



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 17, 2023

AGENDA TITLE

Consideration of the following items related to a petition to annex a property at 3033 3rd Street with an initial zoning designation of Residential – Low 1 (RL-1) (LUR2021-00049):

Consideration of a motion to adopt Resolution 1332 finding the annexation petition to annex approximately 0.27-acres of land in compliance with state statutes and establishing October 5, 2023 as the date for a public hearing.

AND

Introduction, first reading and consideration of a motion to order published by title only, Ordinance 8582, annexing to the City of Boulder approximately 0.27-acres of land, with an initial zoning designation of Residential – Low 1 (RL-1) 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 said land in the above-mentioned zoning district; and setting forth related details.

PRESENTER/S

Planning & Development Services

Nuria Rivera-Vandermyde, City Manager

Brad Mueller, Director Planning & Development Services

Charles Ferro, Senior Planning Manager

Alison Blaine, Senior Planner

EXECUTIVE SUMMARY

This item is related to a request to annex a 0.27-acre site at 3033 3rd Street, into the City of Boulder with an initial zoning designation of Residential – Low 1 (RL-1), consistent

with the Boulder Valley Comprehensive Plan (BVCP). The property is located within Planning Area II (and a portion in Area III) of the BVCP and is eligible for annexation. The applicant has requested annexation to redevelop the site with a detached single-family dwelling that conforms to city zoning standards. Per Annexation Policy 1.17.d, the city will annex Area II land with significant redevelopment potential that provides a benefit to the city. Refer to **Attachment A** for the annexation map and **Attachment D** for the draft annexation agreement.

Planning Board reviewed the proposed annexation and initial zoning on Aug. 1, 2023. The Board voted 4-0 (M. McIntyre, ml Robles, J. Boone absent) to recommend to Council approval of the request, subject to the recommended conditions for the annexation in the annexation agreement. A summary of the board’s discussion and recommendation on the annexation can be found below under ‘Board and Commission Feedback.’

Per the State’s annexation statutes, City Council is asked to consider the attached annexation resolution as provided in **Attachment B**. The annexation resolution is a procedural step required under state law to determine that the petition to annex the property complies with section 31-12-107(1), C.R.S. and to establish Oct. 5, 2023 as the date for a public hearing as required under section 31-12-108(1). Oct. 5, 2023 is also anticipated as the date for the second reading and council action on the annexation ordinance. The ordinance to annex the property is provided for first reading in **Attachment C**.

STAFF RECOMMENDATION

Staff finds the proposed annexation to be consistent with state statutes, the Boulder Valley Comprehensive Plan (BVCP), and the city’s annexation policies. Staff finds the application for initial zoning of Residential – Low 1 (RL-1) is consistent with BVCP goals and land use designation of Low Density Residential (LR) and is compatible with surrounding properties. Therefore, staff requests council consideration of this matter and action in the form of the following motion:

Suggested Motion Language:

Consideration of the following items related to a petition to annex a property at 3033 3rd Street with an initial zoning designation of Residential – Low 1 (RL-1) (LUR2021-00049):

Motion to adopt Resolution 1332 finding the annexation petition to annex approximately 0.27-acres of land generally located at 3033 3rd Street in compliance with state statutes and establishing Oct. 5, 2023 as the date for a public hearing.

AND

Motion to introduce and order published by title only Ordinance 8582 annexing to the City of Boulder approximately 0.27acres of land generally located at 3033 3rd Street with an initial zoning designation of Residential - Low 1 (RL-1) 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.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- Economic - It is in the interest of the city to annex properties within Area II of the BVCP Areas I, II, and III Map contiguous to the city. The property is in an area where adequate public services and facilities presently exist, reducing the need for additional public investment.
- Environmental - The proposed annexation agreement would protect and preserve portions of the open ditch crossing the property and the area of the property designated Area III in the BVCP.
- Social - The community benefit package proposed includes payment of twice the applicable cash-in-lieu amount, which addresses affordable housing needs.

OTHER IMPACTS

- Fiscal - City services are existing and available to this site. All development will be subject to city development fees including payment of Plant Investment Fees (PIFs) and water and wastewater assessments.
- Staff time - Processing of the annexation application is within normal staff work plans.

RESPONSES TO QUESTIONS FROM COUNCIL AGENDA COMMITTEE

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. Refer to **Attachment H**.

Planning Board: On Aug. 1, 2023, the Planning Board reviewed the proposed annexation and initial zoning requests. One board member suggested amended annexation terms that would impose size restrictions on the future single-family home. The board voted to keep the annexation terms as originally drafted to maintain consistency with previous single-family annexations and the suggestion was therefore not incorporated. Additionally, three members of the board expressed a desire to revisit the city's cash-in-lieu contribution amounts for single family annexations. The board discussed the key issues as identified by staff and ultimately voted 4-0 on a motion by S. Silver, seconded by L. Kaplan (M. McIntyre, ml Robles, J. Boone absent) to recommend approval of the annexation to City Council. The specific motion language is below:

On a motion by S. Silver and seconded by L. Kaplan, the Planning Board voted 4-0 (M. McIntyre, ml Robles, J. Boone absent) to recommend to City Council approval of the proposed annexation of the property located at 3033 3rd Street with an initial zoning designation of Residential – Low 1 (RL-1) pertaining to case number LUR2021-00049, incorporating this staff memorandum as findings of fact, subject to the recommended conditions of approval for the annexation as provided for in the proposed annexation agreement in Attachment C.

PUBLIC FEEDBACK

Required public notice was given in the form of written notification mailed to all property owners within six hundred feet of the subject property 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. Staff has not received any inquiries or official public comments.

BACKGROUND

Process

Land may be considered for annexation to the City if the annexation would comply with state annexation statutes and the policies of BVCP and with other ordinances of the city. If a property is annexed, zoning will be established consistent with the land use designation in the Land Use Map of the BVCP. The city's annexation policies are located within Policy 1.17 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 considering city codes and policies. This annexation will 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 applicant is requesting annexation by petition as provided by state law. Annexations must comply with Colorado Revised Statutes (C.R.S.), Article 12 of Title 31. Consistency with the state statutes has been identified as a key issue. Refer to Key Issue #1 below for a detailed analysis of compliance with state law.

The BVCP provides a framework for annexation and urban service provision within the city. Policy 1.17 d. states that the city will annex Area II land with development or redevelopment potential if the annexation provides a benefit to the city. If a property is annexed, zoning will be established consistent with the goals and land use designations of the BVCP. Annexations must comply with city policies 1.08 *Adapting to Limits on Physical Expansion*, 1.10 *Growth Requirements*, and 1.17 *Annexation* in the BVCP. Consistency with BVCP policies has been identified as a key issue. Refer to Key Issue #2 below for a detailed analysis of compliance with city policies.

Existing Site / Site Context

The site is located west of 3rd St. between Evergreen Ave. and Dellwood Ave. The area of the proposed annexation is comprised of a portion of lots 12, 13, 14, and 15 of Block 52 of the Amended Plat of Part of the Newland Addition to Boulder (refer to **Figure 1** below).

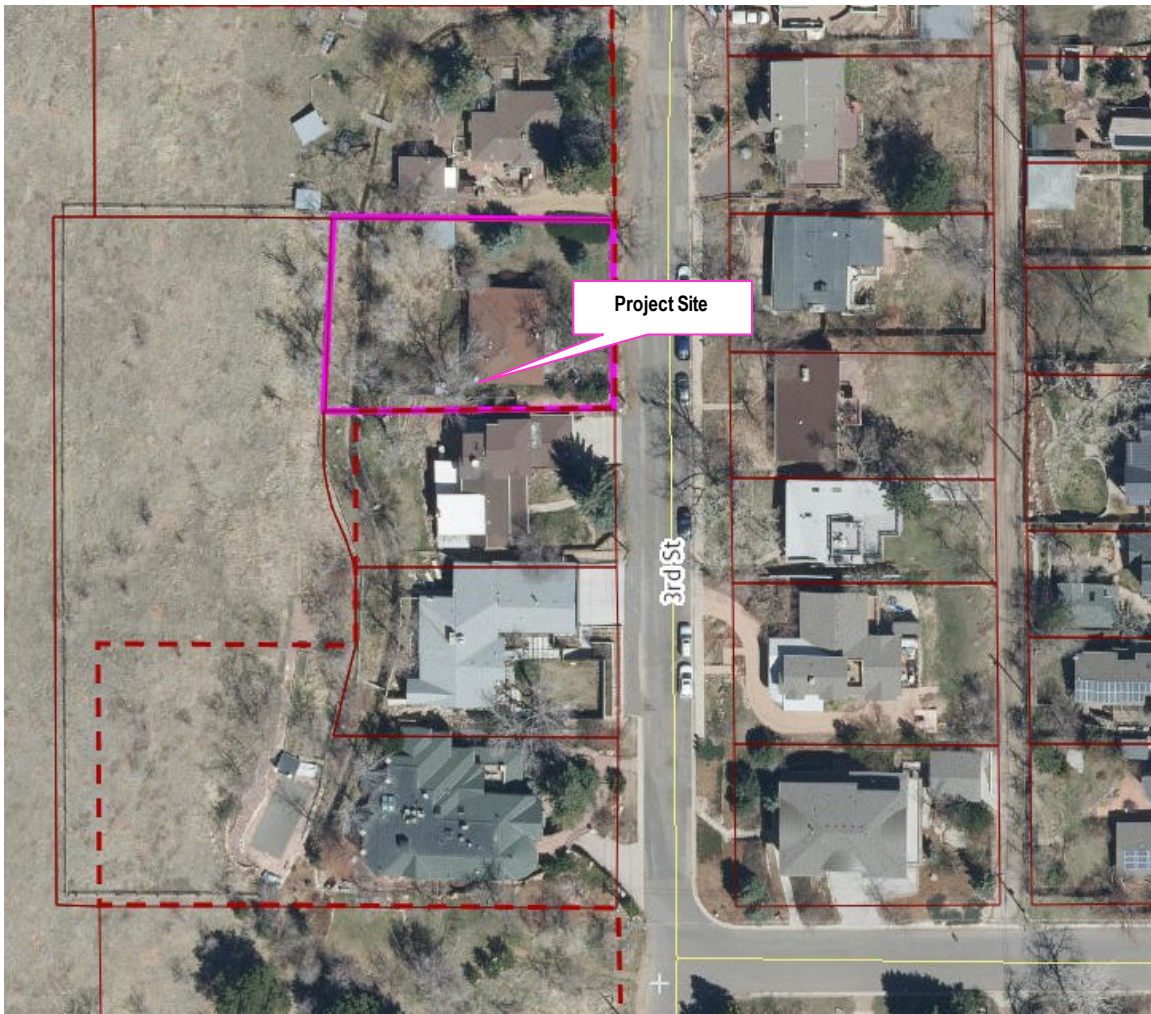


Figure 1. Project Site

The property recently had a one-story ranch style single-family dwelling built in 1924. The applicant was issued a demolition permit through the County in Apr. of 2022. A survey from Apr. 27, 2023 indicates that the existing dwelling has since been demolished. Additionally, the site has been connected to city utilities including water and sanitary sewer since 1999. The property is currently under the jurisdiction of Boulder County and is zoned RR – Rural Residential by the County.

The property is primarily located in BVCP Planning Area II. The blue line runs through the property. The portion lying west of, and therefore above, the blue line is designated as Area III (approximately 845 square feet). Refer to **Figure 2 below**. Area II refers to land now under county jurisdiction where annexation to the city can be considered consistent with policies - 1.08 Adapting to Limits on Physical Expansion, 1.10 Growth Requirements and 1.17 Annexation. New urban development may only occur coincident with the availability of adequate facilities and services. The Area III designation refers to the area generally under county jurisdiction where the city and county intend to preserve rural land uses.

In 1981, a scenic easement was granted to the city over the eastern portion of the property that is above the blue line. The easement was granted for the purposes of preserving, controlling, and protecting the natural conditions of the underlying land. As such, no development is permitted on the Area III portion of the property per the existing scenic easement recorded in the records of the Boulder County Clerk and Recorder's Office at Film 1169, Reception No. 451268 on June 18, 1981. In addition to the scenic easement, the proposed annexation agreement requires that no development occur on the portion of the property that is within Area III and that said area be used and maintained consistent with the terms and conditions of the scenic easement and, that upon request by the city, the Area III portion must be conveyed to the city at no cost of the city.

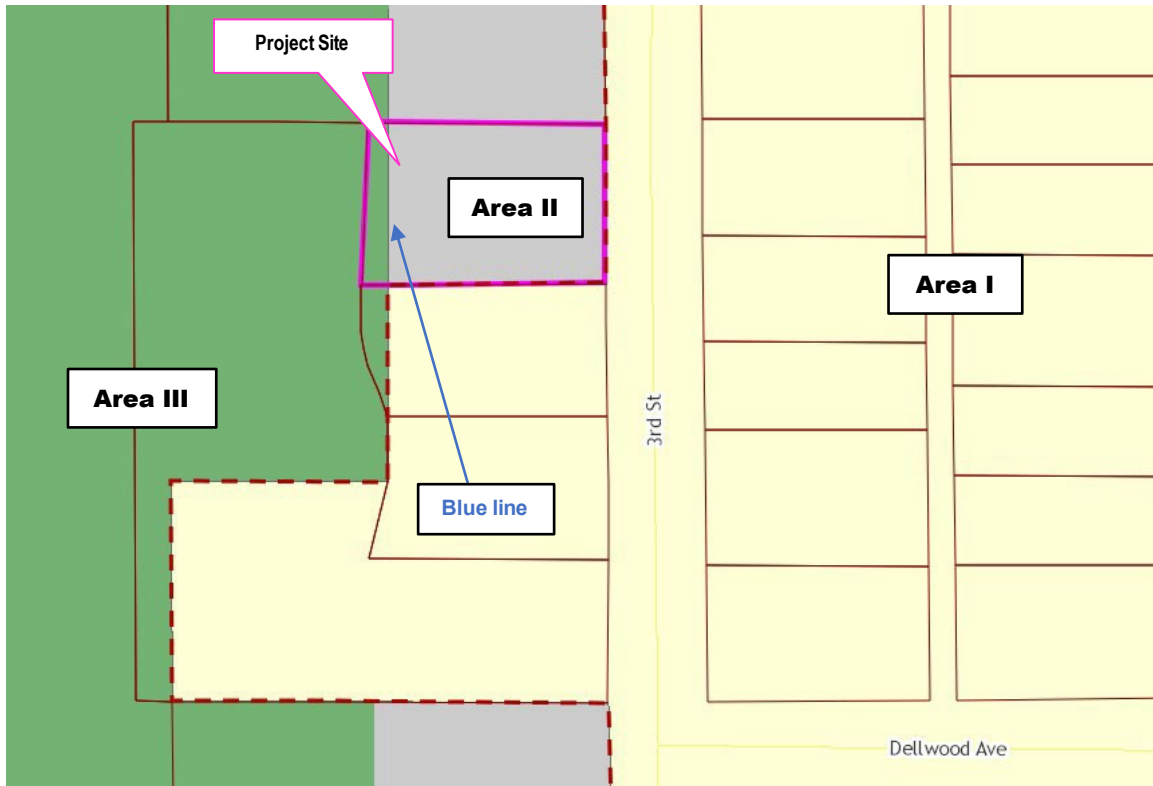


Figure 2. BVCP Area Plan

As shown in **Figure 3**, the property is designated as Low Density Residential (LR) on the land use map of the BVCP, with an anticipated density of two to six dwelling units per acre. The description from the BVCP is below.

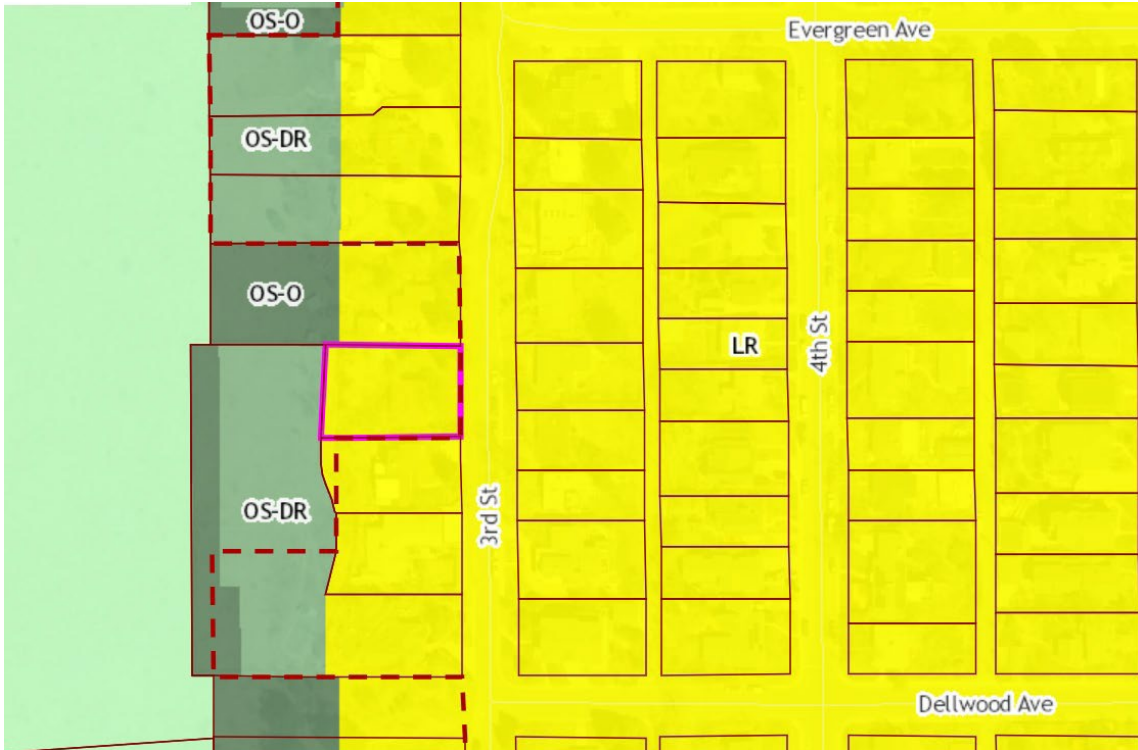


Figure 3. BVCP Land Use

<p>Low Density Residential (LR)</p>	<p>Characteristics and Locations: LR is the most prevalent land use designation in the city, covering the primarily single-family home neighborhoods, including the historic neighborhoods and Post-WWII neighborhoods.</p> <p>Uses: Consists predominantly of single-family detached units.</p> <p>BVCP Density/Intensity: 2 to 6 dwelling units per acre</p>
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PROPOSAL

The applicant is requesting annexation into the City of Boulder with Residential – Low 1 (RL-1) zoning. At time of annexation, the previously existing single-family dwelling has been demolished resulting in development potential for the property. The site is proposed to be redeveloped with a new single-family dwelling, which will conform to RL-1 zoning standards. The site is already connected to city water and sewer facilities.

Following annexation, the property would be subject to city zoning regulations and, specifically, the compatible development standards in the RL-1 zoning district, including Section 9-8-2 Floor Area Ratio Requirements; Section 9-7-9 Side Yard Bulk Plane; Section 9-7-10 Side Yard Wall Articulation; and Section 9-7-11 Maximum Building Coverage.

ANNEXATION TERMS

The proposed Annexation Agreement (**Attachment D**) contains proposed terms and conditions for this annexation. The Agreement would require twice the applicable cash-

in-lieu for a new dwelling unit that is not permanently affordable in order to meet community benefit requirements (consistent with Chapter 9-13, “Inclusionary Housing, B.R.C. 1981”). The Agreement would also require the Applicant to maintain the Area III portion of the property undeveloped and consistent with the terms of the scenic easement, or, upon request by the city, convey the Area III portion to the city. Refer to the proposed annexation agreement (**Attachment D**) for the proposed annexation terms.

ANALYSIS

The applicant is requesting annexation by petition as provided by state law. Annexations must comply with Colorado Revised Statutes (C.R.S.), Article 12 of Title 31.

Additionally, annexations must comply with city policies *1.07 Adapting to Limits on Physical Expansion*, *1.09 Growth Requirements*, *1.12 Definition of Comprehensive Planning Areas I, II & III*, and *1.17 Annexation* in the BVCP. Staff finds that the proposed annexation is consistent with state statutes and city policies. A discussion of staff’s analysis follows:

1. Compliance with State Annexation Statutes

Staff has reviewed the annexation request for compliance with Sections 31-12-104, 31-13-105, and 31-12-107 C.R.S. and with section 30 of article II of the state constitution and finds that the application is consistent with the statutory and constitutional requirements. Refer to **Attachment G** for staff’s analysis of the state annexation statutes.

2. Compliance with City Policies

The property at 3033 3rd St. may be considered for annexation due to its designation as an Area II property (Policy 1.14 *Definition of Comprehensive Planning Areas I, II, and III*). The Area II designation of this property refers to the planning area now under county jurisdiction where annexation to the city can be considered consistent with BVCP policies. The Area II portion of the property has the potential to be redeveloped (Policy 1.17d) and provides a benefit to the city in the form of cash-in-lieu fees. An additional community benefit is the preservation of open space in the Area III portion of the property.

The Area III designation refers to area generally under county jurisdiction where the city and county intend to preserve rural land uses. While Area III is generally not intended for annexation, here the annexation agreement would ensure that the goals of the BVCP will be attained for the Area III portion of the property by requiring not only that the area remain undeveloped and be maintained consistent with the terms of the scenic easement, but also that, upon request, the area be conveyed to the city. Staff recommends annexation of the entire property to avoid a jurisdictional split of the property (between city and county jurisdiction) which can create regulatory and enforcement issues.

Refer to **Attachment G** for staff’s analysis of the annexation proposal with city policies.

3. Initial Zoning

Initial zoning is established pursuant to Section 9-2-18, “Zoning of Annexed Land”, B.R.C. 1981. If a property is annexed, zoning will be established consistent with the goals and Land Use Map of the BVCP. As described above, the site is designated as Low Density Residential (LR), which anticipates a density of two to six dwelling units per acre or less. LR land use anticipates predominantly single-family detached units. The proposed zoning is Residential-Low 1 (RL-1), which has a density range consistent with the land use designation and would be compatible with the surrounding area, which is zoned Residential – Low 1 (RL-1). See **Figure 4**.

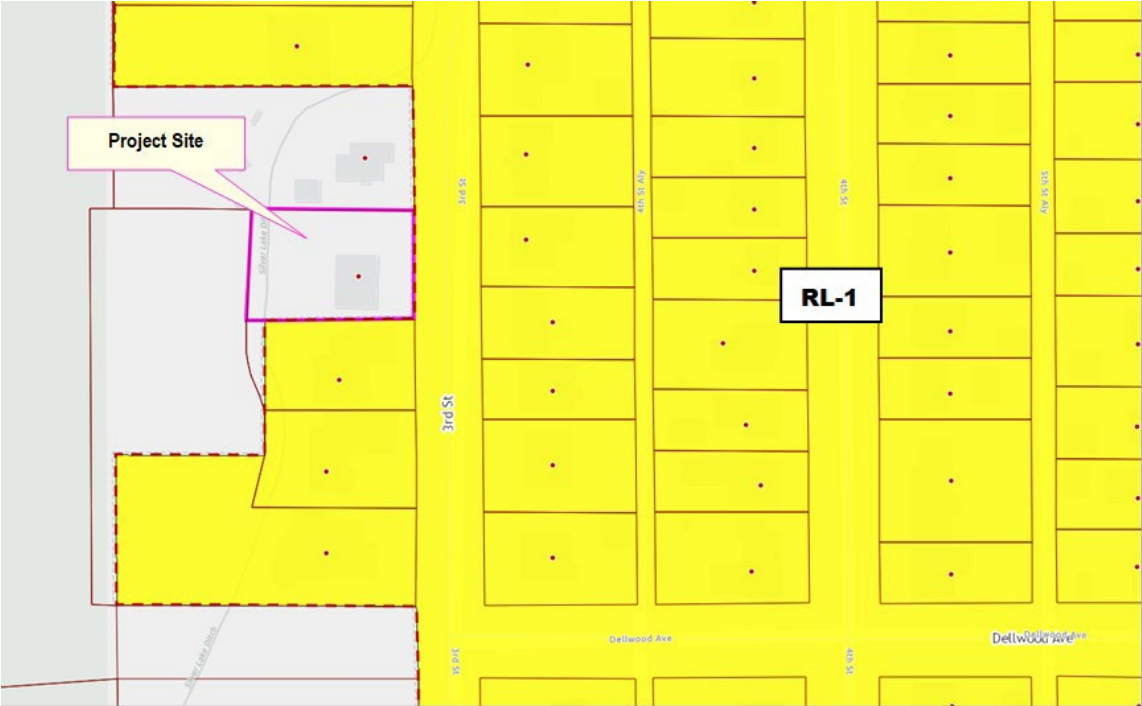


Figure 4. Zoning Map

The RL-1 district is described as: “*Single-family detached residential dwelling units at low to very low residential densities.*” (Section 9-5-2(c)(1), B.R.C. 1981). Considering that the surrounding area is zoned RL-1, staff finds the proposed zoning is consistent with the underlying land use designation and the community’s desired future for the area.

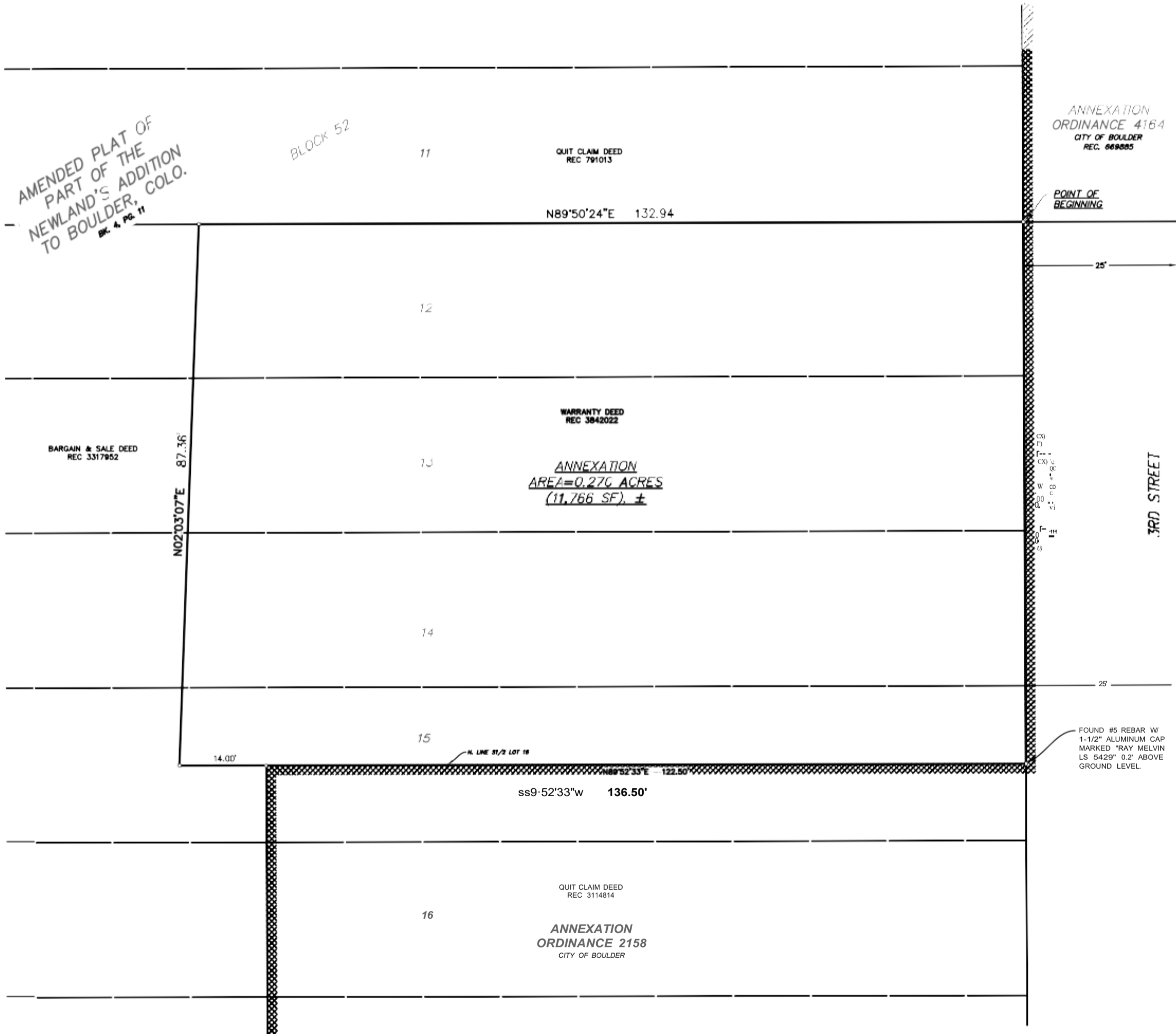
ATTACHMENTS

- Attachment A: Annexation Map
- Attachment B: Proposed Resolution 1332
- Attachment C: Proposed Ordinance 8582
- Attachment D: Proposed Annexation Agreement
- Attachment E: Annexation Petition

Attachment F. Draft Planning Board Minutes
Attachment G. Staff Analysis of State Statutes and BVCP Policies
Attachment H. Boulder County Review Comments
Attachment I. Proposed Ditch Easement

ANNEXATION MAP TO THE CITY OF BOULDER

FOR THE PROPERTY KNOWN AS 3033 3RD STREET
 LOCATED IN THE SW1/4 OF SECTION 24, T1N, R71W OF THE 6TH P.M.,
 COUNTY OF BOULDER, STATE OF COLORADO.
 AREA TO BE ANNEXED: 11,766 SF, MORE OR LESS.



AMENDED PLAT OF PART OF THE NEWLAND'S ADDITION TO BOULDER, COLO. BK. 4, PG. 11

BLOCK 52

ANNEXATION ORDINANCE 4164 CITY OF BOULDER REC. 869885

QUIT CLAIM DEED REC 791013

N89°50'24"E 132.94

WARRANTY DEED REC 3842022

ANNEXATION AREA = 0.270 ACRES (11,766 SF) ±

BARGAIN & SALE DEED REC 3317852

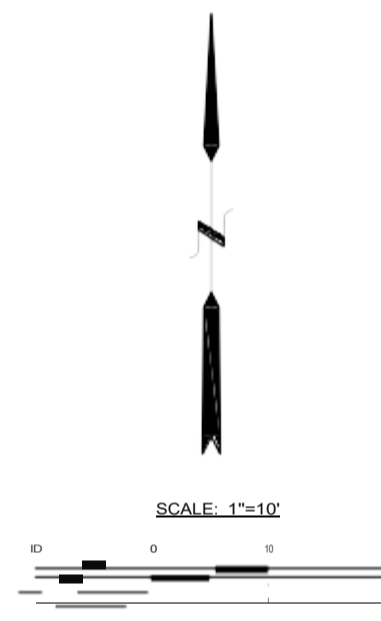
N02°03'07"E 87.36'

3RD STREET

ss9°52'33"W 136.50'

QUIT CLAIM DEED REC 3114814

ANNEXATION ORDINANCE 2158 CITY OF BOULDER



LEGEND	
MISC.	
AC	ACRES
COLO	COLORADO
CDR	CORNER
MKD	MARKED
±	MORE OR LESS
REC	RECEPTION NO.
ROW	RIGHT-OF-WAY
SF	SQUARE FOOT
FEATURES	
	ANNEXATION PARCEL CORNER
	CURRENT BOULDER CITY LIMITS

LEGAL DESCRIPTION

ALL THAT PORTION OF LOTS 12, 13, 14 AND 15, BLOCK 52, AMENDED PLAT OF PART OF THE NEWLAND'S ADDITION TO BOULDER, COLORADO, DESCRIBED AS FOLLOWS:
 BEGINNING AT THE NORTHEAST CORNER OF LOT 12, BLOCK 52, AMENDED PLAT OF PART OF THE NEWLAND'S ADDITION TO BOULDER, COLORADO, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 4, PAGE 11 OF THE COUNTY OF BOULDER, COLORADO RECORDS;
 THENCE SOUTH D DEGREES 17 MINUTES DD SECONDS EAST, 87.38 FEET ALONG THE EAST LINE OF SAID BLOCK 52 TO THE NORTHEAST CORNER OF THE SOUTH HALF OF LOT 15 IN SAID BLOCK 52;
 THENCE SOUTH 89 DEGREES 52 MINUTES 33 SECONDS WEST, 136.50 FEET ALONG THE NORTH LINE OF THE SOUTH HALF OF SAID LOT 15;
 THENCE NORTH 2 DEGREES D3 MINUTES 07 SECONDS EAST, 87.36 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 12;
 THENCE NORTH 89 DEGREES 50 MINUTES 24 SECONDS EAST, 132.94 FEET ALONG THE NORTH LINE OF SAID LOT 12 TO THE POINT OF BEGINNING, COUNTY OF BOULDER, STATE OF COLORADO.

NOTES

- BEARINGS SHOWN ON THIS MAP ARE BASED ON THE ASSUMPTION THAT THE EAST LINE OF BLOCK 52, AMENDED PLAT OF PART OF THE NEWLAND'S ADDITION TO BOULDER, COLORADO, BEARS S00°17'D0"E AS SHOWN HEREON.
- THIS MAP WAS PREPARED EXCLUSIVELY FOR ANNEXATION PURPOSES AND IS NOT A LAND SURVEY PLAT, A MONUMENTED BOUNDARY SURVEY, OR AN IMPROVEMENT SURVEY PLAT ACCORDING TO COLORADO REVISED STATUTES.
- LINEAR DIMENSIONS SHOWN ON THIS MAP ARE U.S. SURVEY FEET.
- NO APPARENT EASEMENTS OR RIGHTS-OF-WAY ARE SHOWN ON THIS MAP.

CONTIGUITY

TOTAL PERIMETER OF AREA TO BE ANNEXED	444.18 FEET
CONTIGUITY WITH EXISTING CITY LIMITS	209.88 FEET
MINIMUM ALLOWABLE CONTIGUITY (1/6 TOTAL PERIMETER)	74.03 FEET
CONTIGUITY EXCEEDING 1/6 MINIMUM REQUIREMENT	135.85 FEET
AREA OF ANNEXATION	0.270 ACRES ±

CERTIFICATION DEFINED

THE USE OF THE WORDS "CERTIFY" AND/OR "CERTIFICATION" BY A REGISTERED PROFESSIONAL LAND SURVEYOR CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THE FACTS AND FINDINGS WHICH ARE THE SUBJECT OF THE CERTIFICATION; WAS PERFORMED BY OR UNDER THE REGISTERED PROFESSIONAL LAND SURVEYOR IN RESPONSIBLE CHARGE; IS BASED ON THE PROFESSIONAL LAND SURVEYOR'S KNOWLEDGE, INFORMATION, AND BELIEF; IS IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE; AND DOES NOT CONSTITUTE A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED, (RULE 1.6.B.2 OF THE RULES AND REGULATIONS OF ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS).

NOTICE

ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED 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.

SURVEYOR'S CERTIFICATION

I HEREBY CERTIFY THAT THIS ANNEXATION MAP WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT IT ACCURATELY REPRESENTS THE PROPERTY PROPOSED FOR ANNEXATION, AND THAT AT LEAST ONE-SIXTH (1/6) OF THE PROPERTY BOUNDARY IS CONTIGUOUS TO THE PRESENT BOUNDARIES OF THE CITY OF BOULDER.

FRANK N. DREXEL
 COLORADO REGISTERED PROFESSIONAL
 LAND SURVEYOR NO 24225
 DATE: APRIL 25, 2021

OWNERS/ DEVELOPERS	TECHNICAL CONSULTANTS	DATE OF PREPARATION
MICHAEL AND ANDREA BARSCH 3033 3RD ST. BOULDER, CO 80304	FRANK N. DREXEL, PLS CIVILARTS, INC. 1500 KANSAS AVENUE, SUITE 2-E LONGMONT, CO 80501 (303) 682-1131	NOVEMBER 15, 2021
		DATE OF REVISION
		MARCH 22, 2022 MARCH 30, 2023

CIVILARTS
 ENGINEERING : PJ016821131 : 1500 Kansas Ave, Suite 2-E
 PLANNING : F 303.682.1149 : Longmont, CO 80501
 SURVEYING

RESOLUTION 1332

A RESOLUTION TO DETERMINE THAT THE PETITION TO ANNEX APPROXIMATELY 0.27 ACRES OF LAND GENERALLY LOCATED AT 3033 3rd STREET IS SUBSTANTIALLY IN COMPLIANCE WITH SECTION 31-12-107(1), C.R.S. AND TO SET A HEARING TO DETERMINE COMPLIANCE WITH OTHER STATUTORY ANNEXATION REQUIREMENTS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, HEREBY FINDS AND RECITES THAT:

A. The City Council of the City of Boulder, Colorado, hereby finds that the Petition to Annex the property more particularly described in Exhibit A attached hereto and incorporated herein is substantially in compliance with Section 31-12-107(1), C.R.S., as amended;

B. The City Council of the City of Boulder, Colorado, finds that the following requirements have been met:

- i. Persons comprising more than fifty percent of the landowners in the area and owning more than fifty percent of the area, excluding public streets and alleys and any land owned by the annexing municipality, meeting the requirements of Sections 31-12-104 and 31-12-105, C.R.S., as amended, have petitioned the City of Boulder for annexation of such territory;
- ii. The Petition has been filed with the City Clerk;
- iii. The Petition alleges it is desirable and necessary that such area be annexed to the City of Boulder;
- iv. The Petition alleges that the requirements of Sections 31-12-104 and 31-12-105, C.R.S., as amended, exist or have been met;
- v. The Petition contains a request that the City of Boulder approve the annexation of the area proposed to be annexed;
- vi. The Petition alleges that signers of the Petition comprise more than fifty percent of the landowners in the area and own more than fifty percent of the area proposed to be annexed, exclusive of streets and alleys and any land owned by the annexing municipality;
- vii. The Petition contains the signatures of such landowners;
- viii. The Petition contains the mailing address of each signer;
- ix. The Petition contains the legal description of the land owned by each signer;

- x. The Petition contains the date of signing of each signature; and
 - xi. The Petition contains the affidavit of each circulator of such Petition, that each signature therein is the signature of the person whose name it purports to be.
- C. Four copies of an annexation map accompanied the Petition and contained the following information:
- i. A written legal description of the boundaries of the area proposed to be annexed;
 - ii. A map showing the boundary of the area proposed to be annexed;
 - iii. Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks; and
 - iv. A drawing of the contiguous boundary of the City of Boulder next to the boundary of the area proposed to be annexed and the contiguous boundary of any other municipality abutting the area proposed to be annexed.
- D. All signatures on the Petition have been dated no more than one hundred eighty days prior to the date of filing the Petition with the City Clerk;

BASED ON THE FINDINGS MADE IN THIS RESOLUTION, ABOVE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, THAT:

A hearing will be held to determine whether the requirements delineated in section 30 of article II of the state constitution and Sections 31-12-104 and 31-1210-5, C.R.S., as amended, have been met and whether an election is required under Section 31-12107(-2), C.R.S. The hearing will be held at 6 p.m. on the 5th day of October 2023. The meeting will either be held at 1777 Broadway, Boulder, Colorado or virtually. Please visit the City's Web calendar at https://bouldercolorado.gov/events?event_series=58 and select the correct meeting for information on how to attend and for call-in and/or sign-up information. Additional information on how to watch or sign up to speak at a hearing can be found on the following website: <https://bouldercolorado.gov/services/participate-city-council-meetings>. You may also call 303 441-4222 for information on a virtual hearing.

ADOPTED this 17th day of August 2023.

Aaron Brockett
Mayor

Attest:

Elesha Johnson
City Clerk

EXHIBIT A
LEGAL DESCRIPTION
(3033 3RD STREET)

ALL THAT PORTION OF LOTS 12, 13, 14 AND 15, BLOCK 52, AMENDED PLAT OF PART OF THE NEWLAND'S ADDITION TO BOULDER, COLO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 12, BLOCK 52, AMENDED PLAT OF PART OF THE NEWLAND'S ADDITION TO BOULDER, COLO., ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 4, PAGE 11 OF THE COUNTY OF BOULDER, COLORADO RECORDS;

THENCE SOUTH 0 DEGREES 17 MINUTES 00 SECONDS EAST, 87.38 FEET ALONG THE EAST LINE OF SAID BLOCK 52 TO THE SOUTHEAST CORNER OF THE NORTH HALF OF LOT 15 IN SAID BLOCK 52;

THENCE SOUTH 89 DEGREES 52 MINUTES 33 SECONDS WEST, 136.50 FEET ALONG THE SOUTH LINE OF THE NORTH HALF OF SAID LOT 15;

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THENCE NORTH 89 DEGREES 50 MINUTES 24 SECONDS EAST, 132.94 FEET ALONG THE NORTH LINE OF SAID LOT 12 TO THE POINT OF BEGINNING,

COUNTY OF BOULDER,
STATE OF COLORADO.

ORDINANCE 8582

AN ORDINANCE ANNEXING TO THE CITY OF BOULDER APPROXIMATELY 0.27 ACRES OF LAND GENERALLY LOCATED AT 3033 3rd STREET WITH AN INITIAL ZONING CLASSIFICATION OF RESIDENTIAL – LOW 1 (RL-1) 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. Andrea Barsch and Michael Barsch are the owners of the parcels which comprise the real property more particularly described in Exhibit A attached hereto (the "Property").

B. The owners of 100% of the area proposed for annexation comprising 100% of the land owners of said area, excluding streets and alleys, have petitioned for annexation of the Property with an initial zoning of Residential – Low 1 (RL-1) 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 integrated with or capable of being integrated with 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.

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

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

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

8 H. The Planning Board duly proposed that the Property be annexed to the City of
9 Boulder and that the zoning district map adopted by the City Council be amended to zone and
10 include portions of the Property in the Residential – Low 1 (RL-1) zoning district, as provided in
11 Chapter 9-5, "Modular Zone System," B.R.C. 1981.

12 I. A public hearing on the proposed annexation and initial zoning of the Property
13 annexed and zoned hereby was duly held before the City Council on August 17, 2023.

14 J. The initial zoning designation of Residential – Low 1 (RL-1) for the Property is
15 consistent with the Boulder Valley Comprehensive Plan and bears a substantial relation to and will
16 enhance the general welfare of the Property and of the residents of the City of Boulder.

17 K. The requirements of Section 30 of Article II of the State Constitution and Sections
18 31-12-104 and 31-12-105, C.R.S. have been met, no election is required under Section 30 of
19 Article II of the State Constitution and Section 31-12-107(2) C.R.S., and no additional terms and
20 conditions are to be imposed upon the Property to be annexed other than what is agreed to in the
21 agreement associated with this annexation.

1 L. The City Council has jurisdiction and the legal authority to annex and zone the
2 Property.

3 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER,
4 COLORADO:
5

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

8
9 Section 2. Chapter 9-5, "Modular Zone System," B.R.C. 1981, and the zoning district map
10 forming a part thereof is hereby amended to include the Property within the Residential – Low 1
11 (RL-1) zoning district.

12 Section 3. The City Council adopts the recitals in this ordinance and incorporates them
13 herein by this reference.

14 Section 4. The City Council approves any variations or modifications to the Boulder
15 Revised Code or other City ordinances that are in the agreement associated with this annexation.
16

17 Section 5. The City Council authorizes the city manager to implement the terms of the
18 agreements associated with this annexation.
19

20 Section 6. The annexation and zoning of the Property is necessary for the protection of the
21 public health, safety, and welfare.

22 Section 7. The City Council deems it appropriate that this ordinance be published by title
23 only and orders that copies of this ordinance be made available in the office of the city clerk for
24 public inspection and acquisition.
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INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY
TITLE ONLY this 17th day of August, 2023.

Aaron Brockett
Mayor

Attest:

Elesha Johnson

City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 5th day of October,
2023.

Aaron Brockett
Mayor

Attest:

Elesha Johnson

City Clerk

EXHIBIT A

LEGAL DESCRIPTION

(3033 3RD STREET)

ALL THAT PORTION OF LOTS 12, 13, 14 AND 15, BLOCK 52, AMENDED PLAT OF PART OF THE NEWLAND'S ADDITION TO BOULDER, COLO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 12, BLOCK 52, AMENDED PLAT OF PART OF THE NEWLAND'S ADDITION TO BOULDER, COLO., ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 4, PAGE 11 OF THE COUNTY OF BOULDER, COLORADO RECORDS;

THENCE SOUTH 0 DEGREES 17 MINUTES 00 SECONDS EAST, 87.38 FEET ALONG THE EAST LINE OF SAID BLOCK 52 TO THE SOUTHEAST CORNER OF THE NORTH HALF OF LOT 15 IN SAID BLOCK 52;

THENCE SOUTH 89 DEGREES 52 MINUTES 33 SECONDS WEST, 136.50 FEET ALONG THE SOUTH LINE OF THE NORTH HALF OF SAID LOT 15;

THENCE NORTH 2 DEGREES 03 MINUTES 07 SECONDS EAST, 87.36 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 12;

THENCE NORTH 89 DEGREES 50 MINUTES 24 SECONDS EAST, 132.94 FEET ALONG THE NORTH LINE OF SAID LOT 12 TO THE POINT OF BEGINNING,

COUNTY OF BOULDER,
STATE OF COLORADO.

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For Administrative Use Only

Grantor: City of Boulder, Michael Barsch and Andrea Barsch
Grantee: Michael Barsch, Andrea Barsch and City of Boulder
Case No. LUR2021-00049

ANNEXATION AGREEMENT

THIS AGREEMENT, made this ____ day of _____, 2023, by and between the City of Boulder, a Colorado home rule city, hereinafter referred to as "City," and Michael Barsch and Andrea Barsch, hereinafter collectively referred to as "Applicant."

RECITALS

- A. The Applicant is the owner of the real property generally described as 3033 3rd Street and more particularly described in the attached **Exhibit A** (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 Low - 1 (RL-1).
- C. The City is interested in ensuring 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 received 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) execute a ditch easement substantially in the form attached as **Exhibit B** to this Agreement, at no cost to the City, the final form of which is subject to approval of the City Manager.

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 the 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. 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.
6. 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.
7. 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.
8. 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 (and not record) 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 Applicant withdraws from this Agreement pursuant to the terms of this Agreement, or the City does not annex the Property, the City agrees that it will not record any such documents and will return all such original document 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.

9. 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.
10. 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 the Applicant 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.
11. 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.
12. 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.
13. 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.

14. Community Benefit. For each dwelling unit constructed or established on the Property that is not deed-restricted as a permanently affordable unit consistent with the requirements of Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, the Applicant shall pay to the City twice the applicable cash-in-lieu amount as required for a dwelling unit that is not deed-restricted in that chapter. The applicable cash-in-lieu amount shall be paid no later than the issuance of a building permit for each new dwelling unit to be constructed on the Property and shall be twice the cash in-lieu amount applicable at the time the cash-in-lieu payment is made to the City. The parties acknowledge that the Property does not have any dwelling units at the time of annexation. The parties further agree that an accessory dwelling unit constructed and established on the Property consistent with the Boulder Revised Code standards for accessory dwelling units shall not be considered a dwelling unit and shall not trigger the requirement of this Paragraph 14.
15. Zoning. The Property shall be annexed to the City with an initial zoning classification of Residential Low - 1 (RL-1), and except as set forth herein, shall be subject to all of the rights and restrictions associated with that zoning.
16. Annexation Challenged by Referendum. If the annexation of the Property or any portion thereof is challenged by a referendum, the procedure required by the Charter and Colorado Revised Statutes, as applicable, will be followed. If a referendum results in the disconnection of the Property or any portion thereof from the City, then this Agreement will be void and the Parties relieved from all obligations hereunder. If not, the Parties will continue to be bound by this Agreement. If a referendum results in the disconnection of the Property, the City will return all previously submitted fees (other than fees for the review of the petition to annex and associated documents), application, and easement and/or rights of way dedication documents which the Applicant submitted to the City pursuant to this Agreement and shall cause the release of any documents recorded against the Property in connection therewith.
17. Lot Line Elimination. Prior to a building permit application, the Applicant shall submit to the City an application for a lot line elimination or an equivalent arrangement, as determined by the City Manager, to remove the lot lines within the outer boundaries of the Property, in particular the lot lines between Lots 12 and Lot 13; Lot 13 and 14; and Lot 14 and Lot 15 of Block 52, Amended Plat of Part of the Newland's Addition, City of Boulder, County of Boulder, State of Colorado.
18. Wildland-Urban Interface (WUI). The Applicant acknowledges that the Property is located in the City of Boulder's Wildland-Urban Interface area and subject to the requirements of Chapter 8.5, "Wildland Code," B.R.C. 1981, as may be amended from time to time.
19. Access. At the time of application for a lot line elimination or similar process to remove the interior lot lines of the Property as required in this Agreement, the Applicant shall provide evidence to the City Manager that the Reciprocal Easement Agreement recorded on November 12, 2010 at Reception No. 03112417 has been extinguished.

20. Area III Parcel. The blue line splits the Property. The blue line is defined in Section 1-2-1, "Definitions," B.R.C. 1981, as "the line above which the City of Boulder shall not supply water for domestic, commercial or industrial uses, as described in section 128A of the charter of the City of Boulder, except as specifically stated therein." The portion of the Property lying west of, and therefore above, the blue line ("Area III Parcel") is designated as Area III- Rural Preservation Area in the Boulder Valley Comprehensive Plan ("BVCP") Planning Areas I, II, III Map and is generally depicted on **Exhibit C**. The Applicant agrees that:
- a) No development shall occur in the Area III Parcel and the entire Area III Parcel shall be used and maintained consistent with the terms, conditions, and use restrictions established in the Scenic Easement Agreement recorded in the Boulder County Clerk and Recorder's Office under Reception No. 451268.
 - b) Upon request of the City Manager, the Applicant shall promptly, and at no cost to the City, convey to the City the Area III Parcel per special warranty deed, subject to the title exceptions disclosed by a then-current title report. No subdivision process shall be required pursuant to Title 9, "Land Use Code," B.R.C. 1981, in connection with the conveyance of the Area III Parcel to the City as contemplated in this Agreement, and as a result, the remainder of the Property following conveyance of the Area III Parcel to the City shall not constitute an illegally subdivided parcel.
 - c) No water shall be supplied for domestic, commercial, or industrial uses to the Area III Parcel. Water may be supplied for domestic, commercial, or industrial uses to those portions of the Property other than the Area III Parcel.
21. Subordination. Prior to the second reading of the annexation ordinance, the Applicant shall obtain and submit to the City an agreement between any lender with a security interest in the Property and the City, executed by the mortgagee, in which the mortgagee consents to this Agreement and subordinates any interest in the Property to this Agreement in a form subject to approval of the City Manager and essentially as attached in **Exhibit D**.

(signature pages follow)

EXECUTED on the day and year first above 12th day of June 2023

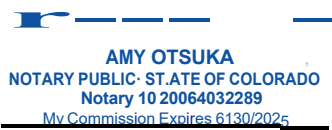
Michael Barsch

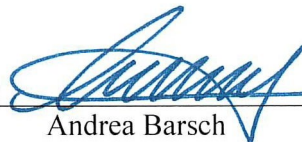
STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 1st day of June 2023 by Michael Barsch.

Witness my hand and official seal.

My commission expires: 06/12-06/15

[Seal] 
AMY OTSUKA
NOTARY PUBLIC - STATE OF COLORADO
Notary IO 20064032289
My Commission Expires 6/13/2025

By: 
Andrea Barsch

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 1st day of June 2023 by Andrea Barsch.

Witness my hand and official seal.

My commission expires: 06/13-06/15

[Seal]


Notary Public

AMY OTSUKA
NOTARY PUBLIC - STATE OF COLORADO
Notary IO 20064032289
My Commission Expires 6/13/2025

CITY OF BOULDER, COLORADO

By _____
Nuria Rivera-Vandermyde, City Manager

Attest:

City Clerk

Approved as to form:

City Attorney's Office

Date: _____

Exhibits

- Exhibit A Legal Description
- Exhibit B Ditch Easement
- Exhibit C Map of Area III Parcel
- Exhibit D Subordination Agreement

EXHIBIT A
LEGAL DESCRIPTION

LEGAL DESCRIPTION

(3033 3RD STREET)

ALL THAT PORTION OF LOTS 12, 13, 14 AND 15, BLOCK 52, AMENDED PLAT OF PART OF THE NEWLAND'S ADDITION TO BOULDER, COLO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 12, BLOCK 52, AMENDED PLAT OF PART OF THE NEWLAND'S ADDITION TO BOULDER, COLO., ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 4, PAGE 11 OF THE COUNTY OF BOULDER, COLORADO RECORDS;

THENCE SOUTH 0 DEGREES 17 MINUTES 00 SECONDS EAST, 87.38 FEET ALONG THE EAST LINE OF SAID BLOCK 52 TO THE SOUTHEAST CORNER OF THE NORTH HALF OF LOT 15 IN SAID BLOCK 52;

THENCE SOUTH 89 DEGREES 52 MINUTES 33 SECONDS WEST, 136.50 FEET ALONG THE SOUTH LINE OF THE NORTH HALF OF SAID LOT 15;

THENCE NORTH 2 DEGREES 03 MINUTES 07 SECONDS EAST, 87.36 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 12;

THENCE NORTH 89 DEGREES 50 MINUTES 24 SECONDS EAST, 132.94 FEET ALONG THE NORTH LINE OF SAID LOT 12 TO THE POINT OF BEGINNING,

COUNTY OF BOULDER,
STATE OF COLORADO.

EXHIBIT B
DITCH EASEMENT

For Administrative Purposes Only

Property Address: 3033 3rd St

Grantors: Michael and Andrea Barsch

Grantee: City of Boulder, Colorado

Case#: LUR202 1-00049

GRANT OF DITCH EASEMENT

MICHAEL BARSCH and ANDREA BARSCH ("Grantors"), whose address is 4417 51st Street, Boulder, CO 80301, for \$1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city ("City"), whose address is 1777 Broadway, Boulder, Colorado 80302, an easement for the installation, construction, repair, maintenance and reconstruction of a ditch (or lateral) and channel improvements and appurtenances thereto, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached.

Grantors, for themselves and for their heirs, successors, agents, lessees, and assigns, do hereby covenant and agree that no permanent structure or improvement shall be placed on said easement by themselves or their heirs, successors or assigns, and that said use of such easement shall not otherwise be obstructed or interfered with.

Grantors warrant their ability to grant and convey this easement.

The terms of this easement shall run with the land and shall be binding upon and inure to the benefit of the Grantors, their heirs, agents, lessees and assigns, and all other successors to them in interest and shall continue as a servitude running in perpetuity with the property described above.

IN WITNESS WHEREOF, Grantors have caused this instrument to be duly executed as of this day of _____, 2023.

GRANTORS:

By: _____
Michael Barsch

[NOTARY BLOCK FOLLOWS]

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this__ day of _____
2023, by Michael Barsch.

Witness my hand and official seal.

My commission expires: _____

Notary Public

By: _____
Andrea Barsch

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this__ day of _____
2023, by Andrea Barsch.

Witness my hand and official seal.

My commission expires: _____

Notary Public

LENDER'S CONSENT AND SUBORDINATION

The undersigned, a beneficiary under a certain deed of trust encumbering the property, hereby expressly consents to and joins in the execution and recording of this grant of easement and makes the deed of trust subordinate hereto. The undersigned represents that he or she has full power and authority to execute this Lender's Consent and Subordination on behalf of the below-stated lender.

FLATIRONS BANK

By:.....
Printed Name:.....
Title:.....

ACKNOWLEDGMENT

State of Colorado)
) ss.
County of Boulder)

The foregoing instrument was acknowledged before me **this**__ day of _____, 2023, by

..... as of Flatirons Bank.

Witness my Hand and Seal.

My Commission Expires:_____

[Seal]

Notary Public

EXHIBIT "A"

DITCH EASEMENT

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 24,
TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH P.M.
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.

Sheet 1 of 2

LEGAL DESCRIPTION

A ditch easement over a part of Lots 12, 13, 14 and the N1/2 of Lot 15, Block 52, Amended Plat of Part of the Newland's Addition to Boulder, Colo., a subdivision located in the SW1/4 of Section 24, T1N, R71W of the 6th P.M., County of Boulder, State of Colorado, according to the plat recorded in Plat Book 4, Page 11 of the records of Boulder County, Colorado, described as follows:

COMMENCING at the Northeast Comer of said Lot 12, from which the Southeast Corner of the N1/2 of said Lot 15 bears S00°17'00"E, 87.42 feet (Basis of Bearing), thence S00°17'00"E, 87.42 feet along the Easterly Line of said Lots 12, 13, 14 and the N1/2 of said Lot 15 to the Southerly Line of the N1/2 of said Lot 15; Thence S89°51'14"W, 116.15 feet along the Southerly Line of the N1/2 of said Lot 15 to the POINT OF BEGINNING;

Thence continuing S89°51'14"W, 20.35 feet along the Southerly Line of the N1/2 of said Lot 15 to the Westerly Line of that tract of land conveyed to Andrea Barsch and Michael Barsch as described in General Warranty Deed recorded December 15, 2020, as Reception No. 3842022 of the records of Boulder County, Colorado;

Thence N2°03'07"E, 87.44 feet along Westerly Line of that tract of land as described as said Reception No. 3842022 to the Northwesterly Comer thereof;

Thence N89°49'52"E, 21.30 feet along the Northerly Line of tract of land as described as said Reception No. 3842022, also being the Northerly Line of said Lot 12;

Thence S5°52'09"W, 27.72 feet;

Thence S1°51'29"E, 33.36 feet;

Thence S5°01'06"W, 26.58 feet to the POINT OF BEGINNING.

Area= 1,805 square feet (0.041Acres), more or less.

NOTICE: According to Colorado law you **must** commence any legal action based upon any defect in this survey within three years after you first discovered 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.

Frank N. Drexel 24305
Colorado Professional Land
Surveyor No. 24305
1500 Kansas Ave #2-E, Longmont, CO 80501
Date: 05-25-23

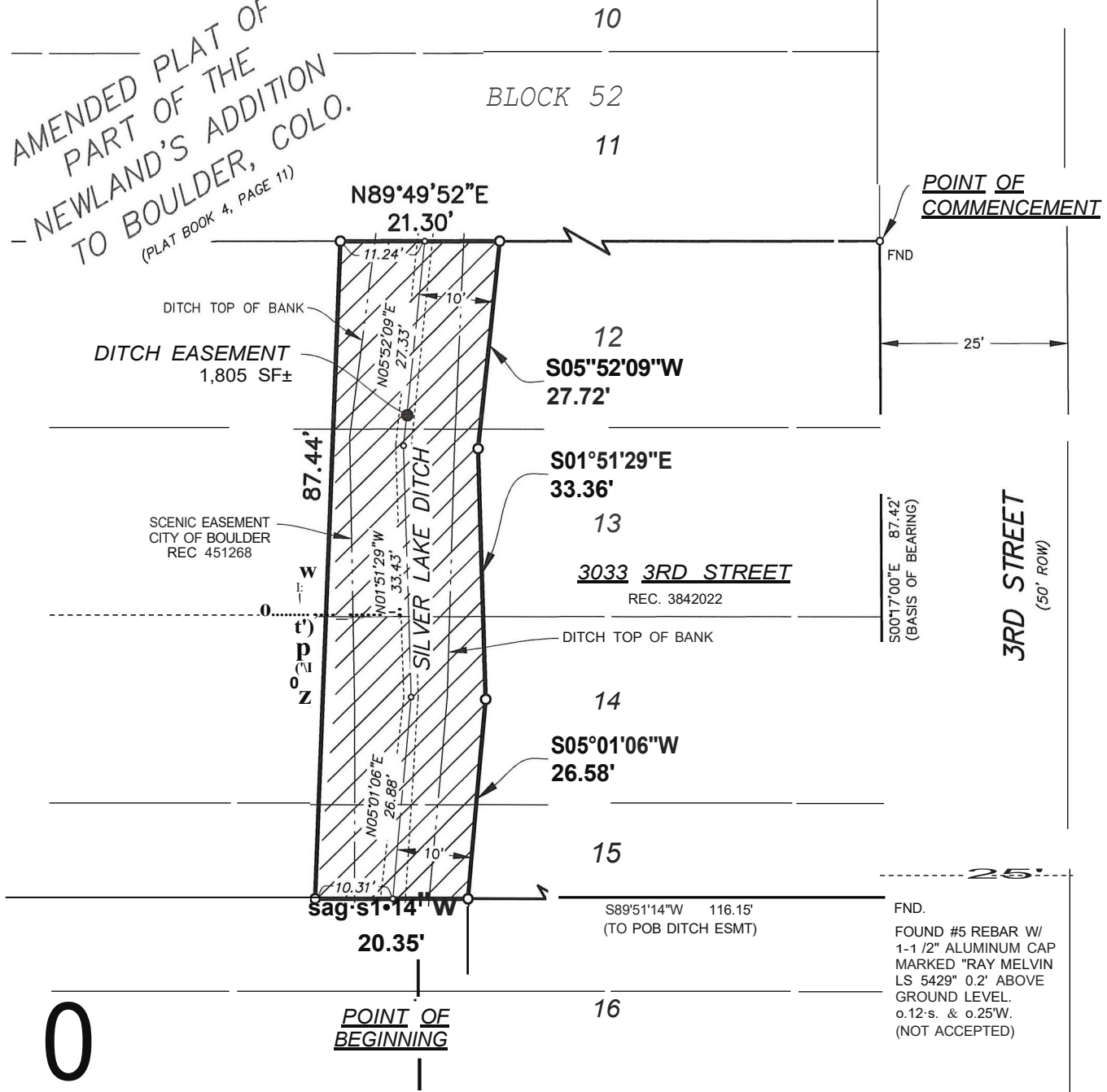
File: 15551-ca-lgl 052523.doc

Project 1555-1

EXHIBIT "A"

DITCH EASEMENT
 LOCATED IN THE SOUTHWEST QUARTER OF SECTION 24,
 TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH P.M.
 CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.
 SHEET 2 OF 2

AMENDED PLAT OF
 PART OF THE
 NEWLAND'S ADDITION
 TO BOULDER, COLO.
 (PLAT BOOK 4, PAGE 11)



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EXHIBIT MAP

SCALE: 1"=20'
 DATE: 05-25-23
 DWG: 15551-EA.DWG

NOTE

THIS EXHIBIT MAP IS INTENDED ONLY AS AN AID TO FOLLOW THE ATTACHED LEGAL DESCRIPTION AND DOES NOT REPRESENT A LAND SURVEY PLAT ACCORDING TO COLORADO STATUTES.

LEGEND

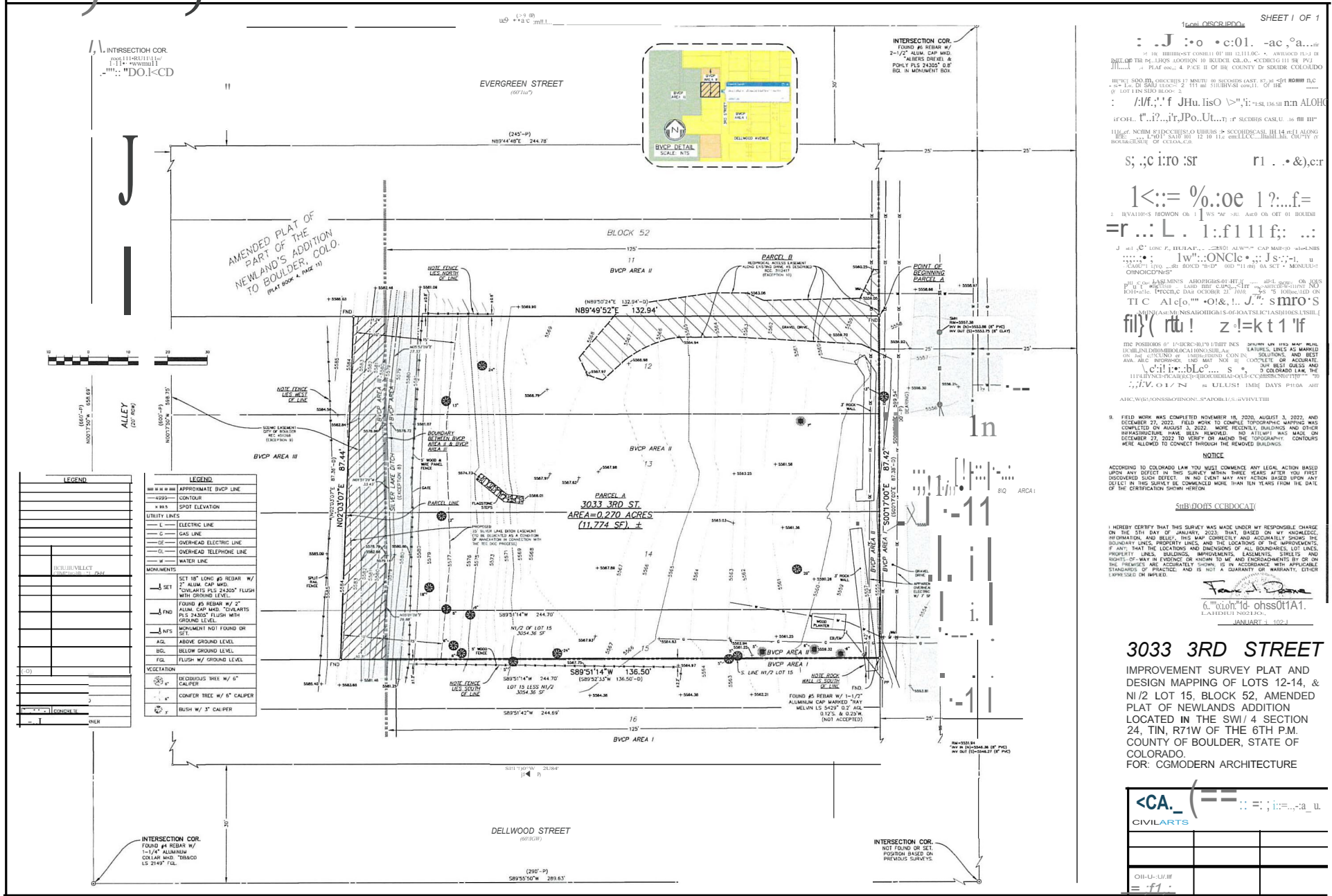
FND=FOUND #5 REBAR W/ 2" ALUMINUM CAP MARKED "CIVILARTS PLS 24305" FLUSH WITH GROUND LEVEL.



ENGINEERING : 1500KansasAve., Suite2-E
 PLANNING : Longmont, CO80501
 SURVEYING : PJOJ.682.1131
 FJ0J.682.1149

EXHIBIT C

MAP OF AREA III PARCEL



SHEET 1 OF 1
 INTERSECTION COR. FOUND #5 REBAR W/ 2-1/2" ALUM. CAP MKD. "ALBERS DRIVE" & HIGH PLS 24305' 0.0" E OF SW MONUMENT B.M.
 INTERSECTION COR. FOUND #4 REBAR W/ 1-1/2" ALUM. CAP MKD. "ALBERS DRIVE" & HIGH PLS 24305' 0.0" E OF SW MONUMENT B.M.
 INTERSECTION COR. FOUND #4 REBAR W/ 1-1/2" ALUM. CAP MKD. "ALBERS DRIVE" & HIGH PLS 24305' 0.0" E OF SW MONUMENT B.M.
 INTERSECTION COR. FOUND #4 REBAR W/ 1-1/2" ALUM. CAP MKD. "ALBERS DRIVE" & HIGH PLS 24305' 0.0" E OF SW MONUMENT B.M.

1. I, the undersigned, do hereby certify that this survey was made under my responsible charge on the 31st day of January, 2023, that based on my knowledge, information and belief, I have correctly and accurately shown the boundary lines, property lines, and the locations of the improvements, if any, that the locations and dimensions of all boundaries, lot lines, property lines, buildings, improvements, easements, streets and rights-of-way in existence are known to me and endorsements by or on the premises are accurately shown, is in accordance with applicable standards of practice, and is not a quantity of variance, either expressed or implied.

2. FIELD WORK WAS COMPLETED NOVEMBER 16, 2020, AUGUST 3, 2022, AND DECEMBER 27, 2022. FIELD WORK TO COMPLETE TOPOGRAPHIC MAPPING WAS COMPLETED ON AUGUST 3, 2022. MORE RECENTLY, BUILDINGS AND OTHER INFRASTRUCTURE HAVE BEEN REWORKED. NO ATTEMPT WAS MADE ON DECEMBER 27, 2022 TO VERIFY OR AMEND THE TOPOGRAPHIC CONTOURS WERE ALLOWED TO CONNECT THROUGH THE REWORKED BUILDINGS.

NOTICE
 ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVERED 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.

3033 3RD STREET
 IMPROVEMENT SURVEY PLAT AND DESIGN MAPPING OF LOTS 12-14, & N/2 LOT 15, BLOCK 52, AMENDED PLAT OF NEWLAND'S ADDITION LOCATED IN THE SW1/4 SECTION 24, T1N, R71W OF THE 6TH P.M. COUNTY OF BOULDER, STATE OF COLORADO.
 FOR: CGMODERN ARCHITECTURE

3033 3RD STREET
 IMPROVEMENT SURVEY PLAT AND DESIGN MAPPING OF LOTS 12-14, & N/2 LOT 15, BLOCK 52, AMENDED PLAT OF NEWLAND'S ADDITION LOCATED IN THE SW1/4 SECTION 24, T1N, R71W OF THE 6TH P.M. COUNTY OF BOULDER, STATE OF COLORADO.
 FOR: CGMODERN ARCHITECTURE

CA	CIVILARTS
CH-10-17/18	

Item 3H - 1st Rdg 3033 3rd St Annexation

EXHIBIT D

SUBORDINATION AGREEMENT

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT ("Agreement") is executed by Flatirons Bank, whose mailing address is 1095 Canyon Blvd., Suite 100, Boulder, CO 80302 ("Mortgagee") for the benefit of Michael Barsch and Andrea Barsch ("Mortgagors") and the City of Boulder, a Colorado home rule city ("the City"):

A. Mortgagors are the owners of that certain real property in Boulder County, State of Colorado, described generally known as 3303 3rd Street and more particularly described in **Exhibit A** ("Property"); and

B. Mortgagee is the holder of a promissory note made by Mortgagors, dated December 10, 2020, in the original principal amount of \$1,100,000.00 ("Note"), which is secured by a Deed of Trust encumbering the Property of even date therewith, a copy of which is attached hereto as **Exhibit B** and incorporated herein by this reference ("Mortgage"); and

C. Concurrently with this Agreement, Mortgagors are entering into an annexation agreement with the City, which is more particularly described in **Exhibit C** attached hereto and incorporated herein by this reference ("Annexation Agreement"); and

D. Upon Mortgagors' request, Mortgagee has consented to and agreed to subordinate the Mortgage to the terms of the Annexation Agreement, which Mortgagee has reviewed and approved; and

E. The Annexation Agreement, which would not otherwise be agreed to by the City, is being agreed to by the City in reliance on this Agreement.

F. The parties agree that the Annexation Agreement provides a benefit to the Property.

NOW THEREFORE in consideration of the above and mutual covenants and promises contained herein, and other valuable consideration the receipt and sufficiency of which is hereby acknowledged, it is represented and agreed as follows:

1. The Mortgage is subordinated and hereafter shall be junior to the Annexation Agreement to the extent necessary to permit the City to enforce the purpose and terms of the Annexation Agreement in perpetuity and to prevent any modification or extinguishments of the Annexation Agreement by the exercise of any right of Mortgagee.

2. The priority of the Mortgage with respect to any valid claim on the part of Mortgagee to the proceeds of any sale, condemnation proceedings, or insurance, or to the leases, rents, and profits of the Property, is not affected hereby, and any lien that may be created by the City's exercise of its rights under the Annexation Agreement shall be junior to the Mortgage.

3. Mortgagee shall not be joined as a defendant in any action to enforce the Annexation Agreement, or seeking damages, fees, or costs of any kind pursuant to the Annexation Agreement, and the Mortgage shall have priority over any judgment entered for any costs, fees, or damages under the Annexation Agreement, unless the violation representing the grounds for the action was caused by Mortgagee or its agents or employees or the Mortgagee is a fee owner of the Property.

4. If at any time in an action to enforce the Annexation Agreement, the City obtains injunctive relief requiring that the Property be restored in any respect, Mortgagee shall not be held liable for any costs of restoration, regardless of who is in possession of the Property, unless Mortgagee or its agents or employees is responsible for the condition requiring restoration or Mortgagee is the fee owner of the Property.

5. In the event of a foreclosure of the Mortgage, whether by judicial decree or pursuant to a power of sale, the Annexation Agreement shall not be extinguished but shall survive and continue to encumber the Property.

6. This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective personal representatives, heirs, successors, and assigns.

7. Mortgagors will obtain an endorsement to their owners' policy of title insurance and Mortgagee will do the same via their lender's title policy, to reflect the recordation of the Annexation Agreement (now a permitted exception) and the subordination of the Mortgage to same.

8. This Agreement shall be recorded immediately after the Annexation Agreement.

Entered into this ___ day of _____, 2023.

Mortgagee:
Flatirons Bank

By: _____
Printed Name: _____
Title: _____

[NOTARY BLOCK ON FOLLOWING PAGE]

State of Colorado)
) ss.
County of Boulder)

The foregoing instrument was acknowledged before me this__ day of _____,2023,
by _____,as _____ of Flatirons Bank.

Witness my hand and official seal.

My commission expires _ _ _ _ _

Notary Public

CITY OF BOULDER, COLORADO

By:-----
Nuria Rivera-Vandermyde, City Manager

ATTEST:

City Clerk

Approved as to form:

City Attorney's Office

Date: _____

EXHIBITS

- Exhibit A** Legal Description for Property
- Exhibit B** Mortgage
- Exhibit C** Annexation Agreement

Please Note:

No person shall petition to the city of Boulder for annexation of any real property until he has first read and thereafter follows these instructions in the execution of the within petition:

1. Every person signing the within annexation petition must personally insert the information required on the signature page(s) attached to the petition.
2. The person or persons who circulate the within petition must witness the signatures of every person signing this petition and so certify by executing the affidavit attached on the last page of this petition.
3. The following definitions of terms shall be applicable throughout this petition and every subsequent step of the annexation proceeding commenced pursuant to this petition:
 - a. Landowner: means the owner in fee of any undivided interest in a given parcel of land. If the mineral estate has been severed, the landowner is the owner in fee of an individual interest in the surface estate and not the owner in fee of an individual interest in the mineral estate. In the case of multiple landowners, such as tenants in common or joint tenants, only one such landowner need petition for annexation, and the signature of one such landowner shall be sufficient, provided however, that said signing landowner had become liable for taxes in the last preceding calendar year or is exempt by law from payment of taxes, and provide further, that no other owner in fee of an individual interest of the same property objects to the annexation of the said property within 14 days after the filing of the annexation petition by submitting a written statement of his objections to the City Council.

A purchaser of real property shall be deemed a landowner for the purpose of an annexation petition if:

 - (1) The said purchaser is purchasing the land pursuant to a written contract duly recorded, and
 - (2) The said purchaser has paid the taxes thereon for the next preceding tax year.

A corporation, non-profit, owning land shall be deemed a landowner, and the same persons authorized to convey land for the corporation shall sign the within petition on behalf of such corporation.
 - b. Nonresident Landowner: means any person owning property in the area proposed to be annexed, who is not a qualified elector as herein below defined, and who is at least eighteen (18) years of age as attested to by a sworn affidavit.
 - c. Identical Ownership: means a situation where each owner has exactly the same degree of interest in a separate parcel of two or more parcels of land.
 - d. Contiguous: means that one-sixth of the boundary of the territory proposed for annexation and the city limits must coincide. Contiguity as referred to in this petition or subsequent annexation proceedings is not affected by the existence of a platted street or alley, public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway between the city limits of the city of Boulder and the territory to be annexed.
4. This petition must be filed with the City Clerk of the city of Boulder.

5. This petition should be filed in the following manner:
 - a. All blanks herein contained should be filled out and completed.
 - b. Each signer shall, before signing said petition, carefully read the contents hereof.
 - c. The signatures attached to this petition must have been signed within 180 days immediately preceding the filing of the said petition with the City Clerk.
 - d. After filing of the petition, no person having signed said petition shall thereafter be permitted to withdraw his/her signature from said petition.
 - e. This petition shall be accompanied by at least four copies of an annexation map containing the following information:
 1. A written legal description of the boundaries of the area proposed to be annexed.
 2. A map showing the boundaries of the area proposed to be annexed.
 3. Within the boundaries of the area proposed to be annexed, the location of each ownership tract in unplatted land and, if part or all of the area has been platted, the boundaries and the plat numbers of the plots or of the lots and blocks shall be shown.
 4. The portion of the boundaries of the area proposed to be annexed which is contiguous to the city limits of the city of Boulder, as the same exist at the time this annexation petition is to be filed, must be shown and the dimensions thereof indicated.

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).

ANNEXATION PETITION

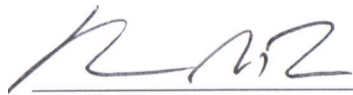
Attachment E - Annexation Petition

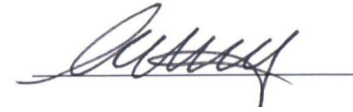
Signature of petitioners requesting annexation of property to the city of Boulder, Colorado

Date of signature of each petitioner

Mailing address of each petitioner

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

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CIRCULATOR'S AFFIDAVIT
CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

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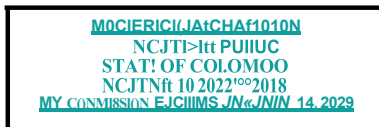
being first duly sworn, upon oath deposes and says that she/he was the circulator of the above and foregoing petition and that the signatures on said petition are the signatures of the persons whose names they purport to be.

,rZ

Circulator

Subscribed and sworn to before me this J.v-/-M- day of 00-h>bif, AD. 20 22.

Witness my hand and official seal. My commission expires: =-c:v-----'-- \. #- . -'20"-- 2. fo



[Signature]
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 _____, AD. 20 _____

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

EXHIBIT A

LEGAL DESCRIPTION (PER TITLE COMMITMENT)

PARCEL A

ALL THAT PORTION OF LOTS 12, 13, 14 AND 15, BLOCK 52, AMENDED PLAT OF PART OF THE NEWMAN'S ADDITION TO BOULDER, COLORADO, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 12, BLOCK 52, AMENDED PLAT OF PART OF THE NEWMAN'S ADDITION TO BOULDER, COLORADO, ACCORDING TO THE PLAT RECORDED IN PLAT BOOK 4, PAGE 11 OF THE COUNTY SOUTHERN COUNTY RECORDS;

THENCE SOUTH 0 DEGREES 17 MINUTES 00 SECONDS EAST, 67.38 FEET ALONG THE EAST LINE OF SAID BLOCK 52 TO THE SOUTHEAST CORNER OF THE NORTH HALF OF LOT 15 IN SAID BLOCK 52;

THENCE SOUTH 89 DEGREES 52 MINUTES 33 SECONDS WEST, 136.50 FEET ALONG THE SOUTH LINE OF THE NORTH HALF OF SAID LOT 15;

THENCE NORTH 2 DEGREES 03 MINUTES 07 SECONDS EAST, 87.36 FEET TO A POINT ON THE NORTH LINE OF SAID LOT 12;

THENCE NORTH 89 DEGREES 50 MINUTES 24 SECONDS EAST, 32.94 FEET ALONG THE NORTH LINE OF SAID LOT 12 TO THE POINT OF BEGINNING COUNTY OF BOULDER, STATE OF COLORADO.

PARCEL B

TOGETHER WITH RECIPROCAL EASEMENT AGREEMENT FOR GROSS DEFEASANCE RECORDED NOVEMBER 12, 2010 UNDER RECEPTION 0. 03112417, COUNTY OF BOULDER, STATE OF COLORADO.

**CITY OF BOULDER
PLANNING BOARD ACTION MINUTES
August 1, 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:

Kurt Nordback
Laura Kaplan
Sarah Silver, Chair
Lisa Smith

PLANNING BOARD MEMBERS ABSENT:

Mark McIntyre
ml Robles
Jorge Boone

STAFF PRESENT:

Brad Mueller, Planning & Development Services Director
Charles Ferro, Planning Senior Manager
Laurel Witt, Assistant City Attorney
Devin Saunders, Board Specialist
Alison Blaine, Senior City Planner

1. CALL TO ORDER

Chair, **S. Silver**, declared a quorum at 6:02 p.m. and the following business was conducted.

2. PUBLIC PARTICIPATION

a) **Lynn Segal**

3. APPROVAL OF MINUTES

A. The Planning Board minutes from April 25th are scheduled for approval.

On a motion by **L. Kaplan** and seconded by **K. Nordback**, the Planning Board voted 4-0 (**M. McIntyre, ml Robles, J. Boone** absent) to approve the April 25th, 2023 Planning Board meeting minutes as amended.

B. The Planning Board minutes from May 2nd are scheduled for approval.

On a motion by **L. Kaplan** and seconded by **K. Nordback**, the Planning Board voted 4-0 (**M. McIntyre, ml Robles, J. Boone** absent) to approve the May 2, 2023 Planning Board meeting minutes as submitted.

C. The Planning Board minutes from May 16th are scheduled for approval.

These minutes were continued to the August 8, 2023 Planning Board meeting.

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

5. PUBLIC HEARING ITEMS

A. **AGENDA TITLE:** Public hearing and consideration of a recommendation on a request for annexation of an approximately 11,766 square-foot (0.27-acre) property, located at 3033 3rd Street with an initial zoning designation of Residential – Low 1 (RL-1) (case no. LUR2021-00049).

Staff Presentation:

C. Ferro introduced the item.

A. Blaine presented the item to the board.

Board Questions:

A. Blaine answered questions from the board.

Applicant's Presentation:

C. Goff & M. Barsch, representing the applicant, presented the item to the board

Board Questions to Applicant:

C. Goff & M. Barsch, representing the applicant, presented the item to the board

Public Hearing:

1) Lynn Segal

Board Comments:

Key Issue #1: Does the annexation request comply with applicable state annexation statutes?

L. Smith noted that she believes this is consistent with state statutes.

L. Kaplan agreed with L. Smith.

K. Nordback also noted that he believes this is consistent with state statutes.

S. Silver agreed with her colleagues.

Key Issue #2: Is the proposal consistent with city's annexation and other Boulder Valley Comprehensive Plan (BVCP) policies?

L. Smith believed this is consistent with the BVCP as it this is already on city utilities and within area 2. She also noted that this property is already surrounded by city boundaries.

L. Kaplan appreciated staff's and L. Smith's analysis. She believed that the applicant has adequately provided community benefits.

K. Nordback agreed with the benefits outlined by L. Kaplan. He noted concerns around housing affordability and this project's in-lieu housing fees. He struggled with this question and did not on face value believe this is consistent with the BVCP due to the housing fees.

S. Silver noted that the city code and city annexation policies 1.25(b) are met with this proposal. She appreciated the policy issue of cash-on-lieu for single family homes.

L. Smith appreciated **S. Silver's** comments and agreed that this is consistent with the BVCP

Key Issue #3: Is the initial zoning of Residential – Low 1 (RL-1) appropriate for the subject property?

S. Silver agreed that this is appropriate as this will conform to city guidelines.

L. Kaplan seconded **S. Silver's** comments

K. Nordback agreed with the RL-1 zoning classification.

L. Smith agreed with her colleagues.

On a motion by **S. Silver** and seconded by **L. Kaplan**, the Planning Board voted 4-0 (**M. McIntyre, ml Robles, J. Boone** absent) to recommend to City Council approval of the proposed annexation of the property located at 3033 3rd Street with an initial zoning designation of Residential – Low 1 (RL-1) pertaining to case number LUR2021-00049, incorporating this staff memorandum as findings of fact, subject to the recommended conditions of approval for the annexation as provided for in the proposed annexation agreement in Attachment C.

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

7. DEBRIEF MEETING/CALENDAR CHECK

8. ADJOURNMENT

The Planning Board adjourned the meeting at 7:18 p.m.

APPROVED BY

Board Chair

DATE

CITY CODE CRITERIA CHECKLIST**BOULDER VALLEY COMPREHENSIVE PLAN POLICIES**

Planning Area II is the area now under county jurisdiction where annexation to the city can be considered consistent with policies - 1.08 Adapting to Limits on Physical Expansion, 1.10 Growth Requirements and 1.17 Annexation.

1.08 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 annexation agreement has been written to enhance the physical, social, and economic assets of the community. Development will be limited to the Area II portion of the property.

1.10 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 site has development potential. The annexation agreement requires as a community benefit that for each dwelling unit on the property that is not deed-restricted as a permanently affordable unit consistent with the requirements of Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, the applicant shall pay twice the applicable cash-in-lieu amount.

1.17 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.

Property is already connected to City services and has been since 1999.

- 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.

Not applicable. Property is not an enclave or substantially developed. It was until recently substantially developed with a single-family dwelling unit.

- 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.

Upon annexation, the property will have development potential. The applicant intends to develop a single-family detached home and the site is also connected to City services. Staff finds that the annexation with an initial zoning of RL-1 respects existing lifestyles and densities. In the RL-1 zoning district, a minimum of 7,000 square feet of lot area must be provided per lot and per dwelling unit per Table 8-1 "Intensity Standards", B.R.C. 1981. The overall size of the property is 11,774 sf (0.27-acre), which will allow for the development of one detached dwelling unit.

- 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.

The property has development potential. To meet the community benefit requirement for the development potential, the annexation agreement requires that for each dwelling unit on the property that is not deed-restricted as a permanently affordable unit consistent with the requirements of Chapter 9-13, "Inclusionary Housing," B.R.C. 1981, the applicant shall pay twice the applicable cash-in-lieu amount.

- 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.

The property is not substantially developed and has development potential. The applicant may develop a detached single-family home upon annexation and will be required to pay twice the applicable cash in-lieu amount to meet community benefit requirements.

- 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.

The annexation is in the Boulder Valley Planning Area, with the property primarily located within Area II and a small portion above the blue line in Area III.

- 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.

The large majority of the property is within Area II; a small portion is within Area III, but subject to a public easement requiring the Area III portion to remain undeveloped, not served by water, and

maintained in a state consistent with the Area III designation. Upon request, the Area III portion of the property must be conveyed to the City. The goals of the BVCP for Area III will therefore be attained for this property.

- 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, site is not within the Gunbarrel Subcommunity.

SECTION 9-2-17, "ANNEXATION REQUIREMENTS," BOULDER REVISED CODE 1981

- (a) Compliance with State Statutes and Boulder Valley Comprehensive Plan: All annexations to the city shall meet the requirements of 31-12-101 et seq., C.R.S., and shall be consistent with the Boulder Valley Comprehensive Plan and other ordinances of the city.

See checklists above and below.

- (b) Conditions: No annexation of land to the city shall create an unreasonable burden on the physical, social, economic, or environmental resources of the city. The city may condition the annexation of land upon such terms and conditions as are reasonably necessary to ensure that this requirement is met. Such terms and conditions may include, without limitation, installation of public facilities or improvements, dedication of land for public improvements, payment of fees incidental to annexation, or covenants governing future land uses. In annexations of hillside areas, the city council may impose conditions designed to mitigate the effects of development on lands containing slopes of fifteen percent or greater. In annexations of more than ten acres, the applicant shall provide the information necessary to enable the city to prepare an annexation impact report when required by section 31-12-108.5, C.R.S.

The terms and conditions of the annexation request are described in the proposed annexation agreement. Conditions have been included to ensure that the annexation will not create an unreasonable burden on the city.

- (c) Annexation Agreement: Owners of land petitioning the city for annexation of their property shall enter into an annexation agreement with the city stating any terms and conditions imposed on said property, prior to the first reading of the annexation ordinance. Upon annexation, such agreements shall be recorded to provide notice to future purchasers of said property. Where the annexation agreement provides that the city may install public improvements and that the owners of the annexed property will pay for such improvements, the costs of such improvements constitute an assessment against the annexed property as they accrue. If, after notice, any such assessment is not paid when due, the city manager shall certify the amount of the principal, interest, and penalties due and unpaid, together with ten percent of the delinquent amount for costs of collection to the county treasurer to be assessed and collected in the same manner as general taxes are assessed and collected as provided by section 2-2-12, "City Manager May Certify Taxes, Charges, and Assessments to County Treasurer for Collection," B.R.C. 1981.

See proposed annexation agreement and response (b).

SECTION 9-2-18, "ZONING OF ANNEXED LAND", BOULDER REVISED CODE 1981

- (a) Generally: Zoning of annexed land or land in the process of annexation shall be considered an initial zoning and shall be consistent with the goals and land use designations of the Boulder Valley Comprehensive Plan.

The site is designated as Low Density Residential (LR), which anticipates a density of two - six dwelling units per acre or less. The applicable zoning districts in this density range are RL-1. Considering that the surrounding area is zoned RL-1, staff finds the proposed zoning is consistent with the underlying land use designation, the community's desired future for the area established in the BVCP.

- (b) Public Notification: When zoning of land is proposed in the process of annexation, the city manager will provide notice pursuant to section 9-4-3, "Public Notice Requirements," B.R.C. 1981.

A public notice has been sent to property owners within 600 feet and a notice has been posted on the property.

- (c) Sequence of Events: An ordinance proposing zoning of land to be annexed shall not be finally adopted by the city council before the date of final adoption of the annexation ordinance, but the annexation ordinance may include the zoning ordinance for the annexed property. ***The annexation ordinance will include zoning for this annexation area.***

- (d) Placement on Zoning Map: Any land annexed shall be zoned and placed upon the zoning map within ninety days after the effective date of the annexation ordinance, notwithstanding any judicial appeal of the annexation. The city shall not issue any building or occupancy permit until the annexed property becomes a part of the zoning map. ***If annexed, the land will be so placed on the zoning map.***

- (e) Nonconformance: A lot annexed and zoned that does not meet the minimum lot area or open space per dwelling unit requirements of section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, may be used notwithstanding such requirements in accordance with this code or any ordinance of the city, if such lot was a buildable lot under Boulder County jurisdiction prior to annexation.

The project site meets the minimum lot area requirements for the RL-1 zone district. There are no nonconforming uses on the property.

- (f) Slopes: Notwithstanding the provisions of subsection (a) of this section, any land proposed for annexation that contains slopes at or exceeding fifteen percent shall not be zoned into a classification which would allow development inconsistent with policies of the Boulder Valley Comprehensive Plan.

There are areas of the site that exceed fifteen percent slope. Staff finds that the proposed zoning and conditions of the annexation agreement will ensure development consistent with the policies of the BVCP.

COLORADO MUNICIPAL ANNEXATION ACT OF 1965**Colorado State Statutes Title 31, Article 12**

Staff has reviewed the annexation petition for compliance with Sections 31-12-104, 31-12-105, and 31-12-107, C.R.S. and with section 30 of article II of the state constitution and finds that the application is consistent with the statutory and constitutional requirements, as affirmed by the findings below.

§ 31-12-104. Eligibility for annexation

- (1) No unincorporated area may be annexed to a municipality unless one of the conditions set forth in section 30 (1) of article II of the state constitution first has been met. An area is eligible for annexation if the provisions of section 30 of article II of the state constitution have been complied with and the governing body, at a hearing as provided in section 31-12-109, finds and determines:
 - (a) That not less than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the annexing municipality. Contiguity shall not be affected by the existence of a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, public lands, whether owned by the state, the United States, or an agency thereof, except county-owned open space, or a lake, reservoir, stream, or other natural or artificial waterway between the annexing municipality and the land proposed to be annexed. Subject to the requirements imposed by section 31-12-105 (1) (e), contiguity may be established by the annexation of one or more parcels in a series, which annexations may be completed simultaneously and considered together for the purposes of the public hearing required by sections 31-12-108 and 31-12-109 and the annexation impact report required by section 31-12-108.5.

Not less than 1/6th of the perimeter of the area proposed to be annexed is contiguous with the annexing municipality. The property has more than one-sixth (16.7%) contiguity with the City of Boulder. The existing contiguity is 209.66 feet or 48% and is consistent with the standards of C.R.S section 31-12-104.

- (b) That a community of interest exists between the area proposed to be annexed and the annexing municipality; that said area is urban or will be urbanized in the near future; and that said area is integrated with or is capable of being integrated with the annexing municipality. The fact that the area proposed to be annexed has the contiguity with the annexing municipality required by paragraph (a) of this subsection (1) shall be a basis for a finding of compliance with these requirements unless the governing body, upon the basis of competent evidence presented at the hearing provided for in section 31-12-109, finds that at least two of the following are shown to exist:

There is a community interest between the property proposed for annexation and the city of Boulder. The area has development potential and is proposed to be redeveloped with a single-family dwelling unit, similar to the development of the area the property is located in. The property is already connected to City utilities and is integrated or capable of being integrated into the City of Boulder. As more than one-sixth of the perimeter of the area proposed to be annexed is contiguous with the annexing municipality, a community of interest is presumed.

- I. Less than fifty percent of the adult residents of the area proposed to be annexed make use of part or all of the following types of facilities of the annexing municipality: Recreational, civic, social, religious, industrial, or commercial; and less than twenty-five

- percent of said area's adult residents are employed in the annexing municipality. If there are no adult residents at the time of the hearing, this standard shall not apply.
- II. One-half or more of the land in the area proposed to be annexed (including streets) is agricultural, and the landowners of such agricultural land, under oath, express an intention to devote the land to such agricultural use for a period of not less than five years.
 - III. It is not physically practicable to extend to the area proposed to be annexed those urban services which the annexing municipality provides in common to all of its citizens on the same terms and conditions as such services are made available to such citizens. This standard shall not apply to the extent that any portion of an area proposed to be annexed is provided or will within the reasonably near future be provided with any service by or through a quasi-municipal corporation.
- (2)
- (a) The contiguity required by paragraph (a) of subsection (1) of this section may not be established by use of any boundary of an area which was previously annexed to the annexing municipality if the area, at the time of its annexation, was not contiguous at any point with the boundary of the annexing municipality, was not otherwise in compliance with paragraph (a) of subsection (1) of this section, and was located more than three miles from the nearest boundary of the annexing municipality, nor may such contiguity be established by use of any boundary of territory which is subsequently annexed directly to, or which is indirectly connected through subsequent annexations to, such an area.

Not applicable; the area creating contiguity for this property does not meet this description and was contiguous to the municipality at the time it was annexed.

- (b) Because the creation or expansion of disconnected municipal satellites, which are sought to be prohibited by this subsection (2), violates both the purposes of this article as expressed in section 31-12-102 and the limitations of this article, any annexation which uses any boundary in violation of this subsection (2) may be declared by a court of competent jurisdiction to be void ab initio in addition to other remedies which may be provided. The provisions of section 31-12-116 (2) and (4) and section 31-12-117 shall not apply to such an annexation. Judicial review of such an annexation may be sought by any municipality having a plan in place pursuant to section 31-12-105 (1) (e) directly affected by such annexation, in addition to those described in section 31-12-116 (1). Such review may be, but need not be, instituted prior to the effective date of the annexing ordinance and may include injunctive relief. Such review shall be brought no later than sixty days after the effective date of the annexing ordinance or shall forever be barred.

Not applicable; the site is not considered a municipal satellite.

- (c) Contiguity is hereby declared to be a fundamental element in any annexation, and this subsection (2) shall not in any way be construed as having the effect of legitimizing in any way any noncontiguous annexation.

Not applicable.

§ 31-12-105. Limitations

- (1) Notwithstanding any provisions of this part 1 to the contrary, the following limitations shall apply to all annexations:

- (a) In establishing the boundaries of any territory to be annexed, 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, shall be divided into separate parts or parcels without the written consent of the landowners thereof unless such tracts or parcels are separated by a dedicated street, road, or other public way.

Not applicable. No land held in identical ownership is divided into separate parts or parcels as a result of this annexation without the consent of the owner.

- (b) In establishing the boundaries of any area proposed to be annexed, 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 situated thereon has a valuation for assessment in excess of two hundred thousand dollars for ad valorem tax purposes for the year next preceding the annexation) shall be included under this part 1 without the written consent of the landowners unless such tract of land is situated entirely within the outer boundaries of the annexing municipality as they exist at the time of annexation. In the application of this paragraph (b), contiguity shall not be affected by a dedicated street, road, or other public way.

Not applicable. See above.

- (c) No annexation pursuant to section 31-12-106 and no annexation petition or petition for an annexation election pursuant to section 31-12-107 shall be valid when annexation proceedings have been commenced for the annexation of part or all of such territory to another municipality, except in accordance with the provisions of section 31-12-114. For the purpose of this section, proceedings are commenced when the petition is filed with the clerk of the annexing municipality or when the resolution of intent is adopted by the governing body of the annexing municipality if action on the acceptance of such petition or on the resolution of intent by the setting of the hearing in accordance with section 31-12-108 is taken within ninety days after the said filings if an annexation procedure initiated by petition for annexation is then completed within the one hundred fifty days next following the effective date of the resolution accepting the petition and setting the hearing date and if an annexation procedure initiated by resolution of intent or by petition for an annexation election is prosecuted without unreasonable delay after the effective date of the resolution setting the hearing date.

Not applicable. No annexation proceedings have been commenced for the annexation of this property to any other municipality.

- (d) As to any annexation which will result in the detachment of area from any school district and the attachment of the same to another school district, no annexation pursuant to section 31-12- 106 or annexation petition or petition for an annexation election pursuant to section 31-12-107 is valid unless accompanied by a resolution of the board of directors of the school district to which such area will be attached approving such annexation.

The annexation would not remove the property from one school district and add it to another.

- (e)
 - i. Except as otherwise provided in this paragraph (e), no annexation may take place that would have the effect of extending a municipal boundary more than three miles in any direction from any point of such municipal boundary in any one year. Within said three-mile area, the contiguity required by section 31-12-104 (1) (a) may be achieved by annexing a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway. Prior to completion of any annexation within the three-mile area, the municipality shall have in place a plan for that area that generally describes the proposed location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation

fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the municipality and the proposed land uses for the area. Such plan shall be updated at least once annually. Such three-mile limit may be exceeded if such limit would have the effect of dividing a parcel of property held in identical ownership if at least fifty percent of the property is within the three-mile limit. In such event, the entire property held in identical ownership may be annexed in any one year without regard to such mileage limitation. Such three-mile limit may also be exceeded for the annexation of an enterprise zone.

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. Annexation is not achieved through annexation of any right-of-way, lake, reservoir, stream, or other natural or artificial waterway.

- II. Prior to completion of an annexation in which the contiguity required by section 31-12- 104 (1) (a) is achieved pursuant to subparagraph (I) of this paragraph (e), the municipality shall annex any of the following parcels that abut a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway, where the parcel satisfies all of the eligibility requirements pursuant to section 31-12-104 and for which an annexation petition has been received by the municipality no later than forty-five days prior to the date of the hearing set pursuant to section 31-12-108 (1):

Not applicable. See above.

- A. Any parcel of property that has an individual schedule number for county tax filing purposes upon the petition of the owner of such parcel;
 - B. Any subdivision that consists of only one subdivision filing upon the petition of the requisite number of property owners within the subdivision as determined pursuant to section 31-12- 107; and
 - C. Any subdivision filing within a subdivision that consists of more than one subdivision filing upon the petition of the requisite number of property owners within the subdivision filing as determined pursuant to section 31-12-107.
- (e.1) The parcels described in subparagraph (II) of paragraph (e) of this subsection (1) shall be annexed under the same or substantially similar terms and conditions and considered at the same hearing and in the same impact report as the initial annexation in which the contiguity required by section 31-12-104 (1) (a) is achieved by annexing a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway. Impacts of the annexation upon the parcels described in subparagraph (II) of paragraph (e) of this subsection (1) that abut such platted street or alley, public or private right-of-way, public or private transportation right-of-way or area, or lake, reservoir, stream, or other natural or artificial waterway shall be considered in the impact report required by section 31-12- 108.5. As part of the same hearing, the municipality shall consider and decide upon any petition for annexation of any parcel of property having an individual schedule number for county tax filing purposes, which petition was received not later than forty-five days prior to the hearing date, where the parcel abuts any parcel described in subparagraph (II) of paragraph (e) of this subsection (1) and where the parcel otherwise satisfies all of the eligibility requirements of section 31-12-104.
- (e.3) In connection with any annexation in which the contiguity required by section 31-12- 104 (1) (a) is achieved by annexing a platted street or alley, a public or private right-of-way, a public or private transportation right-of-way or area, or a lake, reservoir, stream, or other natural or artificial waterway, upon the latter of ninety days prior to the date of the hearing set pursuant to section 31-12- 108 or upon the filing of the annexation petition, the municipality shall provide, by regular mail to the owner of any abutting parcel as reflected in the records of the county assessor, written notice of the annexation and of the

landowner's right to petition for annexation pursuant to section 31-12-107. Inadvertent failure to provide such notice shall neither create a cause of action in favor of any landowner nor invalidate any annexation proceeding.

- (f) In establishing the boundaries of any area proposed to be annexed, if a portion of a platted street or alley is annexed, the entire width of said street or alley shall be included within the area annexed.

Not applicable. No platted street or alley will be annexed. The entire width of 3rd Street adjacent to the property is within city limits.

- (g) Notwithstanding the provisions of paragraph (f) of this subsection (1), a municipality shall not deny reasonable access to landowners, owner of an easement, or the owner of a franchise adjoining a platted street or alley which has been annexed by the municipality but is not bounded on both sides by the municipality.

The city will meet these requirements. No street or alley is proposed to be annexed as part of this annexation.

- (g) The execution by any municipality of a power of attorney for real estate located within an unincorporated area shall not be construed to comply with the election provisions of this article for purposes of annexing such unincorporated area. Such annexation shall be valid only upon compliance with the procedures set forth in this article.

Not applicable.

§ 31-12-107. Petitions for annexation and for annexation elections

(1) Petition for annexation in accordance with section 30 (1) (b) of article II of the state constitution:

(a) Persons comprising more than fifty percent of the landowners in the area and owning more than fifty percent of the area, excluding public streets and alleys and any land owned by the annexing municipality, meeting the requirements of sections 31-12-104 and 31-12-105 may petition the governing body of any municipality for the annexation of such territory.

Landowners of more than 50 percent of the area who comprise more than 50 percent of the landowners in the area have petitioned to annex, excluding any public streets and alleys and any land owned by the annexing municipality.

(b) The petition shall be filed with the clerk.

The annexation petition has been filed with the City Clerk of the City of Boulder.

(c) The petition shall contain the following:

The petition meets the following requirements.

- (I) An allegation that it is desirable and necessary that such area be annexed to the municipality;
- (II) An allegation that the requirements of sections 31-12-104 and 31-12-105 exist or have been met;
- (III) An allegation that the signers of the petition comprise more than fifty percent of the landowners in the area and own more than fifty percent of the area proposed to be annexed, excluding public streets and alleys and any land owned by the annexing municipality;
- (IV) A request that the annexing municipality approve the annexation of the area proposed to be

annexed;

(V) The signatures of such landowners;

(VI) The mailing address of each such signer;

(VII) The legal description of the land owned by such signer;

(VIII) The date of signing of each signature; and

(IX) The affidavit of each circulator of such petition, whether consisting of one or more sheets, that each signature therein is the signature of the person whose name it purports to be.

(d) Accompanying the petition shall be four copies of an annexation map containing the following information:

An annexation map has been received that contains this information.

(I) A written legal description of the boundaries of the area proposed to be annexed;

(II) A map showing the boundary of the area proposed to be annexed;

(III) Within the annexation boundary map, a showing of the location of each ownership tract in unplatted land and, if part or all of the area is platted, the boundaries and the plat numbers of plots or of lots and blocks;

(IV) Next to the boundary of the area proposed to be annexed, a drawing of the contiguous boundary of the annexing municipality and the contiguous boundary of any other municipality abutting the area proposed to be annexed.

(e) No signature on the petition is valid if it is dated more than one hundred eighty days prior to the date of filing the petition for annexation with the clerk. All petitions which substantially comply with the requirements set forth in paragraphs (b) to (d) of this subsection (1) shall be deemed sufficient. No person signing a petition for annexation shall be permitted to withdraw his signature from the petition after the petition has been filed with the clerk, except as such right of withdrawal is otherwise set forth in the petition.

The petition meets this requirement.

(f) The clerk shall refer the petition to the governing body as a communication. The governing body, without undue delay, shall then take appropriate steps to determine if the petition so filed is substantially in compliance with this subsection (1).

The city manager has determined that the petition is in compliance with this section and the clerk and city council are taking these required steps.

(g) If the petition is found to be in substantial compliance with this subsection (1), the procedure outlined in sections 31-12-108 to 31-12-110 shall then be followed. If it is not in substantial compliance, no further action shall be taken.

This procedure is being followed by the City of Boulder.

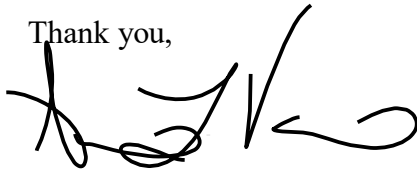
TO: Shabnam Bista, Planner I
FROM: Andrea Vaughn, Long Range Planner I
RE: 3033 3rd St Annexation LUR2021-00049
DATE: 2/8/22

After reviewing the provided materials, Boulder County's Department of Community Planning & Permitting has the following comments:

1. Within the Boulder Valley Comprehensive Plan (BVCP) the subject property is designated as Area II, which is an area under County jurisdiction where annexation to the City of Boulder can be considered consistent with Policies 1.08 Adapting to Limits of Physical Expansion, 1.09 Growth Requirements, and 1.17 Annexation.
2. The Future Land Use Map contained in the BVCP identifies the future use of the subject parcel as Low Density Residential. The annexation proposal of **RL-1 (Residential – Low 1)** consistent with this designation.

This concludes the Department of Community Planning & Permitting comments at this time. We look forward to continuing to provide feedback and input throughout this process.

Thank you,

A handwritten signature in black ink, appearing to read 'Andrea Vaughn', with a stylized flourish at the end.

Andrea Vaughn

For Administrative Purposes Only

Property Address: 3033 3rd St
Grantors: Michael and Andrea Barsch
Grantee: City of Boulder, Colorado
Case#: LUR2021-00049

GRANT OF DITCH EASEMENT

MICHAEL AND ANDREA BARSCH ("Grantors"), whose address is 4417 51st Street, Boulder, CO 80301, for \$1.00 and other good and valuable consideration, the receipt of which is hereby acknowledged, do hereby grant, bargain, sell and convey to the CITY OF BOULDER, a Colorado home rule city ("City"), whose address is 1777 Broadway, Boulder, Colorado 80302, an easement for the installation, construction, repair, maintenance and reconstruction of a drainage ditch (or lateral) and channel improvements and appurtenances thereto, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of such easement in and to, over, under and across the following real property, situated in Boulder County, Colorado, to-wit:

See Exhibit A attached

Grantors, for themselves and for their heirs, successors, agents, lessees, and assigns, do hereby covenant and agree that no permanent structure or improvement shall be placed on said easement by themselves or their heirs, successors or assigns, and that said use of such easement shall not otherwise be obstructed or interfered with.

Grantors warrant their ability to grant and convey this easement.

The terms of this easement shall run with the land and shall be binding upon and inure to the benefit of the Grantors, their heirs, agents, lessees and assigns, and all other successors to them in interest and shall continue as a servitude running in perpetuity with the property described above.

IN WITNESS WHEREOF, Grantors have caused this instrument to be duly executed as of

this ___ day of _ _ _ , 2023.

Michael Barsch

[NOTARY BLOCK FOLLOWS]

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

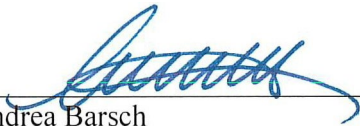
The foregoing instrument was acknowledged before me this 1th day of July, 2023, by Michael Barsch.

AMY OTSUKA
NOTARY PUBLIC - STATE OF COLORADO
Notary ID 20064032289
My Commission Expires 6/130/2025

Witness my hand and official seal.

My commission expires: 07/20/2025


Notary Public

By: 
Andrea Barsch

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, by Andrea Barsch.

AMY OTSUKA
NOTARY PUBLIC - STATE OF COLORADO
Notary ID 20064032289
My Commission Expires 6/30/2025

Witness my hand and official seal.

My commission expires: 07/20/2025


Notary Public

LENDER'S CONSENT AND SUBORDINATION

The undersigned, a beneficiary under a certain deed of trust encumbering the property, hereby expressly consents to and joins in the execution and recording of this grant of easement and makes the deed of trust subordinate hereto. The undersigned represents that he or she has full power and authority to execute this Lender's Consent and Subordination on behalf of the below-stated lender.

FLATIRONS BANK

By: *Erica Barnett*
 Printed Name: Erica Barnett
 Title: SVP, Senior Credit Officer

ACKNOWLEDGMENT

State of Colorado)
) ss.
 County of Boulder)

The foregoing instrument was acknowledged before me this 1st day of April, 2023,
 by GK, COA assn of Sewov: 6r@ of Flatirons Bank.

Witness my Hand and Seal.

My Commission Expires 11/17/2027

[Seal]

Lauren Denton
 Notary Public

LAUREN DENTON
NOTARY PUBLIC
 STATE OF COLORADO
 NOTARY ID 20234009926
MY COMMISSION EXPIRES MARCH 14 2027

EXHIBIT "A"

DITCH EASEMENT
LOCATED IN THE SOUTHWEST QUARTER OF SECTION 24,
TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH, P.M.
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.
Sheet 1 of 2

LEGAL DESCRIPTION

A ditch easement over a part of Lots 12, 13, 14 and the N 1/2 of Lot 15, Block 52, Amended Plat of Part of the Newland's Addition to Boulder, Colo., a subdivision located in the SW1/4 of Section 24, T1N, R71W of the 6th P.M., County of Boulder, State of Colorado, according to the plat recorded in Plat Book 4, Page 11 of the records of Boulder County, Colorado, described as follows:

COMMENCING at the Northeast Corner of said Lot 12, from which the Southeast Corner of the N 1/2 of said Lot 15 bears S00°17'00"E, 87.42 feet (Basis of Bearing), thence S00°17'00"E, 87.42 feet along the Easterly Line of said Lots 12, 13, 14 and the N 1/2 of said Lot 15 to the Southerly Line of the N 1/2 of said Lot 15; Thence S89°51'14"W, 116.15 feet along the Southerly Line of the N 1/2 of said Lot 15 to the POINT OF BEGINNING;

Thence continuing S89°51'14"W, 20.35 feet along the Southerly Line of the N 1/2 of said Lot 15 to the Westerly Line of that tract of land conveyed to Andrea Barsch and Michael Barsch as described in General Warranty Deed recorded December 15, 2020, as Reception No. 3842022 of the records of Boulder County, Colorado;

Thence N2°03'07"E, 87.44 feet along Westerly Line of that tract of land as described as said Reception No. 3842022 to the Northwesterly Corner thereof;

Thence N89°49'52"E, 21.30 feet along the Northerly Line of tract of land as described as said Reception No. 3842022, also being the Northerly Line of said Lot 12;

Thence S5°52'09"W, 27.72 feet;

Thence S1°51'29"E, 33.36 feet;

Thence S5°01'06"W, 26.58 feet to the POINT OF BEGINNING.

Area= 1,805 square feet (0.041 Acres), more or less.

NOTICE: According to Colorado law you **must** commence any legal action based upon any defect in this survey within three years after you first discovered 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_


Frank N. Drexel
Colorado Professional Land
Surveyor No. 24305
1500 Kansas Ave #2-E, Longmont, CO 80501
Date: 05-25-23

File: 15551-ea-lgl 052523.doc

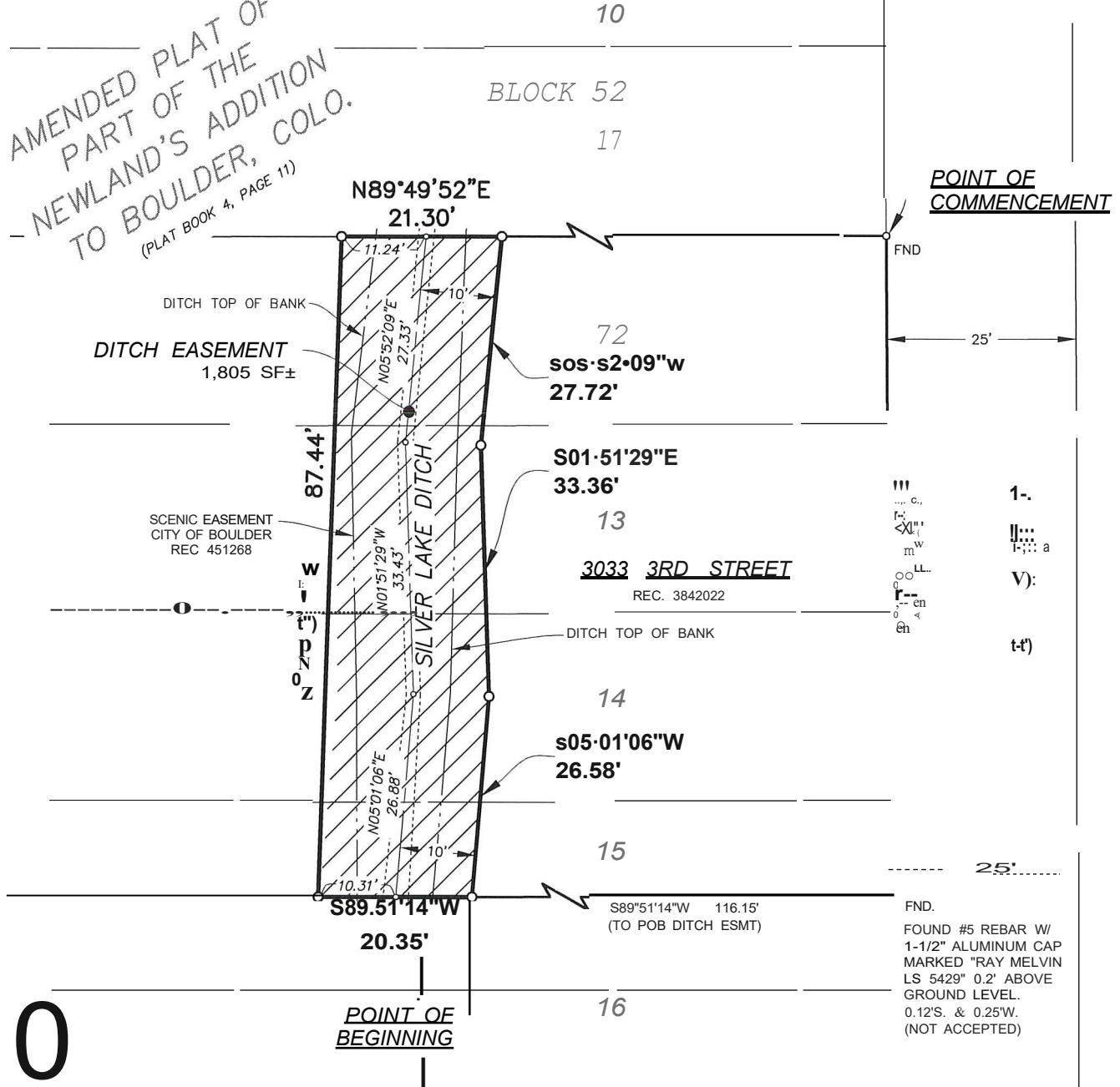
Project 1555-1

EXHIBIT "A"

DITCH EASEMENT

LOCATED IN THE SOUTHWEST QUARTER OF SECTION 24,
TOWNSHIP 1 NORTH, RANGE 71 WEST OF THE 6TH P.M.
CITY OF BOULDER, COUNTY OF BOULDER, STATE OF COLORADO.
SHEET 2 OF 2

AMENDED PLAT OF
PART OF THE
NEWLAND'S ADDITION
TO BOULDER, COLO.
(PLAT BOOK 4, PAGE 11)



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EXHIBIT MAP

SCALE: 1"=20'
DATE: 05-25-23
DWG: 15551-EA.DWG

NOTE

THIS EXHIBIT MAP IS INTENDED ONLY AS AN AID TO FOLLOW THE ATTACHED LEGAL DESCRIPTION AND DOES NOT REPRESENT A LAND SURVEY PLAT ACCORDING TO COLORADO STATUTES.

LEGEND

FND=FOUND #5 REBAR W/ 2" ALUMINUM CAP MARKED "CIVILARTS PLS 24305" FLUSH WITH GROUND LEVEL.



ENGINEERING : 1500KansasAve., Sui1e2-E
PLANNING : Longmont, CO 80501
SURVEYING : PJ0J.662.1131
FJ0J.682.1149