Mayor
Aaron Brockett

Council Members
Taishya Adams
Matt Benjamin
Lauren Folkerts
Tina Marquis
Ryan Schuchard
Nicole Speer
Mark Wallach
Tara Winer

Council Chambers
1777 Broadway
Boulder, CO 80302
February 15, 2024
6:00 PM

City Manager
Nuria Rivera-Vandermyde

City Attorney
Teresa Taylor Tate

City Clerk
Elesha Johnson

AGENDA FOR THE REGULAR MEETING OF THE BOULDER CITY COUNCIL

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1. Call to Order and Roll Call

A. Black History Month Declaration presented by Council Member Marquis *10 min*

B. Declaration against antisemitism and Islamophobia presented by Mayor Brockett *10 min*

Item anticipated prior to meeting

2. Open Comment

3. Consent Agenda

A. Consideration of a motion to accept the January 11, 2024 Special City Council Meeting Minutes

B. Consideration of a motion to accept the January 18, 2024 Regular City Council Meeting Minutes

C. Consideration of a motion to accept the January 25th, 2024 Study Session Summary regarding the Flood Utility Overview and Key Project Updates (South Boulder Creek/Goose Creek)

D. Consideration of a motion to approve revisions to 2024 Policy Statement on Regional, State and Federal Issues

E. Consideration of a motion to approve a memorandum of understanding between federally recognized American Indian Tribal Nations and the City of Boulder and to authorize the city manager to execute the memorandum of understanding

F. ITEM REMOVED

G. Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8620 amending Title 9, "Land Use

Code," B.R.C. 1981 to fix errors, clarify existing code sections, update graphics, and improve the clarity of the code, and setting forth related details

H. Consideration of the following items related to a petition to annex a property at 5600 Table Mesa Drive with an initial zoning designation of Public (P) (LUR2024-00001):

1. Consideration of a motion to adopt Resolution 1346 finding the annexation petition to annex approximately 27 acres of land generally located at 5600 Table Mesa Drive in compliance with state statutes and establishing March 21, 2024 as the date for a public hearing.

AND

2. Introduction, first reading and consideration of a motion to order published by title only, Ordinance 8623, annexing to the City of Boulder approximately 27 acres of land generally located at 5600 Table Mesa Drive, with an initial zoning classification of Public (P) 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

I. Consideration of a motion to convert the March 7th and 21st Regular Meetings from in-person to virtual as Council Chambers will be closed due to renovations

4. Call-Up Check-In

5. Public Hearings

6. Matters from the City Manager

A. Update from Xcel Energy — ***60 min - 15 minute presentat / 45 minute Council discussio***

B. Update on State Legislation — ***60 minutes - 15 min presentat / 45 min council discussio***

7. Matters from the City Attorney

8. **Matters from the Mayor and Members of Council**

   A. **Discussion to confirm Council's position to decline or accept moving forward with the consideration of a ceasefire resolution regarding the Israeli-Gaza conflict** *20 min*

   B. **Discussion on 2024 Chats/Walks with Council** *15 min*

9. **Discussion Items**

10. **Debrief**

11. **Adjournment**

3:55 hrs

Additional Materials

Presentations

Item Updates

Information Items

A. 2024 Order of Succession Update

Boards and Commissions

A. 09.18.2023 WRAB Signed Minutes

Declarations

Heads Up! Email

This meeting can be viewed at **www.bouldercolorado.gov/city-council.** Meetings are aired live on Municipal Channel 8 and the city's website and are re-cablecast at 6 p.m. Wednesdays and 11 a.m. Fridays in the two weeks following a regular council meeting.

Boulder 8 TV (Comcast channels 8 and 880) is now providing closed captioning for all live meetings that are aired on the channels. The closed captioning service operates in the same manner as similar services offered by broadcast channels, allowing viewers to turn the closed captioning on or off with the television remote control. Closed captioning also is available on the live HD stream on **BoulderChannel8.com.** To activate the captioning service for the live stream, the "CC" button (which is located at the bottom of the video player) will be illuminated and available whenever the channel is providing captioning services.

The council chambers is equipped with a T-Coil assisted listening loop and portable assisted listening devices. Individuals with hearing or speech loss may contact us using Relay Colorado at 711 or 1-800-659-3656.

Anyone requiring special packet preparation such as Braille, large print, or tape recorded versions may contact the City Clerk's Office at 303-441-4222, 8 a.m. - 5 p.m. Monday through Friday. Please request special packet preparation no later than 48 hours prior to the meeting.

If you need Spanish interpretation or other language-related assistance for this meeting, please call (303) 441-1905 at least three business days prior to the meeting. Si usted necesita interpretacion o cualquier otra ayuda con relacion al idioma para esta junta, por favor comuniquese al (303) 441-1905 por lo menos 3 negocios dias antes de la junta.

Send electronic presentations to email address: **CityClerkStaff@bouldercolorado.gov** no later than 2 p.m. the day of the meeting.

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Black History Month Declaration presented by Council Member Marquis

PRIMARY STAFF CONTACT
Emily Richardson

ATTACHMENTS:

Description

- **Item 1A - Black History Month Declaration**

Black History Month

February 2024

The month of February has received national recognition as Black History Month. This month and all year, the Boulder City Council invites community members to join the Boulder Branch of the National Association for the Advancement of Colored People (NAACP), the Center for African and African American Studies (CAAAS), and other community organizations in celebrating Black and African American history, culture, and stories.

In 2017, the Boulder Branch of the National Association for the Advancement of Colored People (NAACP) was established in Boulder with the purpose of promoting civic engagement, eradicating racial prejudice, and eliminating racial discrimination in education, employment, housing, and civil rights. The Boulder County Branch of the NAACP is dedicated to upholding the mission of equality and justice for all as championed by the NAACP since its founding in 1909. Educating and fostering a sense of community, inclusive and respectful of all, is needed to effect understanding and facilitate positive change.

The Boulder County Branch of the NAACP is honored to extend an invitation to all to attend the 2024 Freedom Fund at the University of Colorado Boulder's Macky Auditorium on Sunday, February 18th, starting at 3:00 pm. The Freedom Fund is a long-standing tradition that brings together NAACP members and community supporters to raise funds to support the operations of the local branch. Guests will hear from featured guest, Mr. Anthony Ray Hinton, who endured and triumphed over nearly 30 years on Alabama's death row for a crime he did not commit and was exonerated in 2015 with the help of the Equal Justice Initiative. In addition to Mr. Hinton's powerful story, the event will feature a performance by Danielle Ponder, a talented entertainer and singer-songwriter whose soulful lyrics and vocals highlight inspiring themes of social justice and empowerment. The event is free and open to the public.

In addition to the annual Freedom Fund, this year marks a significant milestone for the University's Center for African and African American Studies. In 2023, Governor Jared Polis proclaimed the first day of Black History Month each year, February 1st, as the CAAAS Day in recognition of the center as a resource to not only the University of Colorado Boulder, but also to the entire state. The CAAAS is proud to have celebrated its 1st anniversary on Thursday, February 1st, 2024, through an event featuring food, music, dance, poetry, and other Africana cultural expressions. The event was attended by Governor Polis, who shared brief remarks and words of encouragement to the CAAAS community.

If you are looking for other ways to celebrate, the University of Colorado Art Museum introduced a new exhibition on Friday, February 9th, 2024, by The Museum for Black Girls, curated by Charlie Billingsley and Von Ross. The exhibition will be on view from February 10th to July 13th, 2024.

We, the City Council of the City of Boulder, Colorado declare February 2024 as

Black History Month

Aaron Brockett, Mayor

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Declaration against antisemitism and Islamophobia presented by Mayor Brockett

Item anticipated prior to meeting

PRIMARY STAFF CONTACT
Emily Richardson

ATTACHMENTS:

Description

No Attachments Available

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Consideration of a motion to accept the January 11, 2024 Special City Council Meeting Minutes

PRIMARY STAFF CONTACT
Elesha Johnson, City Clerk

REQUESTED ACTION OR MOTION LANGUAGE
Motion to accept the January 11, 2024 Special City Council Meeting Minutes

ATTACHMENTS:

Description

- **Item 3A - DRAFT January 11, 2024 Special City Council Meeting Minutes**

CITY COUNCIL SPECIAL MEETING

Virtual Via Zoom

Thursday, January 11, 2024

MINUTES

DRAFT

1. Call to Order and Roll Call:

Mayor Brockett called the meeting to order at 6:00 p.m.

Council Members present: Adams, Benjamin, Brockett, Folkerts, Marquis, Schuchard, Speer, Wallach, and Winer

Motion	Made By/Seconded	Vote
Motion to **AMEND** the agenda To **ADD**: • **Item 5C – Update on Cold Weather Preparedness** • **Item 7A - 2024 Library District Trustee Appointment Committee assignments**	Wallach / Speer	Carried 9:0

A. **National Day of Racial Healing** Declaration to be presented by Council Member Adams

2. Consent Agenda

A. Consideration of a motion to **accept the October 5, 2023 Regular Council Meeting Minutes**

B. Consideration of a motion to **accept the October 19, 2023 Regular Council Meeting Minutes**

C. Consideration of a motion to **accept the October 26, 2023 Special Council Meeting Minutes**

D. Consideration of a motion to **accept the December 14, 2023, Study Session Summary regarding the overview, planning process, park plan guiding principles and engagement plan for the next phase of implementing the Civic Area plan**

Motion	Made By/Seconded	Vote
Motion to PASS **Consent Agenda Items A-D**	Benjamin / Winer	Approved 9:0

3. Call-Up Check-In

4. Public Hearings

5. Matters from the City Manager

A. **Community Survey Results**

Sarah Huntley, Communications and Engagement Director, Jade Arocha, Director of Survey Results with Polco, provided a presentation and answered questions from Council

B. **Update on Facilities Master Plan Implementation**

Joanna Crean, Facilities and Fleet Director and Michele Crane, Facilities and Fleet Deputy Director provided a presentation and answered questions from Council

C. **ADDED: Update on Cold Weather Preparedness**

Nuria Rivera-Vandermyde provided Council with an update on preparations being made by the City, Boulder County and other emergency services partners.

6. Matters from the City Attorney

7. Matters from the Mayor and Members of Council

A. **ADDED: 2024 Library District Trustee Appointment Committee assignments**

Council Members Adams and Marquis expressed interest – Formal appointments to be made at the January 18th meeting.

8. **Discussion Items**

9. Debrief

10. Adjournment

DRAFT

There being no further business to come before Council at this time, by motion regularly adopted, the meeting was **adjourned by Mayor Brockett at 9:25 p.m.**

Approved this 15th day of February 2024.

APPROVED BY:

_____
Aaron Brockett, Mayor

ATTEST:

_____
Elesha Johnson, City Clerk

DRAFT

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Consideration of a motion to accept the January 18, 2024 Regular City Council Meeting Minutes

PRIMARY STAFF CONTACT
Elesha Johnson, City Clerk

REQUESTED ACTION OR MOTION LANGUAGE
Motion to accept the January 18, 2024 Regular City Council Meeting Minutes

ATTACHMENTS:

Description

- **Item 3B - DRAFT January 18, 2024 Regular City Council Meeting Minutes**

CITY COUNCIL MEETING

Council Chambers

Thursday, January 18, 2024

MINUTES

1. Call to Order and Roll Call:

Mayor Brockett called the meeting to order at 6:00 p.m.

Council Members present: Adams, Benjamin, Brockett, Folkerts, Marquis, Schuchard, Speer, Wallach, and Winer

A. **International Holocaust Remembrance Day** presented by Council Member Winer

B. **National Radon Action Month Declaration** presented by Council Member Benjamin

2. Open Comment:
(Public comments are a summary of actual testimony. Full testimony is available on the council web page at: https://bouldercolorado.gov/city-council > Watch Live or Archived Meetings.)

Open Comment **opened** at 6:35 p.m.

- **In-Person (Council Chambers):**

1. Michele Rodriguez spoke on general items
2. Randall Erica Clarke spoke on a ceasefire in Gaza
3. Kristen Marshall spoke on global is local
4. Brian Haan spoke on bike lanes and transportation
5. Aaron Brooks spoke on ensuring City Council will not issue a Cease Fire

6. Jen Livovich spoke on general items
7. Emily Reynolds spoke on safety
8. Giselle Herzfeld spoke on ceasefire Resolution

Mayor Brockett called a recess of Council at 6:54 p.m. due to disruptions in chambers. Council reconvened at 7:02 p.m.

9. Michael Broder spoke on diversity and inclusions concerns
10. Trish Emser spoke on Boulder Citizen & Visitor Safety
11. Andrew O'Connor spoke on Ceasefire Resolution
12. Mary Fitzgerald spoke on ceasefire Resolution
13. Filip Sokol spoke on Gaza
14. Moji Agha spoke on ceasefire Resolution
15. Tom Mayer spoke on ceasefire Resolution
16. Jess Dion spoke on the drug crisis
17. Travis Hugh Culley spoke on general awareness about local radiation hazards

- **Virtual**

18. Dylan Williams spoke on reducing noise and air pollution in Boulder
19. Laura Gonzalez spoke on ceasefire Resolution
20. Shari Hack spoke on the drug crisis

Open Comment **closed** at 7:28 p.m.

3. Consent Agenda

A. Consideration of a motion **authorizing the City Manager to convey the permanently affordable housing units at 3601 Arapahoe 112, 3200 E Euclid, 3545 28th Street, and 3236 Foundry** to eligible buyers and sign all associated agreements

B. Second reading and consideration of a motion to **adopt Ordinance 8617 repealing Section 2-3-8, "Library Commission,"** B.R.C. 1981, and **removing references to the library and libraries in the Boulder Revised Code** due to the formation of the Boulder Public Library District; and setting forth related details

Motion	Made By/Seconded	Vote
Motion to **APPROVE consent agenda items A & B**	Benjamin / Marquis	Carried 9:0

4. Call-Up Check-In

A. Consideration of a **Concept Plan Review and Comment for a redevelopment proposal of 1855 South Flatiron Court. The proposal includes demolition of the existing commercial/industrial buildings and redevelopment of the site with Research and Development uses.** The new development is proposed to include two approx. 100,00 square-foot buildings and a parking garage. Reviewed under case no. LUR2023-00045

Brad Mueller, Planning and Development Services Director and Allison Blaine, Senior Planner, answered questions from Council.

Council member Benjamin made a motion to refer this item to the Transportation Advisory Board and Council member Wallach seconded the motion. The motion was approved unanimously.

NO ACTION

5. Public Hearings

A. **Second reading** and consideration of a motion to **adopt Ordinance 8600, amending Title 9,** "Land Use Code," B.R.C. 1981, **by repealing Chapter 9-14, "Residential Growth Management System," and deleting all references thereto;** and setting forth related details

Karl Guiler, Senior Policy Advisor, provided a presentation and answered questions from Council.

The public hearing **opened** at 7:54 p.m. and the following spoke:

- **In-Person**:

  ~~1. Lorinda Gill~~ - ***Withdrew***

- **Virtual**:

  1. Lynn Segal – ***moved to in-person***
  ~~2. Martha McPherson~~ – ***did not show***

The public hearing **closed** at 7:57 p.m.

Motion	Made By/Seconded	Vote
Motion to **ADOPT Ordinance 8600, amending Title 9**, "Land Use Code," B.R.C.	Schuchard / Folkerts	Adopted 9:0

1981, **by repealing Chapter 9-14, "Residential Growth Management System," and deleting all references thereto**; and setting forth related details		

6. Matters from the City Manager

A. Alternative Sheltering (Safe Outdoor Spaces) Update and Direction

Kurt Firnhaber, Housing and Human Services Director and Megan Newton, Policy Advisor, provided a presentation and answered questions from Council.

Mark Woulf, Assistant City Manager also answered questions from Council.

7. Matters from the City Attorney

8. Matters from the Mayor and Members of Council

9. Discussion Items

10. Debrief

11. Adjournment

There being no further business to come before Council at this time, by motion regularly adopted, the meeting was **adjourned by Mayor Brockett at 10:07 p.m.**

Approved this 15th day of February 2024.

APPROVED BY:

_____
Aaron Brockett, Mayor

ATTEST:

_____
Elesha Johnson, City Clerk

DRAFT

DRAFT

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Consideration of a motion to accept the January 25th, 2024 Study Session Summary regarding the Flood Utility Overview and Key Project Updates (South Boulder Creek/Goose Creek)

PRIMARY STAFF CONTACT
Christin Kapatayes, Engineering Project Manager

ATTACHMENTS:

Description

- **Study Session Summary, Flood Utility Overview and Key Project Updates (South Boulder Creek/Goose Creek)**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: February 15, 2024

AGENDA TITLE

Consideration of a motion to accept the January 25, 2024 Study Session Summary Regarding the Stormwater and Flood Utility Overview and Key Project Updates

PRESENTER(S)

Nuria Rivera-Vandermyde, City Manager
Joe Taddeucci, Director of Utilities
Chris Douglass, Civil Engineering Senior Manager
Brandon Coleman, Civil Engineering Manager
Christin Kapatayes, Engineering Project Manager
Angela Urrego, Communications Senior Project Manager

EXECUTIVE SUMMARY

The purpose of the study session was to present City Council with an overview of the Stormwater and Flood Management Utility and to give City Council an opportunity to ask questions and provide comments. City staff and guests presented an overview of this utility, the Comprehensive Flood and Stormwater (CFS) Plan, the community outreach process for the utility and key project updates.

STAFF RECOMMENDATION

Suggested Motion Language:

Motion to accept the January 25, 2024 Study Session summary regarding the Stormwater and Flood Utility Overview and Key Project Updates.

SUMMARY OF PRESENTATION AND COUNCIL DISCUSSION

Director of Utilities, Joe Taddeucci, introduced the study session and stated the purpose was to provide an overview of the utility, discuss the community outreach process, and provide an update on key project work in the absence of a project-specific decision. He highlighted upcoming activity on the South Boulder Creek Flood Mitigation Project (SBC) that will require City Council action.

Taddeucci introduced key Utilities staff and guests from the Mile High Flood District (MHFD), including Executive Director, Laura Kroeger. Kroeger provided a summary of MHFD noting its establishment in 1969 by the state legislature to reduce flood risks on a regional level. She noted the MHFD is funded through a mill levy and works collaboratively with municipal partners. She highlighted that their critical flood warning program was developed in the 1980s mainly due to the risk of flooding in Boulder.

Chris Douglass, Civil Engineering Senior Manager provided a general overview of the three Utilities, water, wastewater and the Flood and Stormwater Management utility. Christin Kapatayes, Civil Engineering Senior Project Manager, provided an historical overview of the latter and associated planning efforts. Kapatayes summarized the most recent plan, the CFS, which was approved by City Council in September 2022. Kapatayes highlighted the Project Prioritization Framework developed by this plan and noted that historically, projects were prioritized based on a cost-benefit analysis which typically benefitted more affluent areas. She described the revised approach that considers seven key criteria when prioritizing projects, including racial and social equity, to rectify inequities. Kapatayes showed the remaining 30+ major floodway projects prioritized for completion.

Kapatayes also summarized the city's focus on climate change, noting that the utility focuses on constructing resilient infrastructure that is adaptive to changing conditions, accommodating floods and not controlling them by focusing on stream processes that are natural and lower maintenance, and implementing projects faster. Kapatayes also stressed the importance of emergency preparedness and described how community members could sign up for emergency alerts. Finally, Kapatayes summarized the funding considerations documented in the CFS, indicating that it is anticipated that the remaining flood projects will cost approximately $350M and take approximately 30-35 years to complete. The current 2024 budget was noted to be approximately $15.9M with expenditures being predominantly devoted to CIP work.

Joe Taddeucci then shifted to discussing Utilities' approach to Community Outreach, stating the commitment to partnering with the community and employing empathy in engagement. Angela Urrego, Communications Senior Project Manager, further elaborated on the approach, which includes equity and transparency, education, engaging key stakeholders to foster trust, and providing clear and concise messages to all community members. She reviewed the tactics used to support the utility's outreach approach noting that digital (e.g. project websites), physical (e.g. flyers), in-person (e.g. open office hours and community meetings), and alliances with partner organizations and

Community Connectors are all used on projects to inform and consult with the community.

Lastly, Taddeucci introduced the summary of the Key Flood Projects noting that the utility has three active projects that are currently in design - Upper Goose and Twomile Canyon Creek (UGT), Gregory Canyon Creek – Phase I, and SBC. Kapatayes provided an overview of each. Taddeucci added details pertaining to the upcoming OSMP disposal for the SBC project, which includes the transfer of management control of approximately two acres of City open space land to the Utilities Department. He noted that the disposal requires a majority vote of both the Open Space Board of Trustees (OSBT) and City Council and indicated that this will be presented to City Council in a joint public hearing between OSBT and City Council with the board having its own deliberation in March followed by a City Council deliberation.

COUNCIL QUESTIONS AND COMMENTS

Council Member Mark Wallach asked whether debt service expense will grow as the city engages in more flood projects and whether this obligation will crowd out expenditures for other capital improvements. Taddeucci indicated that the stormwater and flood utility has its own bonds and that water and wastewater are separate. He noted that the finance team evaluates how these bonds and their 20-year debt service period affect rates and ability to complete projects, and that the Utility is planning on breaking up future projects into $10-15M increments to complete projects with reasonable rate increases. The utility currently is repaying one bond with another one coming up in 2024 but is not anticipating more bonds for the storm and flood utility for the future.

Council Member Matt Benjamin asked whether Utilities is planning another rate study and emphasized the importance of giving the community ample notice of upcoming rate changes. Taddeucci mentioned the last rate study in 2018 and indicated the plan to do another in 2025 or 2026. He indicated that the finance team is looking at Utilities long-term financial strategy with regard to the long-term needs for Utilities' infrastructure and balancing that with people's ability to pay.

Mayor Pro Tem Nicole Speer asked whether this year's $16M CIP budget includes MHFD contributions? Taddeucci indicated that the overall fund balance includes all sources of revenue, including the MHFD contribution.

Mayor Pro Tem Speer asked Krueger to speak to the value the city gets from MHFD. Krueger stated that for CIP work, the MHFD contribution is at least a 50% match with the local community and noted that maintenance and maintenance funding are other major MHFD contributions as projects need to be maintained in perpetuity. Taddeucci provided a recent example and credited MHFD as a critical technical resource for the project work the utility performs.

Council Member Ryan Schuchard asked if there are actions that the city could take to address flooding by managing impermeable surfaces and to what extent impermeable

surfaces impact the utility's management of stormwater. Taddeucci highlighted that during the last rate study, Utilities recalibrated the stormwater assessment to give people more credit for having less impermeable surfaces. He noted that Utilities works closely with Climate Initiatives and Planning and Development Services to review city codes based on emerging trends. Taddeucci noted that the team could follow up on permitting and regulatory details related to impermeable surfaces. Council Member Schuchard noted the opportunity for discussion related to policies and city code for permeable surfaces amongst relevant city departments.

Council Member Lauren Folkerts asked whether all structures will be out of the 100-year floodplain when all projects are completed and what protection is anticipated with completion. Taddeucci noted that the level of protection will vary because of development and encroachment on the floodplains. The CFS recommended achieving the highest level of flood protection that is practical and feasible.

City Council Member Tara Winer indicated the City Council received emails from community members in the Gregory Canyon Creek watershed asking to see current design plans and wanting to understand what happened with the project in 2015. She asked whether the community can still weigh in on flood mitigation? She also noted that it is important to manage community expectations. Taddeucci noted that in the lifecycle for flood management, community engagement and outreach depend on what phase of the lifecycle the utility is at for any given project and the mitigation plan stage is the phase of heaviest engagement. Civil Engineering Manager, Brandon Coleman added that the team is holding office hours for Gregory Canyon Creek and planning a community meeting. He highlighted that Angela Urrego has shaped our community outreach and is the utility's main point of contact for community outreach.

Council Member Winer asked if the utility believes it has improved its approach to community outreach? Taddeucci stated the importance of addressing specific people's or community group's concerns, while also ensuring an equitable outreach process. He stressed the importance of communicating with the whole watershed or the entire impacted community since flood mitigation affects everyone in the watershed.

Mayor Pro Tem Nicole Speer asked if the emergency response connectors were among the utilities' alliances and if there is anything that City Council can do to support engagement efforts. Angela indicated that she plans to and to collaborate with the connectors as they are the main points of contact in the community and are critical to accessing and reaching out to underserved communities. Angela asked that City Council collaborate with the utility and provide connections with vital partner organizations.

Council Member Taishya Adams asked how renters are engaged in the utility's work and how they are provided information on emergency preparedness. Angela noted that she is working on educating people about the importance of flood insurance. Council Member Adams reiterated the importance of reaching the middle-income renting population and recommended building relationships with the Rental Housing Association. She suggested meeting people where they are at the recreation centers and outdoor recreation programs.

Finally, she noted the importance of using the racial equity tool and recognizing the diversity of the racial diaspora and intersectional marginalized identities as part of the work the utility performs.

Council Member Tina Marquis asked if SBC is designed to mitigate any impacts from the new development while simultaneously mitigating impacts for the CU South area. Taddeucci noted that new development by CU will be outside the floodplain since it will be required to comply with existing regulations.

Council Member Mark Wallach asked if CU has discussed how they plan to develop the property with the utility. Taddeucci noted that the utility meets regularly with CU and the group is currently focused on flood mitigation project coordination.

Council Member Mark Wallach suggested periodic SBC updates to City Council. Taddeucci agreed to share updates when there are key updates/milestones that are reached. Taddeucci mentioned that the utility has an upcoming meeting with CU inquiring about their future plans and will plan to report back.

Council Member Wallach asked when the cost estimate for SBC will be updated. Taddeucci noted that last year a construction contractor was added to the team to look at the design and review the existing cost estimate. An updated estimate will be provided with 60% design, but the team doesn't expect major changes to the cost estimate.

Council Member Adams closed the study session by noting the importance of the community engagement spectrum and encouraged efforts that go beyond informing and consulting and into collaboration with the community, recognizing the limitations to collaborating on certain issues. In those cases, she indicated the importance of communicating those limitations with the community.

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Consideration of a motion to approve revisions to 2024 Policy Statement on Regional, State and Federal Issues

PRIMARY STAFF CONTACT
Carl Castillo, Intergovernmental Officer

REQUESTED ACTION OR MOTION LANGUAGE
Motion to Approve Revisions to 2024 Policy Statement on Regional, State and Federal Issues

ATTACHMENTS:

Description

- **Item 3D - 2024 Proposed Policy Statement**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: February 15, 2024

AGENDA TITLE: Consideration of a Motion to Approve Revisions to the City of Boulder's 2024 Policy Statement on Regional, State and Federal Issues

PRESENTERS
Nuria Rivera-Vandermyde, City Manager
Chris Meschuk, Deput City Manager
Carl Castillo, Chief Policy Advisor

EXECUTIVE SUMMARY

City Council is asked to consider revisions to the City of Boulder's 2024 Policy Statement on Regional, State and Federal Issues. Council's Intergovernmental Affairs Committee will meet on Feb. 13 to consider recommending revisions. The Committee's recommendations will then be sent in a Hotline communication to council immediately afterwards.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to approve revisions to the City of Boulder's 2024 Policy Statement on Regional, State and Federal Issues, as described in the Hotline email to council sent between Feb. 13 and Feb. 15.

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Consideration of a motion to approve a memorandum of understanding between federally recognized American Indian Tribal Nations and the City of Boulder and to authorize the city manager to execute the memorandum of understanding

PRIMARY STAFF CONTACT
Pam Davis, Assistant City Manager

REQUESTED ACTION OR MOTION LANGUAGE
Motion to approve a memorandum of understanding between federally recognized American Indian Tribal Nations and the City of Boulder and to authorize the city manager to execute the memorandum of understanding

ATTACHMENTS:

Description

- **Item 3E - City-Tribal MOU**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: February 15, 2024

AGENDA TITLE

Consideration of a motion to approve a memorandum of understanding between federally recognized American Indian Tribal Nations and the City of Boulder and to authorize the city manager to execute the memorandum of understanding

PRESENTER(S)

Nuria Rivera-Vandermyde, City Manager
Pam Davis, Assistant City Manager
Dan Burke, Director of Open Space and Mountain Parks
Aimee Kane, Equity Officer
Teresa Taylor Tate, City Attorney
Janet Michels, Senior Counsel
Phillip Yates, Senior Communications Program Manager
Christian Driver, Senior Cultural Stewardship Program Manager

EXECUTIVE SUMMARY

The purpose of this agenda item is for City Council to consider approval of a Memorandum of Understanding (MOU) between federally recognized American Indian Tribal Nations and the city related to ongoing work across these governments. This work is the culmination of government-to-government consultations since 2019 and honors Tribal Nations' connections to Boulder since time immemorial. In the March 2023 consultation, Tribal Representatives and city staff reached consensus on the proposed MOU.

The proposed MOU seeks to consolidate past City-Tribal Nation Memorandums of Understanding developed in 1998, 2002 and 2004 that focus on city open space lands and incorporate additional provisions discussed in multiple government-to-government consultations since 2019. Broadly, the MOU seeks to:

- Set a foundation for sustaining future collaboration, engagement, and consultation;
- Support Tribal Nation input into Open Space and Mountain Parks (OSMP) decision-making on topics important to Tribal Nations;
- Develop a way to identify areas on open space of special concern to Tribal Nations to help guide future cultural resource consultations;
- Outline a process for ceremonial access and explore a permanent ceremonial location;
- Develop a process for limited harvesting of plants and other materials important to the tribes and;
- Continue ongoing cultural resource protection, consultations and notifications.

To date, three Tribal Governments have signed the MOU including the Comanche Nation, Oglala Sioux Tribe, and Pawnee Nation. We anticipate additional signatures from Tribal leaders throughout 2024 and are bringing this document before council now to honor commitments to our first three signatories and to demonstrate to our other Tribal partners that we are formally committed to the terms resulting from multiple years of government-to-government consultation.

The City of Boulder acknowledges the city is on the ancestral homelands and unceded territory of Indigenous Peoples who have traversed, lived in and stewarded lands in the Boulder Valley since time immemorial. Those Indigenous Nations include the: Di De'I (Apache), Hinono'eiteen (Arapaho), Tsétsėhéstâhese (Cheyenne), Nʉmʉnʉʉ (Comanche), Caiugu (Kiowa), Čariks i Čariks (Pawnee), Sosonih (Shoshone), Oc'eti S'akowin (Sioux) and Núuchiu (Ute).

The city recognizes that Indigenous knowledge, oral histories, and languages – handed down through generations over thousands of years – have shaped profound cultural and spiritual connections with Boulder-area lands and ecosystems and that those connections are sustained and celebrated to this day.

We extend our gratitude to our Tribal Nation partners for the continuing opportunity to listen and learn from them and appreciate the opportunity to work beyond our land acknowledgement as part of several ongoing projects with their Nations. Staff want to share that our land acknowledgment may change over the years as city staff and the Boulder community continue to learn about and address the intergenerational trauma caused by the violent colonization of Indigenous land.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to approve a memorandum of understanding between federally recognized American Indian Tribal Nations and the City of Boulder and to authorize the city manager to execute the memorandum of understanding

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – No immediate direct impact, however enhancements to the city's OSMP system resulting from MOU implementation may generate future increases in visitation.
- **Environmental** – Ongoing collaboration with Tribal representatives may include their guidance on land stewardship.
- **Social** – Engagement with Tribal representatives will continue to provide significant guidance on cultural resource preservation, Indigenous ceremonial needs, and Indigenous education and interpretation on city-managed land to support inclusivity and educational opportunities in Boulder.

OTHER IMPACTS

- **Fiscal** – There is no immediate need for additional funding to execute the MOU.
- **Staff time** – Executing the MOU can proceed using existing staff resources.

BACKGROUND

Tribal Engagement and Consultation History
While the city held regular consultations in the late 1990s and early 2000s, consultations between the city and Tribal Nations paused in the mid-2000s. The city's adoption of the Indigenous Peoples Day Resolution in 2016, which directed the city to receive input from Tribal Nations to rename Settler's Park, and staff's desire to re-establish relationships with Tribal Nations led the city to host a consultation with American Indian Tribal Nations in Boulder in March 2019.

Below is an overview of past city consultations with Tribal Nations:

- **1998:** The City of Boulder began consultations with Tribal Nations as part of conversations regarding National Institute of Standards Technology. Those agreements resulted in:

- Memorandum of Understanding A in which the city and American Indian Tribal Nations agreed to create a spiritual, moral and policy partnership to protect the land south of Boulder.

- Memorandum of Understanding B, in which the city agreed to provide reasonable fire protection services for permitted tribal cultural use of a protected area during fire bans.

- **2002:** Another City-Tribal Nation MOU outlines the need for annual consultations and outlines city agreements regarding Tribal Nation notification of finds of funerary objects and human remains on OSMP land and ceremonial access requiring temporary structures and/or fire. It also provides specific Tribal notifications for an open space property south of Boulder.

- **2004:** The city and Tribal Nations agreed to update the procedures related to ceremonies involving fire and temporary structures – such as tipis and sweat lodges – on Valmont Butte east of Boulder. Read the MOU amendment.

- **2016:** Boulder City Council adopted the Indigenous Peoples Day Resolution. It plays a crucial role in helping the city to rebuild relationship with Tribal Nations by directing us to receive their guidance to rename Settler's Park in west Boulder.

- **March 2019**: City hosts first tribal consultation in 14 years. A name for Settler's Park was discussed, along a with celebration for a potential renaming. City staff and Tribal Representatives also determined that MOUs need to be updated.

- **May to August 2019:** City staff invites Tribal Representatives to participate in a working group to discuss and suggest changes to the four agreements the city shares with American Indian Tribal Nations. Discussions during those working meetings helped shape the proposed, updated MOU.

- **Spring 2020:** Plans for a tribal consultation are paused due to the impacts of the COVID-19 pandemic.

- **Feb. 18, 2021:** City staff held a conference call with Tribal Representatives to hear their preference for formal government-to-government consultations with the city during 2021. During the meeting, city staff and Tribal Nations agreed to conduct an online consultation in April 2021 to discuss an updated MOU, a final renaming recommendation for Settler's Park and a proposed land acknowledgment.

- **April 2021**: Tribal Representatives and city staff consulted on a proposed, updated MOU and renamed Settler's Park in west Boulder to The Peoples' Crossing. Staff and Tribal Representatives also agreed to establish a city-Tribal Nation working group to help develop education and interpretation materials and plan events to celebrate The Peoples' Crossing name change. Tribal Representatives also provided guidance on a

draft land acknowledgment.

- **September 2022:** City staff and Tribal Representatives continued discussing a proposed, updated city-Tribal Nation MOU. Tribal Representatives also provided guidance on public events to celebrate the renaming of The Peoples' Crossing.

- **March 2023:** Tribal Representatives and city staff reached consensus on a proposed, updated MOU and participated in site visits to city-managed open space. During a site visit to The Peoples' Crossing in west Boulder, Tribal Representatives and city staff removed inaccurate and dated signs as part of an ongoing collaborative effort to update Indigenous-related interpretative signage on city open space and continue fulfilling the Indigenous Peoples Day Resolution.

Federal, State and City Consultation Requirements
There are no specific federal or state laws that require the City of Boulder to engage/consult with Tribal Nations. It is our best understanding that City of Boulder is one of only a few municipalities that initiate and participate in ongoing consultation with Tribal Nations. While there is no law or ordinance requiring the city to engage or consult with federally recognized Tribal Nations, specific direction for ongoing consultation and conversations with Tribal Nations come from:

- Previous government-to-government consultations and meetings with Tribal Representatives.
- Four existing agreements the city shares with Tribal Nations. These agreements, which focus on city open space, were initially developed in the late 1990s and early 2000s.
- A city staff land acknowledgment based on the city's Indigenous Peoples Day Resolution and further developed with guidance and input from American Indian Tribal Nations and the Boulder community.
- The city's 2016 Indigenous Peoples Day Resolution. The resolution led to the recent renaming of Settler's Park to The Peoples' Crossing and also directs the city to "correct omissions of the Native American presence in public places, resources and cultural programming." In addition, the resolution directs city staff to implement "accurate curricula relevant to the traditions, history and current issues of Indigenous People inclusive of and as part of our shared history."
- The OSMP Master Plan, which directs the department to "support citywide efforts to work in partnership with federally recognized American Indian Tribal Nations and other city departments through formal government-to-government consultations to help support American Indian Tribes and Indigenous Peoples' connections to their ancestral homelands."
- The Boulder Valley Comprehensive Plan, which states that the city follows a government-to-government consultation process with Tribal Nations. The plan also recognizes that meaningful engagement with Tribal Nations needs to also happen at a regional level.

Tribal Sovereignty
Sovereignty for Native peoples has existed since time immemorial, pre-dating the U.S. Constitution.[i] Federally recognized American Indian and Alaska Native Tribal Nations are governments and their special relationship with the United States is recognized under the Constitution of the United States, treaties, statutes, Executive Orders and Supreme Court decisions.[ii] The unique legal status of Tribal Governments requires that official relations with federal agencies to be conducted on a government-to-government basis – a framework that the City of Boulder and other municipalities follow.

Tribal Engagement and Consultation Framework
City staff recognize the importance of honoring Tribal sovereignty and self-determination and conducting ongoing government-to-government engagement and consultation conversations with Tribal Nations. The city's engagement and consultation framework with federally recognized American Indian Tribal Nations is based on:

- State of Colorado guidance on Tribal Nations with a historic connection to the state.
- Federal and state frameworks for government-to-government relationships, in which federally recognized Tribal Governments appoint Representatives to speak on their behalf.
- Guidance provided by Tribal Representatives during past and ongoing consultations.
- Existing Memorandums of Understandings with Tribal Nations, which were developed in the late 1990s and early 2000s.

While the City of Boulder has a framework for consultation with federally recognized American Indian Tribal Nations, city staff also recognize the importance of collaborating with local Indigenous communities and organizations in the Boulder area. Current Tribal consultation does not preclude the city from conducting different collaboration processes with local Indigenous communities and organizations, and staff recognizes the need to work with regional partners to establish broader, community-wide Indigenous collaboration practices. The city also recognizes that the Latinx and Spanish-speaking community has communities who recognize and celebrate their Indigenous heritage, which should be honored as well.

Community Participation
As expected from government-to-government consultations, large, formal City-Tribal consultation and engagement meetings are closed to the public to facilitate conversations among city staff, Tribal Representatives and elected and appointed community leaders that may include sensitive topics such as cultural resources. However, due to public interest, the city develops information for the community following large, formal consultations.

ANALYSIS

If approved, the City of Boulder would become the fourth signatory to the MOU following Comanche Nation, Oglala Sioux Tribe, and Pawnee Nation. Additional Tribal partners who have participated in consultation and are now considering signing the MOU include:

- Apache Tribe of Oklahoma
- Cheyenne and Arapaho Tribes
- Cheyenne River Sioux Tribe
- Eastern Shoshone Tribe
- Jicarilla Apache Nation
- Kiowa Tribe of Oklahoma
- Northern Arapaho Tribe
- Northern Cheyenne Tribe
- Rosebud Sioux Tribe
- Southern Ute Indian Tribe
- Standing Rock Sioux Tribe
- Ute Mountain Ute Tribe
- Ute Indian Tribe of the Uintah & Ouray Reservation

To aid Tribal Nations in their decision making, the City of Boulder created a graphic memo (**Attachment B**) and video for Tribal representatives and elected officials to review alongside the updated MOU itself.

Summary of Proposed MOU

The proposed, updated MOU seeks to set a foundation for future City-Tribal Nation collaboration and help ensure ongoing government-to-government consultation and help support Tribal Nation input into OSMP public lands decision-making on topics of importance to Tribal Nations. The proposed MOU:

- Consolidates and Updates Past City-Tribal MOUs: Those MOUs resulted from Consultations in the 1990s and the early 2000s. City consultations initially began because of issues related to the construction of a National Institute of Standards and Technology building in south Boulder in the late 1990s. (Whereas Text and Section 11)

- Helps Support City-Tribal Nation Decision-Making: Tribal Representatives have a unique capacity to provide guidance concerning land management, cultural resources management, ceremonial needs, and Indigenous education and interpretation. The proposed MOU commits the city to supporting Tribal Nation input on decision-making relating to city-managed OSMPs lands. (Whereas Text and Section 3)

- Recognizes open space purposes in City Charter: "Tribal Nations and the City shall work together to uphold and support the open space purposes," such as natural land preservation and passive recreation. (Whereas Text and Section 1)

- Invites Ongoing Cultural Resource Consultations: This work would identify and protect areas of traditional, cultural and spiritual significance and help interpret cultural resources on OSMP land. The city also agrees to provide Tribes with the opportunity to review known or suspected Indigenous cultural materials and objects currently held by the city and will seek Tribal Nation input on a planned Cultural Resources Management Plan (Section 5).

- Requires Notification of Inadvertent Discoveries: In the event of the inadvertent exposure or disturbance of human remains, objects of cultural significance or patrimony, sacred objects, or associated or unassociated funerary objects on OSMP Land, the City shall comply with the requirements of the Native American Graves Protection and Repatriation Act, 25 U.S.C.A. § 3001 or the State Unmarked Burial Process C.R.S. §§ 24-80-1301, whichever jurisdictional authority applies. (Section 5(g))

- Continues Tribal Nation Ceremonial Access: Upholds a permit process for ceremonies that require the building of a temporary structure – for example, a sweat lodge or tipi – or that involve the use of fire. The MOU details specific Tribal groups that can seek a permit for a ceremony involving fire and a temporary structure, and outlines requirements that have been discussed as part of 2004, 2021 and 2022 Consultations. (Section 6)

- Exploring Other Ceremonial Needs: The city agrees to explore the possibility of a dedicated, permanent site on city lands for use in sacred ceremonies and to consider the limited harvesting of plants or materials for medicinal use. The city also agrees to identify city land that can be used for limited collection for personal use, utilizing a process that will be the subject of a future consultation and will be implemented after agreement by the Tribes and the city. (Sections 7 and 8)

- Supports City-Tribal Nation Education Collaboration: Continues work to provide accurate educational information about the history and culture of each respective Tribe. This will develop truthful Indigenous Peoples' stories – both past and present – through educational materials, such as educational curriculum and signage. The city is developing an ethnographic report with Tribal Nations to help fulfill this section. (Section 9)

- Allows Future Changes: The proposed MOU provides a structure for the city and Tribal Nations to propose new amendments, which can lay the groundwork for future collaborative opportunities and partnerships. (Section 10)

- Welcomes other Tribal Nations to join the MOU: Other federally recognized Tribal Nations not part of previous consultations may sign on to the MOU and participate in ongoing consultations and conversations with the City of Boulder. (Section 2)

NEXT STEPS

If the City Council approves the MOU, city staff will proceed with developing any additional required processes to fulfill its provisions. Engagement with the Tribes will continue as outlined through formal consultation, working group activities, a Tribal Nation ethnographic-education report development of the OSMP Cultural Resource Management Plan and ongoing collaboration with Arapaho and Cheyenne Nations for city-managed that is associated with the events of the Sand Creek Massacre. The next

immediate event with Tribal representatives will take place March 14, 2024, when we will formally celebrate the renaming of the Peoples' Crossing and offer a public event to learn more about our Tribal partners and our relationships. Invitations to council members for these events are coming soon.

ATTACHMENT(S)

- **Attachment A**: Proposed Memorandum of Understanding
- **Attachment B**: City of Boulder-Tribal Nation Memorandum of Understanding Graphic Memo

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State-Tribal Consultation Guide: An Introduction for Colorado State Agencies to Conducting Formal Consultations with Federally Recognized American Indian Tribes. (2014). https://bldr.fyi/consultation-guide

[ii] Memorandum on Uniform Standards for Tribal Consultation, Nov. 30, 2022, https://bldr.fyi/consultation-memorandum

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“Agreement"), made effective this of _____ , 2024, and consolidates previous agreements made the 14th day of August, 2002, as amended January 3, 2004, by and between The Apache Tribe of Oklahoma, The Cheyenne and Arapaho Tribes, The Cheyenne River Sioux Tribe, The Comanche Nation, The Eastern Shoshone Tribe, The Jicarilla Apache Nation, The Kiowa Tribe, The Northern Arapaho Tribe, The Northern Cheyenne Tribe, The Oglala Sioux Tribe, The Pawnee Nation, The Rosebud Sioux Tribe, The Southern Ute Indian Tribe, The Standing Rock Sioux Tribe, The Ute Mountain Ute Tribe, The Ute Indian Tribe of the Uintah & Ouray Reservation ("Tribes") and the City of Boulder (the "City"),

WITNESSETH:

WHEREAS, the City of Boulder acknowledges Tribes have had a significant presence on City lands since time immemorial – including on City Open Space and Mountain Parks land; and

WHEREAS, the City’s Indigenous People Day Resolution and its land acknowledgement recognize the City has benefited and continues to benefit directly from the colonization of Indigenous lands and from removal policies that violated human rights, broke government treaties and forced Indigenous Peoples from their homelands; and

WHEREAS, the City recognizes that Indigenous knowledge, oral histories and languages – handed down through generations over thousands of years – have shaped profound cultural and spiritual connections with Boulder-area lands and ecosystems and that those connections are sustained and celebrated to this day; and

WHEREAS, Tribal Representatives have provided critical guidance in helping the City to update past agreements and to begin work to help fulfill the City’s land acknowledgment, its Indigenous Peoples Day Resolution and the City’s Racial Equity Plan; and

WHEREAS, the City’s Open Space and Mountain Parks Master Plan directs the department to support citywide efforts to work in partnership with federally recognized American Indian Tribes and other City departments through formal government-to-government consultations to support American Indian Tribes and Indigenous Peoples’ connections to their ancestral homelands; and

WHEREAS, the City is trustee of the Open Space and Mountain Parks land; and

WHEREAS, Section 176 of the City Charter limits the use of Open Space and Mountain Parks land as follows:

Open space land shall be acquired, maintained, preserved, retained, and used only for the following purposes:

a) Preservation or restoration of natural areas characterized by or including terrain, geologic formations, flora, or fauna that are unusual, spectacular, historically important, scientifically

valuable, or unique, or that represent outstanding or rare examples of native species;

b) Preservation of water resources in their natural or traditional state, scenic areas or vistas, wildlife habitats, or fragile ecosystems;

c) Preservation of land for passive recreational use, such as hiking, photography or nature studies, and, if specifically designated, bicycling, horseback riding, or fishing;

d) Preservation of agricultural uses and land suitable for agricultural production;

e) Utilization of land for shaping the development of the City, limiting urban sprawl, and disciplining growth;

f) Utilization of non-urban land for spatial definition of urban areas;

g) Utilization of land to prevent encroachment on floodplains; and

h) Preservation of land for its aesthetic or passive recreational value and its contribution to the quality of life of the community.

Open space land may not be improved after acquisition unless such improvements are necessary to protect or maintain the land or to provide for passive recreational, open agricultural, or wildlife habitat use of the land.

WHEREAS, Tribal Representatives have a unique capacity to gather information and convey advice concerning land management, cultural resources management, ceremonial needs, and Indigenous education and interpretation; and

WHEREAS, the City is committed to the preservation of its Open Space and Mountain Parks land and the cultural resources located thereon and desires to protect traditional, naturally significant places, and sacred areas of religious, cultural significance and sensitivity to the Tribes; and

WHEREAS, no party is obligated by this Agreement to any expenditure of funds or any participation in litigation; and

WHEREAS, the Tribes and the City seek by this Agreement to continue a partnership to ensure ongoing consultation and collaborative decision-making regarding Open Space and Mountain Parks land and help protect any cultural resources that may exist on Open Space and Mountain Parks land; and

WHEREAS, the City seeks to update and consolidate past agreements with Tribal Nations – which were developed in the late 1990s and early 2000s and that focus on open space the City manages – based on guidance provided at City/Tribal Nation consultations in 2019, 2021 and 2022, and at City/Tribal Nation working group meetings in 2019; and

WHEREAS, the City and Tribes wish to provide a process for federally-recognized tribes that are

not a party to this Agreement to join this Agreement and participate in ongoing consultations to provide guidance regarding land management, cultural resource preservation, ceremonial access, and Indigenous education and interpretation.

NOW, THEREFORE, the parties hereby agree as follows:

(1) The Tribes and the City shall work together to uphold and support the open space Charter purposes.

(2) Initially, this Agreement shall be binding on the City and the Tribes that execute it, and the City and additional, non-signatory tribes may be added as parties to this Agreement with the consent of at least half of the signatory Tribes.

(3) The City agrees to support tribal input on decision-making relating to the City's Open Space and Mountain Parks land. The City will provide the Tribes with an opportunity to meet with members of the Open Space Board of Trustees and that whenever feasible such meetings will coincide with any planned government-to-government consultations.

(4) The City agrees, subject to annual budget appropriations, to consistently host formal government-to-government consultations in Boulder with the Tribes to facilitate the ongoing consultation contemplated by this Agreement. It is the desire of both the City and the Tribes to let no more than four years lapse between consultations.

(5) The Tribes and the City agree to an ongoing consultation about cultural resources on Open Space and Mountain Parks lands for the purpose of identifying and protecting areas of religious and cultural significance and interpreting cultural resources in the area. Specifically,

    a. The City agrees to provide Tribes with the opportunity to review known or presumed Native American cultural materials and objects currently held by the City.

    b. The Tribes agree to provide cultural resource evaluation and advice in support of Open Space and Mountain Parks land acquisition and management in accordance with the City Charter.

    c. The Open Space and Mountain Parks department shall seek tribal input in its development of a future Cultural Resources Management Plan ("CRMP") that will include, but not be limited to the following elements:

        i. A framework for the City and the Tribes to identify and protect significant landscape features and areas of special concern, including but not limited to, the Jewel Mountain Open Space Area, ("Areas of Special Concern"). The definition of "features" and "areas" shall be defined in the CRMP and will include, but may not be limited to sites, structures, views, flora and fauna communities, and other features of traditional, religious and cultural significance to the Tribes ("Cultural Resources").

ii. Except in cases of emergency, a process to notify the Tribes and provide the opportunity to review substantial ground-disturbing City projects and research that have the potential to affect Cultural Resources in Areas of Special Concern ("Projects"). Projects include, but are not limited to, constructed trails; parking lots; plowing or cultivating; intentional burning; and mineral extraction. Generally, this process will include, but not be limited to the following elements (as will be set forth in the CRMP):

A. Written notification of a proposed Project to the Tribes will be provided once sufficient Project details are known.

B. 45-day response period for Tribes to express concerns or intention to comment on the Project. The City will attempt additional notification, including phone calls and e-mails, during this period for those Tribes that have not responded and will follow up with those who expressed intent to comment.

C. If one or more Tribes raise concerns about a proposed Project, the City and the Tribes who have expressed concerns agree to consult to resolve those concerns prior to the commencement of such Project. The City shall not authorize the Project unless the consulting Tribes achieve consensus as defined in consultation.

D. If a Tribe has not responded with concerns or intention to comment in 45 days, the City will presume that the Tribe has no concern.

E. "Emergency" shall be defined as a situation that poses a serious and imminent threat to the health, safety, or welfare of persons, property, flora and fauna, or the community including but not limited to wildfire or flood. In the event of such Emergency, the City shall notify the Tribes as soon as reasonably practicable. Restoration Projects shall follow the process outlined in this section following the Emergency.

F. The City does not own all mineral and property rights in and under City Open Space land. If the City becomes aware of a third-party proposed project taking place on or that could affect an Area of Special Concern, the City will notify the Tribes of the project and provide available contact information for the third-party and will notify the third-party of this Agreement. In the event of mineral extraction projects on any Open Space land the City will notify the Tribes of the project.

d. In the event of the inadvertent exposure or disturbance of human remains, objects of cultural significance or patrimony, sacred objects, or associated or unassociated funerary objects, the City shall comply with the requirements of the Native American Graves Protection and Repatriation Act, 25 U.S.C.A. § 3001 or the State Unmarked Burial Process, C.R.S. §§ 24-80-1301 et. seq., whichever jurisdictional authority

applies.

(6) City agrees that the Tribes need no prior permission for pedestrian use of Open Space and Mountain Parks land. Ceremonies requiring the building of a temporary structure (for example, a sweat lodge or tipi) or that involve the use of fire, however, do require permission from the City. The permit procedure for ceremonies requiring a temporary structure or that involve the use of fire is as follows:

a. The following persons may apply for permission to use Open Space and Mountain Parks land for traditional use ceremonies requiring structures or a fire:

i. Enrolled members of the Tribes.

ii. Tribal-authorized applicant through written acknowledgment by one of the Tribes on tribal letterhead, including, but not limited to, descendants of members of federally-recognized tribes.

iii. Individuals or groups supported by a regional Chapter of the Native American Church as long as a membership card is provided.

b. All ceremonial access must follow all applicable federal laws and Supreme Court decisions, including the American Indian Religious Freedom Act and the Religious Freedom Restoration Act.

c. In most circumstances, at least 15 days prior to the ceremony, a letter of request from an individual listed in subsection (a) above must be submitted to the Director of Open Space and Mountain Parks, 2520 55th Street, Boulder, CO, 80301, outlining the location, activity, the number of people expected to attend; the duration of the activity; and how issues of safety, environmental hazards, restoration of the use area and parking will be addressed. However, in some circumstances, an expedited request may be submitted.

d. The City shall notify the requesting individual from subsection (a) above of permit approval or denial in writing within 7 business days of the request, with any restrictions or conditions included in the permit, except that the City provide an expedited response when an expedited request is submitted. In the event the City denies the request, the City will provide the reasoning for the denial and work cooperatively to resolve the issues. The City will approve only requests from a person or group identified in subparagraph (a) above, providing it involves no monetary gain whatsoever, does not interfere with previously scheduled activities, and does not conflict with the City Charter.

e. There will be no cutting of trees or any other destruction of vegetation allowed. Individuals must provide their own wood in accordance with any requirements of the permit.

f. The City agrees to provide reasonable fire protection services for any authorized Tribal ceremonial use on City land.

g. Such fire protection may include fire extinguishers, wildfire suppression apparatus or other preventative measures.

h. To the extent possible, the City will work together with the requestor to support any necessary logistical needs. For example, arranging for drinking water or portable toilets, or addressing parking needs.

i. With respect to Open Space and Mountain Parks, no permanent structures will be permitted. Temporary structures must be removed within seven days after the ceremony is concluded or other time period as may be required by the permit. Those using the site will be responsible for leaving the area in the same condition as they found it.

(7) The City agrees to explore the possibility of a dedicated, permanent site on any City lands for use in sacred ceremonies.

(8) The City is committed to considering limited collection requests for personal use, for example for limited harvesting plants or materials for medicinal use, and will develop a process to consider such requests. The City also agrees to identifying City land that can be used for limited collection for personal use utilizing a process that will be the subject of a future Consultation and will be implemented after agreement by the Tribes and the City.

(9) The City and the Tribes agree to work together to provide accurate educational information about the history of each respective Tribe and other Indigenous Peoples in Boulder and Jefferson Counties. This continuous, ongoing work will include accurate, truthful Indigenous Peoples stories, both past and present, through educational and interpretative materials, such as signage and education curriculum.

(10) The parties agree to review this Agreement from time to time as necessary, but no less than at any consultation held between the City and the Tribes. At any time, a signatory may request review of this agreement by all parties for the purposes of amending the Agreement. Except for adding Tribes as set forth in section 2, proposed amendments to this Agreement must be unanimously supported by all signatories and evidenced in a written, signed Agreement.

(11) This Agreement supplants and replaces pre-existing memorandums and amendments by the Parties concerning matters of a similar nature, including prior Memorandums of Understanding and associated amendments dated March 1, 1999; August 14, 2002; and January 3, 2004.

(12) This Agreement shall be for a term of five years from the date this Agreement is fully executed. Upon unanimous consent of the parties, this Agreement will automatically renew for an additional five years. The City will provide written notice of the expiration of this Agreement 60 days prior to the expiration, at which time the parties will provide written consent to renewal or not.

AGREED, as of the date first above written.

[*SIGNATURE PAGES FOLLOW*]

CITY OF BOULDER,
a Colorado home rule City

_____
Nuria Rivera-Vandermyde, City Manager

Attest:

_____
City Clerk

Approved as to form:

_____
City Attorney's Office

THE APACHE TRIBE OF OKLAHOMA

_____ _____
Date

By: _____
Print Name

THE CHEYENNE AND ARAPAHO TRIBES – SOUTHERN CHEYENNE

_____ _____
Date

By: _____
Print Name

THE CHEYENNE AND ARAPAHO TRIBES – SOUTHERN ARAPAHO

_____ _____
Date

By: _____
Print Name

THE CHEYENNE RIVER SIOUX TRIBE

_____ _____
Date

By: _____
Print Name

THE COMANCHE NATION

_____ _____
Date

By: _____
Print Name

THE EASTERN SHOSHONE TRIBE

_____ _____
Date

By: _____
Print Name

THE JICARILLA APACHE NATION

_____ _____
Date

By: _____
Print Name

THE KIOWA TRIBE

_____ _____
Date

By: _____
Print Name

THE NORTHERN ARAPAHO TRIBE

_____ _____
Date

By: _____
Print Name

THE NORTHERN CHEYENNE TRIBE

_____ _____
Date

By: _____
Print Name

THE OGLALA SIOUX TRIBE

_____ _____
Date

By: _____
Print Name

THE PAWNEE NATION

_____ _____
Date

By: _____
Print Name

THE ROSEBUD SIOUX TRIBE

_____ _____
Date

By: _____
Print Name

THE SOUTHERN UTE INDIAN TRIBE

_____ _____
Date

By: _____
Print Name

THE STANDING ROCK SIOUX TRIBE

_____ _____
Date

By: _____
Print Name

THE UTE MOUNTAIN UTE TRIBE

_____ _____
Date

By: _____ Print Name

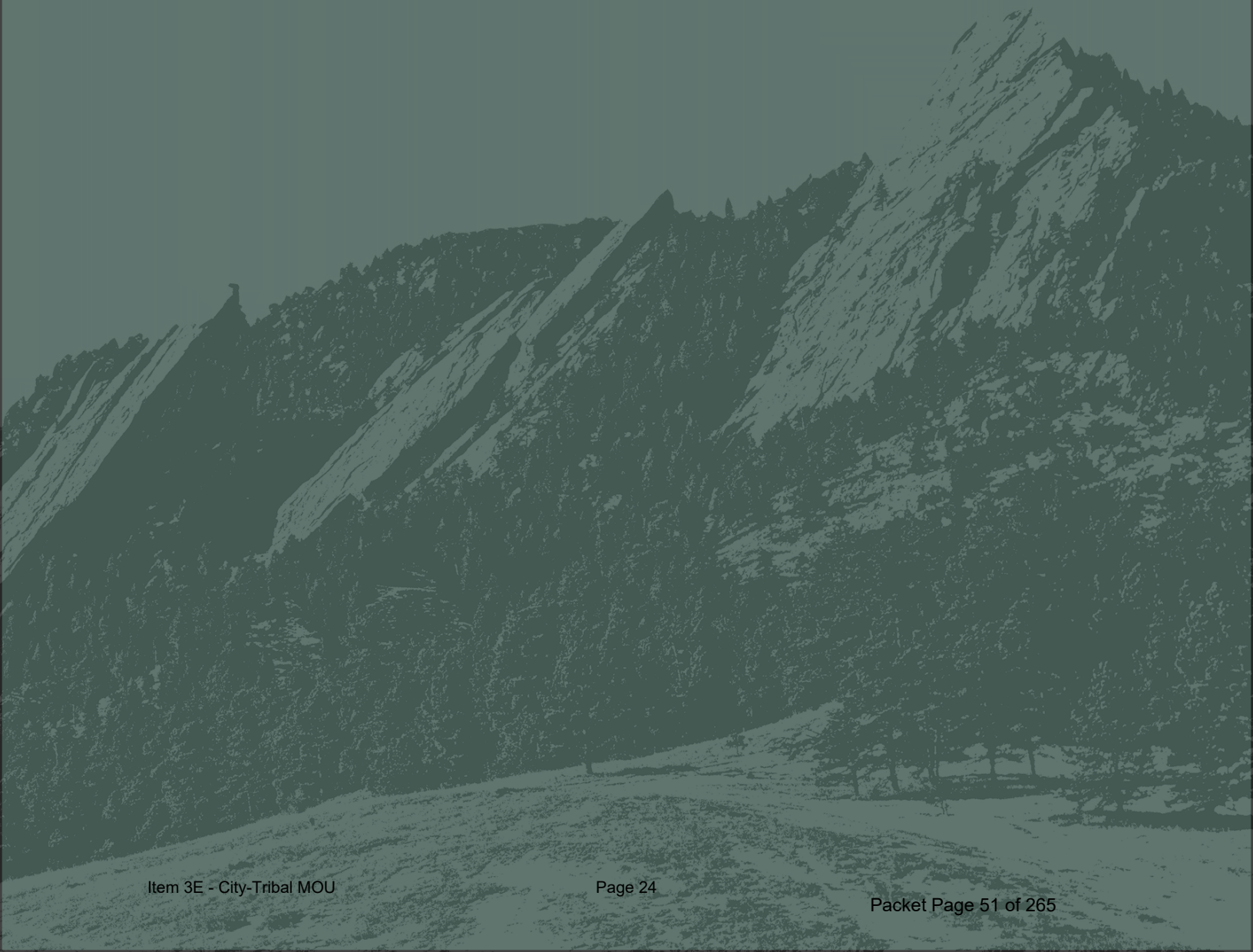
THE UTE INDIAN TRIBE OF THE UINTAH & OURAY RESERVATION

_____ _____
Date

By: _____ Print Name

City of Boulder-Tribal Nation

Proposed Memorandum of Understanding (MOU)



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Letter from the City Manager

City of Boulder staff extend our gratitude to federally recognized American Indian Tribal Nations for the opportunity to listen and learn from Tribal Representatives and to work on several ongoing projects with Tribal Representatives. Since 2019, **Tribal Representatives and City of Boulder staff have been working together on a proposed Memorandum of Understanding** (MOU).

Their work has resulted in a proposed MOU that consolidates past City-Tribal Nation agreements and seeks to ensure ongoing Consultation and collaborative decision-making regarding City-managed Open Space and Mountain Parks public lands. The proposed MOU also provides a framework for future collaborative opportunities with Tribal Nations across city departments and with regional partners.

City of Boulder staff have developed this memo to assist Tribal Nations in their evaluation of whether to sign the proposed MOU. The latest version of the MOU – which was revised with Tribal Representative guidance at the March 15-March 16, 2023 Consultation in Boulder – has been included in a separate attachment that Jessica Yaquinto with Living Heritage Anthropology sent to your Nations. The city also has included a copies of the MOU with edits from Consultations in 2021, 2022 and 2023, along with past city-Tribal Nation MOUs

The **city acknowledges city-managed open space lands** are on the ancestral homelands and unceded territory of Indigenous Peoples who have traversed, lived in and stewarded lands in the Boulder Valley since time immemorial. We appreciate and understand that Indigenous knowledge, oral histories, and languages – handed down through generations over thousands of years – have shaped profound cultural and spiritual connections with Boulder-area lands and ecosystems and that those connections are sustained and celebrated to this day.

We know we have much to learn from Tribal Nations regarding land stewardship, cultural resource preservation, Indigenous ceremonial needs, and Indigenous education and interpretation on city-managed lands. While city staff and Tribal Representatives are taking steps to address several of those topics**,** we believe the proposed MOU can help lay the groundwork for even more progress in the future.

If your Nation is ready to sign the proposed MOU, please have your authorized representative sign the MOU that also has been sent as a separate attachment to this memo. Electronic signatures on the clean MOU PDF (with no edits) can be emailed to **Jessica Yaquinto** with Living Heritage Anthropology and **Phillip Yates** with the City of Boulder. Signed paper copies of the MOU can be sent to Phillip Yates. Jessica and Phillip's contact information is on **page 11** of this memo. If you have additional questions or concerns regarding the MOU, please contact Jessica and Phillip. The City of Boulder again thanks Tribal Nations for participating in City Consultations and looks forward to continuing collaboration with your Nations in the future.

Sincerely,
Nuria Rivera-Vandermyde, City Manager, City of Boulder

Thank You, Tribal Representatives

City of Boulder staff extend our gratitude to Tribal Representatives from federally recognized American Indian Tribal Nations for participating in the in-person Consultation in Boulder on **Wednesday, March 15**, and **Thursday, March 16, 2023**. The 2023 Consultation primarily focused on the proposed MOU and site visits to city-managed open space areas. The words and guidance Tribal Representatives have provided during the March Consultation – and past Consultations and Working Group meetings with Tribal Representatives – have left a deep impression on city staff, and City Council and Board members, and we look forward to continuing opportunities to listen and learn from your Nations in the future.

City staff appreciated the insightful guidance Tribal Representatives provided and the time spent discussing and revising the proposed MOU during the 2023 Consultation.

Tribal Representatives and Comanche and Lakota children helped remove signs at The Peoples' Crossing. In February, city staff received guidance from Tribal Representatives to remove them.

Consultation participants visited The Peoples' Crossing – an area Tribal Representatives renamed in 2021 – as part of ongoing city-Tribal Nation education and interpretation collaboration.

During the Consultation, Tribal Representatives, City Council Members, city staff and city consultants visited the Jewell Mountain Open Space area – an area with known Indigenous cultural resources.

Focus of Proposed MOU

The proposed Memorandum of Understanding (MOU) focuses on City-managed **Open Space and Mountain Parks lands** and seeks to ensure ongoing Consultation and collaborative City-Tribal Nation decision-making regarding those natural areas. The proposed MOU and future Tribal Nation guidance also will help provide a foundation for how the City can discuss future collaborative opportunities with Tribal Nations – such as community partnerships, educational initiatives and land management collaboration, including co-stewardship and co-management approaches.

Open space purposes **in the Boulder City Charter** – recognized in past MOUs and included in the proposed MOU – direct work the **Open Space and Mountain Parks Department (OSMP)** does on a daily basis. The **department's Master Plan**, which the Boulder City Council adopted in 2019, provides additional guidance for how City staff manages city open space. The Master Plan directs the department to support Citywide efforts to work in partnership with federally recognized American Indian Tribal Nations and other City departments to help support Tribal Nations and Indigenous Peoples' connections to their ancestral homelands.

46,600 acres

The total amount of land the Open Space and Mountain Parks (OSMP) Department conserves and manages.

The Great Plains and Southern Rocky Mountains merge dramatically in Boulder, creating natural areas with high biodiversity and remarkable scenic views.

City-managed open space helps protect **61 species of mammals.**

~ 5.5 million

The estimated number of visits the Open Space and Mountain Parks (OSMP) receives each year. City-managed lands receive more visits than many National Parks.

OSMP helps provide habitat for **741** plant species.

OSMP also helps protect **303** native bird and **138** native butterfly species.

OSMP manages about **15,000** acres of agricultural land.

OSMP has a **$36.2 million** budget and 128 full-time employees.

Summary of the Proposed MOU

The proposed Memorandum of Understanding (MOU) seeks to set a foundation for future City-Tribal Nation collaboration and help ensure ongoing Consultation and support Tribal Nation input into Open Space and Mountain Parks public lands decision-making.

Consolidates and Updates Past City-Tribal MOUs

The proposed Memorandum of Understanding (MOU) will consolidate four MOUs the City of Boulder shares with federally recognized American Indian Tribes. Those MOUs resulted from Consultations in the 1990s and the early 2000s. City Consultations initially began because of issues related to the construction of a National Institute of Standards and Technology building in south Boulder in the late 1990s. ***(See Whereas Text and Section 11)***

Helps Support City-Tribal Nation Decision-Making

The proposed MOU recognizes Tribal Representatives have a unique capacity to provide guidance concerning land management, cultural resources management, ceremonial needs, and Indigenous education and interpretation. The proposed MOU commits the City to supporting Tribal Nation input on decision-making relating to City-managed Open Space and Mountain Parks lands. ***(See Whereas Text and Section 3)***

Recognizes Open Space Purposes in City Charter

Like all other MOUs the City shares with Tribal Nations, the proposed MOU recognizes that City-managed open space land shall "be acquired, maintained, preserved, retained, and used only for specific purposes in the City Charter." The proposed MOU states: "Tribal Nations and the City shall work together to uphold and support the open space purposes," such as natural land preservation and passive recreation. ***(See Whereas Text and Section 1)***

Invites Ongoing Cultural Resource Consultations

The proposed MOU continues to invite Tribal Nations to ongoing Consultations to identify and protect areas of traditional, cultural and spiritual significance and help interpret cultural resources. The City also agrees to provide Tribes with the opportunity to review known or suspected Indigenous cultural materials and objects currently held by the city. The City also will seek Tribal Nation input on a planned Cultural Resources Management Plan ***(See Section 5).***

If your Nation is ready to sign the proposed MOU, please have your authorized representative sign the MOU that also has been sent as a separate attachment to this memo. Electronic signatures on the clean MOU PDF can be emailed to **Jessica Yaquinto** with Living Heritage Anthropology and **Phillip Yates** with the City of Boulder. Signed paper copies of the MOU can be mailed to Phillip Yates. Their contact information **on page 11** of this memo.

Requires Notification of Inadvertent Discoveries

In the event of the inadvertent exposure or disturbance of human remains, objects of cultural significance or patrimony, sacred objects, or associated or unassociated funerary objects, the City shall comply with the requirements of the Native American Graves Protection and Repatriation Act, 25 U.S.C.A. § 3001 or the State Unmarked Burial Process C.R.S. §§ 24-80-1301, whichever jurisdictional authority applies. ***(See Section 5(g))***

Continues Tribal Nation Ceremonial Access

The proposed MOU continues a permit process for ceremonies that require the building of a temporary structure – for example, a sweat lodge or tipi – or that involve the use of fire. The MOU details specific Tribal groups that can seek a permit for a ceremony involving fire and a temporary structure, and outlines requirements that have been discussed as part of 2004, 2021 and 2022 Consultations. ***(See Section 6)***

Commits City to Exploring Other Ceremonial Needs

The City agrees to explore the possibility of a dedicated, permanent site on any City lands for use in sacred ceremonies and to consider the limited harvesting of plants or materials for medicinal use. The City also agrees to identify City land that can be used for limited collection for personal use, utilizing a process that will be the subject of a future Consultation and will be implemented after agreement by the Tribes and the City. ***(See Sections 7 and 8)***

Supports City-Tribal Nation Education Collaboration

The proposed MOU seeks continuing City-Tribal Nation collaboration to provide accurate educational information about the history and culture of each respective Tribe. This ongoing work will develop accurate, truthful Indigenous Peoples' stories – both past and present – through educational materials, such as educational curriculum and signage. The City is developing a report with Tribal Nations to help fulfill this section. ***(See Section 9)***

Allows Future Changes: The proposed MOU provides a structure for the City and Tribal Nations to propose new amendments, which can lay the groundwork for future collaborative opportunities and partnerships.

Welcomes other Tribal Nations to join the MOU: The proposed MOU welcomes other federally recognized Tribal Nations not party to the MOU to join it and participate in ongoing Consultations and conversations with the City of Boulder.

Existing City-Tribal Nation MOUs

1999 Memorandum of Understanding - A

The City of Boulder and American Indian Tribal Nations agreed to create a spiritual, moral and policy partnership to protect land south of Boulder. **Read the MOU online**.

1999 Memorandum of Understanding - B

The City of Boulder and Tribal Nations agreed to obtain approval for a City-administered utility easement for an area in south Boulder and to provide for a tribal monitor during then-proposed, ground-disturbing work. The City also agreed to provide reasonable fire protection services for permitted tribal cultural use of a protected area during fire bans. **Read the MOU online.**

2002 Memorandum of Understanding

The 2002 MOU provides the critical foundation for the proposed MOU, which has been discussed at City Consultations in 2019, 2021, 2022 and 2023. **Read the MOU online**. The 2002 MOU outlined several City-Tribal Nation agreements, including:

- Tribal Representatives and the City would participate in an ongoing Consultation about cultural resources for the purpose of identifying and protecting areas of religious and cultural significance and recognizing cultural resources in the area.
- Ceremonies requiring the building of a temporary structure – for example, a sweat lodge or tipi – require permission from the City. The proposed MOU outlined a permit requirements procedure, which also is in the proposed MOU with Tribal Nations.
- Trails, parking lots, plowing or cultivating, intentional burning, and mineral extraction, to the extent of City mineral ownership, on the Jewel Mountain Open Space Area shall be reviewed by the Tribes prior to authorization by the City.
- Inadvertent discovery of American Indian cultural resources on City-managed open space, including funerary objects and human remains, shall be reported to the Tribes and protected by the City until they can be reviewed by Tribal Nations.

2004 Memorandum of Understanding Amendment

The City and Tribal Nations agreed to update the procedures related to ceremonies involving fire and temporary structures – such as tipis and sweat lodges – on Valmont Butte east of Boulder. **Read the MOU online.**

Steps to Develop Proposed MOU

March 2019

City-Tribal Consultation

The Consultation ended with an agreement that existing MOUs – initially adopted in the late 1990s and early 2000s – needed to be updated. There was also agreement that a working group should be established to draft agreement updates that would be discussed at a future Consultation.

May-Aug 2019

2019 City-Tribal Working Group Meetings

The City hosted several meetings with Tribal Representatives between May and August 2019. Discussions during those working meetings helped shape the proposed Memorandum of Understanding (MOU).

April 7, 2021

City-Tribal Consultation

Tribal Representatives and City staff reviewed one-half of the proposed Memorandum of Understanding (MOU). During the Consultation, Tribal Representatives and City staff also renamed Settler's Park in west Boulder to The Peoples' Crossing, formed a working group to develop education and interpretation materials, and discussed a draft land acknowledgment.

March 16, 2022

City-Tribal Consultation

Tribal Representatives and City staff reviewed the other half of the proposed MOU. Changes made during ongoing Consultations are documented in the marked-up MOU.

September 2022

City-Tribal Consultations

During Consultations on **Sept. 12** and **Sept. 27**, there were conversations that led to several edits were incorporated into the proposed MOU.

March 15-16, 2023

City-Tribal Consultation

Conversations during the Consultation primarily focused on the section of the MOU (Section 5) that describes city efforts to identify and protect areas of traditional, cultural and religious significance to Tribal Nations through the development of a planned Cultural Resource Management Plan.

Current City Projects with Tribal Nation Guidance

Beyond conducting ongoing Consultations with Tribal Nations, City of Boulder staff are conducting several other projects with guidance from Tribal Representatives. More information on **related projects is available on the City of Boulder website**.

Planned Ethnographic and Education Report

The report seeks to provide accurate Indigenous Peoples' stories – both past and present – and will be informed by in-person interviews with Tribal Representatives in Boulder. Development of the report, which will help develop future education and interpretative materials, has begun and is expected to be released to the public in early 2026. For more information, contact **Phillip Yates** at 303-349-2438 or yatesp@bouldercolorado.gov.

Fort Chambers - Poor Farm Management Plan

The City of Boulder extends its gratitude to the Cheyenne and Arapaho Tribes, the Northern Arapaho Tribe and the Northern Cheyenne Tribe for providing guidance **regarding the future of a city-managed property** that has a direct, local connection to the Sand Creek Massacre. City staff appreciate Tribal Representatives who shared guidance on the project at the 2023 consultation and for the personal perspectives Representatives shared at recent Boulder Indigenous Peoples Day events in Boulder.

Education/Interpretative Signs on Open Space

City Open Space and Mountain Parks and Communication and Engagement staff are receiving guidance on how to address dated Indigenous-related education and interpretative signs on the city's Open Space and Mountain Parks system. Tribal Representatives and Lakota and Comanche children helped remove signs at The Peoples' Crossing during a March 2023 consultation based on guidance Tribal Representatives provided during a Working Group meeting earlier in the year.

Contact Information

If your Nation is ready to sign the proposed MOU, please have your authorized representative sign the MOU that also has been sent as a separate attachment to this memo. Electronic signatures on the clean MOU PDF can be emailed to **Jessica Yaquinto** with Living Heritage Anthropology and **Phillip Yates** with the City of Boulder. Signed paper copies of the MOU can be mailed to **Phillip Yates** with the City of Boulder.

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COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
ITEM REMOVED

PRIMARY STAFF CONTACT
NA

ATTACHMENTS:

Description

No Attachments Available

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Introduction, first reading, and consideration of a motion to order published by title only Ordinance 8620 amending Title 9, "Land Use Code," B.R.C. 1981 to fix errors, clarify existing code sections, update graphics, and improve the clarity of the code, and setting forth related details

PRIMARY STAFF CONTACT
Lisa Houde, Senior Planner

ATTACHMENTS:

Description

- **Item 3G - 1st Rdg Ord 8620 Title 9 Code Section Improvements**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: February 15, 2024

AGENDA TITLE

Introduction, first reading and consideration of a motion to order published by title only Ordinance 8620 amending Title 9, "Land Use Code," B.R.C. 1981, to clarify existing code sections, update graphics, and improve the clarity of the code, and setting forth related details.

REQUESTING DEPARTMENT / PRESENTERS

Nuria Rivera-Vandermyde, City Manager
Brad Mueller, Director of Planning & Development Services
Charles Ferro, Senior Planning Manager
Karl Guiler, Senior Policy Advisor
Lisa Houde, Senior City Planner

EXECUTIVE SUMMARY

Staff has identified a list of proposed changes to clarify the Land Use Code, fix errors, simplify language, and codify existing practices. The city periodically corrects technical errors to avoid confusion and to ensure that the Land Use Code is administered and enforced in a manner consistent with the intent and department practices. The last ordinance addressing similar "clean-up" issues was adopted in 2020.

The ordinance is found in **Attachment A**. An annotated version of the ordinance with footnotes describing the purpose of each change is in **Attachment B**.

STAFF RECOMMENDATION

Suggested Motion Language:

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

Motion to introduce and order published by title only Ordinance 8620 amending Title 9, "Land Use Code," B.R.C. 1981, to clarify existing code sections, update graphics, and improve the clarity of the code, and setting forth related details.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

- **Economic** – Ordinance 8620 is intended to clarify code language and correct errors in the code, which may ease processing of development review applications.
- **Environmental** – These updates are not anticipated to have direct environmental impacts.
- **Social** – The changes are not expected to have direct social impact.

OTHER IMPACTS

- **Fiscal** – This project is being completed using existing resources.
- **Staff time** – This project is being completed using existing staff resources. Clarifying and correcting these parts of the code may reduce staff time by ensuring the code language is accurate and interpretations are more predictable for applicants.

BOARD AND COMMISSION FEEDBACK

Planning Board – Ordinances changing the Land Use Code require Planning Board recommendation to City Council. On February 6, 2024, Planning Board reviewed Ordinance 8620 and recommended approval of the ordinance, with some changes, to City Council with the following motion:

> *ml Robles made a motion seconded by K. Nordback to recommend that City Council adopt ordinance 8620, amending Title 9, "Land Use Code," to clarify existing code sections, update graphics, and improve the clarity of the code, and setting forth related details. The planning board voted 6-0. Motion passed, as amended by ml Robles' motion to amend.*
>
> *ml Robles made a motion to amend seconded by M. McIntyre to amend the motion to include an addition to 9-16-1, general definitions, to include a definition of "roof overhang". The planning board voted 6-0. Motion passed.*

Staff believes the addition of this definition and how it would impact other definitions and standards related to architectural features will require more time for analysis, so it

has not been included in Ordinance 8620. Staff is committed to further studying this issue and plans to approach it in a future code change project.

PUBLIC FEEDBACK

Staff sent out an update in the Planning & Development Services newsletter informing the community of the upcoming code changes. As the changes are primarily focused on clarifying existing language, fixing errors, and aligning the code with existing practices, this code change project is implementing an "inform" level of public engagement.

BACKGROUND

The proposed changes were identified during previous land use review processes where implementation of the code raised questions about interpretation and issues of clarity, where code language resulted in unintended consequences, or where mistakes were found. Staff compiles a list of these issues and every few years drafts an ordinance to update the code accordingly.

SUMMARY OF PROPOSED CHANGES IN ORDINANCE 8620

The ordinance can be found in **Attachment A**. An annotated version of the ordinance with footnotes provided to describe the purpose of each change is included in **Attachment B**. The updates generally consist of:

- **Corrections.** Corrects inaccuracies, such as incorrect citations or typographical errors.
- **Clarifications.** Updates that make the code language clearer.
- **Graphics.** Changes to graphics to address common misunderstandings. (*Note that* **Attachment C** *includes higher resolution versions of the graphics*.)
- **Consistency.** Updates to ensure consistency with state or other requirements or existing city practices.

ANALYSIS

Staff has identified the following key issues for the City Council's consideration:

1. Does the City Council find that the proposed ordinance implements the adopted policies of the Boulder Valley Comprehensive Plan?
2. Does the City Council suggest any modifications to the proposed ordinance?

Staff finds that the proposed ordinance implements the adopted policies of the comprehensive plan. The following analysis is provided to demonstrate how the project objective is met through the proposed ordinance. **Attachment B** includes the ordinance and includes detailed footnotes that describe the rationale of each proposed change.

What is the reason for the ordinance and what public purpose will be served?

This ordinance fixes errors in the code, clarifies common issues of interpretation, and updates graphics to improve communication of code requirements. The changes will improve the accuracy of the code by correcting typographical errors and by providing clarity where existing provisions have been misinterpreted.

How is the ordinance consistent with the purpose of the zoning districts or code chapters being amended?

The ordinance would affect many different code sections. The changes will improve the comprehension of the code overall, both for customers and code administrators and may ease review of development applications.

Are there consequences in not passing this ordinance?

If this ordinance is not passed, clerical errors in the code would not be corrected and improvements in code clarity would not be adopted. Misunderstandings of current code language or graphics would continue.

What adverse effects may result with the adoption of this ordinance?

Adverse effects are not anticipated as a result of this amendment. Staff has intentionally included only minor changes like fixing errors, clarifying existing language, or ensuring consistency with state or other requirements or existing city practices.

What factors are influencing the timing of the proposed ordinance? Why?

While many of the proposed code corrections are relatively minor fixes, the ordinance does include corrections that should be completed as soon as practical to avoid confusion among code users. Some of the changes involve issues with recently adopted ordinances. Staff aims to ensure these corrections are adopted prior to code change projects that may be more comprehensive and substantive.

How does the ordinance compare to practices in other cities?

As the limited changes are primarily minor clarifications and corrections, comparisons to other communities are not instructive in this circumstance. All communities have an interest in keeping their code updated, clear, and accurate.

How will this ordinance implement the comprehensive plan?

The ordinance will implement the following applicable policy from the Boulder Valley Comprehensive Plan.

Local Governance & Community Engagement Policy 10.01: High-Performing Government
The city and county strive for continuous improvement in stewardship and sustainability of financial, human, information and physical assets. In all business, the city and county seek to enhance and facilitate transparency, accuracy, efficiency, effectiveness and quality customer

service. The city and county support strategic decision-making with timely, reliable and accurate data and analysis.

ATTACHMENTS

Attachment A: Ordinance 8620

Attachment B: Annotated Ordinance

Attachment C: Graphics – Higher Resolution

ORDINANCE 8620

AN ORDINANCE AMENDING TITLE 9, "LAND USE CODE," B.R.C. 1981, TO FIX ERRORS, CLARIFY EXISTING CODE SECTIONS, UPDATE GRAPHICS, AND IMPROVE THE CLARITY OF THE CODE, AND SETTING FORTH RELATED DETAILS.

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

Section 1. Section 2-3-12, "Board of Zoning Adjustment and Building Appeals," B.R.C. 1981, is amended to read as follows:

2-3-12. Board of Zoning Adjustment and Building Appeals.

(a) The City of Boulder Board of Zoning Adjustment and Building Appeals consists of five members appointed by the city council for five-year terms.

(b) The board's functions are to:

(1) Review and decide at the request of any interested person any question of interpretation by the city manager of Chapters 9-6, "Use Standards," 9-7, "Schedule of Form and Bulk Standards," and 9-8, "Intensity Standards," B.R.C. 1981;

(2) Hear and decide to grant or deny applications for variances from the setback requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, and the size requirements for accessory dwelling units of Subparagraph 9-6-3(n) B.R.C. 1981;

(3) Hear and decide applications for exceptions under the solar access ordinance, Section 9-9-17, "Solar Access," B.R.C. 1981;

(4) Hear and decide to grant or deny applications for variances, and to hear and decide appeals of orders from the city manager under the sign code, Section 9-9-21, "Signs," B.R.C. 1981;

(5) Sit as the Board of Building Appeals pursuant to Section 2-3-4, "Board of Building Appeals," B.R.C. 1981; and

(6) Hear and decide such other matters as the city council may by ordinance provide.

Section 2. Section 6-14-2, "Definitions," B.R.C. 1981, is amended to read as follows:

6-14-2. Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

…

Mixed-use development means a building, or a project, or a development, which may consist of one or multiple lots or parcels, that contains one or more nonresidential uses and one or more dwelling units in any zone district.

…

Produce or production means: (i) combining marijuana with any other substance for distribution, including storage and packaging for resale; or (ii) preparing, compounding, processing, encapsulating, packaging, or repackaging, labeling, or relabeling of marijuana or its derivatives, whether alone or mixed with any amount of any other substance. *Production* shall not include packaging or repackaging, labeling, or relabeling of a usable form of marijuana if no production has occurred and such packaging and labeling qualify as cultivation.

Residential zone district means any district in the residential classification of Table 5-1 in Section 9-5-2, B.R.C., 1981

Restricted area means the portion of a medical marijuana business location within which the licensee defines on its application it intends to cultivate, distribute, possess, or produce medical marijuana and which area is clearly identified as the restricted area on the floor plan submitted with the medical marijuana business license application for the business.

…

Section 3. Section 6-14-7, "Locations of Medical Marijuana Businesses," B.R.C. 1981, is amended to read as follows:

6-14-7. Locations of Medical Marijuana Businesses.

(a) Fixed Location Required. It shall be unlawful to operate a medical marijuana business or to grow medical marijuana outside of an enclosed building. All medical marijuana business licenses shall be issued for a specific fixed location within an enclosed building. The portion of such premises upon which the floor plan shows medical marijuana may be produced, dispensed, or possessed shall be considered the "restricted area" portion of the business premises.

…

(c) No Medical Marijuana Business in Building with Residences or Residential Zone Districts. It shall be unlawful to operate a medical marijuana business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district, or within a mixed -use development ~~that includes a residence~~. This restriction shall not apply to a medical marijuana wellness center that had submitted an application or held a license from the city on October 22, 2013.

…

Section 4. Section 6-16-2, "Definitions," B.R.C. 1981, is amended to read as follows:

6-16-2. Definitions.

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

…

Mixed use development means a building, or a project, or a development, which may consist of one or multiple lots or parcels, that contains one or more nonresidential uses and one or more dwelling units in any zone district.

…

Recreational marijuana plant means a marijuana seed that is germinated and all parts of the growth therefrom, including, without limitation, roots, stalks, and leaves, so long as the flowers, roots, stalks, and leaves are all connected and in a growing medium. Recreational marijuana plant shall include immature plants except where specifically excepted in this code. For purposes of this chapter, any part of the plant removed is considered harvested and no longer part of a recreational marijuana plant, but marijuana.

Residential zone district means any district in the residential classification of Table 5-1 in Section 9-5-2, B.R.C., 1981

Restricted area means the portion of a recreational marijuana business premises within which the licensee defines on its application it intends to cultivate, distribute, possess, or produce recreational marijuana and which area is clearly identified as the restricted area on the floor plan submitted with the recreational marijuana business license application for the business.

…

Section 5. Section 6-16-5, "Application; Modification of Premises," B.R.C. 1981, is amended to read as follows:

6-16-5. Application; Modification of Premises.

(a) Application Requirements. An application for a recreational marijuana business license shall be made to the city on forms provided by the city manager for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule, or regulation. In addition to the information required by Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the following information:

…

(9) A zoning confirmation form from the city, to ascertain within a radius of one-quarter mile from the boundaries of the property upon which the recreational marijuana business is located, the proximity of the property to any school or other facility identified in this chapter, or state licensed child care center, to any other marijuana business or to any residential zone district or a mixed-use development ~~containing one or more residences~~.

…

Section 6. Section 6-16-7, "Locations of Recreational Marijuana Businesses," B.R.C. 1981, is amended to read as follows:

6-16-7. Locations of Recreational Marijuana Businesses.

(a) Fixed Location Required. It shall be unlawful to operate a recreational marijuana business or to grow recreational marijuana outside of a locked enclosed space within a building. All recreational marijuana business licenses shall be issued for a specific fixed location within an enclosed building. The portion of such premises upon which the floor plan shows recreational marijuana may be produced, dispensed, or possessed shall be considered the "restricted area" portion of the business premises.

…

(c) No Recreational Marijuana Business in Building With Residences or Residential Zone Districts. It shall be unlawful to operate a recreational marijuana business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district, or within a mixed-use development ~~that includes a residence~~.

…

Section 7. Section 9-2-1, "Types of Reviews," B.R.C. 1981, is amended to read as follows:

9-2-1. Types of Reviews.

(a) Purpose: This section identifies the numerous types of administrative and development review processes and procedures. The review process for each of the major review types is summarized in Table 2-1 of this section.

(b) Summary Chart:

TABLE 2-1: REVIEW PROCESSES SUMMARY CHART

I. ADMINISTRATIVE REVIEWS	***II. DEVELOPMENT REVIEW AND BOARD ACTION***
Affordable housing design review pursuant to Section 9-13-4, B.R.C. 1981 Building permits Change of address Change of street name Conditional uses, as noted in Table 6-1: Use Table Demolition, moving, and removal of buildings with no historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981 Easement vacation Extension of development approval/staff level Landmark alteration certificates (staff review per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981) Landscape standards variance Minor modification to approved site plan Minor modification to approved form-based code review Noise barriers along major streets per Paragraph 9-9-15(c)(7), B.R.C. 1981 Nonconforming use (extension, change of use (incl. parking)) Parking deferral per Subsection 9-9-6(e), B.R.C. 1981 Parking reduction of up to ~~fifty~~ 25 percent per Subsection 9-9-6(f), B.R.C. 1981	Annexation/initial zoning BOZA variances Concept plans Demolition, moving, and removal of buildings with potential historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981 Form-based code review Geophysical exploration permit Landmark alteration certificates other than those that may be approved by staff per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981 Lot line adjustments Lot line elimination Minor Subdivisions Out of city utility permit Rezoning Site review Subdivisions Use review Vacations of street, alley, or access easement

Parking reductions and modifications for bicycle parking per Paragraph 9-9-6(g)(6), B.R.C. 1981 Parking stall variances Public utility Rescission of development approval Revocable permit Right-of-way lease Setback variance Site access variance Solar exception Zoning verification	

Section 8. Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, is amended to read as follows:

9-2-3. Variances and Interpretations.

(a) Purpose: This section identifies those standards that can be varied by either the city manager or the Board of Zoning Adjustment (BOZA). Some standards can be varied by the city manager through an administrative Review process, others by BOZA by another level of administrative Review. The city manager may defer any administrative decision pursuant to this section to BOZA. This section also identifies which city manager interpretations of this title may be appealed to BOZA and establishes a process for such appeals.

…

(c) Administrative Variances: The city manager may grant a variance from:

…

(8) The city manager may also grant variances or refer variance requests to the BOZA to allow development not in conformance with the provisions of this title which otherwise would result in a violation of federal or state legislation or regulation, including but not limited to the Federal Fair Housing Act or the Americans with Disabilities Act.

Section 9. Section 9-2-14, "Site Review," B.R.C. 1981, is amended to read as follows:

9-2-14. Site Review.

(a) Purpose: The purpose of site review is to allow flexibility in design, to encourage innovation in land use development, to promote the most appropriate use of land, to improve the character and quality of new development, to facilitate the adequate and economical provision of streets and utilities, to preserve the natural and scenic features of open space, to ensure compatible architecture, massing and height of buildings with existing, approved, and known to be planned or projected buildings in the immediate area, to ensure human scale development, to promote the safety and convenience of pedestrians, bicyclists and other modes within and around developments and to implement the goals and policies of the Boulder Valley Comprehensive Plan and other adopted plans of the community. Review criteria are established to achieve the following:

…

(c) Modifications to Development Standards: The following development standards of B.R.C. 1981 may be modified under the site review process set forth in this section:

(1) 9-7-1, "Schedule of Form and Bulk Standards" and standards referred to in that section except that the standards referred to as "FAR Requirements" may not be modified under this paragraph and are subject to Section 9-8-2, B.R.C. 1981, and the maximum height or conditional height for ~~principal~~ buildings or uses may be modified only as permitted in Paragraph 9-2-14(b)(1)(E), B.R.C. 1981.

…

(20) 9-9-17, "Solar Access~~.~~<u>," provided the modification meets the exception criteria in Paragraph 9-9-17(f)(6).</u>

…

(d) Application Requirements: An application for approval of a site plan may be filed by any person having a demonstrable property interest in land to be included in a site review on a form provided by the city manager that includes, without limitation:

(1) All materials and information required by Subsection 9-2-6(a), B.R.C. 1981~~;~~<u>.</u>

(2) A site plan with a north arrow showing the major details of the proposed development, prepared on a scale of not less than one inch equals one hundred feet providing sufficient detail to evaluate the features of the development required by this section. The site plan shall contain, insofar as applicable, the information set forth in this subsection~~;~~<u>.</u>

(3) The existing topographic character of the land, showing contours at two-foot intervals~~;~~<u>.</u>

(4) The site and location of proposed uses with dimensions indicating the distance from lot lines~~;~~<u>.</u>

(5) The location and size of all existing and proposed buildings, structures and improvements, and the general location of adjacent streets, structures and properties~~;~~.

(6) The maximum height of all buildings and building elevations showing exterior colors and materials~~;~~.

(7) The density and type of uses~~;~~.

(8) The internal traffic and circulation systems, off-street parking areas, service areas, loading areas and major points of access to public rights-of-way~~;~~.

(9) The location, height and size of proposed signs, lighting and advertising devices~~;~~.

(10) The areas that are to be conveyed, dedicated or reserved as parks, recreation areas, playgrounds, outlots or open space and as sites for schools and other public buildings~~;~~.

(11) The areas that are to be conveyed, dedicated or reserved for streets, alley and utility easements~~;~~.

(12) The areas subject to the one hundred-year flood as defined in Chapter 9-16, "Definitions," B.R.C. 1981, and any area of the site that is within a designated space conveyance zone or high hazard zone~~;~~.

(13) A general landscaping plan at the time of initial submission to be followed by a detailed landscaping plan prior to or as a condition of approval, showing the spacing, sizes, specific types of landscaping materials, quantities of all plants and whether the plant is coniferous or deciduous. All trees with a diameter of six inches and over measured fifty-four inches above the ground on the property or in the landscape setback of any property adjacent to the development shall be shown on the landscaping plan.

(14) A shadow analysis depicting shadows on December 21, as described in the solar analysis instructions provided by the city manager, and depicting shadows calculated pursuant to Subsection 9-9-17(d), B.R.C. 1981, for those buildings that affect adjacent properties~~;~~.

(15) A written statement containing the following information:

(A) A statement of the current ownership and a legal description of all of the land included in the project;

(B) An explanation of the objectives to be achieved by the project, including, without limitation, building descriptions, sketches or elevations that may be required to describe the objectives;

(C) A development schedule indicating the approximate date when construction of the project or phases of the project can be expected to begin and be completed; and

(D) Copies of any special agreements, conveyances, restrictions or covenants that will govern the use, maintenance and continued protection of the

goals of the project and any related parks, recreation areas, playgrounds, outlots or open space~~;~~.

(16) Materials required by the City of Boulder Design and Construction Standards, including, without limitation, a traffic study, master utility plan, utility report and storm water report and plan for any application that proposes to construct or have an impact on public improvements~~; and~~.

…

(h) Criteria: No site review application shall be approved unless the approving agency finds that the project is consistent with the following criteria:

…

(2) Site Design Criteria: The project creates safe, convenient, and efficient connections for all modes of travel, promotes safe pedestrian, bicycle, and other modes of alternative travel with the goal of lowering motor vehicle miles traveled. Usable open space is arranged to be accessible; designed to be functional, encourage use, and enhance the attractiveness of the project; and meets the needs of the anticipated residents, occupants, tenants, and visitors to the project. Landscaping aesthetically enhances the project, minimizes use of water, is sustainable, and improves the quality of the environment. Operational elements are screened to mitigate negative visual impacts. In determining whether this is met, the approving agency will consider the following factors:

…

(B) Open Space:

…

(iii) If the project includes more than 50 dwelling units, including the addition of units that causes a project to exceed this threshold, and is more than one mile walking distance to a public park ~~with any of the amenities described herein~~, at least 30 percent of the required outdoor open space is designed for active recreational purposes.

Section 10. Section 9-2-17, "Annexation Requirements," B.R.C. 1981, is amended to read as follows:

9-2-17. Annexation Requirements.

(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.

(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 § 31-12-108.5, C.R.S.

(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.

(d) Hearing: The planning board shall hear a request for annexation at a public hearing and make a recommendation for approval or denial to the city council. After considering the planning board's recommendation, the city council shall make the final determination on a request for annexation.

Section 11. Table 4-1: Summary of Decision Authority by Process Type in Section 9-4-2, "Development Review Procedures," B.R.C. 1981, is amended to read as follows:

9-4-2. Development Review Procedures.

(a) Development Review Authority: Table 4-1 of this section summarizes the review and decision-making responsibilities for the administration of the administrative and development review procedures described in this chapter. The table is a summary tool and does not describe all types of decisions made under this code. Refer to sections referenced for specific requirements. Form and bulk standards may also be modified by site review. Additional procedures that are required by this code but located in other chapters are:

(1) "Historic Preservation," chapter 9-11;

(2) "Inclusionary Housing," chapter 9-13; and

(3) "Residential Growth Management System," chapter 9-14.

TABLE 4-1: SUMMARY OF DECISION AUTHORITY BY PROCESS TYPE

Standard or Application Type	***Staff/City Manager***	***BOZA***	***Planning Board***	***City Council***
Code Interpretation SECTION 9-2-3	D	CA(14)	CA(30)	CA
Setback variance ≤20% SECTION 9-2-3	D	D	—	—
Setback variance >20% SECTION 9-2-3	—	D	—	—
Parking access dimensions SECTION 9-2-2	D	—	—	—
Parking deferral SECTION 9-2-2	D	—	—	—
Parking reduction ≤25% SECTION 9-2-2	D	—	—	—
Parking reduction >25% but ≤50% SECTION 9-2-2	D(14)	—	CA, D(30)	CA
Parking reduction >50% SUBSECTION 9-9-6(f)	—	—	D(30)	CA
~~Parking~~ Building height, conditional SECTION 9-7-6	D	—	—	—
Building height, less than principal or nonstandard building height max SECTION 9-2-14	D(14)	—	CA, D(30)	CA
Building height, greater than principal building height max SECTION 9-2-14	—	—	D(30)	CA
Building height SECTION 9-7-5	—	—	D(30)	CA
Conditional Use SECTION 9-2-1	D	—	—	—
Site Review SECTION 9-2-14	D(14)	—	CA, D(30)	CA
Use Review SECTION 9-2-15	D(14)	—	CA, D(30)	CA
Form-Based Code Review SECTION 9-2-16	D(14)	—	CA, D(30)	CA
Form-Based Code Review, administrative SECTION 9-2-16	D	—	—	—
Form-Based Code Review, minor modification SECTION 9-2-16	D	—	—	—

Annexation SECTION 9-2-17	—	—	R	D
Rezoning SECTION 9-2-19	—	—	R	D
Wetland Permit-Simple SECTION 9-3-9	D	—	—	—
Wetland Permit-Standard SECTION 9-3-9	D(14)	—	D(30)	CA
Extension of Dev't Approval ≤1 yr PARAGRAPH 9-2-12(b)(1)	D	—	—	—
Extension of Dev't Approval >1 yr PARAGRAPH 9-2-12(b)(2)	—	—	D(30)	CA
Rescission of Dev't Approval SUBSECTION 9-2-12(e)	D	—	—	—
Creation of Vested Rights >3 yrs SECTION 9-2-20	—	—	R	D
Floodplain Dev't Permit SECTION 9-3-6	D(14)	—	CA(30)	CA
Wetland Boundary change-Standard SUBSECTION 9-3-9(e)	—	—	R	D
Geophysical Exploration Permit SECTION 9-6-7(b)	D(14)	—	CA(30)	CA
Substitution of Nonconforming Use SECTION 9-10-3	D	—	—	—
Expansion of Nonconforming Use SECTION 9-10-3	D(14)	—	CA(30)	CA
Subdivision, prelim plat SECTION 9-12-7	D	—	—	—
Subdivision, final plat SECTION 9-12-8	D(14)	—	CA	—
Subdivision, minor SECTION 9-12-5	D(14)	—	CA(30)	CA
Subdivision, LLA or LLE SECTIONS 9-12-3 and 9-12-4	D	—	—	—
Solar Exception SUBSECTION 9-9-17(f)	D	D	—	—
Solar Access Permit SUBSECTION 9-9-17(h)	D	D	—	—
Accessory Bldg Coverage SUBSECTION 9-7-8(a)	—	D	—	—
Minor Modification of Discretionary Approval SUBSECTION 9-2-14(k)	D	—	—	—

Minor Amendment of Discretionary Approval SUBSECTION 9-2-14(l)	D(14)	—	CA(30)	CA
Amendment of Discretionary Approval not involving height SUBSECTION 9-2-14(m)	D(14)	—	CA, D(30)	CA
Amendment of Discretionary Approval involving height SECTION 9-2-14	—	—	D(30)	CA
KEY: D = Decision Authority CA = Call-Up and Appeal Authority R = Recommendation only (n) = Maximum number of days for call-up or appeal				

Section 12. Section 9-4-3, "Public Notice Requirements," B.R.C. 1981, is amended to read as follows:

9-4-3. Public Notice Requirements.

(a) Process and Options: When a process or procedure identified in this title requires public notice, the city manager shall provide such notice according to Table 4-2 of this section. If a code section does not reference a specific method, the city manager shall determine the most appropriate notification method to be used.

TABLE 4-2: PUBLIC NOTICE OPTIONS

Public Notice Type	*Type of Application, Meeting or Hearing*	*Mailed Notice*	*Posted Notice*
1	Administrative Reviews (except those identified below)	none	none
2	~~Subdivisions~~ Preliminary Plats and Minor Subdivisions	To adjacent property owners ~~and mineral rights owners~~ a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
3	Good neighbor meetings	To property owners within 600 feet of subject property a minimum of 10 days before meeting	none
4	Solar exceptions, solar access permits	To adjacent property owners a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing

5	Applications requiring BOZA action, wetland permit and boundary determination	To property owners within 300 feet of subject property a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
6	Development Review Applications (site review, use review, annexation, rezoning, concept plans)	To property owners within 600 feet of subject property ~~and any mineral rights owners~~ a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
7	Form-based code review	To property owners and all addresses within 600 feet of the subject property ~~and any mineral rights owners~~ a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
8	Use review applications for oil and gas operations	To property owners, all addresses, and the local government designee of any local government within 5,280 feet (one mile) of the subject property ~~and any mineral rights owners~~ upon finding an application complete and a minimum of 10 days before final action and any mineral rights owners at that time and a minimum of 30 days before initial hearing	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing

…

(e) Notice - Mineral Estate: The purpose of this notice provision is to comply with the notification of surface development requirements in article 24-65.5, C.R.S. The city manager will waive the notice requirements for mineral estate owners under this subsection for use review applications that will not result in the construction of a new building. The applicant shall:

(1) At least thirty days before any initial hearing or, if none, before ~~a final~~ decision on a development review application, send notice, by ~~first class~~certified mail, return receipt requested, or by a nationally recognized overnight courier, to the mineral estate owner.

(2) Provide in the notice a statement about how the decision will be made, rights of appeal, the location of the property that is the subject of the application, and the name of the applicant, the City of Boulder as the approving authority, and the name and address of the mineral estate owner.

(3) Identify the mineral estate holder in a manner consistent with § 24-65.5-103, C.R.S.

(4) Certify, in a form acceptable to the city manager, that such notice has been provided to the mineral estate owner. The certification shall identify the name and address of the mineral estate owners to whom notices were sent. This certification is a condition of approval.

Section 13. Section 9-5-2, "Zoning Districts," B.R.C. 1981, is amended to read as follows:

9-5-2. Zoning Districts.

(a) Classification: Zoning districts are classified according to the following classifications based on the predominant character of development and current or intended use in an area of the community:

…

(c) Zoning District Purposes:

(2) Mixed Use Districts:

(A) Mixed Use - 1: Mixed use areas which are primarily intended to have a mix of residential and nonresidential land uses within close proximity to each other and where complementary business uses may be permitted.

(B) Mixed Use - 2: Mixed use residential areas adjacent to a redeveloping main street area, which are intended to provide a transition between a main street commercial area and established residential districts. Residential areas are intended to develop in a pedestrian-oriented pattern, with buildings built up to the street; with residential, office, and limited retail uses; and where complementary uses may be allowed.

(C) Mixed Use - 3: Areas of the community that are changing to a mixture of residential and complementary nonresidential uses, generally within the same building.

(D) Mixed Use - 4: Mixed use residential areas generally intended for residential uses with neighborhood-serving retail and office uses; and where complementary uses may be allowed. It is anticipated that development will occur in a pedestrian-oriented pattern, with buildings built up to the street.

(3) Business Districts

(~~E~~A) Business - Transitional 1 and Business - Transitional 2: Transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation, temporary lodging and office uses.

(~~F~~B) Business - Main Street: Business areas generally anchored around a main street that are intended to serve the surrounding residential neighborhoods. It is anticipated that development will occur in a pedestrian-oriented pattern, with buildings built up to the street; retail uses on the first floor; residential and office uses above the first floor; and where complementary uses may be allowed.

(~~G~~C) Business - Community 1 and Business - Community 2: Business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate.

(~~H~~D) Business - Commercial Services: Commercial areas primarily used to provide to the community a wide range of retail and commercial uses including repair, service, and small-scale manufacturing uses and where complementary uses may be allowed.

(~~I~~E) Business - Regional 1 and Business - Regional 2: Business centers of the Boulder Valley, containing a wide range of retail and commercial operations, including the largest regional-scale businesses, which serve outlying residential development; and where the goals of the Boulder Urban Renewal Plan are implemented.

(~~3~~4) Downtown Districts:

…

(~~4~~5) Industrial Districts:

…

(~~5~~6) Public Districts:

…

(~~6~~7) Agricultural Districts:

…

(~~7~~8) Flex Districts: A combination of use, form, and intensity standards not reflected in any existing zoning district. Rezoning to a flex district may only be initiated by the planning board or city council as part of an annexation, rezoning after concept review, or area plan, and upon the determination that the flex zone would implement the goals of the Boulder Valley Comprehensive Plan. When rezoning to a flex district, the rezoning ordinance shall identify the specific use, form, and intensity modules which shall be identified on the official zoning map. Nothing in this section shall be construed to prevent city council from creating new zoning districts.

Section 14. Section 9-6-3, "Specific Use Standards - Residential Uses," B.R.C. 1981, is amended to read as follows:

9-6-3. Specific Use Standards – Residential Uses.

(a) Residential Uses:

…

(2) Residential Uses in the IG and IM Zoning Districts: The following standards apply in the IG and IM zoning districts to residential uses that may be approved pursuant to a use review:

(B) Floor Area Ratios (FAR): Residential floor area is limited to a 1.0 FAR on a lot or parcel and non-residential floor area is limited to a 0.5 FAR in the IG zone and 0.4 FAR in the IM zone. If at least 0.3 FAR of light ~~industrial~~ manufacturing or research and development use is on the lot or parcel, the residential FAR may be increased to 1.25 FAR in each zone.

Section 15. Section 9-6-5, "Specific Use Standards - Commercial Uses," B.R.C. 1981, is amended to read as follows:

9-6-5. Specific Use Standards - Commercial Uses.

…

(d) Mobile Food Vehicle:

(1) The following applies to any mobile food vehicle use:

(A) Standards: Mobile food vehicle sales on private property, public property, or in the public right-of-way are allowed by right if the use meets the following standards:

…

(v) No person shall operate a mobile food vehicle sales use without a permit or in violation of the conditions of a permit. The permit will be valid for ~~twelve consecutive months~~up to two years, or ~~such other time~~ as the city manager may by rule designate. Such application shall meet the following requirements:

…

Section 16. The maximum cumulative coverage and wall length articulation lines of Table 7-1: Form and Bulk Standards in Section 9-7-5, "Schedule of Form and Bulk Standards," B.R.C. 1981, are amended to read as follows:

9-7-1. Schedule of Form and Bulk Standards.

The purpose of this chapter is to indicate the requirements for lot dimensions and building form, bulk, location and height for all types of development. All primary and accessory structures are subject to the dimensional standards set forth in Table 7-1 of this section with the exception of structures located in an area designated in Appendix L, "Form-Based Code Areas," subject to the standards of Appendix M, "Form-Based Code." No person shall use any land within the City authorized by Chapter 9-6, "Use Standards," B.R.C. 1981, except according to the following form and bulk requirements unless modified through a use review under Section 9-2-15, "Use Review," B.R.C. 1981, or a site review under Section 9-2-14, "Site Review," B.R.C. 1981, or granted a variance under Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or as approved under the provisions of Section 9-2-16, "Form-based code review," B.R.C. 1981.

TABLE 7-1: FORM AND BULK STANDARDS

Zoning District	A RR-1	RR-2 RE	RH-2 RH-5 P	RL-1 RM-2 RMX-1	BT-2	BT-1 BC BR IS-1 IS-2 IG IM	RL-2 RM-1	RH-4	MU-1	RM-3 RH-1 RH-6	RMX-2	RH-3 RH-7	BCS	MU-3	BMS MU-4	DT-1 DT-2 DT-3 DT-5	DT-4	MU-2 IMS	MH
Form module	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s
~~Maximum cumulative coverage of all accessory buildings regardless of location (m)~~	~~For residential uses - no greater than coverage of the principal building~~																		
Wall length articulation standards for side walls over 14' in height	See Section 9-7-10	n/a	See Section 9-7-10	n/a	See Section 9-7-10	n/a													

~~within 20' of~~and less than 14' from the side property line						

…

Footnotes to Table 7-1, Form and Bulk Standards:

In addition to the foregoing, the following miscellaneous form and bulk requirements apply to all development in the city:

…

(e) For other setback standards regarding garages, open parking areas, and flagpoles, see Paragraph 9-7-2(~~b)(8~~d), B.R.C. 1981.

(f) Where a rear yard backs on a street, see Paragraph 9-7-2(~~b)(7~~c), B.R.C. 1981.

…

Section 17. Section 9-7-2, "Setback Standards," B.R.C. 1981, is amended to read as follows:

9-7-2. Setback Standards.

(a) Permitted Height: The height permitted without review within the City is set forth in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, except as provided in Paragraph (b)(2) of this section. Buildings greater than the permitted height may be approved under Section 9-2-14, "Site Review," B.R.C. 1981.

…

(b) Side Yard Setback Standards:

(1) Setbacks for Upper Floors in Non-Residential Zoning Districts: A principal building constructed with a side yard setback of zero for the first story above grade in the BC-2, BR-1, DT-1, DT-2, DT-3, DT-4, DT-5, IS-1, IG or IM zoning districts, where the side yard setback is noted as "0 or 12," ~~will be allowed to~~may have upper stories set back ~~stories~~ either five feet or the distance required by Chapter 10-5 "Building Code," B.R.C. 1981, whichever is greater. ~~above the first story that is at or above the finished grade the greater of five feet or the distance required by Chapter 10-5, "Building Code," B.R.C. 1981.~~

…

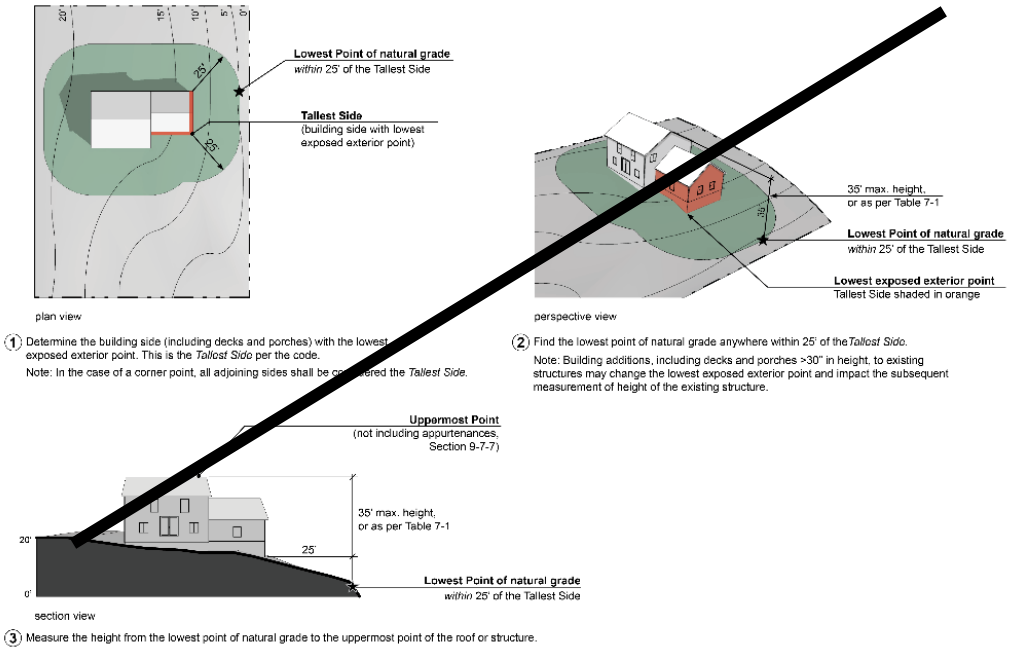
Section 18. Section 9-7-5, "Building Height," B.R.C. 1981, is amended to read as follows:

9-7-5. Building Height.

(a) Permitted Height: The height permitted without review within the City is set forth in Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, except as provided in Paragraph (b)(2) of this section. Buildings greater than the permitted height may be approved under Section 9-2-14, "Site Review," B.R.C. 1981.

(b) Measurement of Height: Height shall be measured as the vertical distance from the lowest point within twenty-five horizontal feet of the tallest side of the structure to the uppermost point of the roof or structure. The lowest point shall be calculated using the natural grade. The tallest side shall be that side whose lowest exposed exterior point is lower in elevation than the lowest exposed exterior point of any other side of the building (see Figure 7-3 Measurement of Height).

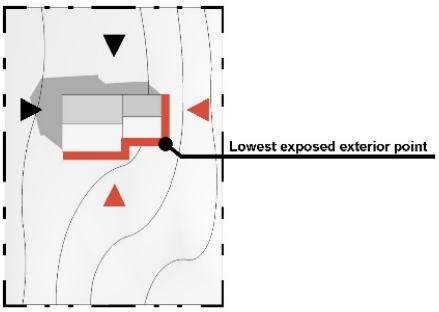
(1) Modifications to Natural Grade: If there is evidence that a modification to the natural grade has occurred since the adoption of Charter section 84, "Height limit." B.R.C. 1981, on November 2, 1971, the city manager can consider the best available information to determine the natural grade. This may include, without limitation, interpolating what the existing grade may have been using the grade along property lines, topographic information on file with the City, or other information that may be presented to the city manager.



1 DETERMINE TALLEST SIDE

Determine the building side with the **lowest exposed exterior point**. This is the **tallest side** per the code.

▶ When the lowest exposed exterior point is at a corner, all adjoining sides are considered the **tallest side**.



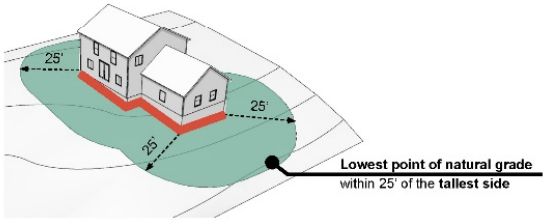
▶ Buildings are considered to have four sides, regardless of layout or complexity of design.

2 FIND LOWEST POINT OF NATURAL GRADE

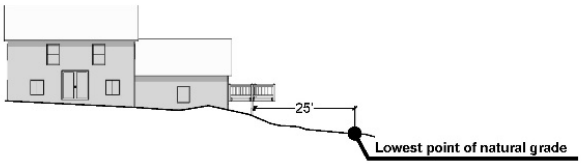
Find the **lowest point of natural grade** anywhere within 25' of the **tallest side**.

▶ Natural grade includes depressions, but does not include features like ditches or pools.

▶ The lowest point could be off-site on adjacent property or city right-of-way.



▶ Building additions or elevated building elements like decks or porches are considered part of the building side and may impact the **lowest point of natural grade**.



3 MEASURE TO UPPERMOST POINT

Measure the height from the **lowest point of natural grade** to the **uppermost point** of the roof or structure.

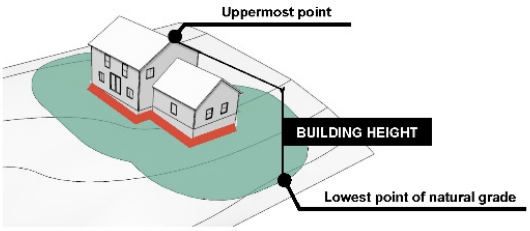


Figure 7-3: Measurement of Height

…

(e) Height Calculations for Attached Buildings:

…

(2) Separate buildings in compliance with Paragraph (~~d~~e)(1) of this section, and which exceed the maximum permitted height allowed by Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, may be considered by the planning board pursuant to Section 9-2-14, "Site Review," B.R.C. 1981.

…

Section 19. Section 9-7-6, "Building Height, Conditional," B.R.C. 1981, is amended to read as follows:

9-7-6. Building Height, Conditional.

(a) High Density Residential District ~~Administrative~~ Review Criteria: In the RH zones, principal building height may be increased to forty feet if:

…

Section 20. Section 9-7-10, "Side Yard Wall Articulation," B.R.C. 1981, is amended to read as follows:

9-7-10. Side Yard Wall Articulation.

(a) Purpose: Buildings with tall side walls may impact privacy, views or visual access to the sky on neighboring properties. The purpose of the side yard wall articulation standard is to reduce the perceived mass of a building by dividing it into smaller components, or to step down the wall height in order to enhance privacy, preserve views and visual access to the sky for lots or parcels that are adjacent to new development.

…

(c) Side Yard Wall Standards: Along each side yard property line, the cumulative length of any walls that exceed a height of fourteen feet shall not exceed forty feet in length, unless they are set back at least fourteen feet from the side property line (see Figure 7-14). For the purposes of this section, wall height shall be measured from finished grade as follows:

(1) Sloped roofs shall be measured from adjacent finished grade to the point where the vertical wall intersects with the sloped roof.

(2) Flat roofs shall be measured from adjacent finished grade to the top of the parapet.

(3) Window wells or door wells as described under Subparagraph 9-8-2(e)(1)(D) shall not be counted as part of the wall height.

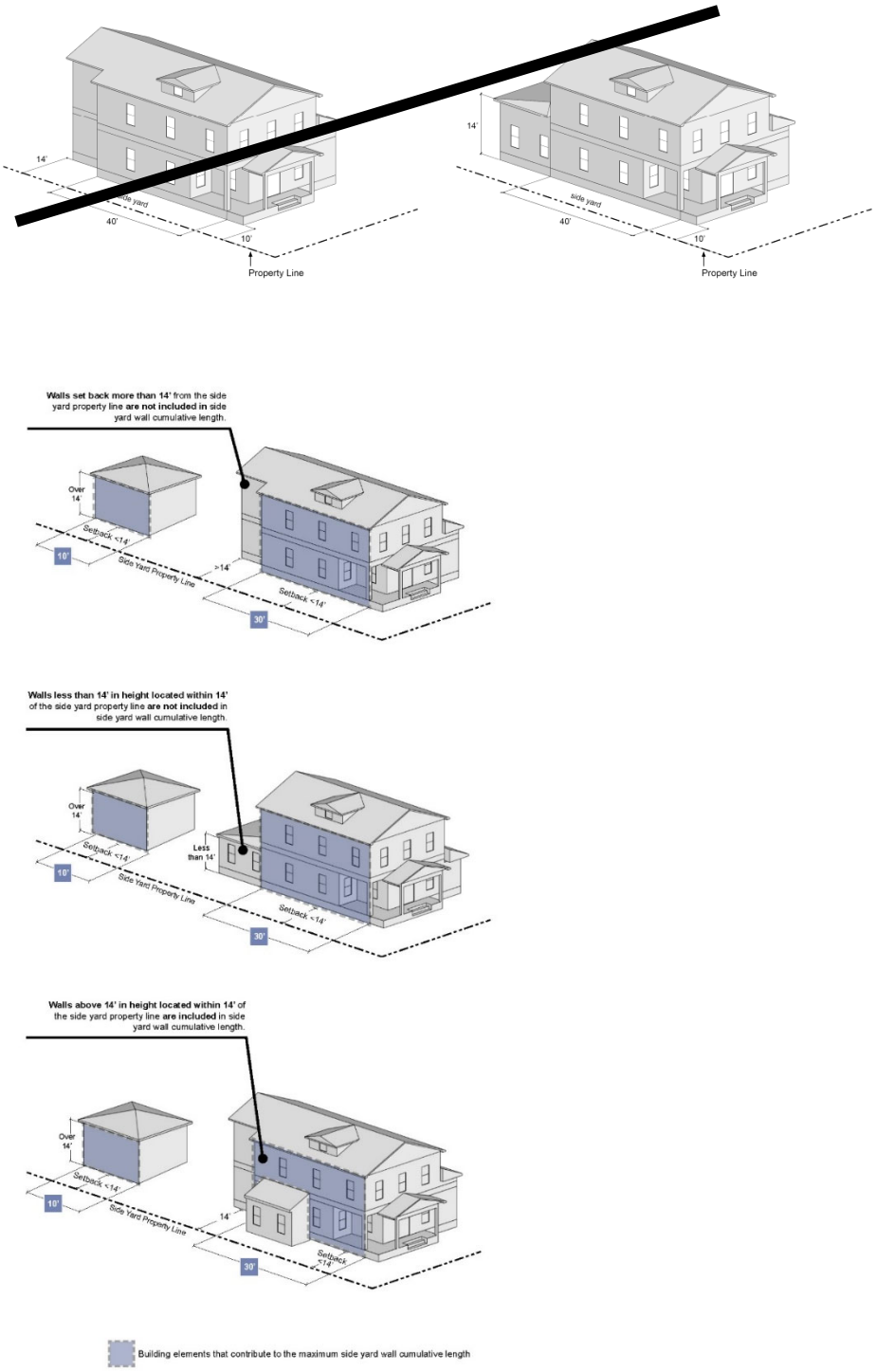


Figure 7-14: Side Yard Wall Length Articulation Examples

~~After the maximum 40 feet cumulative wall length, the wall must either be set back from the side property line by a minimum of fourteen feet (top image) or the height of the wall must reduce to fourteen feet or less (bottom image).~~

…

Section 21. Section 9-9-6, "Parking Standards," B.R.C. 1981, is amended to read as follows:

9-9-6. Parking Standards.

(a) Rationale: The intent of this section is to provide adequate off-street parking for all uses, to prevent undue congestion and interference with the traffic carrying capacity of city streets, and to minimize the visual and environmental impacts of excessive parking lot paving.

…

(d) Motor Vehicle Parking Design Standards:

…

(5) Parking Design Details:

…

(B) With the exception of parking areas for detached dwelling units, ~~All~~ all parking areas ~~are~~ shall be paved with asphalt, concrete, or other similar permanent, hard surface ~~except for parking areas for detached dwelling units~~. Parking areas for detached dwelling units shall be surfaced with materials capable of sustaining the weight and impacts of the associated vehicle usage.

...

(f) Motor Vehicle Parking Reductions:

…

(3) Alternative administrative parking reductions by land use: The parking requirements in Section 9-9-6, "Parking Standards," B.R.C. 1981, may be reduced if the following standards are met. These standards shall not be permitted to be combined with the parking reduction standards in Subparagraphs (f)(2) of this section.

…

(B) Mixed Use Developments: The city manager may reduce the amount of required parking in a mixed-use development by up to ten percent in the

BMS, IMS, MU-1, MU-2, MU-3 and RMX-2 zoning districts, or in all other nonresidential zoning districts in Section 9-5-2, "Zoning Districts," B.R.C. 1981, by up to a twenty-five-percent parking reduction if the following requirements are met:

…

Section 22. Section 9-9-11, "Useable Open Space," B.R.C. 1981, is amended to read as follows:

9-9-11. Useable Open Space.

(a) Purpose of Open Space: The purpose of useable open space is to provide indoor and outdoor areas for passive and active uses to meet the needs of the anticipated residents, tenants, employees, customers and visitors of a property, and to enhance the environment of a development or building. Open space can be used to:

…

(f) Special Open Space Requirements Applicable to Residential Uses: Useable open space for residential uses also includes:

(1) ~~Individual b~~Balconies, decks, porches, and patio areas associated with an individual dwelling unit or common open spaces on a roof or elevated above the first story, ~~that are not intended or designed to be enclosed,~~ if the ~~minimum~~ size of ~~such individual balcony, deck or patio~~the applicable open space is not less than ~~thirty-six~~36 square feet and not less than ~~forty-eight~~48 inches in any dimension ~~or porches that meet the requirements of section 9-7-4, "Setback Encroachments for Front Porches," B.R.C. 1981~~. Such areas shall count for no more than ~~twenty-five~~25 percent of the required useable open space.

…

Section 23. Section 9-9-12, "Landscaping and Screening Standards," B.R.C. 1981, is amended to read as follows:

9-9-12. Landscaping and Screening Standards.

(a) Purpose: The purpose of the landscaping and screening requirements set forth in this chapter is to:

…

(d) General Landscaping and Screening Requirements:

…

(2) Landscape and Screening Planting, Maintenance, and Replacement: The property owner shall maintain all required landscaping and provide for replacement of plant materials that have died or have otherwise been damaged or removed, and maintenance of all non-live landscaping materials, including, but not limited to, fencing, paving, irrigation systems, and retaining walls from the issuance of a certificate of occupancy or certificate of completion.

(i) Planting: Required landscaping and screening shall be planted between March 1 and October 15. Bare root stock shall be planted between March 1 and April 30 or prior to plants leafing out. Stock, other than container-grown stock, shall be planted between March 1 and June 1 or between September 1 and October 15. The city manager may approve planting at different times based on weather conditions that allow for successful planting.

(ii) Maintenance and Replacement: The property owner shall maintain all required landscaping and provide for replacement of plant materials that have died or have otherwise been damaged or removed, and maintenance of all non-live landscaping materials, including, but not limited to, fencing, paving, irrigation systems, and retaining walls from the issuance of a certificate of occupancy or certificate of completion.

…

Section 24. Section 9-10-2, "Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures, and Lots," B.R.C. 1981, is amended to read as follows:

9-10-2. Continuation or Restoration of Nonconforming Uses and Nonstandard Buildings, Structures, and Lots.

Nonconforming uses and nonstandard buildings and lots in existence on the effective date of the ordinance which first made them nonconforming may continue to exist subject to the following:

…

(b) Damage by Fire, Flood, Wind, or Other Calamity or Act of God and Unsafe Buildings: A nonstandard building or structure, a building or structure that contains a nonconforming use, or a building or structure on a nonstandard lot, that has been damaged by fire, flood, wind, or other calamity or act of God may be restored to its original condition, or any building declared unsafe under the building code or any other applicable safety or health code may be restored to a safe condition, provided that such work is consistent with the requirements of Section 9-3-3, "Regulations Governing the One Hundred-Year Floodplain," B.R.C. 1981, started within ~~twelve months~~two years of such event, and completed within ~~twenty-four months~~three years of the date on which the restoration commenced.

…

Section 25. Section 9-12-5, "Minor Subdivision," B.R.C. 1981, is amended to read as follows:

9-12-5. Minor Subdivision.

(a) Scope: A minor subdivision is a division of land that is already served by city services, will not require the extension of streets or public improvements and will not result in more than one additional lot.

(b) Limitations: The provisions of this section shall not apply to a replat that:

(1) Requires any ~~variations~~ modifications to section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981;

…

Section 26. Section 9-12-7, "Staff Review and Approval of Preliminary Plat," B.R.C. 1981, is amended to read as follows:

9-12-7. Staff Review and Approval of Preliminary Plat.

(a) City Manager Review: The city manager shall review all preliminary subdivision plats and approve those that the manager finds meet all requirements of this code and other ordinances of the City or are necessary to protect the public health, safety and welfare. The manager shall process those that include applications for site reviews under chapter 9-2, "Review Processes," B.R.C. 1981, under the requirements of that chapter and shall ensure that the conditions of the site review approval will be met within the future subdivision. The manager shall process preliminary plats that do not include applications for site reviews and provide to the subdivider a list of any deficiencies that may exist.

(b) Notice of Surface Estate: The city manager shall notify tenants of the property and abutting property owners by first class mail that the subdivision is proposed and that any questions or comments thereon may be directed to the planning department ~~of planning and community development~~.

(c) Notice of Mineral Estate: The purpose of this notice provision is to comply with the notification of surface development requirements in article 24-65.5, C.R.S. The applicant shall:

(1) At least thirty days before any initial hearing or, if none, before~~a final~~ decision on an application for development, send notice, by ~~first class~~certified mail, return receipt requested, or by a nationally recognized overnight courier to the mineral estate owner;

(2) Provide in the notice a statement about how the decision will be made, rights of appeal, the location of the property that is the subject of the application, and the name of the applicant, the City of Boulder as the approving authority and the name and address of the mineral estate owner;

(3) Identify the mineral estate holder in a manner consistent with § 24-65.5-103, C.R.S.; and

(4) Certify, in a form acceptable to the city manager, that such notice has been provided to the mineral estate owner. The certification shall identify the name and address of the mineral estate owners to whom notices were sent. This certification is a condition of approval.

…

Section 27. Section 9-12-8, "Final Plat," B.R.C. 1981, is amended to read as follows:

9-12-8. Final Plat.

(a) A final plat may be submitted at the same time as a preliminary plat.

(b) In order to obtain city manager review of a final plat, the subdivider shall submit a final plat that conforms to the approved preliminary plat, includes all changes required by the manager or the planning board, and includes the following information:

…

(4) Accurate dimensions for all lines, angles and curves used to describe boundaries, public improvements, easements, areas to be reserved for public use and other important features. (All curves shall be circular arcs and shall be defined by the radius, central angle, tangent, arc and chart distances. All dimensions, both linear and angular, are to be determined by an accurate control survey in the field that must balance and close within a limit of one in ten thousand. ~~No final plat showing plus or minus dimensions will be approved.~~);

…

Section 28. Section 9-12-9, "Lot Line and Boundary Verification," B.R.C. 1981, is amended to read as follows:

9-12-9. Lot Line and Boundary Verification.

The subdivider shall provide to the c~~C~~ity a computer check to ~~assure~~ ensure that the exterior lines of the subdivision on the final plat close. ~~In the absence of such verification, the City shall obtain such computer check and the subdivider shall pay the fee therefor prescribed by Subsection 4-20-43(a), B.R.C. 1981, before recording the plat.~~

Section 29. Section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981, is amended to read as follows:

9-12-12. Standards for Lots and Public Improvements.

(a) Conditions Required: Except as provided in subsection (b) of this section, subdivision plats shall comply with Section 9-9-17, "Solar Access," B.R.C. 1981, and meet the following conditions:

…

(c) Private Utilities and Improvements: If the subdivider installs private utilities or improvements, including, without limitation, streets or water, wastewater and storm drain utilities, the subdivider shall provide mutual covenants in the deeds of all property owners of the subdivision for the continued and perpetual maintenance of the utilities or improvements. The city manager may require creation of a unit owners association formed pursuant to the Colorado Common Interest Ownership Act, Article 33.3, Title 38, Colorado Revised Statutes, to own and maintain common private utilities and improvements.

Section 30. Section 9-13-10, "Options for Satisfaction of Inclusionary Housing Requirement," B.R.C. 1981, is amended to read as follows:

9-13-10. Options for Satisfaction of Inclusionary Housing Requirement.

(a) Purpose: In order to create a significant amount of permanently affordable units, to the extent permitted by this chapter, developers may satisfy the inclusionary housing requirement through any combination of the following alternate means:

(1) Cash-in-Lieu Contribution: Developers may satisfy permanently affordable housing requirements by making cash contributions to the city's affordable housing fund. The cash-in-lieu contribution will be based on the residential square footage of the development creating the inclusionary housing requirement and the applicable rate will be determined annually by the city manager. The city manager may consider the number of units in the development, the size and type of units which created the obligation, the amount that would incentivize on-site construction of permanently affordable units, and the affordability gap between market rate and permanently affordable unit prices when determining the cash-in-lieu calculation.

(A) Annual Cash-in-lieu Escalator: The city manager is authorized to adjust the cash-in-lieu contribution annually on ~~July~~ January 1 of each year.

…

Section 31. This ordinance shall apply to any building permit, conditional use, use review, and site review applied for on or after the effective date of this ordinance; however, any project for which a complete building permit, site review, use review, or conditional use application has been submitted to the city or which has received a site review, use review, or conditional use approval prior to the effective date of this ordinance for a use inconsistent with the provisions of this ordinance will be permitted to establish the proposed use under the use standards of Chapter 9-6, " Use Standards," B.R.C. 1981, in effect at the time the building permit, site review, use review, or conditional use application was submitted to the city. Such applicants shall be required to pursue such development approvals and meet all requirements deadlines set by the city manager and the Boulder Revised Code necessary to establish the proposed use. The applications for such project shall demonstrate compliance with all applicable laws. An applicant may seek extensions of a development approval granted under the use standards in effect prior to the effective date of this ordinance in accordance with the standards of Subsection 9-2-12(b), "Extensions," B.R.C. 1981, and any initial review under Paragraph 9-2-12(b)(2), "Planning Board Level Extension," B.R.C. 1981, shall not impose as an additional condition compliance with the use standards adopted in this ordinance provided that all other requirements of this Section 5 of this ordinance have been met. Any failure to meet requirements of the city manager or this section of this ordinance will result in a denial of such application. Any subsequent application shall meet the requirements in place at the time of such subsequent application.

Section 32. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 33. This ordinance is necessary to protect the public health, safety, and welfare of the residents of the city and covers matters of local concern.

Section 34. The city council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 15th day of February 2024.

_____
Aaron Brockett,
Mayor

Attest:

_____
Elesha Johnson,
City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 7th day of March 2023.

_____
Aaron Brockett,
Mayor

Attest:

_____
Elesha Johnson,
City Clerk

Attachment B: Annotated Ordinance 8620

NOTE: This version of the draft ordinance includes footnotes that help to describe all of the proposed changes as well as the redlined tracked changes to existing code language.

2-3-12. BOARD OF ZONING ADJUSTMENT AND BUILDING APPEALS

(b) The board's functions are to:

(1) Review and decide at the request of any interested person any question of interpretation by the city manager of Chapters 9-6, "Use Standards," 9-7, "Schedule of Form and Bulk Standards," and 9-8, "Intensity Standards," B.R.C. 1981;

(2) Hear and decide to grant or deny applications for variances from the setback requirements of Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, and the size requirements for accessory dwelling units of Subparagraph 9-6-3(n) B.R.C. 1981;

(3) Hear and decide applications for exceptions under the solar access ordinance, Section 9-9-17, "Solar Access," B.R.C. 1981;

(4) Hear and decide to grant or deny applications for variances, and to hear and decide appeals of orders from the city manager under the sign code, Section 9-9-21, "Signs," B.R.C. 1981;[1]

(5) Sit as the Board of Building Appeals pursuant to Section 2-3-4, "Board of Building Appeals," B.R.C. 1981; and

(6) Hear and decide such other matters as the city council may by ordinance provide.

6-14-2. DEFINITIONS

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

…

Mixed -use development means a building, or a project, or a development, which may consist of one or multiple lots or parcels, that contains one or more nonresidential use and one or more dwelling units in any zone district.[2]

…

Produce or production means: (i) combining marijuana with any other substance for distribution, including storage and packaging for resale; or (ii) preparing, compounding, processing, encapsulating, packaging, or repackaging, labeling, or relabeling of marijuana or its derivatives, whether alone or mixed with any amount of any other substance. *Production* shall not include packaging or repackaging, labeling, or relabeling of a usable form of marijuana if no production has occurred and such packaging and labeling qualify as cultivation.

Residential zone district means any district in the residential classification of Table 5-1 in Section 9-5-2, B.R.C., 1981[3]

Restricted area means the portion of a medical marijuana business location within which the licensee defines on its application it intends to cultivate, distribute, possess, or produce medical marijuana and which area is clearly identified as the restricted area on the floor plan submitted with the medical marijuana business license application for the business.

---

[1] The authority for BOZA to review sign variances is not described in Title 2, but is listed in Title 9. This change reconciles that difference.
[2] Change to licensing part of code - Clarifies applicability of multi-lot mixed use development location requirements for medical and recreational marijuana.
[3] Change to licensing part of code - Clarifies applicability of multi-lot mixed use development location requirements for medical and recreational marijuana.

…

6-14-7. LOCATIONS OF MEDICAL MARIJUANA BUSINESSES

…

(c) No Medical Marijuana Business in Building with Residences or Residential Zone Districts. It shall be unlawful to operate a medical marijuana business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district, or within a mixed -use development ~~that includes a residence~~. This restriction shall not apply to a medical marijuana wellness center that had submitted an application or held a license from the city on October 22, 2013. [4]

…

6-16-2. DEFINITIONS

The following words and phrases used in this chapter have the following meanings unless the context clearly indicates otherwise:

…

Mixed use development means a building, or a project, or a development, which may consist of one or multiple lots or parcels, that contains one or more nonresidential use and one or more dwelling units in any zone district. [5]

…

Recreational marijuana plant means a marijuana seed that is germinated and all parts of the growth therefrom, including, without limitation, roots, stalks, and leaves, so long as the flowers, roots, stalks, and leaves are all connected and in a growing medium. Recreational marijuana plant shall include immature plants except where specifically excepted in this code. For purposes of this chapter, any part of the plant removed is considered harvested and no longer part of a recreational marijuana plant, but marijuana.

Residential zone district means any district in the residential classification of Table 5-1 in Section 9-5-2, B.R.C., 1981[6]

Restricted area means the portion of a recreational marijuana business premises within which the licensee defines on its application it intends to cultivate, distribute, possess, or produce recreational marijuana and which area is clearly identified as the restricted area on the floor plan submitted with the recreational marijuana business license application for the business.

…

6-16-5. APPLICATION; MODIFICATION OF PREMISES

(a) Application Requirements. An application for a recreational marijuana business license shall be made to the city on forms provided by the city manager for that purpose. The applicant shall use the application to demonstrate its compliance with this chapter and any other applicable law, rule, or regulation. In addition

---

[4] Change to licensing part of code - Clarifies applicability of multi-lot mixed use development location requirements for medical and recreational marijuana.

[5] Change to licensing part of code - Clarifies applicability of multi-lot mixed use development location requirements for medical and recreational marijuana.

[6] Change to licensing part of code - Clarifies applicability of multi-lot mixed use development location requirements for medical and recreational marijuana.

to the information required by Chapter 4-1, "General Licensing Provisions," B.R.C. 1981, the application shall include the following information:

…

(9) A zoning confirmation form from the city, to ascertain within a radius of one-quarter mile from the boundaries of the property upon which the recreational marijuana business is located, the proximity of the property to any school or other facility identified in this chapter, or state licensed child care center, to any other marijuana business or to any residential zone district or a mixed~~-~~ use development~~ containing one or more residences~~.[7]

…

6-16-7. LOCATIONS OF RECREATIONAL MARIJUANA BUSINESSES

…

(c) No Recreational Marijuana Business in Building With Residences or Residential Zone Districts. It shall be unlawful to operate a recreational marijuana business in a building which contains a residence, or within a dwelling unit within any zone district, or within a residential zone district, or within a mixed ~~-~~use development~~ that includes a residence~~.[8]

…

9-2-1. TYPES OF REVIEWS

…

(b) Summary Chart:

TABLE 2-1: REVIEW PROCESSES SUMMARY CHART

I. ADMINISTRATIVE REVIEWS	*II. DEVELOPMENT REVIEW AND BOARD ACTION*
Affordable housing design review pursuant to Section 9-13-4, B.R.C. 1981 Building permits Change of address Change of street name Conditional uses, as noted in Table 6-1: Use Table Demolition, moving, and removal of buildings with no historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981	Annexation/initial zoning BOZA variances Concept plans Demolition, moving, and removal of buildings with potential historic or architectural significance, per Section 9-11-23, "Review of Permits for Demolition, On-Site Relocation, and Off-Site Relocation of Buildings Not Designated," B.R.C. 1981 Form-based code review Geophysical exploration permit Landmark alteration certificates other than those that may be approved by staff per Section 9-11-14, "Staff

[7] Change to licensing part of code - Clarifies applicability of multi-lot mixed use development location requirements for medical and recreational marijuana.

[8] Change to licensing part of code - Clarifies applicability of multi-lot mixed use development location requirements for medical and recreational marijuana.

Easement vacation Extension of development approval/staff level Landmark alteration certificates (staff review per Section 9-11-14, "Staff Review of Application for Landmark Alteration Certificate," B.R.C. 1981) Landscape standards variance Minor modification to approved site plan Minor modification to approved form-based code review Noise barriers along major streets per Paragraph 9-9-15(c)(7), B.R.C. 1981 Nonconforming use (extension, change of use (incl. parking)) Parking deferral per Subsection 9-9-6(e), B.R.C. 1981 Parking reduction of up to ~~fifty~~ 25 percent per Subsection 9-9-6(f), B.R.C. 1981[9] Parking reductions and modifications for bicycle parking per Paragraph 9-9-6(g)(6), B.R.C. 1981 Parking stall variances Public utility Rescission of development approval Revocable permit Right-of-way lease Setback variance Site access variance Solar exception Zoning verification	Review of Application for Landmark Alteration Certificate," B.R.C. 1981 Lot line adjustments Lot line elimination Minor Subdivisions Out of city utility permit Rezoning Site review Subdivisions Use review Vacations of street, alley, or access easement

[9] To align with Ordinance 8599 and the parking reduction regulations that have been implemented for years, this table clarifies that parking reductions are only allowed up to 25% as Administrative Reviews.

9-2-3. VARIANCES AND INTERPRETATIONS

…

(c) Administrative Variances: The city manager may grant a variance from:

…

(8) The city manager may also grant variances or refer variance requests to the BOZA to allow development not in conformance with the provisions of this title which otherwise would result in a violation of federal or state legislation, including but not limited to the Federal Fair Housing Act or the Americans with Disabilities Act. [10]

9-2-14. SITE REVIEW

…

(c) Modifications to Development Standards: The following development standards of B.R.C. 1981 may be modified under the site review process set forth in this section:

(1) 9-7-1, "Schedule of Form and Bulk Standards" and standards referred to in that section except that the standards referred to as "FAR Requirements" may not be modified under this paragraph and are subject to Section 9-8-2, B.R.C. 1981, and the maximum height or conditional height for ~~principal~~ buildings or uses may be modified only as permitted in Paragraph 9-2-14(b)(1)(E), B.R.C. 1981.[11]

…

(20) 9-9-17, "Solar Access~~.~~", provided the modification meets the exception criteria in 9-9-17(f)(6).[12]

…

(d) Application Requirements: An application for approval of a site plan may be filed by any person having a demonstrable property interest in land to be included in a site review on a form provided by the city manager that includes, without limitation:[13]

(1) All materials and information required by Subsection 9-2-6(a), B.R.C. 1981~~;~~.

(2) A site plan with a north arrow showing the major details of the proposed development, prepared on a scale of not less than one inch equals one hundred feet providing sufficient detail to evaluate the features of the development required by this section. The site plan shall contain, insofar as applicable, the information set forth in this subsection~~;~~.

(3) The existing topographic character of the land, showing contours at two-foot intervals~~;~~.

(4) The site and location of proposed uses with dimensions indicating the distance from lot lines~~;~~.

(5) The location and size of all existing and proposed buildings, structures and improvements, and the general location of adjacent streets, structures and properties~~;~~.

---

[10] Change recommended by City Attorney's Office to modify applicability to include violations of state legislation as well as federal legislation.
[11] Clarifies that height modifications may also be requested for accessory buildings.
[12] Clarifies that modifications must still meet the existing exception criteria.
[13] Makes punctuation in list consistent.

(6) The maximum height of all buildings and building elevations showing exterior colors and materials~~;~~.

(7) The density and type of uses~~;~~.

(8) The internal traffic and circulation systems, off-street parking areas, service areas, loading areas and major points of access to public rights-of-way~~;~~.

(9) The location, height and size of proposed signs, lighting and advertising devices~~;~~.

(10) The areas that are to be conveyed, dedicated or reserved as parks, recreation areas, playgrounds, outlots or open space and as sites for schools and other public buildings~~;~~.

(11) The areas that are to be conveyed, dedicated or reserved for streets, alley and utility easements~~;~~.

(12) The areas subject to the one hundred-year flood as defined in Chapter 9-16, "Definitions," B.R.C. 1981, and any area of the site that is within a designated space conveyance zone or high hazard zone~~;~~.

(13) A general landscaping plan at the time of initial submission to be followed by a detailed landscaping plan prior to or as a condition of approval, showing the spacing, sizes, specific types of landscaping materials, quantities of all plants and whether the plant is coniferous or deciduous. All trees with a diameter of six inches and over measured fifty-four inches above the ground on the property or in the landscape setback of any property adjacent to the development shall be shown on the landscaping plan.

(14) A shadow analysis depicting shadows on December 21, as described in the solar analysis instructions provided by the city manager, and depicting shadows calculated pursuant to Subsection 9-9-17(d), B.R.C. 1981, for those buildings that affect adjacent properties~~;~~.

(15) A written statement containing the following information:

(A) A statement of the current ownership and a legal description of all of the land included in the project;

(B) An explanation of the objectives to be achieved by the project, including, without limitation, building descriptions, sketches or elevations that may be required to describe the objectives;

(C) A development schedule indicating the approximate date when construction of the project or phases of the project can be expected to begin and be completed; and

(D) Copies of any special agreements, conveyances, restrictions or covenants that will govern the use, maintenance and continued protection of the goals of the project and any related parks, recreation areas, playgrounds, outlots or open space~~;~~.

(16) Materials required by the City of Boulder Design and Construction Standards, including, without limitation, a traffic study, master utility plan, utility report and storm water report and plan for any application that proposes to construct or have an impact on public improvements~~; and~~.

…

(h) Criteria: No site review application shall be approved unless the approving agency finds that the project is consistent with the following criteria:

…

(2) Site Design Criteria: The project creates safe, convenient, and efficient connections for all modes of travel, promotes safe pedestrian, bicycle, and other modes of alternative travel with the goal of lowering motor vehicle miles traveled. Usable open space is arranged to be accessible; designed to be functional, encourage use, and enhance the attractiveness of the project; and meets the needs of the anticipated residents, occupants, tenants, and visitors to the project.

Landscaping aesthetically enhances the project, minimizes use of water, is sustainable, and improves the quality of the environment. Operational elements are screened to mitigate negative visual impacts. In determining whether this is met, the approving agency will consider the following factors:

…

(B) Open Space:

…

(iii) If the project includes more than 50 dwelling units, including the addition of units that causes a project to exceed this threshold, and is more than one mile walking distance to a public park ~~with any of the amenities described herein~~, at least 30 percent of the required outdoor open space is designed for active recreational purposes.[14]

9-2-17. ANNEXATION REQUIREMENTS

…

(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.

(d) Hearing: The planning board shall hear a request for annexation at a public hearing and make a recommendation for approval or denial to the city council. After considering the planning board's recommendation, the city council shall make the final determination on a request for annexation. [15]

9-4-2. DEVELOPMENT REVIEW PROCEDURES

(a) Development Review Authority: Table 4-1 of this section summarizes the review and decision-making responsibilities for the administration of the administrative and development review procedures described in this chapter. The table is a summary tool and does not describe all types of decisions made under this code. Refer to sections referenced for specific requirements. Form and bulk standards may also be modified by site review. Additional procedures that are required by this code but located in other chapters are:

(1) "Historic Preservation," chapter 9-11;

(2) "Inclusionary Housing," chapter 9-13; and

(3) "Residential Growth Management System," chapter 9-14.

---

[14] Drafting error.

[15] In Table 4-1, Planning Board is identified as "Recommendation only" for annexations. However, the code requirements in 9-2 do not reference the Planning Board's role in annexations. This proposed language has been modeled to mirror language in 9-2-19 regarding rezoning applications.

TABLE 4-1: SUMMARY OF DECISION AUTHORITY BY PROCESS TYPE

Standard or Application Type	*Staff/City Manager*	*BOZA*	*Planning Board*	*City Council*
~~Parking~~ Building height, conditional SECTION 9-7-6[16]	D	—	—	—

…

9-4-3. PUBLIC NOTICE REQUIREMENTS

(a) Process and Options: When a process or procedure identified in this title requires public notice, the city manager shall provide such notice according to Table 4-2 of this section. If a code section does not reference a specific method, the city manager shall determine the most appropriate notification method to be used.

TABLE 4-2: PUBLIC NOTICE OPTIONS

Public Notice Type	*Type of Application, Meeting or Hearing*	*Mailed Notice*	*Posted Notice*
1	Administrative Reviews (except those identified below)	none	none
2	~~Subdivisions~~ Preliminary Plats and Minor Subdivisions[17]	To adjacent property owners ~~and mineral rights owners~~ a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
3	Good neighbor meetings	To property owners within 600 feet of subject property a minimum of 10 days before meeting	none
4	Solar exceptions, solar access permits	To adjacent property owners a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
5	Applications requiring BOZA action, wetland permit and boundary determination	To property owners within 300 feet of subject property a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
6	Development Review Applications (site review, use review, annexation, rezoning, concept plans)	To property owners within 600 feet of subject property ~~and any mineral rights owners~~ a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
7	Form-based code review	To property owners and all addresses within 600 feet of the subject property ~~and any~~	Post property a minimum of 10 days from receipt of

[16] Fixes a typo, which is intended to state "*building* height, conditional" and has been in the code for several years.
[17] Public notice requirements for preliminary plats are somewhat unclear currently. In 9-12-7, "Staff Review and Approval of Preliminary Plat," (b) specifies that notice of surface estate and mineral state is required. However, Table 4-2 is relatively unclear as it does not specifically reference preliminary plats. Additionally, the references to mineral rights owners have been updated to meet notification requirements under state law.

		~~mineral rights owners~~ a minimum of 10 days before final action and mineral rights owners a minimum of 30 days before initial hearing or decision	application and prior to final action or any hearing
8	Use review applications for oil and gas operations	To property owners, all addresses, and the local government designee of any local government within 5,280 feet (one mile) of the subject property ~~and any mineral rights owners~~ upon finding an application complete and a minimum of 10 days before final action and any mineral rights owners at that time and a minimum of 30 days before initial hearing	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing

…

(e) Notice - Mineral Estate: The purpose of this notice provision is to comply with the notification of surface development requirements in article 24-65.5, C.R.S. The city manager will waive the notice requirements for mineral estate owners under this subsection for use review applications that will not result in the construction of a new building. The applicant shall:[18]

(1) At least thirty days before any initial hearing or, if none, before ~~a final~~ decision on a development review application, send notice, by ~~first class~~certified mail, return receipt requested, or by a nationally recognized overnight courier, to the mineral estate owner.

(2) Provide in the notice a statement about how the decision will be made, rights of appeal, the location of the property that is the subject of the application, and the name of the applicant, the City of Boulder as the approving authority, and the name and address of the mineral estate owner.

(3) Identify the mineral estate holder in a manner consistent with § 24-65.5-103, C.R.S.

(4) Certify, in a form acceptable to the city manager, that such notice has been provided to the mineral estate owner. The certification shall identify the name and address of the mineral estate owners to whom notices were sent. This certification is a condition of approval.

9-5-2. ZONING DISTRICTS.

…

(c) Zoning District Purposes:

(2) Mixed Use Districts:

(A) Mixed Use - 1: Mixed use areas which are primarily intended to have a mix of residential and nonresidential land uses within close proximity to each other and where complementary business uses may be permitted.

(B) Mixed Use - 2: Mixed use residential areas adjacent to a redeveloping main street area, which are intended to provide a transition between a main street commercial area and established residential districts. Residential areas are intended to develop in a pedestrian-oriented pattern, with buildings built up to the street; with residential, office, and limited retail uses; and where complementary uses may be allowed.

[18] The references to mineral rights owners have been updated to meet notification requirements under state law.

(C) Mixed Use - 3: Areas of the community that are changing to a mixture of residential and complementary nonresidential uses, generally within the same building.

(D) Mixed Use - 4: Mixed use residential areas generally intended for residential uses with neighborhood-serving retail and office uses; and where complementary uses may be allowed. It is anticipated that development will occur in a pedestrian-oriented pattern, with buildings built up to the street.

(3) Business Districts[19]

(~~E~~A) Business - Transitional 1 and Business - Transitional 2: Transitional business areas which generally buffer a residential area from a major street and are primarily used for commercial and complementary residential uses, including without limitation, temporary lodging and office uses.

(~~F~~B) Business - Main Street: Business areas generally anchored around a main street that are intended to serve the surrounding residential neighborhoods. It is anticipated that development will occur in a pedestrian-oriented pattern, with buildings built up to the street; retail uses on the first floor; residential and office uses above the first floor; and where complementary uses may be allowed.

(~~G~~C) Business - Community 1 and Business - Community 2: Business areas containing retail centers serving a number of neighborhoods, where retail-type stores predominate.

(~~H~~D) Business - Commercial Services: Commercial areas primarily used to provide to the community a wide range of retail and commercial uses including repair, service, and small-scale manufacturing uses and where complementary uses may be allowed.

(~~I~~E) Business - Regional 1 and Business - Regional 2: Business centers of the Boulder Valley, containing a wide range of retail and commercial operations, including the largest regional-scale businesses, which serve outlying residential development; and where the goals of the Boulder Urban Renewal Plan are implemented.

(~~3~~4) Downtown Districts:

…

(~~4~~5) Industrial Districts:

…

(~~5~~6) Public Districts:

…

(~~6~~7) Agricultural Districts:

…

(~~7~~8) Flex Districts: A combination of use, form, and intensity standards not reflected in any existing zoning district. Rezoning to a flex district may only be initiated by the planning board or city council as part of an annexation, rezoning after concept review, or area plan, and upon the determination that the flex zone would implement the goals of the Boulder Valley Comprehensive Plan. When rezoning to a flex district, the rezoning ordinance shall identify the specific use, form, and intensity modules which shall be

[19] Correct erroneous listing of Business districts within the Mixed Use classification to align with table.

identified on the official zoning map. Nothing in this section shall be construed to prevent city council from creating new zoning districts.

9-6-3. SPECIFIC USE STANDARDS – RESIDENTIAL USES.

(a) Residential Uses:

…

(2) Residential Uses in the IG and IM Zoning Districts: The following standards apply in the IG and IM zoning districts to residential uses that may be approved pursuant to a use review:

(B) Floor Area Ratios (FAR): Residential floor area is limited to a 1.0 FAR on a lot or parcel and non-residential floor area is limited to a 0.5 FAR in the IG zone and 0.4 FAR in the IM zone. If at least 0.3 FAR of light ~~industrial~~ manufacturing or research and development use is on the lot or parcel, the residential FAR may be increased to 1.25 FAR in each zone. [20]

9-6-5. SPECIFIC USE STANDARDS - COMMERCIAL USES.

…

(d) Mobile Food Vehicle:

(1) The following applies to any mobile food vehicle use:

(A) Standards: Mobile food vehicle sales on private property, public property, or in the public right-of-way are allowed by right if the use meets the following standards:

…

(v) No person shall operate a mobile food vehicle sales use without a permit or in violation of the conditions of a permit. The permit will be valid for ~~twelve consecutive months~~up to two years, or ~~such other time~~ as the city manager may by rule designate. Such application shall meet the following requirements: [21]

…

9-7-1. SCHEDULE OF FORM AND BULK STANDARDS.

The purpose of this chapter is to indicate the requirements for lot dimensions and building form, bulk, location and height for all types of development. All primary and accessory structures are subject to the dimensional standards set forth in Table 7-1 of this section with the exception of structures located in an area designated in Appendix L, "Form-Based Code Areas," subject to the standards of Appendix M, "Form-Based Code." No person shall use any land within the City authorized by Chapter 9-6, "Use Standards," B.R.C. 1981, except according to the following

---

[20] Correct error from Ordinance 8599 to make use type consistent with terminology in use table.

[21] City licensing staff would like to update the licensing term to two years. This change had previously been passed in another ordinance, but was inadvertently not included in a later update to the chapter. The original change was not reviewed by the Planning Board, which is required to review all changes to the land use code. This change would modify the licensing term and provide required notice to Planning Board of this change.

form and bulk requirements unless modified through a use review under Section 9-2-15, "Use Review," B.R.C. 1981, or a site review under Section 9-2-14, "Site Review," B.R.C. 1981, or granted a variance under Section 9-2-3, "Variances and Interpretations," B.R.C. 1981, or as approved under the provisions of Section 9-2-16, "Form-based code review," B.R.C. 1981.

TABLE 7-1: FORM AND BULK STANDARDS

Zoning District	A RR-1	RR-2 RE	RH-2 RH-5 P	RL-1 RM-2 RMX-1	BT-2	BT-1 BC BR IS-1 IS-2 IG IM	RL-2 RM-1	RH-4	MU-1	RM-3 RH-1 RH-6	RMX-2	RH-3 RH-7	BCS	MU-3	BMS MU-4	DT-1 DT-2 DT-3 DT-5	DT-4	MU-2 IMS	MH
Form module	a	b	c	d	e	f	g	h	i	j	k	l	m	n	o	p	q	r	s
~~Maximum cumulative coverage of all accessory buildings regardless of location (m)~~	~~For residential uses - no greater than coverage of the principal building~~[22]																		
Wall length articulation standards for side walls over 14' in height ~~within 20' of~~and less than 14' from the side property line[23]	See Section 9-7-10		n/a	See Section 9-7-10	n/a		See Section 9-7-10	n/a											

…

Footnotes to Table 7-1, Form and Bulk Standards:

In addition to the foregoing, the following miscellaneous form and bulk requirements apply to all development in the city:

…

(e) For other setback standards regarding garages, open parking areas, and flagpoles, see Paragraph 9-7-2(~~b)(8~~d), B.R.C. 1981.[24]

(f) Where a rear yard backs on a street, see Paragraph 9-7-2(~~b)(7~~c), B.R.C. 1981.[25]

…

9-7-2. SETBACK STANDARDS.

…

(b) Side Yard Setback Standards:

(1) Setbacks for Upper Floors in Non-Residential Zoning Districts: A principal building constructed with a side yard setback of zero for the first story above grade in the BC-2, BR-1, DT-1, DT-2, DT-3, DT-4, DT-5, IS-1, IG or IM zoning districts, where the side yard setback is noted as "0 or 12,"

---

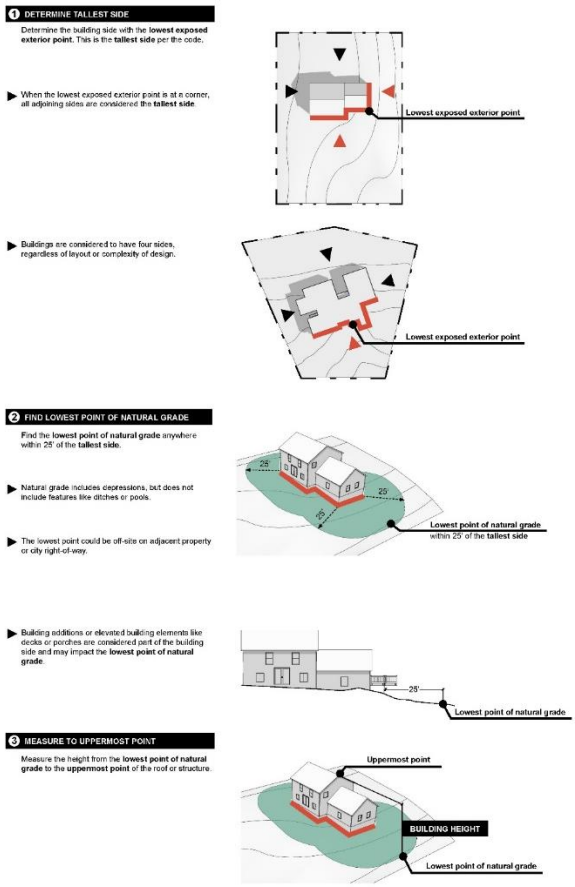
[22] The code already dictates building coverage limits, making this unnecessarily duplicative and punitive.
[23] Drafting error from previous code change.
[24] Fixing inaccurate references.
[25] Fixing inaccurate references.

~~will be allowed to~~may have upper stories set back ~~stories~~ either five feet or the distance required by Chapter 10-5 "Building Code," B.R.C. 1981, whichever is greater. ~~above the first story that is at or above the finished grade the greater of five feet or the distance required by Chapter 10-5, "Building Code," B.R.C. 1981.~~ [26]

...

9-7-5. BUILDING HEIGHT

...



[27]

...

(e) Height Calculations for Attached Buildings:

...

---

[26] This is clearer language about this requirement.
[27] This graphic has been updated to provide more clarity about the steps to measure height.

(2) Separate buildings in compliance with Paragraph (~~d~~e)(1) of this section, and which exceed the maximum permitted height allowed by Section 9-7-1, "Schedule of Form and Bulk Standards," B.R.C. 1981, may be considered by the planning board pursuant to Section 9-2-14, "Site Review," B.R.C. 1981.[28]

…

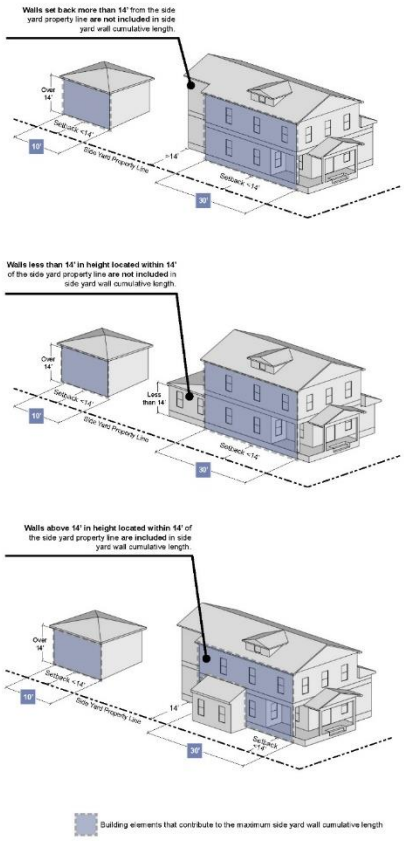
9-7-6. BUILDING HEIGHT, CONDITIONAL

(a) High Density Residential District ~~Administrative~~ Review Criteria: In the RH zones, principal building height may be increased to forty feet if: [29]

…

9-7-10. SIDE YARD WALL ARTICULATION.

…



[30]

…

[28] Fix inaccurate reference.
[29] This is not an administrative review; this reference has been updated to reflect current practice.
[30] This graphic has been updated to provide more clarity on what counts towards side yard wall articulation.

9-9-6. PARKING STANDARDS

…

(d) Motor Vehicle Parking Design Standards:

…

(5) Parking Design Details:

…

(B) With the exception of parking areas for detached dwelling units, ~~All~~ all parking areas ~~are~~ shall be paved with asphalt, concrete, or other similar permanent, hard surface ~~except for parking areas for detached dwelling units~~. Parking areas for detached dwelling units shall be surfaced with materials capable of sustaining the weight and impacts of the associated vehicle usage. [31]

…

(f) Motor Vehicle Parking Reductions:

…

(3) Alternative administrative parking reductions by land use: The parking requirements in Section 9-9-6, "Parking Standards," B.R.C. 1981, may be reduced if the following standards are met. These standards shall not be permitted to be combined with the parking reduction standards in Subparagraphs (f)(2) of this section.

…

(B) Mixed Use Developments: The city manager may reduce the amount of required parking in a mixed-use development by up to ten percent in the BMS, IMS, MU-1, MU-2, MU-3 and RMX-2 zoning districts, or in all other nonresidential zoning districts in Section 9-5-2, "Zoning Districts," B.R.C. 1981, by up to a twenty-five-percent parking reduction if the following requirements are met:[32]

…

9-9-11. USEABLE OPEN SPACE

…

(f) Special Open Space Requirements Applicable to Residential Uses: Useable open space for residential uses also includes:

(1) ~~Individual b~~Balconies, decks, porches, and patio areas associated with an individual dwelling unit or common open spaces on a roof or elevated above the first story, ~~that are not intended or designed to be enclosed,~~ if the minimum size of ~~such individual balcony, deck or patio~~the

---

[31] This reflects current practice regarding surface treatment for parking areas but the land use code does not specify required surfacing for detached dwelling units. This change specifies that the city manager has discretion over those areas to avoid maintenance challenges in the future.

[32] Correct typo from recent Ordinance 8599.

applicable open space is not less than ~~thirty-six~~36 square feet and not less than ~~forty-eight~~48 inches in any dimension~~ or porches that meet the requirements of section 9-7-4, "Setback Encroachments for Front Porches," B.R.C. 1981~~. Such areas shall count for no more than ~~twenty-five~~25 percent of the required useable open space. [33]

…

9-9-12. LANDSCAPING AND SCREENING STANDARDS

…

(d) General Landscaping and Screening Requirements:

…

(2) Landscape and Screening Planting, Maintenance, and Replacement:

(i) Planting: Required landscaping and screening shall be planted between March 1 and October 15. Bare root stock shall be planted between March 1 and April 30 or prior to plants leafing out. Stock, other than container-grown stock, shall be planted between March 1 and June 1 or between September 1 and October 15. The city manager may approve planting at different times based on weather conditions that allow for successful planting. [34]

(ii) Maintenance and Replacement: The property owner shall maintain all required landscaping and provide for replacement of plant materials that have died or have otherwise been damaged or removed, and maintenance of all non-live landscaping materials, including, but not limited to, fencing, paving, irrigation systems, and retaining walls from the issuance of a certificate of occupancy or certificate of completion.

…

9-10-2. CONTINUATION OR RESTORATION OF NONCONFORMING USES AND NONSTANDARD BUILDINGS, STRUCTURES, AND LOTS

…

(b) Damage by Fire, Flood, Wind, or Other Calamity or Act of God and Unsafe Buildings: A nonstandard building or structure, a building or structure that contains a nonconforming use, or a building or structure on a nonstandard lot, that has been damaged by fire, flood, wind, or other calamity or act of God may be restored to its original condition, or any building declared unsafe under the building code or any other applicable safety or health code may be restored to a safe condition, provided that such work is consistent with the requirements of Section 9-3-3, "Regulations Governing the One Hundred-Year

[33] These changes clarifies language in this section to be more flexible for porches, rather than rigidly applying 9-7-4 standards.
[34] This language is similar to text in the Design and Construction Standards to address successful times of year for planting. This reflects landscaping inspection practice that has been underway for years.

Floodplain," B.R.C. 1981, started within ~~twelve months~~two years of such event, and completed within ~~twenty-four months~~three years of the date on which the restoration commenced. [35]

…

9-12-5. MINOR SUBDIVISION

…

(b) Limitations: The provisions of this section shall not apply to a replat that:

(1) Requires any ~~variations~~ modifications to section 9-12-12, "Standards for Lots and Public Improvements," B.R.C. 1981; [36]

…

9-12-7. STAFF REVIEW AND APPROVAL OF PRELIMINARY PLAT

…

(b) Notice of Surface Estate: The city manager shall notify tenants of the property and abutting property owners by first class mail that the subdivision is proposed and that any questions or comments thereon may be directed to the planning department~~ of planning and community development~~. [37]

(c) Notice of Mineral Estate: The purpose of this notice provision is to comply with the notification of surface development requirements in article 24-65.5, C.R.S. The applicant shall: [38]

(1) At least thirty days before any initial hearing or, if none, before~~a final~~ decision on an application for development, send notice, by ~~first class~~certified mail, return receipt requested, or by a nationally recognized overnight courier to the mineral estate owner;

(2) Provide in the notice a statement about how the decision will be made, rights of appeal, the location of the property that is the subject of the application, and the name of the applicant, the City of Boulder as the approving authority and the name and address of the mineral estate owner;

(3) Identify the mineral estate holder in a manner consistent with § 24-65.5-103, C.R.S.; and

(4) Certify, in a form acceptable to the city manager, that such notice has been provided to the mineral estate owner. The certification shall identify the name and address of the mineral estate owners to whom notices were sent. This certification is a condition of approval.

…

---

[35] In many recent cases of calamity events, beginning work within twelve months has been difficult. This change would provide more flexibility for properties to begin and complete work after calamities occur.
[36] The code was updated to consistently use the term “modifications” rather than variations several years ago; this remains due to a drafting error.
[37] This is an outdated reference to the department name. Throughout the land use code, “planning department” is the consistently used term.
[38] The references to mineral rights owners have been updated to meet notification requirements under state law.

9-12-8. FINAL PLAT

…

(b) In order to obtain city manager review of a final plat, the subdivider shall submit a final plat that conforms to the approved preliminary plat, includes all changes required by the manager or the planning board, and includes the following information:

…

(4) Accurate dimensions for all lines, angles and curves used to describe boundaries, public improvements, easements, areas to be reserved for public use and other important features. (All curves shall be circular arcs and shall be defined by the radius, central angle, tangent, arc and chart distances. All dimensions, both linear and angular, are to be determined by an accurate control survey in the field that must balance and close within a limit of one in ten thousand. ~~No final plat showing plus or minus dimensions will be approved.~~); [39]

…

9-12-9. LOT LINE AND BOUNDARY VERIFICATION

The subdivider shall provide to the City a computer check to ~~assure~~ ensure that the exterior lines of the subdivision on the final plat close. ~~In the absence of such verification, the City shall obtain such computer check and the subdivider shall pay the fee therefor prescribed by Subsection 4-20-43(a), B.R.C. 1981, before recording the plat.~~ [40]

…

9-12-12. STANDARDS FOR LOTS AND PUBLIC IMPROVEMENTS

(c) Private Utilities and Improvements: If the subdivider installs private utilities or improvements, including, without limitation, streets or water, wastewater and storm drain utilities, the subdivider shall provide mutual covenants in the deeds of all property owners of the subdivision for the continued and perpetual maintenance of the utilities or improvements. The city manager may require creation of a unit owners association formed pursuant to the Colorado Common Interest Ownership Act to own and maintain common private utilities and improvements. [41]

9-13-10. OPTIONS FOR SATISFACTION OF INCLUSIONARY HOUSING REQUIREMENT

(a) Purpose: In order to create a significant amount of permanently affordable units, to the extent permitted by this chapter, developers may satisfy the inclusionary housing requirement through any combination of the following alternate means:

(1) Cash-in-Lieu Contribution: Developers may satisfy permanently affordable housing requirements by making cash contributions to the city's affordable housing fund. The cash-in-lieu contribution

---

[39] Surveyors sometimes use "more or less" calculations on plats and the City Attorney's Office has interpreted this as acceptable. Surveyors have indicated that it is standard practice to use "more or less" terminology for dimensions as monuments can slightly move or other surveyors may have slightly different measurements in the future. This change aligns with standard surveying practice and the City Attorney's Office interpretation.

[40] Removing the second sentence of this section because the subsection no longer references the City doing this work, this was language that was redacted in 2000 and has been incorrectly included since that time.

[41] This has been added to clarify that subdividers must create a unit owners association that owns common facilities, as is already the city's long-term practice.

will be based on the residential square footage of the development creating the inclusionary housing requirement and the applicable rate will be determined annually by the city manager. The city manager may consider the number of units in the development, the size and type of units which created the obligation, the amount that would incentivize on-site construction of permanently affordable units, and the affordability gap between market rate and permanently affordable unit prices when determining the cash-in-lieu calculation.

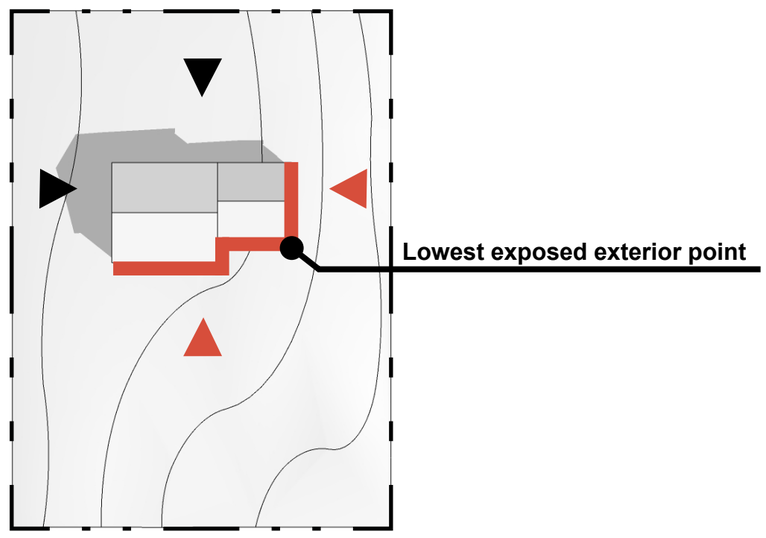
(A) Annual Cash-in-lieu Escalator: The city manager is authorized to adjust the cash-in-lieu contribution annually on ~~July~~ January 1 of each year.[42]

[42] In Ordinance 8601 that was adopted in 2023, significant changes were made to the Inclusionary Housing program. Additionally, Housing & Human Services staff updated the administrative regulations that accompany the code. The administrative regulations were updated to align the timing to update Cash-in-Lieu amounts in January, but the ordinance language was not updated accordingly. This change aligns with the intent and the administrative regulations.

1 DETERMINE TALLEST SIDE

Determine the building side with the **lowest exposed exterior point**. This is the **tallest side** per the code.

- When the lowest exposed exterior point is at a corner, all adjoining sides are considered the **tallest side**.

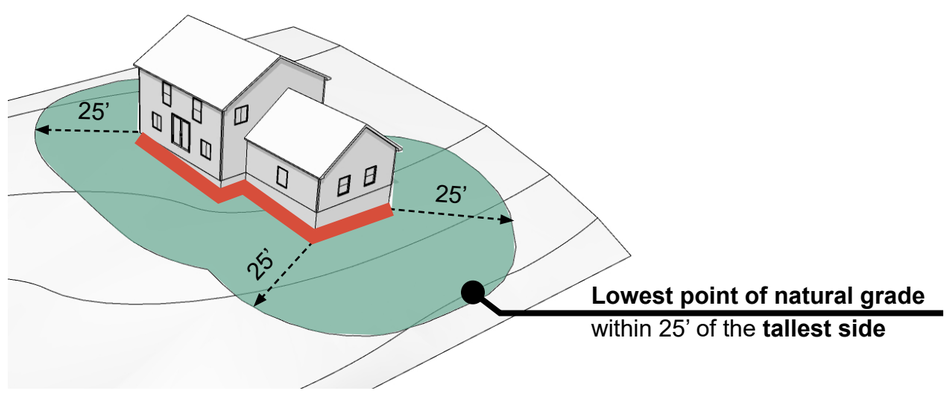


- Buildings are considered to have four sides, regardless of layout or complexity of design.

2 FIND LOWEST POINT OF NATURAL GRADE

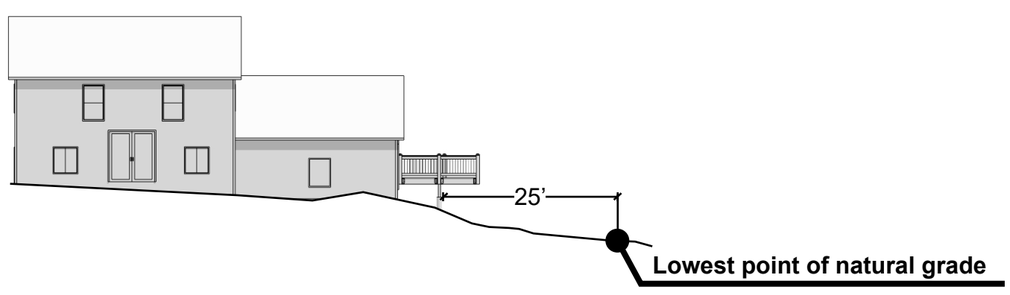
Find the **lowest point of natural grade** anywhere within 25' of the **tallest side**.

- Natural grade includes depressions, but does not include features like ditches or pools.



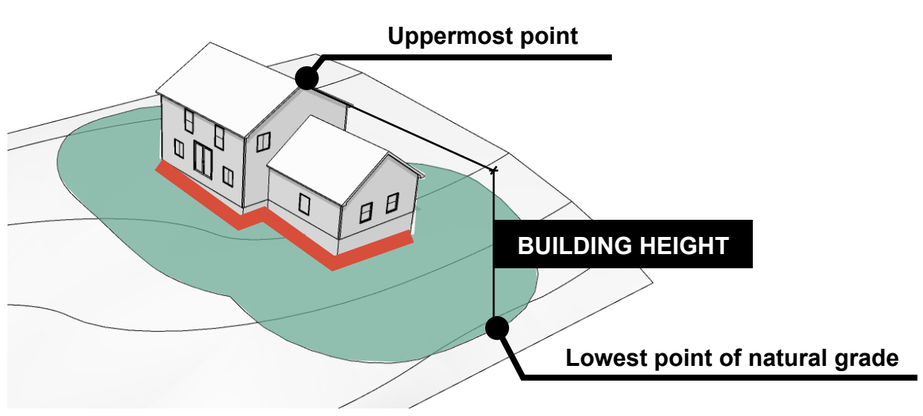
- The lowest point could be off-site on adjacent property or city right-of-way.

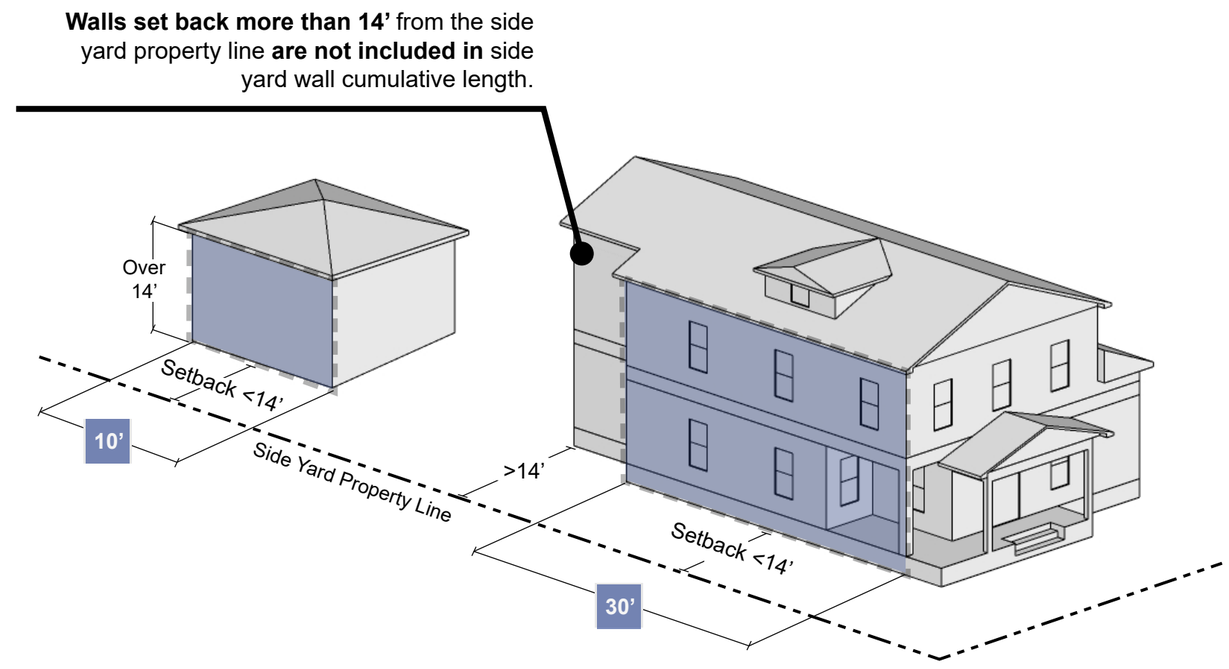
- Building additions or elevated building elements like decks or porches are considered part of the building side and may impact the **lowest point of natural grade**.

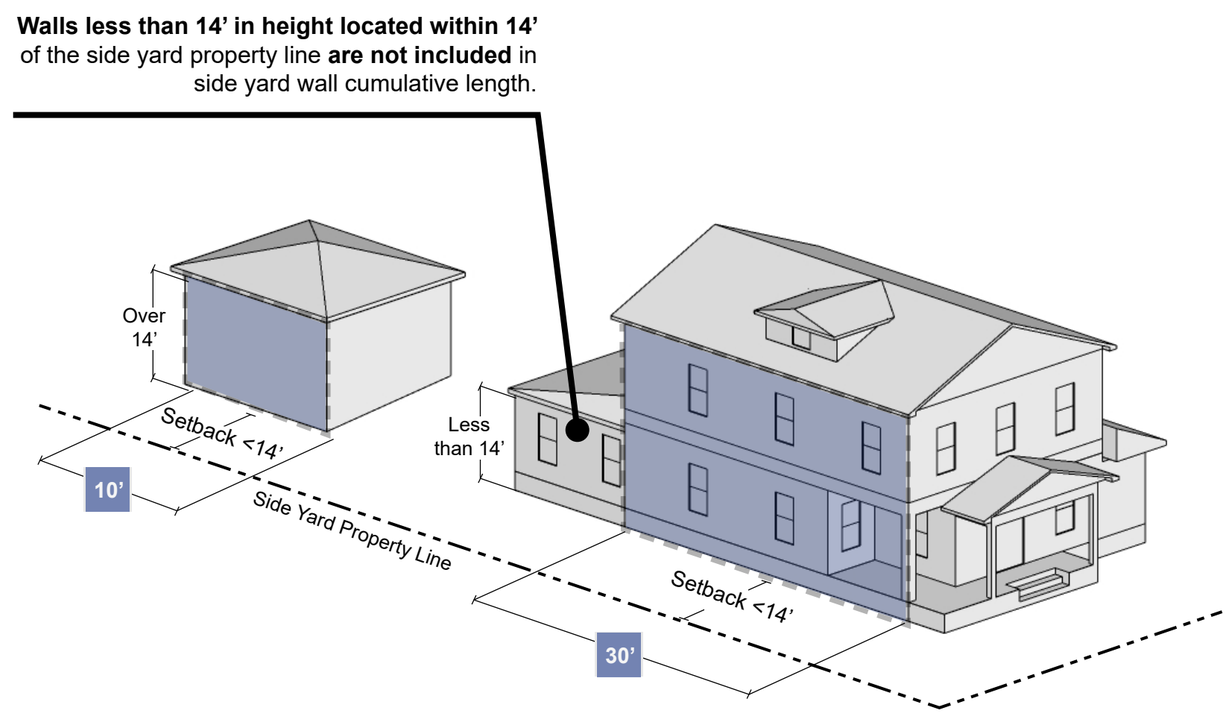


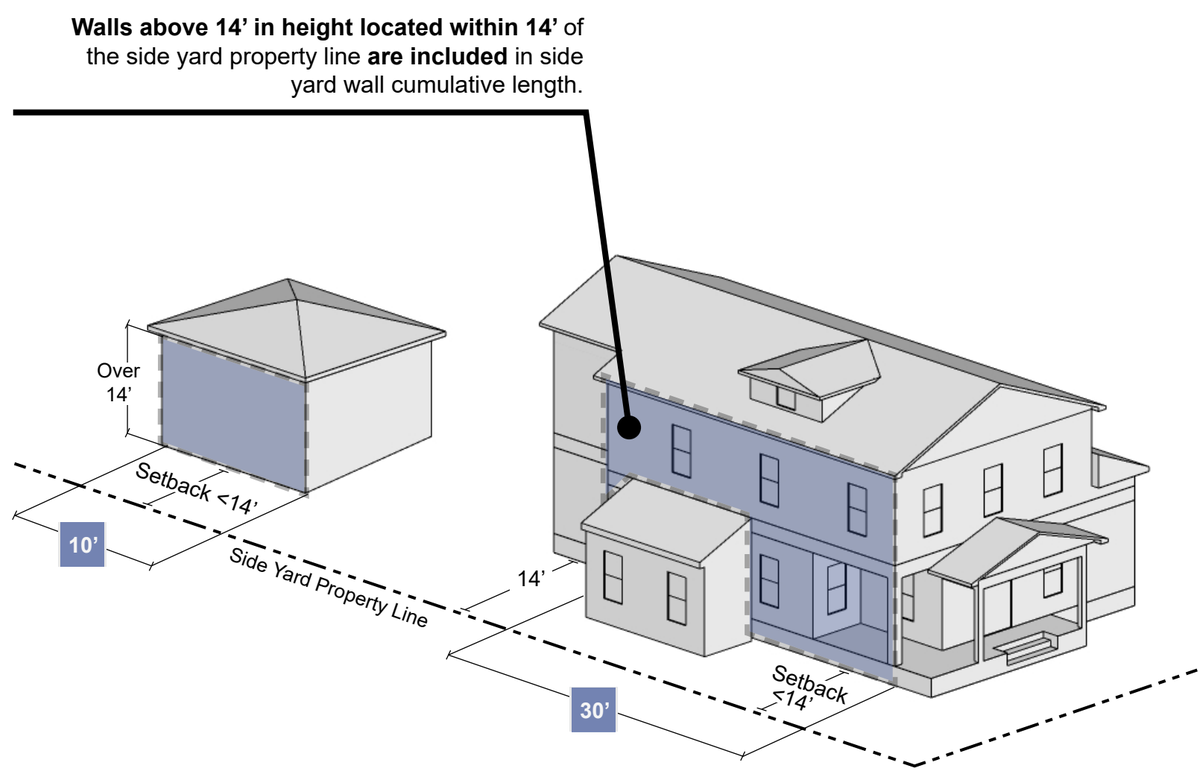
3 MEASURE TO UPPERMOST POINT

Measure the height from the **lowest point of natural grade** to the **uppermost point** of the roof or structure.









Building elements that contribute to the maximum side yard wall cumulative length

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Consideration of the following items related to a petition to annex a property at 5600 Table Mesa Drive with an initial zoning designation of Public (P) (LUR2024-00001):

1. Consideration of a motion to adopt Resolution 1346 finding the annexation petition to annex approximately 27 acres of land generally located at 5600 Table Mesa Drive in compliance with state statutes and establishing March 21, 2024 as the date for a public hearing.

AND

2. Introduction, first reading and consideration of a motion to order published by title only, Ordinance 8623, annexing to the City of Boulder approximately 27 acres of land generally located at 5600 Table Mesa Drive, with an initial zoning classification of Public (P) 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

PRIMARY STAFF CONTACT
Kristofer Johnson, Senior Comprehensive Planning Manager

REQUESTED ACTION OR MOTION LANGUAGE
Motion to adopt Resolution 1346 finding the annexation petition to annex approximately 27 acres of land generally located at 5600 Table Mesa Drive in compliance with state statutes and establishing March 21, 2024 as the date for a public hearing.

AND

Motion to order published by title only, Ordinance 8623 annexing to the City of Boulder approximately 27 acres of land generally located at 5600 Table Mesa Drive with an initial zoning classification of Public (P) 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

ATTACHMENTS:

Description

- **Item 3H - 1st Rdg Ord 8623 5600 Table Mesa Dr. Annexation**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: February 15, 2024

AGENDA TITLE

Consideration of the following items related to a petition to annex a property at 5600 Table Mesa Drive with an initial zoning designation of Public (P) (LUR2024-00001):

Consideration of a motion to adopt Resolution 1346 finding the annexation petition to annex approximately 27 acres of land generally located at 5600 Table Mesa Drive in compliance with state statutes and establishing March 21, 2024 as the date for a public hearing.

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Applicant: City of Boulder
Owners: City of Boulder and Colorado Department of Transportation

PRESENTER(S)

Planning & Development Services
Nuria Rivera-Vandermyde, City Manager
Brad Mueller, Director Planning & Development Services
Kristofer Johnson, Comprehensive Planning Senior Manager

EXECUTIVE SUMMARY

The purpose of this item is for City Council to consider an annexation request for approximately 27 acres including 4.06 acres of city-owned property in Boulder County and the adjacent US 36 public right-of-way addressed as 5600 Table Mesa Drive. into the City of Boulder with an initial zoning designation of Public (P), consistent with the Boulder Valley Comprehensive Plan (BVCP). The property is located within Planning Area III of the BVCP and is eligible for annexation per BVCP policies related to annexation of city-owned lands intended to remain in Area III and will require less than less than a full range of urban services or are being included in city jurisdiction for health, welfare and safety reasons. The ordinance to annex the property is provided for first reading in **Attachment C**.

Per the State's annexation statutes, City Council is asked to consider the attached proposed Resolution 1346 as provided in **Attachment B**. Adoption of this annexation resolution is a procedural step required under state law to determine that the petition to annex the property complies with section 30(1)(c) of article II of the state constitution and section 31-12-107(1), C.R.S. and to set a hearing date to determine if the proposed annexation complies with state annexation laws. Refer to **Attachment A** for the annexation map and **Attachment D** for the annexation petition.

City staff presented a matters item to Planning Board regarding the flood mitigation project, proposed annexation, and initial zoning on February 6, 2024. A summary of the board's discussion is provided under 'Board and Commission Feedback'. The Planning Board public hearing on the proposed annexation is scheduled for March 5, 2024, and a summary of board feedback and recommendation will be provided in the March 21, 2024, public hearing memo to council. The staff memorandum to Planning Board, meeting audio, and other related background materials will be available on the Records Archive for Planning Board.

STAFF RECOMMENDATION

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

Suggested Motion Language:

1. Motion to adopt Resolution 1346 finding the annexation petition to annex approximately 27 acres of land generally located at 5600 Table Mesa Drive in compliance with state statutes and establishing March 21, 2024 as the date for a public hearing.

AND

1. Motion to order published by title only, Ordinance 8623 annexing to the City of Boulder approximately 27 acres of land generally located at 5600 Table Mesa Drive with an initial zoning classification of Public (P) 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 municipal-owned properties and rights-of-way in the county that are adjacent to the city's current boundary, particularly when they are being included to serve health, welfare and safety reasons. The property will remain in Area III and will not require the full range of public services and facilities.
- Environmental – The proposed annexation would include adoption of new wetland mapping for this area and facilitate construction of the South Boulder Creek flood mitigation project.
- Social – This annexation will enable efficient construction and maintenance of the South Boulder Creek flood mitigation project which will enhance life safety and prevent property damage by protecting approximately 2,300 residents and 260 structures from a 100-year flood (1% annual chance of occurring) downstream from this area.

OTHER IMPACTS

- Fiscal – No change in the city's fiscal responsibility is anticipated as the area proposed for annexation is already managed by the city. On-going management of the area will be shared between Utilities-Stormwater and Flood and Open Space and Mountain Parks departments.
- Staff time - Upon annexation, all matters related to these properties are in the normal work plan of the departments managing these properties.

BOARD AND COMMISSION FEEDBACK

Planning Board

On February 6, 2024, staff presented an information item to the Planning Board regarding the flood mitigation project, proposed annexation, and initial zoning. Planning Board discussion was limited and members asked questions of staff related to the ownership and management of adjacent parcels, minimum contiguity requirements, the reasons for including the US 36 right-of-way, and the alignment of the existing multi-use path on the south side of the US 36 right-of-way. The Planning Board will hold a public hearing and make a recommendation to the City Council on whether to annex these properties at its March 5 meeting.

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 prior to the public hearing. All notice requirements of Section 9-4-3, B.R.C. 1981, have been met. As of the date of this memo, staff have not received any written comments from the public on the proposal.

BACKGROUND

South Boulder Creek Flood Mitigation Project

An estimated 600 structures and 3,500 people are located in the South Boulder Creek floodplain within city limits. Over the last 80 years, South Boulder Creek has significantly flooded six times, with overtopping of U.S. 36 happening in 1969 and 2013. A flood mitigation plan for South Boulder Creek was approved by City Council in 2015. The plan includes three phases with the first phase being a regional detention facility upstream of US 36 on and near the property commonly referred to as "CU South" (the "Project"). The Project will protect approximately 2,300 residents and 260 structures from a 100-year flood (1% chance of flood each year) on South Boulder Creek.

The Project will include a dam and flood storage that requires use of City-owned land adjacent to US 36 for the construction of a floodwall and spillway. The proposed annexation area will include the permanent location of the Project, a temporary construction access area, and adjacent US 36 right-of-way.

Annexation Process

Land may be considered for annexation to the city if the annexation would comply with state annexation statutes and the policies of Boulder Valley Comprehensive Plan (BVCP). The proposal must be reviewed for compliance with the Colorado state statutes of 31-12-101, et seq. C.R.S., BVCP policies 1.08 *Adapting to Limits on Physical Expansion*, 1.10 *Growth Requirements*, and 1.17 *Annexation*, and other applicable ordinances of the city. If a property is annexed, zoning will be established consistent with the goals and land use designations of the BVCP.

The BVCP provides a framework for annexation and urban service provision within the city. Specifically, Policy 1.17(h). states that publicly owned properties in Area III are allowed to be annexed if they are intended to remain in Area III and will require less than less than a full range of urban services, or are being included in city jurisdiction for health, welfare and safety reasons.

If a property is annexed, zoning will be established according to the land use designation in the Land Use Map of the BVCP. Per Section 9-2-18 of the land use code, 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 BVCP. The annexation ordinance may include the zoning ordinance for the annexed property.

Annexations involve at least two public hearings. The first is conducted by the Planning Board, who will make a recommendation to the City Council whether or not the annexation should be approved, and the terms, conditions, and zoning that should be applied. The City Council then holds a second public hearing before making their determination.

Existing Site / Site Context

The approximately 27-acre proposed annexation site is located near the Foothills Parkway and Table Mesa Drive interchange in southeast Boulder. It includes 4.06 acres of city-owned land in Boulder County located on the south side of US 36 and the adjacent right of way. The city-owned land will be used for flood mitigation purposes, including construction of a permanent detention facility for South Boulder Creek flood mitigation. City-owned open space lies adjacent to the south and across US 36 to the north, known as the Van Vleet South and Van Vleet North properties. (refer to **Figure 1** below).

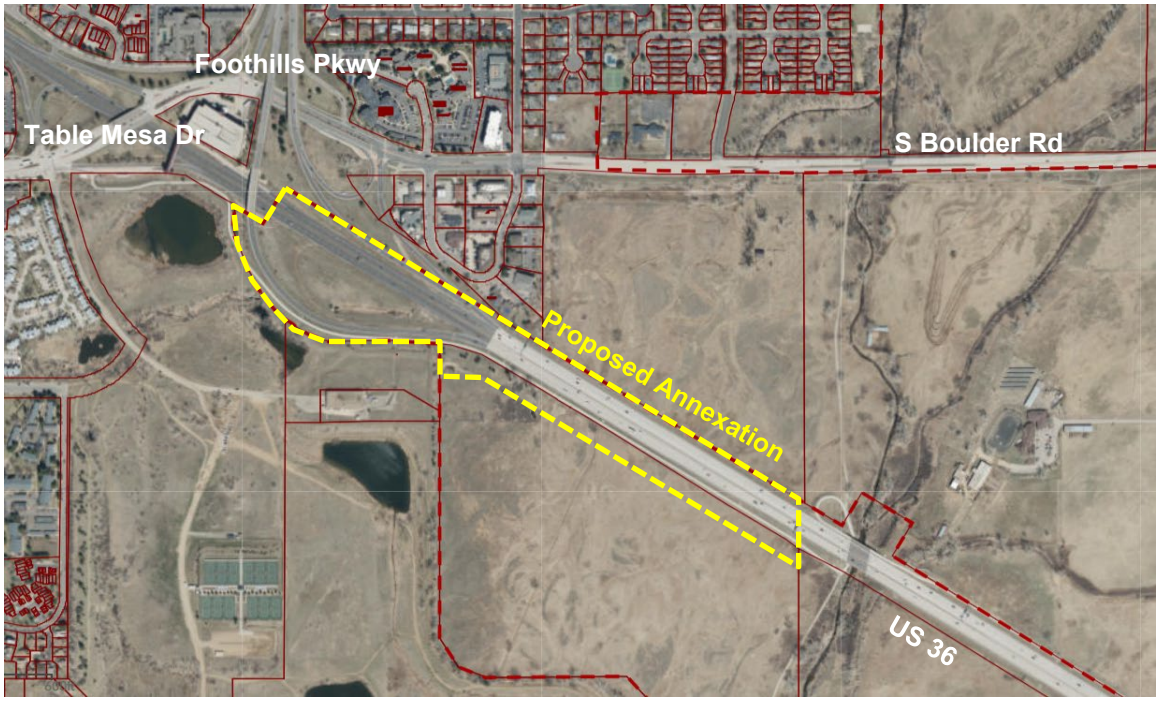


Figure 1: Proposed Annexation Site Context

The property is currently under the jurisdiction of Boulder County and is zoned RR – Rural Residential by the County. The property is located in BVCP Planning Area III, which is generally in Boulder County and classified as a "Rural Preservation Area" where the city and county intend to preserve existing rural land uses and character. Per BVCP policy 1.17(h), publicly owned properties in Area III are allowed to be annexed if they are intended to remain in Area III and will require less than less than a full range of urban services, or are being included in city jurisdiction for health, welfare and safety reasons.

As shown in **Figure 2** below, the city-owned property is designated Open Space – Acquired (OS-A) on the land use map of the BVCP which applies to lands acquired by the City of Boulder or Boulder County for open space purposes. Portions of the US 36 right-of-way within the Foothills Parkway interchange are designated as Park, Urban and Other (PK-U/O) and Public/Semi-Public (PUB) The descriptions and map from the BVCP is below.

	Open Space, Acquired (OS-A)	This applies to land already acquired by the city or Boulder County for open space purposes.
	Park, Urban and Other (PK-U/O)	**Characteristics and Uses:** PK-U/O includes public lands used for a variety of active and passive recreational purposes or flood control purposes. Urban parks provided by the city include pocket parks, neighborhood parks, community parks and city parks, as defined in the Parks and Recreation Master Plan. The specific characteristics of each park depend on the type of park, size, topography and neighborhood preferences.
	Public / Semi-Public (PUB)	**Characteristics and Location:** PUB land use designations encompass a wide range of public and private non-profit uses that provide a community service. They are dispersed throughout the city. **Uses:** This category includes municipal and public utility services (e.g., the municipal airport, water reservoirs and water and wastewater treatment plants). It also includes: educational facilities (public and private schools and the university); government offices, such as city and county buildings, libraries and the jail; government laboratories; and nonprofit facilities (e.g., cemeteries, places of worship, hospitals, retirement complexes) and may include other uses as allowed by zoning.

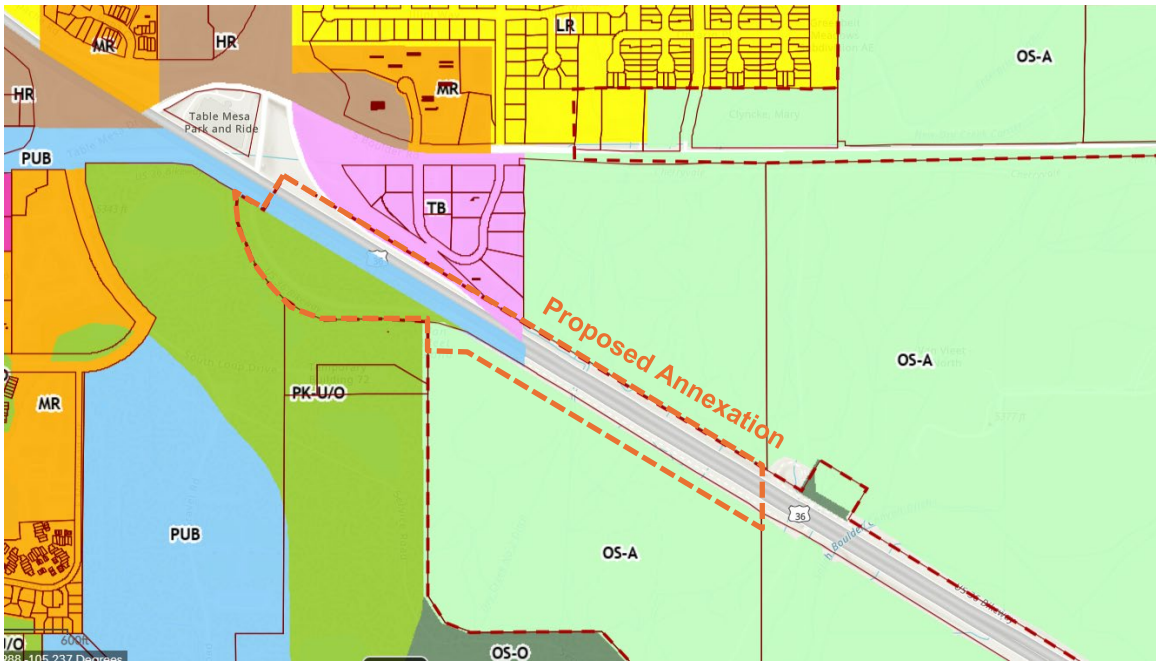


Figure 2: BVCP Land Use Designation Map

The site is impacted by the 100-year and 500-year floodplains, conveyance zone, and high hazard areas, as shown in **Figure 3** below. In addition and consistent with the requirements of Section 9-3-9, "Stream, Wetlands, and Water Body Protection," B.R.C. 1981, the proposed annexation ordinance would also adopt a wetland map and functional evaluation delineating wetlands that will be subject to the City's wetland regulations following annexation. See **Attachment F** for the Wetland Map and **Attachment G** for the Functional Evaluation Report prepared on February 6, 2024 by CORVUS Environmental Consulting, LLC. The Wetland Map is also attached to the Annexation Ordinance as Exhibit B. The Functional Evaluations are attached to the Annexation Ordinance as Exhibit C.

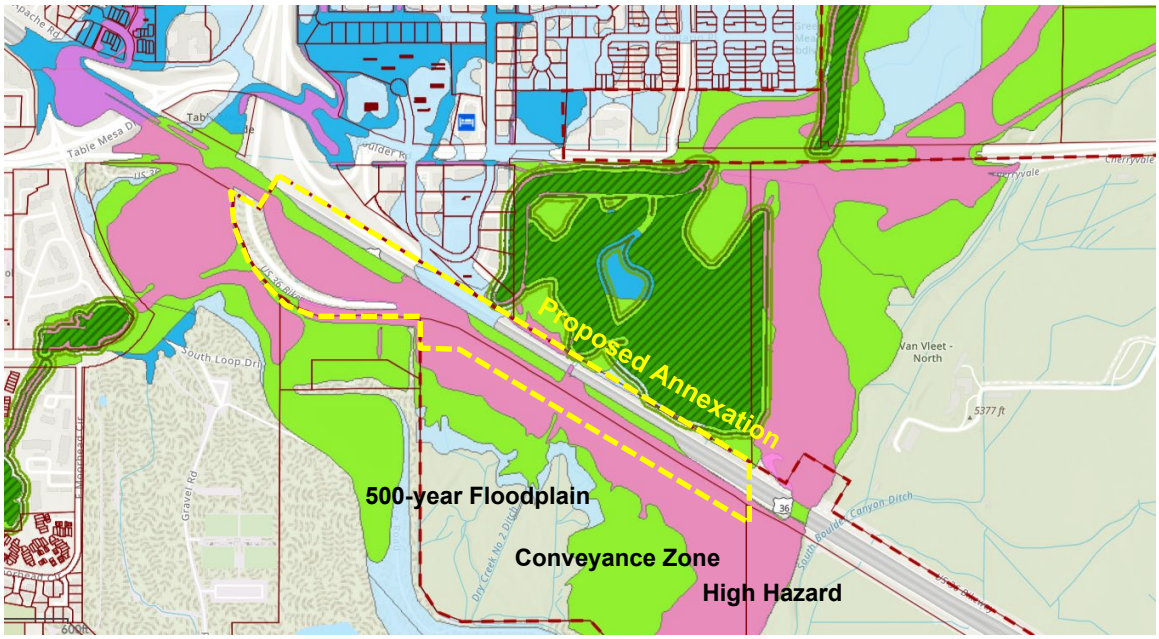


Figure 3: Regulatory Floodplain Map

ANALYSIS

1. Compliance with State statutes and BVCP policies, including BVCP Policy 1.17 Annexation

The applicant is requesting annexation by petition as provided by state law. Annexations must comply with Colorado Revised Statues (C.R.S.), Article 12 of Title 31. Additionally, 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. Staff finds that the proposed annexation is consistent with state statutes and city policies, as described below.

Staff has reviewed the annexation petition for compliance with Sections 31-12-104, 31-12-105, and 31-12-107, C.R.S. and finds that the application is consistent with the statutory requirements, as affirmed by the findings below (refer to **Attachment D** for the Annexation Petition and **Attachment E** for staff's complete analysis of State Statutes and BVCP Policies):

- An annexation petition was filed meeting the requirements of Section 31-12-107, C.R.S., more specific findings can be found in Resolution 1343 (**Attachment B**).
- The city may petition to annex as a landowner of more than 50 percent of the area (100%) and comprising more than 50 percent of the landowners (100%) in the area, excluding any public streets and alleys and any land owned by the annexing municipality.
- The annexation petition has been filed with the City Clerk of the City of Boulder.
- The property has more than one-sixth contiguity with the City of Boulder.

- The property is located within Area III of the BVCP planning area and is publicly owned, intended to remain in Area III, would not require the full range of urban services, and is proposed for annexation for health, welfare and safety reasons.
- There is a community of interest between the property proposed for annexation and the City of Boulder, the property borders City of Boulder development and is 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.
- The subject property does not include any area included in another annexation proceeding involving a municipality other than the city of Boulder.
- The annexation would not remove the property from one school district and add it to another.
- 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.

The project is consistent with the following BVCP Policies related to annexation:

	BVCP Policy	Excerpt from BVCP	How the Annexation is Consistent with BVCP Policies
Growth Management	*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 would enhance the physical, social, and economic assets of the community by enhancing life safety and protection of 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 annexation would provide significant community benefits by enhancing life safety and protection of property.

	BVCP Policy	Excerpt from BVCP	How the Annexation is Consistent with BVCP Policies
Annexation	*1.17 Annexation*	*"h.* 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 area proposed for annexation is owned by the City of Boulder, would remain in Area III, would not require the full range of urban services, and is proposed for health, welfare and safety reasons.

In addition, the proposed annexation will facilitate efficient construction, operations, and maintenance of the South Boulder Creek Flood Mitigation Project which directly supports important BVCP policies related to the preservation of floodplains, flood management, and protection of life and property including:

3.21 Preservation of floodplains
3.22 Flood Plain Management
3.23 Nonstructural Approach to Flood Management
3.24 Protection of High Hazard Areas
3.25 Larger Flooding Events

The Project appropriately balances the use of structural improvements like the floodwall and spillway, with non-structural floodplain enhancement and environmental remediation. Furthermore, it is designed to balance construction feasibility and disturbance with the community benefit to manage more frequent larger flooding events (100-year floods) that are anticipated as a result of climate change. The Project also recognizes that extreme events (500-year floods) are still possible, and the facility limits downstream risks and adds to the city's resiliency.

2. 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 city-owned land is currently designated as Open Space – Acquired (OS-A), and portions of the US 36 right-of-way near the interchange are designated as Parks, Urban and Other (PK-U/O), and Public/Semi-public (PUB), which anticipates continued use for open space, park, flood control, or other public infrastructure purposes. The proposed zoning is Public (P) for its exclusive use as public infrastructure for the flood mitigation project. The proposed P zoning district is described as "*Public areas in which public and semi-public facilities and uses are located, including without limitation,*

governmental and educational uses." Upon Annexation, the property will be designated as Area III-Annex.

Staff finds that the use of the P district is consistent with BVCP policies and land use map designation and allows for public improvements that are compatible with the surrounding area. The proposed P zoning is a logical extension of city zoning. Refer to the zoning map in **Figure 4**.

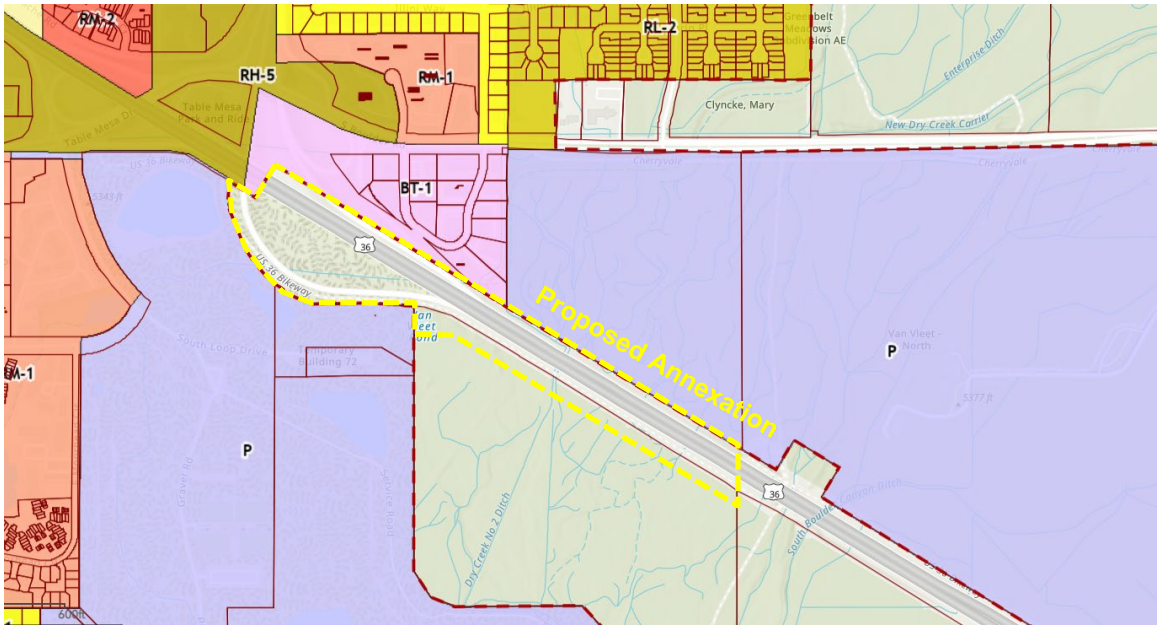


Figure 4: Zoning Map

NEXT STEPS

This annexation is a part of a larger effort to create a flood mitigation project on South Boulder Creek that will help protect residents and visitors that are downstream stream from the project. The council will be asked to make decisions regarding this annexation effort, an open space disposal within the annexed area, and the adoption of wetlands mapping and function evaluations on the CU South campus property. Below is the anticipated schedule for those actions.

- Open Space disposal (OSBT and Council action)
    - Feb 22 – OSBT and Council Public Hearing
    - Mar 13 – OSBT Deliberation & Decision
    - Mar 21 – Council Deliberation & Decision

- Annexation (Planning Board and Council action)

    - Feb 15 – Resolution & 1st Reading
    - Mar 5 – Planning Board Public Hearing
    - Mar 21 – Council Public Hearing

- CU South Wetland Mapping (Council action)
    - Mar 7 – 1st Reading
    - Mar 21 – Council Public Hearing

ATTACHMENTS

Attachment A	Annexation Map
Attachment B	Proposed Resolution 1346
Attachment C	Proposed Ordinance 8623
Attachment D	Annexation Petition
Attachment E	Staff Analysis of State Statutes and BVCP Policies
Attachment F	Wetland Map
Attachment G	Functional Evaluations

ANNEXATION MAP

A portion of the North-half of Section 9 and the Northwest Quarter of Section 10,
Township 1 South, Range 70 West, of the 6th Principal Meridian, County of Boulder, State of Colorado
TOTAL AREA = 27.411 Acres

LEGAL DESCRIPTION:
A portion of the North–half of Section 9 and the Northwest Quarter of Section 10, Township 1 South, Range 70 West of the Sixth Principal Meridian, County of Boulder, State of Colorado, being more particularly described as follows:

COMMENCING at the Northeast Sixteenth Corner of said Section 9, whence the East Sixteenth Corner of said Section 9 bears N00°01'55"W a distance of 1,313.02 feet;

THENCE N67°04'56"W a distance of 604.61 feet to a point on the easterly line of Ordinance 8483 described in Reception Number 03915718 recorded September 22, 2021 in the Boulder County Clerk and Recorder's Office, said point being the **POINT OF BEGINNING**;

THENCE along the easterly and northerly lines of said Ordinance 8483 the following seven (7) courses:

1. N00°55'58"W a distance of 148.77 feet;
2. THENCE N84°58'30"W a distance of 164.19 feet;
3. THENCE N87°51'41"W a distance of 81.60 feet;
4. THENCE S88°30'34"W non–tangent with the following described curve a distance of 324.50 feet;
5. THENCE along the arc of a curve to the right, having a central angle of 51°59'44", a radius of 673.00 feet, a chord bearing N46°51'41"W a distance of 590.00 feet, and an arc distance of 610.74 feet;
6. THENCE N21°31'56"W non–tangent with the previous described curve a distance of 169.90 feet;
7. THENCE N02°24'19"E a distance of 153.37 feet;

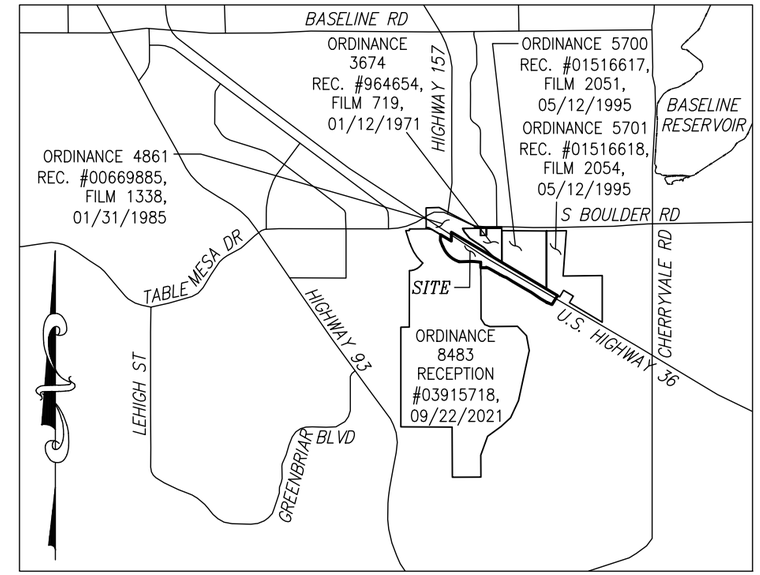
THENCE along the southerly and easterly lines of Ordinance 4861 described in Reception Number 00669885, Film 1339, recorded January 31, 1985 in the Boulder County Clerk and Recorder's Office the following three (3) courses:

1. THENCE S59°07'45"E a distance of 330.04 feet to a point on the westerly line of the Northwest Quarter of the Northeast Quarter of said Section 9;
2. THENCE N00°16'45"W along said westerly line of the Northwest Quarter of the Northeast Quarter of Section 9 a distance of 233.20 feet;
3. THENCE S59°12'57"E a distance of 1,334.41 feet;

THENCE S59°11'04"E along the southerly line of Ordinance 3674 described in Reception Number 964654, Film 719, recorded January 12, 1971 in the Boulder County Clerk and Recorder's Office a distance of 217.15 feet;
THENCE S59°12'03"E along the southerly line of Ordinance 5700 described in Reception Number 01516617, Film 2051, recorded May 12, 1995 and the southerly line of Ordinance 5701 described in Reception Number 01516618, Film 2054, recorded May 12, 1995 in the Boulder County Clerk and Recorder's Office a distance of 1,713.36 feet;
THENCE S31°40'11"W a distance of 277.58 feet;
THENCE N66°27'01"W a distance of 124.96 feet;
THENCE S58°40'40"W a distance of 7.85 feet;
THENCE N63°35'34"W a distance of 29.13 feet;
THENCE N09°26'01"W a distance of 5.92 feet;
THENCE N66°27'01"W a distance of 4.13 feet;
THENCE N59°49'36"W a distance of 185.37 feet;
THENCE N55°26'48"W a distance of 285.66 feet;
THENCE N60°04'13"W a distance of 194.95 feet;
THENCE N59°28'12"W a distance of 376.63 feet;
THENCE N57°42'25"W a distance of 192.07 feet;
THENCE N69°43'16"W a distance of 87.00 feet;
THENCE N61°16'20"W a distance of 76.32 feet;
THENCE N77°49'24"W a distance of 27.35 feet;
THENCE N46°22'56"W a distance of 27.60 feet;
THENCE N61°10'11"W a distance of 139.45 feet;
THENCE N33°37'16"W a distance of 10.24 feet;
THENCE N61°23'24"W a distance of 152.01 feet;
THENCE N66°38'49"W a distance of 83.87 feet;
THENCE S60°26'48"W a distance of 25.73 feet;
THENCE S89°04'02"W a distance of 123.38 feet to the **POINT OF BEGINNING**.

Containing 27.411 Acres, more or less.

TOTAL PERIMETER OF AREA TO BE ANNEXED	= 7,918.4 FEET
ONE SIXTH OF TOTAL PERIMETER	= 1,319.7 FEET
PERIMETER CONTIGUOUS TO EXISTING CITY LIMITS	= 5,481.2 FEET



VICINITY MAP (SCALE 1" = 4000')

SURVEY NOTES:

1. This map is not a Land Survey Plat or an Improvement Survey Plat. The Purpose of this map is to show the area to be annexed to the City of Boulder, Colorado.

2. This annexation is based on the Topographic Survey by Merrick & Company, dated November 28, 2023.

3. NOTICE: According to Colorado Law you must commence any legal action based upon any defect in this survey within three years after you first discover such defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

4. This annexation map does not constitute a title search by Merrick & Company to determine ownership or easements of record. For all information regarding easements, rights–of–way, and title of record Merrick & Company relied upon Title Commitment Number 09280A22, prepared by Westcor Land Title Insurance Company, dated October 3, 2022 at 4:00 P.M.

SURVEYOR'S CERTIFICATION
I, Jacob S. Frisch, a Licensed Professional Land Surveyor in the State of Colorado do hereby state that this map was made under my responsible charge and is in accordance with applicable standards of practice and that the monuments shown hereon actually exist and that this map and the notes shown hereon accurately represents said survey to the best of my knowledge, information and belief. This statement is not a guaranty or warranty, either expressed or implied.

COLORADO LICENSED
CORNERSTONE FOR SOCIETY
PLS 38749
PROFESSIONAL LAND SURVEYOR

Jacob S. Frisch, PLS No. 38749
Date: February 1, 2024
Job No.: 65321358
For and on behalf of
Merrick & Company

REV	REVISION DESCRIPTION	DATE	CHANGED BY	CHECKED BY	APPROVED BY

MERRICK®
5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111

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MERRICK	SIGNATURE	DATE
DRAWN	ELZ	01/02/2024
DESIGNED		
QC REVIEW	JSF	01/02/2024
APPROVED	JSF	01/02/2024
CLIENT	SIGNATURE	DATE
REVIEW		
APPROVED		
CAD FILE NAME		

CLIENT PROJECT NO.
MERRICK PROJECT NO. 65321358
SCALE: N/A

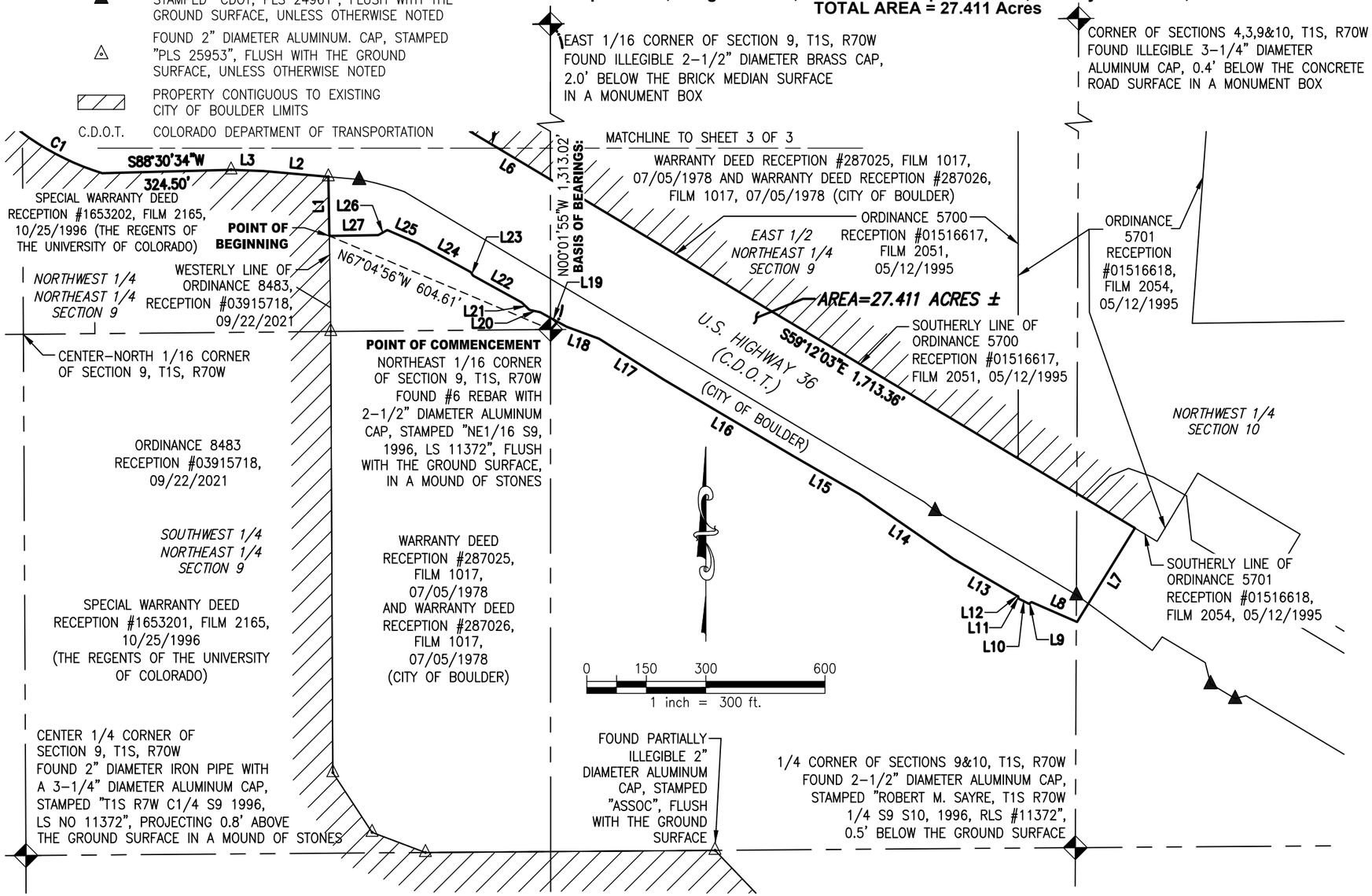
TITLE:
ANNEXATION MAP
NORTH 1/2 OF SECTION 9,
NORTHWEST 1/4 OF SECTION 10,
T1S, R70W, 6TH P.M.
COUNTY OF BOULDER, STATE OF COLORADO

REVISION:	DRAWING NO.	SHEET NO.
R1		1 OF 3

ANNEXATION MAP

A portion of the North-half of Section 9 and the Northwest Quarter of Section 10, Township 1 South, Range 70 West, of the 6th Principal Meridian, County of Boulder, State of Colorado
TOTAL AREA = 27.411 Acres

LEGEND:
- ALIQUOT CORNER AS DESCRIBED
- FOUND 3-1/4" DIAMETER ALUMINUM CAP, STAMPED "CDOT, PLS 24961", FLUSH WITH THE GROUND SURFACE, UNLESS OTHERWISE NOTED
- FOUND 2" DIAMETER ALUMINUM. CAP, STAMPED "PLS 25953", FLUSH WITH THE GROUND SURFACE, UNLESS OTHERWISE NOTED
- PROPERTY CONTIGUOUS TO EXISTING CITY OF BOULDER LIMITS
- C.D.O.T. COLORADO DEPARTMENT OF TRANSPORTATION



CURVE TABLE					
CURVE #	DELTA	RADIUS	CHORD BEARING	CHORD LENGTH	LENGTH
C1	51°59'44"	673.00'	N46°51'41"W	590.00'	610.74'

LINE TABLE		
LINE #	BEARING	LENGTH
L1	N00°55'58"W	148.77'
L2	N84°58'30"W	164.19'
L3	N87°51'41"W	81.60'
L4	N21°31'56"W	169.90'
L5	N02°24'19"E	153.37'
L6	S59°11'04"E	217.15'
L7	S31°40'11"W	277.58'
L8	N66°27'01"W	124.96'
L9	S58°40'40"W	7.85'
L10	N63°35'34"W	29.13'
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L12	N66°27'01"W	4.13'
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L14	N55°26'48"W	285.66'
L15	N60°04'13"W	194.95'

LINE TABLE		
LINE #	BEARING	LENGTH
L16	N59°28'12"W	376.63'
L17	N57°42'25"W	192.07'
L18	N69°43'16"W	87.00'
L19	N61°16'20"W	76.32'
L20	N77°49'24"W	27.35'
L21	N46°22'56"W	27.60'
L22	N61°10'11"W	139.45'
L23	N33°37'16"W	10.24'
L24	N61°23'24"W	152.01'
L25	N66°38'49"W	83.87'
L26	S60°26'48"W	25.73'
L27	S89°04'02"W	123.38'

COLORADO LICENSED PROFESSIONAL LAND SURVEYOR JACOB STONE FRISCH 38149

Jacob S. Frisch, PLS No. 38149
Date: February 1, 2024
Job No.: 65321358
For and on behalf of
Merrick & Company

REV	REVISION DESCRIPTION	DATE	CHANGED BY	CHECKED BY	APPROVED BY

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5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111

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DRAWN	ELZ	01/02/2024
DESIGNED		
QC REVIEW	JSF	01/02/2024
APPROVED	JSF	01/02/2024
CLIENT	SIGNATURE	DATE
REVIEW		
APPROVED		
CAD FILE NAME		

CLIENT PROJECT NO.
MERRICK PROJECT NO. 65321358
SCALE: 1" = 300'

TITLE:
ANNEXATION MAP
NORTH 1/2 OF SECTION 9,
NORTHWEST 1/4 OF SECTION 10,
T1S, R70W, 6TH P.M.
COUNTY OF BOULDER, STATE OF COLORADO

REVISION: R1 | DRAWING NO. | SHEET NO. 2 OF 3

ANNEXATION MAP

A portion of the North-half of Section 9 and the Northwest Quarter of Section 10, Township 1 South, Range 70 West, of the 6th Principal Meridian, County of Boulder, State of Colorado
TOTAL AREA = 27.411 Acres

LEGEND:

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- FOUND 3-1/4" DIAMETER ALUMINUM CAP, STAMPED "CDOT, PLS 24961", FLUSH WITH THE GROUND SURFACE, UNLESS OTHERWISE NOTED
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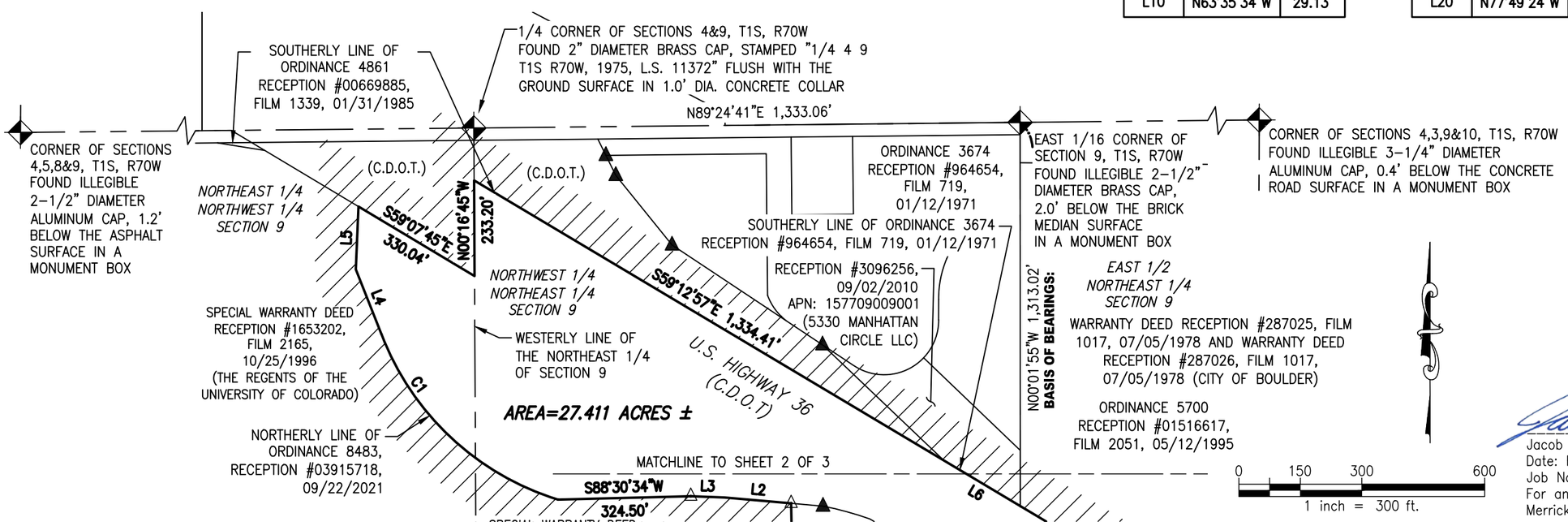

COLORADO LICENSED
JACOB STONE FRISCH
38149
PROFESSIONAL LAND SURVEYOR

Jacob S. Frisch, PLS No. 38149
Date: February 1, 2024
Job No.: 65321358
For and on behalf of
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REV	REVISION DESCRIPTION	DATE	CHANGED BY	CHECKED BY	APPROVED BY

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CLIENT PROJECT NO.

MERRICK PROJECT NO. 65321358

SCALE: 1" = 300'

TITLE:
ANNEXATION MAP
NORTH 1/2 OF SECTION 9,
NORTHWEST 1/4 OF SECTION 10,
T1S, R70W, 6TH P.M.
COUNTY OF BOULDER, STATE OF COLORADO

REVISION:	DRAWING NO.	SHEET NO.
R1		3 OF 3

RESOLUTION 1346

A RESOLUTION TO DETERMINE THAT THE PETITION TO ANNEX APPROXIMATELY 27 ACRES OF LAND GENERALLY LOCATED AT 5600 TABLE MESA DRIVE 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, AND SETTING FORTH RELATED DETAILS.

THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO, 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 31-12-105, C.R.S., as amended, have been met and whether an election is required under Section 31-12-107(2), C.R.S. The hearing will be held at 6 p.m. on the 21st day of March 2024. 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 15th day of February 2024.

_____
Aaron Brockett
Mayor

Attest:

_____
Elesha Johnson
City Clerk

EXHIBIT A

LEGAL DESCRIPTION

(5600 Table Mesa Drive)

A portion of the North-half of Section 9 and the Northwest Quarter of Section 10, Township 1 South, Range 70 West of the Sixth Principal Meridian, County of Boulder, State of Colorado, being more particularly described as follows:

COMMENCING at the Northeast Sixteenth Corner of said Section 9, whence the East Sixteenth Corner of said Section 9 bears N00°01'55"W a distance of 1,313.02 feet;
THENCE N67°04'56"W a distance of 604.61 feet to a point on the easterly line of Ordinance 8483 described in Reception Number 03915718 recorded September 22, 2021 in the Boulder County Clerk and Recorder's Office, said point being the **POINT OF BEGINNING**;

THENCE along the easterly and northerly lines of said Ordinance 8483 the following seven (7) courses:

1. N00°55'58"W a distance of 148.77 feet;
2. THENCE N84°58'30"W a distance of 164.19 feet;
3. THENCE N87°51'41"W a distance of 81.60 feet;
4. THENCE S88°30'34"W non-tangent with the following described curve a distance of 324.50 feet;
5. THENCE along the arc of a curve to the right, having a central angle of 51°59'44", a radius of 673.00 feet, a chord bearing N46°51'41"W a distance of 590.00 feet, and an arc distance of 610.74 feet;
6. THENCE N21°31'56"W non-tangent with the previous described curve a distance of 169.90 feet;
7. THENCE N02°24'19"E a distance of 153.37 feet;

THENCE along the southerly and easterly lines of Ordinance 4861 described in Reception Number 00669885, Film 1339, recorded January 31, 1985 in the Boulder County Clerk and Recorder's Office the following three (3) courses:

1. THENCE S59°07'45"E a distance of 330.04 feet to a point on the westerly line of the Northwest Quarter of the Northeast Quarter of said Section 9;
2. THENCE N00°16'45"W along said westerly line of the Northwest Quarter of the Northeast Quarter of Section 9 a distance of 233.20 feet;
3. THENCE S59°12'57"E a distance of 1,334.41 feet;

THENCE S59°11'04"E along the southerly line of Ordinance 3674 described in Reception Number 964654, Film 719, recorded January 12, 1971 in the Boulder County Clerk and Recorder's Office a distance of 217.15 feet;
THENCE S59°12'03"E along the southerly line of Ordinance 5700 described in Reception Number 01516617, Film 2051, recorded May 12, 1995 and the southerly line of Ordinance 5701 described in Reception Number 01516618, Film 2054, recorded May 12, 1995 in the Boulder County Clerk and Recorder's Office a distance of 1,713.36 feet;
THENCE S31°40'11"W a distance of 277.58 feet;
THENCE N66°27'01"W a distance of 124.96 feet;

THENCE S58°40'40"W a distance of 7.85 feet;
THENCE N63°35'34"W a distance of 29.13 feet;
THENCE N09°26'01"W a distance of 5.92 feet;
THENCE N66°27'01"W a distance of 4.13 feet;
THENCE N59°49'36"W a distance of 185.37 feet;
THENCE N55°26'48"W a distance of 285.66 feet;
THENCE N60°04'13"W a distance of 194.95 feet;
THENCE N59°28'12"W a distance of 376.63 feet;
THENCE N57°42'25"W a distance of 192.07 feet;
THENCE N69°43'16"W a distance of 87.00 feet;
THENCE N61°16'20"W a distance of 76.32 feet;
THENCE N77°49'24"W a distance of 27.35 feet;
THENCE N46°22'56"W a distance of 27.60 feet;
THENCE N61°10'11"W a distance of 139.45 feet;
THENCE N33°37'16"W a distance of 10.24 feet;
THENCE N61°23'24"W a distance of 152.01 feet;
THENCE N66°38'49"W a distance of 83.87 feet;
THENCE S60°26'48"W a distance of 25.73 feet;
THENCE S89°04'02"W a distance of 123.38 feet to the **POINT OF BEGINNING**.

Containing 27.411 Acres, more or less.

ORDINANCE 8623

AN ORDINANCE ANNEXING TO THE CITY OF BOULDER APPROXIMATELY 27 ACRES OF LAND GENERALLY LOCATED AT 5600 TABLE MESA DRIVE WITH AN INITIAL ZONING CLASSIFICATION OF PUBLIC (P) 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. The real property proposed for annexation is more particularly described in **Exhibit A** attached hereto (the "Property") and consists of land owned by the City of Boulder, a Colorado home rule city, and street right-of-way owned by the Colorado Department of Transportation (CDOT).

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 Public (P) for the Property; the Property is not embraced within any city, city and county, or incorporated town; and the Property abuts, and is contiguous to, the City of Boulder by at least one-sixth of its perimeter.

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

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

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

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

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

H. The Planning Board held a public hearing and made a recommendation on the proposed annexation and initial zoning of the Property in the Public (P) zoning district.

I. A public hearing on the proposed annexation and initial zoning of the Property annexed and zoned hereby was duly held before the City Council on March 21, 2024.

J. The initial zoning designation of Public (P) for the Property is consistent with the Boulder Valley Comprehensive Plan and bears a substantial relation to and will enhance the general welfare of the Property and of the residents of the City of Boulder.

K. A stream, wetland, water body and buffer area determination was completed for the Property and its vicinity in accordance with the standards and procedures of Subsection 9-3-9(k), "Stream, Wetland and Water Body Boundaries," B.R.C. 1981, and in accordance with the procedures specified in the 1987 Corps of Engineers Wetlands Delineation Manual and the definitions of a stream, wetland and water body as set forth in Subsection 9-16-1(c) "Stream," "Wetland," or "Water Body," B.R.C. 1981. The City Council may adopt any wetlands mapped on

the Property and its vicinity and the associated wetlands evaluations as part of the annexation ordinance to update the city's regulatory maps.

L. The requirements of Section 30 of Article II of the State Constitution and Sections 31-12-104 and 31-12-105, C.R.S. have been met, no election is required under Section 30 of Article II of the State Constitution and Section 31-12-107(2) C.R.S., and no additional terms and conditions are to be imposed upon the Property to be annexed.

M. The City Council has jurisdiction and the legal authority to annex and zone the Property and to adopt amendments to the city's stream, wetland, and water body boundary mapping and evaluations.

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

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

Section 2. Chapter 9-5, "Modular Zone System," B.R.C. 1981, and the zoning district map forming a part thereof is hereby amended to include the Property within the Public (P) zoning district.

Section 3. Section 9-3-9, "Stream, Wetland and Water Body Protection," B.R.C. 1981, and the stream, wetland and water body maps adopted therein, and as amended from time to time, be, and hereby are, amended to include the mapping shown in **Exhibit B** attached hereto and incorporated herein.

Section 4. Section 9-3-9, "Stream, Wetland and Water Body Protection," B.R.C. 1981, and the functional evaluations of all regulated stream, wetland and water bodies adopted therein, and as amended from time to time, be, and hereby are, amended to include the functional evaluation shown in **Exhibit C**, attached to this ordinance and incorporated herein by reference.

Section 5. For the limited purposes of this ordinance, the City Council suspends the requirement of Subsection 9-2-17(c), "Annexation Requirements," B.R.C. 1981, which otherwise would require that the owners of the land petitioning the city for annexation of their property execute an annexation agreement and suspends any associated requirement under Subsection 9-1-5(a), "Amendments and Effect of Pending Amendments," B.R.C. 1981.

Section 6. The City Council adopts the recitals in this ordinance and incorporates them herein by this reference.

Section 7. The City Council approves any variations or modifications to the Boulder Revised Code or other City ordinances associated with this annexation.

Section 8. The City Council authorizes the city manager to implement the terms of this annexation.

Section 9. The annexation and zoning of the Property and adoption of the mapping and evaluation of the stream, wetland and water bodies on the Property is necessary for the protection of the public health, safety, and welfare.

Section 10. The City Council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AND ORDERED PUBLISHED BY TITLE ONLY this 15th day of February 2024.

_____
Aaron Brockett,
Mayor

Attest:

_____
Elesha Johnson
City Clerk

READ ON SECOND READING, PASSED AND ADOPTED this 21st day of March 2024.

_____
Aaron Brockett,
Mayor

Attest:

_____
Elesha Johnson
City Clerk

EXHIBIT A

LEGAL DESCRIPTION

LEGAL DESCRIPTION:
A portion of the North–half of Section 9 and the Northwest Quarter of Section 10, Township 1 South, Range 70 West of the Sixth Principal Meridian, County of Boulder, State of Colorado, being more particularly described as follows:

COMMENCING at the Northeast Sixteenth Corner of said Section 9, whence the East Sixteenth Corner of said Section 9 bears N00°01'55"W a distance of 1,313.02 feet;

THENCE N67°04'56"W a distance of 604.61 feet to a point on the easterly line of Ordinance 8483 described in Reception Number 03915718 recorded September 22, 2021 in the Boulder County Clerk and Recorder's Office, said point being the **POINT OF BEGINNING**;

THENCE along the easterly and northerly lines of said Ordinance 8483 the following seven (7) courses:
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3. THENCE N87°51'41"W a distance of 81.60 feet;
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5. THENCE along the arc of a curve to the right, having a central angle of 51°59'44", a radius of 673.00 feet, a chord bearing N46°51'41"W a distance of 590.00 feet, and an arc distance of 610.74 feet;
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7. THENCE N02°24'19"E a distance of 153.37 feet;

THENCE along the southerly and easterly lines of Ordinance 4861 described in Reception Number 00669885, Film 1339, recorded January 31, 1985 in the Boulder County Clerk and Recorder's Office the following three (3) courses:
1. THENCE S59°07'45"E a distance of 330.04 feet to a point on the westerly line of the Northwest Quarter of the Northeast Quarter of said Section 9;
2. THENCE N00°16'45"W along said westerly line of the Northwest Quarter of the Northeast Quarter of Section 9 a distance of 233.20 feet;
3. THENCE S59°12'57"E a distance of 1,334.41 feet;

THENCE S59°11'04"E along the southerly line of Ordinance 3674 described in Reception Number 964654, Film 719, recorded January 12, 1971 in the Boulder County Clerk and Recorder's Office a distance of 217.15 feet;
THENCE S59°12'03"E along the southerly line of Ordinance 5700 described in Reception Number 01516617, Film 2051, recorded May 12, 1995 and the southerly line of Ordinance 5701 described in Reception Number 01516618, Film 2054, recorded May 12, 1995 in the Boulder County Clerk and Recorder's Office a distance of 1,713.36 feet;
THENCE S31°40'11"W a distance of 277.58 feet;
THENCE N66°27'01"W a distance of 124.96 feet;
THENCE S58°40'40"W a distance of 7.85 feet;
THENCE N63°35'34"W a distance of 29.13 feet;
THENCE N09°26'01"W a distance of 5.92 feet;
THENCE N66°27'01"W a distance of 4.13 feet;
THENCE N59°49'36"W a distance of 185.37 feet;
THENCE N55°26'48"W a distance of 285.66 feet;
THENCE N60°04'13"W a distance of 194.95 feet;
THENCE N59°28'12"W a distance of 376.63 feet;
THENCE N57°42'25"W a distance of 192.07 feet;
THENCE N69°43'16"W a distance of 87.00 feet;
THENCE N61°16'20"W a distance of 76.32 feet;
THENCE N77°49'24"W a distance of 27.35 feet;
THENCE N46°22'56"W a distance of 27.60 feet;
THENCE N61°10'11"W a distance of 139.45 feet;
THENCE N33°37'16"W a distance of 10.24 feet;
THENCE N61°23'24"W a distance of 152.01 feet;

COLORADO LICENSED
JACOB STONE FRISCH
38149
PROFESSIONAL LAND SURVEYOR

Jacob S. Frisch, PLS No. 38149
Date: February 1, 2024
Job No.: 65321358
For and on behalf of
Merrick & Company

MERRICK PROJECT NO.			65321358
CLIENT PROJECT NO.			–
REVISION DESCRIPTION			
DRAWN ELZ	DATE 01/02/2024	SCALE	N/A

MERRICK®
5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111

ANNEXATION – A PORTION OF THE NORTH 1/2 OF SECTION 9, NORTHWEST 1/4 OF SECTION 10, T1S, R70W, 6TH P.M.
COUNTY OF BOULDER, STATE OF COLORADO

REVISION:	DRAWING NO.	SHEET NO.
R1		1 OF 5

PROPERTY DESCRIPTION CONTINUED:

THENCE N66°38'49"W a distance of 83.87 feet;
THENCE S60°26'48"W a distance of 25.73 feet;
THENCE S89°04'02"W a distance of 123.38 feet to the **POINT OF BEGINNING**.

Containing 27.411 Acres, more or less.

LINE TABLE		
LINE #	BEARING	LENGTH
L1	N00°55'58"W	148.77'
L2	N84°58'30"W	164.19'
L3	N87°51'41"W	81.60'
L4	S59°11'04"E	217.15'
L5	N66°27'01"W	124.96'
L6	S58°40'40"W	7.85'
L7	N63°35'34"W	29.13'
L8	N09°26'01"W	5.92'

LINE TABLE		
LINE #	BEARING	LENGTH
L9	N66°27'01"W	4.13'
L10	N69°43'16"W	87.00'
L11	N61°16'20"W	76.32'
L12	N61°10'11"W	139.45'
L13	N33°37'16"W	10.24'
L14	N66°38'49"W	83.87'
L15	S60°26'48"W	25.73'
L16	S89°04'02"W	123.38'

COLORADO LICENSED
JACOB STONE ERICSON
38149
PROFESSIONAL LAND SURVEYOR

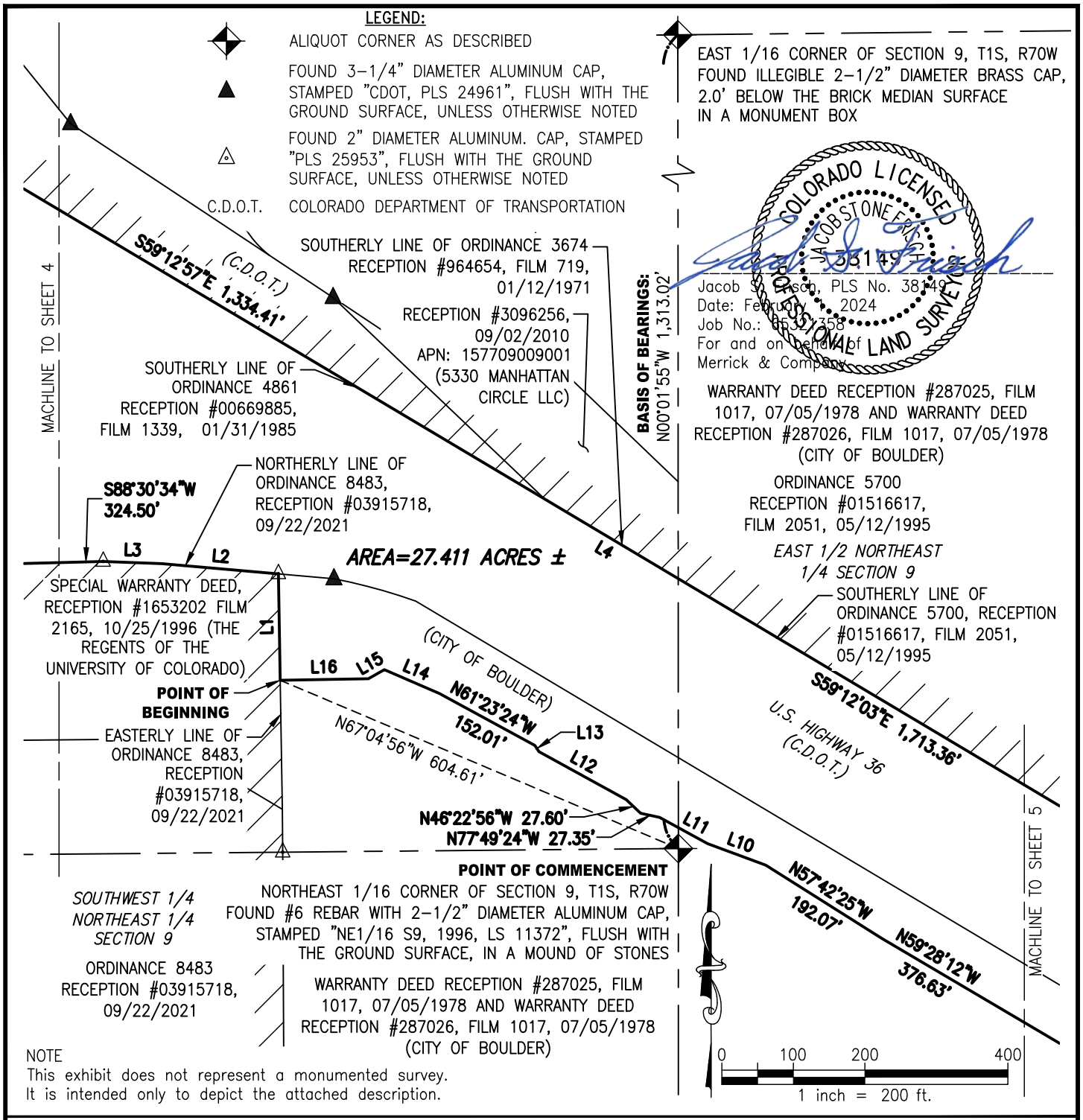
Jacob S. Ericson, PLS No. 38149
Date: February 1, 2024
Job No.: 65321358
For and on behalf of
Merrick & Company

MERRICK PROJECT NO.	65321358
CLIENT PROJECT NO.	–
REVISION DESCRIPTION	
DRAWN ELZ	DATE 01/02/2024 SCALE N/A

MERRICK®
5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111

ANNEXATION – A PORTION OF THE NORTH 1/2 OF SECTION 9, NORTHWEST 1/4 OF SECTION 10, T1S, R70W, 6TH P.M.
COUNTY OF BOULDER, STATE OF COLORADO

REVISION:	DRAWING NO.	SHEET NO.
R1		2 OF 5



NOTE
This exhibit does not represent a monumented survey.
It is intended only to depict the attached description.

MERRICK PROJECT NO.	65321358
CLIENT PROJECT NO.	–
REVISION DESCRIPTION	
DRAWN ELZ	DATE 01/02/2024 SCALE 1" = 200'

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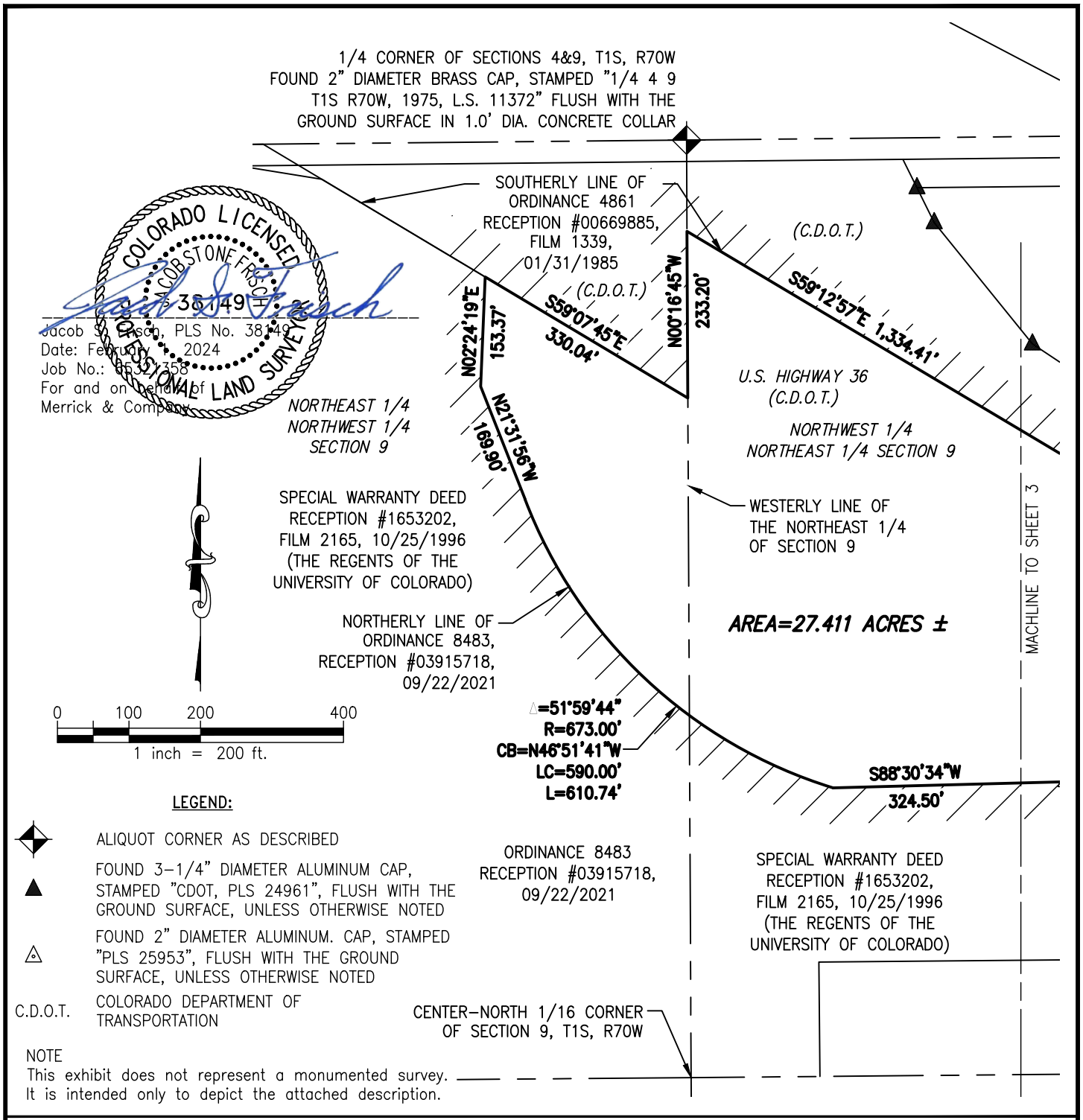
5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111

ANNEXATION – A PORTION OF THE NORTH 1/2 OF SECTION 9, NORTHWEST 1/4 OF SECTION 10, T1S, R70W, 6TH P.M. COUNTY OF BOULDER, STATE OF COLORADO

REVISION:	DRAWING NO.	SHEET NO.
R1		3 OF 5



MERRICK PROJECT NO.			65321358
CLIENT PROJECT NO.			–
REVISION DESCRIPTION			
DRAWN	ELZ	DATE 01/02/2024	SCALE 1" = 200'

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ANNEXATION – A PORTION OF THE NORTH 1/2 OF SECTION 9, NORTHWEST 1/4 OF SECTION 10, T1S, R70W, 6TH P.M. COUNTY OF BOULDER, STATE OF COLORADO

REVISION:	DRAWING NO.	SHEET NO.
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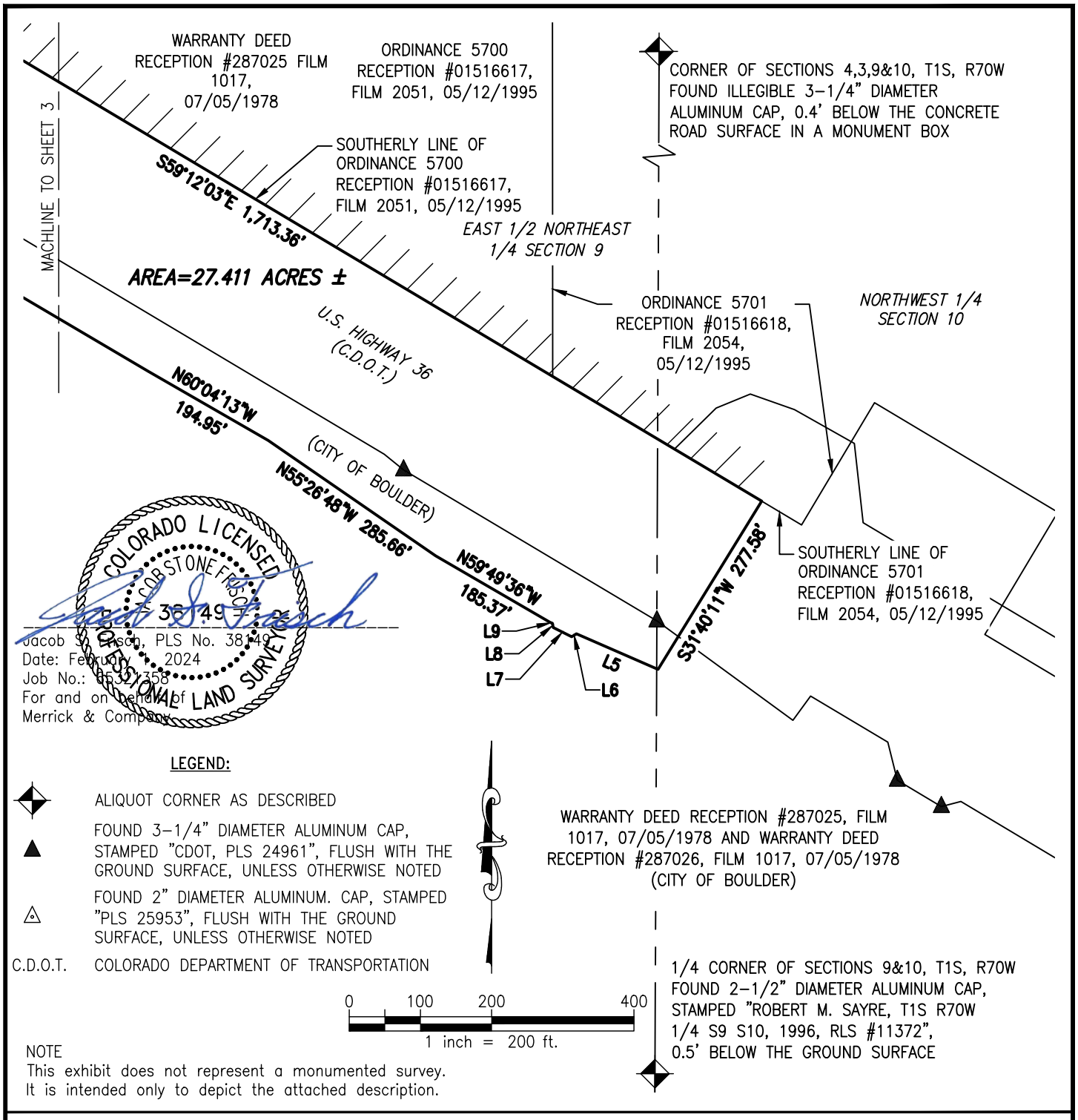


MERRICK PROJECT NO.	65321358
CLIENT PROJECT NO.	–
REVISION DESCRIPTION	
DRAWN ELZ	DATE 01/02/2024 SCALE 1" = 200'

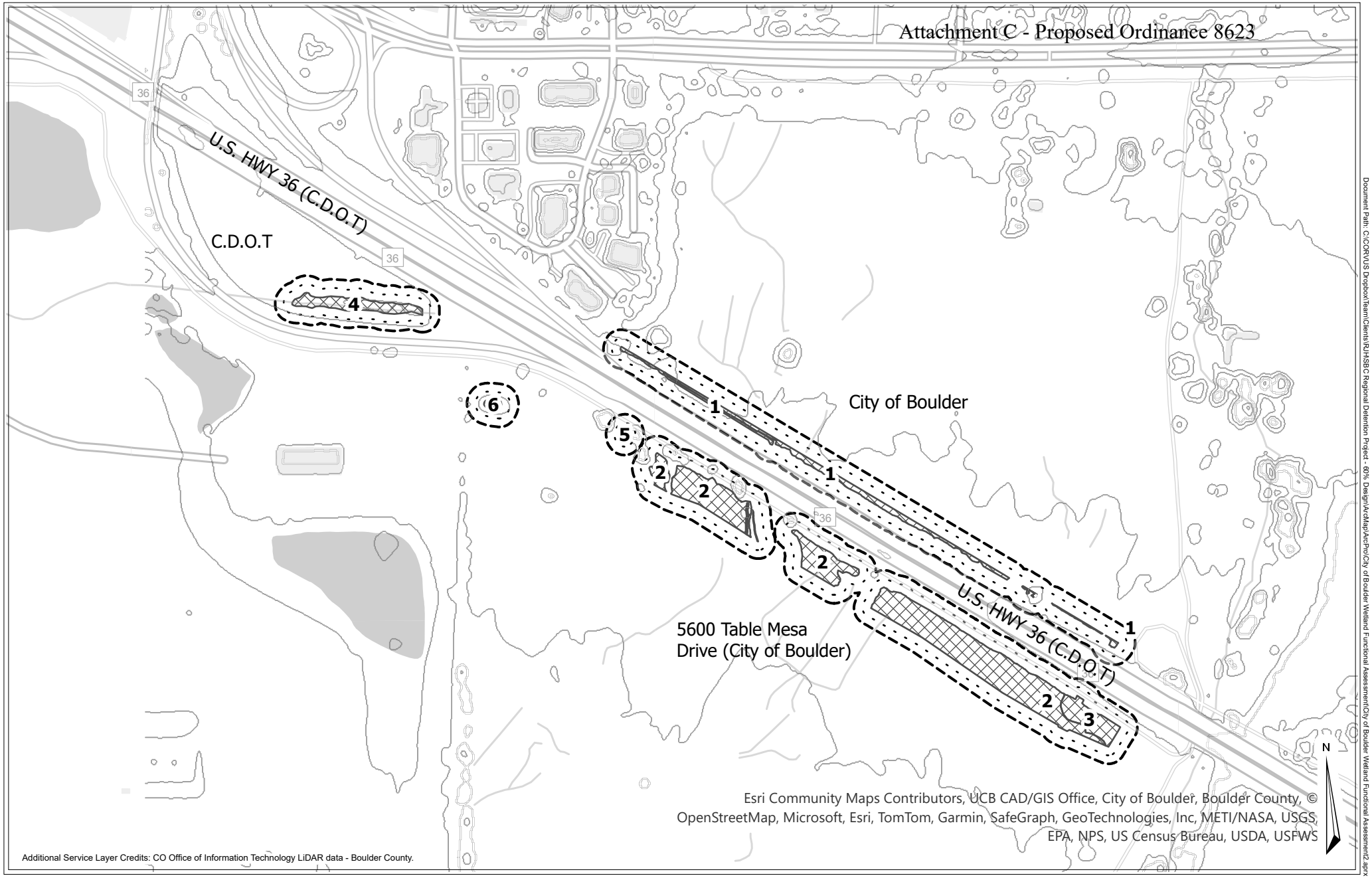
MERRICK®
5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111

ANNEXATION – A PORTION OF THE NORTH 1/2 OF SECTION 9, NORTHWEST 1/4 OF SECTION 10, T1S, R70W, 6TH P.M. COUNTY OF BOULDER, STATE OF COLORADO

REVISION:	DRAWING NO.	SHEET NO.
R1		5 OF 5

EXHIBIT B

WETLAND MAP



South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 87.5175 350 Feet

1:4,500

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T) PROPERTIES LOCATED AT 5600 TABLE MESA DRIVE

Boulder, Boulder County
Map Date: 2/7/2024

CORVUS
Environmental Consulting

SHEET 1 OF 7

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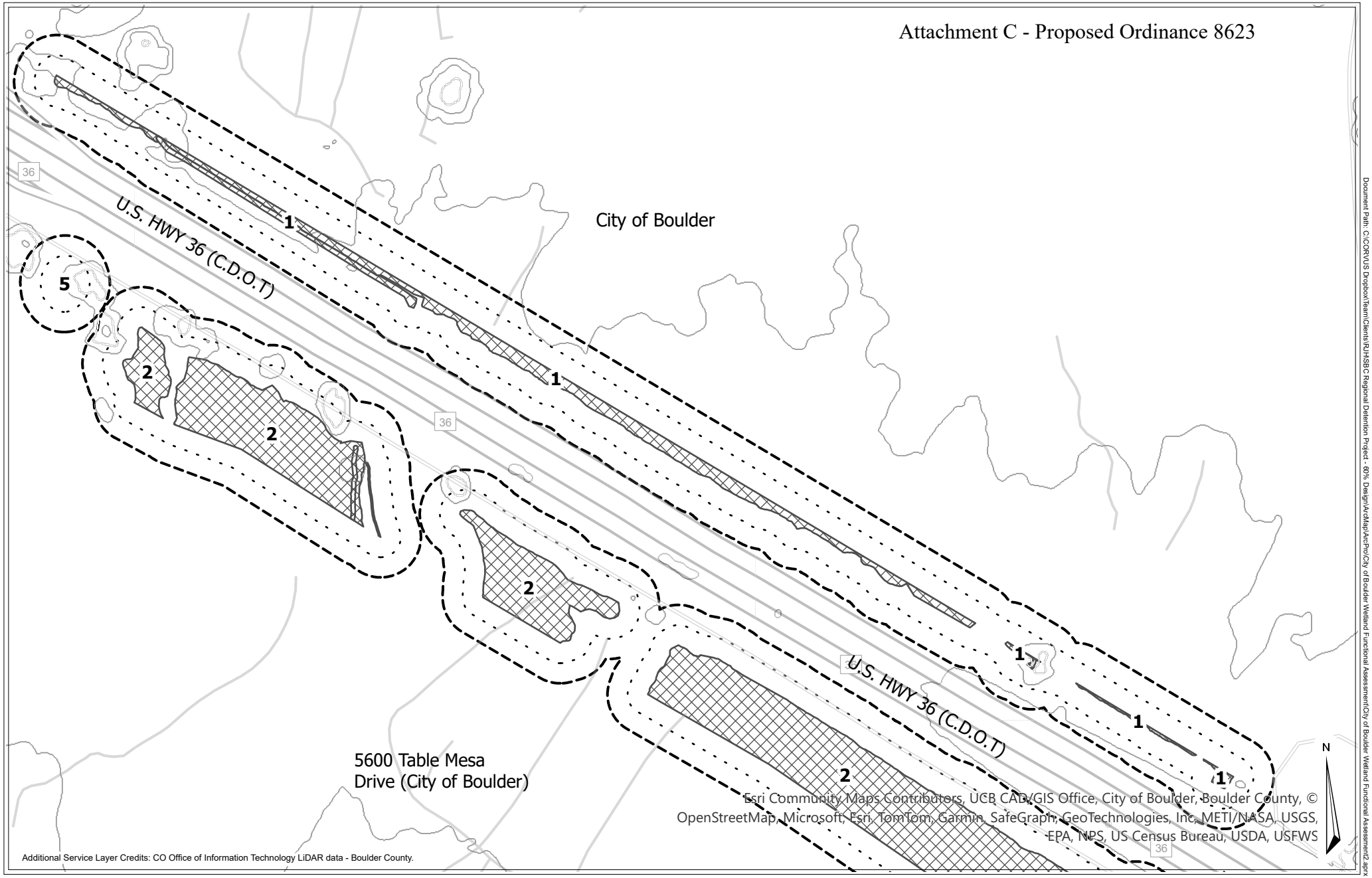

South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 37.5 75 150 Feet

1:1,800

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T) PROPERTIES LOCATED AT 5600 TABLE MESA DRIVE

Boulder, Boulder County
Map Date: 2/7/2024

CORVUS Environmental Consulting

SHEET 2 OF 7

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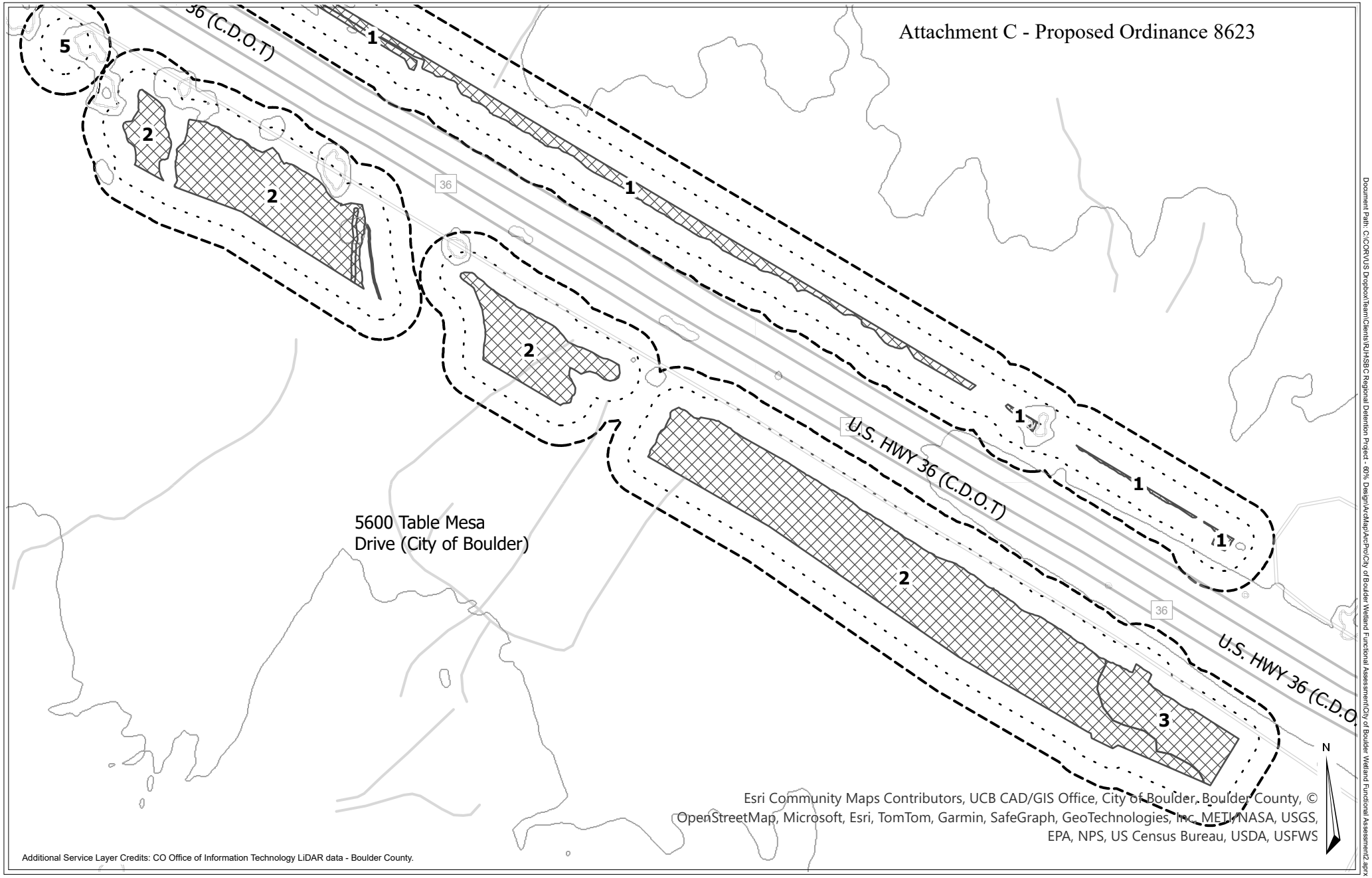

South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 37.5 75 150 Feet

1:1,800

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T) PROPERTIES LOCATED AT 5600 TABLE MESA DRIVE

Boulder, Boulder County
Map Date: 2/7/2024

CORVUS
Environmental Consulting

SHEET 3 OF 7

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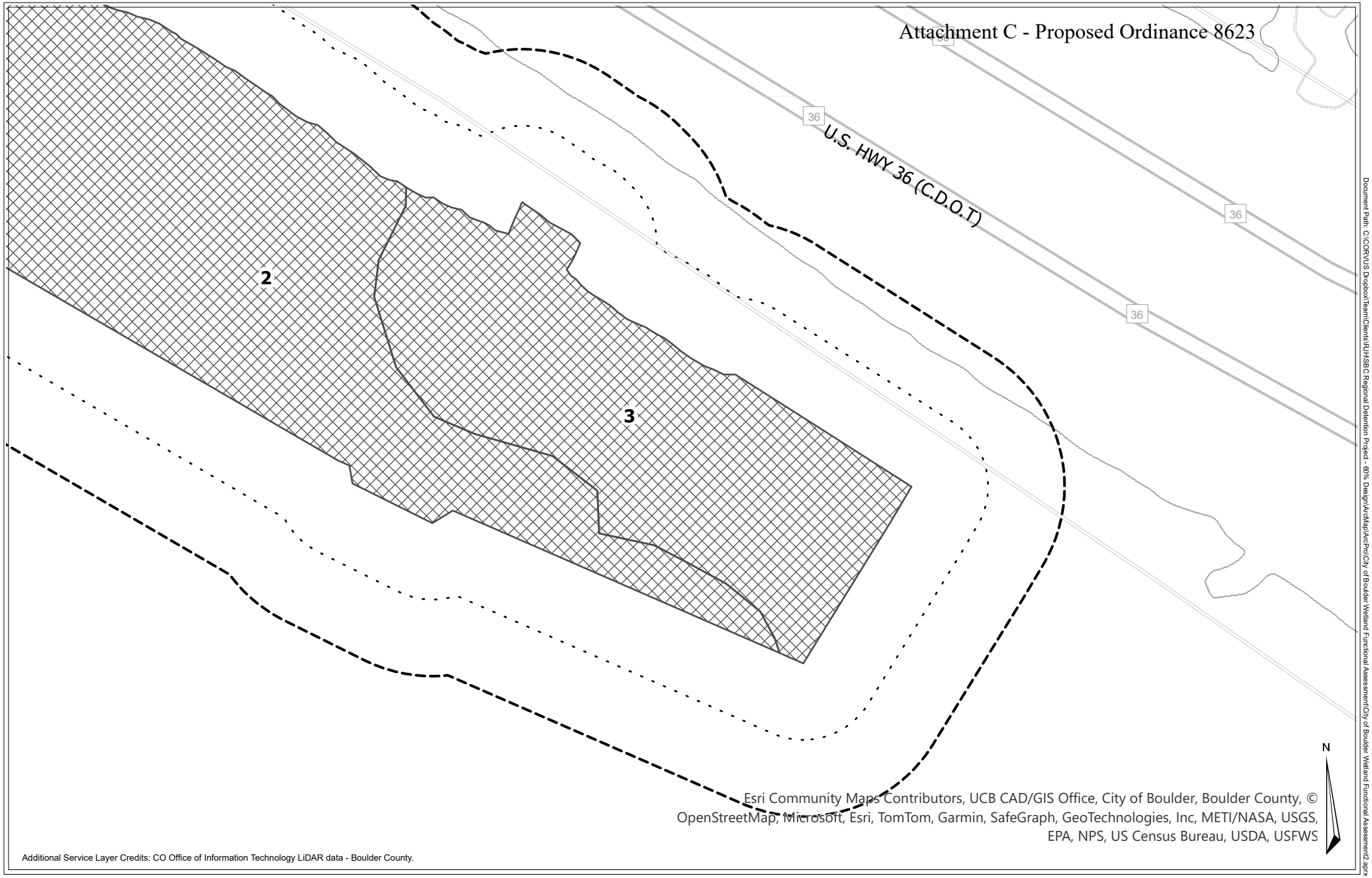

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South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 10 20 40 Feet

1:500

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T) PROPERTIES LOCATED AT 5600 TABLE MESA DRIVE

Boulder, Boulder County
Map Date: 2/7/2024

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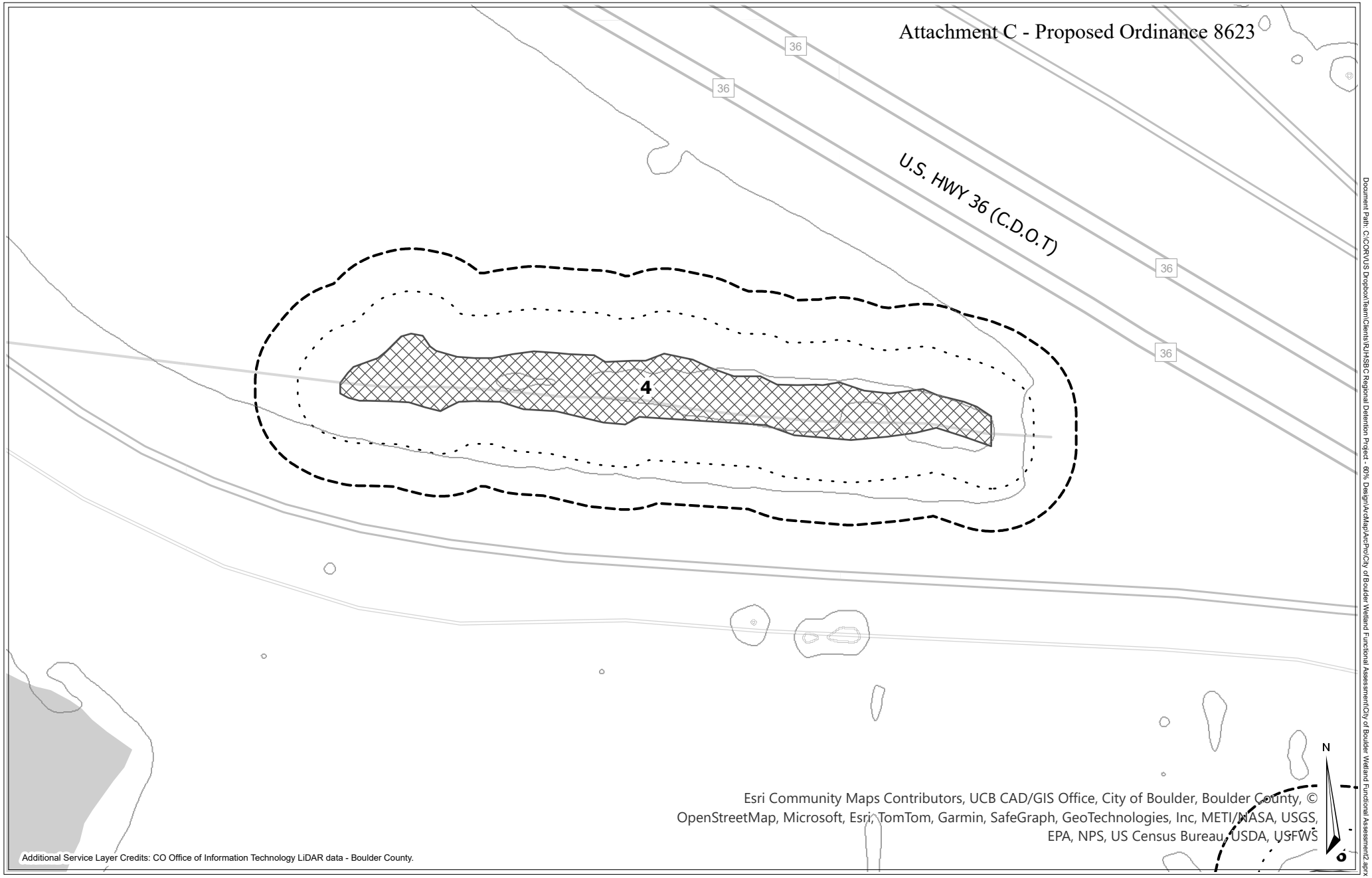
Environmental Consulting

SHEET 4 OF 7



South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 15 30 60 Feet

1:900

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T)
PROPERTIES LOCATED AT
5600 TABLE MESA DRIVE

CORVUS
Environmental Consulting

Boulder, Boulder County
Map Date: 2/7/2024

SHEET 5 OF 7

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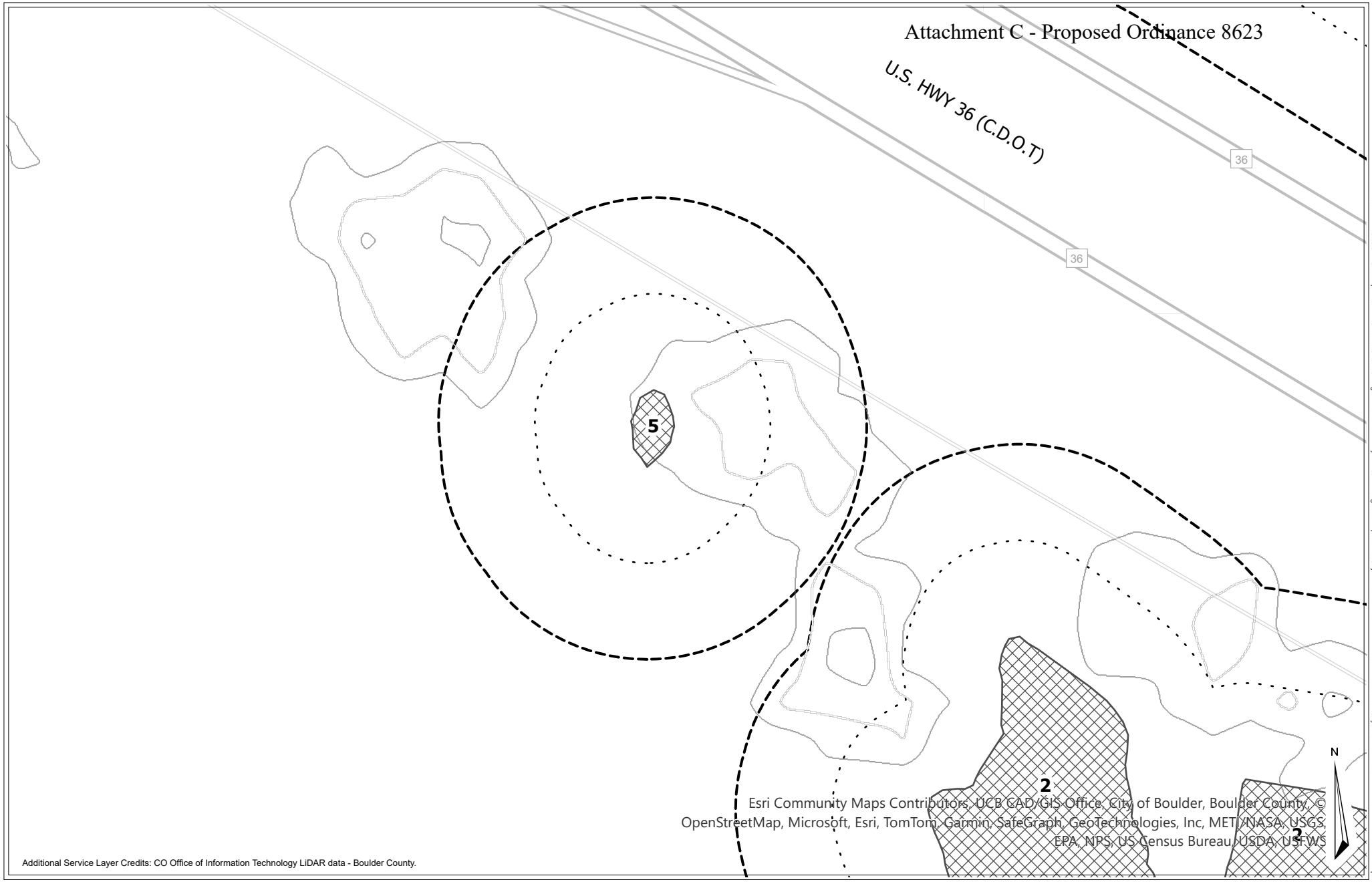

South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 5 10 20 Feet

1:400

WETLAND MAP
CITY OF BOULDER AND COLORADO
DEPT. OF TRANSPORTATION (C.D.O.T)
PROPERTIES LOCATED AT
5600 TABLE MESA DRIVE

Boulder, Boulder County
Map Date: 2/7/2024

CORVUS
Environmental Consulting

SHEET 6 OF 7

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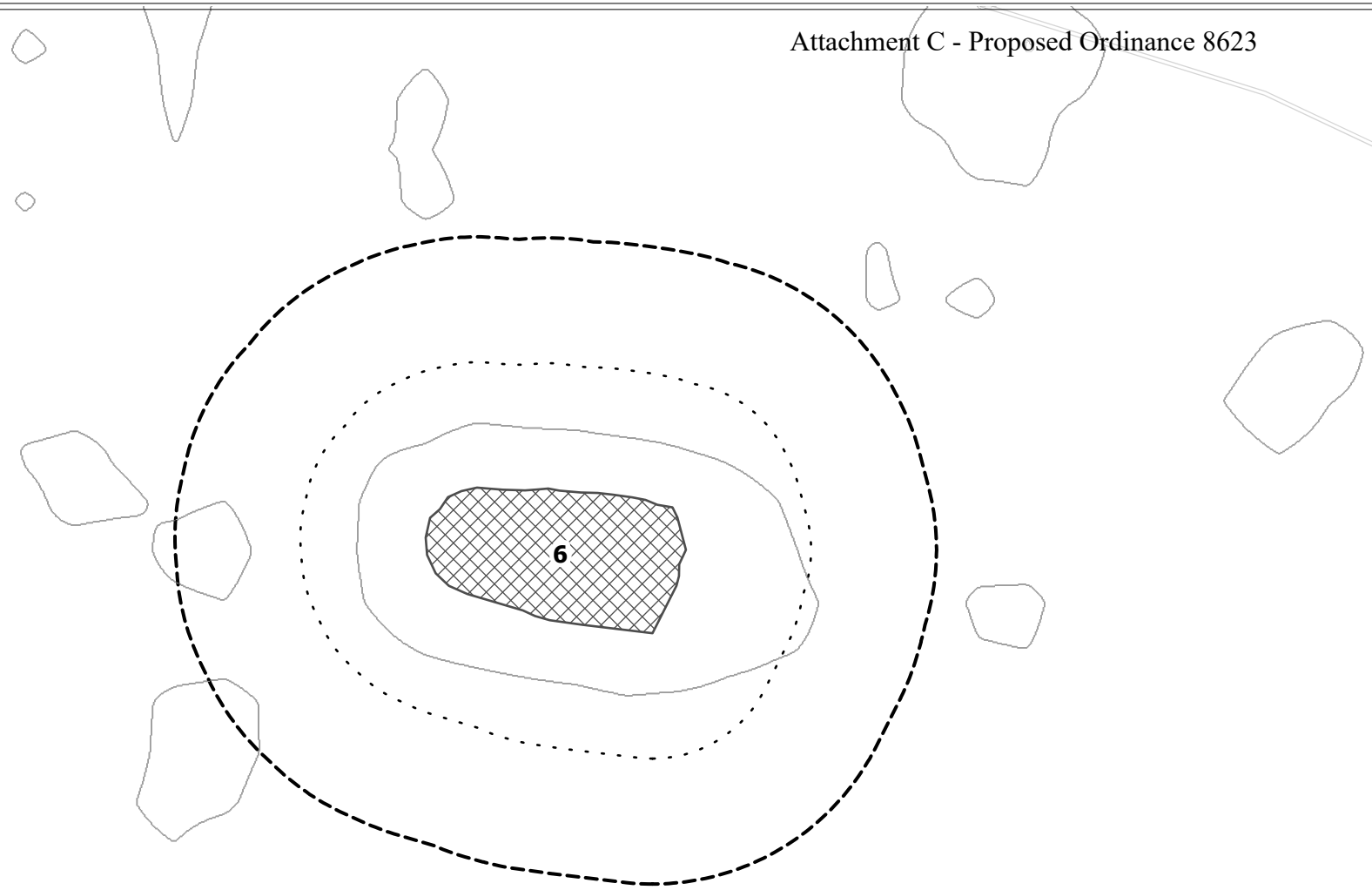

N

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Additional Service Layer Credits: CO Office of Information Technology LiDAR data - Boulder County.

South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 5 10 20 Feet

1:400

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T)
PROPERTIES LOCATED AT
5600 TABLE MESA DRIVE

Boulder, Boulder County
Map Date: 2/7/2024

CORVUS
Environmental Consulting

SHEET 7 OF 7

Document Path: C:\CORVUS Dropbox\Team\Clients\RJH\SBC Regional Detention Project - 60% Design\ArcMap\ArcPro\City of Boulder Wetland Functional Assessment\City of Boulder Wetland Functional Assessment2.aprx

EXHIBIT C

FUNCTIONAL EVALUATIONS

WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #1

Former Cooper #_____

Location: North of US-36 in Boulder, Boulder County, CO.		**Investigator: MShields**	**Date** 23-Jan-24
West of 39.980917°, -105.221875°, east of 39.983374°, -105.227075°.		**Observation method: Onsite**	
Water Source: Groundwater, overland flow, drainage ditches		**History:**	
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high	

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		There is moderate groundwater recharge in this wetland community. Recharge events that do occur are likely confined to large rainfall events entering the wetland community via overland flow from nearby impervious surfaces and infiltrating from the surface. The southern wetland edge has high roughness with irregularity based on microtopography along the US-36 roadway berm.		
	Surface water inflow exceeds outflow			
X	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
X	Presence of porous underlying strata			
X	Dense vegetated basin slows flow			
X	Outlet constricted &/or dammed			
X	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 3	Confidence b	Previous
GROUNDWATER DISCHARGE		Wetland seeps are located in the larger wetland community (but outside the annexation boundary). Groundwater discharge may be slightly limited due to US-36 infrastructure.		
X	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
	No inlet, but outlet present &/or downstream of dam			
	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 4	Confidence b	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		Wetland community located in a large wet meadow with many named/unnamed drainage pathways. The community as a whole is perpendicular to South Boulder Creek and parallels US-36. Substrates are generally loamy over sandy and gravelly alluvium.		
X	Located along stream			
X	Outflow restricted			
	High water mark shows periodic flooding			
X	Flat topography &/or low gradient			
X	Porous substrate allows infiltration for subsurface storage			
X	Rough surface & depressions for aboveground storage			
X	Dense veg. basin slows flow			
	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 4	Confidence c	Previous
SHORELINE ANCHORING/STABILIZATION		Wetland community does not directly adjoin a natural stream feature, but contains dense, varied vegetation with occasional woody species (SAEX, ELAN). Stormwater features associated with US-36 are also present adjacent to the community. No evidence of erosion was observed.		
	Erosional forces/high water velocity/unsheltered loc.			
X	Dense vegetation/good water-veg. interspersion			
	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 4	Confidence c	Previous
SEDIMENT TRAPPING/RETENTION		No large, direct outlets. Many little swales transect the wetland, but none with anything more than ephemeral flow, at best. These swales may provide low sediment inputs but lack the stream power to move large amounts of sediment. Wetland is confined against the US-36 berm, and the wet meadow north of the wetland is topographically higher than the wetland being assessed.		
X	Constricted outlet/water flow slows			
X	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
	Evidence of sediment/organic matter deposits			
X	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
X	Source of sediments from upstream/offsite activities			
X	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 4	Confiden c	Previous

Wetland #1 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

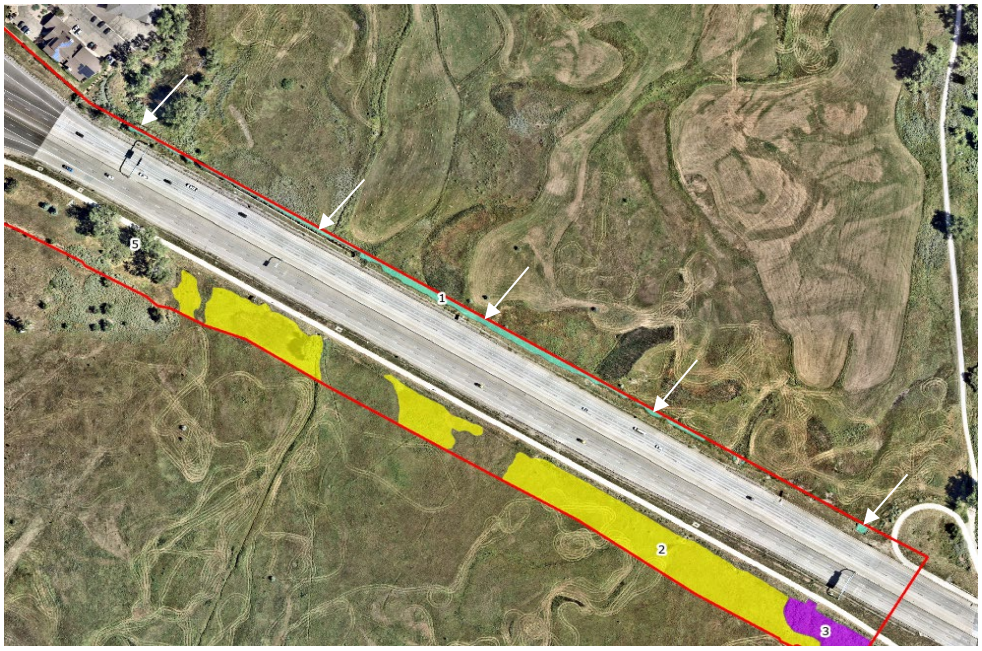
Function	*Indicators*	*Comments*		
NUTRIENT RETENTION (long-term)		Wetland community densely vegetated with a mixture of species in different stratums. Woody vegetation is also present and observed mainly as shrubs (SAEX, ELAN).		
	Permanently flooded/saturated			
X	High plant productivity			
X	Presence of woody plants			
	Organic soils present			
OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 4	Confiden b	Previous
NUTRIENT RETENTION (short-term)		Short-term nutrient retention likely occurs in depressions that maintain saturation/inundation longer, with nutrient inputs from decaying organic matter present in the wetland. The wetland contains occasional pockets of cattail community that reflect effective short-term nutrient retention.		
X	Low water velocity			
X	Highly variable water/seasonally flooded			
	High plant productivity			
	Fine mineral soils present			
OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 3	Confiden b	Previous
FOOD CHAIN SUPPORT (downstream/production export)		Wetland community experiences seasonal flooding when water table is high, resulting in an increase in groundwater discharge into the wetland.		
	Presence of outlet			
	High plant productivity/overhanging veg.			
X	Seasonal flooding			
	Good flushing flows/high erosion potential			
	Non-acidic water			
	Substrate w/ accumulated organic matter			
OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 2	Confiden b	Previous
FOOD CHAIN SUPPORT (within basin)		No main outlet for flow out of wetland, and swales that are present exhibit very low, seasonally dependent velocities.		
	High plant productivity			
X	Absence of outlet			
X	Low erosion potential/absence of high flows			
OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 3	Confiden c	Previous
FISH HABITAT/AQUATIC DIVERSITY		No natural open water was observed in the wetland community, although microtopographic depressions likely support small open water areas during the spring. A concrete drainage channel is located along a portion of the southern edge, however, this is not quality fish habitat.		
	Some deep open water			
	Non-acidic, clear water			
	No barriers to migration/movement			
	Minimal variation in flow (artificial)			
	Streambank/edges provide partial cover/cool temps			
	Well-mixed water/adequate oxygen			
OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 1	Confiden c	Previous
WILDLIFE HABITAT		Adjacent habitats are split between woody/wet meadow communities to the north and US-36 to the south, limiting wildlife use. Wetland is connected to a larger wet meadow complex to the north, providing a larger habitat polygon. However; this northern area is hayed, which perpetuates disturbance of wildlife habitat.		
X	Signs of different animals -- scat,prints,shelter			
X	Adjacent wooded area or veg. >20ft wide			
	Large/ sinuous, irregular basin/with islands			
	High veg. diversity/good food sources			
X	Minimal variation in flow (artificial)			
	Some open water			
X	Connects to offsite habitat			
	Not channelized or farmed			
OVERALL WILDLIFE HABITAT FUNCTION		Rating 3	Confiden c	Previous
ACTIVE RECREATION		No active recreation opportunities.		
	Direct evidence of actual use			
	Convenient public access			
X	Good habitat for animals/fish & high diversity			
OVERALL ACTIVE RECREATION FUNCTION		Rating 2	Confiden c	Previous

Wetland #1 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high		
Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Associated with high-quality wet meadow habitat to the north that contains suitable habitat for a federally-protected species (ULTO) and hosts a known population of this species.		
X	High ranked occurrence of plant community			
X	Presence of rare plants or animals			
X	Landscape diversity			
X	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 5	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		US-36 is an anthropogenic feature that splits this wetland into two communities (north and south). As such, hydrology is altered (due to additional impervious surfaces), and there has been historic ground disturbance nearby (for construction).		
	Low degree of disturbance			
X	Naturalness of hydrology			
X	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 3	Confiden c	

Notes:

Wetland 1 Mapping: Teal polygon on north side of US-36.



WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #2

Former Cooper #_____

Location: South of US-36 in Boulder, Boulder County, CO.		**Investigator: MShields**	**Date** 23-Jan-24
West of 39.980616°, -105.222854°, east of 39.982600°, -105.227040°.		**Observation method: Onsite**	
Water Source: Groundwater, overland flow, drainage ditches		**History:**	
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high	

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		Wet meadow community in an undeveloped field with minimal topographic variability transected by ephemeral drainage swales that exhibit low stream power. Downgradient outflow is blocked to the north by the US-36 roadway berm; however, the Dry Creek No. 2 Ditch and two unnamed ditches connect to the wetland on the north side of the highway via culverts under US-36.		
	Surface water inflow exceeds outflow			
X	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
X	Presence of porous underlying strata			
X	Dense vegetated basin slows flow			
X	Outlet constricted &/or dammed			
	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 3	Confiden b	Previous
GROUNDWATER DISCHARGE		Wet meadow contains scattered seeps and is situated within the South Boulder Creek floodway. The wetland is bound on the north (US-36) and south (offsite) by artifical berms.		
X	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
	No inlet, but outlet present &/or downstream of dam			
	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 4	Confiden b	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		Wetland community contains drainage swales, some of which exhibit an OHWM, and is located in the South Boulder Creek floodway. Substrates are generally loamy over sandy and gravelly alluvium. Community consists of a densely vegetated herbaceous layer.		
X	Located along stream			
X	Outflow restricted			
	High water mark shows periodic flooding			
X	Flat topography &/or low gradient			
X	Porous substrate allows infiltration for subsurface storag			
	Rough surface & depressions for aboveground storage			
X	Dense veg. basin slows flow			
	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 4	Confiden c	Previous
SHORELINE ANCHORING/STABILIZATION		Wetland community does not directly adjoin South Boulder Creek, but does contain small, low-powered drainage swales. No erosion was observed.		
	Erosional forces/high water velocity/unsheltered loc.			
X	Dense vegetation/good water-veg. interspersion			
	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 3	Confiden c	Previous
SEDIMENT TRAPPING/RETENTION		No large stream features are present to provide sediment flushing in this wetland. Small, low velocity drainage swales may move smaller sized particles through during larger flow events. Dense vegetation and low topographic variation outside of the drainage swales makes sediment transport difficult.		
X	Constricted outlet/water flow slows			
X	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
	Evidence of sediment/organic matter deposits			
X	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
	Source of sediments from upstream/offsite activities			
X	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 4	Confiden c	Previous

Wetland #2 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

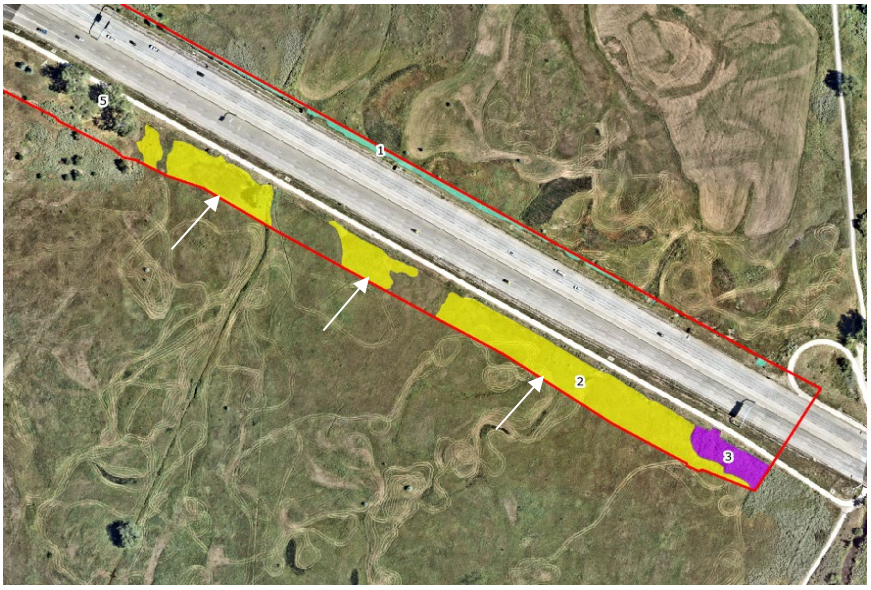
Function	*Indicators*	*Comments*		
NUTRIENT RETENTION (long-term)		The combination of dense PEM wetlands, low topographic relief, and high sediment retention, provide moderate nutrient trapping.		
	Permanently flooded/saturated			
X	High plant productivity			
	Presence of woody plants			
	Organic soils present			
OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 3	Confiden b	Previous
NUTRIENT RETENTION (short-term)		Wetland community is dominated by herbaceous plants; however, the wetland lacks larger flow events to remove sediment and vegetation.		
X	Low water velocity			
X	Highly variable water/seasonally flooded			
X	High plant productivity			
	Fine mineral soils present			
OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 3	Confiden b	Previous
FOOD CHAIN SUPPORT (downstream/production export)		Wetland community has three outlets under US-36, and seasonal saturation/inundation is visible on aerial imagery; however, the outlets are small and host low velocity flow events, meaning that export of organic material downstream of the wetland is likely infrequent.		
X	Presence of outlet			
	High plant productivity/overhanging veg.			
X	Seasonal flooding			
	Good flushing flows/high erosion potential			
	Non-acidic water			
	Substrate w/ accumulated organic matter			
OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 2	Confiden c	Previous
FOOD CHAIN SUPPORT (within basin)		Lack of frequent, high-powered, high-erosion flow events keeps organic materials in the wetland.		
	High plant productivity			
	Absence of outlet			
X	Low erosion potential/absence of high flows			
OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 4	Confiden c	Previous
FISH HABITAT/AQUATIC DIVERSITY		Drainage swales are ephemeral and do not contain flow for most of the year. Some small pockets of standing water may perpetuate after a rainfall events, but do not provide quality fish habitat.		
	Some deep open water			
	Non-acidic, clear water			
	No barriers to migration/movement			
	Minimal variation in flow (artificial)			
	Streambank/edges provide partial cover/cool temps			
	Well-mixed water/adequate oxygen			
OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 1	Confiden c	Previous
WILDLIFE HABITAT		Wetland community hosts a diverse herbaceous community and containing habitat islands with changes in species composition based on location relative to groundwater seeps or drainage swales. The wetland is also adjacent to a large, undeveloped meadow to the south, which provides continuous, undisturbed wildlife habitat.		
X	Signs of different animals -- scat,prints,shelter			
X	Adjacent wooded area or veg. >20ft wide			
X	Large/ sinuous, irregular basin/with islands			
X	High veg. diversity/good food sources			
	Minimal variation in flow (artificial)			
	Some open water			
X	Connects to offsite habitat			
	Not channelized or farmed			
OVERALL WILDLIFE HABITAT FUNCTION		Rating 4	Confiden c	Previous
ACTIVE RECREATION		No active recreation opportunities. Trail is located adjacent to the wetland; however, a fence separates the two.		
	Direct evidence of actual use			
	Convenient public access			
X	Good habitat for animals/fish & high diversity			
OVERALL ACTIVE RECREATION FUNCTION		Rating 2	Confiden c	Previous

Wetland #2 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high		
Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Associated with high-quality wet meadow habitat within and to the south of the wetland community that contains suitable habitat for a federally-protected species (ULTO) and hosts a known population of this species. Habitat islands created by variable hydrology creates habitat diversity.		
X	High ranked occurrence of plant community			
X	Presence of rare plants or animals			
X	Landscape diversity			
X	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 5	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		Wetland community retains much of it's natural hydrology via groundwater seeps. A small subset of hydrology is artifical including constructed drainage ditches.		
	Low degree of disturbance			
X	Naturalness of hydrology			
X	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 3	Confiden c	

Notes:

Wetland 2 mapping: yellow polygons on the south side of US-36.



WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #3

Former Cooper #_____

Location: South of US-36 in Boulder, Boulder County, CO	**Investigator: MShields**	**Date**	**1/23/2024**
West of 39.980357°, -105.222244°, East of 39.980616°, -105.222854°	**Observation method: Onsite**		
Water Source: Groundwater, overland flow, drainage ditches	**History:**		
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high	**Confidence:**a=low, b=medium, c=high		

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		Scrub-shrub wetland community in an undeveloped field with minimal topographic variability Downgradient outflow is blocked to the north by the US-36 roadway berm; however, an unnamed drainage ditch connects to the wetland on the north side of the highway via culverts under US-36.		
	Surface water inflow exceeds outflow			
X	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
	Presence of porous underlying strata			
X	Dense vegetated basin slows flow			
X	Outlet constricted &/or dammed			
	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 3	Confiden b	Previous
GROUNDWATER DISCHARGE		Wetland receives hydrology from upgradient seeps and flood flows from SBC. There is no direct inlet to this wetland, and it's bound on two sides by concrete trails.		
	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
X	No inlet, but outlet present &/or downstream of dam			
	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 3	Confiden b	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		Wetland community located adjacent to South Boulder Creek (with a concrete trail inbetween) and in the South Boulder Creek floodway. Wetland has one outflow point under US-36. Wetland has low topographic relief with a slight slope toward the creek. Wetland contains a dense coyote willow community, creating a small percentage of coarse woody debris.		
X	Located along stream			
X	Outflow restricted			
	High water mark shows periodic flooding			
X	Flat topography &/or low gradient			
	Porous substrate allows infiltration for subsurface storag			
X	Rough surface & depressions for aboveground storage			
X	Dense veg. basin slows flow			
X	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 4	Confiden c	Previous
SHORELINE ANCHORING/STABILIZATION		Erosional forces are low in this wetland as there are no streams or waterbodies present. Dense woody vegetation provides strong community stabilization, and no erosion was observed.		
	Erosional forces/high water velocity/unsheltered loc.			
X	Dense vegetation/good water-veg. interspersion			
X	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 4	Confiden c	Previous
SEDIMENT TRAPPING/RETENTION		No drainage features within or directly adjoining this wetland community able to re-suspend sediment. Water velocities are slow due to low topographic relief and high vegetation cover.		
X	Constricted outlet/water flow slows			
X	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
	Evidence of sediment/organic matter deposits			
X	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
	Source of sediments from upstream/offsite activities			
X	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 4	Confiden c	Previous

Wetland #3 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

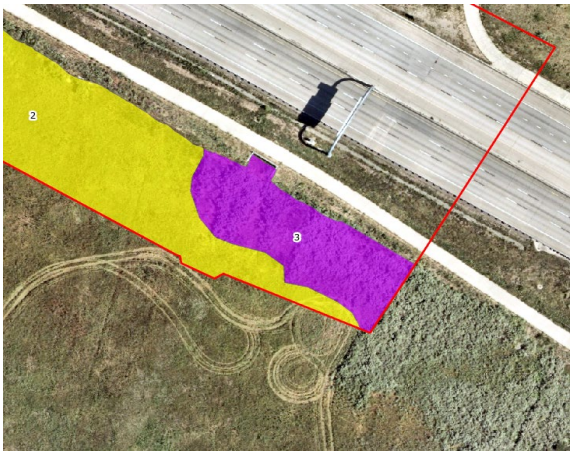
Function	*Indicators*	*Comments*		
NUTRIENT RETENTION (long-term)		Wetland community contains dense woody vegetation (Salix exigua) with a well developed herbaceous understory.		
	Permanently flooded/saturated			
X	High plant productivity			
X	Presence of woody plants			
	Organic soils present			
OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 4	Confiden c	Previous
NUTRIENT RETENTION (short-term)		Robust vegetation community in area that is seasonally flooded/exhibits a high water table. No streams are present in the wetland and water migration through the site is mainly overland or subsurface flow at low velocities.		
X	Low water velocity			
X	Highly variable water/seasonally flooded			
X	High plant productivity			
	Fine mineral soils present			
OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 4	Confiden c	Previous
FOOD CHAIN SUPPORT (downstream/production export)		Wetland community contains one outlet under US-36 but does not directly connect with a stream. Large flood events from US-36 likely move some nutrients through the community, but presence of a dense woody community likely prevents much of this movement.		
X	Presence of outlet			
X	High plant productivity/overhanging veg.			
X	Seasonal flooding			
	Good flushing flows/high erosion potential			
	Non-acidic water			
	Substrate w/ accumulated organic matter			
OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 3	Confiden c	Previous
FOOD CHAIN SUPPORT (within basin)		Robust vegetation community and low erosion potential means nutrients stay within the local area and do not get moved downstream.		
X	High plant productivity			
	Absence of outlet			
X	Low erosion potential/absence of high flows			
OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 4	Confiden c	Previous
FISH HABITAT/AQUATIC DIVERSITY		No streams or waterbodies present in this wetland community, no fish habitat.		
	Some deep open water			
	Non-acidic, clear water			
	No barriers to migration/movement			
	Minimal variation in flow (artificial)			
	Streambank/edges provide partial cover/cool temps			
	Well-mixed water/adequate oxygen			
OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 1	Confiden c	Previous
WILDLIFE HABITAT		Robust and diverse multi-stratum vegetation community present with an adjacent, undeveloped wet meadow to the south and west. However, South Boulder Creek trail adjoins the wetland on two sides, which may occasionally deter wildlife use. Deer were observed bedding in this community.		
X	Signs of different animals -- scat,prints,shelter			
X	Adjacent wooded area or veg. >20ft wide			
	Large/ sinuous, irregular basin/with islands			
X	High veg. diversity/good food sources			
	Minimal variation in flow (artificial)			
	Some open water			
X	Connects to offsite habitat			
	Not channelized or farmed			
OVERALL WILDLIFE HABITAT FUNCTION		Rating 4	Confiden c	Previous
ACTIVE RECREATION		No active recreation opportunities in the wetland itself, but South Boulder Creek trail is directly adjacent to the community to the north and east.		
	Direct evidence of actual use			
X	Convenient public access			
X	Good habitat for animals/fish & high diversity			
OVERALL ACTIVE RECREATION FUNCTION		Rating 2	Confiden c	Previous

Wetland #3 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high		
Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Entire wetland is densely vegetated in multi-stratum vegetation communities. Habitat is directly adjacent to federally-protected orchid habitat; however, canopy cover in this section of the wetland is high for ideal orchid habitat. Dense willow community adjacent to the creek does provide moderate (fragmented) federally-protected mouse habitat (PMJM).		
X	High ranked occurrence of plant community			
X	Presence of rare plants or animals			
X	Landscape diversity			
	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 4	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		Wetland maintains some natural hydrology, but does receive some anthropogenically-modified hydrology from adjacent impervious surfaces (US-36, trails).		
	Low degree of disturbance			
X	Naturalness of hydrology			
X	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 2	Confiden c	

Notes:

Wetland 3 depicted as purple polygon.



WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #4

Former Cooper #_____

Location: South of US-36 in Boulder, Boulder County, CO.	**Investigator: MShields**	**Date**	**1/23/2024**
West of 39.983827°, -105.229488°, East of 39.983911°, -105.230865°	**Observation method: Aerial imagery**		
Water Source: Viele Channel, overland flow	**History:**		
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high	**Confidence:**a=low, b=medium, c=high		

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		Wetland is situated within a isolated segment of the Viele Channel. The wetland likely experiences seasonally high flow during the spring that tapers toward the end of the growing season. The channel is filled with a cattail-dominated wetland community indicating flows insufficient to remove sediment.		
	Surface water inflow exceeds outflow			
X	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
	Presence of porous underlying strata			
X	Dense vegetated basin slows flow			
	Outlet constricted &/or dammed			
	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 2	Confiden b	Previous
GROUNDWATER DISCHARGE		Wetland is situated in a landscape depression and is part of a larger drainage channel which slopes toward the eastern outlet. Some upstream flow is likely driven by groundwater seeps, but this particular wetland appears mainly channel fed.		
	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
X	No inlet, but outlet present &/or downstream of dam			
	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 1	Confiden b	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		Wetland is located within the Viele Channel (a constructed stormwaterm channel). Low channel slopes and historic sediment deposition have created ideal conditions for a dense cattail wetland which slows water passing through. This dense vegetation community coupled with a low channel slope create additional opportunities for flood storage.		
X	Located along stream			
	Outflow restricted			
	High water mark shows periodic flooding			
x	Flat topography &/or low gradient			
	Porous substrate allows infiltration for subsurface storage			
	Rough surface & depressions for aboveground storage			
x	Dense veg. basin slows flow			
x	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 4	Confiden b	Previous
SHORELINE ANCHORING/STABILIZATION		Wetland in channel is fully vegetated with no evidence of recent erodison. Cattail community provides dense roots for added stability, additional scattered woody species provide additional stability.		
	Erosional forces/high water velocity/unsheltered loc.			
X	Dense vegetation/good water-veg. interspersion			
X	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 4	Confiden c	Previous
SEDIMENT TRAPPING/RETENTION		This low-sloped in-channel wetland has accumulated a layer of sediment sufficient to support dense vegetation.		
	Constricted outlet/water flow slows			
	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
X	Evidence of sediment/organic matter deposits			
X	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
	Source of sediments from upstream/offsite activities			
	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 3	Confiden c	Previous

Wetland #4 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

Function	*Indicators*	*Comments*		
NUTRIENT RETENTION (long-term)		Robust wetland community present with scattered woody species.		
	Permanently flooded/saturated			
X	High plant productivity			
X	Presence of woody plants			
	Organic soils present			
OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 3	Confiden c	Previous
NUTRIENT RETENTION (short-term)		Wetland likely sees seasonal flooding with heavy spring rain which has contributed to a robust wetland community with high plant productivity.		
X	Low water velocity			
X	Highly variable water/seasonally flooded			
X	High plant productivity			
	Fine mineral soils present			
OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 4	Confiden c	Previous
FOOD CHAIN SUPPORT (downstream/production export)		High seasonal flows likely flush nutrients through this wetland through the eastern (downgradient) outfall, with later flows lacking the power to move nutrients through the system.		
X	Presence of outlet			
X	High plant productivity/overhanging veg.			
X	Seasonal flooding			
	Good flushing flows/high erosion potential			
	Non-acidic water			
X	Substrate w/ accumulated organic matter			
OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 3	Confiden c	Previous
FOOD CHAIN SUPPORT (within basin)		A dense cattail community captures nutrients within the wetland. Channel slopes are low, reducing the sheer stress on the banks and providing access to the floodplain.		
X	High plant productivity			
	Absence of outlet			
X	Low erosion potential/absence of high flows			
OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 3	Confiden c	Previous
FISH HABITAT/AQUATIC DIVERSITY		The channel is fully vegetated, culverted on both ends, and lacks quality fish habitat.		
	Some deep open water			
	Non-acidic, clear water			
	No barriers to migration/movement			
	Minimal variation in flow (artificial)			
	Streambank/edges provide partial cover/cool temps			
	Well-mixed water/adequate oxygen			
OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 1	Confiden c	Previous
WILDLIFE HABITAT		The wetland is confined within a teardrop shaped island within US-36, as such, larger species likely do not frequently access it due to proximity of the highway. Smaller mammals may use this wetland as a connection corridor between the two larger habitats east and west of the wetland.		
	Signs of different animals -- scat,prints,shelter			
	Adjacent wooded area or veg. >20ft wide			
	Large/ sinuous, irregular basin/with islands			
	High veg. diversity/good food sources			
	Minimal variation in flow (artificial)			
	Some open water			
X	Connects to offsite habitat			
	Not channelized or farmed			
OVERALL WILDLIFE HABITAT FUNCTION		Rating 2	Confiden c	Previous
ACTIVE RECREATION		Located directly adjacent to the highway and an on-ramp. Habitat is fragmented and not ideal for ground-based wildlife use, except as a potential movement corridor. Avian species may also use this wetland.		
	Direct evidence of actual use			
X	Convenient public access			
	Good habitat for animals/fish & high diversity			
OVERALL ACTIVE RECREATION FUNCTION		Rating 1	Confiden c	Previous

Wetland #4 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high		
Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Common wetland habitat type in the Front Range.		
	High ranked occurrence of plant community			
	Presence of rare plants or animals			
	Landscape diversity			
	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 2	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		Area surrounding the wetland is highly disturbed, with altered hydrology from additional overland flow from adjacent impervious surfaces. Plant community is mainly a monoculture of cattails.		
	Low degree of disturbance			
	Naturalness of hydrology			
	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 2	Confiden c	

Notes:

Wetland 4 depicted as red polygon.

WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #5

Former Cooper #_____

Location: South of US-36 in Boulder, Boulder County, CO. 39.982835°, -105.227391°	**Investigator: MShields**	**Date**	**23-Jan-24**
	Observation method: Onsite		
Water Source: Overland flow, drainage ditch	**History:**		
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high	**Confidence:**a=low, b=medium, c=high		

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		Depressional wetland feature at topographic low point along an unnamed ephemeral drainage. Wetland is densely vegetated with a mixture of native and noxious weeds. There is no flow path under US-36 at this location.		
X	Surface water inflow exceeds outflow			
X	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
	Presence of porous underlying strata			
X	Dense vegetated basin slows flow			
X	Outlet constricted &/or dammed			
	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 4	Confiden b	Previous
GROUNDWATER DISCHARGE		Wetland receives hydrology from ephemeral drainage that originates at the Van Vleet Pond. Community is situated at a topographic low point along the drainage.		
	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
	No inlet, but outlet present &/or downstream of dam			
	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 3	Confiden b	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		Community has no direct outlet as it is a depressional feature within a drainage swale. Drainage swale ends at US-36 and disperses. Dense vegetation in the community also serves to slow and capture hydrology.		
	Located along stream			
X	Outflow restricted			
	High water mark shows periodic flooding			
X	Flat topography &/or low gradient			
	Porous substrate allows infiltration for subsurface storage			
X	Rough surface & depressions for aboveground storage			
X	Dense veg. basin slows flow			
X	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 4	Confiden c	Previous
SHORELINE ANCHORING/STABILIZATION		No erosion observed. Wetland densely vegetated with coyote willow and teasel.		
	Erosional forces/high water velocity/unsheltered loc.			
X	Dense vegetation/good water-veg. interspersion			
X	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 3	Confiden c	Previous
SEDIMENT TRAPPING/RETENTION		Depresional wetland community has no direct flow outlet to downstream features, and exhibits low topographic relief with sloping wetland edges to maintain sediment.		
X	Constricted outlet/water flow slows			
X	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
	Evidence of sediment/organic matter deposits			
X	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
	Source of sediments from upstream/offsite activities			
	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 4	Confiden c	Previous

Wetland #5 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

Function	*Indicators*	*Comments*		
NUTRIENT RETENTION (long-term)		Woody vegetation community present within the wetland and adjacent to the wetland.		
	Permanently flooded/saturated			
	High plant productivity			
X	Presence of woody plants			
	Organic soils present			
OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 2	Confiden c	Previous
NUTRIENT RETENTION (short-term)		Wetland is located along an ephemeral drainage with infrequent, low velocity flows.		
X	Low water velocity			
	Highly variable water/seasonally flooded			
	High plant productivity			
	Fine mineral soils present			
OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 3	Confiden c	Previous
FOOD CHAIN SUPPORT (downstream/production export)		This wetland community likely sees occasional seasonal flooding; however, the associated drainage area is small and hydrologic inputs are low.		
	Presence of outlet			
	High plant productivity/overhanging veg.			
X	Seasonal flooding			
	Good flushing flows/high erosion potential			
	Non-acidic water			
	Substrate w/ accumulated organic matter			
OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 2	Confiden c	Previous
FOOD CHAIN SUPPORT (within basin)		Low power, low volume flows associated with this wetland, no direct outlet, nutrients likely stay within the community.		
	High plant productivity			
X	Absence of outlet			
X	Low erosion potential/absence of high flows			
OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 4	Confiden c	Previous
FISH HABITAT/AQUATIC DIVERSITY		Community is associated with a drainage swale; however, flow is infrequent and low volume. Ponding may happen ocassionally, but does not provide quality fish habitat or downstream connectivity.		
	Some deep open water			
	Non-acidic, clear water			
	No barriers to migration/movement			
	Minimal variation in flow (artificial)			
	Streambank/edges provide partial cover/cool temps			
	Well-mixed water/adequate oxygen			
OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 1	Confiden c	Previous
WILDLIFE HABITAT		Wetland contains a multi-stratrum vegetation community that is adjacent to a large, undeveloped wet meadow; however, community is also adjacent to US-36.		
X	Signs of different animals -- scat,prints,shelter			
X	Adjacent wooded area or veg. >20ft wide			
	Large/ sinuous, irregular basin/with islands			
	High veg. diversity/good food sources			
	Minimal variation in flow (artificial)			
	Some open water			
X	Connects to offsite habitat			
	Not channelized or farmed			
OVERALL WILDLIFE HABITAT FUNCTION		Rating 3	Confiden c	Previous
ACTIVE RECREATION		No opportunity for active recreation.		
	Direct evidence of actual use			
	Convenient public access			
X	Good habitat for animals/fish & high diversity			
OVERALL ACTIVE RECREATION FUNCTION		Rating 1	Confiden c	Previous

Wetland #5 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high		
Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Wetland reflects a typical coyote-willow dominated wetland community but has noxious weed encroachment (common teasel).		
	High ranked occurrence of plant community			
	Presence of rare plants or animals			
	Landscape diversity			
	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 2	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		Wetland has an altered vegetation community due to noxious weed encroachment, and altered hydrology from additional overland inputs from adjacent impervious surfaces.		
	Low degree of disturbance			
	Naturalness of hydrology			
	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 3	Confiden c	

Notes:

Wetland 5 depicted in orange polygon.

WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #6

Former Cooper #_____

Location: South of US-36 in Boulder, Boulder County, CO. 39.983073°, -105.228712°	**Investigator: MShields**	**Date**	**23-Jan-24**
	Observation method: Onsite		
Water Source: Groundwater, overland flow.	**History:**		
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high	**Confidence:**a=low, b=medium, c=high		

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		Pond likely groundwater fed as evidenced by more frequent/larger unundation footprints in aerial imagery in spring/early summer months and lower footprint during late summer/fall. Pond outfalls into a swale (no OHWM) that leads to Wetland 5, before dispersing into overland flow. Overland flow from precipitation events may provide additional hydrology to the pond, but these inputs are likely small given the local drainage area size.		
	Surface water inflow exceeds outflow			
	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
X	Presence of porous underlying strata			
	Dense vegetated basin slows flow			
	Outlet constricted &/or dammed			
	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 2	Confiden b	Previous
GROUNDWATER DISCHARGE		Pond is inundated in most aerial images reviewed, with volume flucuating based on time of year. There is no direct inlet to the pond, indicating a groundwater driven system. The pond also reflects a topographic low for the local area.		
	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
X	No inlet, but outlet present &/or downstream of dam			
X	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 4	Confiden c	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		The pond is isolated from direct hydrologic connection with other water features, but has regular interaction with groundwater (assumed porous substrates). Pond is also located in the SBC floodway. Woody vegetation provides source for coarse woody debris presence. Pond is 0.03-acre and therefore limited in it's flood storage capacity.		
	Located along stream			
	Outflow restricted			
	High water mark shows periodic flooding			
	Flat topography &/or low gradient			
X	Porous substrate allows infiltration for subsurface storage			
	Rough surface & depressions for aboveground storage			
	Dense veg. basin slows flow			
X	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 3	Confiden b	Previous
SHORELINE ANCHORING/STABILIZATION		Pond bottom is comprised of medium-sized gravel/small cobble providing additional feature substrate stability/erosion resistance.		
	Erosional forces/high water velocity/unsheltered loc.			
	Dense vegetation/good water-veg. interspersion			
	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
X	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 3	Confiden c	Previous
SEDIMENT TRAPPING/RETENTION		Single outlet on east side of pond sits at higher elevation than the pond bottom elevation, limiting flow to certain pond volumes. Pond itself sits within a depression, however, no evidence of sediment/organic matter deposits was observed. Vegetation is sparse.		
X	Constricted outlet/water flow slows			
	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
	Evidence of sediment/organic matter deposits			
	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
	Source of sediments from upstream/offsite activities			
	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 2	Confiden c	Previous

Wetland #6 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

Function	*Indicators*	*Comments*		
NUTRIENT RETENTION (long-term)		Pond maintains water for most of the year, at varying volumes. Woody vegetation including eastern cottonwood volunteers are scattered around the top elevation of the pond.		
X	Permanently flooded/saturated			
	High plant productivity			
X	Presence of woody plants			
	Organic soils present			
OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 3	Confiden b	Previous
NUTRIENT RETENTION (short-term)		Flow velocity is low as there is no upstream section providing hydrologic input to the pond. Vegetation in the pond bottom is sparse, reducing obstacles to nutrient transport out of the pond.		
X	Low water velocity			
	Highly variable water/seasonally flooded			
	High plant productivity			
	Fine mineral soils present			
OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 2	Confiden b	Previous
FOOD CHAIN SUPPORT (downstream/production export)		Pond contains an outlet, however, it is not activated continually, and some perpetual ponding occurs.		
X	Presence of outlet			
	High plant productivity/overhanging veg.			
X	Seasonal flooding			
	Good flushing flows/high erosion potential			
	Non-acidic water			
	Substrate w/ accumulated organic matter			
OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 2	Confiden b	Previous
FOOD CHAIN SUPPORT (within basin)		Pond does not receive high flows as there is no upstream connected flow feature.		
	High plant productivity			
	Absence of outlet			
X	Low erosion potential/absence of high flows			
OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 2	Confiden b	Previous
FISH HABITAT/AQUATIC DIVERSITY		Pond seasonally hosts deeper open waters; however, lack of upstream and downstream flow paths minimize fish migration potential to the site.		
X	Some deep open water			
	Non-acidic, clear water			
	No barriers to migration/movement			
X	Minimal variation in flow (artificial)			
	Streambank/edges provide partial cover/cool temps			
	Well-mixed water/adequate oxygen			
OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 2	Confiden c	Previous
WILDLIFE HABITAT		Pond likely serves as a water resource for wildife, especially in the spring/early summer when it's most full. Also may provide some thermoregulation on hot days due to topography and presence of ocassional canopy cover from trees. The pond adjoins open meadow habitat to the south and southeast.		
X	Signs of different animals -- scat,prints,shelter			
X	Adjacent wooded area or veg. >20ft wide			
	Large/ sinuous, irregular basin/with islands			
	High veg. diversity/good food sources			
	Minimal variation in flow (artificial)			
X	Some open water			
X	Connects to offsite habitat			
	Not channelized or farmed			
OVERALL WILDLIFE HABITAT FUNCTION		Rating 4	Confiden c	Previous
ACTIVE RECREATION		Provides habitat for wildlife but is limited by proximity to US-36.		
	Direct evidence of actual use			
	Convenient public access			
X	Good habitat for animals/fish & high diversity			
OVERALL ACTIVE RECREATION FUNCTION		Rating 3	Confiden c	Previous

Wetland #6 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Pond provides landscape diversity from the surrounding prairie/meadows, but does not host rare plants/animals or unique or rare wetlands. Pond is also in close proximity to US-36 and trail infrastructure.		
	High ranked occurrence of plant community			
	Presence of rare plants or animals			
X	Landscape diversity			
	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 2	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		Hydrology is mainly natural, with small anthropogenic modification such as increased surface runoff from adjacent impervious surfaces.		
	Low degree of disturbance			
X	Naturalness of hydrology			
	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 3	Confiden c	

Notes:

Wetland 6 depicted in a blue polygon.

RECEIVED
By Central Records/City Clerk's Office at
2:46 pm, February 2, 2024

ANNEXATION PETITION

Submit with your application.

Annexation Information

Location of property to be annexed: 5600 Table Mesa Drive

Legal Description: See attached

Size of property: approximately 27 acres Requested Zoning: Public (P)

Impact Report

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

Districts

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

X Boulder Valley School District

_____ St. Vrain School District

_____ Boulder Rural fire District

_____ Rocky Mountain Fire District

_____ Left Hand Water District

X Other (list)

Mile High Flood District fka Urban Drainage and Flood Control District

Property Owners

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

1. City of Boulder
2. Colorado Department of Transportation
3.
4.

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

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).
City of Boulder, a Colorado home rule City By: NRR Nuria Rivera-Vandermyde, City Manager	2-2-2024	1777 Broadway Boulder, CO 80302	See attached legal description

CIRCULATOR'S AFFIDAVIT
CIRCULATOR'S AFFIDAVIT

State of Colorado)
) ss.
County of Boulder)

Joe Taddeucci
_____,
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.

_____
Joe Taddeucci
_____
Circulator

Subscribed and sworn to before me this 2nd day of February A.D. 20 24.

Witness my hand and official seal. My commission expires: 10/13/2024.

MARY WALLACE
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20044023780
MY COMMISSION EXPIRES OCTOBER 13, 2024

_____
Notary Public

CIRCULATOR'S AFFIDAVIT

STATE OF COLORADO)
) ss.
COUNTY OF BOULDER)

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

_____
Circulator

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

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

_____

LEGAL DESCRIPTION:
A portion of the North-half of Section 9 and the Northwest Quarter of Section 10, Township 1 South, Range 70 West of the Sixth Principal Meridian, County of Boulder, State of Colorado, being more particularly described as follows:

COMMENCING at the Northeast Sixteenth Corner of said Section 9, whence the East Sixteenth Corner of said Section 9 bears N00°01'55"W a distance of 1,313.02 feet;

THENCE N67°04'56"W a distance of 604.61 feet to a point on the easterly line of Ordinance 8483 described in Reception Number 03915718 recorded September 22, 2021 in the Boulder County Clerk and Recorder's Office, said point being the **POINT OF BEGINNING**;

THENCE along the easterly and northerly lines of said Ordinance 8483 the following seven (7) courses:

1. N00°55'58"W a distance of 148.77 feet;
2. THENCE N84°58'30"W a distance of 164.19 feet;
3. THENCE N87°51'41"W a distance of 81.60 feet;
4. THENCE S88°30'34"W non-tangent with the following described curve a distance of 324.50 feet;
5. THENCE along the arc of a curve to the right, having a central angle of 51°59'44", a radius of 673.00 feet, a chord bearing N46°51'41"W a distance of 590.00 feet, and an arc distance of 610.74 feet;
6. THENCE N21°31'56"W non-tangent with the previous described curve a distance of 169.90 feet;
7. THENCE N02°24'19"E a distance of 153.37 feet;

THENCE along the southerly and easterly lines of Ordinance 4861 described in Reception Number 00669885, Film 1339, recorded January 31, 1985 in the Boulder County Clerk and Recorder's Office the following three (3) courses:

1. THENCE S59°07'45"E a distance of 330.04 feet to a point on the westerly line of the Northwest Quarter of the Northeast Quarter of said Section 9;
2. THENCE N00°16'45"W along said westerly line of the Northwest Quarter of the Northeast Quarter of Section 9 a distance of 233.20 feet;
3. THENCE S59°12'57"E a distance of 1,334.41 feet;

THENCE S59°11'04"E along the southerly line of Ordinance 3674 described in Reception Number 964654, Film 719, recorded January 12, 1971 in the Boulder County Clerk and Recorder's Office a distance of 217.15 feet;
THENCE S59°12'03"E along the southerly line of Ordinance 5700 described in Reception Number 01516617, Film 2051, recorded May 12, 1995 and the southerly line of Ordinance 5701 described in Reception Number 01516618, Film 2054, recorded May 12, 1995 in the Boulder County Clerk and Recorder's Office a distance of 1,713.36 feet;
THENCE S31°40'11"W a distance of 277.58 feet;
THENCE N66°27'01"W a distance of 124.96 feet;
THENCE S58°40'40"W a distance of 7.85 feet;
THENCE N63°35'34"W a distance of 29.13 feet;
THENCE N09°26'01"W a distance of 5.92 feet;
THENCE N66°27'01"W a distance of 4.13 feet;
THENCE N59°49'36"W a distance of 185.37 feet;
THENCE N55°26'48"W a distance of 285.66 feet;
THENCE N60°04'13"W a distance of 194.95 feet;
THENCE N59°28'12"W a distance of 376.63 feet;
THENCE N57°42'25"W a distance of 192.07 feet;
THENCE N69°43'16"W a distance of 87.00 feet;
THENCE N61°16'20"W a distance of 76.32 feet;
THENCE N77°49'24"W a distance of 27.35 feet;
THENCE N46°22'56"W a distance of 27.60 feet;
THENCE N61°10'11"W a distance of 139.45 feet;
THENCE N33°37'16"W a distance of 10.24 feet;
THENCE N61°23'24"W a distance of 152.01 feet;

COLORADO LICENSED
COBSTONE FRESCH
38149
PROFESSIONAL LAND SURVEYOR

Jacob S. Fresch, PLS No. 38149
Date: February 1, 2024
Job No.: 65321358
For and on behalf of
Merrick & Company

MERRICK PROJECT NO.	65321358
CLIENT PROJECT NO.	-
REVISION DESCRIPTION	
DRAWN ELZ	DATE 01/02/2024 SCALE N/A

MERRICK®
5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111

ANNEXATION – A PORTION OF THE NORTH 1/2 OF SECTION 9, NORTHWEST 1/4 OF SECTION 10, T1S, R70W, 6TH P.M.
COUNTY OF BOULDER, STATE OF COLORADO

REVISION:	DRAWING NO.	SHEET NO.
R1		1 OF 5

PROPERTY DESCRIPTION CONTINUED:

THENCE N66°38'49"W a distance of 83.87 feet;
THENCE S60°26'48"W a distance of 25.73 feet;
THENCE S89°04'02"W a distance of 123.38 feet to the **POINT OF BEGINNING**.

Containing 27.411 Acres, more or less.

LINE TABLE		
LINE #	BEARING	LENGTH
L1	N00°55'58"W	148.77'
L2	N84°58'30"W	164.19'
L3	N87°51'41"W	81.60'
L4	S59°11'04"E	217.15'
L5	N66°27'01"W	124.96'
L6	S58°40'40"W	7.85'
L7	N63°35'34"W	29.13'
L8	N09°26'01"W	5.92'

LINE TABLE		
LINE #	BEARING	LENGTH
L9	N66°27'01"W	4.13'
L10	N69°43'16"W	87.00'
L11	N61°16'20"W	76.32'
L12	N61°10'11"W	139.45'
L13	N33°37'16"W	10.24'
L14	N66°38'49"W	83.87'
L15	S60°26'48"W	25.73'
L16	S89°04'02"W	123.38'

COLORADO LICENSED
JACOB STONE EASCH
38149
PROFESSIONAL LAND SURVEYOR

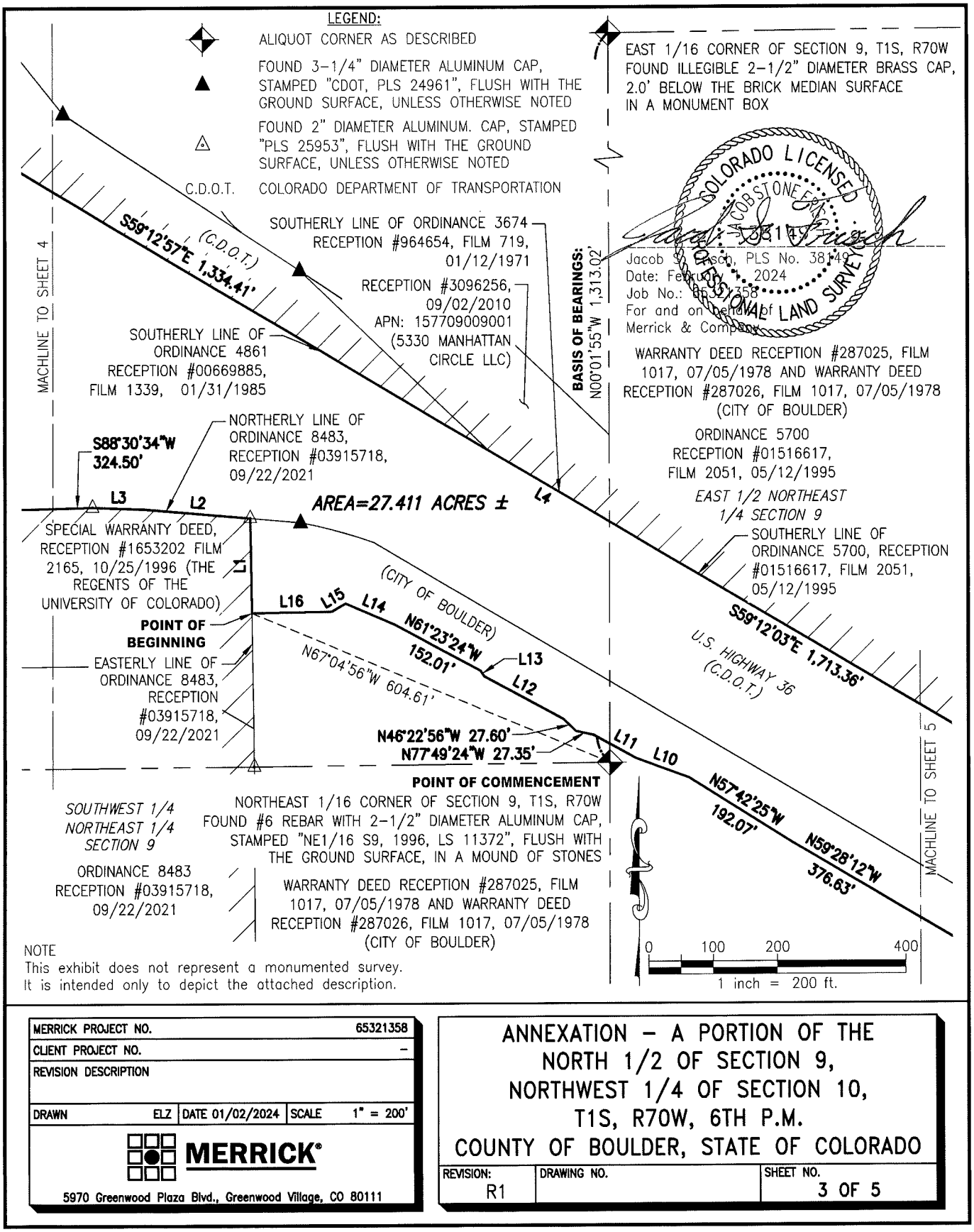
Jacob S. Easch, PLS No. 38149
Date: February 1, 2024
Job No.: 65321358
For and on behalf of
Merrick & Company

MERRICK PROJECT NO.	65321358
CLIENT PROJECT NO.	-
REVISION DESCRIPTION	
DRAWN ELZ	DATE 01/02/2024 SCALE N/A

MERRICK®
5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111

ANNEXATION – A PORTION OF THE NORTH 1/2 OF SECTION 9, NORTHWEST 1/4 OF SECTION 10, T1S, R70W, 6TH P.M. COUNTY OF BOULDER, STATE OF COLORADO

REVISION:	DRAWING NO.	SHEET NO.
R1		2 OF 5



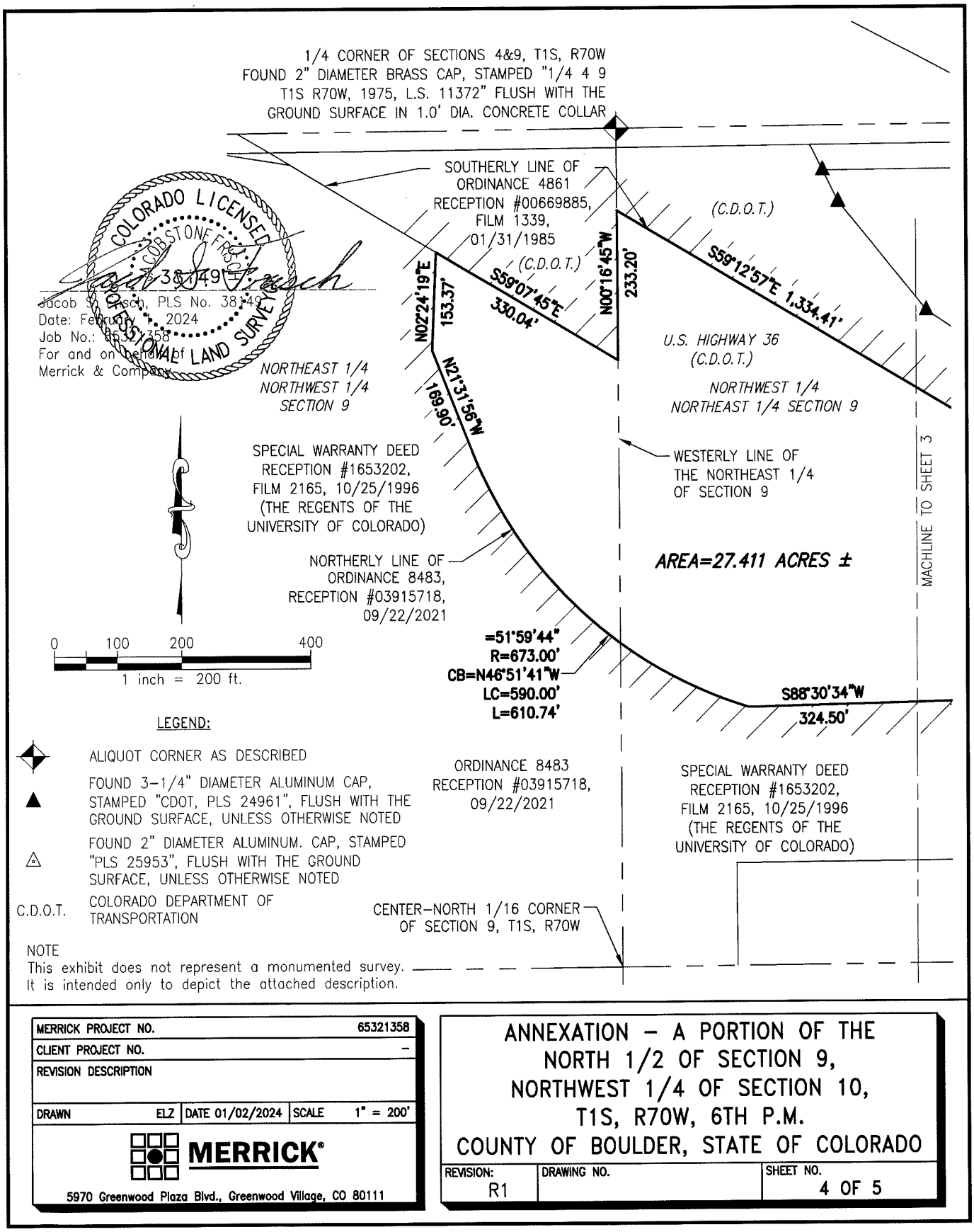
NOTE
This exhibit does not represent a monumented survey.
It is intended only to depict the attached description.

MERRICK PROJECT NO.	65321358
CLIENT PROJECT NO.	–
REVISION DESCRIPTION	
DRAWN ELZ	DATE 01/02/2024 SCALE 1" = 200'

MERRICK®
5970 Greenwood Plaza Blvd., Greenwood Village, CO 80111

ANNEXATION – A PORTION OF THE NORTH 1/2 OF SECTION 9, NORTHWEST 1/4 OF SECTION 10, T1S, R70W, 6TH P.M.
COUNTY OF BOULDER, STATE OF COLORADO

REVISION:	DRAWING NO.	SHEET NO.
R1		3 OF 5



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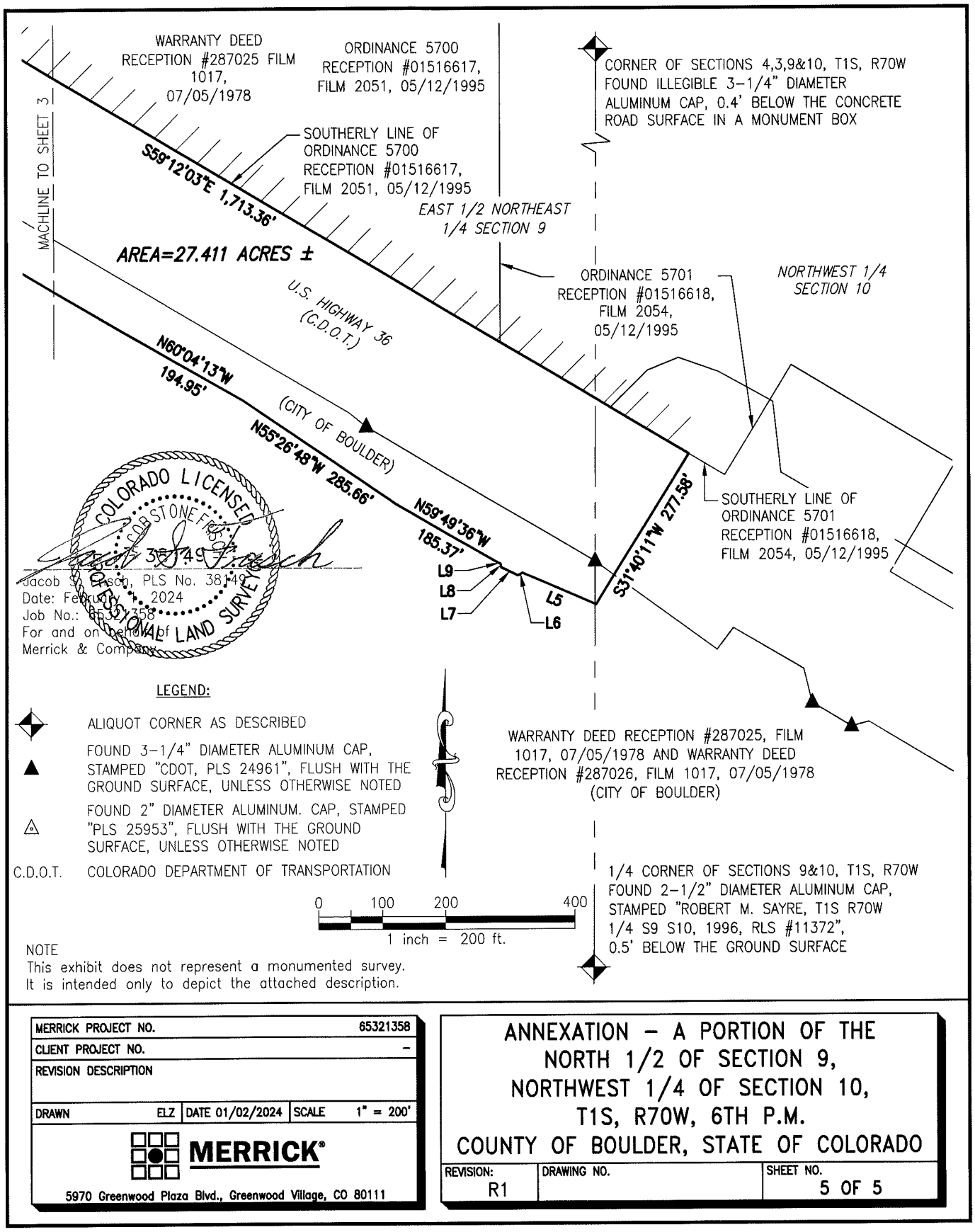
REVISION:	DRAWING NO.	SHEET NO.
R1		4 OF 5



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REVISION:	DRAWING NO.	SHEET NO.
R1		5 OF 5

ATTACHMENT E

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 is limited in its proposed size and will enhance the physical, social, and economic assets of the community through its purpose to facilitate flood protection efforts that will contribute to the health, safety, and welfare of the city.

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.

Staff finds that the proposed annexation and associated flood mitigation project will provide significant community benefits through increased protection of life and property, support sustainability goals by enhancing the resilience of the city's existing urban form, and maintain or improve environmental quality by managing extreme stormwater events precipitated by climate change.

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.

   Not applicable; no additional urban services will be provided to the proposed annexation area.

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; the proposed annexation is not a county enclave or a substantially developed area.

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.

Not applicable; the proposed annexation is not a substantially developed area and will not affect existing lifestyles and densities.

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.

Not applicable; the proposed annexation is not a substantially developed area and does not have significant development or redevelopment potential.

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.

Staff finds the proposed annexation and associated flood mitigation project will help resolve an issue of public health and safety without creating additional development impacts.

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

Not applicable; the proposed annexation is located within the Boulder Valley Planning Area.

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.

Staff finds the proposed annexation is consistent with this policy and eligible for annexation as the property is publicly owned, located in Area III, intended to remain in Area III, will require less than a full range of urban services, and will be included under city jurisdiction for health, welfare and safety reasons.

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

Not applicable; the proposed annexation 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 proposed annexation will not create an unreasonable burden on the city as it is currently city owned and managed. The proposed annexation would also include the adoption of new wetland mapping for the site.

(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.

Not applicable; there is no annexation agreement necessary for the proposed annexation.

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.

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. The proposed initial zoning of Public (P) is defined as "Public areas in which public and semi-public facilities and uses are located, including without limitation, governmental and educational uses."

Staff finds the proposed P zoning is consistent with the proposed use of the property to facilitate the South Boulder Creek flood mitigation project floodwall and spillway. The proposed zoning is also consistent with the current BVCP land use designation of Open Space-Acquired which applies to land already acquired by the city or Boulder County for open space purposes. The proposed zoning is a logical extension of existing city zoning, with P zoning located adjacent to the property on the west, north, and east.

(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.

(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.

(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 proposed annexation meets the minimum lot area requirements for the P 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.

Not applicable; there are no areas of the site that exceed fifteen percent slope.

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:

The conditions of the state constitution have been met. The applicant has filed a petition for annexation that is signed by persons comprising more than fifty percent of landowners in the area and owning more than fifty percent of the area, excluding public streets, and alleys and any land owned by the City of Boulder.

(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. As shown on the Annexation Map, the property's total boundary length is 7918.4 linear feet. The border of the property that is contiguous to the City of Boulder, is 5481.2 linear feet in length, which equates to approximately 69% of the total property boundary length.

(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, excluding public streets, is currently owned and managed by the city and is 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 previously annexed that establishes contiguity does not meet the description above.

(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. All landowners are consenting to this annexation.

(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. The applicant is requesting annexation by petition as provided by state law. No annexation proceedings have been commenced for annexation of the area to another 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.

(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):

The city has received a petition meeting all requirements of the state statutes. Contiguity is not achieved pursuant to subparagraph (I) of paragraph (e).

(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.

The entire width of the US 36 right-of-way adjacent to the property to the north is included in the annexation.

(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 this condition.

(h)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 limitation.

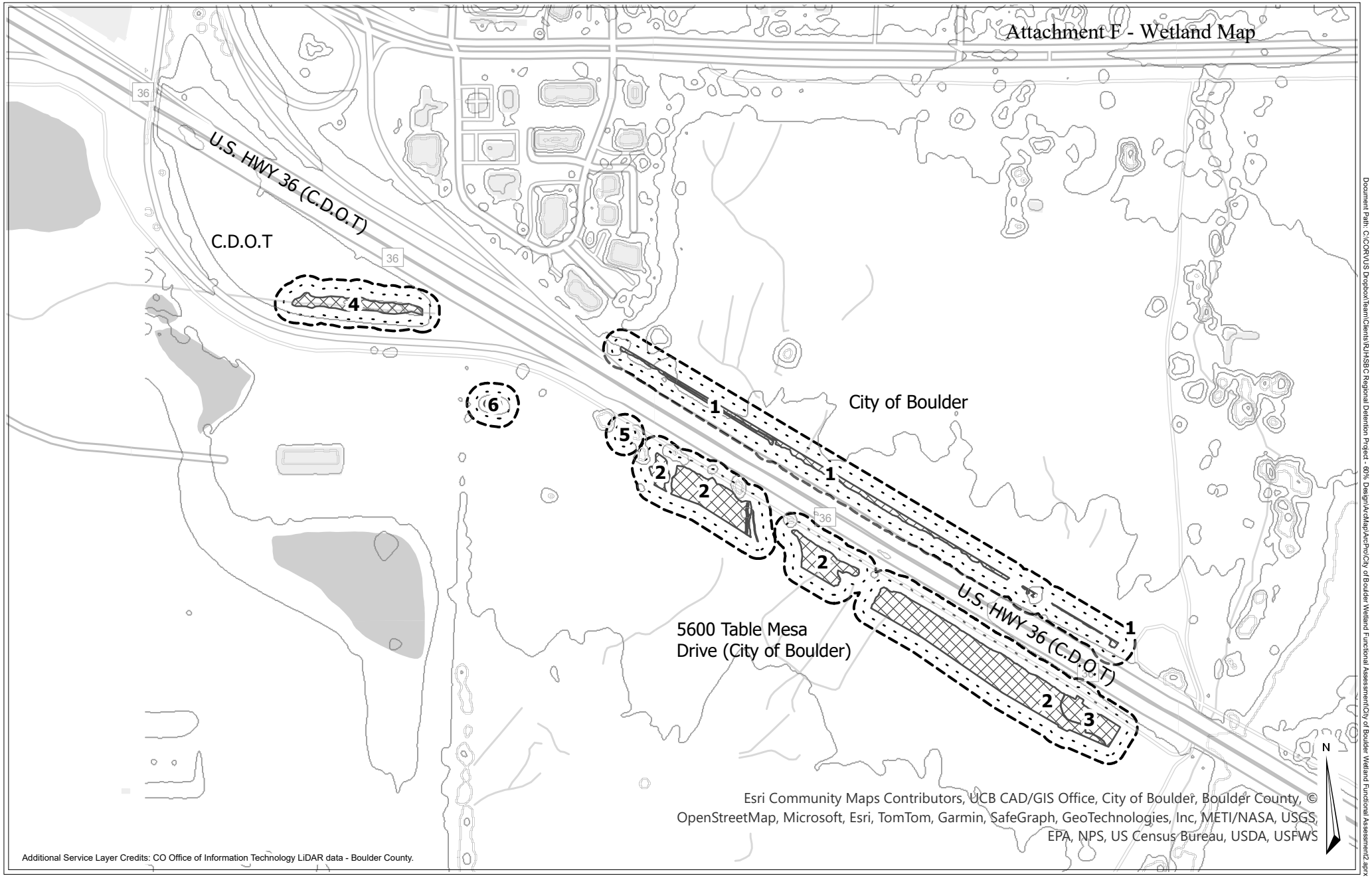
(f) The clerk shall refer the petition to the governing body as a communication. The governing body, without undue delay, shall then take appropriate steps to determine if the petition so filed is substantially in compliance with this subsection (1).

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.

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

This procedure is being followed by the City of Boulder.



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South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 87.5 175 350 Feet

1:4,500

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T) PROPERTIES LOCATED AT 5600 TABLE MESA DRIVE

Boulder, Boulder County
Map Date: 2/7/2024

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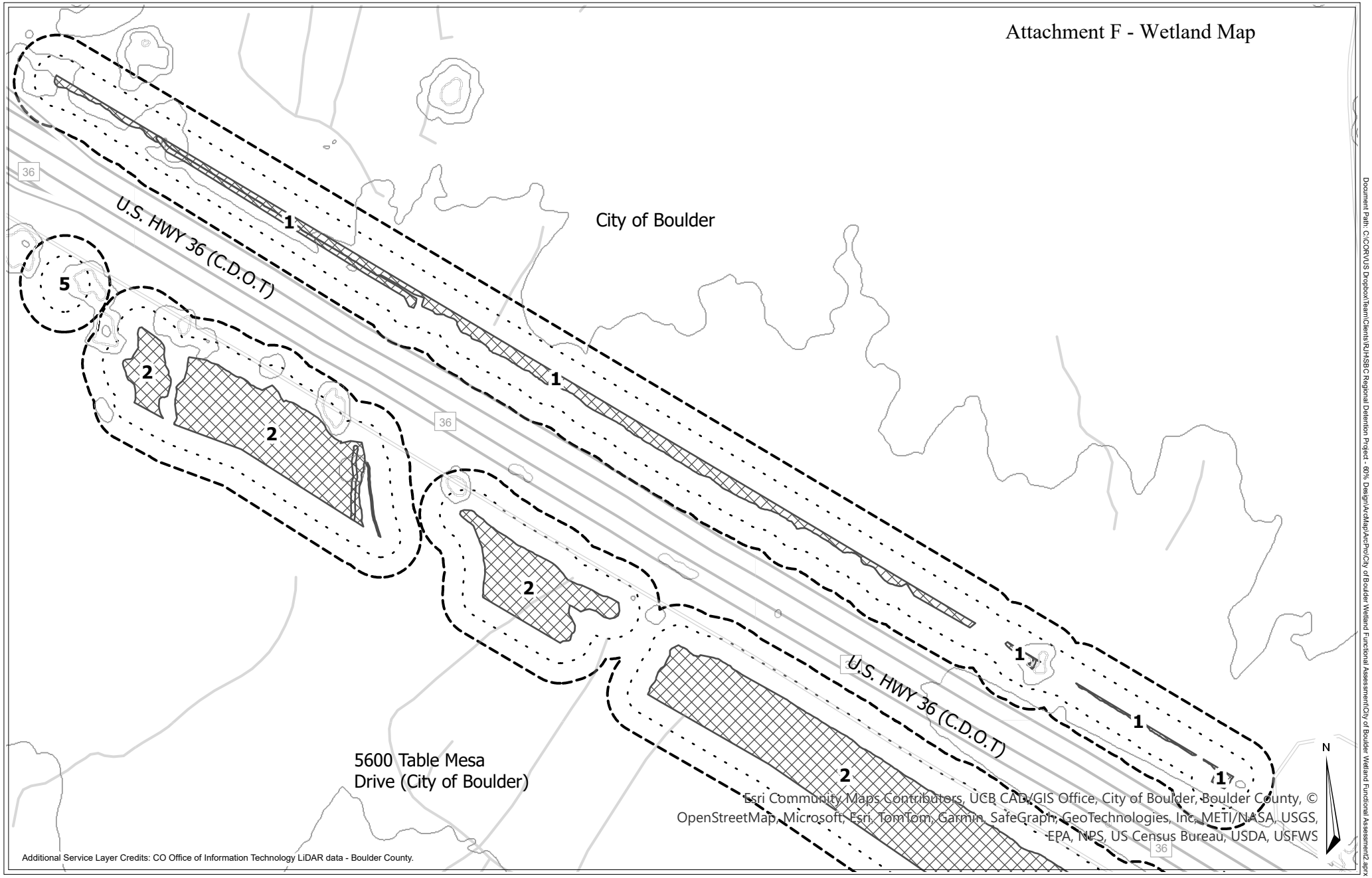

South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 37.5 75 150 Feet

1:1,900

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T) PROPERTIES LOCATED AT 5600 TABLE MESA DRIVE

Boulder, Boulder County
Map Date: 2/7/2024

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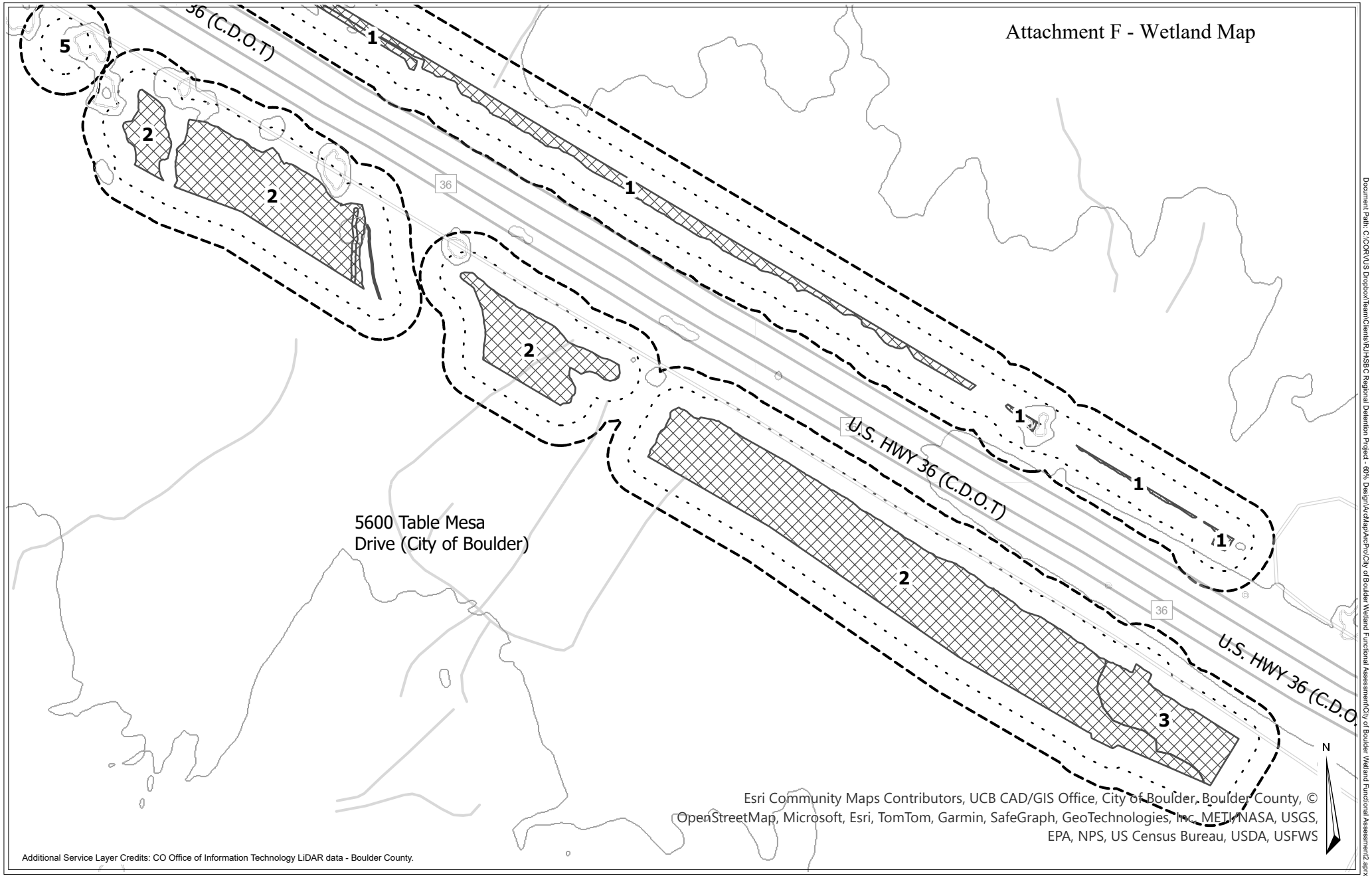

South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 37.5 75 150 Feet

1:1,900

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T) PROPERTIES LOCATED AT 5600 TABLE MESA DRIVE

Boulder, Boulder County
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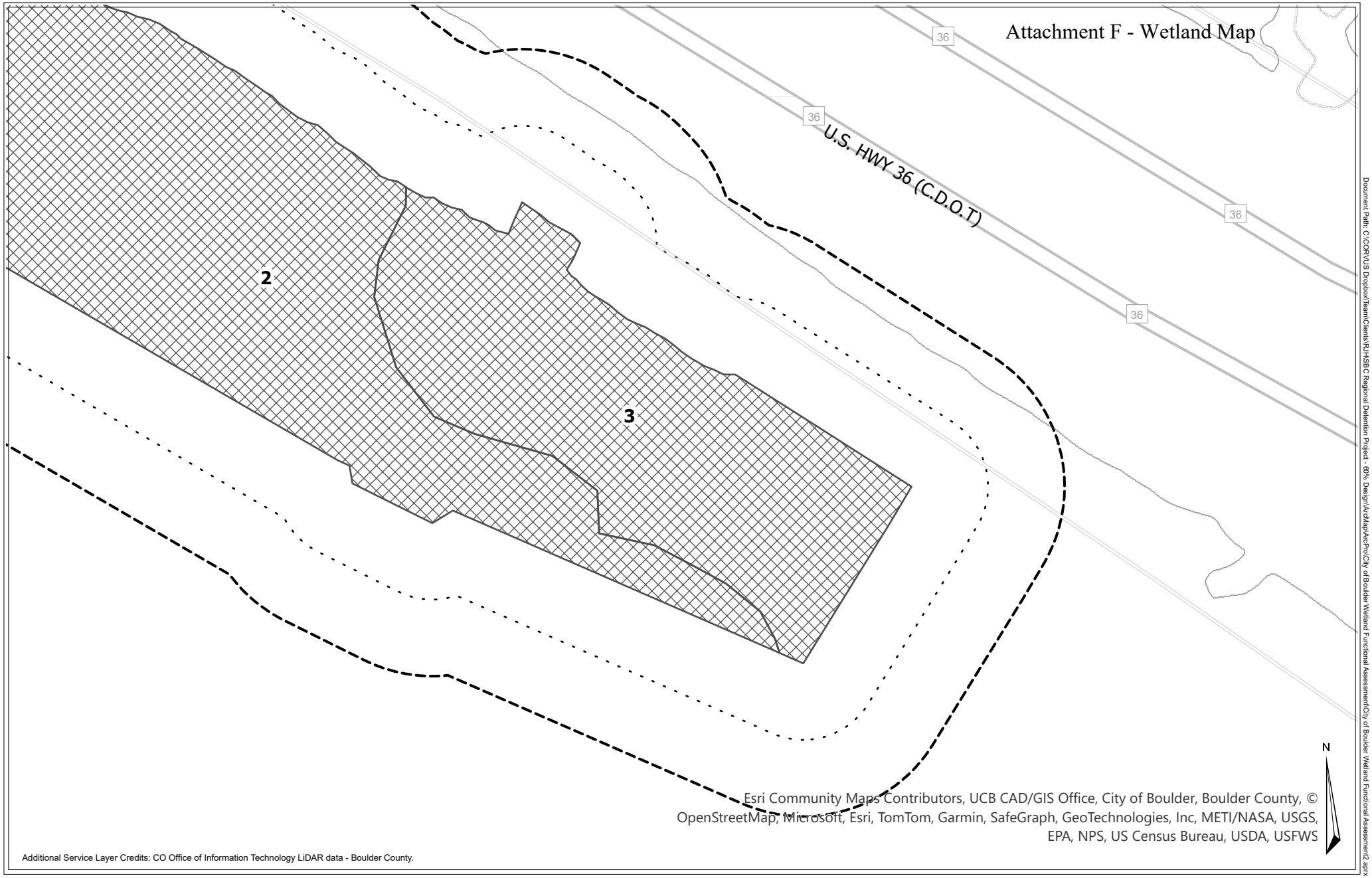

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South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 10 20 40 Feet

1:500

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T) PROPERTIES LOCATED AT 5600 TABLE MESA DRIVE

Boulder, Boulder County
Map Date: 2/7/2024

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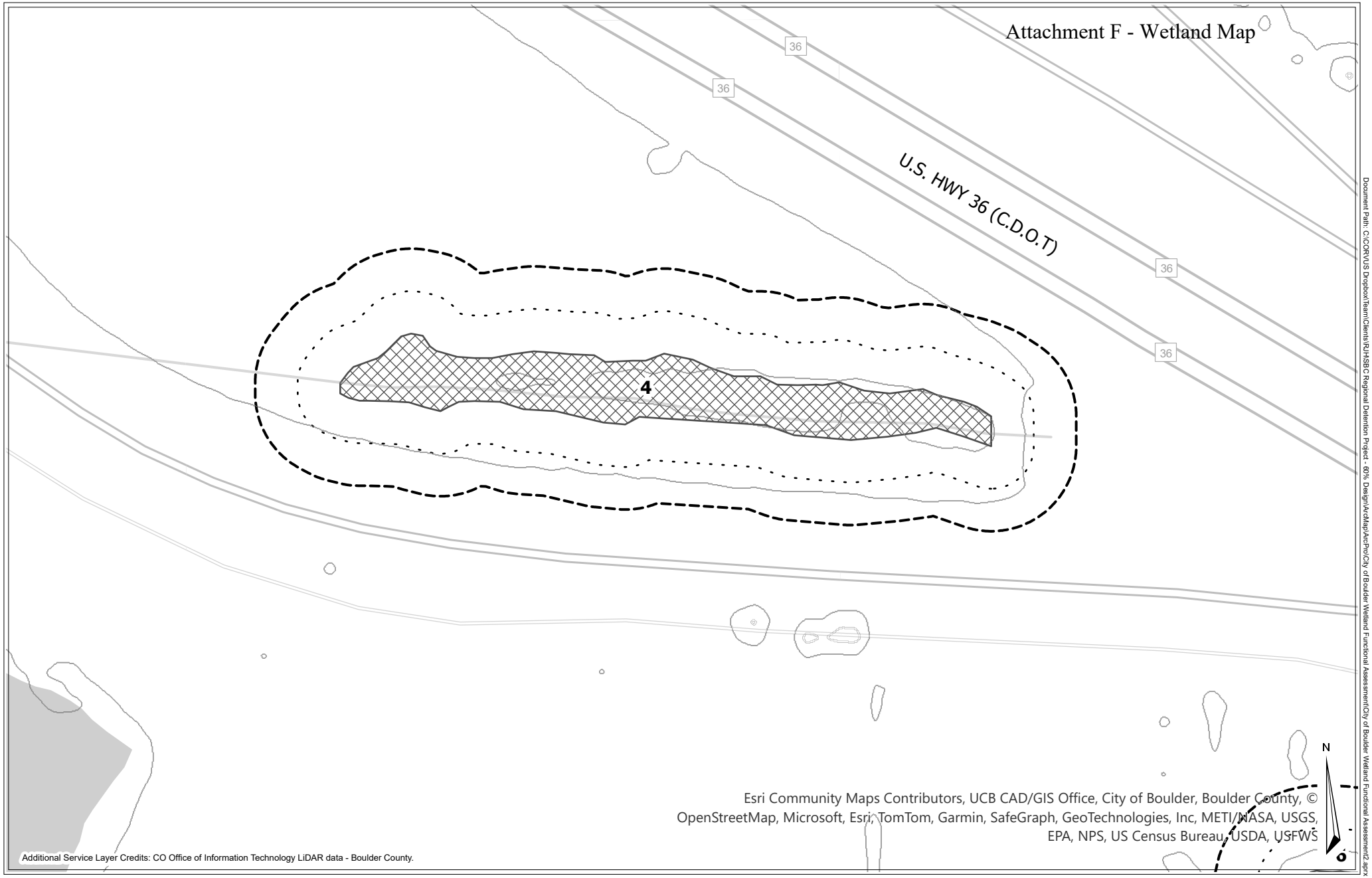

South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 15 30 60 Feet

1:900

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T)
PROPERTIES LOCATED AT
5600 TABLE MESA DRIVE

CORVUS
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Boulder, Boulder County
Map Date: 2/7/2024

SHEET 5 OF 7

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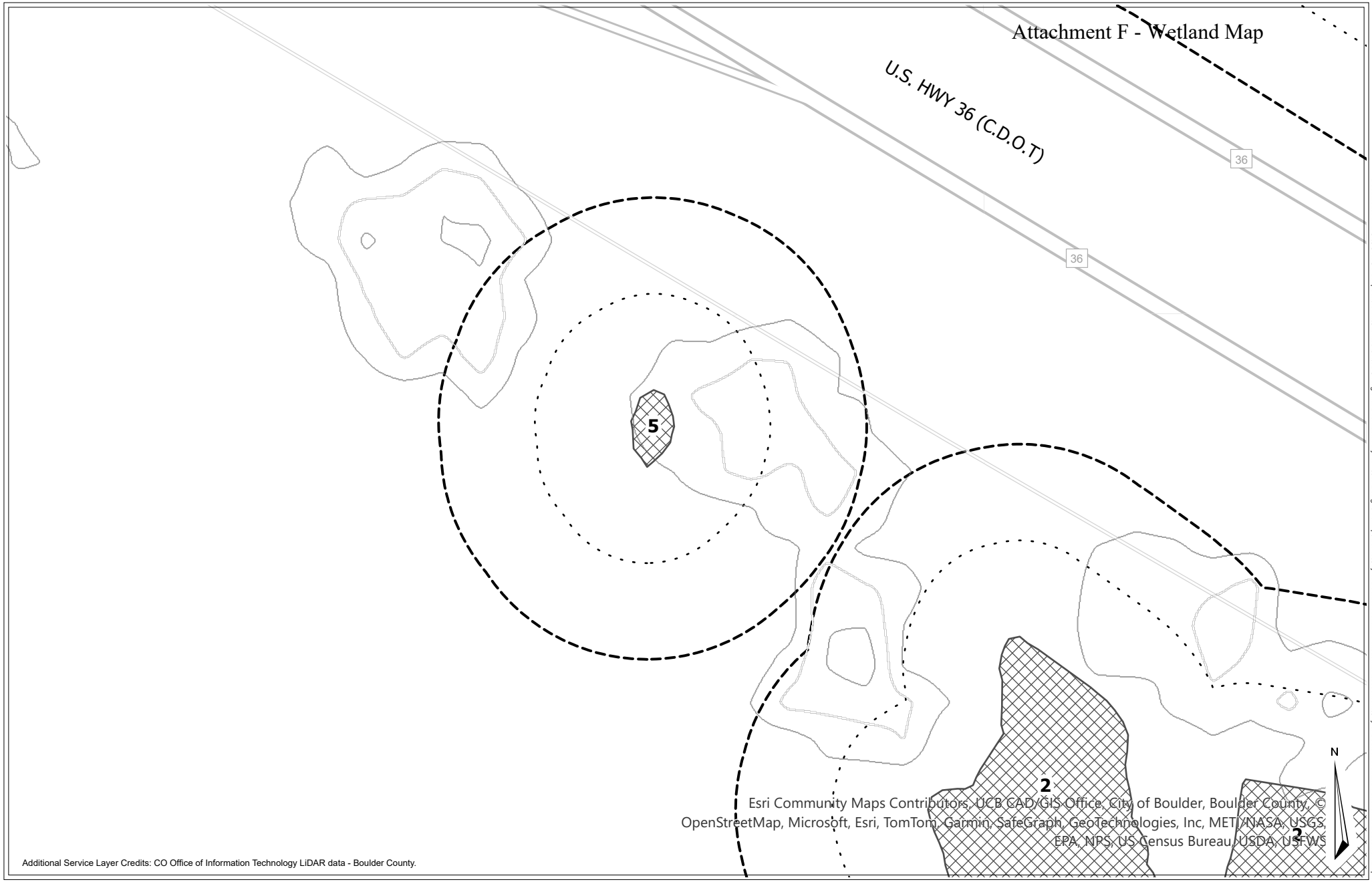

South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 5 10 20 Feet

1:400

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T) PROPERTIES LOCATED AT 5600 TABLE MESA DRIVE

Boulder, Boulder County
Map Date: 2/7/2024

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SHEET 6 OF 7

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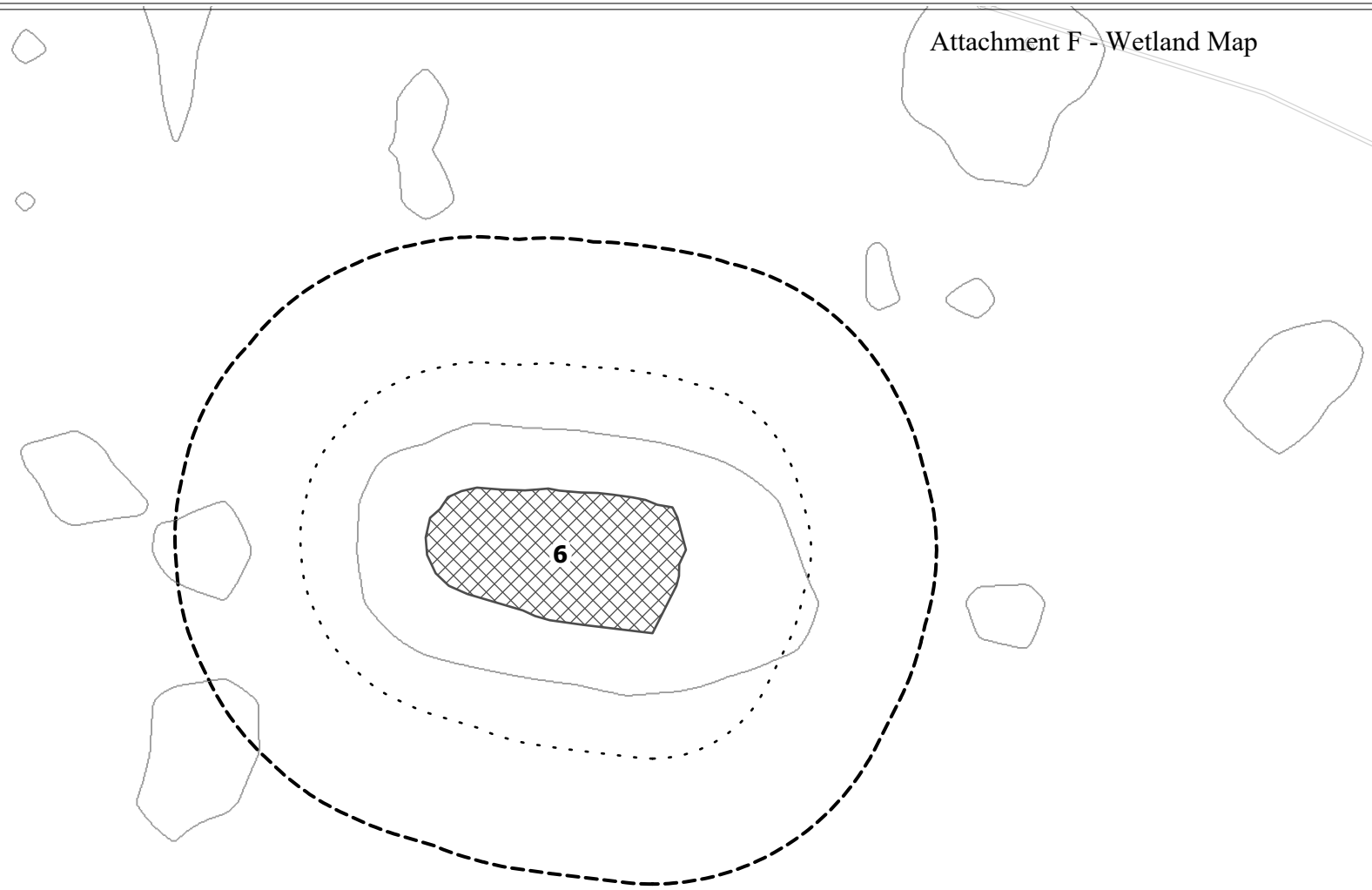

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Additional Service Layer Credits: CO Office of Information Technology LiDAR data - Boulder County.

South Boulder Creek Floodplain Mitigation

Wetland Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 5 10 20 Feet

1:400

WETLAND MAP
CITY OF BOULDER AND COLORADO DEPT. OF TRANSPORTATION (C.D.O.T)
PROPERTIES LOCATED AT
5600 TABLE MESA DRIVE

Boulder, Boulder County
Map Date: 2/7/2024

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CORVUS
Environmental Consulting

Memorandum

Date: February 6, 2024

To: Eric Hahn (RJH Consultants)

From: Maddie Shields, Tim DeMasters (CORVUS Environmental Consulting, LLC)

Regarding: Functional Evaluation of Wetlands for the South Boulder Creek Floodplain Mitigation Project – OSMP Annexation Segment Along US-36.

The South Boulder Creek (SBC) Floodplain Mitigation Project involves constructing several elements, including a floodwall, outlet works tunnel, soil-bentonite barrier wall, and embankment to reduce flood risk in the several neighborhoods downstream of the Project site. The SBC Floodplain Mitigation Project site is located in Section 9, Township 1 South, Range 70 West of the 6th PM and on both CU South and Boulder Open Space Mountain Parks (OSMP) properties. The subject of the wetland functional assessment detailed in this memo is a subset of the whole project area. It includes a pending annexation of property currently owned by OSMP (the "City") and a portion of the property owned by Colorado Department of Transportation (CDOT) ("project area," "annexation area") (Exhibit 1).

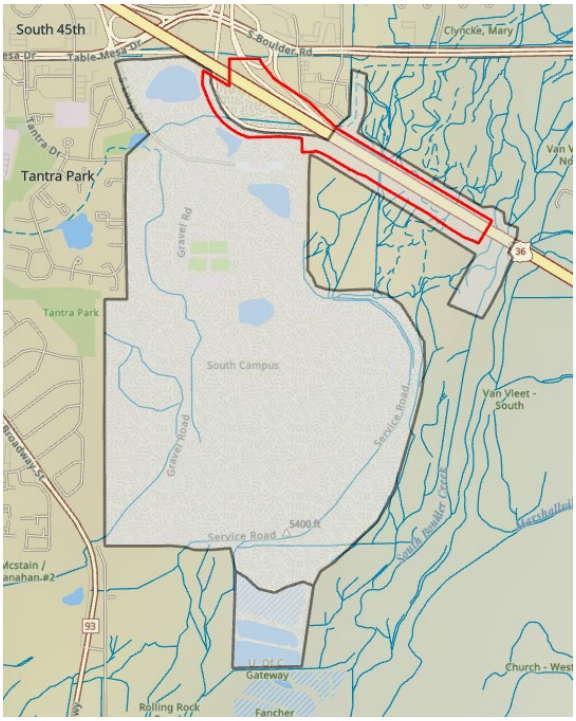

Exhibit 1. Depiction of the OSMP and CDOT annexation property (red) as a subset of the larger SBC Floodplain Mitigation project (gray).

Purpose

The City regulates wetlands, streams, and waterbodies through its Wetland Protection Ordinance. Mapping streams, wetlands, and waterbodies is required to obtain a City of Boulder Stream, Wetland, or Water Body Permit and must follow standards and criteria listed in the Boulder Municipal Code. Before annexing property into the City, all stream, wetland, and waterbodies and their associated regulatory buffers must be mapped, including a functional evaluation of each community. The below memorandum details the resulting functional evaluation of streams, wetlands, and waterbodies in a portion of the SBC Floodplain Mitigation project area that is being annexed to the City along the north and south sides of US-36 (Attachment A, Figure 1).

Methods

CORVUS field staff documented the site conditions yearly between 2020 and 2023, delineating Waters of the United States (WOTUS) in 2019, 2021, and 2023, including adjacent wetlands, in the SBC Floodplain Mitigation project area. The annexation area includes a small segment along Viele Channel (Exhibit 1) that was not included in the delineation. CORVUS used recent aerial imagery (August 2023) to aerially delineate this wetland community's maximum extent.

The wetland determination followed methods described in the United States Army Corps of Engineers (USACE) *Wetlands Delineation Manual* (USACE 1987) and, where applicable, in accordance with the methods identified in the *Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Great Plains* (Supplement) (USACE 2010). Using methods described in the Supplement, CORVUS collected data on vegetation, soil, and hydrology characteristics that are used as the basis for wetland boundary determinations (project-wide wetland determination dataforms are available upon request). Classification of wetland system, subsystem, class, and subclass was based on Cowardin et al. (1979). CORVUS gathered field data on wetland boundaries and the ordinary high-water mark (OHWM) with sub-meter accurate global positioning system (GPS) units. Figure 2 depicts the full mapping results of the 2023 SBC Floodplain Mitigation project wetland delineation and sample points from 2019, 2021, and 2023.

CORVUS completed a functional evaluation of wetland communities following guidance provided by Ms. Christin Shepherd (Private correspondence, August 2021), and per City regulation, following procedures described in the "City of Boulder Comprehensive Wetland Remapping Project" by Land Stewardship Consulting, Inc. (Land Stewardship Consulting 2004). Wetlands were categorized based on vegetation community and primary source of hydrology. Where large differences in community occurred, a new wetland number was assigned and a separate functional assessment was completed.

Each wetland was assessed for function in fourteen categories based on the functional indicators per category provided in the Appendix E worksheet and category definitions provided in Appendix 1 "Description of Wetland Functions" from Advanced Identification of Wetlands in the City of Boulder Comprehensive Planning Area (Cooper 1988). Categories assessed include groundwater recharge, groundwater discharge, flood storage/flood flow alteration, shoreline anchoring/stabilization, sediment trapping/retention, long-term nutrient retention, short-term nutrient retention, downstream food chain support, local "basin" food chain support, fish habitat/aquatic diversity, wildlife habitat, active recreation, passive recreation/heritage value, and overall functional integrity.

CORVUS assigned a numeric rank to each functional category using a scale between one and five:

1 "no" function
2 "low"
3 "moderate"
4 "high"
5 "very high" function

In addition to the numeric value, CORVUS also provided a letter rank to indicate the level of confidence in assessment scoring with "a" representing least confidence, "b" representing moderate confidence, and "c" representing high confidence.

After individual functions were scored for each wetland, CORVUS summed the values. Total values greater than or equal to 26 were labeled as high-functioning wetlands. Total values less than or equal to 25 were labeled as low-functioning wetlands. The exception to this was if a wetland scored with a functional value of 4 or 5 for a single category, these wetlands were also labeled as high functioning (Boulder Municipal Code 9-3-9(l) "Stream, Wetland, and Water Body Functional evaluations, Designations, and Buffer Areas").

SBC Mitigation Project Landscape Setting

The larger SBC Mitigation Project area hosts communities of diverse systems. The basis for the diversity of systems is the history of the site, much of which lies in the footprint of a former gravel mine left in its excavated condition, a reach of and floodplain of South Boulder Creek, a historically vast relic tallgrass wet meadow, which has been bisected multiple times by transportation developments in the vicinity, including US 36, 93 and S. Boulder Road, and remnants of the agricultural past of the area, namely in the form of a network of several irrigation ditches which still function, including the Viele Channel, the Dry Creek No 2 Ditch.

Vegetation along the creek is dominated by cottonwoods (*Populus deltoides*) and crack willow (*Salix fragilis*). Shrub development is variable; there are dense stands of narrowleaf willow (*Salix exigua*), alder *Alnus incana*), hawthorn (*Crataegus spp*.), and vines like river grape (*Vitis riparia*). Wet and mesic meadow vegetation occurs within the floodplain. Tallgrasses like big bluestem (*Andropogon gerardii*), Indian grass (*Sorgastrum nutans*), swichgrass (*Panicum virgatum*), and prairie cordgrass (*Spartina pectinata*) are common forming dense stands. Beaked spikerush (*Eleocharis rostellata*) is also present and unusual in this landscape setting. Mesic forbs are likewise common.. Unique forbs in this area include great blue lobelia (*Lobelia siphilitica*), winged lythrum (*Lythrum alatum*), and slender false foxglove (*Agalinis tenuifolia*). There is a significant amount of Russian olive (*Elaeagnus angustifolia*) and other noxious and exotic weeds in select areas (CNHP 2009). A list of species encountered in the full SBC Floodplain Mitigation project is included in Attachment B.

Irrigated hay fields support an extensive bobolink (*Dolichonyx oryzivorus*) community. Floodplain pools provide northern leopard frog (*Rana pipiens*) habitat. This floodplain supports federally listed species including Preble's meadow jumping mouse (*Zapus hudsonius preblei*) and Ute ladies' tresses (*Spiranthes diluvialis*).

The geology of the area is predominantly Quaternary alluvium, including Piney Creek Alluvium, which occurs in a band along the South Boulder Creek, and younger alluvium, with a smaller area of Pierre

shale bedrock on the western portion of the site (Green 1992). The USDA Natural Resources Conservation Service has mapped 4 soil series on the site: the Loveland, Niwot, Terrace Escarpments and Valmont clay loam soils (Soil Survey Staff 2019). A majority of the SBC Floodplain Mitigation project area on the CU Boulder property consists of a reclaimed gravel mine and the soils no longer reflect the characteristics described above, although the reclamation process likely included the stockpiling and replacement of topsoil to support newly seeded vegetation.

Portions of the study area are within the 100- and 500- year floodplain of South Boulder Creek. The site's shallow groundwater has a direct hydraulic connection with South Boulder Creek and freely flows between the sands and gravel aquifer (unconfined) below the site, SBC and Dry Creek Ditch No. 2 (Lewis et al. 1977). Due to its excavated nature, much of the CU Boulder South Property lies several feet below the groundwater level, leading to an abundance of seeps (wetlands) on the property where groundwater daylights at the ground surface.

Description of Wetland Assessment Areas

The functional assessment included six assessment areas as detailed in Table 1 below.

Table 1. Assessment Area Community Characteristics

Assessment Area ID	Community Type	Acreage	Hydrology Source
1	Depressional PEM/PSS wetland	0.33	Groundwater, overland flow, drainage swales.
2	PEM Wet Meadow	2.17	Groundwater, overland flow, drainage ditches.
3	PSS Wet Meadow	0.25	Groundwater, overland flow, drainage ditches.
4	PEM fringe on Viele Channel	0.26	Viele Channel, overland flow.
5	Isolated Depressional PEM/PSS wetland	0.004	Overland flow, drainage ditch.
6	Van Vleet Pond	0.03	Groundwater, overland flow.

Wetland/waterbody assessment areas 1, 2, 3, and 5 are located along the US-36 corridor on both the north and south sides of the highway. Wetlands 1 (north of the highway), 2 and 3 (south of the highway) directly adjoin the US-36 corridor, including a recreational trail, abutting the toe of the trail/road slope. Wetlands 1 and 2 host a palustrine emergent (PEM) community, while Wetland 3 is a dense palustrine scrub shrub (PSS) community dominated by narrowleaf willow (*Salix exigua)*. Wetland 5 is a depressional PSS wetland situated at the downstream end of a drainage swale originating from an assumed groundwater-fed pond. Wetland 4 is located in a small teardrop of natural habitat situated between US-36 and the US-36 eastbound on-ramp from Foothills Parkway. Wetland 4 is a PEM wetland situated within the constructed Viele Channel and is dominated by a dense cattail (*Typha spp.)* community with occasional woody species along the bank. Assessment area 6 is a groundwater-fed pond with no associated wetland community. The pond has no inlet, and a single outlet extends approximately 350 feet before dispersing flow into riparian and upland habitats along the US-36/trail berm.

Results of the Wetland Functional Assessment

Table 2 below details the resulting functional scores given per category per wetland.

Table 2. Functional Scores per Assessed Wetland

Functional Category	Functional Rating per Wetland					
	1	2	3	4	5	6 (pond)
Overall groundwater recharge	3	3	3	2	**4**	2
Overall groundwater discharge	**4**	**4**	3	1	3	**4**
Flood alteration	**4**	**4**	**4**	**4**	**4**	3
Shoreline Anchoring	**4**	3	4	**4**	3	3
Sediment trapping	**4**	**4**	**4**	3	4	2
Long-term nutrient retention	**4**	3	**4**	3	2	3
Short-term nutrient retention	3	3	**4**	**4**	3	2
Food chain export	2	2	3	3	2	2
Food chain support (w/in basin)	3	**4**	**4**	3	**4**	2
Fish/aquatic habitat	1	1	1	1	1	2
Wildlife habitat	3	**4**	**4**	2	3	4
Active recreation	2	2	2	1	1	3
Passive recreation/uniqueness	**5**	**5**	**4**	2	2	2
Overall functional integrity.	3	3	2	2	3	3
Sum of Functional Scores	45	45	46	35	39	37
Overall Wetland Functional Category	**High**	**High**	**High**	**High**	**High**	**High**

*Bold indicates a high or very high functional value.

Wetland 1 Results

Wetland 1 scored six categories as high or very high function, five categories as moderate function, and three categories as low/no function. One category, "Passive recreation/uniqueness," was ranked as exhibiting very high function due to uncommon wet meadow habitat and presence of rare plants. This wetland exhibits moderate to high function for groundwater recharge/discharge, and flood storage/alteration as observed through seep-driven hydrology into a topographically low, low relief floodplain dominated by dense vegetation. Lack of well-defined drainage pathways in the wetland keep sediment and nutrients onsite versus transporting them further down in the watershed. Wildlife habitat function scored moderate due to dense vegetative communities; however, lack of open waters kept fish/aquatic habitat functional scores low.

Wetland 2 Results

Wetland 2 scored six categories as high or very high function, five categories as moderate function, and three categories as low/no function. One category, "Passive recreation/uniqueness," was ranked as exhibiting very high function due to uncommon wet meadow habitat and presence of rare plants. Wetland 2 also exhibited moderate to high function for groundwater recharge/discharge and flood storage/alteration, as hydrology for this community is also driven by seeps and partially by constructed drainage channels/swales. Outside of the drainage features, dense herbaceous wet meadow communities with variable microtopography provide ground surface complexity that help nutrient and sediment retention. Wetland exports are slightly higher than Wetland 1 as drainageways provide a route for movement of resources out of the wetland community; however, these drainages are ephemeral, so export functions were scored as moderate. Wetland 2 contains high functioning wildlife habitat due to vegetation abundance and diversity, and habitat connectivity to larger natural areas. Fish and aquatic habitat functional scores remain low in this wetland as flow is not present year-round, reducing quality of potential fish habitat. There are no active recreation opportunities in this wetland; however, an adjacent trail provides viewing opportunities of the wetland community.

Wetland 3 Results

Wetland 3 scored eight categories as high function, three categories as moderate function, and three categories as low/no function. No categories were ranked as very high function. This wetland exhibited moderate to high function for groundwater recharge/discharge and flood storage/alteration. Hydrology for this community is provided by seeps, groundwater, and large flow events within the SBC floodplain. Low-gradient, low-relief topography keeps hydrology in this wetland. Low gradient and topography combined with dense, shrub-dominated vegetative communities means that material transport offsite is limited, increasing sediment and nutrient retention, food chain support within the wetland. Seasonal flood events from SBC likely remove some material offsite; however, typical bankfull flows do not reach this wetland. No open waters are present in this wetland, but proximity to SBC indicates other water-dependent wildlife likely use the wetland (e.g. amphibians). Wetland 3 is also located adjacent to trail infrastructure providing public viewing access of the wetland, but no direct access via fencing.

Wetland 4 Results

Wetland 4 scored three categories as high function, four categories as moderate function, and seven categories as low/no function. No categories were ranked as very high function. Groundwater recharge and discharge exhibit low function in this wetland as it is situated within a constructed drainage channel (Viele Channel). Low side slopes and dense vegetation in the channel allow for easy floodplain access and flow dispersal, boosting the flood storage capabilities of this wetland. Dense cattail vegetation also serves to slow flow and retain sediment and nutrients. Due to its location within a stormwater channel, the capacity for external resource export is higher during large flow events, providing downstream food chain support and flushing sediment. Although the wetland is within a well-defined channel, no open water exists in this community, limiting fish and aquatic habitats. Wildlife use is also limited due to proximity to roadway infrastructure. Similarly, recreational value, both active and passive, is low due to the disturbed nature of the adjacent environment.

Wetland 5 Results

Wetland 5 scored four categories as high function, five categories as moderate function, and five categories as low/no function. No categories were ranked as very high function. This wetland is primarily fed by drainage from Van Vleet Pond and overland flow during precipitation events, although a small subset of overland flow may come from upgradient seeps. Low gradient and low topographic relief in this wetland create excellent conditions for groundwater recharge, flood flow retention, and onsite materials retention (sediment, nutrients). These services are aided by the US-36/trail berm that acts as a barrier to downgradient connectivity for this wetland. This wetland is downgradient of an unnamed drainage channel which does not exhibit an ordinary high-water mark, experiences ephemeral flow, and has no downstream connectivity to support fish populations. Wildlife may use this depressional wetland as it is isolated and surrounded by upland habitats; however, it is also adjacent to US-36 which provides a high level of continual disturbance. Size and lack of accessibility limit active recreation function for this wetland, although the public can still view the wetland from the adjacent trail.

Pond 6 Results

Pond 6 scored two categories as high functioning, four categories as moderate function, and seven categories as low functioning. No categories were ranked as very high or no function. This groundwater-driven pond exhibits fairly natural hydrology, with occasional inputs from large surface flow events from nearby trail/US-36 infrastructure. Groundwater discharge function is high as this is the main source of hydrology for the pond, fluctuating with the time of year. Lack of substantial flow inputs limited the groundwater discharge score as hydrology present was from groundwater to begin with. Larger-sized

substrates in the pond provide shoreline stability and no noticeable erosion was observed. Due to the depressional nature of this feature, material/resource export from the pond was scored with moderate to low function. The depressional, groundwater fed nature of this feature provides open water features for fish; however, there is no direct upstream or downstream connectivity to other water features, limiting the potential for fish migration in/out of the pond. Wildlife likely utilizes this water resource; however, proximity to US-36 might limit use during certain times of day. Last, the pond is adjacent to a trail, but a fence separates the two features, restricting public recreation opportunities.

Full details regarding the scoring rationale per wetland per category are included in the Wetland Functional Assessment Forms in Attachment C. These dataforms also include a photo of the wetland community and a snapshot of the community mapping.

Conclusions

Based on the results of the functional assessment, the annexation property subset of the South Boulder Creek Floodplain Mitigation project area contains high-functioning wetland communities. Functional categories with the overall highest rating for wetlands onsite include flood alteration, shoreline anchoring, sediment trapping, in-basin food chain support, and passive recreation/uniqueness. Functional categories consistently rating low include fish/aquatic habitat and active recreation.

Notably, Wetlands 1 and 2 reflect very high function for passive recreation/heritage value as these communities contain suitable Ute Ladies'-tresses orchid habitat and host a reference population of this federally protected orchid. These were the only two wetlands to score a value of 5 in the assessment. All wetlands included in this assessment were ranked as high functioning.

Based on Section 9-3-9(i)(3) of the Boulder Municipal Code, a 50-ft wetland buffer was applied to high-functioning communities, including a 25-ft inner buffer and 25-ft outer buffer. Figure 1 depicts the wetland communities and their associated buffers.

Attachments:

Attachment A – Figures
Attachment B – SBC Floodplain Mitigation Site Plant List
Attachment C – Wetland Functional Assessment Form

References:

Boulder County Municipal Code. Title 9 – Land Use Code. Chapter 3 – Overlay Districts. 9-3-9. – Stream, Wetlands, and Water Body Protection.

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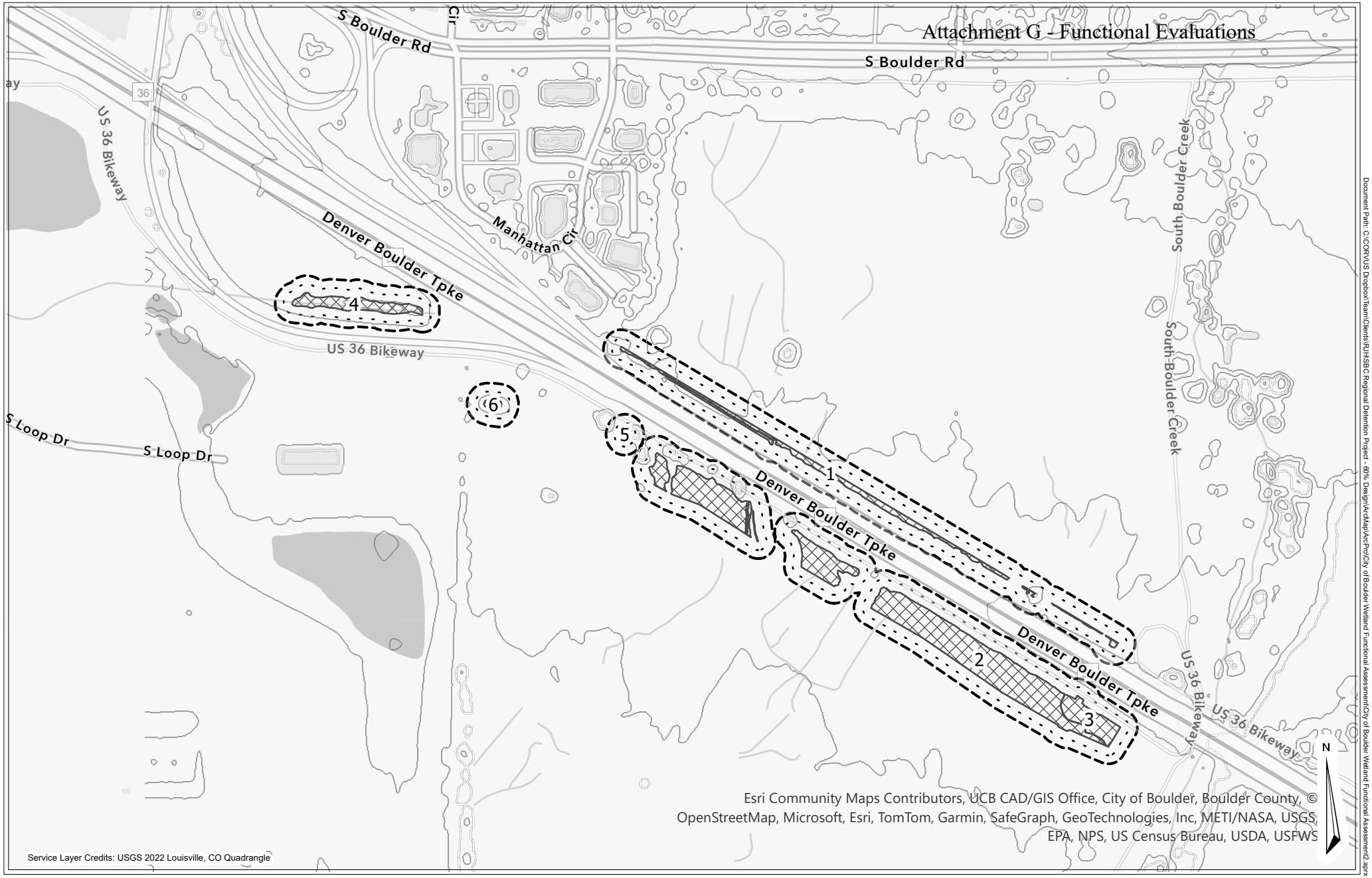

South Boulder Creek Floodplain Mitigation

Functional Assessment Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 87.5175 350 Feet

1:4,500

FIGURE 1- Overview
WETLAND MAP

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Boulder, Boulder County
Map Date: 2/6/2024

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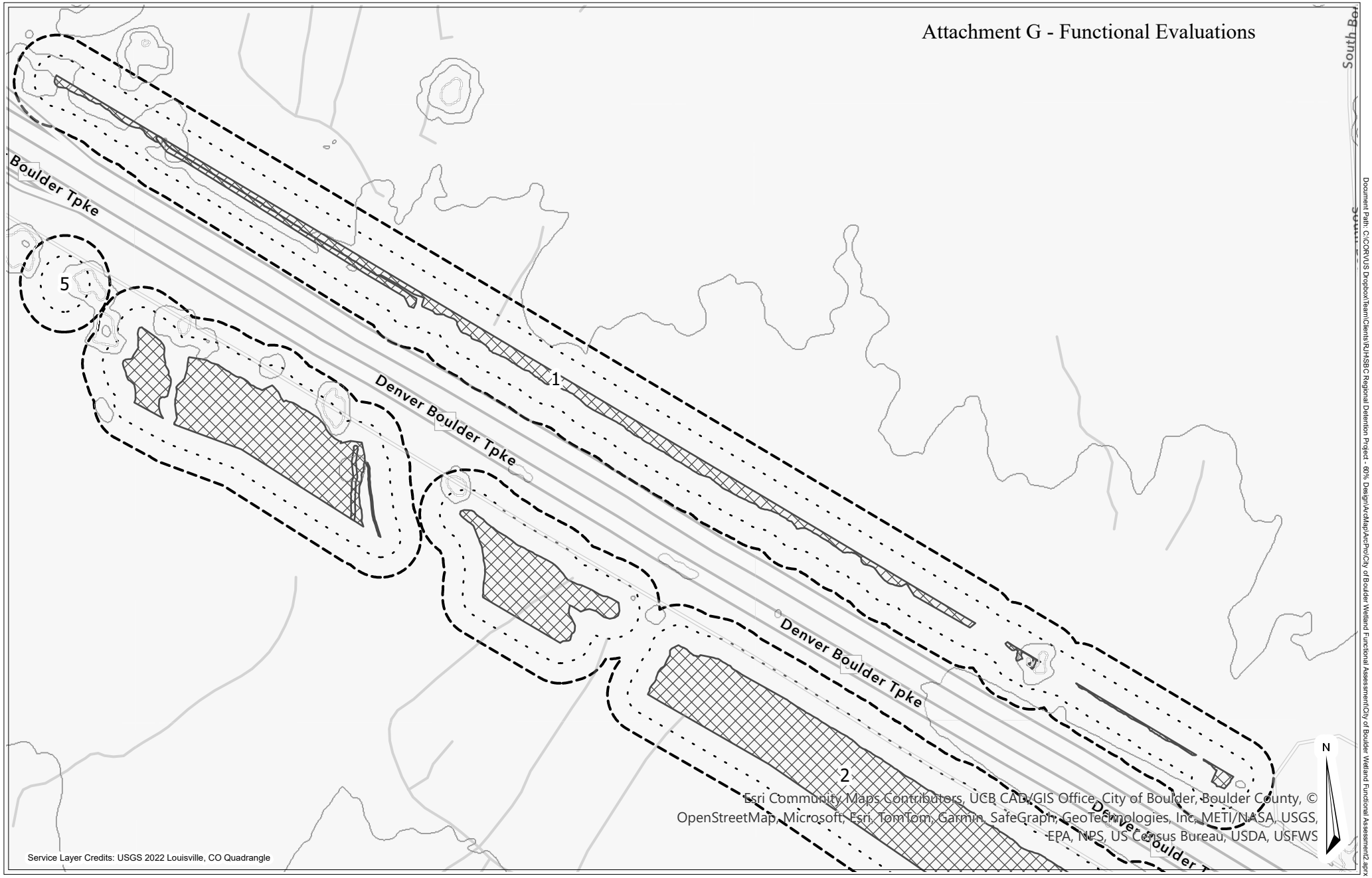

South Boulder Creek Floodplain Mitigation

Functional Assessment Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 37.5 75 150 Feet

1:1,800

FIGURE 1- A
WETLAND MAP

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Boulder, Boulder County
Map Date: 2/6/2024

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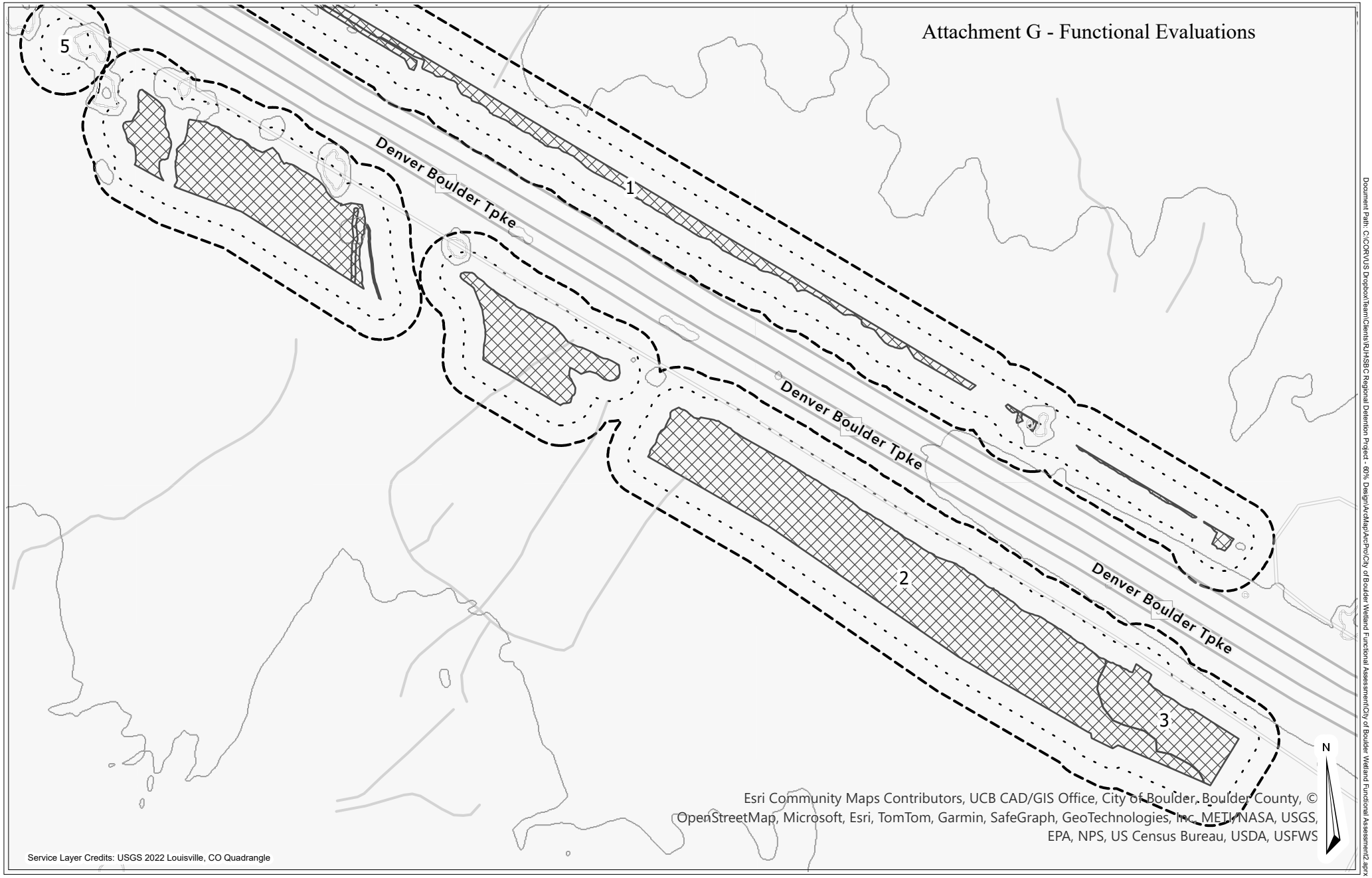


South Boulder Creek Floodplain Mitigation

Functional Assessment Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 37.5 75 150 Feet

1:1,900

FIGURE 1- B
WETLAND MAP

CORVUS
Environmental Consulting

Boulder, Boulder County
Map Date: 2/6/2024

Document Path: C:\CORVUS Dropbox\Team\Clients\RJH\SBC Regional Detention Project - 60% Design\ArcMap\ArcPro\City of Boulder Wetland Functional Assessment\City of Boulder Wetland Functional Assessment2.aprx

South Boulder Creek Floodplain Mitigation

Functional Assessment Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 5 10 20 Feet

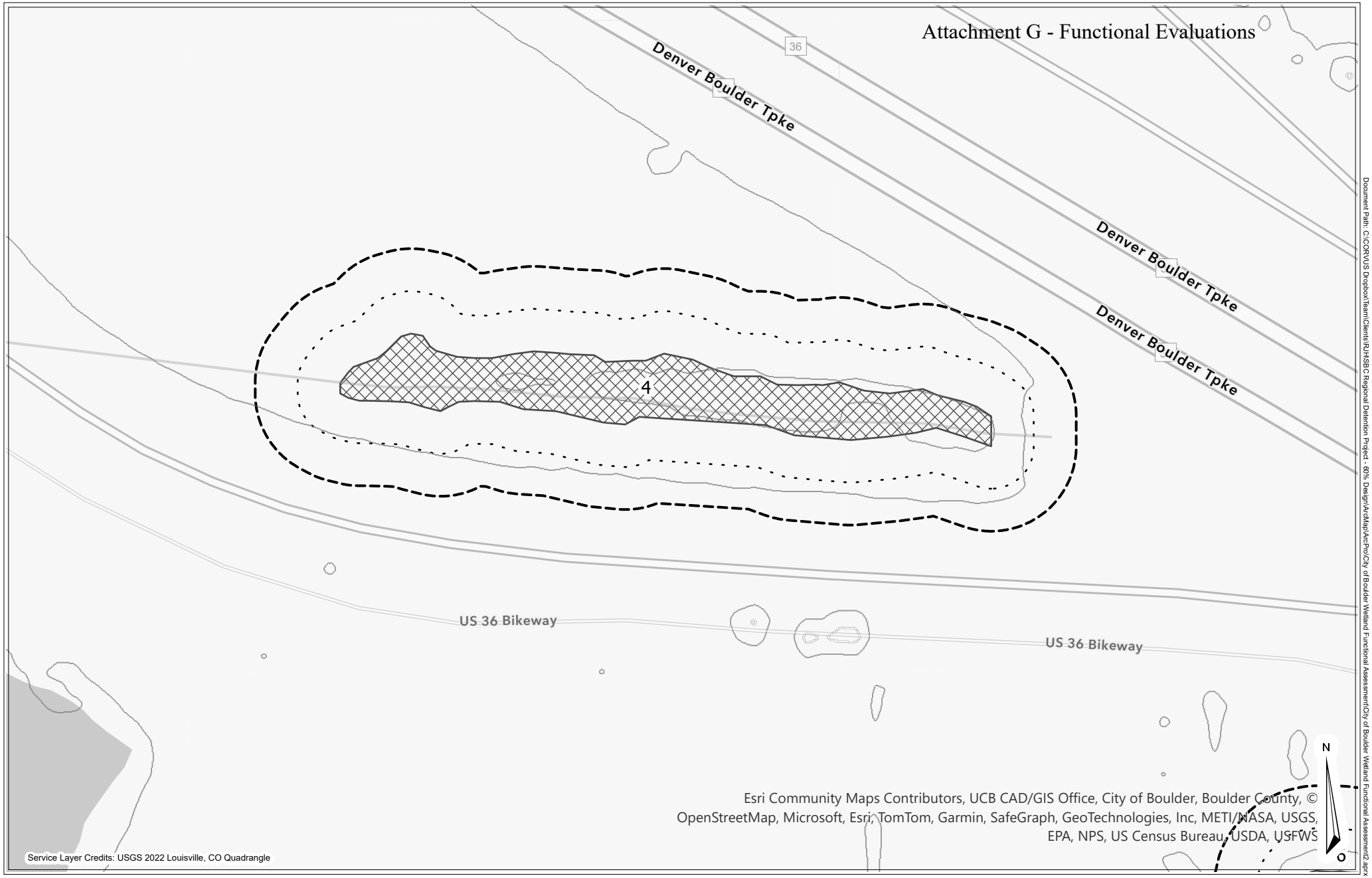
1:400

FIGURE 1- C
WETLAND MAP

CORVUS
Environmental Consulting

Boulder, Boulder County
Map Date: 2/6/2024

Document Path: C:\CORVUS Dropbox\Team\Clients\RJH\SBC Regional Detention Project - 60% Design\ArcMap\ArcPro\City of Boulder Wetland Functional Assessment\City of Boulder Wetland Functional Assessment2.aprx



South Boulder Creek Floodplain Mitigation

Functional Assessment Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 15 30 60 Feet

1:900

FIGURE 1- D
WETLAND MAP

CORVUS
Environmental Consulting

Boulder, Boulder County
Map Date: 2/6/2024

Document Path: C:\CORVUS Dropbox\Team\Clients\RJH\SBC Regional Detention Project - 60% Design\ArcMap\ArcPro\City of Boulder Wetland Functional Assessment\City of Boulder Wetland Functional Assessment2.aprx

South Boulder Creek Floodplain Mitigation

Functional Assessment Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 5 10 20 Feet

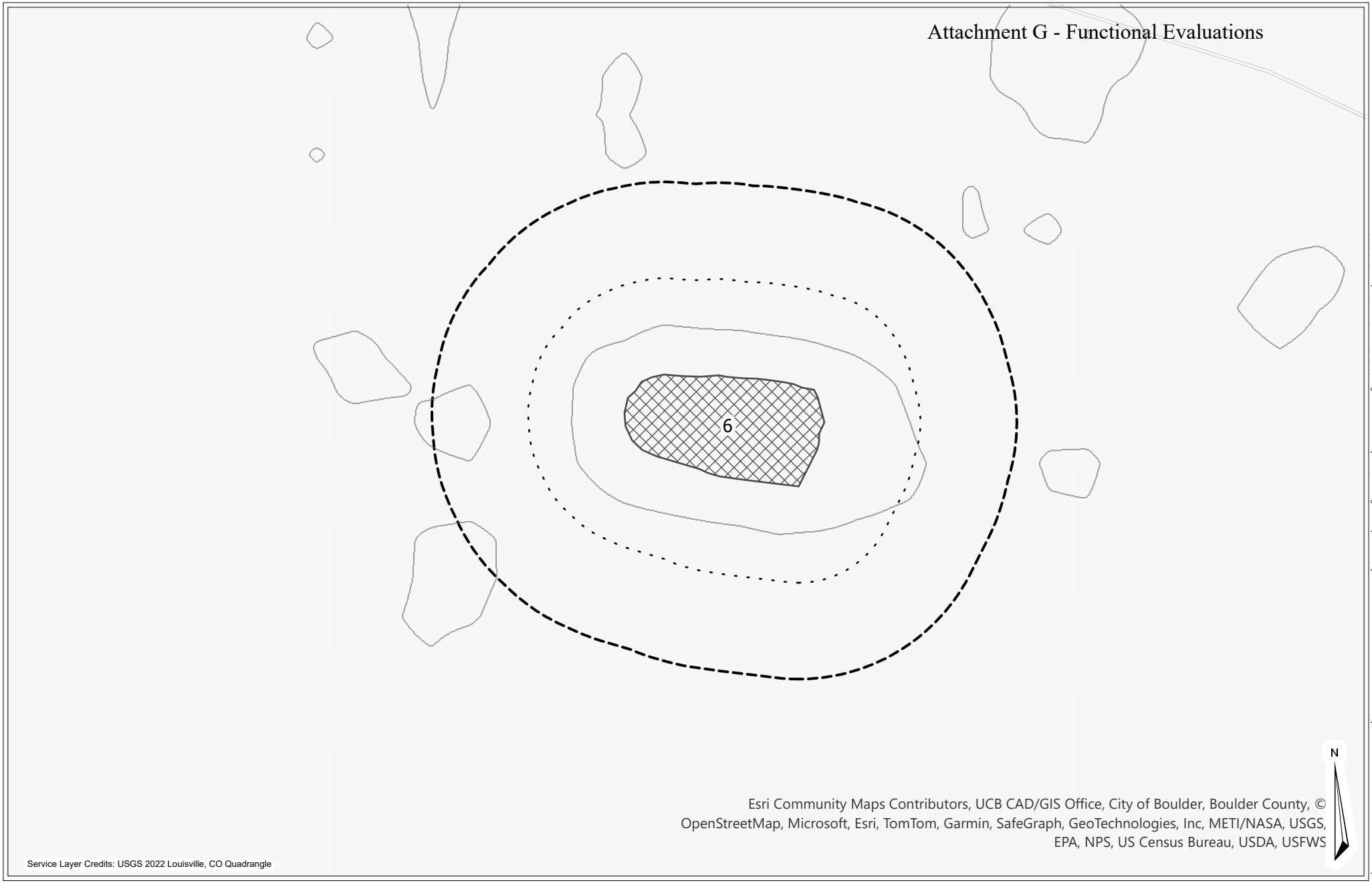
1:400

FIGURE 1- E
WETLAND MAP

CORVUS
Environmental Consulting

Boulder, Boulder County
Map Date: 2/6/2024

Document Path: C:\CORVUS Dropbox\Team\Clients\RJH\SBC Regional Detention Project - 60% Design\ArcMap\ArcPro\City of Boulder Wetland Functional Assessment\City of Boulder Wetland Functional Assessment2.aprx



South Boulder Creek Floodplain Mitigation

Functional Assessment Areas

High Quality Wetland Buffer: Inner 25'

High Quality Wetland Buffer: Outer 25'

0 5 10 20 Feet

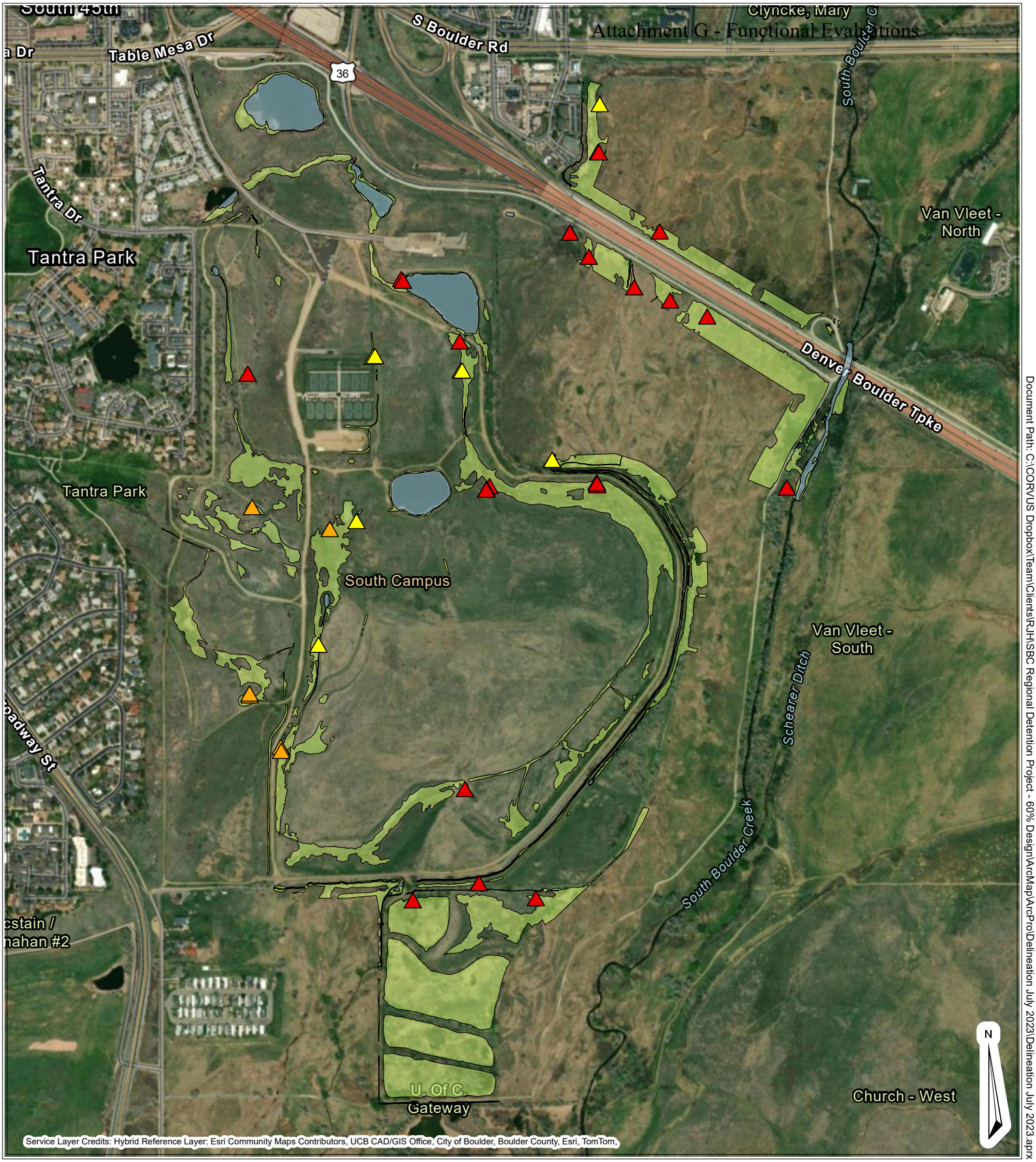
1:400

FIGURE 1- F
WETLAND MAP

CORVUS
Environmental Consulting

Boulder, Boulder County
Map Date: 2/6/2024

Document Path: C:\CORVUS Dropbox\Team\Clients\RJH\SBC Regional Detention Project - 60% Design\ArcMap\ArcPro\City of Boulder Wetland Functional Assessment\City of Boulder Wetland Functional Assessment2.aprx



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SOUTH BOULDER CREEK FLOODPLAIN MITIGATION

- 2023 Waters
- 2023 Wetlands
- 2019 Sample Point
- 2021 Sample Point
- 2023 Sample Point

0 250 500 1,000 Feet

1:9,402

FIGURE 2
WETLANDS AND WATERS OF THE US

Boulder, Boulder County

Map Date: 1/26/2024

CORVUS Environmental Consulting

Scientific Name	Common Name	Frequent/Dominant?
Grasses/Graminoids		
Agrostis gigantea	Redtop	Y
Agrostis scabra	Rough Bentgrass	
Andropogon gerardii	Big Bluestem	
Carex aquatilis	Water Sedge	
Carex aurea	Golden Sedge	
Carex brevoir	Shortbeak Sedge	
Carex emoryi	Emory's Sedge	
Carex nebrascensis	Nebraska sedge	Y
Carex pellita (Carex lanuginosa)	Woolly Sedge	Y
Eleocharis palustris	Common Spikerush	
Juncus balticus	Baltic Rush	
Juncus longistylis	Longstyle Rush	Y
Schoenoplectus pungens	Common Three-square	
Sorghastrum nutans	Indiangrass	
Spartina pectinata	Prairie Cordgrass	Y
Forbs		
Apocynum cannabinum	Dogbane	
Asclepias incarnata	Swamp Milkweed	Y
Asclepias speciosa	Showy Milkweed	Y
Cirsium arvense	Canada Thistle	Y
Daucus carota	Wild Carrot	
Dipsacus fullonum	Common Teasel	
Epilobium cillatum	Fringed Willowherb	
Geum aleppicum	Yellow Avens	
Iris pseudacorus	Yellow Flag Iris	
Lobelia siphilitica	Great Blue Lobelia	
Lotus tenuis	Narrowleaf Trefoil	
Lycopus americanus	Water horehound	
Mentha arvensis	Wild Mint	
Oenothera villosa	Hairy Evening Primrose	
Panicum virgatum	Switchgrass	
Plantago lanceolata	Narrowleaf Plantain	
Platanthera huronensis	Green Bog Orchid	
Sonchus asper	Spiny Sowthistle	
Symphyotrichum lanceolatum ssp. hesperium	White Panicle Aster	
Thermopsis divaricarpa	Golden Banner	
Typha angustifolia	Narrowleaf Cattail	
Verbena hastata	Swamp Verbena	Y
Virgulus falcatus	White Prairie Aster	
Woody Plants		
Elaeagnus angustifolia	Russian Olive	
Populus deltoides	Eastern Cottonwood	
Salix amygdaloides	Peach Leaf Willow	
Salix exigua	Coyote Willow	
Salix fragilis	Crack Willow	
Other		
Equisetum sp.	Scouring-Rush	

WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #1

Former Cooper #_____

Location: North of US-36 in Boulder, Boulder County, CO.		**Investigator: MShields**	**Date** 23-Jan-24
West of 39.980917°, -105.221875°, east of 39.983374°, -105.227075°.		**Observation method: Onsite**	
Water Source: Groundwater, overland flow, drainage ditches		**History:**	
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high	

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		There is moderate groundwater recharge in this wetland community. Recharge events that do occur are likely confined to large rainfall events entering the wetland community via overland flow from nearby impervious surfaces and infiltrating from the surface. The southern wetland edge has high roughness with irregularity based on microtopography along the US-36 roadway berm.		
	Surface water inflow exceeds outflow			
X	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
X	Presence of porous underlying strata			
X	Dense vegetated basin slows flow			
X	Outlet constricted &/or dammed			
X	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 3	Confidence b	Previous
GROUNDWATER DISCHARGE		Wetland seeps are located in the larger wetland community (but outside the annexation boundary). Groundwater discharge may be slightly limited due to US-36 infrastructure.		
X	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
	No inlet, but outlet present &/or downstream of dam			
	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 4	Confidence b	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		Wetland community located in a large wet meadow with many named/unnamed drainage pathways. The community as a whole is perpendicular to South Boulder Creek and parallels US-36. Substrates are generally loamy over sandy and gravelly alluvium.		
X	Located along stream			
X	Outflow restricted			
	High water mark shows periodic flooding			
X	Flat topography &/or low gradient			
X	Porous substrate allows infiltration for subsurface storage			
X	Rough surface & depressions for aboveground storage			
X	Dense veg. basin slows flow			
	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 4	Confidence c	Previous
SHORELINE ANCHORING/STABILIZATION		Wetland community does not directly adjoin a natural stream feature, but contains dense, varied vegetation with occasional woody species (SAEX, ELAN). Stormwater features associated with US-36 are also present adjacent to the community. No evidence of erosion was observed.		
	Erosional forces/high water velocity/unsheltered loc.			
X	Dense vegetation/good water-veg. interspersion			
	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 4	Confidence c	Previous
SEDIMENT TRAPPING/RETENTION		No large, direct outlets. Many little swales transect the wetland, but none with anything more than ephemeral flow, at best. These swales may provide low sediment inputs but lack the stream power to move large amounts of sediment. Wetland is confined against the US-36 berm, and the wet meadow north of the wetland is topographically higher than the wetland being assessed.		
X	Constricted outlet/water flow slows			
X	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
	Evidence of sediment/organic matter deposits			
X	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
X	Source of sediments from upstream/offsite activities			
X	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 4	Confiden c	Previous

Wetland #1 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

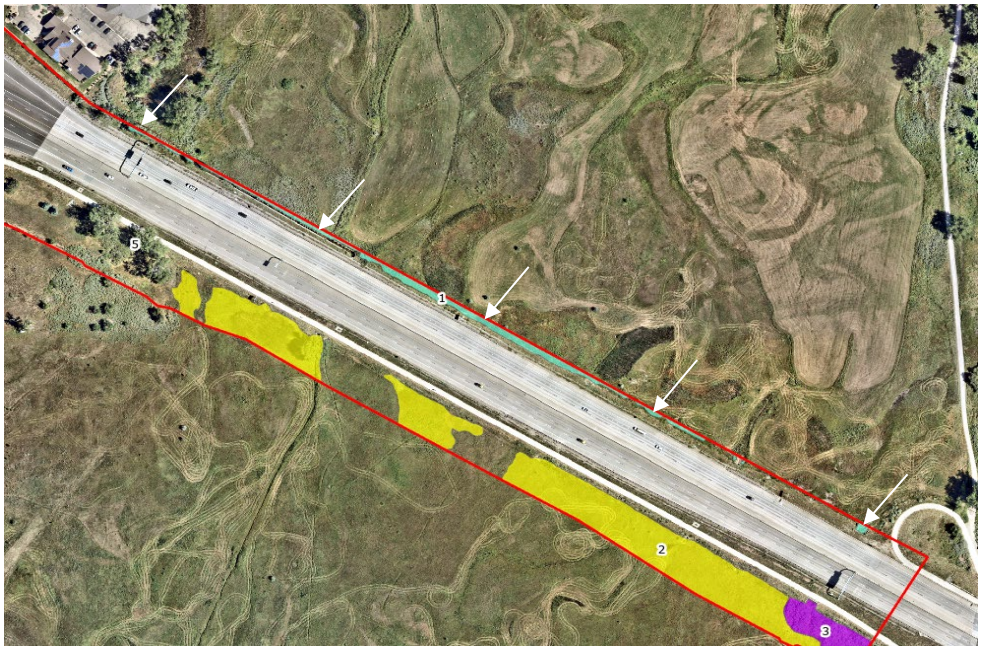
Function	*Indicators*	*Comments*		
NUTRIENT RETENTION (long-term)		Wetland community densely vegetated with a mixture of species in different stratums. Woody vegetation is also present and observed mainly as shrubs (SAEX, ELAN).		
	Permanently flooded/saturated			
X	High plant productivity			
X	Presence of woody plants			
	Organic soils present			
OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 4	Confiden b	Previous
NUTRIENT RETENTION (short-term)		Short-term nutrient retention likely occurs in depressions that maintain saturation/inundation longer, with nutrient inputs from decaying organic matter present in the wetland. The wetland contains occasional pockets of cattail community that reflect effective short-term nutrient retention.		
X	Low water velocity			
X	Highly variable water/seasonally flooded			
	High plant productivity			
	Fine mineral soils present			
OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 3	Confiden b	Previous
FOOD CHAIN SUPPORT (downstream/production export)		Wetland community experiences seasonal flooding when water table is high, resulting in an increase in groundwater discharge into the wetland.		
	Presence of outlet			
	High plant productivity/overhanging veg.			
X	Seasonal flooding			
	Good flushing flows/high erosion potential			
	Non-acidic water			
	Substrate w/ accumulated organic matter			
OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 2	Confiden b	Previous
FOOD CHAIN SUPPORT (within basin)		No main outlet for flow out of wetland, and swales that are present exhibit very low, seasonally dependent velocities.		
	High plant productivity			
X	Absence of outlet			
X	Low erosion potential/absence of high flows			
OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 3	Confiden c	Previous
FISH HABITAT/AQUATIC DIVERSITY		No natural open water was observed in the wetland community, although microtopographic depressions likely support small open water areas during the spring. A concrete drainage channel is located along a portion of the southern edge, however, this is not quality fish habitat.		
	Some deep open water			
	Non-acidic, clear water			
	No barriers to migration/movement			
	Minimal variation in flow (artificial)			
	Streambank/edges provide partial cover/cool temps			
	Well-mixed water/adequate oxygen			
OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 1	Confiden c	Previous
WILDLIFE HABITAT		Adjacent habitats are split between woody/wet meadow communities to the north and US-36 to the south, limiting wildlife use. Wetland is connected to a larger wet meadow complex to the north, providing a larger habitat polygon. However; this northern area is hayed, which perpetuates disturbance of wildlife habitat.		
X	Signs of different animals -- scat,prints,shelter			
X	Adjacent wooded area or veg. >20ft wide			
	Large/ sinuous, irregular basin/with islands			
	High veg. diversity/good food sources			
X	Minimal variation in flow (artificial)			
	Some open water			
X	Connects to offsite habitat			
	Not channelized or farmed			
OVERALL WILDLIFE HABITAT FUNCTION		Rating 3	Confiden c	Previous
ACTIVE RECREATION		No active recreation opportunities.		
	Direct evidence of actual use			
	Convenient public access			
X	Good habitat for animals/fish & high diversity			
OVERALL ACTIVE RECREATION FUNCTION		Rating 2	Confiden c	Previous

Wetland #1 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high		
Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Associated with high-quality wet meadow habitat to the north that contains suitable habitat for a federally-protected species (ULTO) and hosts a known population of this species.		
X	High ranked occurrence of plant community			
X	Presence of rare plants or animals			
X	Landscape diversity			
X	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 5	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		US-36 is an anthropogenic feature that splits this wetland into two communities (north and south). As such, hydrology is altered (due to additional impervious surfaces), and there has been historic ground disturbance nearby (for construction).		
	Low degree of disturbance			
X	Naturalness of hydrology			
X	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 3	Confiden c	

Notes:

Wetland 1 Mapping: Teal polygon on north side of US-36.



WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #2

Former Cooper #_____

Location: South of US-36 in Boulder, Boulder County, CO.		**Investigator: MShields**	**Date** 23-Jan-24
West of 39.980616°, -105.222854°, east of 39.982600°, -105.227040°.		**Observation method: Onsite**	
Water Source: Groundwater, overland flow, drainage ditches		**History:**	
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high	

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		Wet meadow community in an undeveloped field with minimal topographic variability transected by ephemeral drainage swales that exhibit low stream power. Downgradient outflow is blocked to the north by the US-36 roadway berm; however, the Dry Creek No. 2 Ditch and two unnamed ditches connect to the wetland on the north side of the highway via culverts under US-36.		
	Surface water inflow exceeds outflow			
X	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
X	Presence of porous underlying strata			
X	Dense vegetated basin slows flow			
X	Outlet constricted &/or dammed			
	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 3	Confiden b	Previous
GROUNDWATER DISCHARGE		Wet meadow contains scattered seeps and is situated within the South Boulder Creek floodway. The wetland is bound on the north (US-36) and south (offsite) by artifical berms.		
X	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
	No inlet, but outlet present &/or downstream of dam			
	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 4	Confiden b	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		Wetland community contains drainage swales, some of which exhibit an OHWM, and is located in the South Boulder Creek floodway. Substrates are generally loamy over sandy and gravelly alluvium. Community consists of a densely vegetated herbaceous layer.		
X	Located along stream			
X	Outflow restricted			
	High water mark shows periodic flooding			
X	Flat topography &/or low gradient			
X	Porous substrate allows infiltration for subsurface storag			
	Rough surface & depressions for aboveground storage			
X	Dense veg. basin slows flow			
	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 4	Confiden c	Previous
SHORELINE ANCHORING/STABILIZATION		Wetland community does not directly adjoin South Boulder Creek, but does contain small, low-powered drainage swales. No erosion was observed.		
	Erosional forces/high water velocity/unsheltered loc.			
X	Dense vegetation/good water-veg. interspersion			
	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 3	Confiden c	Previous
SEDIMENT TRAPPING/RETENTION		No large stream features are present to provide sediment flushing in this wetland. Small, low velocity drainage swales may move smaller sized particles through during larger flow events. Dense vegetation and low topographic variation outside of the drainage swales makes sediment transport difficult.		
X	Constricted outlet/water flow slows			
X	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
	Evidence of sediment/organic matter deposits			
X	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
	Source of sediments from upstream/offsite activities			
X	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 4	Confiden c	Previous

Wetland #2 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

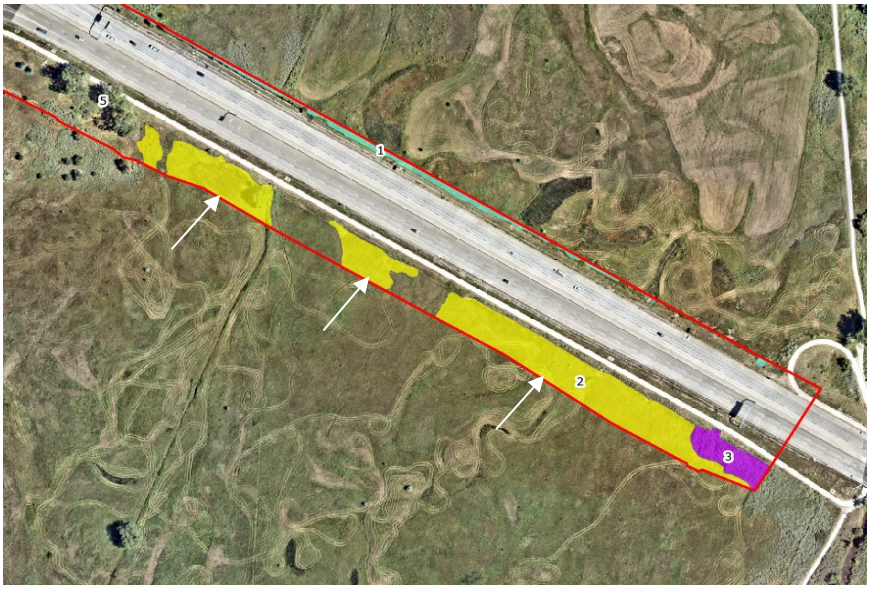
Function	*Indicators*	*Comments*		
NUTRIENT RETENTION (long-term)		The combination of dense PEM wetlands, low topographic relief, and high sediment retention, provide moderate nutrient trapping.		
	Permanently flooded/saturated			
X	High plant productivity			
	Presence of woody plants			
	Organic soils present			
OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 3	Confiden b	Previous
NUTRIENT RETENTION (short-term)		Wetland community is dominated by herbaceous plants; however, the wetland lacks larger flow events to remove sediment and vegetation.		
X	Low water velocity			
X	Highly variable water/seasonally flooded			
X	High plant productivity			
	Fine mineral soils present			
OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 3	Confiden b	Previous
FOOD CHAIN SUPPORT (downstream/production export)		Wetland community has three outlets under US-36, and seasonal saturation/inundation is visible on aerial imagery; however, the outlets are small and host low velocity flow events, meaning that export of organic material downstream of the wetland is likely infrequent.		
X	Presence of outlet			
	High plant productivity/overhanging veg.			
X	Seasonal flooding			
	Good flushing flows/high erosion potential			
	Non-acidic water			
	Substrate w/ accumulated organic matter			
OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 2	Confiden c	Previous
FOOD CHAIN SUPPORT (within basin)		Lack of frequent, high-powered, high-erosion flow events keeps organic materials in the wetland.		
	High plant productivity			
	Absence of outlet			
X	Low erosion potential/absence of high flows			
OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 4	Confiden c	Previous
FISH HABITAT/AQUATIC DIVERSITY		Drainage swales are ephemeral and do not contain flow for most of the year. Some small pockets of standing water may perpetuate after a rainfall events, but do not provide quality fish habitat.		
	Some deep open water			
	Non-acidic, clear water			
	No barriers to migration/movement			
	Minimal variation in flow (artificial)			
	Streambank/edges provide partial cover/cool temps			
	Well-mixed water/adequate oxygen			
OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 1	Confiden c	Previous
WILDLIFE HABITAT		Wetland community hosts a diverse herbaceous community and containing habitat islands with changes in species composition based on location relative to groundwater seeps or drainage swales. The wetland is also adjacent to a large, undeveloped meadow to the south, which provides continuous, undisturbed wildlife habitat.		
X	Signs of different animals -- scat,prints,shelter			
X	Adjacent wooded area or veg. >20ft wide			
X	Large/ sinuous, irregular basin/with islands			
X	High veg. diversity/good food sources			
	Minimal variation in flow (artificial)			
	Some open water			
X	Connects to offsite habitat			
	Not channelized or farmed			
OVERALL WILDLIFE HABITAT FUNCTION		Rating 4	Confiden c	Previous
ACTIVE RECREATION		No active recreation opportunities. Trail is located adjacent to the wetland; however, a fence separates the two.		
	Direct evidence of actual use			
	Convenient public access			
X	Good habitat for animals/fish & high diversity			
OVERALL ACTIVE RECREATION FUNCTION		Rating 2	Confiden c	Previous

Wetland #2 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high		
Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Associated with high-quality wet meadow habitat within and to the south of the wetland community that contains suitable habitat for a federally-protected species (ULTO) and hosts a known population of this species. Habitat islands created by variable hydrology creates habitat diversity.		
X	High ranked occurrence of plant community			
X	Presence of rare plants or animals			
X	Landscape diversity			
X	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 5	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		Wetland community retains much of it's natural hydrology via groundwater seeps. A small subset of hydrology is artifical including constructed drainage ditches.		
	Low degree of disturbance			
X	Naturalness of hydrology			
X	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 3	Confiden c	

Notes:

Wetland 2 mapping: yellow polygons on the south side of US-36.



WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #3

Former Cooper #_____

Location: South of US-36 in Boulder, Boulder County, CO	**Investigator: MShields**	**Date**	**1/23/2024**
West of 39.980357°, -105.222244°, East of 39.980616°, -105.222854°	**Observation method: Onsite**		
Water Source: Groundwater, overland flow, drainage ditches	**History:**		
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high	**Confidence:**a=low, b=medium, c=high		

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		Scrub-shrub wetland community in an undeveloped field with minimal topographic variability Downgradient outflow is blocked to the north by the US-36 roadway berm; however, an unnamed drainage ditch connects to the wetland on the north side of the highway via culverts under US-36.		
	Surface water inflow exceeds outflow			
X	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
	Presence of porous underlying strata			
X	Dense vegetated basin slows flow			
X	Outlet constricted &/or dammed			
	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 3	Confiden b	Previous
GROUNDWATER DISCHARGE		Wetland receives hydrology from upgradient seeps and flood flows from SBC. There is no direct inlet to this wetland, and it's bound on two sides by concrete trails.		
	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
X	No inlet, but outlet present &/or downstream of dam			
	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 3	Confiden b	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		Wetland community located adjacent to South Boulder Creek (with a concrete trail inbetween) and in the South Boulder Creek floodway. Wetland has one outflow point under US-36. Wetland has low topographic relief with a slight slope toward the creek. Wetland contains a dense coyote willow community, creating a small percentage of coarse woody debris.		
X	Located along stream			
X	Outflow restricted			
	High water mark shows periodic flooding			
X	Flat topography &/or low gradient			
	Porous substrate allows infiltration for subsurface storag			
X	Rough surface & depressions for aboveground storage			
X	Dense veg. basin slows flow			
X	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 4	Confiden c	Previous
SHORELINE ANCHORING/STABILIZATION		Erosional forces are low in this wetland as there are no streams or waterbodies present. Dense woody vegetation provides strong community stabilization, and no erosion was observed.		
	Erosional forces/high water velocity/unsheltered loc.			
X	Dense vegetation/good water-veg. interspersion			
X	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 4	Confiden c	Previous
SEDIMENT TRAPPING/RETENTION		No drainage features within or directly adjoining this wetland community able to re-suspend sediment. Water velocities are slow due to low topographic relief and high vegetation cover.		
X	Constricted outlet/water flow slows			
X	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
	Evidence of sediment/organic matter deposits			
X	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
	Source of sediments from upstream/offsite activities			
X	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 4	Confiden c	Previous

Wetland #3 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

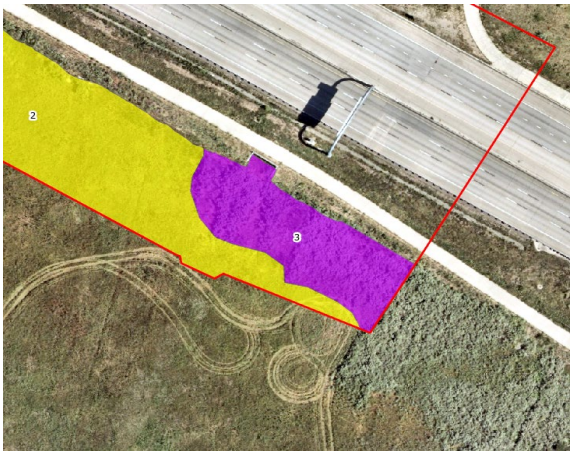
Function	*Indicators*	*Comments*		
NUTRIENT RETENTION (long-term)		Wetland community contains dense woody vegetation (Salix exigua) with a well developed herbaceous understory.		
	Permanently flooded/saturated			
X	High plant productivity			
X	Presence of woody plants			
	Organic soils present			
OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 4	Confiden c	Previous
NUTRIENT RETENTION (short-term)		Robust vegetation community in area that is seasonally flooded/exhibits a high water table. No streams are present in the wetland and water migration through the site is mainly overland or subsurface flow at low velocities.		
X	Low water velocity			
X	Highly variable water/seasonally flooded			
X	High plant productivity			
	Fine mineral soils present			
OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 4	Confiden c	Previous
FOOD CHAIN SUPPORT (downstream/production export)		Wetland community contains one outlet under US-36 but does not directly connect with a stream. Large flood events from US-36 likely move some nutrients through the community, but presence of a dense woody community likely prevents much of this movement.		
X	Presence of outlet			
X	High plant productivity/overhanging veg.			
X	Seasonal flooding			
	Good flushing flows/high erosion potential			
	Non-acidic water			
	Substrate w/ accumulated organic matter			
OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 3	Confiden c	Previous
FOOD CHAIN SUPPORT (within basin)		Robust vegetation community and low erosion potential means nutrients stay within the local area and do not get moved downstream.		
X	High plant productivity			
	Absence of outlet			
X	Low erosion potential/absence of high flows			
OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 4	Confiden c	Previous
FISH HABITAT/AQUATIC DIVERSITY		No streams or waterbodies present in this wetland community, no fish habitat.		
	Some deep open water			
	Non-acidic, clear water			
	No barriers to migration/movement			
	Minimal variation in flow (artificial)			
	Streambank/edges provide partial cover/cool temps			
	Well-mixed water/adequate oxygen			
OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 1	Confiden c	Previous
WILDLIFE HABITAT		Robust and diverse multi-stratum vegetation community present with an adjacent, undeveloped wet meadow to the south and west. However, South Boulder Creek trail adjoins the wetland on two sides, which may occasionally deter wildlife use. Deer were observed bedding in this community.		
X	Signs of different animals -- scat,prints,shelter			
X	Adjacent wooded area or veg. >20ft wide			
	Large/ sinuous, irregular basin/with islands			
X	High veg. diversity/good food sources			
	Minimal variation in flow (artificial)			
	Some open water			
X	Connects to offsite habitat			
	Not channelized or farmed			
OVERALL WILDLIFE HABITAT FUNCTION		Rating 4	Confiden c	Previous
ACTIVE RECREATION		No active recreation opportunities in the wetland itself, but South Boulder Creek trail is directly adjacent to the community to the north and east.		
	Direct evidence of actual use			
X	Convenient public access			
X	Good habitat for animals/fish & high diversity			
OVERALL ACTIVE RECREATION FUNCTION		Rating 2	Confiden c	Previous

Wetland #3 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high		
Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Entire wetland is densely vegetated in multi-stratum vegetation communities. Habitat is directly adjacent to federally-protected orchid habitat; however, canopy cover in this section of the wetland is high for ideal orchid habitat. Dense willow community adjacent to the creek does provide moderate (fragmented) federally-protected mouse habitat (PMJM).		
X	High ranked occurrence of plant community			
X	Presence of rare plants or animals			
X	Landscape diversity			
	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 4	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		Wetland maintains some natural hydrology, but does receive some anthropogenically-modified hydrology from adjacent impervious surfaces (US-36, trails).		
	Low degree of disturbance			
X	Naturalness of hydrology			
X	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 2	Confiden c	

Notes:

Wetland 3 depicted as purple polygon.



WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #4

Former Cooper #_____

Location: South of US-36 in Boulder, Boulder County, CO.	**Investigator: MShields**	**Date**	**1/23/2024**
West of 39.983827°, -105.229488°, East of 39.983911°, -105.230865°	**Observation method: Aerial imagery**		
Water Source: Viele Channel, overland flow	**History:**		
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high	**Confidence:**a=low, b=medium, c=high		

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		Wetland is situated within a isolated segment of the Viele Channel. The wetland likely experiences seasonally high flow during the spring that tapers toward the end of the growing season. The channel is filled with a cattail-dominated wetland community indicating flows insufficient to remove sediment.		
	Surface water inflow exceeds outflow			
X	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
	Presence of porous underlying strata			
X	Dense vegetated basin slows flow			
	Outlet constricted &/or dammed			
	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 2	Confiden b	Previous
GROUNDWATER DISCHARGE		Wetland is situated in a landscape depression and is part of a larger drainage channel which slopes toward the eastern outlet. Some upstream flow is likely driven by groundwater seeps, but this particular wetland appears mainly channel fed.		
	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
X	No inlet, but outlet present &/or downstream of dam			
	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 1	Confiden b	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		Wetland is located within the Viele Channel (a constructed stormwaterm channel). Low channel slopes and historic sediment deposition have created ideal conditions for a dense cattail wetland which slows water passing through. This dense vegetation community coupled with a low channel slope create additional opportunities for flood storage.		
X	Located along stream			
	Outflow restricted			
	High water mark shows periodic flooding			
x	Flat topography &/or low gradient			
	Porous substrate allows infiltration for subsurface storage			
	Rough surface & depressions for aboveground storage			
x	Dense veg. basin slows flow			
x	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 4	Confiden b	Previous
SHORELINE ANCHORING/STABILIZATION		Wetland in channel is fully vegetated with no evidence of recent erodison. Cattail community provides dense roots for added stability, additional scattered woody species provide additional stability.		
	Erosional forces/high water velocity/unsheltered loc.			
X	Dense vegetation/good water-veg. interspersion			
X	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 4	Confiden c	Previous
SEDIMENT TRAPPING/RETENTION		This low-sloped in-channel wetland has accumulated a layer of sediment sufficient to support dense vegetation.		
	Constricted outlet/water flow slows			
	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
X	Evidence of sediment/organic matter deposits			
X	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
	Source of sediments from upstream/offsite activities			
	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 3	Confiden c	Previous

Wetland #4 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

Function	*Indicators*	*Comments*		
NUTRIENT RETENTION (long-term)		Robust wetland community present with scattered woody species.		
	Permanently flooded/saturated			
X	High plant productivity			
X	Presence of woody plants			
	Organic soils present			
OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 3	Confiden c	Previous
NUTRIENT RETENTION (short-term)		Wetland likely sees seasonal flooding with heavy spring rain which has contributed to a robust wetland community with high plant productivity.		
X	Low water velocity			
X	Highly variable water/seasonally flooded			
X	High plant productivity			
	Fine mineral soils present			
OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 4	Confiden c	Previous
FOOD CHAIN SUPPORT (downstream/production export)		High seasonal flows likely flush nutrients through this wetland through the eastern (downgradient) outfall, with later flows lacking the power to move nutrients through the system.		
X	Presence of outlet			
X	High plant productivity/overhanging veg.			
X	Seasonal flooding			
	Good flushing flows/high erosion potential			
	Non-acidic water			
X	Substrate w/ accumulated organic matter			
OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 3	Confiden c	Previous
FOOD CHAIN SUPPORT (within basin)		A dense cattail community captures nutrients within the wetland. Channel slopes are low, reducing the sheer stress on the banks and providing access to the floodplain.		
X	High plant productivity			
	Absence of outlet			
X	Low erosion potential/absence of high flows			
OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 3	Confiden c	Previous
FISH HABITAT/AQUATIC DIVERSITY		The channel is fully vegetated, culverted on both ends, and lacks quality fish habitat.		
	Some deep open water			
	Non-acidic, clear water			
	No barriers to migration/movement			
	Minimal variation in flow (artificial)			
	Streambank/edges provide partial cover/cool temps			
	Well-mixed water/adequate oxygen			
OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 1	Confiden c	Previous
WILDLIFE HABITAT		The wetland is confined within a teardrop shaped island within US-36, as such, larger species likely do not frequently access it due to proximity of the highway. Smaller mammals may use this wetland as a connection corridor between the two larger habitats east and west of the wetland.		
	Signs of different animals -- scat,prints,shelter			
	Adjacent wooded area or veg. >20ft wide			
	Large/ sinuous, irregular basin/with islands			
	High veg. diversity/good food sources			
	Minimal variation in flow (artificial)			
	Some open water			
X	Connects to offsite habitat			
	Not channelized or farmed			
OVERALL WILDLIFE HABITAT FUNCTION		Rating 2	Confiden c	Previous
ACTIVE RECREATION		Located directly adjacent to the highway and an on-ramp. Habitat is fragmented and not ideal for ground-based wildlife use, except as a potential movement corridor. Avian species may also use this wetland.		
	Direct evidence of actual use			
X	Convenient public access			
	Good habitat for animals/fish & high diversity			
OVERALL ACTIVE RECREATION FUNCTION		Rating 1	Confiden c	Previous

Wetland #4 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high		
Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Common wetland habitat type in the Front Range.		
	High ranked occurrence of plant community			
	Presence of rare plants or animals			
	Landscape diversity			
	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 2	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		Area surrounding the wetland is highly disturbed, with altered hydrology from additional overland flow from adjacent impervious surfaces. Plant community is mainly a monoculture of cattails.		
	Low degree of disturbance			
	Naturalness of hydrology			
	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 2	Confiden c	

Notes:

Wetland 4 depicted as red polygon.

WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #5

Former Cooper #_____

Location: South of US-36 in Boulder, Boulder County, CO. 39.982835°, -105.227391°	**Investigator: MShields**	**Date**	**23-Jan-24**
	Observation method: Onsite		
Water Source: Overland flow, drainage ditch	**History:**		
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high	**Confidence:**a=low, b=medium, c=high		

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		Depressional wetland feature at topographic low point along an unnamed ephemeral drainage. Wetland is densely vegetated with a mixture of native and noxious weeds. There is no flow path under US-36 at this location.		
X	Surface water inflow exceeds outflow			
X	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
	Presence of porous underlying strata			
X	Dense vegetated basin slows flow			
X	Outlet constricted &/or dammed			
	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 4	Confiden b	Previous
GROUNDWATER DISCHARGE		Wetland receives hydrology from ephemeral drainage that originates at the Van Vleet Pond. Community is situated at a topographic low point along the drainage.		
	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
	No inlet, but outlet present &/or downstream of dam			
	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 3	Confiden b	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		Community has no direct outlet as it is a depressional feature within a drainage swale. Drainage swale ends at US-36 and disperses. Dense vegetation in the community also serves to slow and capture hydrology.		
	Located along stream			
X	Outflow restricted			
	High water mark shows periodic flooding			
X	Flat topography &/or low gradient			
	Porous substrate allows infiltration for subsurface storage			
X	Rough surface & depressions for aboveground storage			
X	Dense veg. basin slows flow			
X	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 4	Confiden c	Previous
SHORELINE ANCHORING/STABILIZATION		No erosion observed. Wetland densely vegetated with coyote willow and teasel.		
	Erosional forces/high water velocity/unsheltered loc.			
X	Dense vegetation/good water-veg. interspersion			
X	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 3	Confiden c	Previous
SEDIMENT TRAPPING/RETENTION		Depresional wetland community has no direct flow outlet to downstream features, and exhibits low topographic relief with sloping wetland edges to maintain sediment.		
X	Constricted outlet/water flow slows			
X	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
	Evidence of sediment/organic matter deposits			
X	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
	Source of sediments from upstream/offsite activities			
	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 4	Confiden c	Previous

Wetland #5 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

	Function	*Indicators*	*Comments*		
	NUTRIENT RETENTION (long-term)		Woody vegetation community present within the wetland and adjacent to the wetland.		
		Permanently flooded/saturated			
		High plant productivity			
X		Presence of woody plants			
		Organic soils present			
	OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 2	Confiden c	Previous
	NUTRIENT RETENTION (short-term)		Wetland is located along an ephemeral drainage with infrequent, low velocity flows.		
X		Low water velocity			
		Highly variable water/seasonally flooded			
		High plant productivity			
		Fine mineral soils present			
	OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 3	Confiden c	Previous
	FOOD CHAIN SUPPORT (downstream/production export)		This wetland community likely sees occasional seasonal flooding; however, the associated drainage area is small and hydrologic inputs are low.		
		Presence of outlet			
		High plant productivity/overhanging veg.			
X		Seasonal flooding			
		Good flushing flows/high erosion potential			
		Non-acidic water			
		Substrate w/ accumulated organic matter			
	OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 2	Confiden c	Previous
	FOOD CHAIN SUPPORT (within basin)		Low power, low volume flows associated with this wetland, no direct outlet, nutrients likely stay within the community.		
		High plant productivity			
X		Absence of outlet			
X		Low erosion potential/absence of high flows			
	OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 4	Confiden c	Previous
	FISH HABITAT/AQUATIC DIVERSITY		Community is associated with a drainage swale; however, flow is infrequent and low volume. Ponding may happen ocassionally, but does not provide quality fish habitat or downstream connectivity.		
		Some deep open water			
		Non-acidic, clear water			
		No barriers to migration/movement			
		Minimal variation in flow (artificial)			
		Streambank/edges provide partial cover/cool temps			
		Well-mixed water/adequate oxygen			
	OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 1	Confiden c	Previous
	WILDLIFE HABITAT		Wetland contains a multi-stratrum vegetation community that is adjacent to a large, undeveloped wet meadow; however, community is also adjacent to US-36.		
X		Signs of different animals -- scat,prints,shelter			
X		Adjacent wooded area or veg. >20ft wide			
		Large/ sinuous, irregular basin/with islands			
		High veg. diversity/good food sources			
		Minimal variation in flow (artificial)			
		Some open water			
X		Connects to offsite habitat			
		Not channelized or farmed			
	OVERALL WILDLIFE HABITAT FUNCTION		Rating 3	Confiden c	Previous
	ACTIVE RECREATION		No opportunity for active recreation.		
		Direct evidence of actual use			
		Convenient public access			
X		Good habitat for animals/fish & high diversity			
	OVERALL ACTIVE RECREATION FUNCTION		Rating 1	Confiden c	Previous

Wetland #5 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high		
Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Wetland reflects a typical coyote-willow dominated wetland community but has noxious weed encroachment (common teasel).		
	High ranked occurrence of plant community			
	Presence of rare plants or animals			
	Landscape diversity			
	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 2	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		Wetland has an altered vegetation community due to noxious weed encroachment, and altered hydrology from additional overland inputs from adjacent impervious surfaces.		
	Low degree of disturbance			
	Naturalness of hydrology			
	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 3	Confiden c	

Notes:

Wetland 5 depicted in orange polygon.

WETLAND FUNCTIONAL ASSESSMENT FORM (p. 1 of 3)

Wetland #6

Former Cooper #_____

Location: South of US-36 in Boulder, Boulder County, CO. 39.983073°, -105.228712°	**Investigator: MShields**	**Date**	**23-Jan-24**
	Observation method: Onsite		
Water Source: Groundwater, overland flow.	**History:**		
Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high	**Confidence:**a=low, b=medium, c=high		

Function	*Indicators*	*Comments*		
GROUNDWATER RECHARGE		Pond likely groundwater fed as evidenced by more frequent/larger unundation footprints in aerial imagery in spring/early summer months and lower footprint during late summer/fall. Pond outfalls into a swale (no OHWM) that leads to Wetland 5, before dispersing into overland flow. Overland flow from precipitation events may provide additional hydrology to the pond, but these inputs are likely small given the local drainage area size.		
	Surface water inflow exceeds outflow			
	Not permanently flooded/extremely variable water			
	Located high in watershed &/or at local topo. high point			
X	Presence of porous underlying strata			
	Dense vegetated basin slows flow			
	Outlet constricted &/or dammed			
	Irreg. shape w/ high wetland edge:area ratio			
	Indicated by available groundwater data			
OVERALL GROUNDWATER RECHARGE FUNCTION		Rating 2	Confiden b	Previous
GROUNDWATER DISCHARGE		Pond is inundated in most aerial images reviewed, with volume flucuating based on time of year. There is no direct inlet to the pond, indicating a groundwater driven system. The pond also reflects a topographic low for the local area.		
	Seeps or springs present			
X	Low location in watershed &/or local topographic low			
	Geologically diverse such as geologic contact			
X	No inlet, but outlet present &/or downstream of dam			
X	Permanently flooded/saturated			
	No signif. accumulation of fine sediments/silts			
	Indicated by available groundwater data			
OVERALL GROUNDWATER DISCHARGE FUNCTION		Rating 4	Confiden c	Previous
FLOOD STORAGE/FLOODFLOW ALTERATION		The pond is isolated from direct hydrologic connection with other water features, but has regular interaction with groundwater (assumed porous substrates). Pond is also located in the SBC floodway. Woody vegetation provides source for coarse woody debris presence. Pond is 0.03-acre and therefore limited in it's flood storage capacity.		
	Located along stream			
	Outflow restricted			
	High water mark shows periodic flooding			
	Flat topography &/or low gradient			
X	Porous substrate allows infiltration for subsurface storage			
	Rough surface & depressions for aboveground storage			
	Dense veg. basin slows flow			
X	Coarse woody debris present			
OVERALL FLOOD ALTERATION FUNCTION		Rating 3	Confiden b	Previous
SHORELINE ANCHORING/STABILIZATION		Pond bottom is comprised of medium-sized gravel/small cobble providing additional feature substrate stability/erosion resistance.		
	Erosional forces/high water velocity/unsheltered loc.			
	Dense vegetation/good water-veg. interspersion			
	Veg. w/strong dense root mass e.g. woody coverage			
X	Little evidence of recent erosion			
X	Rubble substrate present			
OVERALL SHORELINE ANCHORING FUNCTION		Rating 3	Confiden c	Previous
SEDIMENT TRAPPING/RETENTION		Single outlet on east side of pond sits at higher elevation than the pond bottom elevation, limiting flow to certain pond volumes. Pond itself sits within a depression, however, no evidence of sediment/organic matter deposits was observed. Vegetation is sparse.		
X	Constricted outlet/water flow slows			
	Low water velocity/surface water input exceeds output			
	Visible reduction in particulates between inflow/outflow			
	Evidence of sediment/organic matter deposits			
	Dense vegetation present			
X	Flat topography &/or gently sloping wetland edges			
	Source of sediments from upstream/offsite activities			
	Absence of disturbances to re-suspend sediments			
OVERALL SEDIMENT TRAPPING FUNCTION		Rating 2	Confiden c	Previous

Wetland #6 WETLAND FUNCTIONAL ASSESSMENT FORM (page 2 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high **Confidence:**a=low, b=medium, c=high

Function	*Indicators*	*Comments*		
NUTRIENT RETENTION (long-term)		Pond maintains water for most of the year, at varying volumes. Woody vegetation including eastern cottonwood volunteers are scattered around the top elevation of the pond.		
X	Permanently flooded/saturated			
	High plant productivity			
X	Presence of woody plants			
	Organic soils present			
OVERALL NUTRIENT RETENTION (long-term) FUNCTION		Rating 3	Confiden b	Previous
NUTRIENT RETENTION (short-term)		Flow velocity is low as there is no upstream section providing hydrologic input to the pond. Vegetation in the pond bottom is sparse, reducing obstacles to nutrient transport out of the pond.		
X	Low water velocity			
	Highly variable water/seasonally flooded			
	High plant productivity			
	Fine mineral soils present			
OVERALL NUTRIENT RETENTION (short -term) FUNCTION		Rating 2	Confiden b	Previous
FOOD CHAIN SUPPORT (downstream/production export)		Pond contains an outlet, however, it is not activated continually, and some perpetual ponding occurs.		
X	Presence of outlet			
	High plant productivity/overhanging veg.			
X	Seasonal flooding			
	Good flushing flows/high erosion potential			
	Non-acidic water			
	Substrate w/ accumulated organic matter			
OVERALL FOOD CHAIN EXPORT FUNCTION		Rating 2	Confiden b	Previous
FOOD CHAIN SUPPORT (within basin)		Pond does not receive high flows as there is no upstream connected flow feature.		
	High plant productivity			
	Absence of outlet			
X	Low erosion potential/absence of high flows			
OVERALL FOOD CHAIN SUPPORT (w/in basin) FUNCTION		Rating 2	Confiden b	Previous
FISH HABITAT/AQUATIC DIVERSITY		Pond seasonally hosts deeper open waters; however, lack of upstream and downstream flow paths minimize fish migration potential to the site.		
X	Some deep open water			
	Non-acidic, clear water			
	No barriers to migration/movement			
X	Minimal variation in flow (artificial)			
	Streambank/edges provide partial cover/cool temps			
	Well-mixed water/adequate oxygen			
OVERALL FISH/AQUATIC HABITAT FUNCTION		Rating 2	Confiden c	Previous
WILDLIFE HABITAT		Pond likely serves as a water resource for wildife, especially in the spring/early summer when it's most full. Also may provide some thermoregulation on hot days due to topography and presence of ocassional canopy cover from trees. The pond adjoins open meadow habitat to the south and southeast.		
X	Signs of different animals -- scat,prints,shelter			
X	Adjacent wooded area or veg. >20ft wide			
	Large/ sinuous, irregular basin/with islands			
	High veg. diversity/good food sources			
	Minimal variation in flow (artificial)			
X	Some open water			
X	Connects to offsite habitat			
	Not channelized or farmed			
OVERALL WILDLIFE HABITAT FUNCTION		Rating 4	Confiden c	Previous
ACTIVE RECREATION		Provides habitat for wildlife but is limited by proximity to US-36.		
	Direct evidence of actual use			
	Convenient public access			
X	Good habitat for animals/fish & high diversity			
OVERALL ACTIVE RECREATION FUNCTION		Rating 3	Confiden c	Previous

Wetland #6 WETLAND FUNCTIONAL ASSESSMENT FORM (page 3 of 3)

Ratings: 1=no, 2=low, 3=medium,4=high, 5=very high		**Confidence:**a=low, b=medium, c=high		
Function	*Indicators*	*Comments*		
PASSIVE RECREATION/HERITAGE VALUE		Pond provides landscape diversity from the surrounding prairie/meadows, but does not host rare plants/animals or unique or rare wetlands. Pond is also in close proximity to US-36 and trail infrastructure.		
	High ranked occurrence of plant community			
	Presence of rare plants or animals			
X	Landscape diversity			
	Rare or unusual wetland types			
	Natural setting			
OVERALL PASSIVE RECREATION/UNIQUENESS		Rating 2	Confiden c	Previous
OVERALL FUNCTIONAL INTEGRITY		Hydrology is mainly natural, with small anthropogenic modification such as increased surface runoff from adjacent impervious surfaces.		
	Low degree of disturbance			
X	Naturalness of hydrology			
	Diversity of plant community			
OVERALL FUNCTIONAL INTEGRITY		Rating 3	Confiden c	

Notes:

Wetland 6 depicted in a blue polygon.

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Consideration of a motion to convert the March 7th and 21st Regular Meetings from in-person to virtual as Council Chambers will be closed due to renovations

PRIMARY STAFF CONTACT
Elesha Johnson, City Clerk

REQUESTED ACTION OR MOTION LANGUAGE
Motion to convert the March 7th and 21st Regular Meetings from in-person to virtual as Council Chambers will be closed due to renovations

ATTACHMENTS:
Description

No Attachments Available

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Update from Xcel Energy

PRIMARY STAFF CONTACT
Carolyn Elam, Sustainability Senior Manager

ATTACHMENTS:

Description

No Attachments Available

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Update on State Legislation

PRIMARY STAFF CONTACT
Carl Castillo, Intergovermental Officer

ATTACHMENTS:

Description

- **Item 6B - Update on State Legislation**

CITY OF BOULDER
CITY COUNCIL AGENDA ITEM

MEETING DATE: February 15, 2024

AGENDA TITLE: Update on State Legislative Advocacy Efforts

PRESENTERS
Nuria Rivera-Vandermyde, City Manager
Chris Meschuk, Deputy City Manager
Carl Castillo, Chief Policy Advisor

EXECUTIVE SUMMARY

The purpose of this agenda item is to provide an opportunity for council to receive a verbal update on matters pending before the 2024 Colorado General Assembly and to discuss the same. In advance of the meeting, council is asked to click on this link to review a constantly-updated list of legislation that the city is engaged with.

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Discussion to confirm Council's position to decline or accept moving forward with the consideration of a ceasefire resolution regarding the Israeli-Gaza conflict

PRIMARY STAFF CONTACT
NA

ATTACHMENTS:

Description

No Attachments Available

COVER SHEET

MEETING DATE
February 15, 2024

AGENDA ITEM
Discussion on 2024 Chats/Walks with Council

PRIMARY STAFF CONTACT
NA

ATTACHMENTS:

Description

- **Chats & Walks with Council 2024 Overview & Recaps**

INFORMATION ITEM
MEMORANDUM

To: Mayor and Members of Council

From: Nuria Rivera-Vandermyde, City Manager
Sarah Huntley, Communication & Engagement Director
Ryan Hanschen, Community Engagement Manager
Meggs Valliere, Assistant to the City Council

Date: February 12, 2024

Subject: Chats & Walks with Council Update

EXECUTIVE SUMMARY

This Chats & Walks with Council update is designed to share details of the Chats & Walks with Council program as well as propose a path forward for 2024 Chats & Walks.

FISCAL IMPACTS

Budgetary impacts to the city organization in continuing Chats & Walks programming are minimal. Implementation will be incorporated into existing staff work plans.

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

As Chats & Walks with Council are designed to advance meaningful and inclusive community engagement, sustainability impacts are anticipated to be positive and include fostering connection, participating in constructive dialogue with elected officials, and cultivating a deeper trust in city government.

BACKGROUND

In 2019, Boulder City Council committed to continue trying new approaches to engage community members who do not typically participate in council matters and formal meetings. The purpose of Chats & Walks with Council is to give a more diverse set of community members a convenient, drop-in opportunity to engage with their elected officials. These engagement opportunities are designed to promote short, two-way conversations about issues that matter most to residents and others in the city. The idea originated from council members, who are often as frustrated as community members by the lack of time to have meaningful conversations during open comment or public hearings.

Past sessions have featured one to three participating council members at each event, with no formal agenda or presentation. Community members are welcome to come by anytime during sessions and stay for as long -- or as short -- as they wish.

When everyone participating wants to discuss one topic, the conversations can be more in-depth. If there are a variety of topics participants wish to discuss, a staff coordinator captures the topics and seeks to make time for as many of these as possible. Some experimentation has also occurred around smaller, more focused audiences, especially when there are specific language needs, as well as rotating stations that can be particularly effective when the participant group is large. Some sessions have also featured walks that combine elements of a tour with more casual conversation.

For 2024, staff and Council Engagement Subcommittee Members Tara Winer and Matt Benjamin are proposing a process improvement to create a more immediate feedback loop to the full council. Specifically, staff would support participating councilmembers in identifying themes from a given Chat or Walk with Council, to report out to full council at the next study session council meeting.

<u>Recent Chats and Walks with Council</u>

2023

- Wildfire Mitigation in the Wildland Urban Interface Walk with Council – April
- Explorando Senderos Walk with Council – June
- Unidad Latina Chat with Council – July
- Boulder Junction Chat with Council – August
- What's Up Boulder Chat with Council – September

2022

- Fairview High School Students Walk with Council – April
- Nepali Community Chat with Council – May
- Naropa University Student Organization Fair Chat with Council – August
- Boulder Housing Partners & Boulder Public Library, Book Rich Environments Chat with Council – September
- Orchard Grove Manufactured Home Community Chat with Council – September
- University of Colorado Boulder South Campus Walk with Council – October

ANALYSIS
N/A

NEXT STEPS

With the recent hire of the city's new Assistant to the City Council, staff are beginning to plan for potential Chats, Walks, and Rolls with Council throughout 2024. If council wishes to commit to the continued evolution of this program, staff anticipates hosting four sessions this year as the new Assistant to the City Council onboards. Some initial ideas include the following communities/locations:

- In partnership with Ja'mal Gilmore, Community Connector-in-Residence and co-owner of Four Corners Hair Boutique, focused on small business owners of color

- In partnership with the city's Climate Initiatives department and their quarterly updates, focused on diving deeper into climate-related topics

- A Roll with Council, focused on community members experiencing disabilities

Staff are also interested in hearing ideas for partnership with communities and organizations, locations, or topics. We look forward to a Feb. 15, 2024, discussion, under Matters from City Council, on this subject.

ATTACHMENTS
Chats & Walks with Council – 2022 Recaps

CHAT WITH COUNCIL

September 23, 2022
With residents of Boulder Housing Partners communities

Highlights

- Free book giveaway sponsored by the Boulder Public Library and Boulder Housing Partners at the annual Book Rich Environment Event
- Participants 40
- Supported with Spanish interpretation
- Council Representatives: Aaron Brockett, Nicole Speer

Conversation Themes

- City resources and how to access them
- Election cycles and council member terms
- North Boulder Library construction

WALK WITH COUNCIL

October 1, 2022
At University of Colorado
Boulder South Campus

Highlights

- Toured part of the CU South campus, shared information and addressed questions
- 30 participants
- Council Representatives: Rachel Friend, Matt Benjamin

Conversation Themes

- Environmental aspects of the property
- Flood protection
- Historic, current, and future uses
- Development considerations

WALK WITH COUNCIL

April 20, 2022

WITH FAIRVIEW HIGHSCHOOL STUDENTS

CONVERSATION THEMES

- CLIMATE ACTION
- NATURAL DISASTER RESILIENCY
- HOMELESSNESS AND HOUSING
- PUBLIC SAFETY - ENCAMPMENTS

HIGHLIGHTS

- ONE MILE WALK AROUND VIELE LAKE
- 24 PARTICIPANTS
- COUNCIL REPRESENTATIVES: AARON BROCKETT, RACHEL FRIEND, MATT BENJAMIN

CHAT WITH COUNCIL

August 31, 2022

WITH NAROPA UNIVERSITY'S STUDENT ORGANIZATION FAIR

CONVERSATION THEMES

- HOMELESSNESS, HOUSING, AND SUPPORTIVE SERVICES
- MULTIMODAL TRANSPORTATION
- ADDICTION RECOVERY AND ACCESS TO NARCAN AND FENTANYL TESTING
- COMMUNITY INCLUSION

HIGHLIGHTS

- COUNCIL MEMBERS JOINED A TABLING EVENT TO ENGAGE WITH NAROPA STUDENTS AND FACULTY
- 30 PARTICIPANTS
- COUNCIL REPRESENTATIVES: NICOLE SPEER AND MATT BENJAMIN

Chat with Council Recap

Sunday, May 15 2022

Foothills Community Park

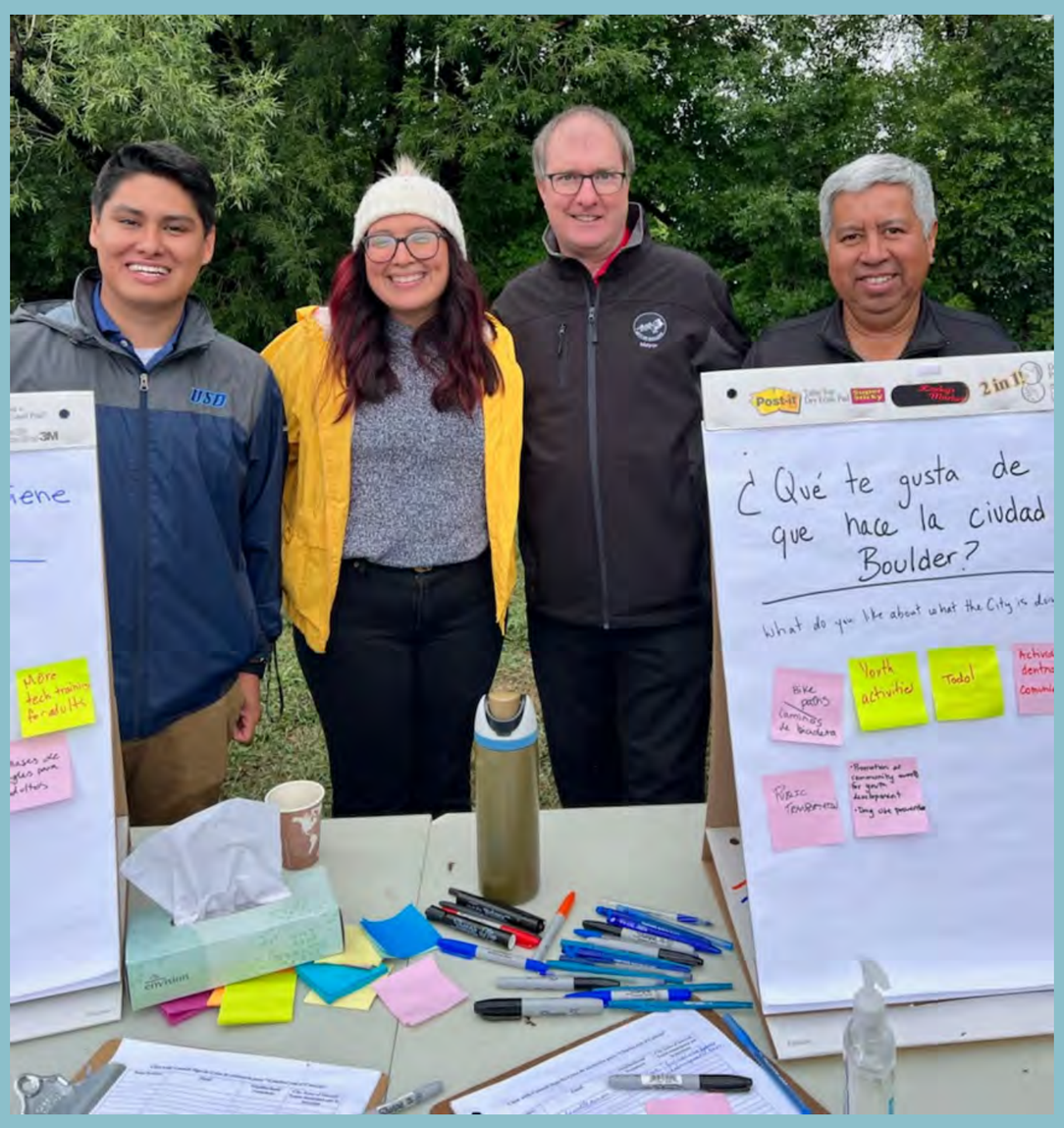
Highlights

- In collaboration with Community Connectors, members of Boulder's Nepalese community joined council members to enjoy lunch and talk about issues that matter to them most, supported by interpretation and translation. Staff have followed up on several resource requests.
- Participants: 21
- Council Representatives: Mayor Aaron Brockett and Mayor Pro Tem Rachel Friend

Conversation Themes

- Public Safety
- Rent Prices/Rental Assistance
- Health care
- Services for adults with disabilities
- Noise
- Immigration

CHAT WITH COUNCIL



Highlights

- Partnered with Community Resource Fiesta and Recycling/Clean-Up Day
- 50 participants
- Council Representatives: Aaron Brockett, Nicole Speer, Mark Wallach

Conversation Themes

- Homelessness
- Community programs offered in Spanish
- Affordable housing
- Accessing city services

September 10, 2022
With residents of the Orchard Grove Manufactured Home Community

COVER SHEET

MEETING DATE
February 15, 2024

INFORMATION ITEM
2024 Order of Succession Update

PRIMARY STAFF CONTACT
Amy McMahon

ATTACHMENTS:

Description

- **Information Item A: 2024 Order of Succession Update**

INFORMATION ITEM
MEMORANDUM

To: Mayor and Members of Council

From: Nuria Rivera-Vandermyde, City Manager

Date: 02/15/2024

Subject: Information Item: Order of Succession

EXECUTIVE SUMMARY

Pursuant to Section 2-2.5-6 of the Boulder City Code, Succession of Authority, "The City Manager may, at the start of each calendar year, publish, and submit to city council an order of succession…" this is a list detailing the line of succession for the declaration of an emergency should the city manager not be available to do so. We also consider this to be the line of authority for when I am out of town.

Due to recent changes in staff we are updating this succession of authority effective January 1, 2024.

The succession of authority will be:

1. Deputy City Manager Chris Meschuk
2. Assistant City Manager Pam Davis
3. Assistant City Manager Mark Woulf
4. Chief Financial Officer Kara Skinner
5. Interim Police Chief Stephen Redfearn
6. Fire Chief Mike Calderazzo

FISCAL IMPACT

None

COMMUNITY SUSTAINABILITY ASSESSMENTS AND IMPACTS

None

BACKGROUND
None

ANALYSIS
None

NEXT STEPS

I will keep council advised of any changes.

COVER SHEET

MEETING DATE
February 15, 2024

BOARDS AND COMMISSIONS ITEM
09.18.2023 WRAB Signed Minutes

PRIMARY STAFF CONTACT
Karen Sheridan, WRAB Secretary

ATTACHMENTS:

Description

- **09.18.2023 WRAB Signed Minutes**

CITY OF BOULDER, COLORADO
BOARDS AND COMMISSIONS MEETING MINUTES

Name of Board / Commission: Water Resources Advisory Board

Date of Meeting: 18 September 2023

Contact Information for Person Preparing Minutes: Meredith Schleske, 303-441-3204

Board Members Present: Gordon McCurry, John Berggren, Amy Broughton, Steve Maxwell, Lauren Koopman

Staff Present: Joe Taddeucci, Director of Utilities
Joanna Bloom, Utilities Deputy Director of Policy and Planning
Chris Douville, Utilities Deputy Director of Operations
Chris Douglass, Wastewater Engineering Supervisor
Brandon Coleman, Civil Engineering Senior Project Manager
Kate Dunlap, Water Quality Senior Project Manager
Christopher Olson, Civil Engineering Senior Project Manager
Mary Reyes, Executive Assistant to Director
Meredith Schleske, Board Secretary

Also Present: Tara Meininger, Consultant

Agenda Item 1 – Call to Order **[6:03 p.m.]**

Agenda Item 2 – Approval of 17 July 2023 Meeting Minutes **[6:05 p.m.]**

Motion to approve: Koopman Seconded by: Broughton
Vote: 4:0 Berggren absent

Agenda Item 3 – Public Participation and Comment **[6:06 p.m.]**

Lynn Segal: Yeah, well, this is a semi-arid environment. I know I'm from Seattle and really it is inappropriate to have the kind of massive wealth inequality, and that affects the diversity, equity, inclusion for things as basic as water. You know you can live for maybe two weeks without water, or less than that, you know. And this is not a water filled place. Gross reservoir expansion, you know. Look what happens in Libya, you know, and then we've got Rocky Flats here. So, when these watershed dams break over time, which they eventually do, then we have major disasters, especially because we had a plutonium trigger plant here that's going to have you know toxic materials from it, distributed all over the place, like it already is at CEMEX in Lyons, etc. And tritium in the water supply. And from my understanding, OSBT got CU South dumped on it, and the open space has to be disposed of in order for CU South to do their thing, and if they do, I discovered finally, that we still have an option if the OSBT, and I'm sure that they will knowing who is on the OSBT, will approve the land disposal to CU South then we have 60 days for the public to get together signatures for a ballot measure to go to the public to ask them if they want this development and if they want to give the land in order to make it happen. But there's also the matter of CDOT and flooding, and that's a WRAB issue. So, I don't really see why it's not equally in WRAB's backyard to deal with this as far as the repercussions of building. Even though you're building up you know you're redesigning the flood plain which, as we understand now, after reconsidering the 2013 flood and the anniversary of it, that the alluvium doesn't care what blockage we put up. You know, it's going to dig itself anew, the natural gradation and the natural gravity that takes the water to where it wants to go. And it's like Gilbert White said. Doesn't anyone listen to Gilbert White anymore? You know I know he's dead but his legacy is tremendous for that. You don't build on floodplains; that's what kills people, what hurts people, what causes long-term expense too, of all of this water, and it's hard for just me to pay my water bills, as Joanna well knows. Anyway, so thanks so much for listening.

Becky Davies: Alright, thank you so much. Hello Water Resources Board members. My name is Becky Davies, and I'm a member of the city's Transportation Board. So, I'm here tonight to introduce myself and say hello and also just give you a heads up that I'll be sending you an email in the next day or two regarding a request that TAB is planning to send to the 2024 City Council, asking them to update our off-street parking codes. So, we'll be asking them to add this as an item to their 2024 work plan. So just to reiterate, this would be the next Council, so any continuing Council members as well as anyone newly elected in November, so those would be the folks receiving this request. And I won't go into the details of the off-street parking code update that we're asking for, but I will provide that information, like I said, in an email to you in the next day or two. And the reason I'm coming to you and working with TAB to

come to you on this issue is to ask for your endorsement of this request to Council. We'd love to get the support of members of other boards and commissions to get this item on Council's next work plan and specifically, the reason we think this is relevant to water resources is how parking lots relate to storm water management and groundwater recharge and polluted runoff. And of course, I'm no expert in water issues, so I'm sure you all know far more about that, but we do think that that this is an issue that affects your work as well as ours as well as topics of interest to other board members throughout the city. So yeah, again, I'll just send that email in the next day or two with the specifics of our request to Council and hope you will consider signing on to endorse. By endorsing you just essentially are adding your name into the list of supporters. There's nothing more you would need to do than that. And then I'll follow up with you about a week later, just to check in and see you know how you're feeling, if you would be willing to make that endorsement of our request to Council. So, thank you in advance for considering that and also for your contributions as a board member.

Board and Staff Response to Public Comment:

- Board chair requested confirmation that the next phase of CU South design will go before OSBT in October and that OSBT has requested a joint meeting with WRAB.
    - Request was made by Open Space Board Chair for a joint meeting. There is no role for the WRAB in open space disposal. Currently, WRAB acts on the Capital Improvement Program and the South Boulder Creek Flood Mitigation Project, which is different from though often referenced synonymously with the CU South Project.
- Board chair requested clarification of what the WRAB would be allowed to do outside of an upcoming WRAB meeting regarding consideration of the request to endorse the TAB proposal.
    - Utilities Director will follow up with the City Attorney's Office regarding what is allowed and whether the board could provide a formal endorsement or potentially individual endorsement as community members.

Agenda Item 4 – Public Hearing and Consideration of a Recommendation Regarding the 2023 Water Efficiency Plan Update **[6:17 p.m.]**

Kim Hutton, Water Resources Manager, presented this item on behalf of Robby Glenn, Project Manager. Martin and Wood, Consultants, were acknowledged for their participation and support.

EXECUTIVE SUMMARY

The Water Efficiency Plan (WEP) provides guidance for the City of Boulder Water Conservation Program, identifies municipal water conservation goals, and includes an analysis of the city's recent water use trends and treated water use projections. The WEP is being updated in accordance with Colorado Water Conservation Board (CWCB) guidelines and requirements. In response to feedback through a multifaceted engagement process, the 2023 WEP recommends a selection of water conservation programs and initiatives that provide opportunities to the broader community as well as provide support to specific customer groups. Through these programs, the city aims to ensure per capita water use does not increase above current baseline (2016 – 2019) levels and strives to reduce the city's non-revenue water percentage to 6% of annual water production by 2040.
The purpose of this memo is to provide WRAB with a summary of the 2023 WEP update process and plan highlights to inform a recommendation by WRAB to the City Manager on approval of the 2023 WEP (included as **Attachment A**).

STAFF RECOMMENDATION

Staff recommends that WRAB make the following motion regarding the Water Efficiency Plan update:

The Water Resources Advisory Board recommends that the City Manager approve the updated Water Efficiency Plan in substantially the same form as **Attachment A**.

WRAB Clarifying Questions Included:

- Question if primary strategy for addressing nonrevenue water is replacement of old pipes.

- Request for community members without access to computers that hard copies of plan be made available at main and other public libraries, and via billing mailers.
- Question how Boulder's per capita gains in water conservation past 10-15 years compares to other similar metropolitan areas in Colorado or along the front range.
- Question if Boulder has looked into what those communities with greater water efficiency are doing.
- Regarding nonrevenue water, question if the city confident that most of that is leakage or is there a concern that our monitoring and measuring equipment may be in need of a broad overhaul.

Public Participation: None.

WRAB Clarifying Questions (Continued) Included:

- Question what approaches Boulder has taken to outreach and public education in the past that have been able to reach the most people and have been the most successful.
- Question how much of the education portion is directed at residential versus industrial and commercial.
- Question if it would be more beneficial to work with industrial and commercial sector, with sector-specific focus.
- Comment that in-person contact can be very effective, including public meetings.

Second Call for Public Participation: None.

WRAB Board Discussion Included:

- Request for staff to provide more detail about other methods of water efficiency highlighted in the presentation.
- Discussion of role of Planning Department and Utilities for land use for new developments.
- Question regarding ordinances regulating growth/urban sprawl.
- Comment regarding permitting, earning points for various construction elements and the opportunity for water efficiency elements.
- Comment that Aurora has very drastic new land-use water restrictions in their code for new development. Boulder projects a 23% increase in population in next 17 years and could consider similar restrictions.
- Comment regarding what action has been taken and whether there is an update on a gray water program.
- Comment that State of Colorado is updating its regulations on gray water in the next year or two.
- Comment regarding elements of presentation that could be used for messaging and guiding where to focus education.
- Comment that many recommendations require additional funding and staff to fully execute.
- Suggestions for using sustainability officers and incentivizing via cost savings to implement programs.
- Suggestion of ways to speed up the implementation schedule.

Motion:

Staff presented the following suggested motion language onscreen:

The Water Resources Advisory Board recommends that the City Manager approve the updated Water Efficiency Plan in substantially the same form as Attachment A.

- Question what is meant by the "substantially the same."
- Question if anything board discussed this evening was significant enough to be considered substantive.
- Board members queried and no changes were requested to the suggested motion language.

Moved by: Broughton Seconded by: Berggren
Motion Passes: 5:0

Agenda Item 5 – Matters from Board **[7:40 p.m.]**

- Board Member Broughton mentioned a water resources-related Boulder Bookstore book signing by Peter Flick, who started the Pacific Institute, coming up in October. There is also to be a signing at the Tattered Cover in Denver.
- Board Member McCurry commented on the recent items commemorating the 10th anniversary of the 2013 flood including the insert in the water bill, the posting on Be Heard Boulder, and articles in the Daily Camera.

Agenda Item 6 – Matters from Staff **[7:42 p.m.]**

- Eurasian Watermilfoil (EWM) Update, presented by Kate Dunlap, Water Quality Senior Manager:
  - Class A (high priority) nuisance species in State of Colorado.
  - Floating sprig of plant found in Boulder Reservoir by Colorado Parks and Wildlife in August 2022.
  - Survey in October 2022 found it to fully established throughout the reservoir.
  - Drinking water intake and outlet structure still plant-free.
  - Coverage has grown from 15-20% coverage to now around 50-75% coverage in the highlighted area.
  - Swim beach area affected.
  - Parks & Recreation inspect watercraft leaving reservoir and have implemented a substantial public education program and signage.
  - Outreach to other utilities, water providers and lake managers throughout the country to understand what types of management strategies are being implemented and what impacts have been on these reservoirs due to EWM growth.
  - Eurasian Watermilfoil Weevil (native) eats only that plant and has no known adverse impacts to aquatic ecosystems. Used by City of Westminster in Stanley Lake and is a viable option for Boulder Reservoir.
  - Next steps include targeted water quality monitoring within mats of plants in western coves.
  - Team again including CPW will survey in October 2023.
  - Along with Parks & Recreation and Northern Water, hope to partner with consultant to evaluate options available and recommend strategies in near term and long term.
  - Hope to relocate some weevils from Stanley Lake in Westminster to Boulder Reservoir. Weevils no longer sold commercially.
- 2013 Flood
  - Channel 8 interviews with Joe and Chris Meschuk forwarded to board members.
  - Since flood, many capital improvements have been made.
  - Flood exposed main sewer pipe to treatment plant.
  - Construction soon to begin on main sewer improvements project.
- Staffing Updates
  - Utilities Maintenance Manager position filled internally by Bryan Ortiz.
  - Finance Manager position just filled externally by Stephanie Crain.

Agenda Item 7 – Discussion of Future Schedule **[8:02 p.m.]**

- October: Potential Water Efficiency Plan follow up, if needed. Potential Retreat if appropriate. Update will be sent to board 7-10 days in advance of October meeting date.
- November: No business meeting.
- December: Potential Retreat in first 10 days.

Agenda Item 8 – Adjournment **[8:08 p.m.]**
Motion to adjourn by: Berggren Seconded by: Broughton
Motion Passes 5:0

Date, Time, and Location of Next Meeting:
The next WRAB meeting, if needed, will be held in hybrid format on **Monday, October 16, 2023 at 6:00 p.m.**

APPROVED BY:

Board Chair: Gordon McCurry

ATTESTED BY:

Board Secretary: Karen Sheridan

Date: Jan 22, 2024 Date: 01·22·24

An audio recording of the full meeting for which these minutes are a summary is available on the Water Resources Advisory Board web page via the Access Meeting Agendas and Materials link.

Water Resources Advisory Board | City of Boulder (bouldercolorado.gov)