



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: June 7, 2022**

**AGENDA TITLE**

**Call-Up Item:** Vacation of a 20-foot-wide utility easement at 2150 Folsom Street (case no. ADR2022-00105).

Applicant: Erin Bagnall, Sopher Sparr Architects  
Property Owner: 2150 Folsom LLC

**REQUESTING DEPARTMENT / PRESENTERS**

Nuria Rivera-Vandermyde, City Manager  
David Gehr, Interim 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 a 1,834 square-foot utility easement running east-west across the property at 2150 Folsom St. (refer to **Attachment A**).

The subject 20-foot-wide utility easement was reserved by the City of Boulder in 2019 pursuant to Ordinance 8368, which vacated a 20-foot-wide alley and was recorded in the records of the Boulder County Clerk and Recorder at Reception No. 03756781. A Site Review application has been approved to redevelop the site with a residential development.

The proposed vacation was approved by staff on May 9, 2022 (refer to **Attachment C, Notice of Disposition**). This item will be considered for call-up at the Jun. 7, 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: No social impact is anticipated.

## OTHER IMPACTS

- Fiscal: None identified.
- Staff time: The application for this vacation 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 0.61-acre lot located at the southeast corner of Folsom Street and Pine Street (**Figure 1**). The site is located within the Residential - Mixed 1(RMX-1) and Residential - High 2 (RH-2) zoning districts. The property is encumbered by a 20-foot-wide utility easement that bisects the property (reference **Figure 2** on the next page).

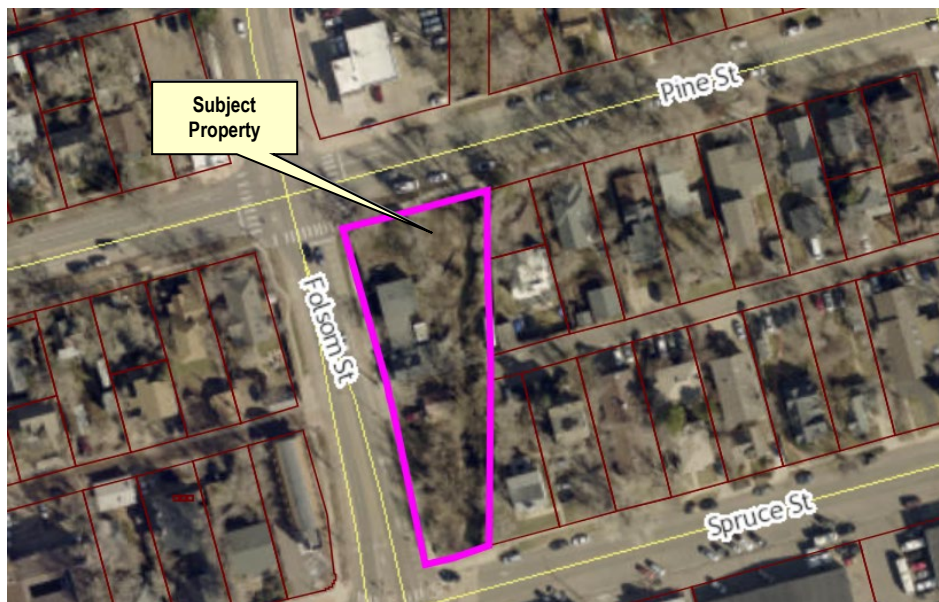


Figure 1: Vicinity Map

The City previously approved a Site Review and subdivision to develop the property with eight attached dwelling units in two buildings. The subject utility easement was reserved by the City of Boulder pursuant to Ordinance 8368, which vacated a 20-foot-wide alley and was recorded in the records of the Boulder County Clerk and Recorder at Reception

No. 03756781 on Dec. 23, 2019. In 2020, the final plat was approved and recorded for the 2150 Folsom Subdivision (Rec. No. 03815561).

The utility lines have been relocated underground and a new 25-foot-wide utility easement was dedicated on the recorded subdivision plat, as required pursuant to the development agreement (Rec. No. 03740531). The previously reserved utility easement was meant to be removed on the subdivision plat but was not. The Applicant now seeks to vacate the subject utility easement that overlaps the newly dedicated utility easement. Refer to **Attachment D** for a comparison exhibit showing the location of the easement to be vacated and the newly dedicated easement.

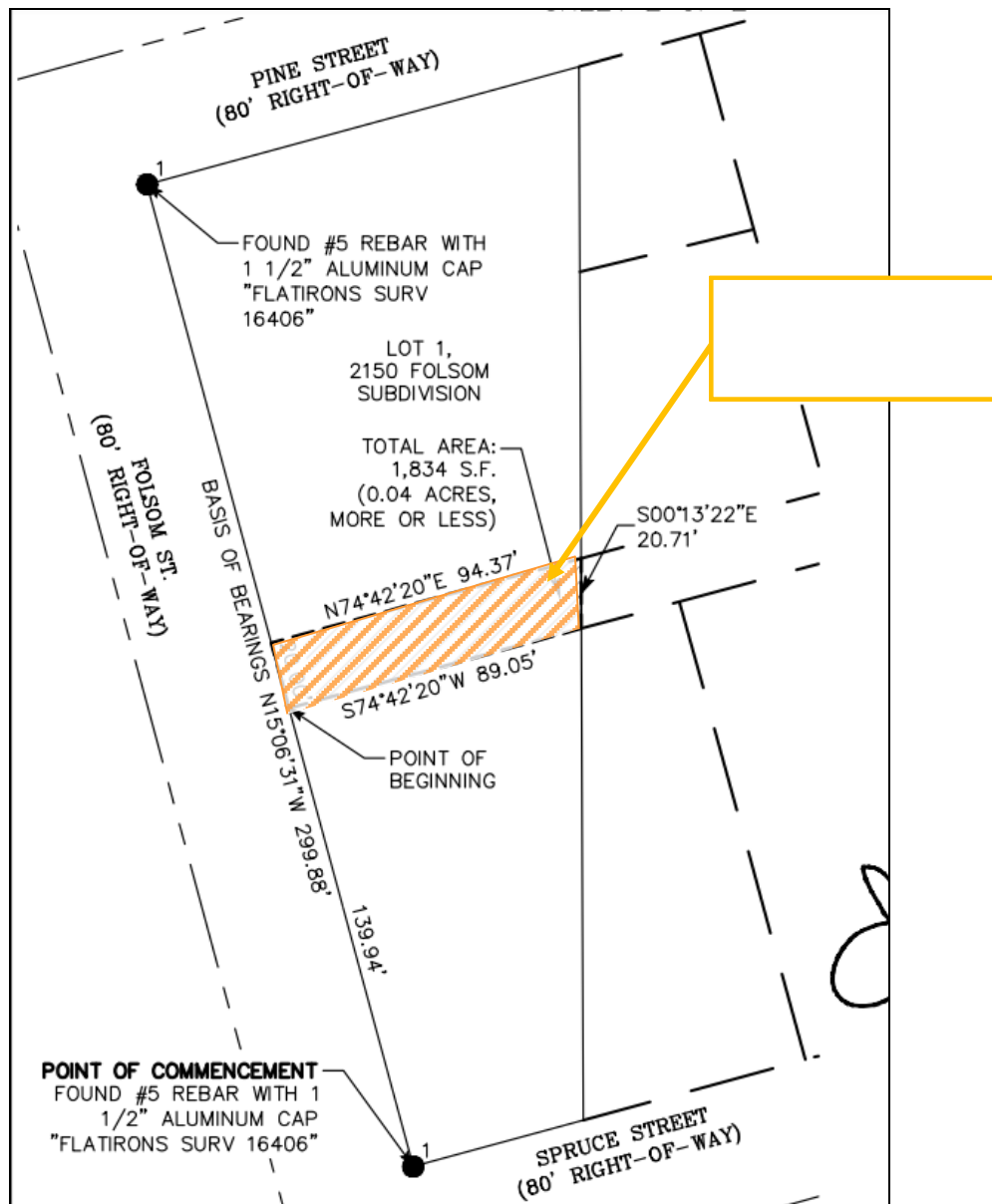


Figure 2: Proposed Vacation

## 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 utility easement reserved pursuant to Ordinance 8368. Staff finds the vacation is consistent with the standards since no public need exists for the utility easement to be vacated. Given that there is no existing or anticipated public need for the utility easement for which it was intended, failure to vacate 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 overlapping 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 the subject easement, failure to vacate the easement would unnecessarily encumber the property and would cause hardship to the property owner by limiting the development potential of the property. A separate easement has been dedicated that provides adequate access to existing utilities on the property.

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

Not applicable.

City staff approved the vacation the utility easement on May 9, 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 (Jun. 8, 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
- Attachment D: Comparative Easement Exhibit

# EXHIBIT "A"

LOCATED IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 1 NORTH,  
RANGE 70 WEST OF THE 6TH PRINCIPAL MERIDIAN,  
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO  
SHEET 1 OF 2

AN EASEMENT TO BE VACATED ACROSS LOT 1, 2150 FOLSOM SUBDIVISION FINAL PLAT, RECORDED WITH THE COUNTY OF BOULDER ON SEPTEMBER 15, 2020 AT RECEPTION NO. 03815561, LOCATED IN THE NORTHEAST QUARTER OF SECTION 30, 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 WEST LINE OF SAID LOT 1 TO BEAR NORTH 15°06'31" WEST, A DISTANCE OF 299.88 FEET BETWEEN FOUND #5 REBARS WITH 1 1/2" ALUMINUM CAPS, "FLATIRONS SURV 16406" AT THE SOUTHWEST CORNER AND NORTHWEST CORNER OF SAID LOT 1, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT SAID SOUTHWEST CORNER; THENCE ALONG SAID WEST LINE OF LOT 1, NORTH 15°06'31" WEST, A DISTANCE OF 139.94 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID WEST LINE NORTH 15°06'31" WEST, A DISTANCE OF 20.00 FEET;

THENCE NORTH 74°42'20" EAST, A DISTANCE OF 94.37 FEET;

THENCE SOUTH 00°13'22" EAST, A DISTANCE OF 20.71 FEET;

THENCE SOUTH 74°42'20" WEST, A DISTANCE OF 89.05 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

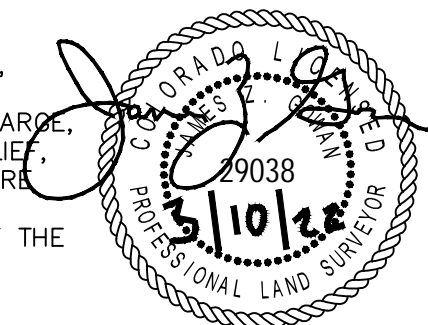
SAID PARCEL CONTAINING 1,834 SQ.FT. OR 0.04 ACRES, MORE OR LESS.

I, JAMES Z. GOWAN, 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.

JAMES Z. GOWAN  
COLORADO P.L.S. #29038  
VICE PRESIDENT, FLATIRONS, INC.

JOB NUMBER: 18-71,599  
DRAWN BY: M. VOYLES  
DATE: FEBRUARY 2, 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  
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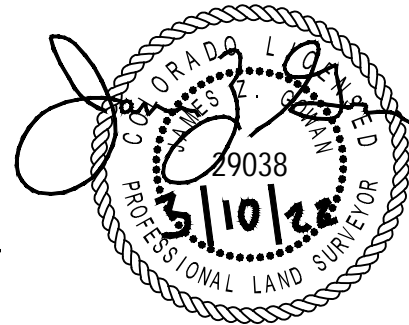
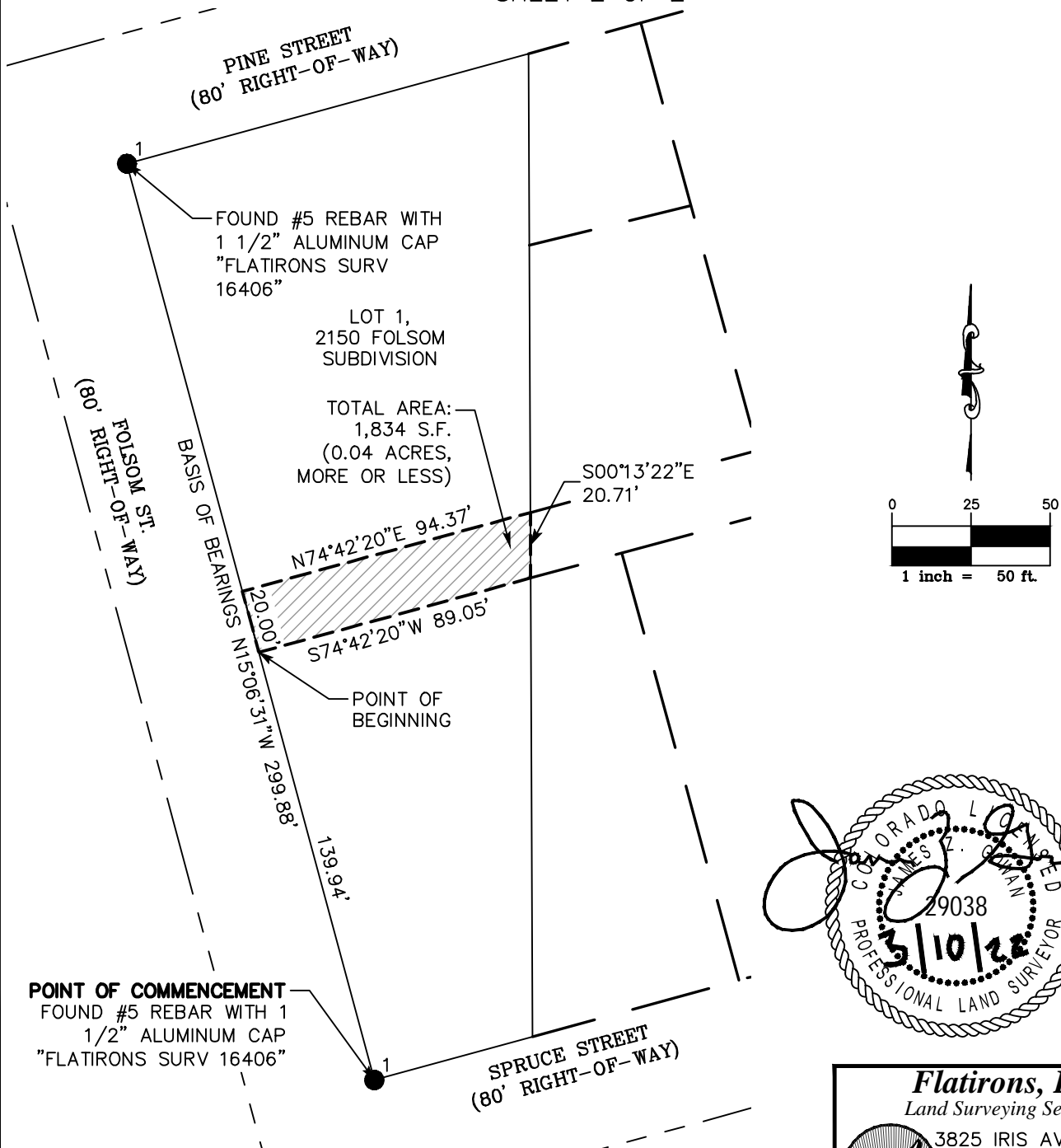
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SHEET 2 OF 2

BY:MVOYLES FILE:71599-VACATE UTILITY EASEMENT.DWG DATE:3/10/2022 12:25 PM



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For Administrative Purposes Only

Address: 2150 Folsom Street

Case No. ADR2022-00105

### 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, a utility easement previously reserved to the City of Boulder pursuant to Ordinance 8368 which vacated a 20-foot wide alley and was recorded in the records of the Boulder County Clerk and Recorder at Reception No. 03756781 on the 23<sup>rd</sup> day of December, 2019, located at 2150 Folsom Street 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 2150 Folsom Street shall extend only to 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 and more particularly shall not vacate the 25-foot wide utility easement dedicated on the 2150 Folsom Subdivision final plat recorded in the records of Boulder County Clerk and Recorder on September 15, 2020 at Reception No. 03815561.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2022, 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



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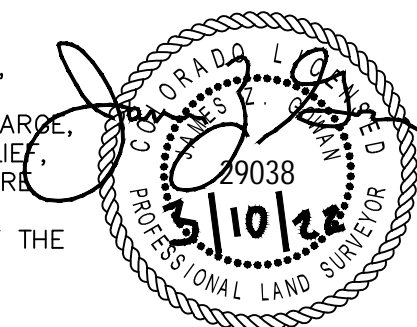
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VICE PRESIDENT, FLATIRONS, INC.

JOB NUMBER: 18-71,599  
DRAWN BY: M. VOYLES  
DATE: FEBRUARY 2, 2022

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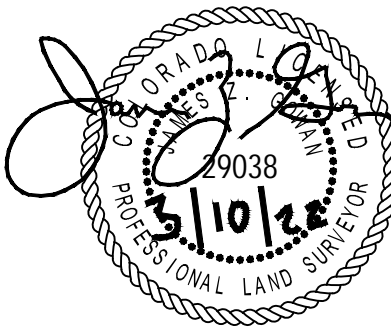
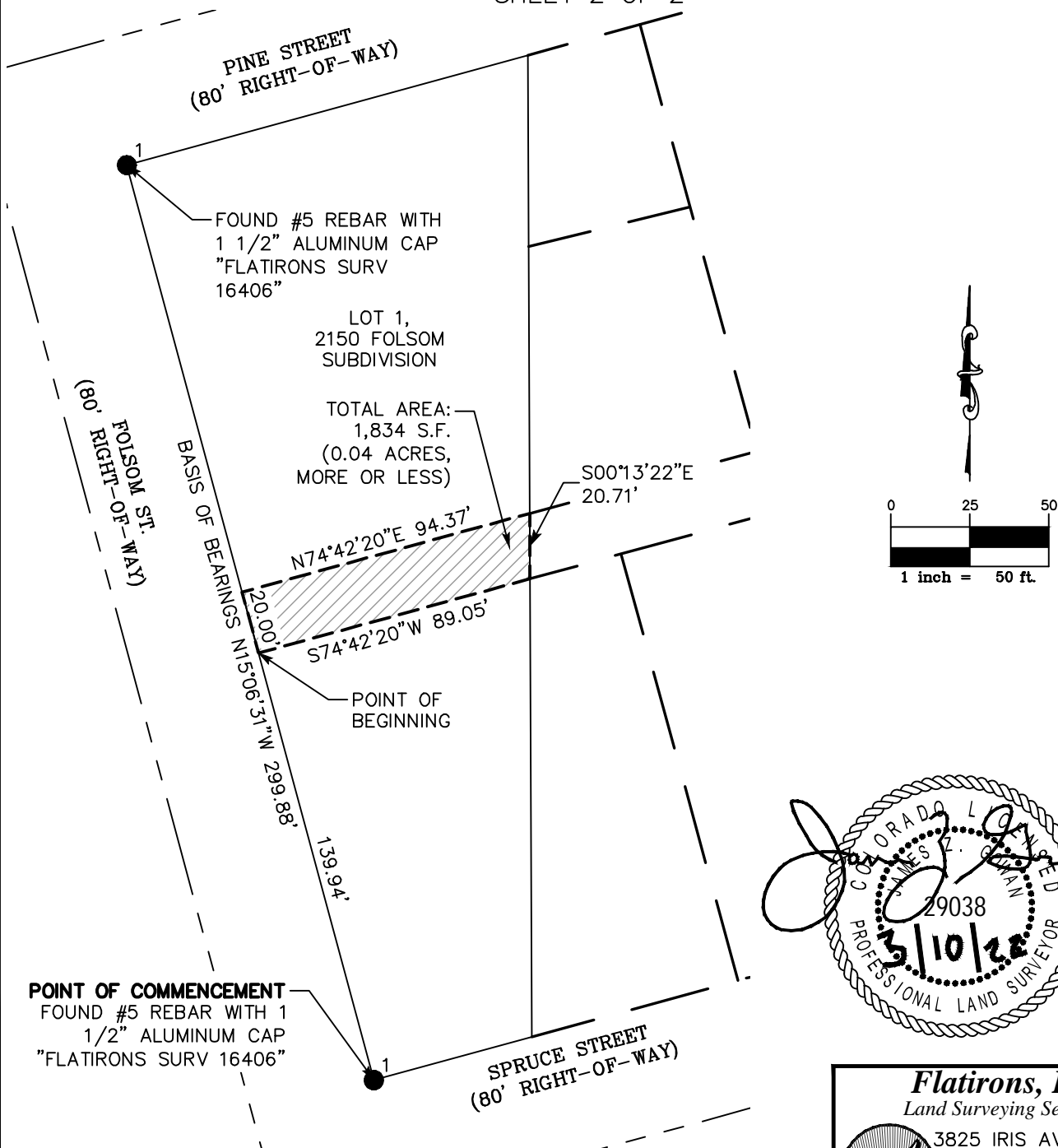
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## City of Boulder Planning & Development Services

### ADMINISTRATIVE REVIEW NOTICE OF DISPOSITION

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

DECISION: **APPROVED**  
DATE: **May 9, 2022**  
REQUEST TYPE: **Vacation/Easement**  
ADDRESS: **2150 FOLSOM ST**  
APPLICANT: **JAMES TYRRELL  
MAUREEN ELDREDGE  
ERIN BAGNALL, SOPHER SPARN ARCHITECTS**  
CASE NUMBER: **ADR2022-00105**  
LEGAL DESCRIPTION: **LOT 1 2150 FOLSOM SUBDIVISION,  
City of Boulder, County of Boulder, Colorado**  
DESCRIPTION: **Vacation of a duplicative utility easement located in the former alley at 2150 Folsom St.**

#### 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 a 1,834 square-foot utility easement. The subject utility easement was reserved by the City of Boulder pursuant to Ordinance 8368, which vacated a 20-foot-wide alley and was recorded in the records of the Boulder County Clerk and Recorder at Reception No. 03756781 on Dec. 23, 2019.

#### 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

# COMPARISON EXHIBIT

LOCATED IN THE NORTHEAST QUARTER OF SECTION 30, TOWNSHIP 1 NORTH,  
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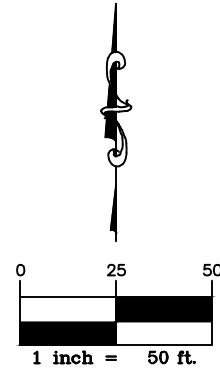
PINE STREET  
(80' RIGHT-OF-WAY)


LOT 1,  
2150 FOLSOM  
SUBDIVISION

FOLSOM ST.  
(80' RIGHT-OF-WAY)

SPRUCE STREET  
(80' RIGHT-OF-WAY)

1. THE PURPOSE OF THIS EXHIBIT IS TO SHOW THE RELATIONSHIP BETWEEN A UTILITY EASEMENT, TO BE VACATED, AND A UTILITY EASEMENT PER THE 2150 FOLSOM SUBDIVISION FINAL PLAT, RECORDED WITH THE COUNTY OF BOULDER ON SEPTEMBER 15, 2020 AT RECEPTION NO. 03815561, NOW IN EFFECT.



 PLATTED UTILITY EASEMENT  
PER RECEPTION NO. 03815561,  
DATED 09/15/2020

 UTILITY EASEMENT TO BE  
VACATED

JOB NUMBER: 18-71,599 DRAWN BY: M. VOYLES DATE: MARCH 10, 2022  
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