



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: February 19, 2019

AGENDA TITLE:

Second reading and consideration of a motion to adopt Ordinances 8309 and 8310 related to the annexation of 1179 Cherryvale Road (case no. LUR2018-00021), a 1.04-acre property currently located within Boulder County with an initial zoning of Residential – Rural 2 (RR-2).

Applicant/Owner: Scott Mason Raney and Min Sheng

PRESENTER/S

Jane S. Brautigam, City Manager
Chris Meschuk, Asst. City Manager/Interim Planning Director
Charles Ferro, Development Review Manager, Planning
Edward Stafford, Development Review Manager, Public Works
Shannon Moeller, Planner II

EXECUTIVE SUMMARY

This item is related to a request to annex a 45,329 square-foot (1.04 acres) property located at 1179 Cherryvale Road into the City of Boulder with an initial zoning of Residential – Rural 2 (RR-2), consistent with the Boulder Valley Comprehensive Plan (BVCP). Refer to **Attachment A** for the annexation maps. The site is in Area II and is eligible for annexation. Under the proposed zoning, no further development potential exists on the property. Refer to **Attachment B** for the annexation petition.

On January 15, 2019, council adopted Resolution 1249 finding the annexation petition in compliance with state statutes and establishing February 19, 2019, as the date for a public hearing and second reading of the annexation ordinances. Council also considered the first reading of the ordinances on January 15, 2019 to annex and initially zone the property.

Planning Board reviewed the proposed annexation and initial zoning on December 6, 2018. The Board unanimously (6-0, P. Vitale absent) recommended to City Council approval of the request, subject to conditions of approval. A summary of the board's discussion and recommendation on the annexation can be found below under "Board and Commission Feedback."

Annexations which comply with state annexation statutes and BVCP policies may be approved by City Council through two readings of an annexation ordinance. The ordinances to annex the property is provided for second reading in **Attachment C**.

Pursuant to Colorado Revised Statutes 31-12-104(1)(a) this property is eligible for annexation if the annexation is completed in a "series." A series annexation occurs when the property is annexed in portions concurrently to achieve contiguity through approval of two separate ordinances. The first ordinance is intended to annex a portion of the property that can currently meet the 1/6 contiguity to city limits requirement. Approval of the first ordinance would then establish the new municipal limits and create at least 1/6 contiguity to city limits for the remainder of the property. Annexation of the remainder of the property would then be approved in a second ordinance.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to adopt two ordinances to annex 1179 Cherryvale Road, a developed residential property currently located within Boulder County with an initial zoning of Residential - Rural 2 (RR-2) per land use code subsection 9-5-2(c)(1)(A), B.R.C. 1981, as described below:

- a. Ordinance 8309, annexing the west 0.27-acre portion of 1179 Cherryvale Road, and*
- b. Ordinance 8310, annexing the east 0.77-acre portion of 1179 Cherryvale Road.*

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic - It is in the interest of the city to annex contiguous properties in the county. Additional residential units add to the tax base of the community. The property is in an area where adequate public services and facilities presently exist, reducing the need for additional public investment.
- Environmental - The property lies within the 100-year floodplain and once annexed, would be subject to the city's floodplain development standards.
- Social - The property is served by an out-of-city utility agreement for city water and sewer service, which provides the critical public health benefits of safe and quality drinking water and reduces the public health threat that can occur from failing drinking water and septic systems. The agreement included a condition of approval

that the owner apply for annexation when eligible. The property does not have any additional development potential (no additional dwelling units or subdivision of the property is possible under the proposed zoning district).

OTHER IMPACTS

- Fiscal - City services are existing and serve this site. The property will be subject to standard city fees including payment of stormwater Plant Investment Fees (PIFs) upon annexation.
- Staff time - Processing of the annexation application is within normal staff work plans.

BOARD AND COMMISSION FEEDBACK

Boulder County: Annexations are subject to county referral and city Planning Board recommendation prior to City Council action. The county has reviewed the request and has not objected to the proposal.

Planning Board: On December 6, 2018, the Planning Board reviewed the proposed annexation and initial zoning request. The Board agreed that the proposal would be consistent with the city's annexation and BVCP policies and that a zoning of Residential – Rural 2 is appropriate as the initial zoning for the property. The Board unanimously (6-0, P. Vitale absent) recommended to City Council approval of the request, subject to conditions of approval as listed in the annexation agreement (**Attachment D**). The Planning Board also recommended that the annexation agreement include a condition to prohibit construction of new habitable structures in the 100-year floodplain on this property.

Staff does not recommend the Planning Board's additional condition as it conflicts with current city floodplain regulations and recommends that Council not include such a condition within the annexation agreement. The condition as proposed by the Planning Board also would not prohibit the owner from adding additional fill and completing a map change to remove the property from the floodplain, which would then negate the condition.

If Council desires additional regulatory and policy changes regarding the building of habitable structures in the 100-year floodplain staff recommends that occur as part of a city-wide policy analysis, and which would then apply to all properties in the floodplain uniformly.

PUBLIC FEEDBACK

Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject site and a sign posted on the property for at least 10 days. Thus, all notice requirements of section 9-4-3, B.R.C. 1981 have been met. There was one written public comment received that is provided in **Attachment E** which expressed concerns regarding the 100-year floodplain on the property.

BACKGROUND

Process

Land may be considered for annexation to the City, if the annexation would comply with state annexation statutes and the policies of Boulder Valley Comprehensive Plan (BVCP). It is anticipated in the Comprehensive Plan that Area II shall be annexed to the city of Boulder within three years, consistent with the phased expansion of the city's capacity to provide adequate urban facilities and services. If a property is annexed, zoning will be established according to land use designation in the Land Use Map of the Boulder Valley. The city's annexation policies are located within Policy 1.16 of the BVCP. An annexation agreement is required, to establish the terms and conditions of the annexation. Standard terms and conditions, such as right-of-way dedication requirements, affordable housing contributions, and fees, are established through city codes and policies. Annexations involve at least two public hearings. The first is conducted by the Planning Board, who will make a recommendation to the City Council whether or not the annexation should be approved, and the terms, conditions and zoning that should be applied. The City Council then holds a second public hearing before making their determination.

The property is not required to, nor is eligible to, complete a Concept Plan Review or Site Review because the site does not exceed the minimum thresholds. The property does not exceed the 5 or more units permitted on the property for it to be eligible for a Site Review in the Residential - Rural 2 (RR-2) zoning district.



Figure 1 – Aerial Photo

Existing Site / Site Context

The approximately 1.04-acre property (in two parcels) is developed with an existing, approximately 5,792 square-foot, two-story single-family home constructed in 2008 along with an approximately 60 square foot wood shed. Access is taken from Cherryvale Road. Surrounding properties are all single family residential including the county subdivision of The Reserve which is located diagonally across Cherryvale Road to the

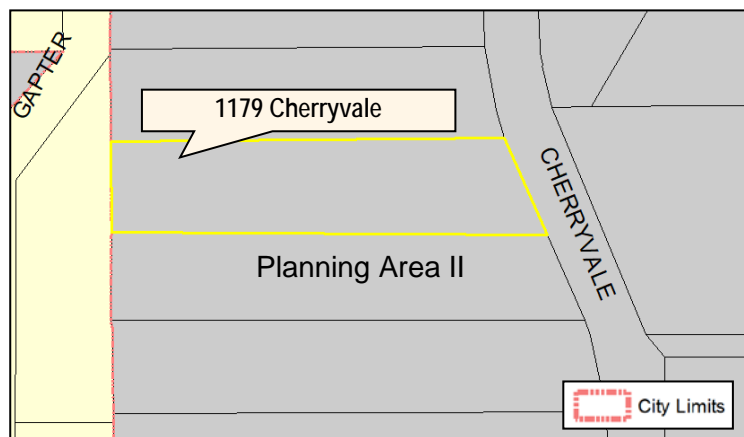


Figure 2 – BVCP Planning Areas

northeast. The home is served by city water and sewer service through an out-of-city utility agreement and revocable permit.

As seen in Figure 2, the property is located in BVCP Planning Area II and is bordered on the west by property currently within Boulder city limits. Area II is described as *“now under county jurisdiction, where annexation to the city can be considered consistent with policies 1.07 Adapting to Limits on Physical Expansion, 1.09 Growth Requirements and 1.16 Annexation. New urban development may only occur coincident with the availability of adequate facilities and services and not otherwise.”*

As seen in Figure 3, the Boulder Valley Comprehensive Plan (BVCP) land use designation for the property, and all surrounding properties, is VLR (Very Low Density Residential), which is described as:

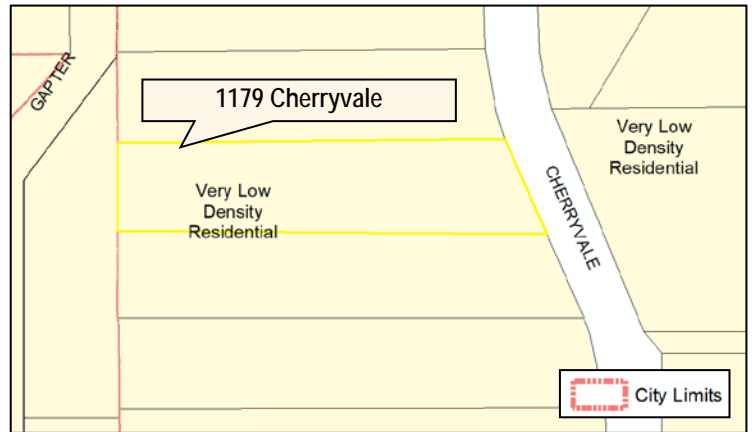


Figure 3 – BVCP Land Use Map

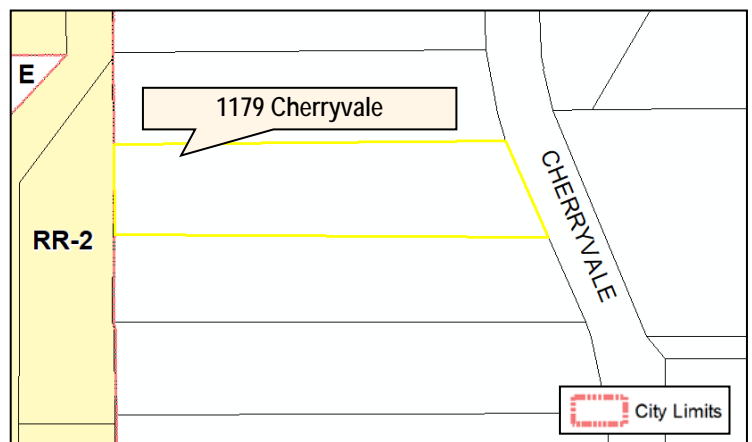


Figure 4 – Zoning Districts

<p>Very Low Density Residential (VLR)</p>	<p>Characteristics and Locations: VLR tends to have larger lots and more rural characteristics. Many of these areas are located in unincorporated Boulder County in the Area III–Rural Preservation Area or Area II and may not have urban services. There are several areas in North Boulder and East Boulder within the city limits designated VLR.</p> <p>Uses: Consists predominantly of single-family detached units and related agricultural uses.</p> <p>BVCP Density/Intensity: 2 dwelling units per acre or less</p>
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The applicant has proposed annexation with an initial zoning designation of RR-2, Residential – Rural 2. RR-2 is defined in subsection 9-5-2(c)(1)(A), B.R.C. 1981 as “Single-family detached residential dwelling units at low to very low residential densities.” As seen in Figure 4, property to the west is zoned RR-2; property to north, east, and south is within Boulder County outside city limits.

Per 9-8-1 “Schedule of Intensity Standards,” B.R.C. 1981, the minimum lot area in the RR-2 zoning district is 30,000 square feet; the size of the property is 45,329 square feet and the site is developed with an existing single-family home.

In keeping with the city’s Guidelines for Annexation Agreements (**Attachment G**), development potential is considered the ability to subdivide or develop at least one additional dwelling unit on the property; accessory dwelling units are not considered additional development potential. Therefore, because the site cannot be subdivided and already contains a principal dwelling unit, no additional development potential exists.

As seen in Figure 5, portions of the property are located in the 100-year and 500-year floodplain. Figure 6 depicts the 2013 flood event.

The property is in an area which can have high mosquito activity depending on exact location and which changes year-to-year. The city has a mosquito management program in the area. Additional information is available online about the city’s [Mosquito Control Program](#).

The property is in an area of Boulder where high levels of groundwater have been encountered by other properties, and which is to be expected given the proximity to South Boulder Creek.

The lowest floor of any new residential structure located in the 100-year floodplain must be elevated to or above the flood protection elevation, which prohibits basements within in the 100-year floodplain.

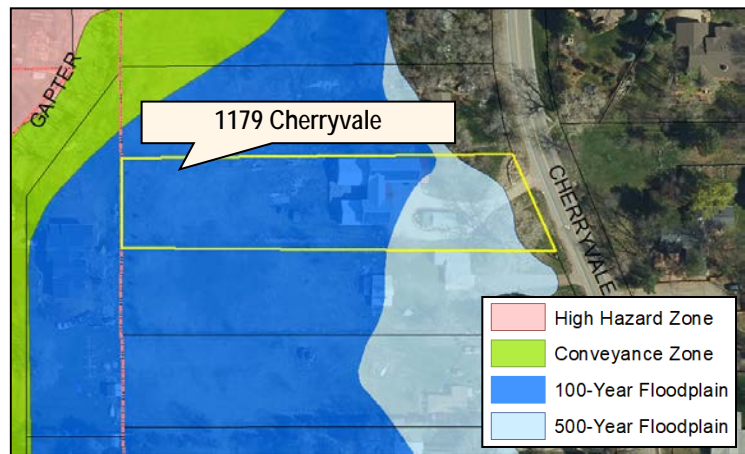


Figure 5 – Floodplain

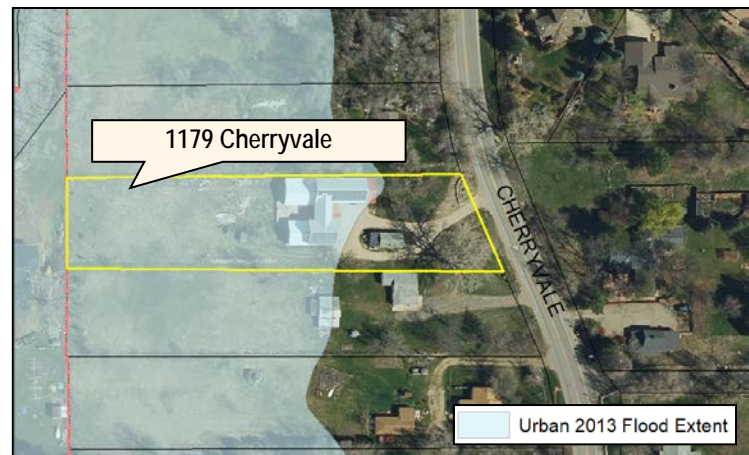


Figure 6 – 2013 Flood Event

NOTE: The 2013 urban flood extent data was developed using field surveys completed by City of Boulder staff and consultants, Digitalglobe Worldview-2 satellite imagery (9/13/13), Boulder County October 2013 Pictometry imagery, public input from the Boulder Crowd Sourcing online map, public input in community meetings, online flood survey data, and input from discussions with affected property owners. Only drainages with a FEMA mapped floodplain were surveyed. Other areas of Open Space and Mountain parks land without a regulatory floodplain were not included.

The 2013 urban flood extent data does not supersede the Special Flood Hazard Area Designation (SFHA), or 100 yr floodplain, used by FEMA for Digital Flood Insurance Rate Maps or the proposed floodplain delineations from ongoing flood studies. This data 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 contained hereon.

Proposed Improvements

The property is a developed residential lot. No additional site improvements are required to serve the property.

The annexation agreement has been drafted to require the dedication of 6-foot wide portion of property for Cherryvale Road right-of-way and payment of stormwater plant investment fees.

The petitioners have agreed to the conditions of annexation as part of the Annexation Agreement. Refer to the agreement (**Attachment D**) for details.

Community Benefit

Proposed annexations with additional development potential need to demonstrate community benefit consistent with Boulder Valley Comprehensive Plan (BVCP) policies to offset the negative impacts of additional development in the Boulder Valley. For proposed residential development, emphasis is given to the provision of permanently affordable housing.

The property is a developed residential lot. Under the proposed zoning, it is not eligible for subdivision and no additional principal dwelling units can be constructed on the site. The applicant intends to build a new detached accessory dwelling unit (ADU) in the same general location near the front of the property that a small house on the property previously existed.

In keeping with the city's Guidelines for Annexation Agreements (**Attachment G**), development potential is considered the ability to subdivide or develop at least one additional dwelling unit on the property; accessory dwelling units are not considered additional development potential. As there is no additional development potential on the property, the proposed Annexation Agreement (**Attachment D**) does not include a requirement for additional community benefit.

ANALYSIS

Staff has found the proposal consistent with State annexation laws in C.R.S. 31-12-101 et seq., and the city's regulations, policies, and guidelines. A discussion of staff's analysis follows:

1. Compliance with State Annexation Statutes

Annexations must comply with Colorado Revised Statutes (C.R.S.) 31-12-101 et seq. Staff has reviewed the annexation for compliance with C.R.S. 31-12-104 and C.R.S. 31-12-105, and finds that the application is consistent with those sections, as affirmed by the criteria below:

- Landowners of more than 50% of the area have petitioned to annex. The landowners are Scott Mason Raney and Min Sheng who have signed the petition.
- The annexation petition has been filed with the City Clerk of the City of Boulder.

- There is a community interest between the property proposed for annexation and the City of Boulder.
- The subject property does not include any area included in another annexation proceeding involving a city other than the City of Boulder.
- The annexation would not remove the property from one school district and add it to another.
- The property has, at least, one-sixth contiguity with the perimeter of the City of Boulder when annexed as a series annexation as permitted through Colorado Revised Statutes 31-12-104(1)(a). The property to the west was annexed into the city in 2010 by Ordinance 7741, from which the 1/6th contiguity can be achieved.
- The annexation would not have the effect of extending the City of Boulder's boundaries any further than three miles from any point of the existing city boundaries in any one year.

Staff found that the proposed annexation is compliant with the state provisions for annexation located in Section 31-12-101 et seq., C.R.S.

2. Compliance with City Policies

The annexation of land must be consistent with the Boulder Valley Comprehensive Plan. BVCP policy 1.16(b), states that the city will actively pursue annexation of fully developed Area II properties. It is in the interest of the city to annex properties along the edge of the city to improve efficiency in city service provision.

BVCP Annexation Policy 1.16 (c) states,

“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 property was granted an out-of-city utility agreement and revocable permit for city water and sewer service in 2009 and, at that time, the property was not eligible for annexation; therefore, a condition of approval required that the owner apply for annexation when eligible. The connection to city water and sewer provided a public health benefit through provision of safe and quality drinking water and removal of the septic system.

Overall, the request was analyzed and found to be consistent with the following BVCP policies:

- 1.07 Adapting to Limits on Physical Expansion
- 1.09 Growth Requirements
- 1.12 Definition of Comprehensive Planning Areas I, II and III
- 1.16 Annexation
- 1.21 Channeling Development to Areas with Adequate Infrastructure

2.03 Compact Development Pattern

A summary of the proposal's consistency with BVCP policies is in **Attachment F**.

3. Land Use Designation and Initial Zoning

Initial zoning must be consistent with the BVCP and Section 9-2-18, Zoning of Annexed Land, B.R.C. 1981. The proposed zoning (RR-2) is defined in subsection 9-5-2(c)(1)(A), B.R.C. 1981 as "Single-family detached residential dwelling units at low to very low residential densities." Properties to the west within city limits are also zoned RR-2.

Under the proposed RR-2 zoning, no additional development potential exists on the site. In the RR-2 zone, density is controlled by requiring a minimum lot size of 30,000 square feet in accordance with Table 8-1 "Intensity Standards", B.R.C. 1981. The property is 45,329 square feet and cannot be subdivided; therefore, no additional development potential exists.

Upon annexation, the existing home would be considered nonstandard due to an 8.9' side yard setback where 10' is required. Per the definitions in 9-16-1, General Definitions, B.R.C. 1981,

"nonstandard building or structure means any building or structure that does not conform to the setback, height, side yard bulk plane, side yard wall length articulation, or building coverage requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," or the floor area ratio requirements of Section 9-8-1, "Schedule of Intensity Standards," and Section 9-8-2, "Floor Area Ratio Requirements," B.R.C. 1981, unless the nonstandard features of the building or structure were approved as part of a planned unit development or a site review, or as a variance."

Any future changes to nonstandard buildings and structures must comply with the requirements in section 9-10-3, B.R.C. 1981, including that proposed modifications comply with all of the applicable requirements of Chapters 9-6, "Use Standards," 9-7, "Form and Bulk Standards," 9-8, "Intensity Standards," 9-9, "Development Standards," B.R.C. 1981, and Sections 9-6-2 through 9-6-9, B.R.C. 1981, dealing with specific use standards and criteria; and the proposed coverage of the structure cannot be greater than the coverage allowed in the zoning district. For this 45,329 square-foot lot, a maximum of 11,332 square-feet of floor area and a maximum of 9,066 square-feet of building coverage is permitted in accordance with sections 9-8-2 and 9-7-11 of the Boulder Revised Code, respectively.

Changes to the property would also be subject to the city's [Residential Energy Conservation Code](#) which was adopted in March 2017. Additionally, because a portion of the property lies within the 100-year floodplain of South Boulder Creek, changes or new structures on the property that are located within the floodplain will

be subject to the city's floodplain regulations and require the approval of a floodplain development permit.

Staff finds that the requested RR-2 zoning for the property is consistent with neighboring lots within the city and with the underlying BVCP land use designation of Very Low Density Residential ("two dwelling units per acre or less"), and therefore, is an appropriate zoning district for the site.

ATTACHMENTS

- A. Annexation Maps
- B. Annexation Petition
- C. Ordinances 8309 and 8310
- D. Annexation Agreement
- E. Public Comments
- F. Key BVCP Policies
- G. Guidelines for Annexation Agreements

ANNEXATION MAP 1 TO THE CITY OF BOULDER
1179 CHERRYVALE ROAD
LOCATED IN THE NORTHEAST QUARTER OF SECTION 34,
TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO
TOTAL AREA: 0.27 ACRE

SCALE VERIFICATION			
BAR IS ONE INCH ON ORIGINAL DRAWING			
IF NOT ONE INCH ON THIS SHEET ADJUST SCALES ACCORDINGLY			
NO.	DESCRIPTION	DATE	BY
-	Original Map	02/26/18	Bo
1	Add Roadpin per City	08/15/18	Bo
2	Remove Roadpin per City	11/14/18	Bo

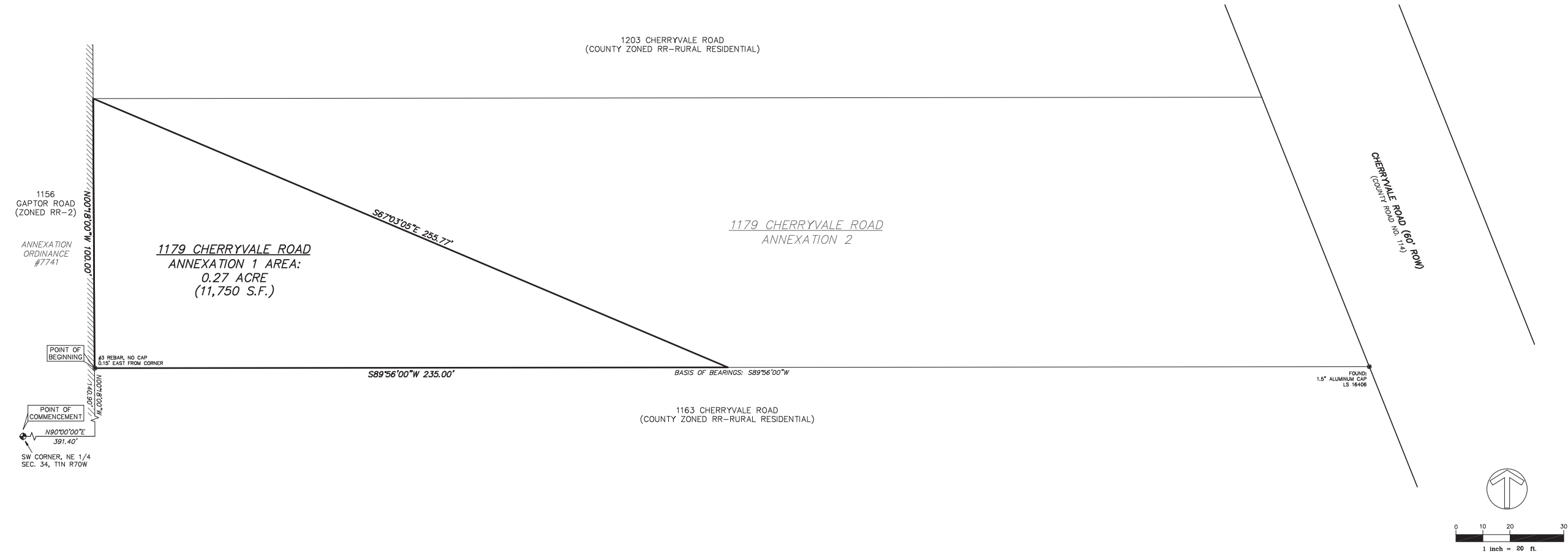
REVISIONS			

HURST
CIVIL ENGINEERING
PLANNING
SURVEYING

HURST & ASSOCIATES, INC.
1265 S. Public Road, Suite B
LaBrette, CO 80026
303.449.9105

ANNEXATION MAP 1 TO THE
CITY OF BOULDER
1179 CHERRYVALE ROAD
BOULDER COUNTY, COLORADO

DRAWN BY: BO	DESIGNED BY:	APPROVED BY:	FILE LOCATION:
	2557-01		C:\2557\1179 CHERRYVALE ANNEXATION MAP (Rev. 2018-11)
JOB NUMBER:	DATE:	SCALE:	SHEET NO.:
	11/14/18	1"=20'	1 OF 1



ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:
COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 34;
THENCE N90°00'00"E, 391.40 FEET ALONG THE SOUTHERLY LINE OF SAID NORTHEAST QUARTER;
THENCE N00°18'00"W, 140.90 FEET TO THE SOUTHWESTERLY CORNER OF A PARCEL OF LAND AS DESCRIBED IN DEED RECORDED 05/11/2007 AT RECEPTION NO. 2855108 AND THE POINT OF BEGINNING;
THENCE CONTINUING N00°18'00"W 100.00 FEET ALONG THE WESTERLY LINE OF SAID PARCEL;
THENCE S67°03'05"E, 255.77 FEET TO THE SOUTHERLY LINE OF SAID PARCEL;
THENCE S89°56'00"W, 235.00 FEET ALONG SAID SOUTHERLY LINE TO THE POINT OF BEGINNING, CONTAINING 11,750 SQUARE FEET OR 0.27 ACRES, MORE OR LESS.
NOTE: BEARINGS ARE BASED ON THE SOUTHERLY LINE OF PARCEL DESCRIBED IN DEED RECORDED AT RECEPTION NO. 2855108, ASSUMED TO BEAR S80°56'00"W BETWEEN THE SOUTHWESTERLY CORNER (#3 REBAR, NO CAP) AND THE SOUTHEASTERLY CORNER (A 1.5" ALUMINUM CAP, LS 16406).

CONTIGUITY INFORMATION:

PERIMETER: 590.77'
CONTIGUOUS TO CITY OF BOULDER: 100.00' (17%)
(1/6 OF PERIMETER = 98.46') < 100.00'

NOTES:

- THIS MAP IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT.
- STRUCTURE ON PROPERTY HAS BEEN REMOVED FROM THE SPECIAL FLOOD HAZARD AREA BY LETTER OF MAP REVISION BASED ON FILL, CASE NO. 10-08-0761A DATED 07/15/2010.
- ALL LINEAR DISTANCES ARE IN U.S. SURVEY FEET.

CERTIFICATION:

I, BO. BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS DEPICTED ON THE ANNEXATION MAP AND MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION.



FOR AND ON BEHALF OF HURST & ASSOCIATES, INC.
BO. BAIZE, COLORADO PLS NO. 37990

ANNEXATION MAP 2 TO THE CITY OF BOULDER
1179 CHERRYVALE ROAD
LOCATED IN THE NORTHEAST QUARTER OF SECTION 34,
TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
COUNTY OF BOULDER, STATE OF COLORADO
TOTAL AREA: 0.77 ACRE

SCALE VERIFICATION

BAR IS ONE INCH ON ORIGINAL DRAWING

IF NOT ONE INCH ON THIS SHEET ADJUST SCALES ACCORDINGLY

NO.	DESCRIPTION	DATE	BY
-	Original Map	02/26/18	Bo
1	Add Roadline per City	08/15/18	Bo
2	Remove Roadline per City	11/14/18	Bo

REVISIONS

HURST

CIVIL ENGINEERING
PLANNING
SURVEYING

ANNEXATION MAP 2 TO THE
CITY OF BOULDER
1179 CHERRYVALE ROAD
BOULDER COUNTY, COLORADO

DRAWN BY:	DESIGNED BY:	APPROVED BY:
BO		

JOB NUMBER:

2557-01

DATE:

11/14/18

SCALE:

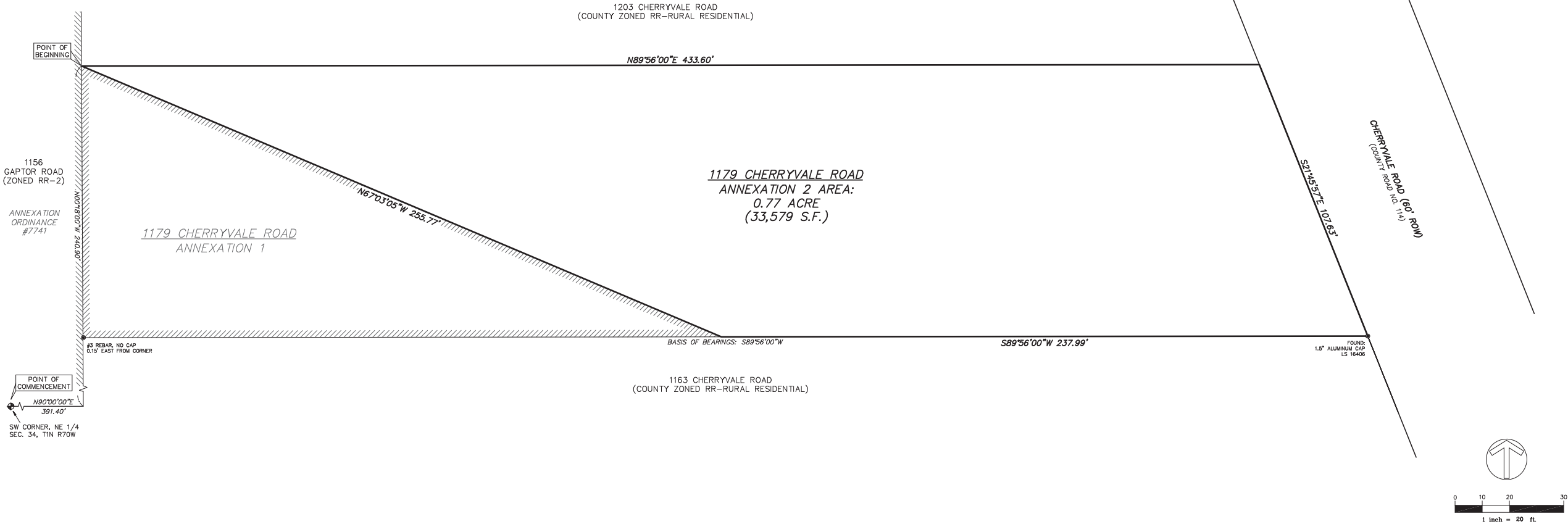
1"=20'

SHEET NO:

1 OF 1

FILE LOCATION:

C:\2557\1179 CHERRYVALE ANNEXATION MAP (Rev. 2018-11)



ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 34;

THENCE N90°00'00"E, 391.40 FEET ALONG THE SOUTHERLY LINE OF SAID NORTHEAST QUARTER;

THENCE N00°18'00"W, 240.90 FEET TO THE NORTHWESTERLY CORNER OF A PARCEL OF LAND AS DESCRIBED IN DEED RECORDED 05/11/2007 AT RECEPTION NO. 2855108 AND THE POINT OF BEGINNING;

THENCE N89°56'00"E, 433.60 FEET ALONG THE NORTHERLY LINE OF SAID PARCEL;

THENCE S21°45'57"E, 107.63 FEET ALONG THE WESTERLY RIGHT OF WAY LINE OF CHERRYVALE ROAD;

THENCE S89°56'00"W, 237.99 FEET ALONG THE SOUTHERLY LINE OF SAID PARCEL;

THENCE N67°03'05"W, 255.77 FEET TO THE POINT OF BEGINNING, CONTAINING 33,581 SQUARE FEET OR 0.77 ACRES, MORE OR LESS.

NOTE: BEARINGS ARE BASED ON THE SOUTHERLY LINE OF PARCEL DESCRIBED IN DEED RECORDED AT RECEPTION NO. 2855108, ASSUMED TO BEAR S80°56'00"W BETWEEN THE SOUTHWESTERLY CORNER (#3 REBAR, NO CAP) AND THE SOUTHEASTERLY CORNER (A 1.5" ALUMINUM CAP, LS 16406).

CONTIGUITY INFORMATION:

PERIMETER: 1,034.99'

CONTIGUOUS TO CITY OF BOULDER: 255.77' (25%)

(1/6 OF PERIMETER = 172.50') < 255.77'

NOTES:

- THIS MAP IS NOT A LAND SURVEY PLAT OR AN IMPROVEMENT SURVEY PLAT.
- STRUCTURE ON PROPERTY HAS BEEN REMOVED FROM THE SPECIAL FLOOD HAZARD AREA BY LETTER OF MAP REVISION BASED ON FILL, CASE NO. 10-08-0761A DATED 07/15/2010.
- ALL LINEAR DISTANCES ARE IN U.S. SURVEY FEET.

CERTIFICATION:

I, BO. BAIZE, A DULY REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS LEGAL DESCRIPTION ACCURATELY DESCRIBES THE AREA PROPOSED FOR ANNEXATION AS DEPICTED ON THE ANNEXATION MAP AND MAP WAS PREPARED BY ME OR UNDER MY SUPERVISION.



FOR AND ON BEHALF OF HURST & ASSOCIATES, INC.
BO. BAIZE, COLORADO PLS NO. 37989

ANNEXATION PETITION Submit with your application.

Annexation Information

Location of property to be annexed: 1179 Cherryvale Rd
 Legal Description: See below
 Size of property: 45,329 sq ft Requested Zoning: RR-2

Impact Report

If the area proposed for annexation is more than ten acres in size, an annexation impact report as required by state law (31-12-105.5, C.R.S.) must be submitted to the Planning Department prior to the first reading of the ordinance annexing the subject property by City Council. The Board of County Commissioners may waive this requirement. If so, a letter from the Board must be submitted to the Planning Department.

Districts

Please check those districts in which the property proposed for annexation is included:

<input checked="" type="checkbox"/> Boulder Valley School District	<input type="checkbox"/> Left Hand Water District
<input type="checkbox"/> St. Vrain School District	<input type="checkbox"/> Other (list) _____
<input type="checkbox"/> Boulder Rural fire District	_____
<input checked="" type="checkbox"/> Rocky Mountain Fire District	_____

Property Owners

List below all owners or lienholders of the property proposed for annexation (please print):

1. Scott Mason Raney
2. Min Sheng
3. _____
4. _____

1179 Cherryvale legal description

Beginning at the Southwest corner of the NE 1/4 of Section 34, T1N, R70 West of the 6th P.M.; Thence East along the East and West center line of said Section 391.4 feet; Thence North 240.9 feet to the True Point of Beginning; Thence South 100 feet; Thence East to the center line of County Road No. 114; Thence Northwesterly along the center line of said County Road No. 114 to a point East of the True Point of Beginning; Thence West to the True Point of Beginning, County of Boulder, State of Colorado.

also known as street and number 1179 Cherryvale Road, Boulder, CO 80303

Submit with your application.

TO THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, GREETINGS:

The undersigned hereby petition(s) the city of Boulder to annex to the city of Boulder the territory shown on the map(s) attached hereto and described on the attachment hereto:

This Petition is signed by landowners qualified to sign. It is intended that this Petition be a one hundred percent (100%) petition for annexation as described in C.R.S. 1973, Section 31-12-107(l)(g), (as amended).

In support of this petition, the undersigned state(s) and allege(s) as follows, to wit:

1. That it is desirable and necessary that the above described territory be annexed to the city of Boulder.
2. That petitioners are landowners of one hundred percent (100%) of the territory, excluding streets and alleys, herein proposed for annexation to the city of Boulder.
3. That no less than one-sixth of the aggregate external boundaries of the above described territory hereby petitioned to the city of Boulder is contiguous to the city limits of the city of Boulder.
4. That a community of interest exists between the above described territory and the city of Boulder, And that the same is urban, or will be urbanized in the near future, and further that the said territory is integrated or is capable of being integrated in the city of Boulder.
5. That in establishing the boundaries of the above described territory, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate, has been divided into separate parts or parcels without the written consent of the landowner or landowners thereof, except and unless such tracts or parcels are already separated by a dedicated street, road or other public way.
6. That in establishing the boundaries of the above described territory, no land held in identical ownership, whether consisting of one tract or parcel of real estate or two or more contiguous tracts or parcels of real estate comprising twenty acres or more which, together with the buildings and improvements situate thereon, have an assessed valuation in excess of \$200,000 for ad valorem tax purposes for the year next preceding the filing of the within petition for annexation, has been included within the above.
7. That the above described territory does not include any area which is the same or substantially the same area in which an election for an annexation to the city of Boulder was held within the twelve months preceding the filing of this petition.
8. That the above described territory does not include any area included in another annexation proceeding involving a city other than the city of Boulder.

9. That at least four copies of an annexation map setting forth with reasonable certainty a written legal description of the boundaries of the area proposed to be annexed, a delineation of the outer boundaries of the above described territory, and the location of each ownership, tract and/or the boundaries and the plat numbers of plats and lots and blocks, the portion of the boundary contiguous with the existing city limits of the city of Boulder, and the dimensions of said contiguous boundary, all upon a material and of a size suitable for recording or filing with the City Clerk of the city of Boulder, and the dimensions of said contiguous boundary, all upon a material and of a size suitable for recording or filing with the City Clerk of the city of Boulder, accompany, have been attached hereto and hereby constitute a part of this petition.
10. That the above described territory is not presently a part of any incorporated city, city and county, or town.
11. That the above area described will (not) result in the detachment of area from any school district and the attachment of the same to another school district (and the resolution of school board of the district to which the area will be attached approving this annexation request).

Description of property included within the area proposed for annexation owned by each person signing this petition. (Attach separate sheet, if necessary).

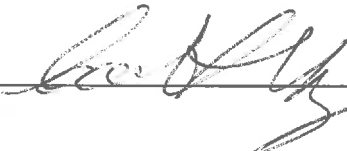
11179 Cherryvale Rd

Same as above

CIRCULATOR'S AFFIDAVIT
CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
 COUNTY OF BOULDER)


Scott Raney
 being first duly sworn, upon oath deposes and says that she/he was the circulator of the above and foregoing petition and that the signatures on said petition are the signatures of the persons whose names they purport to be.


 Circulator

Subscribed and sworn to before me this 26 day of February, A.D. 20 18.

Witness my hand and official seal. My commission expires: 09-01-2018.




 Notary Public

CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
 COUNTY OF BOULDER)

being first duly sworn, upon oath deposes and says that she/he was the circulator of the above and foregoing petition and that the signatures on said petition are the signatures of the persons whose names they purport to be.

 Circulator

Subscribed and sworn to before me this _____ day of _____, A.D. 20 _____.

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

ORDINANCE 8309

AN ORDINANCE ANNEXING TO THE CITY OF BOULDER APPROXIMATELY 0.27 ACRES OF LAND GENERALLY LOCATED AT 1179 CHERRYVALE ROAD WITH AN INITIAL ZONING CLASSIFICATION OF RESIDENTIAL – RURAL 2 (RR-2) AS DESCRIBED IN CHAPTER 9-5, "MODULAR ZONE SYSTEM," B.R.C. 1981, AMENDING THE ZONING DISTRICT MAP FORMING A PART OF SAID CHAPTER TO INCLUDE THE PROPERTY IN THE ABOVE-MENTIONED ZONING DISTRICT, AND SETTING FORTH RELATED DETAILS.

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

A. Scott Mason Raney and Min Sheng are the owners of the parcel which comprises the real property more particularly described in Exhibit A attached hereto (the "Property").

B. The owners of 100% of the area proposed for annexation, excluding streets and alleys, have petitioned for annexation of the Property with an initial zoning of Residential – Rural 2 (RR-2) for the Property; the Property is not embraced within any city, city and county, or incorporated town; and the Property abuts, and is contiguous to, the City of Boulder by at least one-sixth of its perimeter.

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

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

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

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

1 G. The Property does not include any area which is the same or substantially the
2 same area in which an election for the annexation to the City of Boulder was held within twelve
3 months preceding the filing of the above petition.

4 H. The Planning Board duly proposed that the Property be annexed to the City of
5 Boulder and that the zoning district map adopted by the City Council be amended to zone and
6 include the Property in the Residential – Rural 2 (RR-2) zoning district, as provided in Chapter
7 9-5, "Modular Zone System," B.R.C. 1981.

8 I. A public hearing on the proposed annexation and initial zoning of the Property
9 annexed and zoned hereby was duly held before the City Council on February 19, 2019.

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

13 K. The City Council has jurisdiction and the legal authority to annex and zone the
14 Property.
15

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

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

20 Section 2. Chapter 9-5, "Modular Zone System," B.R.C. 1981, and the zoning district
21 map forming a part thereof, be, and the same hereby are, amended to include the Property within
22 the Residential – Rural 2 (RR-2) zoning district.

23 Section 3. The City Council adopts the recitals in this ordinance and incorporates them
24 herein by this reference.
25

Item 5B - Second Reading 1179 Cherryvale Rd Annexation

1 READ ON SECOND READING, PASSED AND ADOPTED this 19th day of February
2 2019.

3 _____
4 Suzanne Jones
5 Mayor

6 Attest:

7 _____
8 Lynnette Beck
9 City Clerk

EXHIBIT A

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 34;

THENCE N90°00'00"E, 391.40 FEET ALONG THE SOUTHERLY LINE OF SAID NORTHEAST QUARTER;

THENCE N00°18'00"W, 140.90 FEET TO THE SOUTHWESTERLY CORNER OF A PARCEL OF LAND AS DESCRIBED IN DEED RECORDED 05/11/2007 AT RECEPTION NO. 2855108 AND THE POINT OF BEGINNING;

THENCE CONTINUING N00°18'00"W 100.00 FEET ALONG THE WESTERLY LINE OF SAID PARCEL;

THENCE S67°03'05"E, 255.77 FEET TO THE SOUTHERLY LINE OF SAID PARCEL;

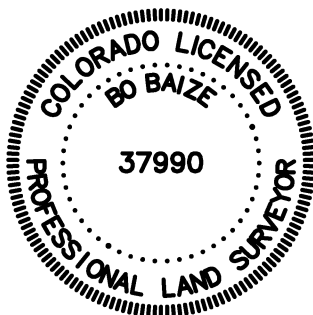
THENCE S89°56'00"W, 235.00 FEET ALONG SAID SOUTHERLY LINE TO THE POINT OF BEGINNING, CONTAINING 11,750 SQUARE FEET OR 0.27 ACRES, MORE OR LESS.

NOTE: BEARINGS ARE BASED ON THE SOUTHERLY LINE OF PARCEL DESCRIBED IN DEED RECORDED AT RECEPTION NO. 2855108, ASSUMED TO BEAR S80°56'00"W BETWEEN THE SOUTHWESTERLY CORNER (#3 REBAR, NO CAP) AND THE SOUTHEASTERLY CORNER (A 1.5" ALUMINUM CAP, LS 16406).

DESCRIPTION BY:

BO BAIZE, COLORADO PLS 37990

FOR AND ON BEHALF OF HURST & ASSOCIATES, INC.



**ANNEXATION MAP 1 TO THE CITY OF BOULDER
1179 CHERRYVALE ROAD – 0.27 ACRE
COUNTY OF BOULDER, COLORADO**

HURST

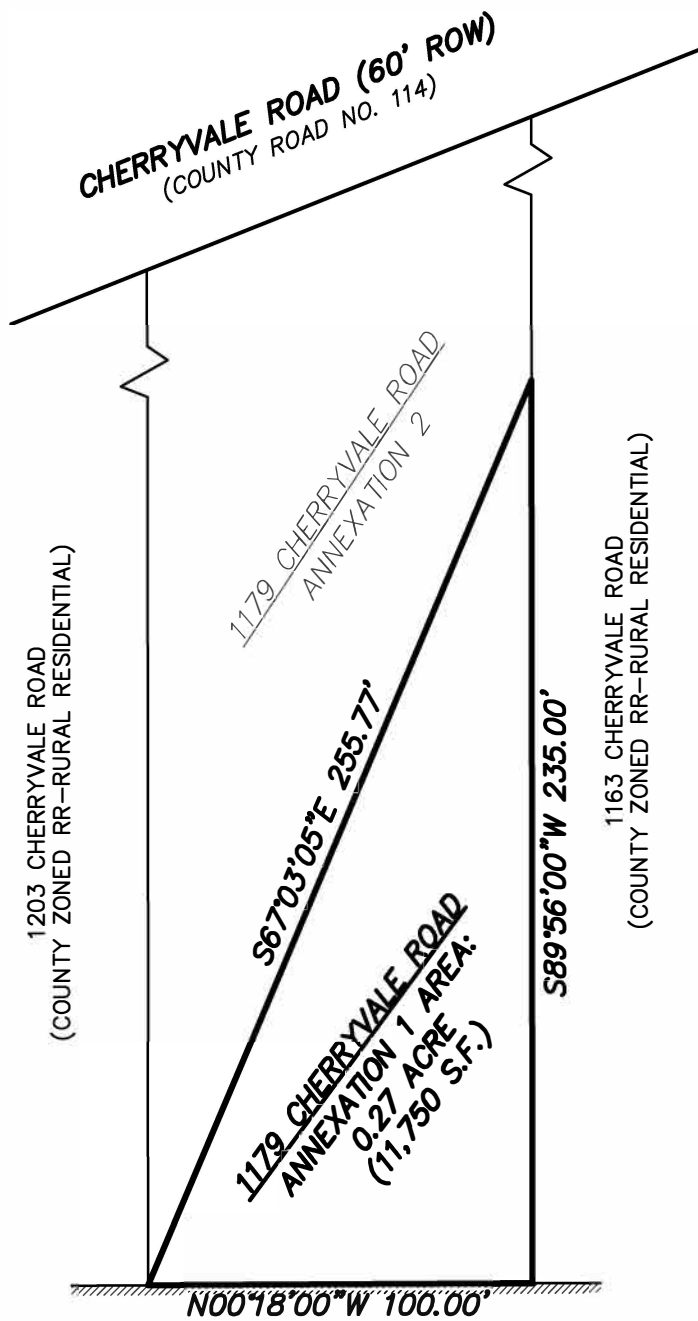
**CIVIL ENGINEERING
PLANNING
SURVEYING**

1265 S Public Road, Suite B
Lafayette, CO 80026
303.449.9105
www.hurst-assoc.com

SCALE	HOR. N/A VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	11/14/18
SHEET	1 OF 2

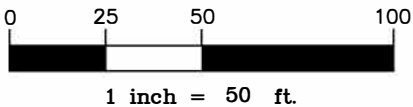
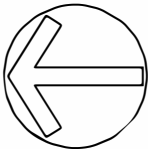
FILE G:\25571\1179 CHERRYVALE ANNEXATION (LETTER)

EXHIBIT A



CONTIGUITY INFORMATION:

PERIMETER: 590.77'
CONTIGUOUS TO CITY OF BOULDER: 100.00' (17%)
(1/6 OF PERIMETER = 98.46') < 100.00'



1156 GAPTOR ROAD (ZONED RR-2) ANNEXATION ORDINANCE #7741

ANNEXATION MAP 1 TO THE CITY OF BOULDER
1179 CHERRYVALE ROAD – 0.27 ACRE
COUNTY OF BOULDER, COLORADO

HURST	CIVIL ENGINEERING	1265 S Public Road, Suite B	SCALE HOR. 1"=50'
	PLANNING	Lafayette, CO 80026	VERT. N/A
	SURVEYING	303.449.9105	DESIGN/APPR.
	www.hurst-assoc.com	DATE 11/14/18	DRAWN BY BO
	FILE G:\25571\1179 CHERRYVALE ANNEXATION (LETTER)	SHEET 2 OF 2	

ORDINANCE 8310

AN ORDINANCE ANNEXING TO THE CITY OF BOULDER APPROXIMATELY 0.77 ACRES OF LAND GENERALLY LOCATED AT 1179 CHERRYVALE ROAD WITH AN INITIAL ZONING CLASSIFICATION OF RESIDENTIAL – RURAL 2 (RR-2) AS DESCRIBED IN CHAPTER 9-5, "MODULAR ZONE SYSTEM," B.R.C. 1981, AMENDING THE ZONING DISTRICT MAP FORMING A PART OF SAID CHAPTER TO INCLUDE THE PROPERTY IN THE ABOVE-MENTIONED ZONING DISTRICT, AND SETTING FORTH RELATED DETAILS.

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

A. Scott Mason Raney and Min Sheng are the owners of the parcel which comprises the real property more particularly described in Exhibit A attached hereto (the "Property").

B. The owners of 100% of the area proposed for annexation, excluding streets and alleys, have petitioned for annexation of the Property with an initial zoning of Residential – Rural 2 (RR-2) for the Property; the Property is not embraced within any city, city and county, or incorporated town; and the Property abuts, and is contiguous to, the City of Boulder by at least one-sixth of its perimeter.

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

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

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

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

1 G. The Property does not include any area which is the same or substantially the
2 same area in which an election for the annexation to the City of Boulder was held within twelve
3 months preceding the filing of the above petition.

4 H. The Planning Board duly proposed that the Property be annexed to the City of
5 Boulder and that the zoning district map adopted by the City Council be amended to zone and
6 include the Property in the Residential – Rural 2 (RR-2) zoning district, as provided in Chapter
7 9-5, "Modular Zone System," B.R.C. 1981.

8 I. A public hearing on the proposed annexation and initial zoning of the Property
9 annexed and zoned hereby was duly held before the City Council on February 19, 2019.

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

13 K. The City Council has jurisdiction and the legal authority to annex and zone the
14 Property.
15

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

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

20 Section 2. Chapter 9-5, "Modular Zone System," B.R.C. 1981, and the zoning district
21 map forming a part thereof, be, and the same hereby are, amended to include the Property within
22 the Residential – Rural 2 (RR-2) zoning district.

23 Section 3. The City Council adopts the recitals in this ordinance and incorporates them
24 herein by this reference.
25

1 READ ON SECOND READING, PASSED AND ADOPTED this 19th day of February
2 2019.

3
4 Suzanne Jones
Mayor

5 Attest:

6
7 Lynnette Beck
City Clerk

EXHIBIT A

ANNEXATION DESCRIPTION:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 34;

THENCE N90°00'00"E, 391.40 FEET ALONG THE SOUTHERLY LINE OF SAID NORTHEAST QUARTER;

THENCE N00°18'00"W, 240.90 FEET TO THE NORTHWESTERLY CORNER OF A PARCEL OF LAND AS DESCRIBED IN DEED RECORDED 05/11/2007 AT RECEPTION NO. 2855108 AND THE POINT OF BEGINNING;

THENCE N89°56'00"E, 433.60 FEET ALONG THE NORTHERLY LINE OF SAID PARCEL;

THENCE S21°45'57"E, 107.63 FEET ALONG THE WESTERLY RIGHT OF WAY LINE OF CHERRYVALE ROAD;

THENCE S89°56'00"W, 237.99 FEET ALONG THE SOUTHERLY LINE OF SAID PARCEL;

THENCE N67°03'05"W, 255.77 FEET TO THE POINT OF BEGINNING, CONTAINING 33,581 SQUARE FEET OR 0.77 ACRES, MORE OR LESS.

NOTE: BEARINGS ARE BASED ON THE SOUTHERLY LINE OF PARCEL DESCRIBED IN DEED RECORDED AT RECEPTION NO. 2855108, ASSUMED TO BEAR S80°56'00"W BETWEEN THE SOUTHWESTERLY CORNER (#3 REBAR, NO CAP) AND THE SOUTHEASTERLY CORNER (A 1.5" ALUMINUM CAP, LS 16406).

DESCRIPTION BY:

BO BAIZE, COLORADO PLS 37990

FOR AND ON BEHALF OF HURST & ASSOCIATES, INC.



**ANNEXATION MAP 2 TO THE CITY OF BOULDER
1179 CHERRYVALE ROAD – 0.77 ACRE
COUNTY OF BOULDER, COLORADO**

HURST

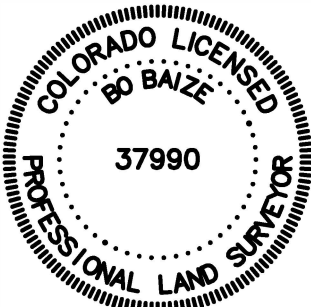
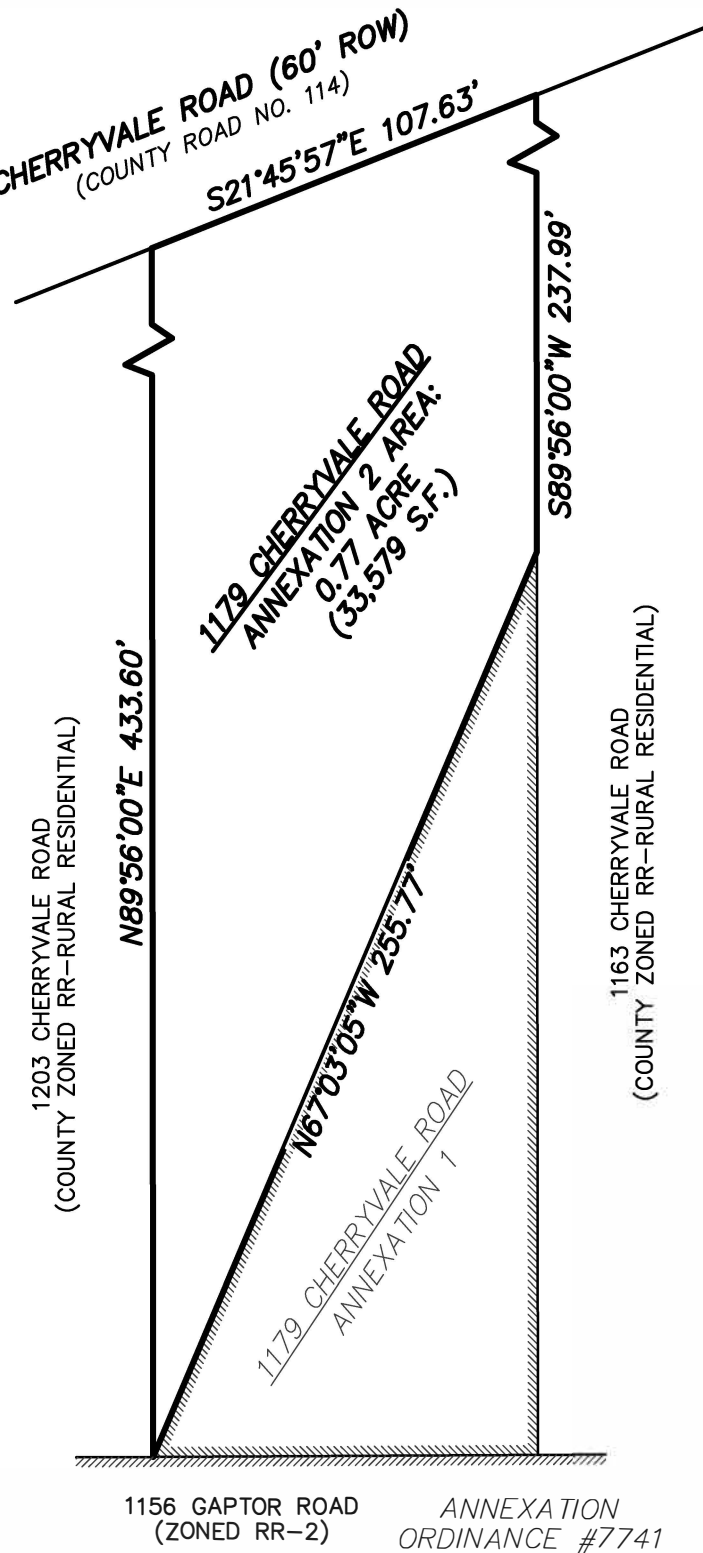
**CIVIL ENGINEERING
PLANNING
SURVEYING**

1265 S Public Road, Suite B
Lafayette, CO 80026
303.449.9105
www.hurst-assoc.com

SCALE	HOR. N/A VERT. N/A
DESIGN/APPR.	
DRAWN BY	BO
DATE	11/14/18
SHEET	1 OF 2

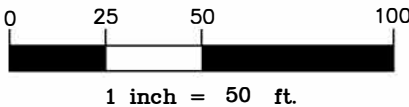
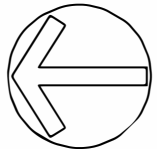
FILE G:\25571\1179 CHERRYVALE ANNEXATION (LETTER)

EXHIBIT A



CONTIGUITY INFORMATION:

PERIMETER: 1,034.99'
CONTIGUOUS TO CITY OF BOULDER: 255.77' (25%)
(1/6 OF PERIMETER = 172.50') < 255.77'



ANNEXATION MAP 2 TO THE CITY OF BOULDER
1179 CHERRYVALE ROAD – 0.77 ACRE
COUNTY OF BOULDER, COLORADO

HURST	CIVIL ENGINEERING	1265 S Public Road, Suite B	SCALE HOR. 1"=50'
	PLANNING	Lafayette, CO 80026	VERT. N/A
	SURVEYING	303.449.9105	DESIGN/APPR.
	www.hurst-assoc.com	DRAWN BY BO	DATE 11/14/18
	FILE G:\25571\1179 CHERRYVALE ANNEXATION (LETTER)	SHEET 2 OF 2	

For Administrative Use Only

Grantor: City of Boulder and Scott Mason Raney & Min Sheng

Grantee: Scott Mason Raney & Min Sheng and City of Boulder

Case No. LUR2018-00021

ANNEXATION AGREEMENT

THIS AGREEMENT, made this 21st day of December, 2018, by and between the City of Boulder, a Colorado home rule city, hereinafter referred to as "City," and Scott Mason Raney and Min Sheng, hereinafter referred to as "Applicant."

RECITALS

- A. The Applicant is the owner of the real property generally described as 1179 Cherryvale Road and more particularly described on Exhibit A attached hereto and incorporated herein (the "Property").
- B. The Applicant is interested in obtaining approval from the City of a request for the annexation of the Property with an initial zoning designation of Residential - Rural 2 (RR-2).
- C. The City is interested in insuring that certain terms and conditions of annexation be met by the Applicant in order to protect the public health, safety and welfare and prevent the placement of an unreasonable burden on the physical, social, economic, or environmental resources of the City.

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

COVENANTS

1. Requirements Prior to First Reading. Prior to the first reading of the annexation ordinance before City Council, the Applicant shall:

- a) sign this Agreement.
- b) provide to the City an updated title commitment current within 30 days of the date of the first reading of the annexation ordinance.
- c) Pay the following to the City:

- i) Plant Investment Fees (PIF's)
 - Stormwater \$2.26/square foot of impervious area
 - Existing Impervious Area: 3,913 sf:
 - \$8,843.38

Total Due Prior to First Reading \$8,843.38

- d) Execute the following documents, at no cost to the City, the final forms of which are subject to approval of the City Manager:
 - i) A deed of dedication substantially in the form attached hereto and incorporated herein as Exhibit B conveying to the City, in fee and clear of monetary liens and encumbrances, the six-foot wide portion of property being that portion of the right-of-way for Cherryvale Road as generally shown on Exhibit B attached hereto and incorporated herein.
 - e) provide a written description of any nonconforming uses and/or nonstandard buildings existing on the Property, if any.
2. Existing Wells. The City agrees that it will not prohibit the Applicant from using existing wells for irrigation purposes, even if served by the City water utility. Under no circumstances may existing wells be used for domestic water purposes once the Applicant has connected to city water utility. No person shall make any cross connections to the City's municipal water supply system from any well on the Property.
 3. Historic Drainage. The Applicant agrees to convey drainage from the Property in an historic manner that does not materially and adversely affect abutting properties.
 4. Ditch Company Approval. If the Property is abutting or crossed by an existing irrigation ditch or lateral, the Applicant agrees not to relocate, modify, or alter the ditch or lateral until and unless written approval is received from the appropriate ditch company.
 5. Existing Nonstandard Buildings and/or Nonconforming Uses. The only nonconforming uses and nonstandard buildings and structures on the Property that will be recognized by the City and allowed to continue to exist are those that are included as Exhibit C attached hereto and incorporated herein. Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981, applies to changes to nonstandard buildings and nonconforming uses.
 6. New Construction. All new construction commenced on the Property after annexation shall comply with all City of Boulder laws, taxes, and fees, except as modified by this Agreement.
 7. Waiver of Vested Rights. The Applicant waives any vested property rights that may have arisen under Boulder County jurisdiction. This Agreement shall replace any such rights that may have arisen under Boulder County jurisdiction. The Applicant acknowledges that nothing contained herein may be construed as a waiver of the City's police powers or the power to zone and regulate land uses for the benefit of the general public.

8. Dedications. The Applicant acknowledges that any dedications and public improvements required herein with this annexation are rationally related and reasonably proportionate to the impact of the development of the Property as set forth in this Agreement.
9. Original Instruments. Prior to the first reading of the annexation ordinance, the Applicant shall provide an original of this Agreement signed by the Applicant, along with any instruments required in this Agreement. The City agrees to hold such documents until after final legislative action on the annexation of this Property has occurred. Final legislative action by the City Council shall constitute acceptance of such documents by the City. In the event that the City does not annex the Property, the City agrees that it will return all such original documents to the Applicant. The Applicant agrees that it will not encumber or in any way take any action that compromises the quality of such documents while they are being held by the City.
10. No Encumbrances. The Applicant agrees that between the time of signing this Agreement and the time when final legislative action on the annexation of this Property has occurred, the Applicant shall neither convey ownership nor further encumber the Applicant's Property, without the express approval from the City. Prior to the recording of this Agreement with the Boulder County Clerk and Recorder, Applicant agrees not to execute transactional documents encumbering the Property or otherwise affecting title to the Property without first notifying the City and submitting revised title work within five (5) working days of any such transaction.
11. Breach of Agreement. In the event that the Applicant breaches or fails to perform any required action under or fails to pay any fee specified under this Agreement, the Applicant acknowledges that the City may take all reasonable actions to cure the breach, including but not limited to, the filing of an action for specific performance of the obligations herein described. In the event the Applicant fails to pay any monies due under this Agreement or fails to perform any affirmative obligation hereunder, the Applicant agrees that the City may collect the monies due in the manner provided for in Section 2-2-12, B.R.C., 1981, as amended, as if the said monies were due and owing pursuant to a duly adopted ordinance of the City or the City may perform the obligation on behalf of the Applicant, and collect its costs in the manner herein provided. The Applicant agrees to waive any rights he may have under Section 31-20-105, C.R.S., based on the City's lack of an enabling ordinance authorizing the collection of this specific debt, or acknowledges that the adopting of the annexation ordinance is such enabling ordinance.
12. Failure to Annex. This Agreement and any document executed pursuant hereto shall be null and void and of no consequence in the event that the Property is not annexed to the City.
13. Future Interests. This Agreement and the covenants set forth herein shall run with the land and be binding upon the Applicant, the Applicant's successors and assigns and all persons who may hereafter acquire an interest in the Property, or any part thereof. If it shall be determined that this Agreement contains an interest in land, that interest shall vest, if at all, within the lives of the undersigned plus 20 years and 364 days.

14. Right to Withdraw. The Applicant retains the right to withdraw from this Agreement up until the time that final legislative action has been taken on the ordinance that will cause the Property to be annexed into the City. The final legislative action will be the vote of the City Council after the final reading of the annexation ordinance. The Applicant's right to withdraw shall terminate upon the City Council's final legislative action approving the annexation. In the event that the Applicant withdraws from this Agreement in the manner described above, this Agreement shall be null and void and shall have no effect regarding the Applicant. The City agrees, within 30 days of a request by the Applicant after a withdrawal, to return all previously submitted fees, application, and easement and/or rights of way dedication documents which the Applicant submitted pursuant to this Agreement to the City.
15. Zoning. The Property shall be annexed to the City with a Residential - Rural 2 (RR-2) zoning classification, and except as set forth herein, shall be subject to all of the rights and restrictions associated with that zoning.

EXECUTED on the day and year first above written.

Applicant:

By: 
Scott Mason Raney

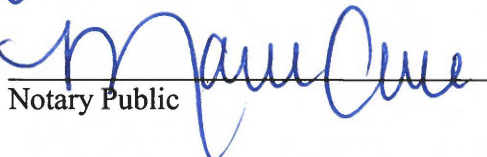
STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

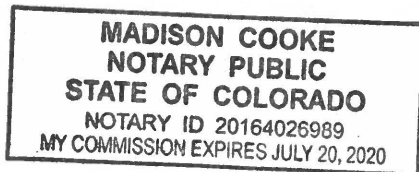
The foregoing instrument was acknowledged before me this 21st day of December, 2018 by Scott Mason Raney.

Witness my hand and official seal.

My commission expires: 7/20/2020

[Seal]


Notary Public



By: *Min Sheng*
Min Sheng

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

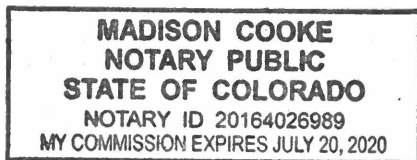
The foregoing instrument was acknowledged before me this 21st day of December, 2018 by Min Sheng.

Witness my hand and official seal.

My commission expires: 7/20/2020

[Seal]

Mae Anne
Notary Public



CITY OF BOULDER, COLORADO

By: _____
Jane S. Brautigam, City Manager

Attest:

City Clerk

Approved as to form:


City Attorney's Office

Date: 12-14-2018

Exhibits

Exhibit A	Legal Description of Property
Exhibit B	Deed of Dedication
Exhibit C	Exhibit of nonstandard structures

Exhibit A

Legal Description

Beginning at the Southwest corner of the NE 1/4 of Section 34, T1N, R70 West of the 6th P.M.; Thence East along the East and West center line of said Section 391.4 feet; Thence North 240.9 feet to the True Point of Beginning; Thence South 100 feet; Thence East to the center line of County Road No. 114; Thence Northwesterly along the center line of said County Road No. 114 to a point East of the True Point of Beginning; Thence West to the True Point of Beginning, County of Boulder, State of Colorado.

By: _____
Min Sheng

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____,
201__, by Min Sheng.

Witness my hand and official seal.

My commission expires: _____

[Seal]

Notary Public

EXHIBIT A

DEDICATION DESCRIPTION:

THE EASTERLY 6.00 FEET OF THAT PROPERTY DESCRIBED IN DEED RECORDED 05/11/2007 AT RECEPTION NO. 2855106 IN THE RECORDS OF BOULDER COUNTY, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LOCATED IN THE NORTHEAST QUARTER OF SECTION 34, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF SECTION 34;

THENCE EAST ALONG THE EAST AND WEST CENTER LINE OF SAID SECTION 391.4 FEET;

THENCE NORTH 140.9 FEET TO THE SOUTHWESTERLY CORNER OF SUBJECT PROPERTY AS DESCRIBED IN DEED RECORDED AT RECEPTION NO. 2855106 AS MONUMENTED BY A #3 REBAR;

THENCE N89°56'00"E, 466.53 FEET ALONG THE SOUTHERLY LINE OF SUBJECT PROPERTY (BASIS OF BEARINGS) TO THE POINT OF BEGINNING;

THENCE N21°45'57"W, 107.63 FEET ALONG A LINE PARALLEL WITH AND 6.00 FEET WEST OF THE WESTERLY RIGHT OF WAY LINE OF CHERRYVALE ROAD TO A POINT ON THE NORTHERLY LINE OF SUBJECT PROPERTY;

THENCE N89°56'00"E, 6.46 FEET ALONG NORTHERLY LINE TO THE WESTERLY RIGHT OF WAY LINE OF CHERRYVALE ROAD;

THENCE S21°45'57"E, 107.63 FEET ALONG SAID WESTERLY RIGHT OF WAY LINE OF CHERRYVALE ROAD TO THE SOUTHEASTERLY CORNER OF SUBJECT PROPERTY AS MONUMENTED BY A 1.5" ALUMINUM CAP, LS 16406;

THENCE S89°56'00"W, 6.46 FEET ALONG THE SOUTHERLY LINE OF SUBJECT PROPERTY TO THE POINT OF BEGINNING, CONTAINING 646 SQUARE FEET, MORE OR LESS.

DESCRIPTION BY:

BO BAIZE, COLORADO PLS 37990

FOR AND ON BEHALF OF HURST & ASSOCIATES, INC.



RIGHT OF WAY DEDICATION 1179 CHERRYVALE ROAD

HURST	1265 S Public Road, Suite B	SCALE HOR. N/A
	Lafayette, CO 80026	VERT. N/A
	303.449.9109	DESIGN/APPR.
	www.hurst-assoc.com	DRAWN BY BO
		DATE 08/06/18
CIVIL ENGINEERING		SHEET 1 OF 2
PLANNING		
SURVEYING		

FILE G:\25571\1179 CHERRYVALE ROW DEDICATION-REV

EXHIBIT A

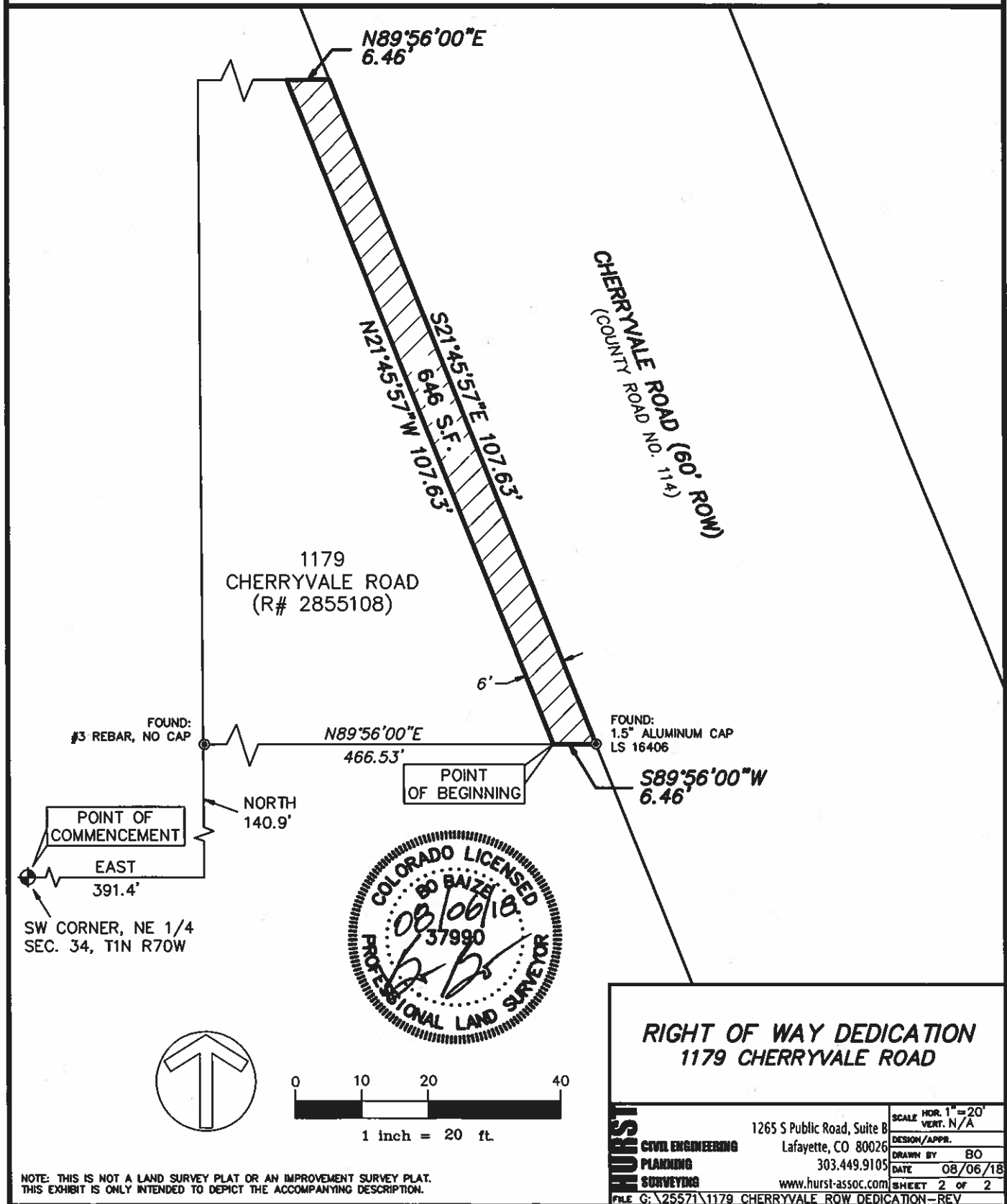
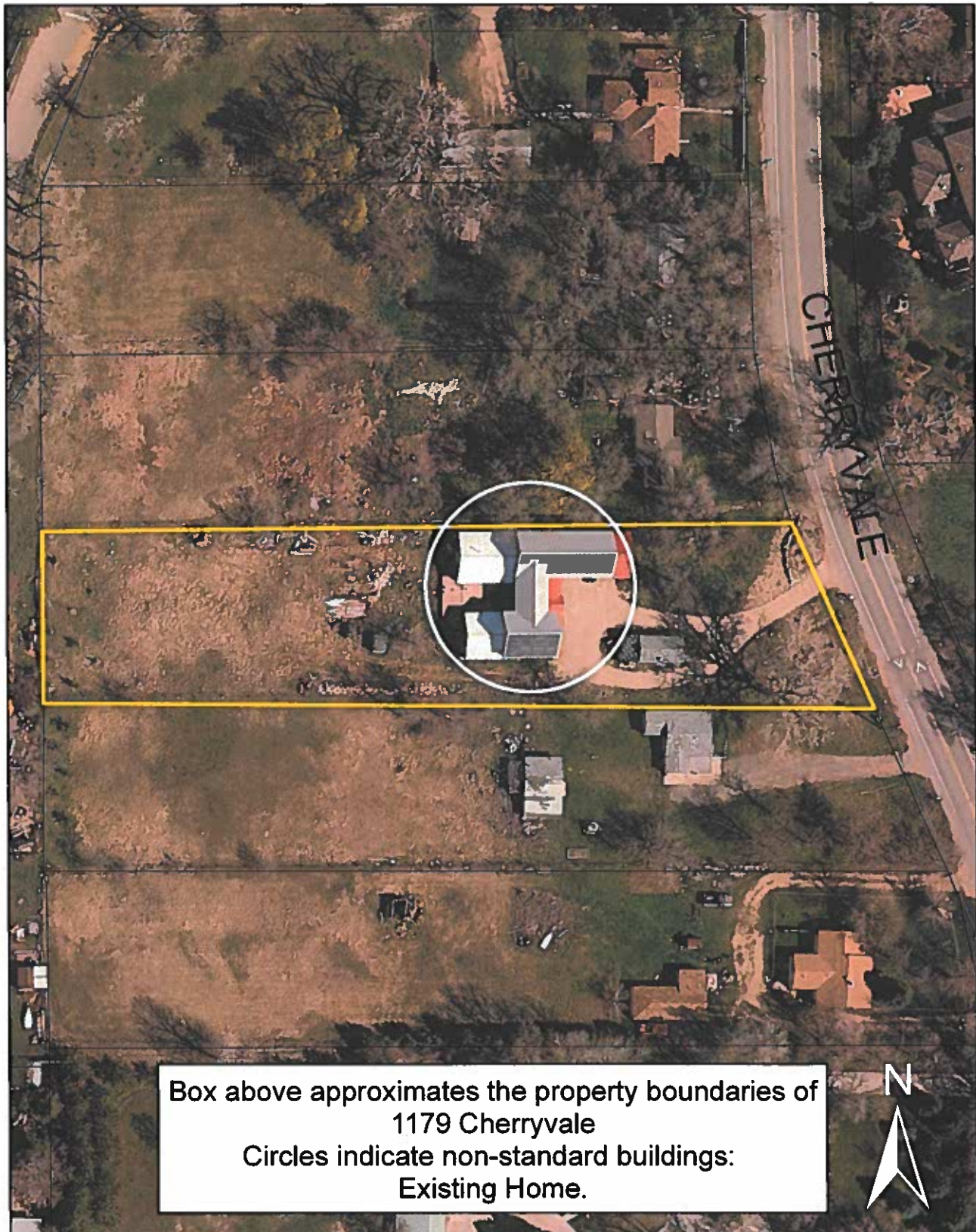


EXHIBIT C



Existing home located at a 8.9-foot side yard setback where the minimum required is 10'.

From: Moeller, Shannon
Sent: Friday, June 15, 2018 2:27 PM
To: 'mmsanders@comcast.net' <mmsanders@comcast.net>
Subject: RE: 1179 Cherryvale - LUR2018-00021

Hi Michelle,

Thank you for the additional information and photos. All comments received will be provided to the applicant and to Planning Board and City Council for their consideration. The annexation process is generally a 7-9+ month process and public comments can be made during the entire review period.

Please note I have spoken to Sloane regarding the conversations during the annexation feasibility study as it seems there may have been a miscommunication or misinterpretation. The intent of city staff was to convey that conditions of annexation can be considered during the annexation review process; this process continues until City Council ultimately approves or denies an annexation request.

Please be assured that I have reviewed the documentation available online and spoken to the County regarding the most recent application on 1179 Cherryvale (SPR-17-0079, the proposal to relocate the accessory structure to the rear of the home). The county found that "no significant natural resource impacts are expected from the proposal, including to Preble's Meadow Jumping Mouse habitat" and conditionally approved the application, following which it was called up for a public hearing and subsequently withdrawn by the applicant prior to the hearing.

Please feel free to be in touch. Everyone that provides comments or inquiries to the city during the review will receive follow-up emails to keep informed about the application status and any public hearings once those are scheduled.

Best,

Shannon Moeller, AICP
Planner II



City of Boulder
Planning, Housing and Sustainability

O: 303-441-3137
moellers@bouldercolorado.gov

Planning and Development Services
1739 Broadway, Third Floor | Boulder, CO 80306-0791
Bouldercolorado.gov

From: mmsanders@comcast.net <mmsanders@comcast.net>
Sent: Friday, May 25, 2018 10:35 PM
To: Moeller, Shannon <MoellerS@bouldercolorado.gov>
Cc: msandersconsulting@gmail.com; Christinasbees@gmail.com; 'Paula Mannell' <PARKERSOFTHESW@msn.com>; elizabethdawn00@aol.com; asliac@yahoo.com; alindrose@comcast.net; 'Jay Beyer' <jaybeyer@comcast.net>; gsjLiLley@gmail.com; 'Mary Bogetveit' <mbogetveit@comcast.net>; 'Jennifer McKeown' <mckeowndefler@hotmail.com>; 'Silvano Deluca' <delucaboulder@hotmail.com>; 'Miller Midra' <mydramiller@yahoo.com>; 'PAM VOGEL'

<PEV@kingsberycpas.com>; 'Vogel, Todd' <Todd.Vogel@grainger.com>; 'Lauren Goldberg' <lauren@tarshis.com>; 'Daniel Goldberg' <daniel@thebridge.us>; 'Samantha Nuttycombe' <samantha.nuttycombe@gmail.com>; caseybynum@aol.com; info@sunbeamfarm.com; mwehde@gmail.com; martalindrose@comcast.net; marciaforman@icloud.com; 'Carolina' <carolina.fryer@gmail.com>; Tracy.Parrish@gmail.com; shuffield7@aol.com; timberes@gmail.com; 'Matt Sanders' <msandersconsulting@gmail.com>; nbogetveit@gmail.com; marco.a.demartino@gmail.com; 'Tim and Eileen Conway' <tandeconway@gmail.com>; csprecher@yahoo.com

Subject: RE: 1179 Cherryvale - LUR2018-00021

Shannon,

I have cc'd the neighborhood so they can follow this as well.

This is very disconcerting to hear that Sloane's promised additions were not made to the Annexation Feasibility Study, and that the initial review is basically complete while I have waited an entire week to receive a call back or an email response.

Whether or not the City can prohibit construction in the 100-year floodplain, I would like to be clear that my concern, shared by many of my neighbors, is about protecting a meadow that the county has worked hard to protect for many years. This was the area where the most water flowed through during the floods, this is where the birds bathe in spring rains, where the Preble's meadow jumping mice live and how deer transit our neighborhood. Yes, it does happen to be in the 100 year floodplain but it also has other significance. Below are some examples of how the county worked to save this meadow.

I took some time last fall to come down to the County Building Dept to research the other projects that I referred to in my previous email. First was our building permit that we applied for in 2004 when we were in the County (1156 Gapter Rd.). We were completely denied a permit because our rebuilding project was in the floodway. Our old sunroom we were trying to rebuild was about 60 feet from the proposed location of the Raney shed. We were told "no" to a floodplain development permit and SPR. Perhaps the flood maps have changed, but we did see in the floods in 2013 that this was where the water naturally flowed, through this meadow, which was likely where the creek was before the Army Corps of Engineers relocated it. And on a side note, our house was completely demolished and rebuilt after the 2013 floods after sustaining substantial damages as defined by FEMA. They were correct to not let us build at existing grade since this area had some of the highest waters in the neighborhood during the flood.

The second one was SPR-02-148 Lane Garage, the adjacent property to the south at 1163 Cherryvale Rd. The Lanes own both 1163 and 1123 Cherryvale, and wanted to build a 6,000sq ft garage in the meadow adjacent to the proposed relocated shed. After a lot of back and forth they were given conditional approval based on the following requirements: the proposed structure had to be moved to the east out of the meadow, rotated 90 degrees, the existing garage at 1163 had to be demolished and all outbuildings at 1123, around 3700sqft, were to be demolished as well. The documents at the county stated that the garage would have to be lifted 4-5 feet to get it to BFE +2. The project was withdrawn, likely due the immense stipulations the County put on the project.

The third was SPR-04-115 Curton Residence. The owner of the property had a single story home designed for 1179 Cherryvale Rd, the property under review, the footprint of which extended into the

meadow more than the existing Raney home. The adjacent property owners fought for months to have the proposed structure moved towards the east and in the end the county granted a permit after the structure was moved 53 feet closer to Cherryvale. The edge of the house would have been 130 feet from Cherryvale with a 2700sqft home.

The reason I bring these cases to light is that in all of them the County worked hard to preserve this special riparian corridor we have here. It is beneficial for the animals (such as the endangered Prebels Meadow Jumping Mouse), the environment, the floodplain, the views and the general aesthetic of the neighborhood. I hope the City will help preserve this special space in our neighborhood. I have seen the County help save this meadow before and I hope the City can follow this tradition.

This aerial photo from Google Maps, likely from June 2015, shows many of the low spots throughout this meadow. The dark areas are where the birds come to bathe when the snow melts and when it rains. The water also flows swiftly through here since it is the lowest part of the meadow when we have heavy rains. The condition of the grasses, the low elevations and the rocky cobble when we dig lead me and others in the neighborhood to believe that this area was once the original location of South Boulder Creek. After the 2013 Floods, there was standing water in this meadow for weeks, long after the flood waters had receded elsewhere.



I also attach some additional photos for your reference. First is a shot of the intersection at Mc Sorley and Gapter, at the northern end of the meadow, was taken on May 9, 2015 when we had a few weeks of rain. The water that is collecting there and flooding over the street comes through the riparian corridor and meadow. This is not during floods, just high rains, which makes getting equipment or even access to a shed in this area difficult.



The photo below shows the meadow from the side and how open it is as a riparian corridor for animals.



As I mentioned before, we are not against the rebuilding of the shed or a new structure on the east side of the existing structure. We hope that the City can help the Raney's find a better location out of meadow/floodplain, or keep it in its existing location, so that it doesn't impact the meadow, the animals and the neighbors that surround it.

Lastly, many permits have been pulled for 1179 Cherryvale in the 17 years that we have lived here and they have a history of changing over time. For example, this was a simple re-roofing project less than one year ago, then it became a permit to "relocate" the shed 300 feet to the west of the house and put it up on stilts in the floodplain. Now, it's an ADU for his parents in a building that was decommissioned by the county as a requirement for receiving a permit for the new house in 2008. The house also required a variance for height because it was over the county's height limit, and he snuck his permit in just weeks before the county rule about appropriate size went into place. 1179 Cherryvale is about twice the square footage of a typical home in this neighborhood, and they are now looking to add to that square footage with an ADU. Finally, there are landscaping requirements dating back to the construction of 1179 Cherryvale that have not been followed – he planted trees without irrigation, and most have died. Those that have survived have not grown appreciably.

As I stated before, this all seems like a veiled attempt to get a different answer regarding relocation of the outbuilding, in spite of the fact that the County and many neighbors are opposed to it. Where there is rule, Raney will find a way to bend it in his favor. This is why it is important to the integrity of the

meadow to have a stipulation that clearly states there will not be a building allowed on the west side of the property in the floodplain.

Thanks for your time,

Michelle Sanders
303.915.9103

From: Moeller, Shannon <MoellerS@bouldercolorado.gov>
Sent: Friday, May 25, 2018 3:20 PM
To: mmsanders@comcast.net
Cc: msandersconsulting@gmail.com
Subject: RE: 1179 Cherryvale - LUR2018-00021

Hi Michelle,

The review that Sloane was the case manager for was an "Annexation Feasibility Study." The purpose of that review is to provide the applicant with information regarding the feasibility for annexation of a property; it does not result in an approval or denial, but provides feedback for the applicant to consider prior to applying for a formal annexation.

Currently, staff is completing the initial review of the formal "Annexation and Initial Zoning" application. After staff reviews the application (usually 2-3 rounds of staff review take place), a recommendation will be made to Planning Board, and public hearings will take place at both Planning Board and City Council. City Council makes the final determination on the annexation and the zoning.

At this time staff would not include a recommendation prohibiting construction within the 100-year floodplain, as that would be contrary to the city's established floodplain regulations. A Floodplain Development Permit is required for any development in the 100-year floodplain. Some information on that can be found here: <https://bouldercolorado.gov/flood/floodplain-development>

I hope this is helpful, please let me know if there are additional questions. Staff is finalizing the initial review comments on the application and I will email those out towards the end of the day.

Best,

Shannon Moeller, AICP
Planner II



O: 303-441-3137
moellers@bouldercolorado.gov

Planning and Development Services
1739 Broadway, Third Floor | Boulder, CO 80306-0791
Bouldercolorado.gov

From: mmsanders@comcast.net <mmsanders@comcast.net>
Sent: Friday, May 25, 2018 12:28 PM
To: Moeller, Shannon <MoellerS@bouldercolorado.gov>
Cc: msandersconsulting@gmail.com
Subject: RE: 1179 Cherryvale - LUR2018-00021

Shannon,

Thanks for the response. There is a lot of helpful information here.

The only question that you did not answer is about the previous application that went through Sloane. Was there a piece written in about not being able to build on the west side of the existing structure in the 100 year floodplain? If not, can that be put in place now?

And is this the same application or is this the next step in the process? I'm a little confused about that.

Several neighbors have been asking me about the process so I will share this information with them.

Thanks,
Michelle

From: Moeller, Shannon <MoellerS@bouldercolorado.gov>
Sent: Friday, May 25, 2018 12:14 PM
To: mmsanders@comcast.net
Cc: msandersconsulting@gmail.com
Subject: RE: 1179 Cherryvale - LUR2018-00021

Good afternoon Michelle,

Thank you for the email. Staff is currently completing the initial review of the application request. I have included you on my contact list of people to be kept informed of the proposal's progress.

Copies of the application documents are available on the city's development review map website (<https://maps.bouldercolorado.gov/development-review/>) under "LUR2018-00021" or at the links below:

[0_LUR Application.pdf](#)
[1_Sign posting.pdf](#)
[3_Survey_ILC.pdf](#)
[4_Legal Description.pdf](#)
[5_Vicinity Map.pdf](#)
[6_Written Statement.pdf](#)
[9_Annexation Map.pdf](#)
[10_Annexation Petition.pdf](#)
[20_Project Fact Sheet.pdf](#)
[21_Title Insurance.pdf](#)
[LUR2018-00021_PN2.pdf](#)

My understanding is that the applicant intends to demolish the existing accessory structure in the front yard and has received a demo permit through the County to do so, and hopes to eventually construct a detached Owner's Accessory Unit in the front yard area of the property if/when the city's Accessory Dwelling Units standards are updated. The city's ADU standards are currently being revised through a public process, including considerations for larger ADU sizes and other changes. Information is available online at: <https://bouldercolorado.gov/housing/adu-update>

There is currently no public hearing scheduled for the item. At such time as a public hearing is scheduled, you will receive an additional email with the hearing date and time. Hearings are generally scheduled at least one month prior to the actual hearing date.

Please let me know if you have any additional comments or questions.

Best,

**Shannon Moeller, AICP
Planner II**



**City of Boulder
Planning, Housing and Sustainability**

O: 303-441-3137

moellers@bouldercolorado.gov

Planning and Development Services
1739 Broadway, Third Floor | Boulder, CO 80306-0791
Bouldercolorado.gov

From: mmsanders@comcast.net <mmsanders@comcast.net>

Sent: Wednesday, May 23, 2018 1:55 PM

To: Moeller, Shannon <MoellerS@bouldercolorado.gov>

Cc: 'Matt Sanders' <msandersconsulting@gmail.com>

Subject: 1179 Cherryvale - LUR2018-00021

Shannon,

My name is Michelle Sanders and I am the neighbor to the west of the Raney property at 1156 Gapter Rd. I called you last week and haven't heard back so I thought I'd try email.

Let me just start by saying that I have no objection to the property being annexed to the city, **except** if the goal is to build in the 100-year floodplain meadow to the west of the existing structure.

First of all, I am curious what the motivation is to annex to the city. The Raney's house was finished less than 10 years and according to them they used state of the art building practices in regards to solar power, water and heat. They already have water and sewer services, so they would not gain any infrastructure improvements. They would pay a lot and be subject to higher taxes for what purpose? Having annexed in 2009 I know it is a lengthy and expensive process. Their house is significantly larger

than most homes in the neighborhood, is over the maximum height, and has a separate unit upstairs for their mother to live in, none of which are compatible with city code requirements.

What I do know is that just last year, they were interested in relocating a 400 sf outbuilding/shed and that the neighbors, 11 of them, wrote to the county to protest the placement of the shed in the floodplain meadow on the western edge of their property. In September 2018, the Raney's withdrew the application when it became clear that the county would not permit the relocation. The county has done a fantastic job of protecting this meadow from construction for the entire 17 years we have owned this property by denying building permits due to the riparian corridor, the Prebles meadow jumping mouse population, and the very high flood risk (we had an earlier project denied in 2004). The Raney's property is in both the 100 and 500 year floodplain and the county said they could rebuild their shed, but that they certainly could not move it to a high flood risk location when lower flood risk locations exist on the property.

All of this brings me to the Raney's application to annex to the city. It seems like a veiled attempt to get an answer they like from a different jurisdiction regarding relocation of the outbuilding, in spite of the fact that the current jurisdiction and many of their neighbors are opposed to it. I spoke with Sloane Walbert at the city who was managing the annexation application and she said that she would write in an exception on the Raney's application that they would not be allowed to relocate the shed to the 100 year floodplain. She said she would send me a copy but I never received one. Was this in fact written as a condition into this application?

Also, in reading your website about annexation, I'm wondering when the public hearing is to discuss this matter?

Can you please send me an email with the application specifics and we can start from there.

Thanks for your time,

Michelle Sanders
303.915.9103

1.07 Adapting to Limits on Physical Expansion

As the community expands to its planned physical boundaries, the city and county will increasingly emphasize preservation and enhancement of the physical, social and economic assets of the community. Cooperative efforts and resources will be focused on maintaining and improving the quality of life within defined physical boundaries, with only limited expansion of the city.

The proposed annexation is within the city's planned physical boundaries, as established through Planning Area II, defined as an area that can be considered for annexation.

1.09 Growth Requirements

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

The proposed annexation is within an area defined by the BVCP where the city will actively pursue annexation: "other substantially developed Area II properties." In fulfillment of the terms of the out-of-city utility permit granted in 2009, the annexation allows continued city water and sewer service providing a public health benefit of safe and quality drinking water and reduction in the public health threat that can occur from a failing septic system. Additional community benefit will be provided through the contribution of two times the Inclusionary Housing cash-in-lieu amount for any new dwelling unit on the property.

1.12 Definition of Comprehensive Planning Areas I, II & III

The Boulder Valley Planning Area is divided into three major areas:

- Area I is the area within the City of Boulder that has adequate urban facilities and services and is expected to continue to accommodate urban development.
- Area II is the area now under county jurisdiction where annexation to the city can be considered consistent with policies - 1.07 Adapting to Limits on Physical Expansion, 1.09 Growth Requirements and 1.16 Annexation. New urban development may only occur coincident with the availability of adequate facilities and services. Master plans project the provision of services to this area within the planning period.
[Area III omitted as it is inapplicable.]

The proposal is located in Area II and adequate urban facilities and services are available to the site. As described herein, the annexation is considered to be consistent with policies 1.07 Adapting to Limits on Physical Expansion, 1.09 Growth Requirements, & 1.16 Annexation.

1.16 Annexation

The policies in regard to annexation to be pursued by the city are:

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

Annexation of the property will allow city water and sewer services to continue.

- b. The city will actively pursue annexation of county enclaves, substantially developed properties along the western boundary below the Blue Line and other substantially 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. Applications made to the county for development of enclaves and Area II lands in lieu of annexation will be referred to the city for review and comment. The county will attach great weight to the city's response and may require that the landowner conform to one or more of the city's development standards so that any future annexation into the city will be consistent and compatible with the city's requirements.

The property is within Planning Area II.

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

The property was granted an out-of-city utility agreement and revocable permit for city water and sewer service in 2009 and, at that time, the property was not eligible for annexation; therefore, a condition of approval required that the owner apply for annexation when eligible. The connection to city water and sewer provided a public health benefit through provision of safe and quality drinking water and removal of the septic system.

- 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 consideration, 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. Parcels that are proposed for annexation that are already developed and which are seeking no greater density or building size would not be required to assume and provide that same level of community benefit as vacant parcels unless and until such time as an application for greater development is submitted.

Annexations with development potential are subject to B.R.C. 9-13 and any new dwelling unit on the property is required to contribute two times the Inclusionary Housing cash-in-lieu (CIL) amount at the time of building permit issuance.

- e. Annexation of substantially developed properties that allow for some additional residential units or commercial square footage will be required to demonstrate community benefit

commensurate with their impacts. Further, annexations that resolve an issue of public health without creating additional development impacts should be encouraged.

Not applicable; there is no additional development potential on the 45,329 square foot property where, under the proposed initial zoning of RR-2, there is a maximum density of one dwelling unit per 30,000 square feet of lot area.

- f. There will be no annexation of areas outside the boundaries of the Boulder Valley Planning Area, with the possible exception of annexation of acquired open space.

Not applicable; the property is within Comprehensive Planning Area II.

- g. Publicly owned property located in Area III, and intended to remain in Area III, may be annexed to the city if the property requires less than a full range of urban services or requires inclusion under city jurisdiction for health, welfare and safety reasons.

Not applicable; the property is privately owned and within Comprehensive Planning Area II.

- h. The Gunbarrel Subcommunity is unique because the majority of residents live in the unincorporated area and because of the shared jurisdiction for planning and service provision among the county, city, Gunbarrel Public Improvement District and other special districts. Although interest in voluntary annexation has been limited, the city and county continue to support the eventual annexation of Gunbarrel. If resident interest in annexation does occur in the future, the city and county will negotiate new terms of annexation with the residents.

Not applicable; the property is not within the Gunbarrel Subcommunity.

1.21 Channeling Development to Areas with Adequate Infrastructure

In order to protect and use past investments in capital improvements, new development and redevelopment will be located in areas where adequate public services and facilities presently exist or are planned to be provided under the city's CIP.

The proposed annexation is adjacent to existing city services and facilities that are available to serve the site.

2.03 Compact Development Pattern

The city and county will, by implementing the comprehensive plan (as guided by the Land Use Designation Map and Planning Areas I, II, III Map), ensure that development will take place in an orderly fashion, take advantage of existing urban services, and avoid, insofar as possible, patterns of leapfrog, noncontiguous, scattered development within the Boulder Valley. The city prefers redevelopment and infill as compared to development in an expanded Service Area to prevent urban sprawl and create a compact community.

The proposed annexation utilizes existing urban services and is contiguous with the city boundaries such that it will continue an orderly and contiguous development pattern.

City of Boulder
Guidelines for Annexation Agreements
-Individual Annexations of Mostly Developed Residential Properties
in Area II-

June 25, 2002

I. Background:

The purpose of these guidelines is to provide general direction for negotiating annexation agreements with individual landowners of mostly developed residential properties in Area II. They are intended to clarify city expectations in individual annexations. These guidelines have been endorsed by Planning Board and City Council and are a reference for city staff, landowners, Planning Board and City Council in future individual annexation negotiations.

The Boulder Valley Comprehensive Plan provides a framework for annexation and urban service provision. With the 2001 update to the BVCP, Annexation Policy 1.25 was amended to provide more clarity about annexations. The amendments to the policy included the following:

- Direction for the city to actively pursue annexation of county enclaves, Area II properties along the western boundary, and other mostly developed Area II properties;
- Direction to the county to attach great weight to the city's input on development in enclaves and developed Area II lands and to place emphasis on conforming to the city's standards in these areas; and
- A policy that developed parcels proposed for annexation that are seeking no greater density or building size should not be required to provide the same level of community benefit as vacant parcels until more development of the parcel is applied for.

In order to reduce the negative impacts of new development in the Boulder Valley, the BVCP states that the city shall annex Area II land with significant development or redevelopment potential only on a very limited basis. Such annexations will be supported only if the annexation provides a special opportunity to the city or community benefit.

These guidelines apply primarily to mostly developed residential properties in Area II. In most of these cases, the city would not request a community benefit with the annexation. However, a few of the properties that are currently developed in the county may have further development potential once annexed into the city. These guidelines further refine the BVCP Policy 1.25 by specifically outlining which properties will be asked to provide community benefit upon annexation and what form of community benefit may be requested by the city.

II. General Principles of Individual Annexations of Mostly Developed Residential Properties:

- A. In terms of the city's interests, the benefits of annexing mostly developed residential properties in Area II outweigh the costs.
- B. The city has a strong desire to annex many of the residential properties in Area II because of the potential environmental and health issues associated with well and septic systems.
- C. The basic fees associated with annexation (plant investment and impact fees) should not be reduced for individual property owners seeking annexation (although financing and payback may be negotiated).
- D. The city has a legal obligation under state law to annex enclaves at the request of the property owner without terms and conditions beyond those required through existing ordinances.
- E. The city may apply additional terms and conditions to enclaves only through negotiation with the property owner. (Use caution when applying community benefit).

III. Principles of Applying City Community Benefit Policy:

- A. Community benefit should only be applied to properties with additional development potential.
- B. For the purposes of these guidelines, additional development potential includes the ability to subdivide the property and/or build at least one additional unit on the property. Additional development potential **does not** include the ability to add on to an existing house or to replace an old house with a new one (scrape-offs).
- C. Although emphasis is placed on affordable housing, community benefit is not restricted to housing. An affordable housing benefit should be balanced with other benefits such as land or property dedications (landmarking, flood and open space easements) or other restrictions that help meet BVCP goals.
- D. The city should strive for consistency in applying the affordable housing requirement to properties with additional development potential. In areas where new affordable units are appropriate (Crestview East), restrictions should be placed on the affordability of the new units. In areas where new affordable units are not appropriate or feasible, (Gould Subdivision, 55th St. enclaves), the applicant should be requested to pay two times the cash contribution in-lieu of providing on-site affordable housing.

IV. Framework for Basic Annexation Conditions for All Properties:

- A. Inclusion in the Boulder Municipal Subdistrict and the Northern Colorado Water Conservancy District.

- B. Assessment for waterline and sanitary sewer along street frontage (either existing or to be constructed).
- C. Development Excise Tax (DET).
- D. Storm Water and Flood Management Utility Plant Investment fees.
- E. Water and Wastewater Utility Plant Investment Fee.
- F. Dedication to the city of right-of-way for streets, alleys, water mains, and/or fire hydrants.
- G. Agreement to participate in their pro rata share of any future right-of-way improvements (paving, roadbase, curb, gutter, landscaping, sidewalks, bicycle and pedestrian path connections).
- H. Properties with Silver Lake Ditch rights: The city would ask the property owner to sell all interests in the ditch company to the city.
- I. Properties with other ditch rights: The city would ask for the Afirst Right of Refusal@ for any ditch rights associated with the property.

V. Application of Community Benefit

A. Guidelines for properties within the flood conveyance zone or with an open space or natural ecosystem land use designations.

- 1. The city would request dedication of an open space conservation easement for any portion of the site with a BVCP Open Space or Natural Ecosystem land use designation.
- 2. The city would request dedication to the city of a stormwater and floodplain easement for any portion of the site located within the flood conveyance zone.

B. Guidelines for properties with additional development potential.

The guidelines below are based on the definition of development potential as the potential for a property to be subdivided or for additional units to be built on the property. Although the terms of the community benefit requirement may be negotiated on a case-by-case basis, the following are the general guidelines for requesting community benefit:

- 1. A community benefit requirement in the form of two times the cash in-lieu contribution as set forth in the city's inclusionary zoning ordinance to the Housing Trust Fund would be negotiated with property owners in ER and RR zones.
- 2. For properties in LR and MR zones, a condition would be negotiated that a certain percentage of any new dwelling units be made permanently affordable to various income groups (see specific guidelines for each property group below).

3. For enclaves, the affordable housing request should be consistent with similar annexations in the area (see specific guidelines for each property group below).
4. For edge properties, the cash-in-lieu requested would be two times that required under the inclusionary zoning ordinance.

C. Guidelines for specific property areas.

1. Enclave – Crestview East

- a. All properties:
 - Request that the applicant demonstrate compliance with the North Boulder Subcommunity Plan Design Guidelines upon redevelopment or other applicable developed zoning district standards.
- b. Properties along Fourmile Canyon Creek:
 - Attempt to secure through negotiation, dedication of conservation, trail, and floodplain and drainage utility easements to the city to meet the objectives of the Greenways Master Plan and the Stormwater and Flood Management Utility.
- c. Properties with subdivision potential – split MR/LR zoning:
 - 50% of any newly constructed units should be permanently affordable to low and middle income households.
- d. Properties with subdivision potential – split LR/ER zones:
 - 25% of any newly constructed units should be permanently affordable to middle income households; and
 - Market rate units permitted on site should pay twice the applicable cash-in-lieu amount required by inclusionary zoning provisions.
- e. Properties with subdivision potential – ER zones:
 - Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city's inclusionary zoning ordinance for each new dwelling unit (prior to building permit).

2. Enclave – Githens Acres and other miscellaneous North Boulder enclave properties.

- a. All properties:
 - Request that the applicant demonstrates compliance with the North Boulder Subcommunity Plan Design Guidelines upon

redevelopment or other applicable developed zoning district standards.

b. Properties along Fourmile Canyon Creek:

- Attempt to secure through negotiation, dedication of conservation, trail, and floodplain and drainage utility easements to the city to meet the objectives of the Greenways Master Plan.

3. Enclave – Pennsylvania Ave.

a. Three properties along the Wellman Canal (5255, 5303, and 5101):

- Attempt to secure through negotiation, dedication of a trail easement to the city to meet the objectives of the city's Transportation Master Plan.

b. For all properties:

- Request payment for share of sidewalk improvements along Pennsylvania Ave.

4. Enclave – 55th St.

a. Property with an MR land use designation (1415 55th St.):

If zoned LR-D,

- Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city's inclusionary zoning ordinance for each new dwelling unit. (at the time of building permit) or;
- Any newly constructed units must be permanently affordable to middle income households.

If zoned MR-D,

- 50% of any newly constructed units must be permanently affordable to low and middle income households.

b. Properties with an LR land use designation and further development potential (994, 836, 830 55th St. and 5495 Baseline Rd.):

- Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city's inclusionary zoning ordinance for each new dwelling unit (at the time of building permit).

5. Gould Subdivision

- a. Three properties with additional development potential (2840 Jay Rd., 2818 Jay Rd., 4040 28th St.):
 - Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city's inclusionary zoning ordinance for each new dwelling unit.

6. Western Edge

- a. Two properties with a VLR land use designation and development potential (0 Linden Dr., and 3650 4th St.):
 - Payment of two times the cash contribution in-lieu of providing on-site affordable housing set forth in the city's inclusionary zoning ordinance for each new dwelling unit. (at the time of subdivision).
- b. Properties at 3365 4th St., 3047 3rd St., 2975 3rd St., and 2835 3rd St.:
 - An open space conservation easement, for the portion of the property that is west of the ABlue Line," should be dedicated to the city.

7. Old Tale Rd./Cherryvale Rd.

- a. Properties along South Boulder Creek:
 - Attempt to secure through negotiation, dedication of conservation, trail, and floodplain and drainage utility easements to the city to meet the objectives of the Greenways Master Plan and the Stormwater and Flood Management Utility.