



**CITY OF BOULDER  
CITY COUNCIL AGENDA ITEM**

**MEETING DATE: August 3, 2023**

**AGENDA TITLE:** Call up consideration of a Site Review Amendment to amend The Orchard PUD to expand the property at 1576 Hawthorn Ave. to include adjacent common area. Reviewed under case no. LUR2022-00024.

**Applicant:** Thomas Bender

**Owners:** Thomas and Holly Bender (Owners of Lot 6, The Orchard) and The Orchard, Inc. (Owners of Common Area, The Orchard)

**REQUESTING DEPARTMENT / PRESENTERS**

Nuria Rivera-Vandermyde, City Manager

Brad Mueller, Planning & Development Services Director

Charles Ferro, Senior Development Planning Manager

Chandler Van Schaack, Principal Planner

**EXECUTIVE SUMMARY**

The purpose of this item is for the City Council to consider whether to call up the Planning Board's decision on an application for Site Review Amendment to amend The Orchard PUD to expand the property at 1576 Hawthorn Ave. to include adjacent common area. On July 18, 2023, the Planning Board held a public hearing and approved with conditions the application by a unanimous vote (6-0) (L. Smith absent). The Planning Board decision is subject to a 30-day City Council call up period which concludes on August 17, 2023. City Council is scheduled to consider this application for call-up at its meeting on **August 3, 2023**.

The staff memorandum to Planning Board, recorded video, and the applicant's submittal materials along with other related background materials are available in the [city archives for Planning Board, July 18, 2023](#). The applicant's plan set and written statement is provided in **Attachment A**. The recorded video from the hearing can be found [here](#) (item begins at 7 minutes into the video).

## REVIEW PROCESS

The purpose of this item is for the City Council to consider whether to call up the above-referenced application for review and comment at a public hearing.

A Site Review Amendment is required because the proposal alters the intent of the original PUD approval, which was to provide a shared play area under common ownership for use by PUD residents. Site Review Amendments are subject to the Site Review criteria in Section 9-2-14(h), B.R.C. 1981. Per Section 9-2-14(g), B.R.C 1981, Site Review Amendments are subject to call up by the Planning Board. Because this item was called up by the Planning Board at their May 16, 2023 hearing, a public hearing before the Planning Board was required. Per Section 9-4-4(c), B.R.C. 1981, the Planning Board decision is subject to City Council call-up within 30 days.

## COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic:** None identified.
- **Environmental:** None identified.
- **Social:** None identified.

## OTHER IMPACTS

- **Fiscal:** No fiscal impacts are anticipated.
- **Staff time:** The application was reviewed under standard staff review time.

## BOARD AND COMMISSION FEEDBACK

At the public hearing on July 18, 2023, the Planning Board held a quasi-judicial hearing to review the proposed Site Review Amendment application described above. Following a public hearing the Planning Board approved with conditions the applications by a unanimous vote (6-0) (L. Smith absent) with the following motion:

On a motion by M. McIntyre and seconded by m. Robles, the Planning Board voted 6-0 (L. Smith absent) to approve Site Review Amendment no. LUR2022-00024 incorporating the staff memorandum, including its attachments, as findings of fact and subject to the recommended conditions of approval.

At the hearing, the Planning Board listened to presentations from staff and the applicant, and asked questions of each. There were no public comments on the item. The board discussed whether the proposal meets the Site Review criteria. Ultimately, the Planning Board approved the application. The disposition of approval can be found in **Attachment A**. Refer to **Attachment D** for the draft meeting minutes from the Planning Board meeting.

## PUBLIC FEEDBACK

Required public notice was given in the form of written notification mailed to all property owners within 600 feet of the subject property, and a sign posted on the property for at least 10 days. All notice requirements of Section 9-4-2, B.R.C. 1981 have been met. In response to the public notice, staff received no inquiries from neighboring property owners.

## **BACKGROUND & ANALYSIS**

The staff memorandum to Planning Board that includes staff analysis and the applicant's submittal materials are available on the [Records Archive for Planning Board](#).

## **MATRIX OF OPTIONS**

The City Council may call up the Site Review Amendment application within thirty days of the Planning Board's review. Any application that it calls up, the City Council will review at a public meeting within sixty days of the call-up vote, or within such other time as the city and the applicant mutually agree. The City Council is scheduled to consider this application for call-up at its meeting on **August 3, 2023**.

## **ATTACHMENTS**

Attachment A: Planning Board Notice of Disposition dated July 18, 2023

Attachment B: Submittal Materials

Attachment C: Staff Analysis of Review Criteria

Attachment D: July 18, 2023 Draft Planning Board Minutes



# City of Boulder Planning & Development Services

## CITY OF BOULDER PLANNING BOARD NOTICE OF DISPOSITION

You are hereby advised that on July 18, 2023 the following action was taken by the Planning Board based on the standards and criteria of the Land Use Regulations as set forth in Chapter 9-2, B.R.C.1981, as applied to the proposed development.

**ACTION:** APPROVED WITH CONDITIONS

**PROJECT NAME:** THE ORCHARD PUD SITE REVIEW AMENDMENT

**DESCRIPTION:** Site Review to amend The Orchard PUD to expand the property at 1576 Hawthorn Avenue to include adjacent common area.

**LOCATION:** 1576 HAWTHORN AVENUE

**LEGAL DESCRIPTION:** LOT 6, THE ORCHARD, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO, TOGETHER WITH ADJACENT COMMON AREA, THE ORCHARD, CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO

**APPLICANT:** Thomas B. Bender Jr.

**OWNERS:** Thomas B. Bender Jr. and Holly W. Bender (Lot 6, The Orchard)  
The Orchard, Inc. (Common Area, The Orchard)

**APPLICATION:** Site Review Amendment, LUR2022-00024

**ZONING:** Residential - Low 2 (RL-2)

**CASE MANAGER:** Chandler Van Schaack

**VESTED PROPERTY RIGHT:** No; the owner has waived the opportunity to create such right under Section 9-2-20, B.R.C. 1981.

**APPROVED MODIFICATIONS FROM THE LAND USE REGULATIONS:** *None*

This decision may be called up by the City Council on or before **Aug. 17, 2023**. If no call-up occurs, the decision is deemed final on **Aug. 18, 2023**.

FOR CONDITIONS OF APPROVAL SEE THE FOLLOWING PAGES OF THIS DISPOSITION.

IN ORDER FOR A BUILDING PERMIT APPLICATION TO BE PROCESSED FOR THIS PROJECT, A SIGNED DEVELOPMENT AGREEMENT AND SIGNED FINAL PLANS MUST BE SUBMITTED TO THE PLANNING DEPARTMENT WITH DISPOSITION CONDITIONS AS APPROVED SHOWN ON THE FINAL PLANS. IF THE DEVELOPMENT AGREEMENT IS NOT SIGNED WITHIN NINETY (90) DAYS OF THE FINAL DECISION DATE, THE PLANNING BOARD APPROVAL AUTOMATICALLY EXPIRES.

Pursuant to Section 9-2-12 of the Land Use Regulations (Boulder Revised Code, 1981), the Applicant must begin and substantially complete the approved development within three years from the date of final approval or in compliance with the phasing plan if one was approved. Failure to "substantially complete" (as defined in Section 9-2-12) the development

Physical Address  
1739 Broadway, Third Floor  
Boulder CO 80302

Mailing Address  
PO Box 791  
Boulder CO 80306-0791

BoulderPlanDevelop.net  
plandevlop@bouldercolorado.gov  
P: 303-441-1880 F: 303-441-4241

within three years or in compliance with the phasing plan, if one was approved, shall cause this development approval to expire.

On July 18, 2023, the Planning Board approved the request with the following motion:

On a motion by **M. McIntyre** and seconded by **mi Robles**, the Boulder Planning Board voted 6-0 (**L. Smith** absent) to approve Site Review application #LUR2022-00024, adopting the staff memorandum as findings of fact, including the attached analysis of review criteria and subject to the recommended conditions of approval.

#### CONDITIONS OF APPROVAL

1. The Applicant shall ensure that the **development shall be in compliance with all plans prepared by the Applicant** on April 18, 2023, on file in the City of Boulder Planning Department, except to the extent that the development may be modified by the conditions of this approval.
2. The Applicant shall **comply with all previous conditions** contained in any previous approvals, except to the extent that any previous conditions may be modified by this approval, including, but not limited to, the following:
  - a) The Orchard PUD (#P-72-18).
  - b) The Subdivision Agreement recorded on May 26, 1973 at Film 812, Reception No.059810.
3. Prior to a subdivision approval, the Applicant shall submit an application for and **obtain a revocable permit** pursuant to Section 8-6-6, B.R.C. 1981, for the existing encroachments, as shown on the plans prepared by the Applicant on April 18, 2023, that project into the existing 6-foot wide pedestrian & bicycle path easement.
4. Within 360 days of the date of this approval, the Applicant **shall submit for and receive approval of a subdivision process** pursuant to the requirements of Chapter 9-12, "Subdivision," B.R.C. 1981, that consolidates Lot 6, The Orchard, City of Boulder, County of Boulder, State of Colorado, and the portion of the Common Area, The Orchard, City of Boulder, County of Boulder, State of Colorado, that is adjacent to Lot 6 into one new Lot 6A, as shown on the plans prepared by the Applicant on April 18, 2023.



By:

\_\_\_\_\_  
Brad Mueller, Secretary of the Planning Board

# 1576 HAWTHORN SITE PLAN

LOT 6 AND COMMON AREA, THE ORCHARD, LOCATED IN THE SOUTHWEST QUARTER OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO  
SHEET 1 OF 1



Vicinity Map  
NOT TO SCALE

### Parcel Description

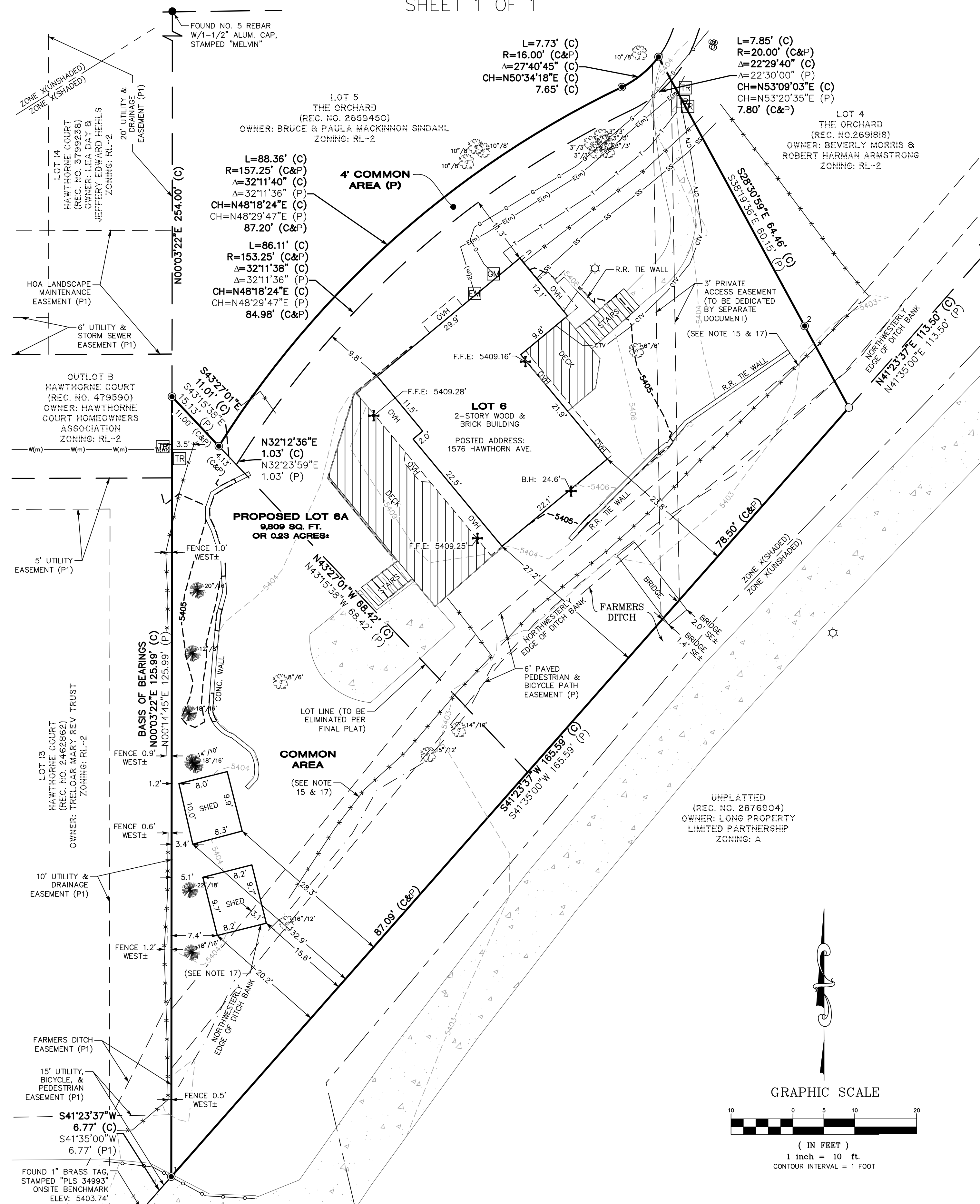
(PROVIDED BY RAVENSWOOD TITLE COMPANY, LLC)  
DEED RECORDED ON 8/25/2017 AT REC. NO. 3611959  
LOT 6, THE ORCHARD, CITY AND COUNTY OF BOULDER, STATE OF COLORADO.

### Boundary Closure Report

COURSE: N00°03'22"E LENGTH: 125.99'  
COURSE: S43°27'01"E LENGTH: 11.01'  
LENGTH: 88.36' RADIUS: 157.25'  
DELTA: S21°11'40" COURSE: N48°18'24"E  
CHORD: 87.20' CHORD: 87.20'  
LENGTH: 7.73' RADIUS: 16.00'  
DELTA: 27°40'45" COURSE: N50°34'18"E  
CHORD: 7.65' COURSE: S28°30'59"E LENGTH: 64.46'  
COURSE: S41°23'37"W COURSE: S42°23'24"E LENGTH: 165.59'  
AREA: 9,809 SQ. FT.  
ERROR CLOSURE: 0.00  
COURSE: S42°23'24"E  
ERROR NORTH: -0.003  
ERROR EAST: 0.003  
PRECISION: 1:46314000.00

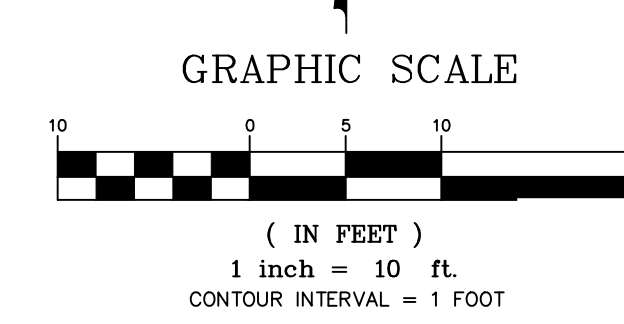
### Legend

- FOUND MONUMENT AS DESCRIBED
- ⊕ FOUND BRASS TAG AS DESCRIBED
- ⊙ SET 18" NO. 5 REBAR WITH 1-1/2" ALUMINUM CAP, STAMPED "FLATRONS SURV 19588"
- ⊙ SET 1" BRASS TAG "FLATSURV LS19588"
- ⊙ SET 15" WITNESS CORNER, 18" NO. 5 REBAR WITH 1-1/2" ALUMINUM CAP, STAMPED "FLATRONS SURV 19588 15" WC"
- CALCULATED POSITION (NOT FOUND OR SET)
- (AM) AS MEASURED AT TIME OF SURVEY
- (C) CALCULATED FROM RECORD AND AS MEASURED INFORMATION
- (P) AS PER THE PLAT OF THE ORCHARD
- (P1) AS PER THE PLAT OF HAWTHORNE COURT
- CONCRETE
- FENCE
- HANDRAIL
- X' / X' DECIDUOUS TREE (TRUNK DIAMETER/DRIP LINE RADIUS)
- X' / X' CONIFEROUS TREE (TRUNK DIAMETER/DRIP LINE RADIUS)
- W WATER LINE
- W(m) WATER LINE SCALED FROM MAPS
- SS SANITARY SEWER LINE
- CLEANOUT
- E ELECTRIC LINE
- E(m) ELECTRICAL LINE SCALED FROM MAPS
- EM ELECTRIC METER
- ☀ LIGHT POLE
- T TELEPHONE LINE
- TR TELEPHONE RISER
- G GAS LINE
- SM GAS METER
- CTV CABLE TV LINE
- + LOCATION OF BUILDING HEIGHT/FINISHED FLOOR
- ☐ FLAGPOLE
- MB MAILBOX
- ⊙ CENTERLINE
- CONC. CONCRETE
- FINISHED FLOOR ELEVATION
- ELEV ELEVATION
- OVH OVERHANG
- B.H BUILDING HEIGHT FROM NEAREST GROUND ELEVATION



### Notes

1. RAVENSWOOD TITLE COMPANY, LLC COMMITMENT NUMBER 2007809CO, DATED MARCH 17, 2020 (TIME NOT PROVIDED), WAS ENTIRELY RELIED UPON FOR RECORDED INFORMATION REGARDING RIGHTS-OF-WAY, EASEMENTS AND ENCUMBRANCES IN THE PREPARATION OF THIS SURVEY. THE PROPERTY SHOWN AND DESCRIBED HEREON IS A PORTION OF THE PROPERTY DESCRIBED IN SAID TITLE COMMITMENT.
2. ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
3. THIS PRELIMINARY PLAT IS VALID ONLY IF PRINT HAS SEAL AND SIGNATURE OF SURVEYOR.
4. BASIS OF BEARINGS: GPS DERIVED BEARINGS BASED ON A BEARING OF N00°03'22"E ALONG THE WEST LINE OF THE SUBJECT PROPERTY, BETWEEN A SET 1" BRASS TAG "FLATSURV LS 19588" AT THE SOUTHERLY MOST CORNER OF THE COMMON AREA AND A SET NO. 5 REBAR WITH 1-1/2" ALUMINUM CAP, STAMPED "FLATRONS SURV LS 19588" AT THE NORTHWEST CORNER OF COMMON AREA AS SHOWN HEREON. COLORADO STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NORTH AMERICAN DATUM 1983 (NAD83). ALL BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
5. INFORMATION FROM PLANS AND MARKINGS HAVE BEEN COMBINED WITH OBSERVED EVIDENCE OF UTILITIES PURSUANT TO SECTION 5.E.IV. TO DEVELOP A VIEW OF THE UNDERGROUND UTILITIES. HOWEVER LACKING EXCAVATION, THE EXACT LOCATION OF UNDERGROUND FEATURES CANNOT BE ACCURATELY, COMPLETELY AND RELIABLY DEPICTED. IN SOME JURISDICTIONS, 811 OR OTHER SIMILAR UTILITY LOCATE REQUESTS FROM SURVEYORS MAY BE IGNORED OR RESULT IN AN INCOMPLETE RESPONSE. A PRIVATE UTILITY LOCATOR WAS HIRED FOR THE PREPARATION OF THIS SURVEY. NO EXCAVATIONS WERE MADE DURING THE COURSE OF THIS SURVEY TO LOCATE BURIED UTILITIES AND STRUCTURES. ALL UNDERGROUND UTILITIES MUST BE FIELD LOCATED BY THE APPROPRIATE AGENCY OR UTILITY COMPANY PRIOR TO ANY EXCAVATION, PURSUANT TO C.R.S. SEC. 9-1.5-103.
6. ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT AND/OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE C.R.S. SEC 18-4-508.
7. THE DISTANCE MEASUREMENTS SHOWN HEREON ARE U.S. SURVEY FOOT.
8. THE CONTOURS REPRESENTED HEREON WERE INTERPOLATED BY AUTOCAD CIVIL 3D (DIGITAL TERRAIN MODELING) SOFTWARE BETWEEN ACTUAL MEASURED SPOT ELEVATIONS. DEPENDING ON THE DISTANCE FROM A MEASURED SPOT ELEVATION AND LOCAL VARIATIONS IN TOPOGRAPHY, THE CONTOUR SHOWN MAY NOT BE AN EXACT REPRESENTATION OF THE SITE TOPOGRAPHY. THE PURPOSE OF THIS TOPOGRAPHIC MAP IS FOR SITE EVALUATION AND TO SHOW SURFACE DRAINAGE FEATURES. ADDITIONAL TOPOGRAPHIC OBSERVATIONS MAY BE NECESSARY IN SPECIFIC AREAS OF DESIGN. TOPOGRAPHY SHOWN HEREON COMPLIES WITH NATIONAL MAP ACCURACY STANDARDS.
9. BENCHMARK INFORMATION: A GPS DERIVED ELEVATION WAS ESTABLISHED AT AN ONSITE BENCHMARK NEAR THE SOUTHERLY MOST CORNER OF SUBJECT PROPERTY, BEING A 1" BRASS TAG, STAMPED "PLS 34993" WITH AN ELEVATION OF 5403.74 FEET. A CHECK SHOT, 0.1", WAS TAKEN ON CITY OF BOULDER POINT L405-2-1, BEING A CHISELED BOX LOCATED 0.03 MILES FROM SITE, WITH A PUBLISHED ELEVATION OF 5407.72 FEET (NAVD88). NO DIFFERENTIAL LEVELING WAS PERFORMED TO ESTABLISH THIS ELEVATION.
10. SUBSURFACE BUILDINGS, IMPROVEMENTS OR STRUCTURES ARE NOT NECESSARILY SHOWN. BUILDINGS AND OTHER IMPROVEMENTS OR STRUCTURES ON ADJACENT PROPERTIES THAT ARE MORE THAN FIVE (5) FEET FROM ANY OF THE PROPERTY LINES OF THE SUBJECT PROPERTY ARE NOT NECESSARILY SHOWN.
11. FLOOD INFORMATION: THE SUBJECT PROPERTY IS LOCATED IN ZONE X(UNSHADED) AND ZONE X(SHADED). AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN AND AREAS OF 0.2% AND 1% ANNUAL CHANCE FLOOD HAZARD ACCORDING TO THE FEMA FLOOD INSURANCE RATE MAP: COMMUNITY-PANEL NO. 08013C-0392 J, DATED DECEMBER 18, 2012. FLOOD INFORMATION IS SUBJECT TO CHANGE.
12. DATES OF FIELDWORK: JULY 20, 2021 (CREW CHIEF C. GAMET)
13. THE WORD "CERTIFY" AS SHOWN AND USED HEREON MEANS AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THE FACTS OF THIS SURVEY AND DOES NOT CONSTITUTE A WARRANTY OR GUARANTEE, EXPRESSED OR IMPLIED.
14. THE TOTAL AREA OF THE SUBJECT PROPERTY IS 9,809 SQ. FT. OR 0.23 ACRES, MORE OR LESS. AREA AS SHOWN HEREON IS A RESULTANT FACTOR, NOT A DETERMINATIVE FACTOR, AND MAY CHANGE SIGNIFICANTLY WITH MINOR VARIATIONS IN FIELD MEASUREMENTS OR THE SOFTWARE USED TO PERFORM THE CALCULATIONS. FOR THIS REASON, THE AREA IS SHOWN AS A "MORE OR LESS" FIGURE, AND IS NOT TO BE RELIED UPON AS AN ACCURATE FACTOR FOR REAL ESTATE SALES PURPOSES.
15. FENCES ARE NOT COINCIDENT WITH LOT LINES AS SHOWN HEREON.
16. THE SUBJECT PROPERTY IS ZONED RL-2, RESIDENTIAL-LOW 2.
17. FENCE AND SHED EXTEND ACROSS THE 6' PAVED PEDESTRIAN & BICYCLE PATH EASEMENT AS SHOWN HEREON.
18. BRIDGE EXTEND ACROSS THE SUBJECT PROPERTY LINE AS SHOWN HEREON.



### Surveyor's Statement

I, EDGAR T. BRISTOW, A LAND SURVEYOR LICENSED IN THE STATE OF COLORADO HEREBY STATE FOR AND BEHALF OF FLATRONS, INC. TO THOMAS & HOLLY BENDER THAT A SURVEY OF THE ABOVE DESCRIBED PREMISES WAS CONDUCTED BY ME OR UNDER BY RESPONSIBLE CHARGE ON JULY 20, 2021; THAT SAID PLAT AND THE ATTACHED PRINT HEREON WERE MADE IN SUBSTANTIAL ACCORDANCE WITH C.R.S. 38-51-102 (9) "SITE PLAN" PRESIDENT, FLATRONS, INC.

DATE	
REVISION	
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1576 HAWTHORN SITE PLAN

FLATRONS, Inc.  
Land Surveying Services  
www.FlattronsInc.com  
4501 LOGAN ST.  
DENVER, CO 80216  
3825 IRLS AVE. STE. 395  
BOULDER, CO 80301  
PH: (303) 443-7001  
PH: (303) 776-1733  
FAX: (303) 443-9830  
FAX: (303) 776-4355

JOB NUMBER:  
21-76,865  
DATE:  
04-18-2023  
DRAWN BY:  
E. DAVIS  
CHECKED BY:  
JK/MV/JZG

SHEET 1 OF 1

**CRITERIA CHECKLIST AND COMMENT FORM**

**LUR2022-00024  
1576 Hawthorn Ave.  
SITE REVIEW  
SECTION 9-2-14**

**(h) Criteria for Review: No site review application shall be approved unless the approving agency finds that:**

**(1) Boulder Valley Comprehensive Plan:**

√ (A) The proposed site plan is consistent with the land use map and the service area map and, on balance, the policies of the Boulder Valley Comprehensive Plan.

*The proposal is to amend The Orchard PUD to expand the property at 1576 Hawthorn Ave to include adjacent common area that the HOA no longer wishes to own or maintain. The proposed project amends the existing PUD site plan to consolidate Lot 6 of the Orchard PUD (1576 Hawthorn) and the portion of the PUD Common Area that is adjacent to Lot 6 into one new Lot 6A. No changes to the existing single-family residence or existing accessory structures are proposed, and the other property owners within the PUD have all granted their permission for the proposed lot consolidation. The BVCP Land Use Designation for the site is Low Density Residential (LR), and the existing RL-2 zoning is consistent with that designation. The existing home and property comply with RL-2 zoning requirements and will continue to comply with RL-2 zoning following the proposed PUD amendment. Criterion met.*

√ (B) The proposed development shall not exceed the maximum density associated with the Boulder Valley Comprehensive Plan residential land use designation. Additionally, if the density of existing residential development within a three-hundred-foot area surrounding the site is at or exceeds the density permitted in the Boulder Valley Comprehensive Plan, then the maximum density permitted on the site shall not exceed the lesser of:

*The existing development includes 6 homes within a total PUD area of roughly 60,445 square feet (1.38 acres), for a net density of 4.3 units per acre, which is well within the anticipated density in the BVCP. The proposed amendment does not affect the existing density or size of the PUD. Criterion met.*

N/A (i) The density permitted in the Boulder Valley Comprehensive Plan, or

N/A (ii) The maximum number of units that could be placed on the site without waiving or varying any of the requirements of Chapter 9-8, "Intensity Standards," B.R.C. 1981, except as permitted for building sites with

permanently affordable units meeting the requirements of Paragraph 9-10-3(c)(4), "Nonconforming Permanently Affordable Units," B.R.C. 1981.

- √ (C) The proposed development's success in meeting the broad range of BVCP policies considers the economic feasibility of implementation techniques required to meet other site review criteria.

*As no new development is proposed, the costs associated with the project are mainly application fees for city review processes, which the applicant is aware of and able to pay. Criterion met.*

- (2) Site Design:** Projects should preserve and enhance the community's unique sense of place through creative design that respects historic character, relationship to the natural environment, multi-modal transportation connectivity and its physical setting. Projects should utilize site design techniques which are consistent with the purpose of site review in Subsection (a) of this section and enhance the quality of the project. In determining whether this subsection is met, the approving agency will consider the following factors:

- √ (A) **Open Space: Open space, including, without limitation, parks, recreation areas and playgrounds:**

- √ (i) Useable open space is arranged to be accessible and functional and incorporates quality landscaping, a mixture of sun and shade and places to gather;  
*The existing open space on the site is located to the south of the subject property and is easily accessible by the property owner. Incorporating the commonly owned play area into the subject site will not affect the existing layout or useability.*

- √ (ii) Private open space is provided for each detached residential unit;  
*The original PUD approval provided roughly 7,700 square feet of open space per dwelling unit. No change to the other 5 existing lots is proposed.*

- √ (iii) The project provides for the preservation of or mitigation of adverse impacts to natural features, including, without limitation, healthy long-lived trees, significant plant communities, ground and surface water, wetlands, riparian areas, drainage areas and species on the federal Endangered Species List, "Species of Special Concern in Boulder County" designated by Boulder County, or prairie dogs ( *Cynomys ludovicianus* ), which is a species of local concern, and their habitat;  
*The project does not include any new development, and as such, all existing natural features will remain unaffected.*



√ (iv) The open space provides a relief to the density, both within the project and from surrounding development;

*The existing open space will remain unchanged. The only change will be in the ownership of the open space area adjacent to the project site, which will go from common ownership to private ownership.*

√ (v) Open space designed for active recreational purposes is of a size that it will be functionally useable and located in a safe and convenient proximity to the uses to which it is meant to serve;

*The existing commonly owned play area was intended as recreational open space; however, it was never used as such due to its location at the far southern end of the PUD, and over the years became essentially an extension to the project site's back yard. The proposed amendment will therefore formalize the historic use of the open space area by making it part of the property that it has historically served.*

√ (vi) The open space provides a buffer to protect sensitive environmental features and natural areas; and

*The open space provides a buffer between the development and the adjacent farmer's ditch.*

√ (vii) If possible, open space is linked to an area- or city-wide system.

*There is an existing pathway that runs adjacent to the farmer's ditch and is easily accessible by PUD residents. No change to this condition is proposed.*

N/A (B) **Open Space in Mixed Use Developments (Developments That Contain a Mix of Residential and Nonresidential Uses):**

N/A (i) The open space provides for a balance of private and shared areas for the residential uses and common open space that is available for use by both the residential and nonresidential uses that will meet the needs of the anticipated residents, occupants, tenants and visitors of the property; and

N/A (ii) The open space provides active areas and passive areas that will meet the needs of the anticipated residents, occupants, tenants and visitors of the property and are compatible with the surrounding area or an adopted plan for the area.

    (C) **Landscaping:**

√ (i) The project provides for aesthetic enhancement and a variety of plant and hard surface materials, and the selection of materials provides for a variety of colors

and contrasts and the preservation or use of local native vegetation where appropriate;

*The existing landscaping complies with city of boulder landscaping standards, and no change to the existing landscaping is proposed.*

- √ (ii) Landscape design attempts to avoid, minimize or mitigate impacts on and off site to important native species, healthy, long lived trees, plant communities of special concern, threatened and endangered species and habitat by integrating the existing natural environment into the project;

*The existing landscaping complies with city of boulder landscaping standards, and no change to the existing landscaping is proposed.*

- √ (iii) The project provides significant amounts of plant material sized in excess of the landscaping requirements of Sections 9-9-12, "Landscaping and Screening Standards," and 9-9-13, "Streetscape Design Standards," B.R.C. 1981; and

*The existing landscaping complies with city of boulder landscaping standards, and no change to the existing landscaping is proposed.*

- √ (iv) The setbacks, yards and useable open space along public rights of way are landscaped to provide attractive streetscapes, to enhance architectural features and to contribute to the development of an attractive site plan.

*The existing landscaping complies with city of boulder landscaping standards, and no change to the existing landscaping is proposed.*

**N/A (D) Circulation: Circulation, including, without limitation, the transportation system that serves the property, whether public or private and whether constructed by the developer or not:**

*The existing PUD has no internal vehicular circulation other than a fire turnaround and a shared driveway and parking area on the north end of the site. The proposed amendment does not add any new circulation and does not impact the existing site access or circulation in any way. Therefore, these criteria are not applicable.*

- √ (i) High speeds are discouraged or a physical separation between streets and the project is provided;

- √ (ii) Potential conflicts with vehicles are minimized;

- √ (iii) Safe and convenient connections are provided that support multi-modal mobility through and between properties, accessible to the public within the project and between the project and the existing and proposed transportation systems, including, without limitation, streets, bikeways, pedestrianways and trails;

- (iv) Alternatives to the automobile are promoted by incorporating site design techniques, land use patterns and supporting infrastructure that supports and encourages walking, biking and other alternatives to the single-occupant vehicle;
- (v) Where practical and beneficial, a significant shift away from single-occupant vehicle use to alternate modes is promoted through the use of travel demand management techniques;
- (vi) On-site facilities for external linkage are provided with other modes of transportation, where applicable;
- (vii) The amount of land devoted to the street system is minimized; and
- (viii) The project is designed for the types of traffic expected, including, without limitation, automobiles, bicycles and pedestrians, and provides safety, separation from living areas and control of noise and exhaust.

**(E) Parking:**

*As is the case with the above criteria pertaining to circulation, the existing PUD includes parking for the residents,, and no change to the existing parking is required or proposed. The existing PUD meets these criteria and will continue to meet these criteria following the proposed amendment.*

- (i) The project incorporates into the design of parking areas measures to provide safety, convenience and separation of pedestrian movements from vehicular movements;
- (ii) The design of parking areas makes efficient use of the land and uses the minimum amount of land necessary to meet the parking needs of the project;
- (iii) Parking areas and lighting are designed to reduce the visual impact on the project, adjacent properties and adjacent streets; and
- (iv) Parking areas utilize landscaping materials to provide shade in excess of the requirements in Subsection 9-9-6(d), and Section 9-9-14, "Parking Lot Landscaping Standards," B.R.C. 1981.

**(F) Building Design, Livability and Relationship to the Existing or Proposed Surrounding Area:**

*No new buildings are proposed as part of this amendment, and no changes to existing buildings or site are proposed. The proposed amendment does not trigger any building code requirements or other city requirements that would affect the design of the existing buildings; therefore, staff finds that these criteria are already being met per the 1972 PUD approval and that this amendment will not change the PUD's consistency with these criteria.*

- √ **(i)** The building height, mass, scale, orientation, architecture and configuration are compatible with the existing character of the area or the character established by adopted design guidelines or plans for the area;
- √ **(ii)** The height of buildings is in general proportion to the height of existing buildings and the proposed or projected heights of approved buildings or approved plans or design guidelines for the immediate area;
- √ **(iii)** The orientation of buildings minimizes shadows on and blocking of views from adjacent properties;
- √ **(iv)** If the character of the area is identifiable, the project is made compatible by the appropriate use of color, materials, landscaping, signs and lighting;
- √ **(v)** Projects are designed to a human scale and promote a safe and vibrant pedestrian experience through the location of building frontages along public streets, plazas, sidewalks and paths, and through the use of building elements, design details and landscape materials that include, without limitation, the location of entrances and windows, and the creation of transparency and activity at the pedestrian level;
- √ **(vi)** To the extent practical, the project provides public amenities and planned public facilities;
- √ **(vii)** For residential projects, the project assists the community in producing a variety of housing types, such as multifamily, townhouses and detached single family units, as well as mixed lot sizes, number of bedrooms and sizes of units;
- √ **(viii)** For residential projects, noise is minimized between units, between buildings and from either on-site or off-site external sources through spacing, landscaping and building materials;
- √ **(ix)** A lighting plan is provided which augments security, energy conservation, safety and aesthetics;

√ (x) The project incorporates the natural environment into the design and avoids, minimizes or mitigates impacts to natural systems;

√ (xi) Buildings minimize or mitigate energy use; support on-site renewable energy generation and/or energy management systems; construction wastes are minimized; the project mitigates urban heat island effects; and the project reasonably mitigates or minimizes water use and impacts on water quality;

√ (xii) Exteriors of buildings present a sense of permanence through the use of authentic materials such as stone, brick, wood, metal or similar products and building material detailing;

√ (xiii) Cut and fill are minimized on the site, the design of buildings conforms to the natural contours of the land, and the site design minimizes erosion, slope instability, landslide, mudflow or subsidence, and minimizes the potential threat to property caused by geological hazards;

N/A (xiv) In the urbanizing areas along the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the building and site design provide for a well-defined urban edge; and

N/A (xv) In the urbanizing areas located on the major streets shown on the map in Appendix A to this title near the Boulder Valley Comprehensive Plan boundaries between Area II and Area III, the buildings and site design establish a sense of entry and arrival to the City by creating a defined urban edge and a transition between rural and urban areas.

**N/A(G) Solar Siting and Construction: For the purpose of ensuring the maximum potential for utilization of solar energy in the City, all applicants for residential site reviews shall place streets, lots, open spaces and buildings so as to maximize the potential for the use of solar energy in accordance with the following solar siting criteria:**

*No new buildings are proposed as part of this amendment; therefore, these criteria do not apply.*

**N/A(H) Additional Criteria for Poles Above the Permitted Height: No site review application for a pole above the permitted height will be approved unless the approving agency finds all of the following:**

*Not applicable, as the existing PUD does not include any poles over the permitted height and the proposed amendment does not include any new poles.*

**N/A(I) Land Use Intensity Modifications:**

*Not applicable, as the existing PUD was not granted any land use intensity modifications and the proposed amendment does not include any new land use intensity modifications.*

**N/A(J) Additional Criteria for Floor Area Ratio Increase for Buildings in the BR-1 District:**

*Not applicable, as the site is not within BR-1 and is not requesting a floor area ratio increase.*

**N/A(K) Additional Criteria for Parking Reductions: The off-street parking requirements of Section 9-9-6, "Parking Standards," B.R.C. 1981, may be modified as follows:**

*Not applicable, as no parking reduction is being requested and no changes to the existing parking are proposed.*

**N/A(L) Additional Criteria for Off-Site Parking: The parking required under Section 9-9-6, "Parking Standards," B.R.C. 1981, may be located on a separate lot if the following conditions are met:**

*Not applicable, as no changes to the existing parking are proposed.*

**CITY OF BOULDER  
PLANNING BOARD ACTION MINUTES  
July 18, 2023  
Virtual Meeting**

A permanent set of these minutes and a tape recording (maintained for a period of seven years) are retained in Central Records (telephone: 303-441-3043). Minutes and streaming audio are also available on the web at: <http://www.bouldercolorado.gov/>

**PLANNING BOARD MEMBERS PRESENT:**

Jorge Boone  
Kurt Nordback  
Laura Kaplan  
Mark McIntyre  
Sarah Silver, Chair  
ml Robles

**PLANNING BOARD MEMBERS ABSENT:**

Lisa Smith

**STAFF PRESENT:**

Brad Mueller, Planning & Development Services Director  
Charles Ferro, Planning Senior Manager  
Devin Saunders, Board Specialist  
Vivian Castro-Wooldridge, Planning Engagement Strategist  
Chandler Van Schaack, Principal Planner  
Alison Blaine, Senior City Planner  
Shannon Moeller, Planning Manager

**1. CALL TO ORDER**

Chair, **S. Silver**, declared a quorum at 6:00 p.m. and the following business was conducted.

**2. APPROVAL OF MINUTES**

On a motion by **S. Silver** and seconded by **XX**, the Planning Board voted **6-0 (L. Smith absent)** to approve the June 20, 2023 Planning Board minutes as amended.

**3. PUBLIC PARTICIPATION**

1. No one spoke

**4. DISCUSSION OF DISPOSITIONS, PLANNING BOARD CALL-UPS / CONTINUATIONS**

- A. CALL UP ITEM: The Registry Boutique Hotel Use Review (LUR2020-00005): Use Review for a proposed thirty-seven (37) room boutique hotel located at 1111 Spruce St in the Downtown-2 (DT-2) zoning district.
- B. CALL UP ITEM: Use Review for restaurant uses with rooftop and ground-level outdoor dining at 1346 Pearl Street in the building formerly occupied by Lazy Dog Sports Bar & Grill for new restaurants SkinnyFATS and Cheba Hut.

These items were not called up

## 5. PUBLIC HEARING ITEMS

- A. AGENDA TITLE: Public Hearing for 1576 Hawthorn Site Review Amendment (LUR2022- 00058).

### Staff Presentation:

- C. Ferro introduced the item.
- C. Van Schaack presented the item to the board.

### Applicant Presentation:

- T. Bender presented the item to the board.

### Board Questions:

- C. Van Schaack answered questions from the board.

### Public Hearing:

- 1) No one spoke

### Board Comments:

**Key Issue #1: Is the proposed project consistent with the Site Review Criteria of the Land Use Code section 9-2-14(h) including findings related to consistency with the BVCP policies?**

**K. Nordback** noted concerns about losing possible pedestrian access and the XX, and raised concerns with property size increase...

On a motion by M. McIntyre and seconded by ml Robles, the Boulder Planning Board voted 6-0 (L. Smith absent) to approve Site Review application #LUR2022-00024, adopting the staff memorandum as findings of fact, including the attached analysis of review criteria.

- B. AGENDA TITLE: Public Hearing for 4910 and 4920 Nautilus Court North (Avery Brewing) Review for a 7,062-sf patio expansion with associated landscape improvements.



**Staff Presentation:**

C. Ferro introduced the item.

C. Van Schaack presented the item to the board.

**Board Questions:**

C. Van Schaack answered questions from the board.

**Public Hearing:**

1) Lynn Segal

**Board Comments:**

**Key Issue #1: Is the proposed project consistent with the Use Review Criteria of the Land Use Code section 9-2-15(e) including findings related to the use being reasonably compatible with and having minimal negative impact on the use of nearby properties?**

S. Silver thanked staff for the extra effort on this and noted that the extra information addressed her concerns. Subject to the recommended conditions of approval provided in the staff memorandum

On a motion by S. Silver and seconded by L. Kaplan, the Boulder Planning Board voted 6-0 (L. Smith absent) to approve Use Review application #LUR2022-00028, subject to the recommended conditions of approval provided in the staff memorandum, and adopting the staff memorandum as findings of fact, including the attached analysis of review criteria.

**6. ADDITIONAL MATTERS FROM THE PLANNING BOARD, PLANNING DIRECTOR, AND CITY ATTORNEY**

C. Ferro discussed the possibility of a retreat for the board. M. McIntyre and K. Nordback will meet with D. Saunders to organize an agenda and date.

L. Kaplan briefed the board on the latest happenings with the Airport Community Conversation Process. She encouraged the board to participate in the BeHeard Boulder online questionnaire to provide feedback.

ml Robles requested a Planning Board member attend the September 13<sup>th</sup>, 2023 DAB meeting.

K. Nordback requested info on Proposition 123 and asked if Boulder meets all requirements/criteria for the affordable housing fund.

**7. DEBRIEF MEETING/CALENDAR CHECK**

**8. ADJOURNMENT**

The Planning Board adjourned the meeting at 7:35 pm

APPROVED BY

\_\_\_\_\_  
Board Chair

\_\_\_\_\_  
DATE

DRAFT