

**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: April 19, 2022

AGENDA TITLE

Call-Up Item: Vacation of a portion of a utility easement at 1580 Redwood Avenue (ADR2021-00027).

Applicant: Brian Hludzinski

Property Owner: Claude Baud

REQUESTING DEPARTMENT / PRESENTERS

Nuria Rivera-Vandermyde, City Manager

David Gehr, Acting Director of Planning & Development Services

Charles Ferro, Development Review Manager, Planning

Alison Blaine, Associate Planner

EXECUTIVE SUMMARY

The purpose of this item is for City Council to consider whether to call up the above referenced application for its review and consideration at a public hearing. The Applicant requests the vacation of an 87 square-foot portion of an existing 5-foot-wide utility easement along the southern edge of the property at 1580 Redwood Ave. (refer to **Attachment A**).

The subject utility easement was previously dedicated on the final plat of Moore's Subdivision in 1954. The property owner would like to convert an existing barn/shed into an accessory dwelling unit (ADU), which is currently encroaching into a portion of the easement. The Applicant is proposing to vacate the portion of the easement that is not necessary for utility purposes.

The proposed vacation was approved by staff on Mar. 25, 2022 (refer to **Attachment C, Notice of Disposition**). This item will be considered for call-up at the Apr.19, 2022 City Council meeting, which is within the 30-day call-up period.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic: No economic impact is anticipated.
- Environmental: No economic impact is anticipated.
- Social: The vacation would allow the conversion of the existing structure into an accessory dwelling unit, which is consistent with the city's housing policies. In particular, the proposal is consistent with Boulder Valley Comprehensive Plan policy *2.11 Accessory Units* that states accessory units will be encouraged by the city to increase workforce and long-term rental housing options.

OTHER IMPACTS

- Fiscal: None identified.
- Staff time: The application for these vacations has been processed through the provisions of a standard easement vacation process and is within normal staff work plans.

PUBLIC FEEDBACK

Notice of the vacation was advertised in the Daily Camera within the 30-day call up period. Staff has received no written or verbal comments opposed to the vacation.

BACKGROUND

The subject property is a 0.21-acre lot located on the south side of Redwood Avenue (**Figure 1**). The site is located within the Residential-Estate (RE) zoning district. The property is encumbered by a 5-foot-wide utility easement that runs along the southern edge of the property (reference **Figure 2** on the next page).

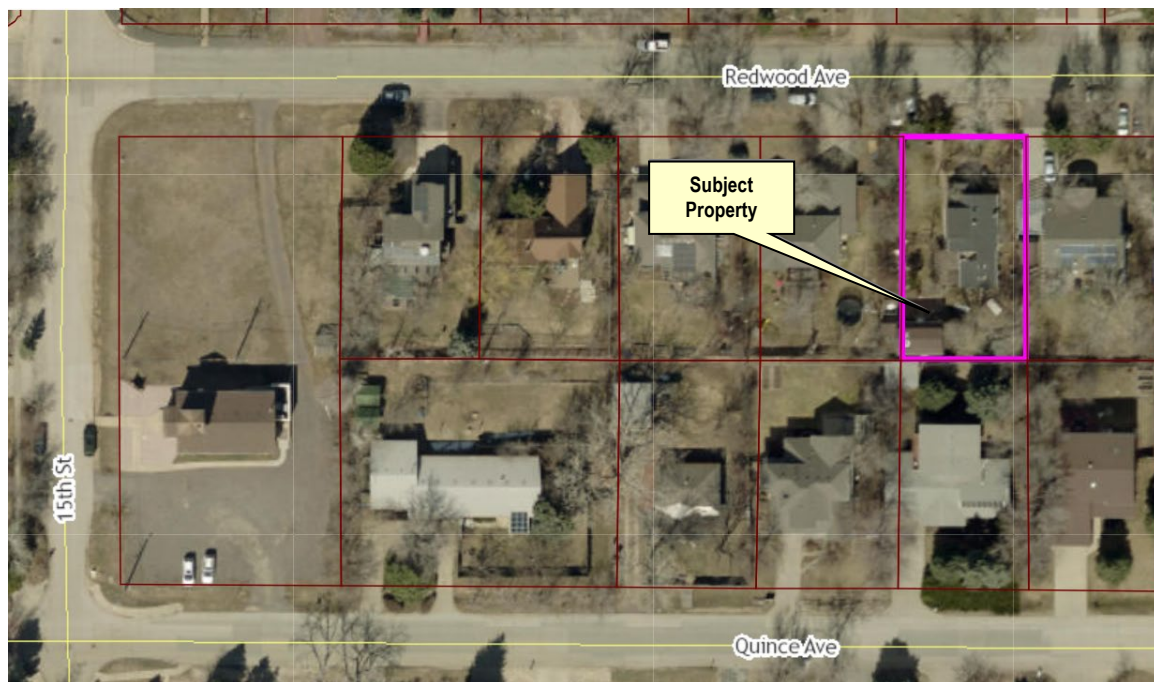


Figure 1: Vicinity Map

The Moore's Subdivision plat was recorded in the records of the Boulder County Clerk and Recorder at Plat Book 5, Page 92-94 (Reception No. (90)540783) on May 18, 1954. The existing 5-foot-wide utility easement was dedicated on the subdivision plat to accommodate future utilities.

The property owner was issued a permit in 2001 (PMT2001-00749) to construct the accessory barn/shed in the rear of the property. The barn/shed was built in the utility easement in error. The plans for the permit show that the structure was outside the easement. The property owner applied for an ADU in 2019 and the encroachment was discovered through the administrative review process. Staff directed the property owner to apply for the vacation in order to bring the property in compliance and establish an ADU.

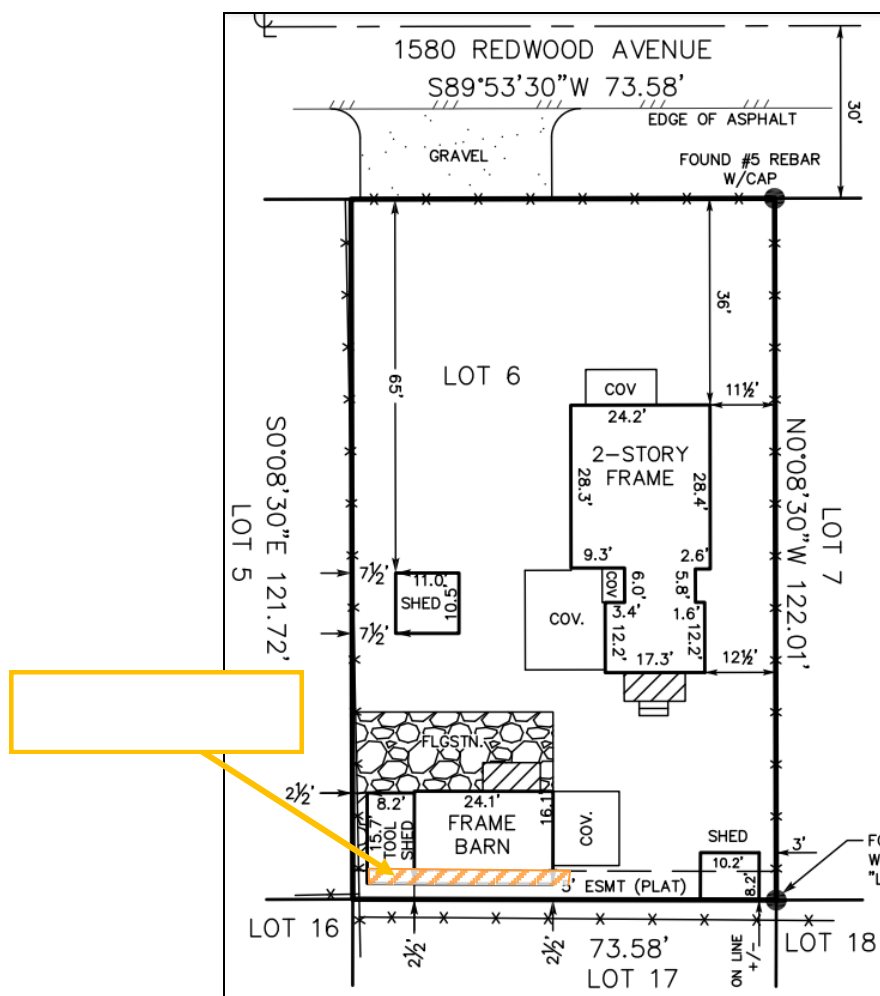


Figure 2: Proposed Vacation

ANALYSIS

Pursuant to the procedures for easement vacations set forth in Subsection 8-6-10(b), B.R.C. 1981, the city manager has approved the vacation of the portion of the utility easement described above. Staff finds the vacation is consistent with the standards since no public need exists for the portion of the utility easement to be vacated. Given

that there is no existing or anticipated public need for the portion of the utility easement for which it was intended, failure to vacate the portion of the easement that crosses the site would unnecessarily encumber the property.

No vacation of a public easement, nor portions thereof, shall be approved unless the approving agency finds that:

- ✓ 1. *Change is not contrary to the public interest.*
- ✓ 2. *All agencies having a conceivable interest have indicated that no need exists, either in the present or conceivable future, for its original purpose or other public purpose.*

The proposed vacation has been evaluated by the Planning and Public Works Departments and it has been collectively concluded that the public entities would have no conceivable future interest in this portion of the utility easement since it is not necessary to provide access to utilities on the property. CenturyLink, Comcast, and Xcel have also approved the request.

- 3. *Consistent with the Comprehensive Plan and Land Use Regulations and*
 - ✓ a. *Failure to vacate the easement would cause a substantial hardship to the use of the property consistent with the Comprehensive Plan and Land Use Regulations; or*

Since there is no existing or anticipated need for this portion of the easement area, failure to vacate this portion of easement would unnecessarily encumber the property and would cause hardship to the property owner by limiting the development potential of the property. In particular, the vacation would allow the property owner to utilize an existing structure as an ADU.

- b. *Would provide a greater public benefit than retaining the property in its present status.*

Not applicable.

City staff approved the vacation of this portion of a utility easement on Mar. 25, 2022 (refer to **Attachment C**, *Notice of Disposition*). If the requested vacation is not called up by City Council, then the Deed of Vacation will be recorded (**Attachment B**). If the requested vacation is called up, and subsequently denied, the Applicant will be limited to development on the property outside of the area of the portion of the utility easement proposed to be vacated.

The vacation will be effective 30 days after the expiration of the call up (Apr. 25, 2022) unless the approval is called up by City Council.

ATTACHMENTS

Attachment A: Vacation Exhibit
Attachment B: Draft Deed of Vacation
Attachment C: Notice of Disposition

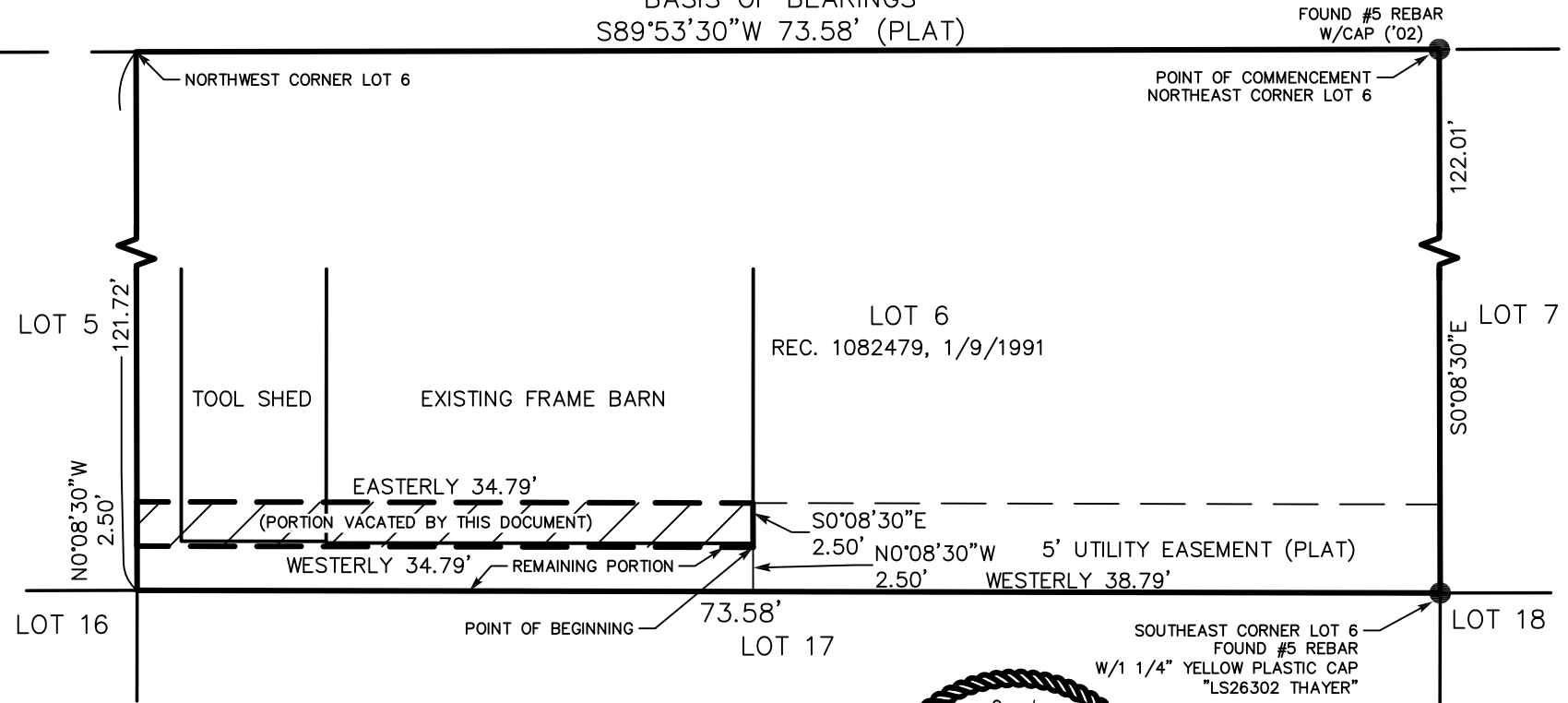
EXHIBIT "A"

LOT 6, BLOCK 14, MOORE'S SUBDIVISION
 LOCATED IN THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 1 NORTH,
 RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
 CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

1580 REDWOOD AVENUE (60' R.O.W.)

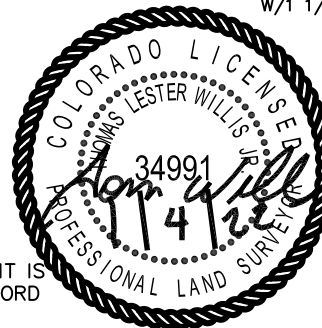
SCALE 1"=10'

BASIS OF BEARINGS
 S89°53'30"W 73.58' (PLAT)



JOB NUMBER: 21-75583-REV1
 DRAWN BY: W. BECKETT
 DATE: JANUARY 4, 2022

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



Flatirons, Inc.
 Land Surveying Services



3825 IRIS AVE, STE 395
 BOULDER, CO 80301
 PH: (303) 443-7001
 FAX: (303) 443-9830

www.FlatironsInc.com

For Administrative Purposes Only

Address: 1580 Redwood Avenue

Case No. ADR2021-00027

DEED OF VACATION

The City of Boulder, Colorado, does hereby vacate and release to the present owner of the subservient land, in a manner prescribed by Subsection 8-6-10(b), B.R.C. 1981, the following portion of a utility easement previously dedicated to the City of Boulder on the final plat of Moore's Subdivision and recorded in the records of the Boulder County Clerk and Recorder at Plat Book 5, Page 92-94, Reception No. (90)540783 on the 18th day of May, 1954, located at 1580 Redwood Avenue and more particularly described as follows:

See Exhibit A attached hereto and incorporated herein by reference.

The above easement vacation and release of said easement at 1580 Redwood Avenue shall extend only to the portion and the type of easement specifically vacated. The within vacation is not to be construed as vacating any rights-of-way, easements or cross-easements lying within the description of the vacated portion of the easement.

Executed this _____ day of _____, 20__, by the City Manager after having received authorization from the City Council of the City of Boulder, Colorado.

CITY OF BOULDER, COLORADO

By: _____
Nuria Rivera-Vandermyde, City Manager

Attest:

City Clerk

Approved as to form:

City Attorney's Office

Date

EXHIBIT "A"

SHEET 1 OF 2

LOT 6, BLOCK 14, MOORE'S SUBDIVISION
 LOCATED IN THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 1 NORTH,
 RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,
 CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

VACATING A PORTION OF THE 5 FT. UTILITY EASEMENT AS SHOWN ON THE PLAT OF MOORE'S SUBDIVISION, REC. 90540783, 5/18/1954, OVER AND ACROSS LOT 6, BLOCK 14, OF SAID SUBDIVISION, LOCATED IN THE SOUTHEAST QUARTER OF SECTION 18, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

CONSIDERING THE NORTH LINE OF SAID LOT 6 TO BEAR S89°53'30"W, A DISTANCE OF 73.58 FEET AS SHOWN ON SAID PLAT BETWEEN THE NORTHWEST CORNER OF SAID LOT 6 AND THE NORTHEAST CORNER OF SAID LOT 6, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT SAID NORTHEAST CORNER OF LOT 6; THENCE S0°08'30"E, ALONG THE EAST LINE OF SAID LOT 6, 122.01 FEET TO THE SOUTHEAST CORNER OF SAID LOT 6; THENCE WESTERLY, ALONG THE SOUTH LINE OF SAID LOT 6, 38.79 FEET; THENCE N0°08'30"W, 2.50 FEET TO THE POINT OF BEGINNING; THENCE WESTERLY 34.79 FEET TO A POINT ON THE WEST LINE OF SAID LOT 6; THENCE N0°08'30"W, 2.50 FEET; THENCE EASTERLY 34.79 FEET; THENCE S0°08'30"E, 2.50 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINING 87 SQ.FT., MORE OR LESS.

I, TOM WILLIS, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO, DO HEREBY STATE FOR AND ON BEHALF OF FLATIRONS, INC., THAT THIS PARCEL DESCRIPTION AND ATTACHED EXHIBIT, BEING MADE A PART THEREOF, WERE PREPARED BY ME OR UNDER MY RESPONSIBLE CHARGE, ARE ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE AND ARE NOT A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED. SAID PARCEL DESCRIPTION AND EXHIBIT WERE PREPARED AT THE REQUEST OF THE CLIENT AND ARE NOT INTENDED TO REPRESENT A MONUMENTED LAND SURVEY OR SUBDIVIDE LAND IN VIOLATION OF STATE STATUTE.

TOM WILLIS
 COLORADO P.L.S. #34991
 PRESIDENT, FLATIRONS, INC.

JOB NUMBER: 21-75583
 DRAWN BY: W. BECKETT
 DATE: JANUARY 4, 2022

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BY:SBENNINK FILE:75583-EASEMENT VACATE REV1.DWG DATE:2/11/2022 10:40 AM

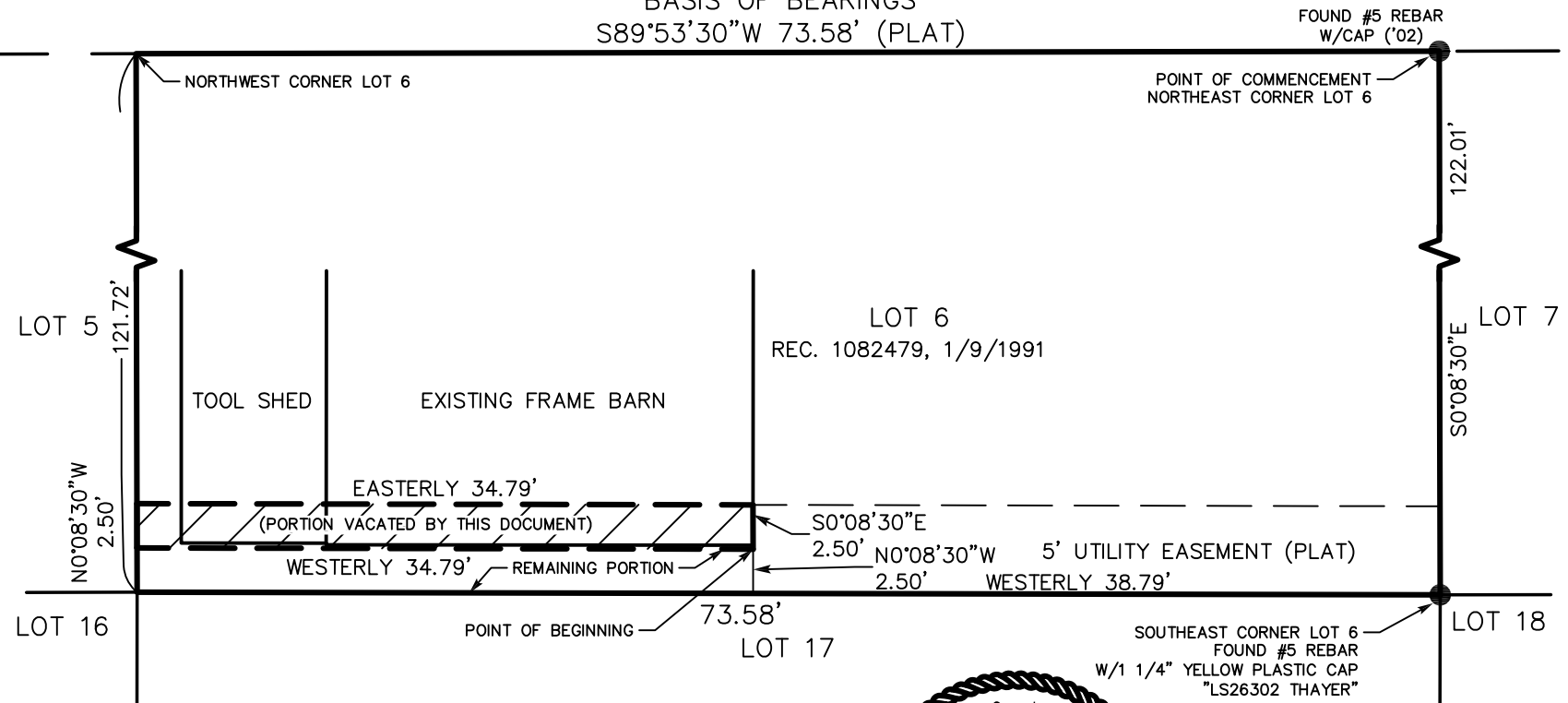
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City of Boulder Planning & Development Services

ADMINISTRATIVE REVIEW NOTICE OF DISPOSITION

You are hereby advised that the following action was taken by the Planning Department:

DECISION: **APPROVED**
DATE: **March 25, 2022**
REQUEST TYPE: **Vacation/Easement**
ADDRESS: **1580 REDWOOD AVE**
APPLICANT: **BRIAN HLUDZINSKI
CLAUDE BAUD**
CASE NUMBER: **ADR2021-00027**
LEGAL DESCRIPTION: **LOT 6 BLK 14 MOORES SPLIT SEE ID 99216 & 33422,
City of Boulder, County of Boulder, Colorado**
DESCRIPTION: **Proposal for the vacation of an 87 square-foot portion of a 5' rear utility easement along
the southern property line at 1580 Redwood Avenue.**

FINAL DECISION STANDARDS

Approved as submitted. This application is approved per the criteria for Vacation of Public Easements as set forth in Section 8-6-10, B.R.C. 1981. This approval does not constitute a building permit approval.

This approval is limited to the vacation of an 87 square-foot portion of a utility easement. The easement was previously dedicated to the City of Boulder on the final plat of Moore's Subdivision recorded in the records of the Boulder County Clerk and Recorder at Plat Book 5, Page 92-94 (Reception No. (90)540783) on May 18, 1954.

Informational Comments

Pursuant to section 8-6-10(b), B.R.C. 1981, approval of an easement vacation "is not effective until thirty days after the date of its approval. Promptly after approving the vacation, the manager will forward to the city council a written report, including a legal description of vacated portion of the easement and the reasons for approval. The manager will publish notice of the proposed vacation once in a newspaper of general circulation in the City within thirty days after the vacation is approved. Upon receiving such report and at any time before the effective date of the vacation, the council may rescind the manager's approval and call up the vacation request for its consideration at a public hearing, which constitutes a revocation of the vacation."

This decision is final and may not be appealed. A new request may be considered only as a new application.

By: _____
Alison Blaine, Planning Department