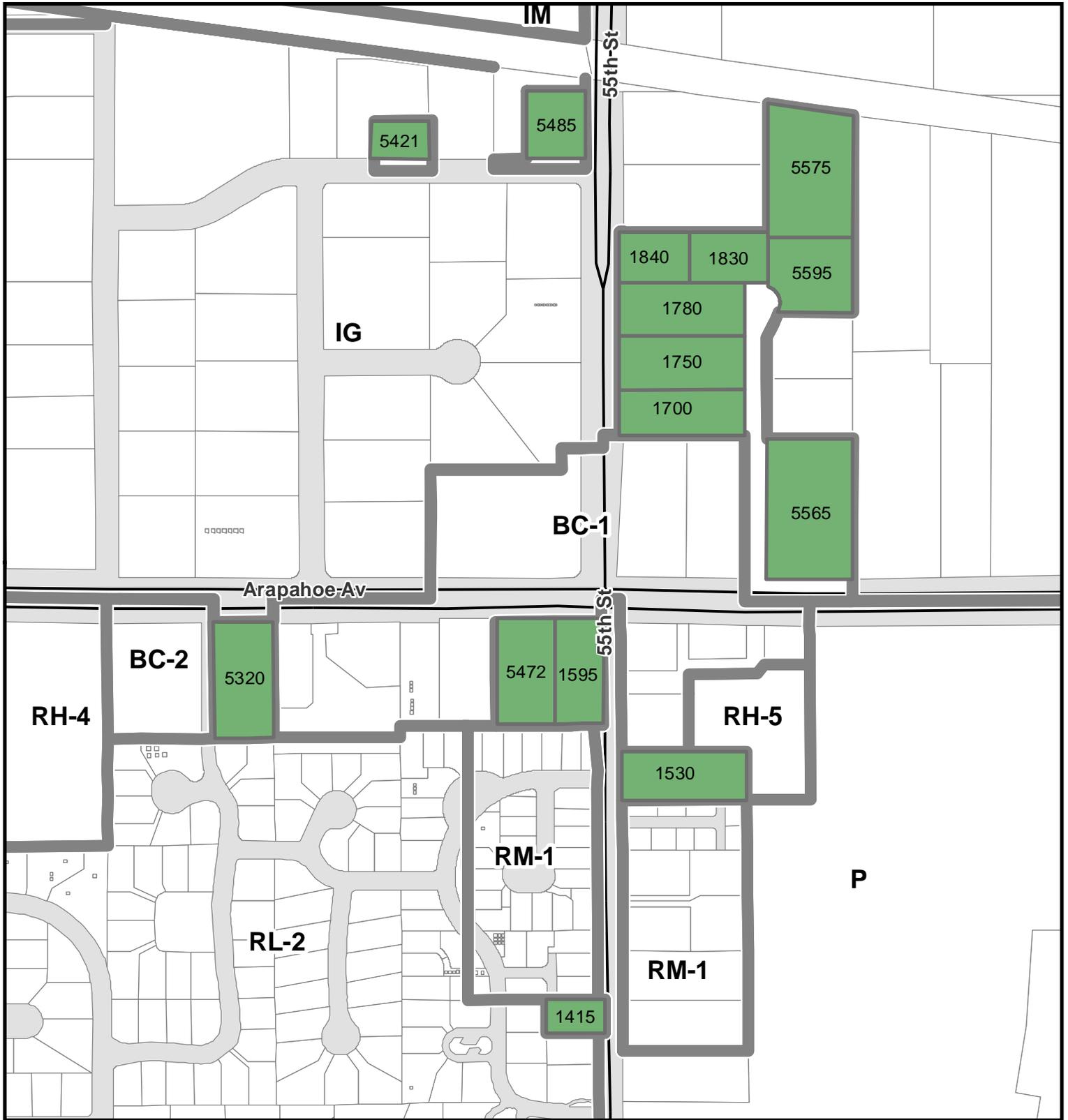
City of Boulder

newcombd@bouldercolorado.gov

720-564-2033

Attachment: Map of 55th and Arapahoe enclave annexations

City of Boulder Vicinity Map



**55th and Arapahoe
Enclave Annexations**



1 inch = 350 feet



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