



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING

February 15, 2023 at 3:00 p.m.

All Commissioners' public hearings and meetings will be offered in a hybrid format where attendees can join **through Zoom** or **in-person** at the Boulder County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder.

STAFF RECOMMENDATION

STAFF PLANNER: Sam Walker

Docket RE-21-0001: Horst Estates NUPUD Replat

Proposal: Request to replat the Horst Estate NUPUD to create a second building lot and three total lots.
Location: 2801 and 2853 N. 111th Street, Lots 1A and 2B Horst Estate Replat A, approximately .5 miles south of the intersection of Isabelle Road and N. 111th Street.
Zoning: Agricultural (A) Zoning District
Applicant: Mark Rockwell
Owner: Theatre Trust, Rockton 111 LLC

PACKET CONTENTS

Item	Pages
o Staff Memo	SM1 – SM3
o Public comments received since January 11, 2023 (Attachment CMT)	CMT1 – CMT78
o January 11, 2023 Staff Recommendation Packet (Includes Recommendation and Attachments A-D)	1 – D35

SUMMARY

This application for NUPUD Replat proposes to redraw the platted parcel boundaries within the Horst Estates NUPUD such that three lots are created, including two residential lots totaling approximately 9.9 acres and an agricultural outlot of approximately 29.7 acres.

Docket RE-21-0001 was included on the agenda of the January 18, 2023 Planning Commission hearing, but the hearing was postponed due to a county-wide closure caused by inclement weather.

Following the publication of the attached staff recommendation on January 11, 2023, staff received several comments from nearby property owners expressing concern regarding the potential impacts to an irrigation lateral that crosses the NUPUD. After considering these concerns, staff recommends conditional approval of the proposal with added conditions as described below.

DISCUSSION

Nearby property owners expressed concern that the proposed changes to the existing lot configuration of the NUPUD would result in negative impacts on the use and quality of an existing irrigation lateral that crosses the NUPUD and serves an 80-acre farm on adjacent land to the north. These concerns were further emphasized in a January 23, 2023 comment submitted by the owners of the northern-adjacent farm and during a February 2, 2023 meeting between CPP staff and nearby property owners.

Staff do not have concerns regarding the proposed replat's impacts on the irrigation lateral, as no changes to the lateral were proposed and no physical changes were proposed within the NUPUD boundary. However, Art. 7-1000.A of the Land Use Code ("the Code") requires that an easement be platted for any existing ditch or lateral, and no such easement is shown on the submitted draft plat map. In order to ensure that the proposal meets all aspects of the Code and address neighboring property owners' concerns, staff are recommending an additional condition of approval requiring easements for all irrigation ditches that cross the NUPUD be included on the Final Plat. These easements must also meet the standards described in Art. 7-1000 of the Code.

The application narrative indicates that the intention of the proposed replat is to configure the residential lots adjacent to the Town of Erie such that they become eligible for annexation. Annexation would allow both existing residences to connect to the Town's municipal utilities. To ensure that the proposed replat complies with Art. 7-1200 of the Code, staff recommend a second additional condition of approval requiring that the Final Plat note a utility easement within the amended 40-foot-wide access easement. This utility easement must also meet the standards described in Art. 7-1200 of the Code.

Staff have included the full text of the newly recommended conditions of approval below, with additional conditions indicated by bolded and underlined text.

Staff recommends that the Planning Commission recommend conditional approval of docket ***RE-21-0001 Horst Estate NUPUD Replat*** to the Board of County Commissioners, subject to the conditions outlined in the staff recommendation as amended below.

1. Prior to the issuance of any permits by the Boulder County Community Planning & Permitting Department and within one-year of the signing of the Resolution, the applicants shall provide a Development Agreement for review and approval by County staff. Once approved by County staff, the Development Agreement shall be signed and notarized by the applicant, and will be recorded by County staff.

2. Restrictive covenants that run with the land are required for Lot 2 and Lot 3 of the NUPUD Replat. These covenants must limit development on each parcel to one single-family residence and associated accessory structures. The covenant for Lot 2 must include a restriction that limits above-grade residential floor area on the parcel to 2,500 square feet above-grade. The covenant for Lot 3 must include a restriction that limits above-grade residential floor area on the parcel to 3,520 square feet above-grade.
 - a. These covenants must be recorded as part of the NUPUD plat.
3. Uses on the agricultural outlot are restricted to agricultural uses as described in the Code. Only accessory agricultural structures can be built on the parcel, subject to county approval through the appropriate permitting or planning process. This restriction must be recorded on the plat and reflected in the required Conservation Easement.
4. Uses on Lots 2 and 3 are restricted to single-family residential, open agriculture, or intensive agriculture as described in the Code. This restriction must be recorded on the plat.
5. **The final plat must include easements for all existing ditches or laterals that cross the NUPUD. These easements must meet all standards described in Art. 7-1000 of the Code.**
6. A revised access easement must be included on the plat such that vehicular access is provided to all three lots.
7. **The final plat must note a utility easement within the revised access easement to ensure future availability of utility services to both residences within the NUPUD.**
8. The applicant must sign an amended and restated conservation easement that updates the Conservation Easement to the county's current standards and satisfies Boulder County's requirements for restrictions on this property, and confining agricultural structures to a designated building envelope.
9. The applicants shall be subject to the terms, conditions, and commitments of record and in the file for docket *RE-21-0001 Horst Estate NUPUD Replat.*

Walker, Samuel

From: Bolton Family <ccbolton2008@gmail.com>
Sent: Wednesday, January 18, 2023 5:03 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket RE-21-0001: Horst Estates NUPUD Replat
Attachments: 1982 CE Grant page 1.jpg; 1982 CE Grant page 2.jpg; Signature pages (1).pdf; Hackett BCPC Public Hearing Testimony 01 18 2023.docx - Google Docs.pdf CEB.pdf

Hello,

My name is Christina Bolton. This email is my testimony that I would like added to the record. I have also added more in depth testimony and refer to Item 1.A. in the original 1982 Grant that created the Conservation Easement. I have attached the 2 pages of the Grant for you to see. I believe both Items 1.A. and 1.B., and possibly 1.C. specifically prohibit the unrelated residential development on the site, which the NUPUD Replat is designed to do with annexation by the Town of Erie.

You would think that alone should prevent the loss of 8+ acres of conservation land! However, for added measure, I also refer to the evaluation criteria 1 and 13 in which compliance with Boulder County's Comprehensive Plan that prioritizes the value of the CE land, inclusive of the NUPUD land, is not met by the NUPUD Replat application.

I also take the Town of Erie to task for violating their Vision as stated in the Town's own 2015 Comprehensive Plan by annexing NUPUD land designated as Agricultural Land of National Importance and repurposing it for non-related residential use. We are aware that the Town is in the midst of updating its Comprehensive Plan and I plan to get involved with that too.

I oppose even entertaining a conservation easement.

Below are my reasons.

I am not sure why this replat is even being discussed. The heirs to the property put the property in a Conservation Easement. It is stated the land is of 'national importance'. Why would you even entertain changing a conservation easement? The heirs are probably rolling in the graves. For the original property owners to go to the extent to set up a conservation easement means they wanted the land to remain as is. The donut hole was probably created so there is no access to streets to make it possible to develop the land. I cannot even believe we are entertaining changes to what was granted by law as a conservation easement with land of national importance. Why just why would you even consider changing that?

I cannot help but feel the true intention of this request is to get access to 111th street. Then the next step because of the rezoning they will develop most/all of the land. If not all, they will develop a significant portion of the conservation easement.

You talk about a transitional buffer. A transitional buffer is not needed. The entire area is a beautiful conservation easement. The bordering land is agricultural. In reading the docket it appears they are trying to set a precedent to make it easier to develop the neighboring land rather than remain agriculturally zoned.

There seems to be a motive to get contiguous access from 111th street that is not being communicated in what looks like an innocent request. This seems to be the first step in developing a large portion of the conservation easement. This is not in alignment with the spirit of a conservation easement.

On the surface this appears to be an innocent request. However when digging into the details (most are vague details), it appears the motive is to significantly reduce the size of the conservation easement and make it easier to develop that land and neighboring land. Do not change zoning. Do not destroy the conservation easement that was intended to be left as is forever. Do not use the 'donut' story to destroy the conservation easement. That donut was probably very intentional to prevent exactly what is being attempted.

Please do not approve changing anything that was created by law to protect the conservation easement.

Thank you.

--

Concerned homeowner,
Christina Bolton
1160 Limestone Dr.
Erie, CO 80516
301-395-3322

FILM 1198

Recorded. 9:50 AM On MAR 1 1982
 485003
 Reception No. Charlotte Houston, Boulder County Recorder

2-1

GRANT OF CONSERVATION EASEMENT

THIS INDENTURE, entitled Grant of Conservation Easement, made this 23 day of February, 1982 by and between THOMAS A. HORST AND CHERYL LYNN HORST, Grantors, and THE COUNTY OF BOULDER, a body corporate and politic, Grantee:

WITNESSETH:

WHEREAS, the Grantors are the owners in joint tenancy and fee simple of a certain tract of real property designated as Lot 1 on the plat of Horst Estate Subdivision, a part of the NE $\frac{1}{4}$ of Section 27, Township 1 North, Range 69 West of the 6th P.M. in the County of Boulder, State of Colorado; and

WHEREAS, the Grantee has determined that to accomplish the purpose of preserving agricultural land, it is desirable to acquire a conservation easement which preserves open land for agricultural purposes within the above-described property, and Grantor is willing to grant the same;

NOW, THEREFORE, the Grantors, for the sum of Ten Dollars and other good and valuable consideration to the said Grantor in hand paid by the Grantee, the receipt of which is hereby confessed and acknowledged, has granted and conveyed and by these presents does grant and convey a conservation easement over Lot 1 of the Horst Estate Subdivision to Grantee, its successors and assigns, which easement shall be described in the following manner, to-wit:

1. This conservation easement shall:

A. Prohibit the Grantors, their successors and assigns, from erecting or constructing any residential structures or structures which are not accessory to an existing principal agricultural use on Lot 1; the construction of agriculturally related buildings and structures may be permitted on this property as long as they are not for residential purposes, they are constructed and used as accessory structures to a single principal use of agriculture, and are determined to be such in accordance with County Land Use regulations.

B. Prohibit the Grantors, their successors and assigns, from dividing such Lot 1 into two or more parcels, separate interests, or interests in common, unless exempted under CRS 30-28-101(d), 1973, as amended, or resubdivided under the applicable provisions of the Boulder County Subdivision Regulations.

C. Prohibit the Grantors, their successors and assigns, from erecting, constructing, or expanding any structure and/or pavement on Lot 1, such that the total coverage of structure and/or pavement on such Lot 1 exceeds 10 acres or 10% of the area of such Lot 1, whichever is less, unless the use of such structure and/or pavement is accessory to a principal open agricultural use and required by government regulation.

D. Require the Grantors, their successors and assigns, provide for the management and use of Lot 1 as a single agricultural unit, and cause the assignment of maintenance responsibility for such Lot 1 to a single legally responsible individual who is a resident of Boulder County.

2. The Grantors further grant through this conservation easement to the Grantee, its agents and contractors, the right to enter upon the property described above to inspect for violations of the terms and covenants of this easement and to remove or eliminate any conditions

or operations which violate the same as may be desirable or necessary. No further right of access, entry or possession is conveyed hereby.

3. The easement granted herein shall run with the land and shall remain an easement on the land until terminated or transferred by the Grantee and by the operation of all of the following provisions:

A. Where the Boulder County Planning Commission and Boulder County Board of Commissioners have determined that the proposed and/or allowed development and/or land use resulting from such termination or transfer is consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use regulations

B. And the recipient(s) of these transferred interests or rights is (are) a municipality and/or the owner (2) of fee title; and in the instance where these interests or rights are to be transferred to a municipality which is not owner of fee title, Boulder County will:

I require the consent of or compensation to the owner(s) of fee title at an amount equal to the fair market value of such interest or rights, less costs of transfer, and

II condition or restrict the transfer to prohibit use for future speculative purposes by the municipality.

It is understood, that Grantee may require compensation for and attach conditions to these transfers, and that these conditions may include restrictions of the future use of Lot 1.

4. It is acknowledged and understood that the easement granted herein shall not have the effect of adding any additional restrictions to the use of the existing residence on Lot 1 as a single-family dwelling or of preventing the expansion or addition to the existing use or structure, as long as the proposed use is in compliance with the applicable requirements of the Boulder County Zoning Resolution and the Boulder County Subdivision Regulations.

5. Upon application by the Grantors for an additional lot on the property, and upon approval of such by the County, the Grantee agrees to release this conservation easement provided that a new conservation easement in favor of the Grantee is recorded encompassing a minimum of 75% of the total land area described on the plat recorded at Reception # 432702 of the records of the Boulder County Clerk and Recorder's Office, which conservation easement limits the use of the property described therein in like manner to the provisions of Items 1, 2 and 3 above.

IN WITNESS WHEREOF, the said Grantors have caused their names to be hereunto subscribed the day and year first above written.

Thomas A. Horst

Grantor

STATE OF COLORADO }
COUNTY OF BOULDER }

Cheryl Lynn Horst

Grantor

The foregoing instrument was acknowledged before me this 23 day of February, 1982, by Thomas A. Horst and Cheryl Lynn Horst

Witness my hand and official seal.
My commission expires: My Commission expires Jan. 14, 1984

William Kell

Notary Public

Boulder County Planning Commission Public Hearing Testimony, 1/18/2023

RE: Docket RE-21-0001: Horst Estate NUPUD Replat

From: Christina Bolton, 1160 Limestone Drive, Erie, CO 80516, ccbolton2008@gmail.com

Thank you, Members of the Commission, for accepting my testimony as follows:

I, Christina Bolton, along with 39 other people who own 31 households proximate to and abutting 111th Street, have signed a petition strongly urging the Planning Commission to DENY the application for the Horst Estate NUPUD Replat.

This petition has been submitted to Planner Scott Walker for the record for this Public Hearing. I signed the petition for the following reasons:

1. The stated purpose of the Replat DOES NOT COMPLY with the legal requirements of the Grant for Conservation Easement made in 1982. The proof of this is as follows:
 - a. The application states in paragraph 2 of the Concept (for the replat): "It is our goal to annex our residential properties into the neighboring Town of Erie." Further, the application states in item 4 of Benefits to the NUPUD: "The Town of Erie plans to zone the proposed annexed Lots 1 (I assume they meant Lot 3) and 2 as Rural Residential. This has a density of 1 residence per two acres.

IN DIRECT CONFLICT WITH THIS STATED PURPOSE IS THE LEGAL INSTRUCTION IN THE 1982 CONSERVATION EASEMENT GRANT.

- b. The Grant of Conservation Easement made on Feb 23, 1982, by and between Thomas A. Horst and Cheryl Lynn Horst and the County of Boulder states clearly in item 1.A.:

This conservation easement shall: Prohibit the Grantors, their successors and assigns, from erecting or constructing any residential structures or structures WHICH ARE NOT ACCESSORY TO AN EXISTING PRINCIPAL AGRICULTURAL USE ON LOT 1; the construction of agriculturally related buildings and structures may be permitted on this property as long as they are NOT FOR RESIDENTIAL PURPOSES, they are constructed and used as accessory structures to a single principal use of agriculture, and are determined to be such in accordance with the County Land Use Regulations.

THIS CONFLICT BETWEEN THE STATED PURPOSE OF THE REPLAT AND THE LEGAL INSTRUCTION IN THE 1982 CONSERVATION EASEMENT GRANT SHOULD BE ENOUGH TO DENY THE APPLICATION. HOWEVER, ADDITIONAL REASONS INCLUDE THE FOLLOWING:

2. The application for the replat DOES NOT MEET 10, that is TEN, of 15 standards or criteria for approval of a PUD, as analyzed and determined by the Planning Commissions' own professional staff in the Staff Recommendation Report on pages 10 – 14.

The assessment of the VERY FIRST CRITERIA on page 10 of the Report determines that the application DOES NOT COMPLY with the purposes of Boulder County's Comprehensive Plan in which "Productive agricultural land is a limited resource of both environmental and economic value and should be conserved and preserved." The Plan further emphasizes "preservation and utilization of those lands identified in the Agricultural Element as Agricultural Lands of National, Statewide, or Local Importance ...for agricultural or rural uses."

AND AS IF NOT COMPLYING WITH THAT VERY FIRST CRITERIA IS NOT ENOUGH, THERE IS CRITERIA 13.

Criteria 13 states "the PUD will not adversely affect any land of significant historical, cultural, recreational or aesthetic value." On page 6 of the Staff Recommendation Report, it is states: "...the Boulder County Comprehensive Plan identifies the entirety of the NUPUD area as Agricultural Land of National Importance."

The value of this land can be seen every day, not only in the plant life, but also how the plant life supports insects, animals and birds, such as bald eagles, horned owls, and migrating geese. It also provides desperately needed dark night sky for these creatures to hunt and survive.

The very idea that FOREVER LOSING 8+ acres of legally protected Conservation Easement land of National Importance in favor of residential development that in no way supports the agricultural and natural purposes of the land is again a VERY HARD NO.

In previous testimony recorded by Planner Sam Walker, I respond to the supposed 7 benefits put forth by the applicants for their Horst Estate NUPUD Replat. NONE, I repeat, NONE, of these supposed 7 benefits hold water. In fact, I'm baffled as to why the applicants are "baffled" by the design of the Conservation Easement whose purpose is to specifically PREVENT what the applicants are trying to do.

IN CONCLUSION:

I appreciate that the Planning Commission's Professional Staff created strong RESTRICTIVE CONDITIONS to their Recommendation for Approval that reinforce ALL the legal requirements of the Grant for Conservation Easement and Boulder County's Comprehensive Plan that this application DOES NOT COMPLY WITH. However, since these Restrictive Conditions completely defeat the stated purpose of the application, thereby minimizing the chance they will be accepted and signed by the applicants, I urge the Boulder County Planning Commission to simply DENY the application.

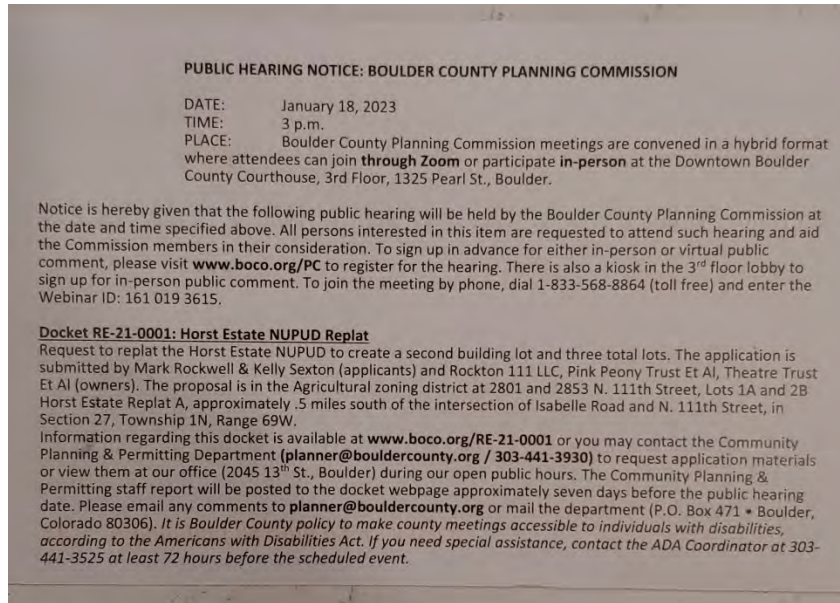
Further, I say to the Town of Erie: SHAME ON YOU, TOWN OF ERIE! How the Town of Erie could engage in the concept of annexing this NUPUD with its Agricultural Land of National Importance and remove it forever from its preservation and protection in favor of unrelated residential development is not only positively shameful, but ALSO IN COMPLETE CONFLICT WITH THE TOWN'S VISION as stated in its own Comprehensive Plan of 2015:

"Erie is a community which recognizes the importance of conserving and enhancing its historic small town character, the roots from which it grew, preserving the natural environment in which it resides..."

Remember that Vision, Town of Erie, and note that 37 people from 30 households along Limestone Drive and in view of this Conservation Easement have signed a petition serving notice to the Town of Erie that we strongly oppose annexation of the NUPUD by the Town of Erie.

Thank you.

FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON JANUARY 18, 2023



We, the undersigned, support AS IS the Boulder County Planning Commission Staff Report Recommendation for Approval with RESTRICTIVE CONDITIONS of the Horst Estate NUPUD Replat, Docket RE-21-0001. We DO NOT support any weakening of the RESTRICTIVE CONDITIONS. Further, we serve notice to the Town of Erie that we strongly oppose annexation of the residential lots within the Boulder County CONSERVATION EASEMENT by the Town of Erie.

PRINTED NAME Christina Bolton SIGNATURE *Christina Bolton* 1160 Limestone Dr. ERIE, CO 80516 ADDRESS
ccbolton2008@gmail.com EMAIL 301.395.3322 TELEPHONE

SUPPLEMENTAL PAGE FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON JANUARY 18, 2023

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PRINTED NAME Christina Bolton SIGNATURE *Christina Bolton* 1160 Limestone Dr. ERIE, CO 80516 ADDRESS _____
cbolton2008@gmail.com EMAIL 301.395.3322 TELEPHONE _____

Walker, Samuel

From: Christine Chicago <christine.chicago@gmail.com>
Sent: Monday, January 16, 2023 3:04 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Hackett Comments to Docket RE-21-0001: Horst Estate NUPUD Replat

Hello Sam Walker,

Thank you for your work effort in creating the Planning Commission's Staff Report for the Horst Estate NUPUD Replat. I especially appreciate the links to the 1980's documents that led to the Boulder County Grant creating the Conservation Easement.

I read through pages 1 - 17 of the staff recommendation and have the following comments / questions:

1. Given that the very first standard / criteria for approval of a PUD on page 10 is not met, I support DENIAL of this application rather than an Approval with Restrictive Conditions. Once legally protected conservation land is removed, it is lost forever.

My concern with Approval with Restrictive Conditions is two-fold:

- a. it just opens the door to negotiations in which some or all of the restrictive conditions are stripped from the new NUPUD agreement, and
- b. once the NUPUD is annexed by the Town of Erie, whatever agreed-upon restrictive conditions could be contested legally and potentially become moot.

2. The grant to create the Conservation Easement and the original NUPUD of 1-acre residential lots as a donut hole was clearly designed to PREVENT exactly what the applicants are seeking to do, namely to remove 8+ acres of nationally significant agricultural land from protection and provide the means for it to be annexed by the Town of Erie and developed for increased residential density (1 residence for every 2 acres.) The applicants are very clear in their intentions to create residential land use out of what is legally granted conservation easement land that is codified to remain as agricultural land of national importance. This is a HARD NO.

3. Also, regarding criteria 13 on page 16: IF the 8+ acres remained in the CE Lot 1 rather than becoming NUPUD Lot 3, then they would retain the "significant historical, cultural, recreational or aesthetic value" as CE. It is ONLY through the allowing of residential use of these lands via the NUPUD that the "significant historical, cultural, recreation or aesthetic value" of the land is lost. Further it is stated in criteria 4 page 12 that "The entirety of the NUPUD lands are designated in the Comprehensive Plan as being national significant agricultural lands." Therefore, your argument that criteria 13, as conditioned, is being met is INVALID.

4. ALL the other standards / criteria that are supposed to be met, that are NOT BEING MET, unless conditioned, further supports my position to request that the application be DENIED.

RESPONSE TO THE APPLICANTS' STATED BENEFITS OF THE NUPUD REPLAT:

1. Applicants' state that the new NUPUD would "create a new, modern conservation easement." The only unmodern aspect of the current conservation easement is the location of a 3500 SF residence within the conservation easement. **Correcting this does not require losing 8+ acres of conservation land.**

2. Applicants' state that the new NUPUD would "fix the donut hole." **The donut hole was created by the Horst Estate to specifically PROHIBIT what the new owners seek to achieve**, namely remove agricultural land of national significance for residential development.
3. Applicants' state that the new NUPUD would "eliminate a residence in the conservation easement." Again, correcting this does not require losing 8+ acres of conservation land.
4. Applicants' state that the new NUPUD would create "development managed by Erie." **Development managed by Erie is EXACTLY what the CE and NUPUD was designed and created by law to PREVENT**. This isn't just agricultural-zoned land. It's a CONSERVATION EASEMENT.
5. Applicants' state that the new NUPUD provides a "modern wastewater system." The application indicates NO CHANGE to the proposed water supply and proposed sewage disposal method. Further, Boulder County Public Health expressed concerns regarding the ability of the soil to adequately dispose of sewage.
6. Applicants' state that the new NUPUD "creates a transitional buffer." **No transitional buffer is needed**. The Conservation Easement is designed to remain intact forever.
7. Applicants' state that the new NUPUD "sets a precedent for neighboring land." The idea that **losing 8+ acres of Conservation Easement land in order to "incentivize" neighboring agricultural land owners to apply for annexation by the Town of Erie in order to facilitate residential development rather than remain agricultural use is completely counter to the goals of creating Conservation Easements**.

I intend to participate in the Public Hearing and provide testimony as noted above.

Thank you,

Christine Hackett

798 Limestone Drive, Erie, CO 80516

Walker, Samuel

From: Christopher Bolton <ccbolton@me.com>
Sent: Wednesday, January 18, 2023 9:34 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket RE-21-0001: Horst Estates NUPUD Replat
Attachments: Signature pages (graham).pdf; Hackett BCPC Public Hearing Testimony 01 18 2023.docx - Google Docs.pdf GAB.pdf

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You would think that alone should prevent the loss of 8+ acres of conservation land! However, for added measure, I also refer to the evaluation criteria 1 and 13 in which compliance with Boulder County's Comprehensive Plan that prioritizes the value of the CE land, inclusive of the NUPUD land, is not met by the NUPUD Replat application.

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Thank you.

Concerned homeowner,
Christopher Bolton 1160 Limestone Dr.
Erie, CO 80516
410-949-6953

FILM 1198

Recorded

4850

Reception

THIS INDENTURE
23 day of
LYNN HORST, Grant
politic, Grantee:

WHEREAS, the
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Horst Estate Subd

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Boulder County Planning Commission Public Hearing Testimony, 1/18/2023

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THIS CONFLICT BETWEEN THE STATED PURPOSE OF THE REPLAT AND THE LEGAL INSTRUCTION IN THE 1982 CONSERVATION EASEMENT GRANT SHOULD BE ENOUGH TO DENY THE APPLICATION. HOWEVER, ADDITIONAL REASONS INCLUDE THE FOLLOWING:

2. The application for the replat DOES NOT MEET 10, that is TEN, of 15 standards or criteria for approval of a PUD, as analyzed and determined by the Planning Commissions' own professional staff in the Staff Recommendation Report on pages 10 – 14.

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AND AS IF NOT COMPLYING WITH THAT VERY FIRST CRITERIA IS NOT ENOUGH, THERE IS CRITERIA 13.

Criteria 13 states "the PUD will not adversely affect any land of significant historical, cultural, recreational or aesthetic value." On page 6 of the Staff Recommendation Report, it is states: "...the Boulder County Comprehensive Plan identifies the entirety of the NUPUD area as Agricultural Land of National Importance."

The value of this land can be seen every day, not only in the plant life, but also how the plant life supports insects, animals and birds, such as bald eagles, horned owls, and migrating geese. It also provides desperately needed dark night sky for these creatures to hunt and survive.

The very idea that FOREVER LOSING 8+ acres of legally protected Conservation Easement land of National Importance in favor of residential development that in no way supports the agricultural and natural purposes of the land is again a VERY HARD NO.

In previous testimony recorded by Planner Sam Walker, I respond to the supposed 7 benefits put forth by the applicants for their Horst Estate NUPUD Replat. NONE, I repeat, NONE, of these supposed 7 benefits hold water. In fact, I'm baffled as to why the applicants are "baffled" by the design of the Conservation Easement whose purpose is to specifically PREVENT what the applicants are trying to do.

IN CONCLUSION:

I appreciate that the Planning Commission's Professional Staff created strong RESTRICTIVE CONDITIONS to their Recommendation for Approval that reinforce ALL the legal requirements of the Grant for Conservation Easement and Boulder County's Comprehensive Plan that this application DOES NOT COMPLY WITH. However, since these Restrictive Conditions completely defeat the stated purpose of the application, thereby minimizing the chance they will be accepted and signed by the applicants, I urge the Boulder County Planning Commission to simply DENY the application.

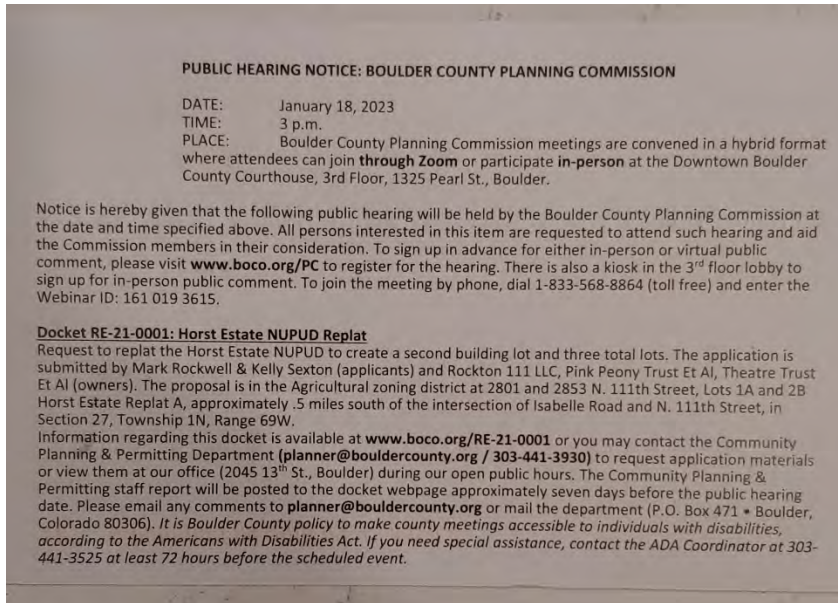
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"Erie is a community which recognizes the importance of conserving and enhancing its historic small town character, the roots from which it grew, preserving the natural environment in which it resides..."

Remember that Vision, Town of Erie, and note that 37 people from 30 households along Limestone Drive and in view of this Conservation Easement have signed a petition serving notice to the Town of Erie that we strongly oppose annexation of the NUPUD by the Town of Erie.

Thank you.

FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON JANUARY 18, 2023



We, the undersigned, support AS IS the Boulder County Planning Commission Staff Report Recommendation for Approval with RESTRICTIVE CONDITIONS of the Horst Estate NUPUD Replat, Docket RE-21-0001. We DO NOT support any weakening of the RESTRICTIVE CONDITIONS. Further, we serve notice to the Town of Erie that we strongly oppose annexation of the residential lots within the Boulder County CONSERVATION EASEMENT by the Town of Erie.

PRINTED NAME Graham Bolton SIGNATURE *Graham Bolton* 1160 Limestone Dr. ERIE, CO 80516 ADDRESS
graham.arturo.bolton@gmail.com EMAIL 301.395.3322 TELEPHONE

SUPPLEMENTAL PAGE FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON JANUARY 18, 2023

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PRINTED NAME Graham Bolton SIGNATURE *Graham Bolton* 1160 Limestone Dr. ERIE, CO 80516 ADDRESS
graham.arturo.bolton@gmail.com EMAIL 301.395.3322 TELEPHONE

Walker, Samuel

From: DONALD K JANSON <jansdon@msn.com>
Sent: Tuesday, February 7, 2023 1:11 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Horst estate

Horst estate re-21-0001 Horst estate nupud!

We are absolutely opposed to the development of Horst estate designated as conservatory land

Don Janson

920 limestone drive

Get [Outlook for iOS](#)

Walker, Samuel

From: Erica Hake <erica_vail@yahoo.com>
Sent: Tuesday, January 17, 2023 9:44 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Horst Estate NUPUD Replat Testimony

Hello,

As a neighboring resident to the Horst Estate, we request the Boulder County Planning Commission to DENY the application Docket RE-21-0001: Horst Estate Replat. We would like to also serve notice to the Town of Erie that we strongly oppose the annexation of residential lots within the NUPUD. The land in question is currently Conservation Easement, and is home to much wildlife, including coyotes, hawks, eagles, owls, geese, and others. Future development on these lots would jeopardize the livelihood of these animals.

Thank you for your attention to this matter,

Erica and Michael Hake

1032 Limestone Dr
Erie, CO 80516
erica_vail@yahoo.com
303-478-7966

Walker, Samuel

From: Graham Bolton <graham.arturo.bolton@gmail.com>
Sent: Wednesday, January 18, 2023 5:06 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket RE-21-0001: Horst Estates NUPUD Replat
Attachments: Signature pages (graham).pdf; Hackett BCPC Public Hearing Testimony 01 18 2023.docx - Google Docs.pdf GAB.pdf; 1982 CE Grant page 2.jpg; 1982 CE Grant page 1.jpg

Hello,

My name is Graham Bolton. This email is my testimony that I would like added to the record. I have also added more in depth testimony and refer to Item 1.A. in the original 1982 Grant that created the Conservation Easement. I have attached the 2 pages of the Grant for you to see. I believe both Items 1.A. and 1.B., and possibly 1.C. specifically prohibit the unrelated residential development on the site, which the NUPUD Replat is designed to do with annexation by the Town of Erie.

You would think that alone should prevent the loss of 8+ acres of conservation land! However, for added measure, I also refer to the evaluation criteria 1 and 13 in which compliance with Boulder County's Comprehensive Plan that prioritizes the value of the CE land, inclusive of the NUPUD land, is not met by the NUPUD Replat application.

I also take the Town of Erie to task for violating their Vision as stated in the Town's own 2015 Comprehensive Plan by annexing NUPUD land designated as Agricultural Land of National Importance and repurposing it for non-related residential use. We are aware that the Town is in the midst of updating its Comprehensive Plan and I plan to get involved with that too.

I oppose even entertaining a conservation easement. Please do not approve changing anything that was created by law to protect the conservation easement.

Thank you.

--

Concerned homeowner,
Graham Bolton
1160 Limestone Dr.
Erie, CO 80516
301.395.3322

FILM 1198

Recorded. 9:50 AM On MAR 1 1982
 485003
 Reception No. Charlotte Houston, Boulder County Recorder

2-1

GRANT OF CONSERVATION EASEMENT

THIS INDENTURE, entitled Grant of Conservation Easement, made this 23 day of February, 1982 by and between THOMAS A. HORST AND CHERYL LYNN HORST, Grantors, and THE COUNTY OF BOULDER, a body corporate and politic, Grantee:

WITNESSETH:

WHEREAS, the Grantors are the owners in joint tenancy and fee simple of a certain tract of real property designated as Lot 1 on the plat of Horst Estate Subdivision, a part of the NE $\frac{1}{4}$ of Section 27, Township 1 North, Range 69 West of the 6th P.M. in the County of Boulder, State of Colorado; and

WHEREAS, the Grantee has determined that to accomplish the purpose of preserving agricultural land, it is desirable to acquire a conservation easement which preserves open land for agricultural purposes within the above-described property, and Grantor is willing to grant the same;

NOW, THEREFORE, the Grantors, for the sum of Ten Dollars and other good and valuable consideration to the said Grantor in hand paid by the Grantee, the receipt of which is hereby confessed and acknowledged, has granted and conveyed and by these presents does grant and convey a conservation easement over Lot 1 of the Horst Estate Subdivision to Grantee, its successors and assigns, which easement shall be described in the following manner, to-wit:

1. This conservation easement shall:

A. Prohibit the Grantors, their successors and assigns, from erecting or constructing any residential structures or structures which are not accessory to an existing principal agricultural use on Lot 1; the construction of agriculturally related buildings and structures may be permitted on this property as long as they are not for residential purposes, they are constructed and used as accessory structures to a single principal use of agriculture, and are determined to be such in accordance with County Land Use regulations.

B. Prohibit the Grantors, their successors and assigns, from dividing such Lot 1 into two or more parcels, separate interests, or interests in common, unless exempted under CRS 30-28-101(10)(d), 1973, as amended, or resubdivided under the applicable provisions of the Boulder County Subdivision Regulations.

C. Prohibit the Grantors, their successors and assigns, from erecting, constructing, or expanding any structure and/or pavement on Lot 1, such that the total coverage of structure and/or pavement on such Lot 1 exceeds 10 acres or 10% of the area of such Lot 1, whichever is less, unless the use of such structure and/or pavement is accessory to a principal open agricultural use and required by government regulation.

D. Require the Grantors, their successors and assigns, provide for the management and use of Lot 1 as a single agricultural unit, and cause the assignment of maintenance responsibility for such Lot 1 to a single legally responsible individual who is a resident of Boulder County.

2. The Grantors further grant through this conservation easement to the Grantee, its agents and contractors, the right to enter upon the property described above to inspect for violations of the terms and covenants of this easement and to remove or eliminate any conditions

or operations which violate the same as may be desirable or necessary. No further right of access, entry or possession is conveyed hereby.

3. The easement granted herein shall run with the land and shall remain an easement on the land until terminated or transferred by the Grantee and by the operation of all of the following provisions:

A. Where the Boulder County Planning Commission and Boulder County Board of Commissioners have determined that the proposed and/or allowed development and/or land use resulting from such termination or transfer is consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use regulations

B. And the recipient(s) of these transferred interests or rights is (are) a municipality and/or the owner (2) of fee title; and in the instance where these interests or rights are to be transferred to a municipality which is not owner of fee title, Boulder County will:

I require the consent of or compensation to the owner(s) of fee title at an amount equal to the fair market value of such interest or rights, less costs of transfer, and

II condition or restrict the transfer to prohibit use for future speculative purposes by the municipality.

It is understood, that Grantee may require compensation for and attach conditions to these transfers, and that these conditions may include restrictions of the future use of Lot 1.

4. It is acknowledged and understood that the easement granted herein shall not have the effect of adding any additional restrictions to the use of the existing residence on Lot 1 as a single-family dwelling or of preventing the expansion or addition to the existing use or structure, as long as the proposed use is in compliance with the applicable requirements of the Boulder County Zoning Resolution and the Boulder County Subdivision Regulations.

5. Upon application by the Grantors for an additional lot on the property, and upon approval of such by the County, the Grantee agrees to release this conservation easement provided that a new conservation easement in favor of the Grantee is recorded encompassing a minimum of 75% of the total land area described on the plat recorded at Reception # 432702 of the records of the Boulder County Clerk and Recorder's Office, which conservation easement limits the use of the property described therein in like manner to the provisions of Items 1, 2 and 3 above.

IN WITNESS WHEREOF, the said Grantors have caused their names to be hereunto subscribed the day and year first above written.

Thomas A. Horst

Grantor

STATE OF COLORADO }
COUNTY OF BOULDER }

Cheryl Lynn Horst

Grantor

The foregoing instrument was acknowledged before me this 23 day of February, 1982, by Thomas A. Horst and Cheryl Lynn Horst

Witness my hand and official seal.
My commission expires: My Commission expires Jan. 14, 1984

William Kell

Notary Public

Boulder County Planning Commission Public Hearing Testimony, 1/18/2023

RE: Docket RE-21-0001: Horst Estate NUPUD Replat

From: Christina Bolton, 1160 Limestone Drive, Erie, CO 80516, ccbolton2008@gmail.com

Thank you, Members of the Commission, for accepting my testimony as follows:

I, Christina Bolton, along with 39 other people who own 31 households proximate to and abutting 111th Street, have signed a petition strongly urging the Planning Commission to DENY the application for the Horst Estate NUPUD Replat.

This petition has been submitted to Planner Scott Walker for the record for this Public Hearing. I signed the petition for the following reasons:

1. The stated purpose of the Replat DOES NOT COMPLY with the legal requirements of the Grant for Conservation Easement made in 1982. The proof of this is as follows:
 - a. The application states in paragraph 2 of the Concept (for the replat): "It is our goal to annex our residential properties into the neighboring Town of Erie." Further, the application states in item 4 of Benefits to the NUPUD: "The Town of Erie plans to zone the proposed annexed Lots 1 (I assume they meant Lot 3) and 2 as Rural Residential. This has a density of 1 residence per two acres.

IN DIRECT CONFLICT WITH THIS STATED PURPOSE IS THE LEGAL INSTRUCTION IN THE 1982 CONSERVATION EASEMENT GRANT.

- b. The Grant of Conservation Easement made on Feb 23, 1982, by and between Thomas A. Horst and Cheryl Lynn Horst and the County of Boulder states clearly in item 1.A.:

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2. The application for the replat DOES NOT MEET 10, that is TEN, of 15 standards or criteria for approval of a PUD, as analyzed and determined by the Planning Commissions' own professional staff in the Staff Recommendation Report on pages 10 – 14.

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AND AS IF NOT COMPLYING WITH THAT VERY FIRST CRITERIA IS NOT ENOUGH, THERE IS CRITERIA 13.

Criteria 13 states "the PUD will not adversely affect any land of significant historical, cultural, recreational or aesthetic value." On page 6 of the Staff Recommendation Report, it is states: "...the Boulder County Comprehensive Plan identifies the entirety of the NUPUD area as Agricultural Land of National Importance."

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The very idea that FOREVER LOSING 8+ acres of legally protected Conservation Easement land of National Importance in favor of residential development that in no way supports the agricultural and natural purposes of the land is again a VERY HARD NO.

In previous testimony recorded by Planner Sam Walker, I respond to the supposed 7 benefits put forth by the applicants for their Horst Estate NUPUD Replat. NONE, I repeat, NONE, of these supposed 7 benefits hold water. In fact, I'm baffled as to why the applicants are "baffled" by the design of the Conservation Easement whose purpose is to specifically PREVENT what the applicants are trying to do.

IN CONCLUSION:

I appreciate that the Planning Commission's Professional Staff created strong RESTRICTIVE CONDITIONS to their Recommendation for Approval that reinforce ALL the legal requirements of the Grant for Conservation Easement and Boulder County's Comprehensive Plan that this application DOES NOT COMPLY WITH. However, since these Restrictive Conditions completely defeat the stated purpose of the application, thereby minimizing the chance they will be accepted and signed by the applicants, I urge the Boulder County Planning Commission to simply DENY the application.

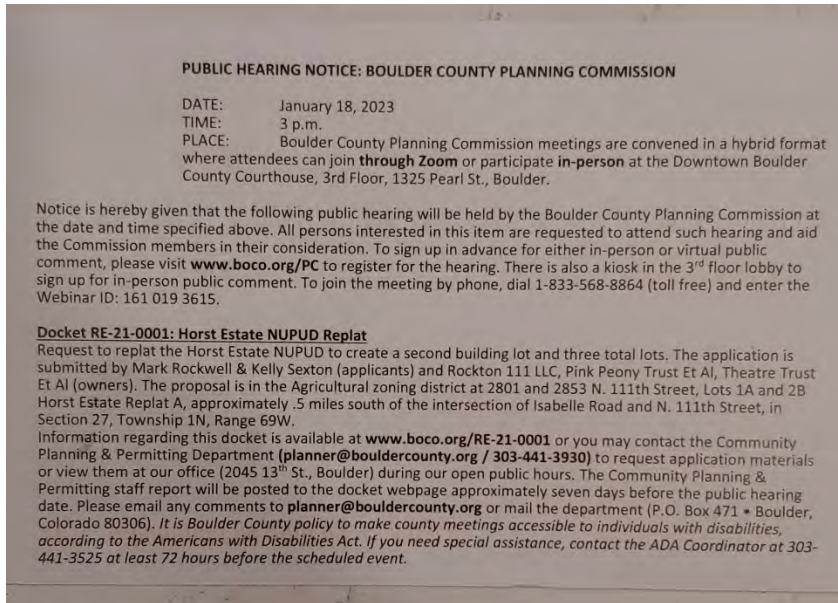
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Thank you.

FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON JANUARY 18, 2023



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ccbolton2008@gmail.com EMAIL 301.395.3322 TELEPHONE

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SUPPLEMENTAL PAGE FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON JANUARY 18, 2023

Walker, Samuel

From: Ask A Planner <no-reply@wufoo.com>
Sent: Wednesday, February 8, 2023 11:38 AM
To: LU Land Use Planner
Subject: [EXTERNAL] Ask a Planner - Janet Ruzich - RE-21-0001 -

If your comments are regarding a specific Docket, please enter the Docket number: RE-21-0001

Name: Janet Ruzich

Email Address: janruzich@att.net

Phone Number: (630) 234-1350

Please enter your question or comment: I can't make the meeting regarding this property on the 15th but want to urge planning committee to deny the application for this property (Horst Estate). I live nearby and have also signed a local petition.

Public record acknowledgement:

I acknowledge that this submission is considered a public record and will be made available by request under the Colorado Open Records Act.

Walker, Samuel

From: Matthew Midness <mmidness@yahoo.com>
Sent: Tuesday, January 17, 2023 6:38 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket RE-21-0001: Horst Estate NUPUD Replat

Good Afternoon,

I am reaching out regarding the proposed replat outlined in docket RE-21-001. I want to express my significant opposition to this request to rezone the property or replat it. It would be a disservice to the residents of Boulder County and the immediate adjacent neighbors if the committee chooses to diminish or remove the Conservation Easement. It was intended to be saved from development when put in place, not redeveloped upon the resale of the property. Boulder County has a rich history of protecting green and open spaces. This is an opportunity to continue that. Given Erie's recent record to blind expansion, it is pretty clear what will happen if this land is placed under their supervision. Please do the right thing and decline this request.

Thanks
Matthew Midness
Paige Midness
904 Limestone
Erie, CO

Walker, Samuel

From: Maxine Hecht <maxine.hecht@gmail.com>
Sent: Tuesday, January 17, 2023 1:41 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket RE-21-0001: Horst Estates NUPUD Replat

My name is Maxine Hecht. This email is my testimony that I would like added to the record.

I oppose even entertaining changing a conservation easement.

Below are my reasons.

I am not sure why this replat is even being discussed. The heirs to the property put the property in a Conservation Easement. It is stated the land is of 'national importance'. Why would you even entertain changing a conservation easement? The heirs are probably rolling in the graves. For the original property owners to go to the extent to setup a conservation easement means they wanted the land to remain as is. The donut hole was probably created so there is no access to streets to make it possible to develop the land. I cannot even believe we are entertaining changes to what was granted by law as a conservation easement with land of national importance. Why just why would you even consider changing that?

I cannot help but feel the true intentions of this request is to get access to 111th street. Then the next step because of the rezoning they will develop most/all of the land. If not all, they will develop a significant portion of the conservation easement.

You talk about a transitional buffer. A transitional buffer is not needed. The entire area is a beautiful conservation easement. The bordering land is agricultural. In reading the docket it appears they are trying to set a precedent to make it easier to develop the neighboring land rather than remain agricultural zoned.

There seems to be a motive to get contiguous access from 111th street that is not being communicated in what looks like an innocent request. This seems to be the first step in developing a large portion of the conservation easement. This is not in alignment with the spirit of a conservation easement.

On the surface this appears to be an innocent request. However when digging into the details (most are vague details), it appears the motive is to significantly reduce the size of the conservation easement and make it easier to develop that land and neighboring land. Do not change zoning. Do not destroy the conservation easement that was intended to be left as is forever. Do not use the 'donut' story to destroy the conservation easement. That donut was probably very intentional to prevent exactly what is being attempted.

Please do not approve changing anything that was created by law to protect the conservation easement.

Thank you.

Maxine Hecht

Walker, Samuel

From: Michael Olszowy <mwolszowy@yahoo.com>
Sent: Tuesday, January 31, 2023 2:20 PM
To: Walker, Samuel; LU Land Use Planner
Subject: [EXTERNAL] Testimony in the Matter of Docket # RE-21-0001: Horst Estate NUPUD

In the matter of Docket # RE-21-0001: Horst Estate NUPUD

Testimony delivered via email to the Boulder County Planning Commission, County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder, CO, USA, 32 January 2023.

Hello Mr. Walker,

My name is Michael Olszowy, and I am a person with standing in this case given the proximity of my residence to the property that is the subject of this application. My wife and I have continually resided in this community for the last 9 years. We reside at 872 Limestone Drive, Erie, CO 80516-6018.

In unanimity with my neighbors, I too would urge denial of the replat application, Docket # RE-21-0001: Horst Estate NUPUD. I read my neighbors' arguments and find them to be un-impeachable. In further support of denial, however, I would like to present three other points that I believe are critical for your vote to deny this application:

- **Restrictive Conditions aside, the application is incomplete, disingenuous, misleading, and not in compliance with the goals of the Boulder County Land Use Code (June 2019), nor the Guiding Principles of the Comprehensive Plan.**
- **The staff-recommended Restrictive Conditions are committee over-reach, extrajudicial, prejudicial and constitute *ad hoc* policy in lieu of compliance with C.R.S. 24-67-101, and Article 6-1000 of the Code for the Standards and Criteria for Approval of a Planned Unit Development.**
- **Approval of the Horst Estate NUPUD Replat would constitute a substantive change to the Comprehensive Plan. Per C.R.S. 30-28-108 – Changes to the Comprehensive Plan must be approved by the community's elected leaders on the Boulder City Council and the Boulder County Board of County Commissioners, along with the city's appointed Planning Board and the county's Planning Commission.**

Arguments in support of my points:

1. **Restrictive Conditions aside, the application is incomplete, disingenuous, misleading, and not in compliance with the goals of the Boulder County Land Use Code (June 2019), nor the Guiding Principles of the Comprehensive Plan.**

The application states that "the Horsts chose to subdivide into two lots" and were granted "a simple Conservation Easement (CE) on Lot 1." The applicants state they are "proposing a NUPUD process to subdivide Horst Estate into three lots" since the future creation of a third lot was provided for in the Horst grant.

What is not stated is the restriction on development within the NUPUD per Article 6-400 B.4 of the Code: “in no case shall the developed area of a NUPUD exceed 25% of the total area of the NUPUD.” And further, the restriction could be reduced to 15% of the total area of the NUPUD. This means that no more than 2.47 acres could be developed within the new NUPUD, which could be reduced to no more than 1.48 acres. However, the Concept outlined in the application articulates a grand plan for the NUPUD so that all 9.895 acres in the NUPUD could be developed rather than just 2.47 acres or 1.48 acres.

The Concept’s documented grand plan also includes the 80 acres (stated as 60 acres in the application) directly abutting the property to the north. The application states that one of the Benefits of the NUPUD Replat is to:

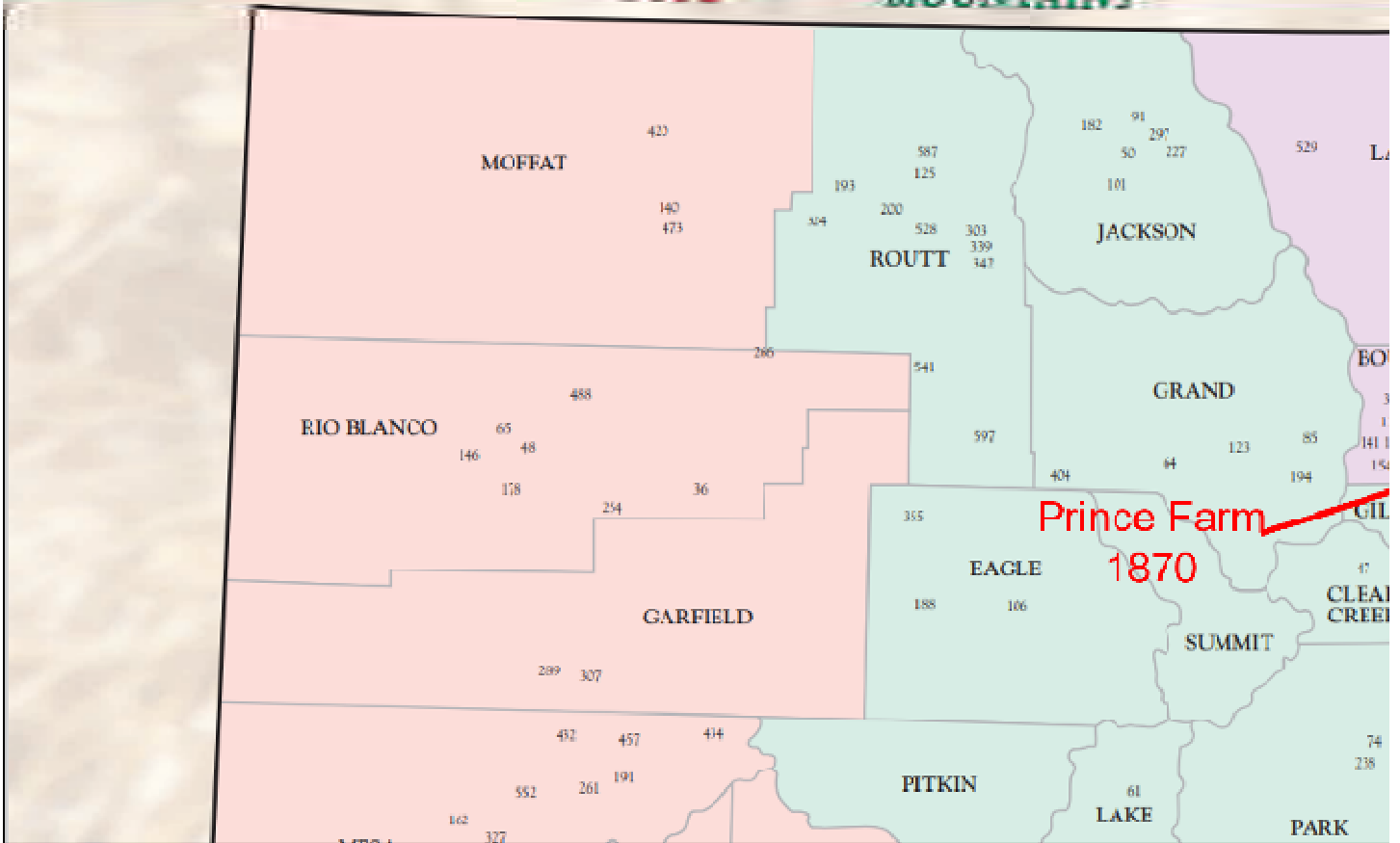
“Set a Precedent for Neighboring Land. North of our acreage is a privately owned 60-acre farm with no conservation easement. It is highly likely that land will be annexed into Erie by the next buyer. By creating a Rural Residential area on our property, we provide a precedent to incentivize the neighboring land to also be Rural Residential, rather than high density.”

What is not stated, is that while that 80-acre farm does not have a conservation easement, it is a **Colorado Recognized Centennial Farm with an Historic Structures Award** – PRINCE FARM – 1870, Lafayette, Boulder County: [cfr banner 2019 web.pdf \(historycolorado.org\)](#), 1995 number 205. These observances are sponsored by the Colorado Historical Society, Department of Agriculture and Farm Bureau, and the National Trust for Historic Preservation. An additional award, sponsored by the National Trust for Historic Preservation, recognizes families that have maintained historic structures that are at least 50 years old on their farms or ranches. In addition, the land is also identified in the latest Boulder County Comprehensive Plan, Map 31, Significant Agricultural Lands - as Lands of National Importance.

COLORADO FARMS &

WESTERN SLOPE

MOUNTAINS



368. SALAZAR FARM AND RANCH-1888
Manassa, Conejos County*
369. SAM DIEDRICH HOMESTEAD-1906
Bears, Arapahoe County*
370. SCHUMAN ENTERPRISES-1907
Fairfield area, Sedgwick County*
371. SCOTT FARM-1909
Haxton area, Logan County*
372. THATCHER LAND & CATTLE CO.-1894
Boone, Pueblo County*
373. VENBRICK FARMS-1908
Akron, Washington County*
374. WETZEL CREEK RANCH-1929
Deer Trail, Adams County*
375. WOOD RANCH-1909
Stratton, Kit Carson County*

2008

344. ANDREATA HOMESTEAD RANCH-1904
Walsenburg, Huerfano County*
345. BIG SANDY RANCH-1884-1907
Calhan, El Paso County*
346. CLEMENTS-PEASE RANCH-1907
Colorado Springs, El Paso County*
347. EROTAR FAMILY LLC-1908
Matheson, Elbert County*
348. FASSI ER'S RANCH-1907
Akron, Washington County*
349. MORISON FARMS-1908
Fleming, Logan County*
350. MUNDY FARM & RANCH-1908
Elbert, Elbert County*
351. NEWTON DOTSON FARM-1908
Aguilar, Las Animas County*
352. OSWALD FAMILY RANCH ON RUSH CREEK-1907
Kit Carson, Kiowa County*
353. STAHLCKER HOMESTEAD-1905
Befrane, Kit Carson County*
354. WAGON WHEEL RANCH-1908
Fleming, Logan County*

Eaton, Weld County*

2002

273. RUSSELL BERRY RANCH-1901
Hillside, Custer County*
274. CALDWELL FARMS-1881
Longmont, Boulder County*
275. DIECKMAN RANCH-1901
Westcliffe, Custer County*
276. GEORGE'S FARM-1898
Calhan, El Paso County*
277. JOHNSON FARM-1901
Fertficud, Larimer County*
278. K3 FARM-1901
Hillrose, Washington County*
279. KAMMERER FARM-1900
Weldona, Morgan County*
280. LEGG FARMS-1900
Haxton, Phillips County*
281. LUCHINI RANCH-1902
Ignacio, Archuleta County*
282. RIEMENSCHNEIDER FARM-1898
Rapelx, Washington County*
283. BOYSTON FARM-1902
Elbert, Elbert County*
284. SHONTS RANCH-1889
Colorado Springs, El Paso County*
285. STEBER FARM-1901
Fort Lupton, Weld County*
286. WELLS RANCH-1901
Gill, Weld County*
287. WILMER FARM-1901
Barfield, La Plata County*

2001

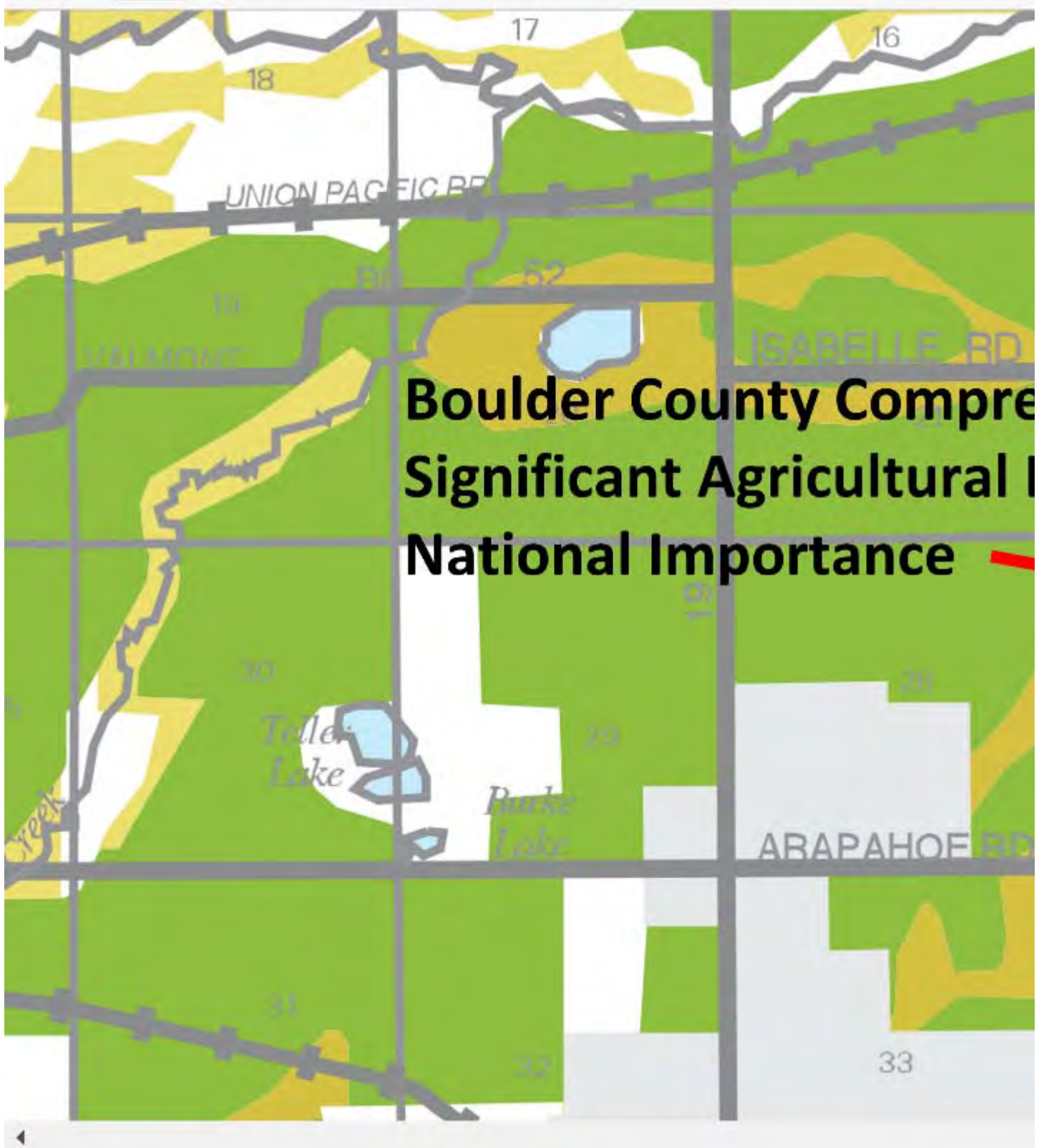
268. BERT EDWARDS FARM-1901
Haxton, Sedgwick County*
269. CURTIS RANCH-1884
Saguache, Saguache County*
270. DOWEN FARM-1901

1994/1

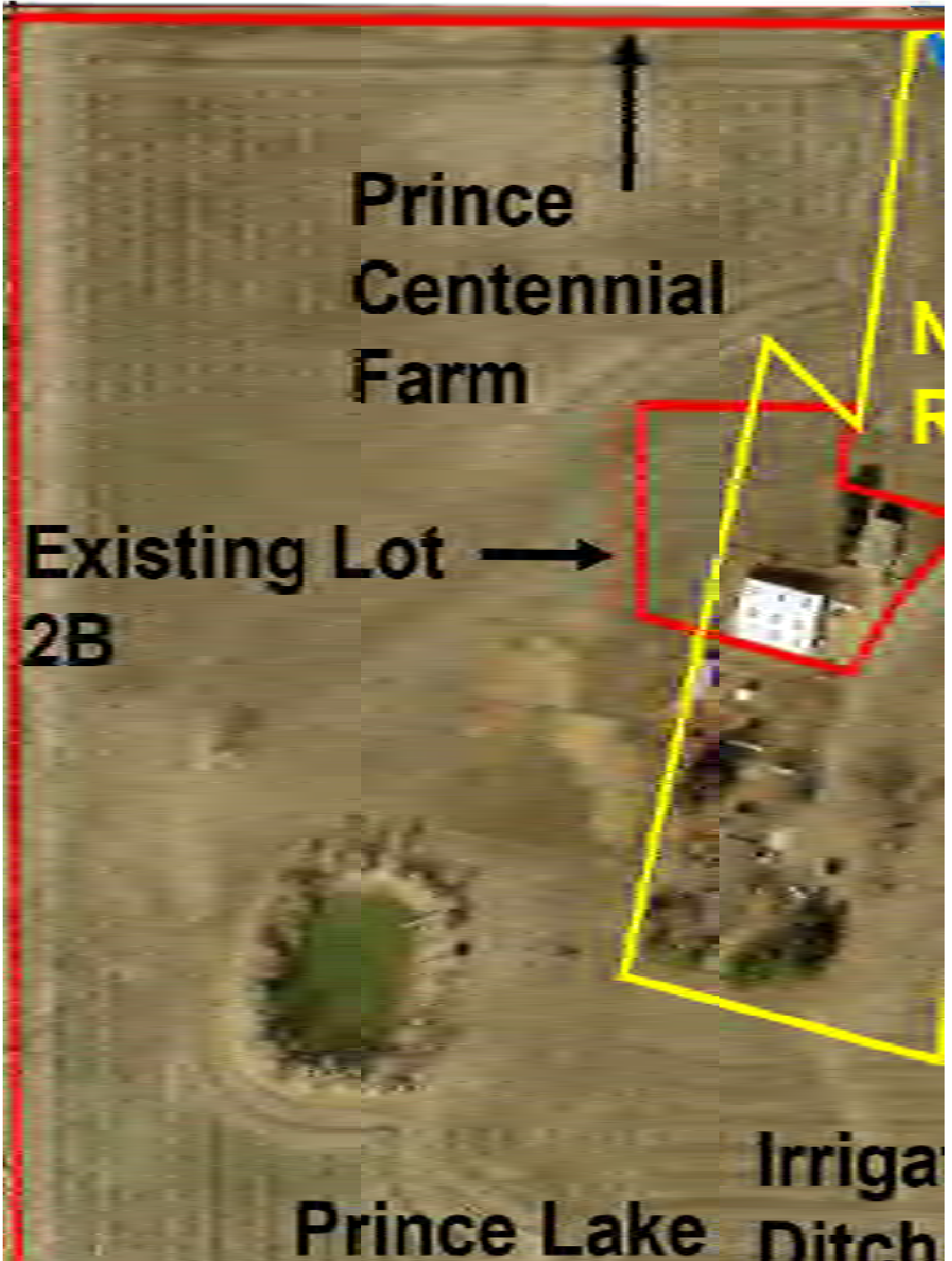
190. BEE FARM-1894
Foot Collins, Larimer
191. BRADBURY RAN
Windsor, Mesa C
192. CARLSON RANC
Fowler-Elbert Coun
193. CRAIGS RANCH (I
Hayden, Scott Cou
194. DAXTON RANCI
Fraser, Grand Coun
195. DEGREE RANCH
Westcliffe, Custer C
196. ELK RANCH (Red
Rosemont, Teller C
197. FITCHER-FT/W/
HOMESTEAD-18
Hiram, Phillips C
198. GARCIA FARM-1
Gardner, Huerfano
199. GRAND VIEW R/
(Vance Family)-18
Akron, Washington
200. HITCHENS OVER
Miner, Routt Coun
201. HOTCHKISS FAN
Hotchkiss, Delta C
202. KIMBREL RANCI
Walsenburg, Huerfa
203. MARTIN-BERNY
(Homestead Farms)
Genoa, Lincoln Co
204. OSTER FARM-18
La Salle, Weld Cou
205. PRINCE FARM-18
Lafayette, Boulder C
206. PLASQUINTANG
Aguilar, Las Anima
207. SCIBNELL FARM-
Lakewood, Jefferso
208. SHERAKT-SCOT
Frighton, Adams C
209. SICKLEBOWERS







Equally important to the Centennial Farm designation are the water rights and ditch easement owned by the Farm. **Ditch easements are an essential, historic practice in Colorado that is profoundly protected.** The proposed NUPUD Replat sits right on top of the critical ditch infrastructure that binds the Farm to Prince Reservoir 1 with necessary irrigation water:



A more appropriate NUPUD would not create a dispute in regard to the ditch easement nor disturb the flow of water from the lake to the Centennial Farm. The importance of the Centennial Farm's water rights and ditch easement is the reason the proposed lot 3 in the NUPUD application submitted in 1980 was careful to respect the irrigation lateral that explains the curve on the east side of the proposed lot:



This also has precedent, minimally, in the Boulder County Comprehensive Plan Update, Guiding Principles, approved by planning commission 8 – 0 on January 18, 2012, of 7 principles:

2. Encourage and promote the respectful stewardship and preservation of our natural systems and environment by pursuing goals and policies that achieve significant reductions in our environmental footprint.

5. Maintain the rural character and function of the unincorporated area of Boulder County by **protecting environmental resources, agricultural uses**, open spaces, vistas, and the distinction between urban and rural areas of the county.

Finally, it is disingenuous and misleading on the part of the applicants to state that there is some benefit of the NUPUD Replat. If approved, the changes would result in the loss of almost 9 acres of protected Conservation Easement land. In addition, this would unnecessarily create a risk of water supply disruptions that could interfere with the operation of a Colorado Centennial Farm. And all of this as a precedent for the further loss of agricultural land of national, state, and local importance is a benefit of the NUPUD Replat? In fact, this NUPUD Replat application constitutes a profound change to the Boulder County Comprehensive Plan and a violation of its Guiding Principles.

2. **The staff-recommended Restrictive Conditions are committee over-reach, extrajudicial, prejudicial and constitute *ad hoc* policy in lieu of compliance with C.R.S. 24-67-101, and Article 6-1000 of the Code for the Standards and Criteria for Approval of a Planned Unit Development.**

Initially staff and other entities were opposed to the NUPUD. Their opinions and findings were based in compliance with C.R.S. 24-67-101 and also Article 6-1000 of the Code for the Standards and Criteria for Approval of a Planned Unit Development pursuant to the Comprehensive Plan:

“Staff find that the proposal to replat the Horst Estate NUPUD to enlarge the existing residential lot, plat a second, and reduce the size of the conserved outlot does not meet the criteria as proposed because it will significantly reduce the size of the CE, which runs counter to the purposes of the Comprehensive Plan.”

Boulder County Parks & Open Space Department:

“The Conservation Easement (CE) Team reviewed the proposal and noted that, if approved, the proposal would reduce the amount of conserved land from 38.33 to 29.70 acres. CE Team staff indicated a lack of support for the proposal because it would maximize the land removed from the CE, and recommended several conditions of approval intended to restrict development on the new residential lots if the proposal is approved.”

Town of Erie:

“The Town of Erie’s Principal Planner reviewed the proposal and noted that the NUPUD lands are located within Erie’s planning area and adjacent to the town’s municipal boundary. The response also indicated that the NUPUD lands are designated as Agriculture in the town’s Comprehensive Plan, meaning they are primarily intended for farming, ranching, and agricultural use with very low density residential development as a secondary use. Finally, the response noted that the applicants had attended a pre-application conference with the town to

discuss annexation, but that annexation would require a public hearing and decision by the town's Board of Trustees."

The Community Planning & Permitting Department's added Restrictive Conditions are demonstrably prejudicial; for, without them, the application would have been denied. **The application was not recommended for approval based upon its own merits.** The use of Restrictive Conditions circumvents the Land and Use Code of Boulder County - a controlled document that was adopted by the Boulder County Commissioners on October 18, 1994. The current version was updated August 4, 2022.

These are non-litigated, non-reviewed, un-official Restrictive Conditions added to mitigate the application's non-compliance with Article 6-1000 of the Code regarding the Standards and Criteria for Approval of a Planned Unit Development. Further, not only do these Restrictive Conditions unnecessarily complicate what should be an easy Deny decision, they are also extrajudicial, and amount to setting policy instructions.

For NUPUDs, policy is governed by C.R.S. 24-67-101. The use of Restrictive Conditions made on an *ad hoc* basis to create a path for approval of the NUPUD Replat poses an unnecessary risk for litigation that could invalidate the purpose of the Restrictive Conditions. Conditions could be litigated by the applicant later to achieve his ultimate business goals for this and future local property. Alternatively, denying the application complies with established law and reduces the risk of litigation. The Restrictive Conditions are invalid and, therefore, the application should be denied based upon the preponderance of information and official opinions.

3. **Approval of the Horst Estate NUPUD Replat would constitute a substantive change to the Comprehensive Plan. Per C.R.S. 30-28-108 – Changes to the Comprehensive Plan must be approved by the community's elected leaders on the Boulder City Council and the Boulder County Board of County Commissioners, along with the city's appointed Planning Board and the county's Planning Commission.**

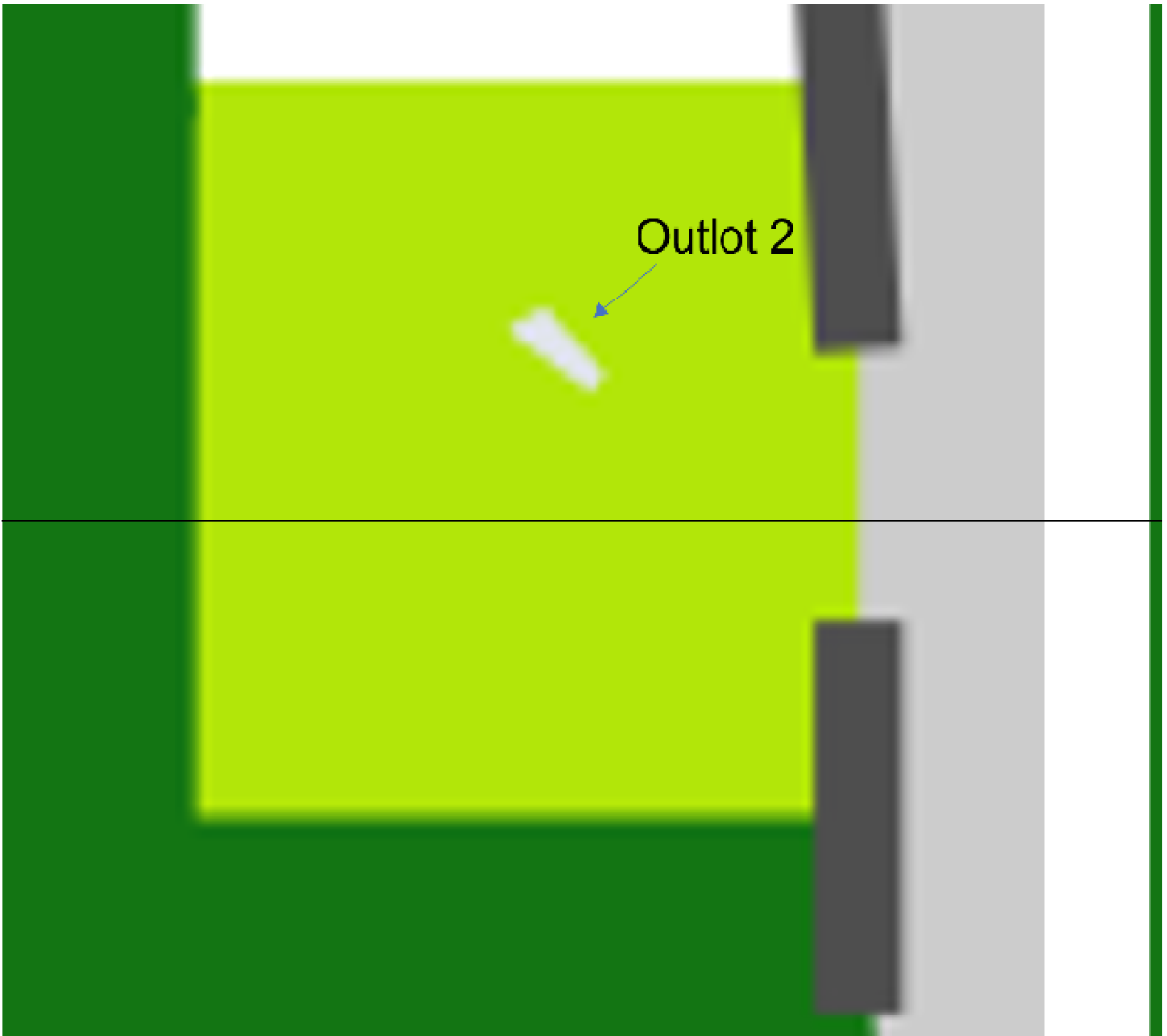
"The adoption of the plan or any part, amendment, extension, or addition shall be by resolution carried by the affirmative votes of not less than a majority of the entire membership of the commission. The resolution shall refer expressly to the maps and descriptive matter intended by the commission to form the whole or part of the plan. The action taken shall be recorded on the map and descriptive matter by the identifying signature of the secretary of the commission."

As we know, the result of approval of the application would lead to a significant reduction in the size of the CE. The reduction in CE is so egregious that it would require substantive changes to maps in the Boulder County Comprehensive Plan. The Comprehensive Plan contains a number of maps: Number 27, Open Space and Public Lands, clearly and discernably labels this property as County Conservation Easement; and 31, Significant Agricultural Lands, clearly and discernably labels this property as Land of National Importance.

The removal of almost nine (8.645) acres of Conservation Easement / Significant Agricultural Lands would clearly and discernably change the maps where this property is located. It should require/trigger by statute, review actions that result in a resolution to allow the change or deny the change, carried by affirmative votes by not less than a majority of the entire membership of the Commission of the Comprehensive Plan pursuant to **C.R.S. 30-28-108**.

Therefore, any recommendation for approval by the Boulder County Planning Commission of this NUPUD Replat application represents, in effect, a tacit recommendation to significantly and materially change the

Boulder County Comprehensive Plan. The loss of almost 9 acres of Conservation Easement / Nationally Significant Agricultural Land adjacent to an 80-acre Colorado Centennial Farm is unlikely to achieve the necessary votes to change the Comprehensive Plan. Blown up from map 27 in the latest Boulder County Comprehensive Plan, before and after:



I recommend denial of this application in favor of an application that can be approved based upon its own merits and not via the *ad hoc* addition of Restrictive Conditions; an application that does not propose a residential building lot that sits on top of a Centennial Farm's ditch easement and water rights; an application that does not lead to the loss of such a significant amount of Nationally important farmland bordering a Colorado Centennial Farm; an application that does not trigger or depend upon changes to the Boulder County Comprehensive plan, C.R.S. 30-28-108; **an application that we can all get behind**. There is plenty of space for a third lot that would meet these criteria so that the applicant can realize his land use rights as the future creation of a third lot was provided for in the Horst grant.

Thank you for your consideration.

Michael W. Olszowy

Walker, Samuel

From: Jon Walton <waltonconstructionco@yahoo.com>
Sent: Monday, January 16, 2023 6:36 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket RE-21-001: Horst Estate NUPUD Replat

Dear Mr. Walker,

I am writing on behalf of my husband and myself regarding the Docket RE-21-0001: Horst Estate NUPUD Replat. We are local Erie small business owners located in Flat Iron Meadows.

We are completely against this request to replat this proposed area and we ask you to DENY the Application, as drawn and submitted. The area was granted as a conservation easement. We have witnessed great amounts of wildlife (and farm life) in the area that adds to the beauty of the mountains, and we feel strongly that this request should be denied as it is merely a move to destroy the wildlife in the easement and eventually expand residential development. We built our home on Limestone Drive with the understanding that the land west of 111th had this conservation easement in place and we ask that it be maintained.

We further serve notice to the Town of Erie that we strongly oppose the annexation of the residential lots within the NUPUD by the Town of Erie. This area is already very heavy with residential development, so further expansion is not needed, and would disrupt the conservation efforts of the past 40 years.

We cannot attend the hearing this Wednesday, so we are emailing you directly to accept our input/testimony.

Thank you,

Monica Walton and Jon Walton

Walton Construction
856 Limestone Dr
Erie, CO 80516

Jon - 614-946-7743
Monica - 740-972-6418

Walker, Samuel

From: Paige Midness <pmidness@gmail.com>
Sent: Wednesday, January 18, 2023 9:22 AM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket RE-21-0001: Horst Estate NUPUD Replat

Good Morning,

I am reaching out regarding the proposed replat outlined in docket RE-21-001. I am greatly opposed to rezoning or replatting this property. The Horst family went to great lengths to ensure this property would remain a conservation easement so that it would not be developed upon sale of the property. It is unclear to me why we would change the designation of this property and allow Erie to continue its blind expansion with little regard for Boulder County's objective to conserve open spaces, it is vital that we continue to observe the intended use of this property. It would be a disservice to the residents of Boulder County and the immediate adjacent neighbors if the committee chooses to diminish or remove the Conservation Easement. Given Erie's recent record to blind expansion, it is pretty clear what will happen if this land is placed under their supervision. Please do the right thing and decline this request.

Paige Midness
904 Limestone Dr.
Erie, CO 80516

Walker, Samuel

From: GMAIL <nettiewalsh@gmail.com>
Sent: Monday, January 16, 2023 5:04 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket RE-21-0001: Horst Estate NUPUD Replat

Categories: Bonnie's emails

To whom it may concern,

Both my husband and I would like to submit testimony on the above mentioned docket item; Shaun and Annette Walsh.

We wish Boulder County Planning Commission to DENY the application, Docket RE-21-0001: Horst Estate NUPUD Replat as drawn and submitted.

We further serve notice to the Town of Erie that we strongly oppose the annexation of the residential lots within the NUPUD by the Town of Erie.

Most of the residents were told when they purchased their homes, that the Horst lot was under NUPUD and was under conservation. The land is deemed to be "nationally significant agricultural land". And this would not change. You not only want to change it, you want to remove it from CONSERVATION EASEMENT, and place homes in its place.

We know you are not responsible for what a builder states to their customers, BUT it was already under CE, and we felt that was a safe statement from them.

Regards,
Shaun and Annette Walsh
Nettiewalsh@gmail.com

Walker, Samuel

From: Thelma <pst@skybeam.com>
Sent: Monday, January 23, 2023 11:06 AM
To: LU Land Use Planner
Cc: Thelma
Subject: [EXTERNAL] Docket RE-21-0001:Horst Estate NUPUD Replat

I feel obligated to address some comments he made in his project description regarding the 60 acres directly north of his 40 acres. First, there are 80 acres, not 60 acres. Secondly, I object to his speculation regarding the disposition of our land. We have not any discussion with him since he first bought his land and asked to buy ours as well, which we responded with a definite “not interested in selling our land.” This land has been in my family since 1870. It was in 1870 that Hiram Prince acquired 720 acres of this land. I am the only descendent of Hiram Prince who has stayed on this land. We enrolled our farm in 1995 as a Centennial Farm. It is one of 603 total Centennial Farms in the state of Colorado. We value the importance of providing good stewardship of the land. Allowing Mr. Rockwell to subdivide his property directly south of our land, would diminish the free flowing openness of the area. In addition, we own an irrigation ditch that runs from the Prince Reservoir No.1 through Rockwell’s land that carries our water for the purpose of irrigating our farm. Our shares of water in the South Boulder Canyon Ditch Company flow directly into Prince Reservoir No. 1. We do not want that ditch moved or impeded in any way to make it difficult to access our water rights. We would hope that the Boulder County Planning commission would consider the concerns we have raised before allowing him to build additional houses.

Thelma and Frank Bishopp

Sent from [Mail](#) for Windows

Walker, Samuel

From: Christine Chicago <christine.chicago@gmail.com>
Sent: Tuesday, February 7, 2023 3:16 PM
To: Walker, Samuel; LU Land Use Planner
Subject: [EXTERNAL] Public Comment for the Record on Docket RE-21-0001
Attachments: Petition to DENY Horst Estate NUPUD Replat 02 07 2023.pdf; Memo to residents 02 04 2023.docx

Hello Sam,

Attached is a petition with 114 signatures, including that of Cheryl Lynn Horst, original Grantor on the 1982 Grant of Conservation Easement, and Thelma and Frank Bishopp, owners of the 80-acre Colorado Centennial Farm that abuts the Horst Estate. The petition requests that the Boulder County Planning Commission DENY approval of the Horst Estate NUPUD Replat, Docket RE-21-0001. Further, the signers serve notice to the Town of Erie strongly opposing annexation of the NUPUD by the Town of Erie.

Also attached is the document provided to neighbors and residents that outlines our understanding of the application and critical reasons why we do not support the application, namely:

1. The stated purpose of this Replat is to achieve residential development, for-profit.
2. The stated purpose is to create a path for further residential development of agricultural land west of 111th Street.
3. The application concept does not comply with the Boulder County Comprehensive Plan and does not meet 10, that is ten, of 15 standards for approval of a PUD.
4. The application concept breaks the promise of the 1982 Grant of Conservation Easement.

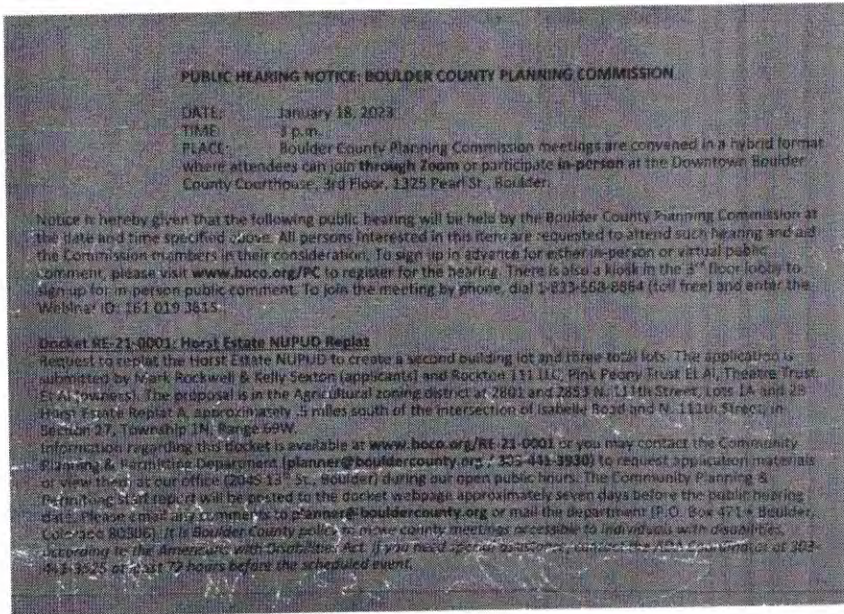
Please also accept the online petition signatures urging DENIAL of the Horst Estate NUPUD Replat application that have been recorded on: www.change.org/horstestate. These signatures number 215 as of 3 p.m. today. Note that the request for signatures reads as follows:

"In 1982, Thomas and Cheryl Horst signed a Grant of Conservation Easement with Boulder County to protect their nearly 40 acre plot of land. The Conservation Easement ensures that the farm would be permanently protected and would continue to be agricultural land. The Boulder County Comprehensive Plan identifies this land as "Agricultural Land of National Importance". This land is a dark sky resource and provides habitat to a wide variety of wildlife, including: coyotes, rabbits, fox, owls, two bald eagles, the occasional deer, and even a mountain lion. To the North, sits another parcel that has been family owned for more than 150 years and is a Colorado Centennial Farm whose water rights transverse the Conservation Easement. The application before the Boulder County Planning Commission, attempts to remove roughly 22% of land from the Conservation Easement. This application also would allow annexation of the newly unprotected section to the town of Erie, so that the land could be developed. This "Agricultural Land of (National) Importance" would be unprotected, developed, and approval of this application would be in violation of the promise Boulder County made to protect this land forever. By signing this petition, you are asking Boulder County to uphold their responsibilities to the Conservation Easement and DENY docket RE-21-0001, the Horst Estate application filed by Rockwell. In addition, you are giving notice to the Town of Erie that you oppose the annexation of ANY part of the Horst Estate for development. Time is of the essence, we must act now to continue to protect this beautiful property!"

Thank you,
Christine Hackett
798 Limestone Drive, Erie, CO 80516

Feb 15,

FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON JANUARY 18, 2023

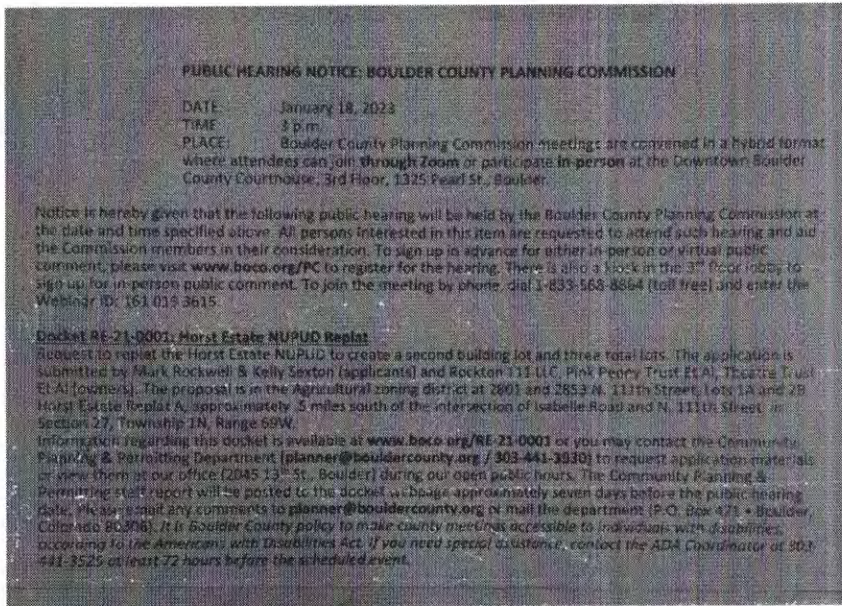


We, the undersigned, request that the Boulder County Planning Commission DENY approval of the Horst Estate NUPUD Replat, Docket RE-21-0001. Further, we serve notice to the Town of Erie that we strongly oppose annexation of the NUPUD by the Town of Erie.

PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
✓ DAVID A BURCH	<i>David A Burch</i>	702 Limestone Dr.	davebco@gmail.com	303-378-7482
✓ Judy Cabot	<i>Judy Cabot</i>	702 Limestone Dr	J3inTampa@yahoo.com	813 442-3464
✓ Andrea Burch	<i>ABurch</i>	702 Limestone DR	andrea_bco@ymail.com	303)378-7483
✓ Brian Alex Burch	<i>ABurch</i>	702 Limestone Dr	<i>Brian Alex Burch</i> adburch@ymail.com	720)690-0123
✓ ALKA. PREMDUTH	<i>alka</i>	718 Limestone Dr.	ammuduth@gmail.com	7203239264

Feb 15

FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON JANUARY 18, 2023

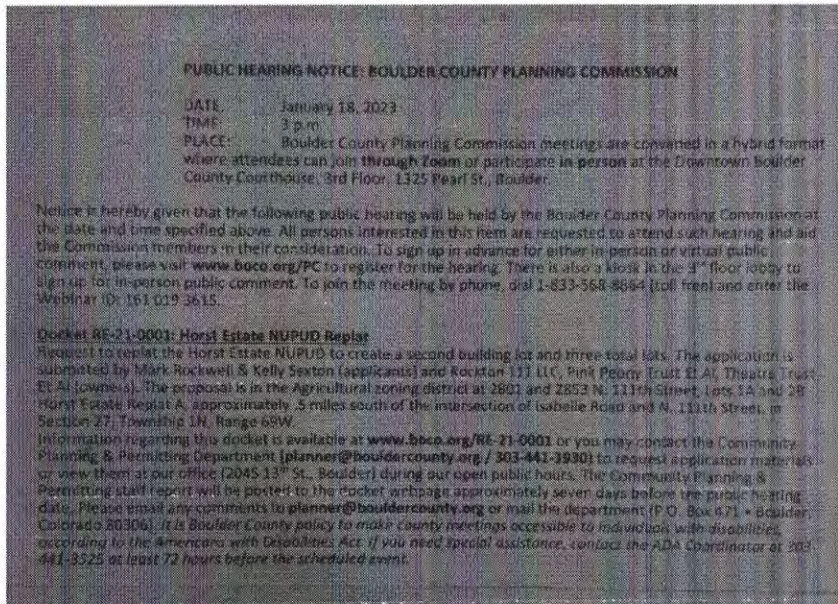


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PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
✓ Andi Burch		1190 Homestead Rd	andi.thomp@gmail.com	205 826 3833
✓ Kris Vickland		789 Limestone Dr	kris.vickland@icloud.com	303-551-4878
X Carey Fox		840 Limestone	mlf58@msn.com	3-641-5161
✓ Donald K Janson		920 Limestone Dr	JansonD@msn.com	720-260-359
✓ Dale Hogsett		920 Limestone Dr	gkhogsett@gmail.com	720-771-6856

Feb 15

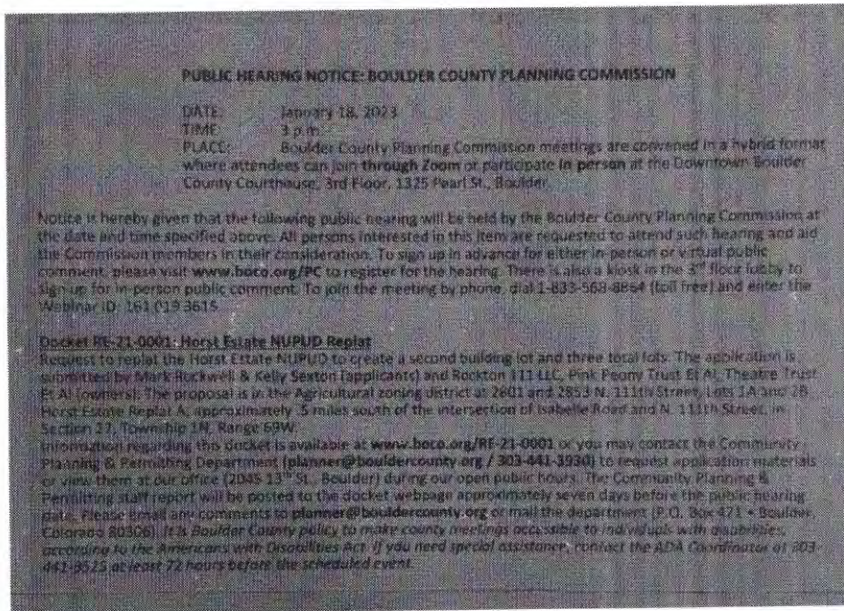
FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON JANUARY 18, 2023



We, the undersigned, request that the Boulder County Planning Commission DENY approval of the Horst Estate NUPUD Replat, Docket RE-21-0001. Further, we serve notice to the Town of Erie that we strongly oppose annexation of the NUPUD by the Town of Erie.

PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
✓ COLLIN PETERS		814 LIMESTONE DR	CVP145@GMAIL.COM	303-522-5997
✓ SUTIDA PETERS		814 LIMESTONE DR	SUTIDAPETERS@GMAIL.COM	7202196798
✓ Laurie Hostetter		766 Limestone Dr.	lhostetter@comcast.net	7)339-3020
✓ Erni Settje		773 Limestone Dr.	esettje@comcast.net	720-301-1777

FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON ^{Feb 15,} JANUARY 18, 2023




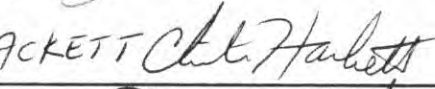
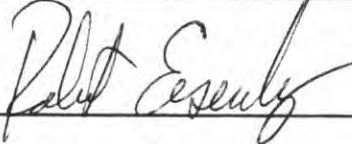

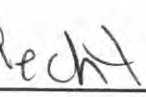
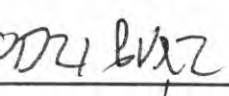
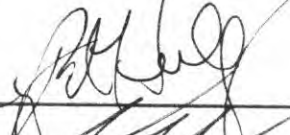
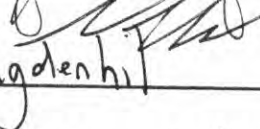

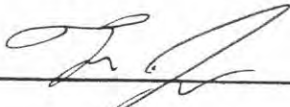
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PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
✓ VICTORIA FELITON		782 Limestone Dr	victoria-feliton@icloud.com	
✓ MONICA WALTON		856 Limestone Dr	waltonconstructionco@yahoo.com	323-432-3493
ERIC Schreff		936 Limestone Drive	eric cecilz@sbjglobe.net	303-550-4483
✓ Austin Addison		1000 Limestone Dr.	austin.addison.2012@gmail	720 297 9804
✓ Michelle Carpenter Carpentier		872 Limestone Dr	hermitcluness@yahoo.com	541-221-8097
✓ Michael Olszowy		872 Limestone Dr.	mwolszowy@yahoo.com	(720)666-0065

Feb 15,

SUPPLEMENTAL PAGE FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON JANUARY 18, 2023

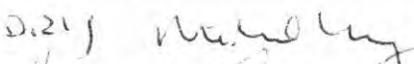




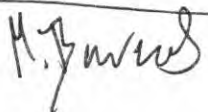
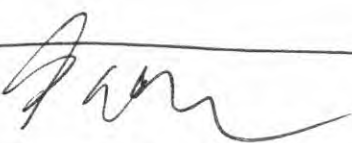

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PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
✓* Todd Stollenberg		968 Limestone Drive	tstol55@gmail.com	720-995-351
CHRISTINE HACKETT		798 Limestone Dr.	Christine.chicago@gmail.com	
ROB EISENBERG		798 Limestone Dr	Eishockey13 rob @gmail.com	
✓ Jacob Beckner		734 Limestone Dr	jbeckner@gmail.com	
✓* Maxine Flecht		1247 Limestone Dr	Maxineflecht@gmail.com	
X MIGUEL E RODRIGUEZ		1244 Limestone Dr	Mikerosj1@ms.com	
✓ Paul Halley		1176 Limestone Pl	paul_halley@yahoo.com	*
✓ Astrid Vreugdenhil		1147 Limestone Dr.	astridr@birdlist.org	
✓ Hemant Joshi		1016 Limestone Dr.	hnjoshi@hotmail.com	
✓ Timothy Jungman		984 Limestone Dr	Tim Jungman@gmail.com Tim Jungman@gmail.com	720-352-4668

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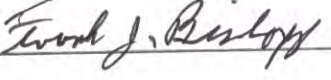
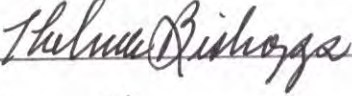

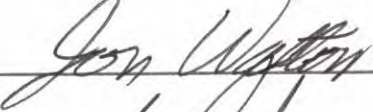


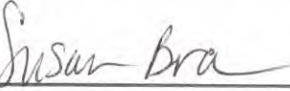
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PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
✓ MICHAEL LANDRY		821 Limestone	mtlandry@gmail.com	817-9956054
✓ Heidi Landry		821 Limestone Dr.	heidi.landry@gmail.com	817-8759444 817-874-573
✓ Candace Wiltschko		837 Limestone	mcathew@ksnc.com	817-874-573
✓ * Hackon Midness Raege Midness		904 Limestone	mmidness@yatec.com	
✓ Ziyi Chen		1064 Limestone	ziyichen216@outlook.com	
✓ Matt Barnes		2480 Bedrock Place	matthewjamesbarnes@gmail.com	
✓ * Scott Yeldell		2483 Bedrock PL	ScottYeldell@gmail.com	
✓ Hunter Thammavong		917 limestone dr	hunterthammavong@gmail.com	

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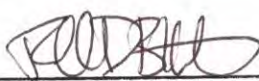

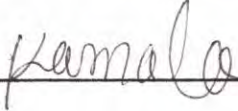
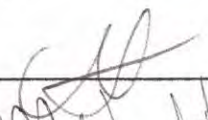
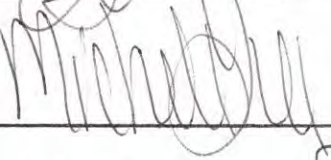
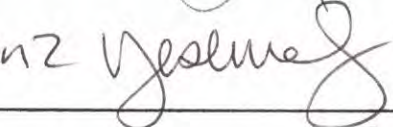

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PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
MICHAEL FELTON		782 LIMESTONE DRIVE ERIE, CO 80516	MFELTON@YAHOO.COM	308-884 8781
FRANK BISHOPP		10974 ISABELLE ROAD Lafayette 80026	fb@skybeam.com	303-570- 6411
THELMA BISHOPP		"	pst@skybeam.com	303-478- 7966
ERICA HAKE		1032 LIMESTONE DR	erica_vail@yahoo.com	614 946-7743
JON WALTON		956 LIMESTONE DR.	waltonconstruction@yahoo.com	720-203- 2966
ZECH DILE		1096 LIMESTONE DR	Zeched@gmail.com	
SARAH BLAKE		1096 LIMESTONE DR	sblake0424@gmail.com	
SUSAN BRAUN		1253 SHALE WAY	braun.susan@comcast.net	303.40892

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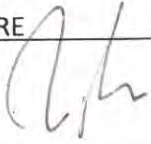
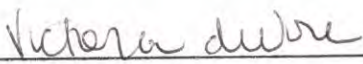
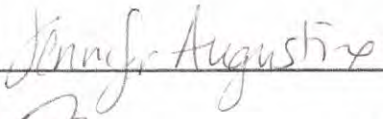
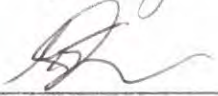
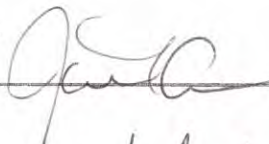
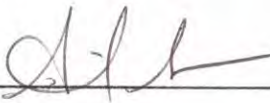
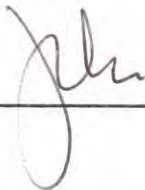
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PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
Rachel Brittenham		2448 Flats St.	brittenr@tdie	
Lina Shah		1269 Copper St.		
Kamala		1284 Copper St		
Ang Gorman		832 Carbonate Ln.		
Michele Lee		823 Carbonate Ln.	michelelee@yahoo.com	
Yesenia Saenz		813 Carbonate Lane	yesenia.saenz@gmail.com	
Chris Karlic		813 Carbonate Ln	karlic520@gmail.com	
Janet Hauser		743 Carbonate Ln	Janethauser555@gmail.com	

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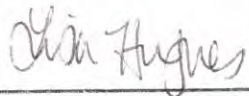
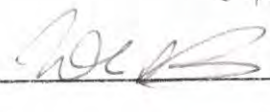
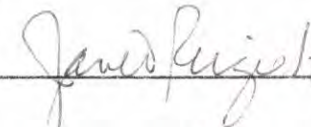
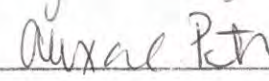
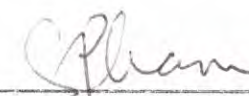
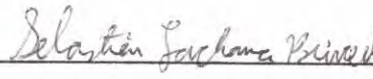
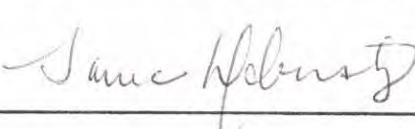


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Joseph Ferrone		655 Dakota	Qualitytrest@gmail.com	
VICTORIA DEVORE		833 Carbonate Ln	toridevore@gmail.com	
Jennifer Augustine		812 Carbonate Ln	jennaugustine@ yahoo.com	
MATT CRANE		793 Carbonate Ln	CRANE.MSD@GMAIL.COM	
SARON ARCHER		883 Carbonate Ln	starchol7@gmail.com	
April Archer		883 Carbonate Ln.	aprilandj@comcast. net	
Julian Gomez		805 limestone Dr.	gomez.julian@me.com	

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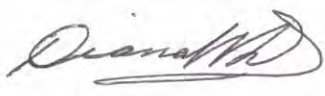
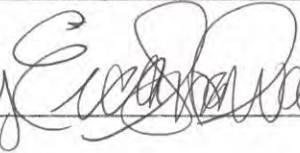


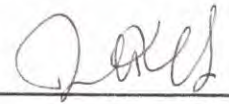
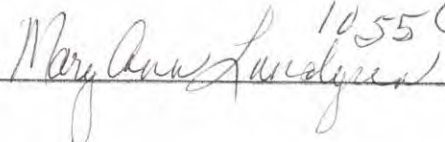
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Lisa Hughes		1300 Gypsum Way	lhughes57@gmail.com	
Howard Mullings		2979 Flats St	hmullings@gmail.com	
Janet Ruzich		2418 Flats St, Erie CO	janruzich@att.net *	
Alexa Porter		2430 Flats St.	alexaporter@gmail.com	720 299 4691
Saran Pham		2401 Flats St.	S.K.pham87@gmail.com	
Sebastien Lachance-Barrett		1341 Granite Dr	slachancebarrett@gmail.com	
Sana Dobinsky		1293 Copper Dr	saniadobinsky@gmail.com	
Elizabeth Gilby		1248 Granite Dr.	eggilby@gmail.com	
Don Dobinsky		1293 Copper Dr.		

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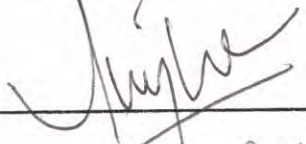
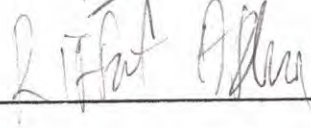
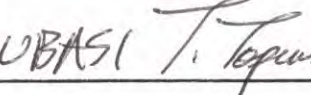
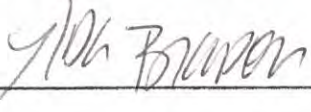
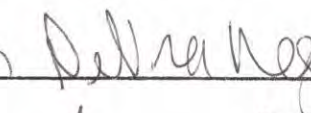
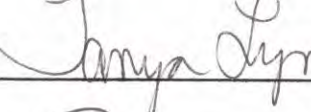
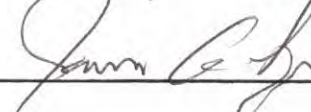
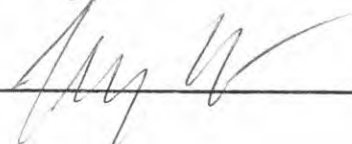
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Zach Lemaster		888 Limestone Dr	Lema793k@pacificu.edu	307-421-4049
Diana Wong		888 Limestone Dr.	blissintherockies@gmail.com	720-788-748
Karin Waremboing	RWJ	2460 Bedrock Pl.	KWaremboing@gmail.com	720-253-6243
Erica Waremboing		2460 Bedrock Pl.	ericawaremboing.com	
MATT HANSHARD		1084 Carbonate Ct	matt.hanshard@gmail.com	303 807-2064
Sathya Mantha		1065 Carbonate Ct.	neelu.blue@gmail.com	303 475 6852
John T Lundgren		1055 Carbonate Ct	jlundgren2002@yahoo.com	303-449-0511
Mary Ann Lundgren		1055 Carbonate Ct.	malundgren@gmail.com	303 499-0311

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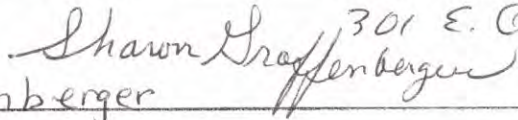
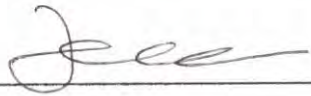
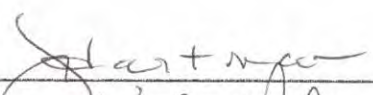
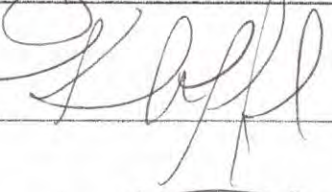
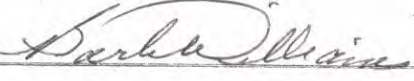
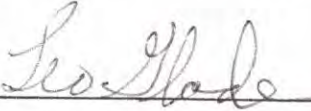
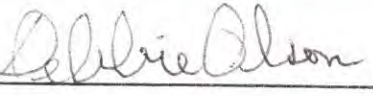
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AMER KHAN		2499 Claystone Cir Erie	voluhammad@gmail.com	303-638-749
RIFFAT KHAN		2499 Claystone Cir Erie	riffat58@yahoo.com	3-650-738-8177
TEOMAN TOPCUBASI		2509 Flats St, Erie	ttopcubasi@gmail.com	
LISA BRANSON		2509 Flats St. Erie	lbranson@not.nmo.com	3105672433
Debra Negrin		1172 Fox Hills	onwine2000@aol.com	720/531-2195
Tanya Lynn		1202 Fox Hills Ct	jtad@yahoo.com	
James A. Lynn		1202 Fox Hills Ct.	jim79lynn@gmail.com	
Jeffrey NEGRIN		1172 Fox hills ct. Erie, 80516		

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Sharon Graffenberger		301 E. Oak St	sherrigraffenberger1@hotmail.com	303-884-2739
Juliet Carroll			jagee09@hotmail.com	775-741-6968
Judy Hartman			JUDYHARTMAN@aol.com	303-437-6012
KATHY SANFORD		LAFAYETTE, CO 80026 1660 SAGRIMORE CIR.	KATHYSANFORD60@GMAIL.COM	303-476-3557
Barb Williams		860 W Baseline Rd 240	tobybigshot1@yahoo.com	
Leo Glade		1685 Sagamore Cir.		303-419-0914
Debbie Olson		69 Silver Wolf Dr. Evergreen 80439	debbieolson19@outlook.com	303-567-2542

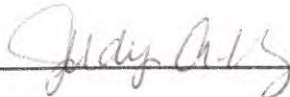
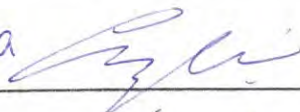
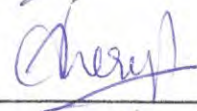

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Stephen Kendrick	<i>Stephen Kendrick</i>	1825 Keel Ct Lafayette 80026	Steve.Kendrick@comcast.net	303-666-1108
Emily Hagan	<i>Emily Hagan</i>	1808 Queens Dr. Longmont, CO.	pastor@firstumclafayette.org	719-248-0477 303-828-5141
Nancy Clair	<i>Nancy Clair</i>	4675 Betty Dr Erie	clair@ecentral.com	303-579-0626
Lorraine Green	<i>Lorraine Green</i>	540 E Sutton Cir. Lafayette, CO 80022	lorraine@gmail.com	
Karen Plomondon	<i>Karen Plomondon</i>	217 Bakara Ln Erie 80516	plomondon_bkriddle@comcast.net	
Robert Boss	<i>Robert Boss</i>	4047 Whetstone Dr Broomfield CO 80023	rboss22@yahoo.com	(720) 536-8726
Lynette Sipe	<i>Lynette Sipe</i>	600 S. Harrison Ave. Lafayette 81026	sandico@comcast.net	303-666-7237
Ellen COOK	<i>Ellen COOK</i>	764 Julian Cir, Lafayette	cookeln@gmail.com	

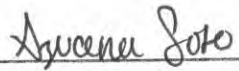

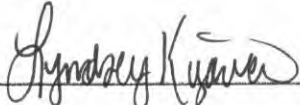
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We, the undersigned, request that the Boulder County Planning Commission DENY approval of the Horst Estate NUPUD Replat, Docket RE-21-0001. Further, we serve notice to the Town of Erie that we strongly oppose annexation of the NUPUD by the Town of Erie.

PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
Judy Kilgore		1048 Limestone	judy_kilgore@hotmail.com	651-324-1320
Lydia Purnama		2411 Claystone Cir	lydiapurnama@yahoo.com	720-468-1079
Cheryl Eklahare		1144 Limestone Dr	cherylajeet@yahoo.com	720 515 7816
Zack Kutkoj		2412 Claystone Cir	Kutkoj@hotmail.com	408-242-6162

SUPPLEMENTAL PAGE FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON JANUARY 18, 2023

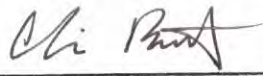

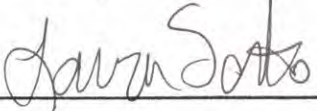
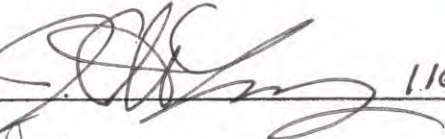
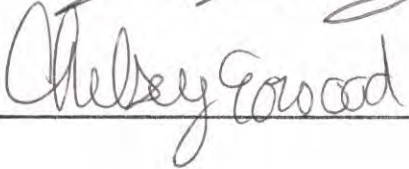
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PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
Azcena SOTO		12838 LAKE PT ST FIRESTONE CO 80504		
Dana Peterson		1420 Renaissance Dr Longmont CO 80503	danampeterson0201@gmail.com	
Lyndsey KUJAWA		10707 Cimarron St Firestone, CO 80504		954.263.7904

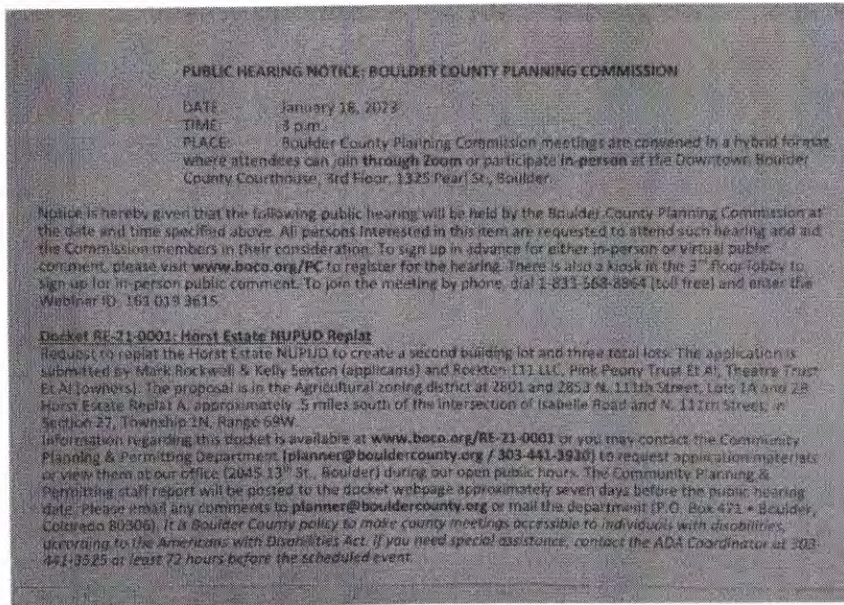
Feb 15,
JANUARY 18, 2023

SUPPLEMENTAL PAGE FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING ON

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PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
Christopher Bolton		1160 Limestone Dr.	ccboltan2008@gmail.com	✖✖
Arlynn Memsic		1232 Limestone Dr	arlynn.memsic@gmail.com	
Laura Scotto		1179 Limestone Drive	Culauralu@gmail.com	
JEROME SCOTT LAUDENSLAGER		1163 Limestone Dr	SCOTT@ATWASCONCRETE SOLUTIONS	CO
Chelsey Earwood		1131 Limestone Dr.	cearwood18@gmail.com	

FOR SUBMISSION TO THE BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING, scheduled for 2/15/23



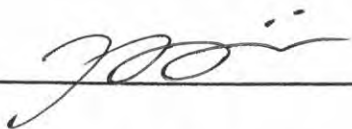
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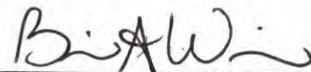
PRINTED NAME	SIGNATURE	ERIE, CO 80516 ADDRESS	EMAIL	TELEPHONE
Cheryl Lynn Horst		7840 Buckhorn Avenue Frederick, CO 80530		

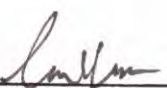
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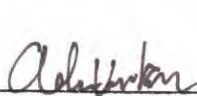
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PRINTED NAME SIGNATURE ERIE, CO 80516 ADDRESS EMAIL TELEPHONE

Kevin Willett  2322 Dinosaur Dr. kwillett@gmail.com (619) 405-5699
(702) 278-5768

Brianne Willett  2322 Dinosaur Dr. briannealyssawillett@gmail.com

Mark VanKempen  908 Sandstone Cir mark.g.vankempen@gmail.com

Alison VanKempen  908 Sandstone Cir malibal:224@gmail.com

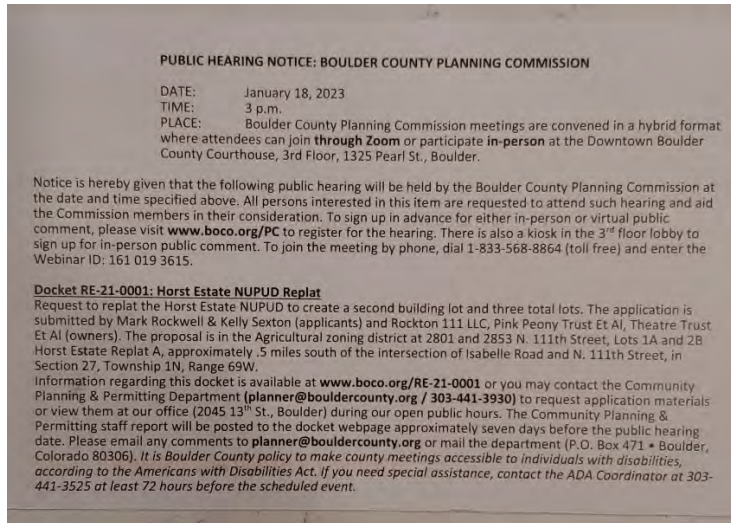
TO: Flatirons Meadows Neighbors

FROM: Christine Hackett, Flatirons Meadows Resident, 798 Limestone Drive, Erie, CO 80516

DATE: February 4, 2023

RE: Community Response to an Application to Replat Land Located at 2801 and 2853 N. 111th Street, Erie, CO

DID YOU RECEIVE THIS NOTICE IN YOUR MAILBOX??



There are 2 links in this notice that are important:

1. A link: www.boco.org/PC to register to attend the public hearing scheduled for 2/15/2023 at 3 p.m. at Boulder County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder. You can attend either in person or virtually. By registering at www.boco.org/PC, you can attend or provide testimony.
2. A link: www.boco.org/RE-21-0001 that provides all the background information that includes:
 - a. The current owners' specifications and intentions for the replat application
 - b. The analysis and recommendations for approval of the application, with RESTRICTIVE CONDITIONS, by the Boulder County Planning Commission's Staff Planner, Sam Walker
 - c. The original application by land owners Thomas A. Horst and Cheryl Lynn Horst for a Grant of Conservation Easement, and approval by Boulder County in 1982.

WHY YOU SHOULD CARE AND TAKE ACTION:

The land in question, on the west side of 111th Street, across from Marble Drive, is **actually Granted by Law in 1982 as CONSERVATION EASEMENT and is "Agricultural Land of National Importance."** Once a CONSERVATION EASEMENT has been granted, the land is intended to be forever conserved and maintained by the owners as stewards of that conservation.

Because CONSERVATION EASEMENT land is not intended to have non-related residences, a Non-Urban Planned Development Unit (NUPUD) was created to provide for two building lots within the conservation easement for up to 2 residences and agricultural accessory buildings, such as barns and sheds. Only 1 of the building lots was drawn on the plat and it contains a caretaker's residence and shed within a 1.25 acre lot. **This application seeks to CHANGE the NUPUD in such a way that not only removes nearly 9 acres of CONSERVATION EASEMENT land, but also situates the resulting 2 building lots to make it possible for Annexation by the Town of Erie for residential development, which is the applicants' stated intention.**

The applicants further state their intention of creating "precedent" for and "incentivizing" other agricultural property owners to follow suit in developing the land west of 111th Street for residential development.

PAGE 2

WHY THIS APPLICATION SHOULDN'T BE APPROVED:

NOT ONLY are the applicants are requesting a change in the law that would defeat the purpose of creating the **CONSERVATION EASEMENT** in the first place, but also it would remove nearly 9 acres of **CONSERVATION LAND** forever.

1. THE STATED PURPOSE OF THIS REPLAT IS TO ACHIEVE RESIDENTIAL DEVELOPMENT, FOR PROFIT.

The application states in paragraph 2 of the Concept (for the replat): "It is our goal to annex our residential properties into the neighboring Town of Erie." Further, the application states in item 4 of Benefits to the NUPUD: "The Town of Erie plans to zone the proposed annexed Lots 1 and 2 as Rural Residential. Rural Residential has a density of 1 residence per two acres, as opposed to adjacent agricultural zoned land which has a density of 1 residence per 19 acres.

2. THE STATED PURPOSE IS TO CREATE A PATH FOR FURTHER RESIDENTIAL DEVELOPMENT OF AGRICULTURAL LAND WEST OF 111th STREET.

The application states as item 7 of the Benefits to the NUPUD that the Replat will "Set a Precedent for Neighboring Land." The neighboring 80-acre farm is actually designated as a Colorado Centennial Farm, whose Ditch Easement transverses the Conservation Easement in order to support irrigation for the farm. Development on the Conservation Easement harms the water rights of this Centennial Farm.

3. THE APPLICATION CONCEPT DOES NOT COMPLY with the Boulder County Comprehensive Plan and DOES NOT MEET 10, that is TEN, of 15 standards or criteria for approval of a PUD, as analyzed and determined by the Planning Commissions' own professional staff in the Staff Recommendation Report.

The Boulder County Comprehensive Plan states "Productive agricultural land is a limited resource of both environmental and economic value and should be conserved and preserved." The Plan further emphasizes "preservation and utilization of those lands identified in the Agricultural Element as Agricultural Lands of National, Statewide, or Local Importance...for agricultural or rural uses." In addition, the Boulder County Comprehensive Plan identifies the entirety of the NUPUD area as "Agricultural Land of National Importance."

The value of this land can be seen every day, not only in the agriculture and plant life, but also how the plant life supports insects, animals and birds, such as bald eagles, horned owls, and migrating geese. It also provides desperately needed dark night sky for these creatures to hunt and survive.

4. THE APPLICATION CONCEPT BREAKS THE PROMISE OF THE 1982 GRANT OF CONSERVATION EASEMENT.

The original signer of the Grant with Boulder County states their intent to "put our land into a conservation easement with Boulder County because we wanted the entire property to be preserved for agriculture and open space for the animals and birds. We understood that Boulder County would forever protect our 39+ acres from residential or commercial development if we signed the conservation easement. It is my hope that the spirit and intent behind the requirements of the Conservation Easement Grant will be honored by Boulder County."

PAGE 3

HOW WE CAN PREVENT THE LOSS OF “NATIONALLY SIGNIFICANT” CONSERVATION EASEMENT LAND

Per Docket RE-21-0001: Horst Estate NUPUD Replat

FOREVER LOSING nearly 9 acres of legally protected Conservation Easement land of National Importance in favor of residential development that in no way supports the agricultural and natural purposes of the land is more than sufficient to DENY the Horst Estate NUPUD Replat application.

THE GOOD NEWS:

The Boulder County Planning Commission staff, led by Planner Sam Walker, has created RESTRICTIVE CONDITIONS on their recommendation for Approval of the replat, that IF agreed to by the Boulder County Planning Commission and signed by the applicants, are designed prevent the development of the new NUPUD for increased residential density.

WHY YOU SHOULD STILL CARE:

Note the IF in the previous statement. The Boulder County Planning Commission does not have to follow the recommendations by their staff. They could recommend approval the application without any restrictive conditions or with a weakening of the restrictive conditions.

Once granted conservation land is gone, it is gone forever.

WHAT YOU CAN DO:

1. SIGN THE PETITION urging the Boulder County Planning Commission to DENY the Application, Docket RE-21-0001: Horst Estate NUPUD Replat. Further, signing the petition serves notice to the Town of Erie that you strongly oppose the annexation of the residential lots within the NUPUD by the Town of Erie in order to facilitate residential development, for profit.
2. Go to: www.boco.org/PC to Register to attend the Boulder County Planning Commission’s Public Hearing either in person or virtually. It scheduled for 2/15/2023 at 3 p.m. at Boulder County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder.
3. Click on the button that says you wish to submit testimony.
4. Email your comments and/or testimony in advance of the meeting to: Planner@bouldercounty.org
5. IF SUBMITTING TESTIMONY IN PERSON, you must limit your comments to 3 minutes per person. Maximum per person is 10 minutes, IF 3 OTHER PEOPLE CEDE THEIR TIME TO YOU.

Walker, Samuel

From: michelle carpentier <hermitchness@yahoo.com>
Sent: Wednesday, February 8, 2023 5:12 PM
To: Walker, Samuel; LU Land Use Planner
Subject: [EXTERNAL] Docket # RE-21-0001: Horst Estate NUPUD

In the matter of Docket # RE-21-0001: Horst Estate NUPUD
Testimony delivered via email to the Boulder County Planning Commission, County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder, CO, USA, 8 February 2023.

Hello Mr. Walker,

My name is Michelle Carpentier, I reside at 872 Limestone Drive, Erie Colorado and formerly 631 Benton Lane, both of which are in Flat Iron Meadows.

Thank you for the opportunity to speak. I ask those among us to strongly consider: What is the value of "open space and conservation land?"

In 1982 Thomas and Cheryl Horst realized that value and sought a partnership with Boulder County to establish the Conservation Easement for which we are gathered here to discuss. The value of that Easement provides natural habitat for many species including migrating birds, a mating pair of bald eagles, great horned owl, hawks, rabbits, rodents, and our ever-elusive friend, the coyote.

It also provides the local community with natural beauty and enrichment. As a resident of this community since 2014 I can personally speak to that. My family and I ride our bikes and walk this neighborhood near daily along 111th, as do many of our neighbors. The consistent remarks in passing are most often associated with the inspiring appreciation for the value this easement of natural space brings our community.

Now it is understood that sometimes future heirs of conservation property may not share the same guiding principles that the original grantor(s), who worked in conjunction with Boulder County succeeded to establish. However, this is not a case of inheritance. This is a case of purchase, whereby most parties that buy land with conservation easements do so in alignment with preservation and protection; acting in good faith as stewards of the land. Minimally, the applicants were in full disclosure of the Conservation Easement and its restrictions regarding future development when they purchased the property from Susan James, in August of 2016.

The application submitted by Mr. Rockwell and Ms. Sexton suggests the original Conservation Easement was ambiguous in nature with the plotting of lots somewhat happenstance, leaving a "donut hole" they seek to "correct", as well as to pave the way for additional residential dwellings to be erected on the land designated under the Conservation Easement. This intention or "concept plan" as they refer to it, is in direct opposition to what the Easement was set up for. The very nature of conservation speaks of protecting natural resources, including land from commercial enterprises and development.

It is my belief that this property was not purchased with the good will or spirit of continued preservation and conservation like the adjacent property owner, but instead always intended for commercial development purposes. No less than 14 LLC's have been created by Mr. Rockwell for real estate acquisition and development since 2017. Including Rockton 111 LLC in April of 2017 for the property on 111th. In further detail Mr. Rockwell as the registered agent of an additional 13 other LLC's has acquired 6 additional properties in Old town Erie, in the last 5 years; one of which has already been razed and others adjacent to open space.

There is nothing subversive with property development or including real estate in your investment portfolio. Quite the contrary but attempting to develop conservation land for private commercial gain is abhorrent.

Property that contains Conservation Easements are specifically called out to be protected from dense urban design and commercial development. Let there be no ambiguity in what Thomas and Cheryl Horst sought when they established this Easement. And let there also be no ambiguity in what Rockton 111, LLC, Pink Peony and Theater Trusts or Mr. Rockwell's intentions are. I humbly ask this committee to deny this application. There are plenty of other property ventures for Mr. Rockton to focus on that do not include conservation easements.

Thank you for your consideration.



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING

January 18, 2023 at 3:00 p.m.

All Commissioners' public hearings and meetings will be offered in a hybrid format where attendees can join **through Zoom** or **in-person** at the Boulder County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder.

STAFF RECOMMENDATION

STAFF PLANNER: Sam Walker

Docket RE-21-0001: Horst Estates NUPUD Replat

Proposal: Request to replat the Horst Estate NUPUD to create a second building lot and three total lots.
Location: 2801 and 2853 N. 111th Street, Lots 1A and 2B Horst Estate Replat A, approximately .5 miles south of the intersection of Isabelle Road and N. 111th Street.
Zoning: Agricultural (A) Zoning District
Applicant: Mark Rockwell
Owner: Theatre Trust, Rockton 111 LLC

PACKET CONTENTS

Item	Pages
Staff Recommendation	1 – 17
Application Materials (Attachment A)	A1 – A19
Referral Responses (Attachment B)	B1 – B16
Public Comments (Attachment C)	C1 – C2
Research Documents (Attachment D)	D1 – D35

SUMMARY

The subject application is for a Replat of the existing Horst Estates NUPUD to add a second building lot to the plat and ultimately create three total lots where the NUPUD currently encompasses two lots. With the recommended conditions of approval, staff finds the proposal can meet the Replat Criteria in Article 6-1000 of the Boulder County Land Use Code (the Code) and recommends conditional approval to the Planning Commission.

DISCUSSION

The Horst Estate NUPUD currently encompasses two parcels, addressed as 2801 and 2853 N. 111th Street, and approximately 39.5 acres of total area. The current lot configuration can be seen in the aerial photo included as Figure 1, below. In this current configuration, the larger “donut” lot (Lot 1A) is considered an agricultural outlot and has a homestead residence visible at the end of the shared private drive in Figure 1. The smaller, centrally-located lot is considered a building lot and is called “Lot 2B”.



Figure 1: 2020 Aerial view of Horst Estate with current lot configuration

The current configuration of the NUPUD does not reflect its original approval. When the Horst Estate NUPUD application was submitted in 1980 the then property owners proposed that their roughly 40-acre parcel be divided into three lots, including two 1-acre legal building lots and a third agricultural outlot. Figure 2, below, shows the original sketch plan approved by the Land Use Department for the NUPUD with both building lots and the larger outlot included.

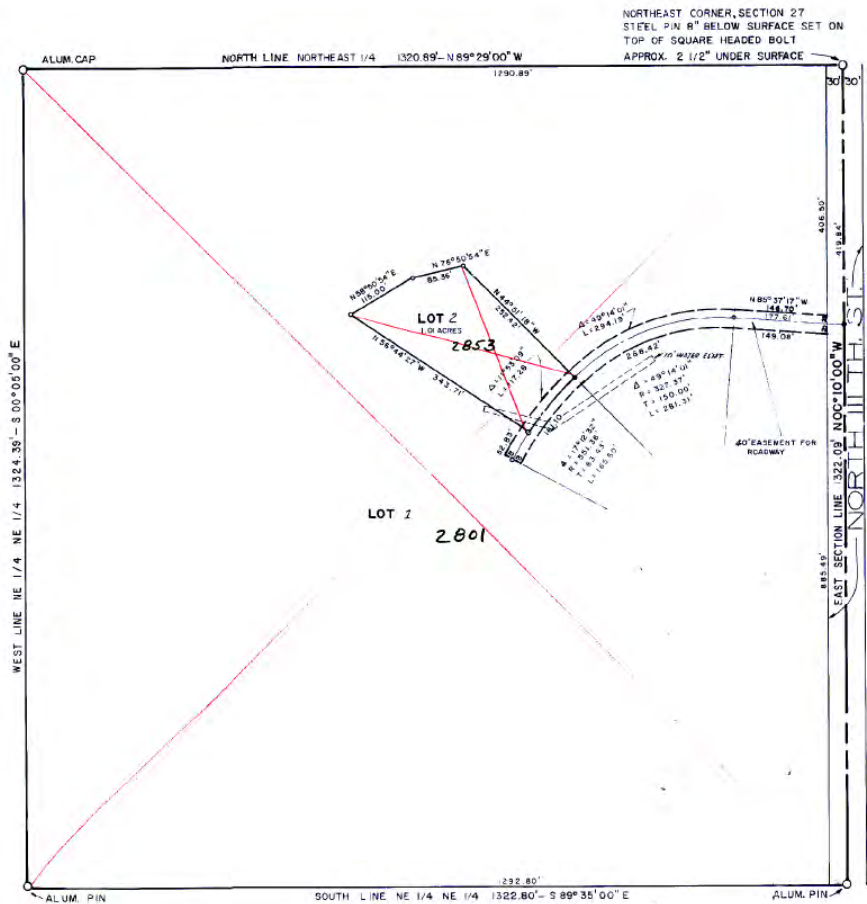
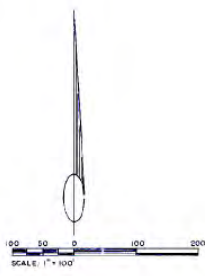


Figure 3: Original NUPUD plat

The current owners purchased Lots 1 and 2 in 2016. During the course of a Site Plan Review application to construct a residential addition and several outbuildings, staff discovered that an existing outbuilding straddled the southwestern parcel boundary of Lot 2. To fix the lot line encroachment, the owners submitted an application for Exemption Plat (EP-16-0006) to reconfigure the parcel boundaries. This exemption plat was approved by the Board of County Commissioners on September 5, 2017, and the new plat was recorded on December 4, 2017. This EP established the current lot configuration with Lots 1A and 2B, and the current plat is shown in Figure 4 below.

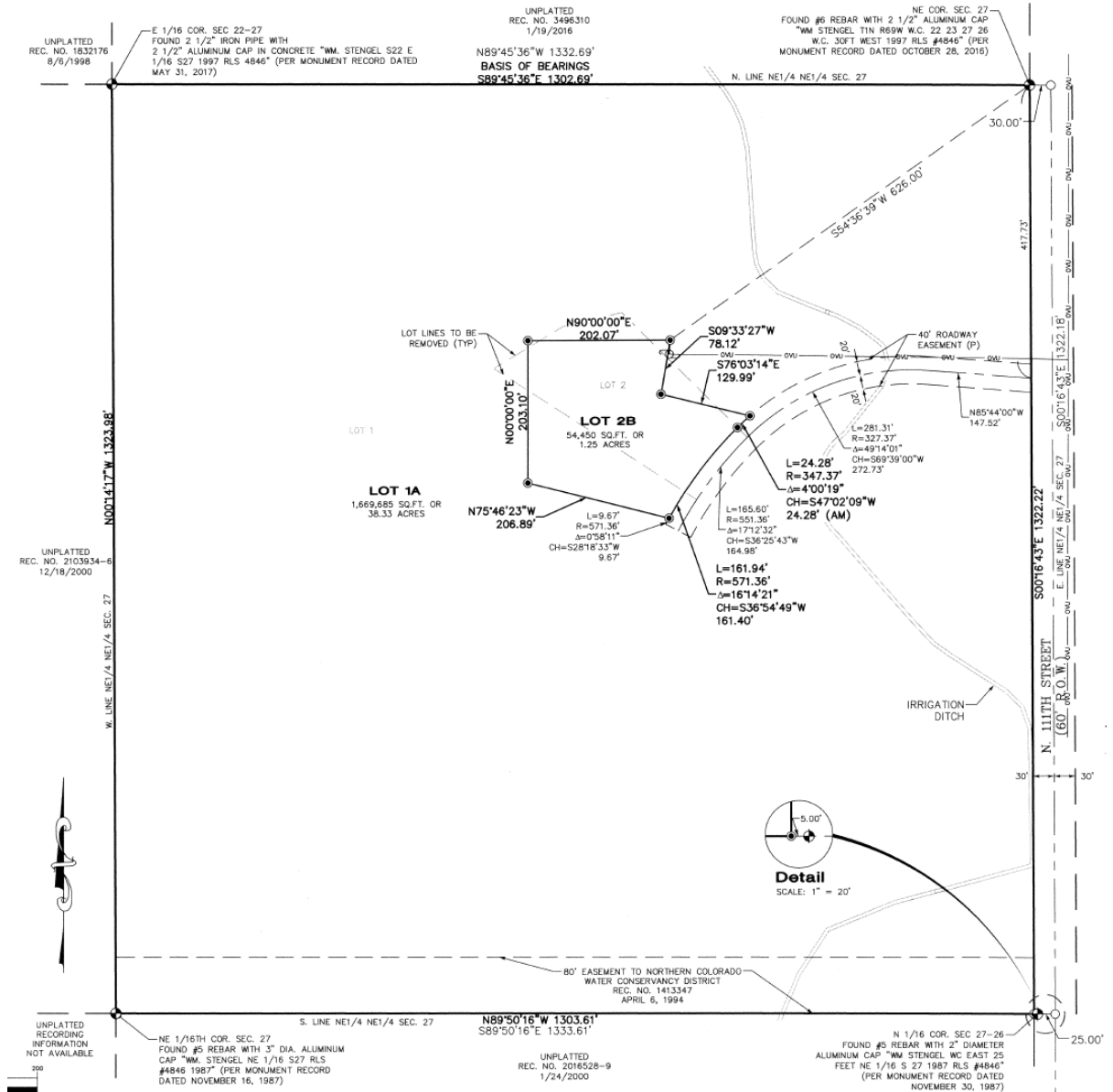


Figure 4: Current plat layout

The applicants now propose to replat the NUPUD that governs both Lots 1A and 2B in order to redraw the parcel boundaries and add a third lot as was originally contemplated prior to the NUPUD adoption. However, the proposed lot configuration differs from the original sketch plan. The applicants' proposed reconfiguration is illustrated in Figure 5 below and discussed in detail in the Criteria Review that begins on page 10.

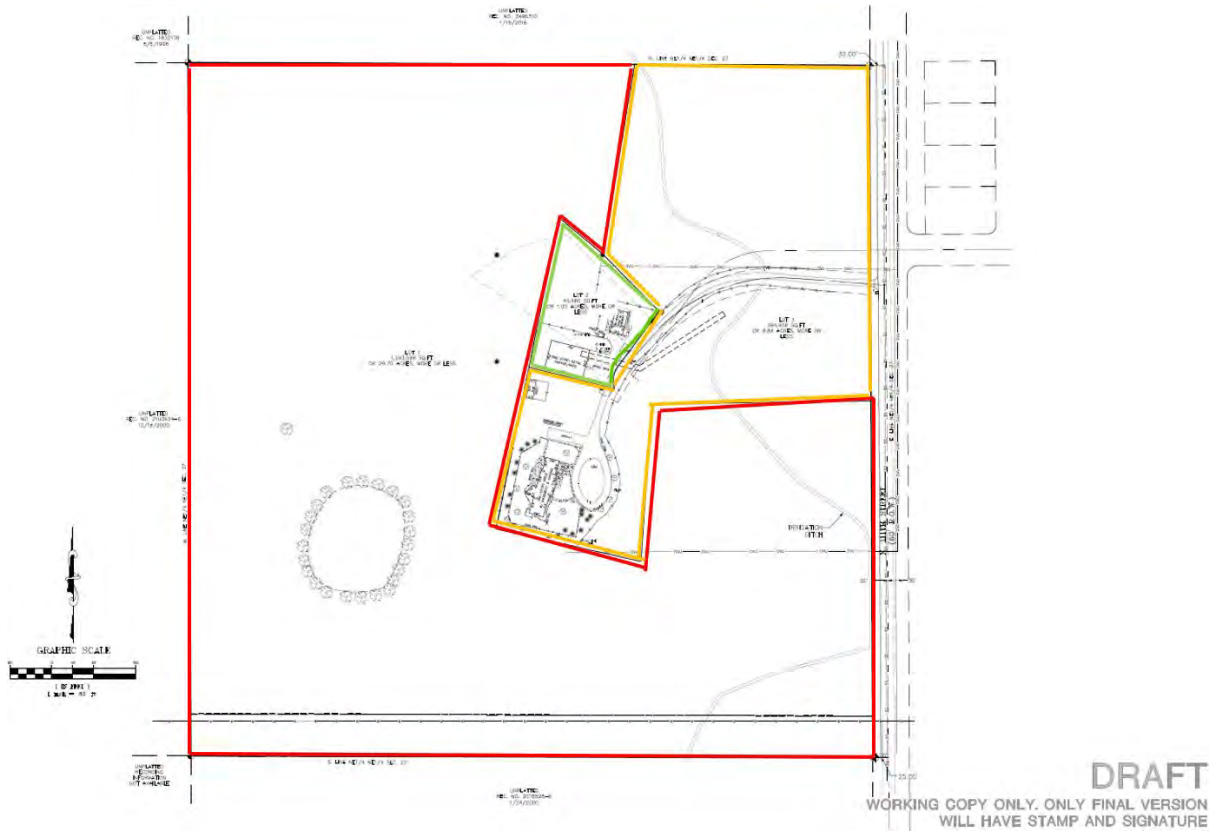


Figure 5: Proposed replat configuration

As shown in Figure 6 below, the Boulder County Comprehensive Plan identifies the entirety of the NUPUD area as Agricultural Land of National Importance. A small riparian area is also identified surrounding the pond in the southwestern quarter of Lot 1A. These resources and the potential impacts on them resulting from the proposed replat are discussed in the criteria review below.

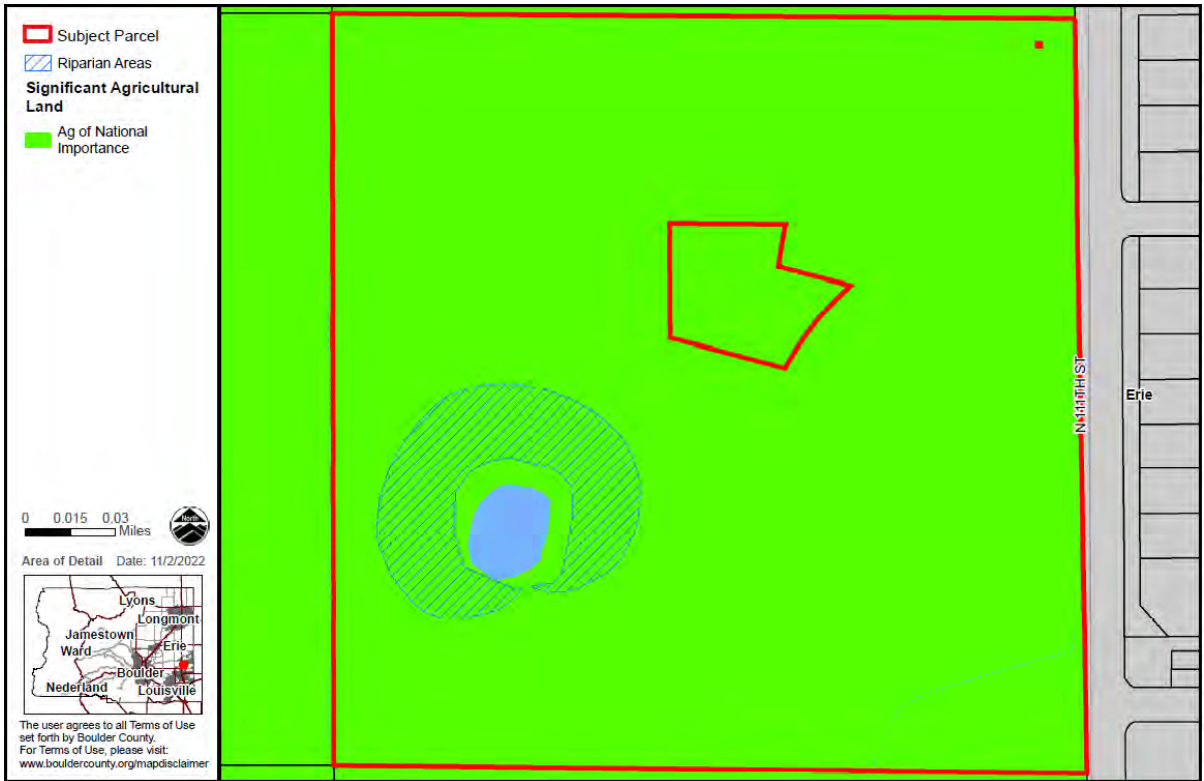


Figure 6: Comprehensive Plan map

The NUPUD area is mostly flat, as illustrated by the contour map shown in Figure 7 below. It is also crossed by irrigation laterals which can be seen in the underlying LIDAR imagery. The original NUPUD proposal referenced the irrigation lateral that can be faintly seen touching the northwestern tip of Lot 2B as a natural boundary, and this formed the northern boundary of both building lots as initially proposed in 1980.

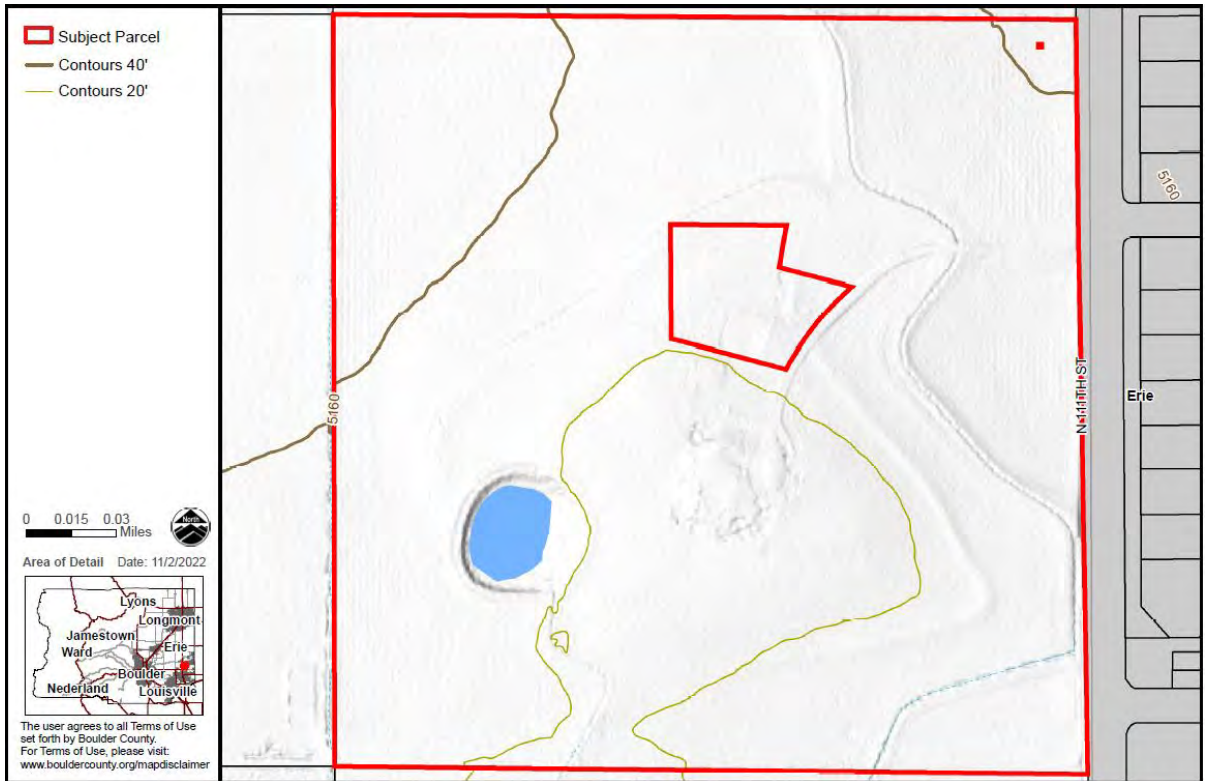


Figure 7: Contour map

County-held open space parcels are adjacent to the NUPUD lands to the west and south, as can be seen in Figure 8 below. Also shown is the county-held conservation easement that governs the agricultural outlot that was originally platted as part of the Horst Estate NUPUD. The conservation easement was not updated when the residential lot boundaries were adjusted under EP-16-0006 such that the conservation easement no longer correctly encompasses the outlot while avoiding the residential building lot. As discussed in the following criteria review, staff recommend that a new conservation easement be recorded as part of the proposed replat.



Figure 8: Public Lands and Open Space Map

As detailed in the criteria review below, staff finds that the proposed NUPUD replat can meet the NUPUD Criteria in Article 6-1000 of the Code with the recommended conditions of approval.

REFERRALS

This application was referred to the typical agencies, departments, and adjacent property owners. All responses received are attached and summarized below.

County Development Review Team – Access & Engineering (DRT-A&E): This team reviewed the proposal and confirmed that both existing lots have legal access to N. 111th Street via an easement included in the Horst Estate Subdivision Plat. DRT A&E also noted that a revised easement may be required if the proposal is approved, that the existing private road appears to meet the Boulder County Multi-modal Transportation Standards (MMTS), and that no driveway modifications are required due to the nature of the proposal.

Boulder County Parks & Open Space Department: The Conservation Easement (CE) Team reviewed the proposal and noted that, if approved, the proposal would reduce the amount of conserved land from 38.33 to 29.70 acres. CE Team staff indicated a lack of support for the proposal because it would maximize the land removed from the CE, and recommended several conditions of approval intended to restrict development on the new residential lots if the proposal is approved.

Town of Erie: The Town of Erie’s Principal Planner reviewed the proposal and noted that the NUPUD lands are located within Erie’s planning area and adjacent to the town’s municipal boundary. The response also indicated that the NUPUD lands are designated as Agriculture in the town’s Comprehensive Plan, meaning they are primarily intended for farming, ranching, and agricultural use with very low density residential development as a secondary use. Finally, the response noted that the applicants had attended a pre-application conference with the town to discuss annexation, but that annexation would require a public hearing and decision by the town’s Board of Trustees.

Adjacent Property Owners: Notices were sent to 277 adjacent property owners, and staff received two public comments in response. All comments received expressed disapproval of the proposal. Commenters expressed concerns regarding the potential for an additional residence or residences on the parcel, the intention of the applicants to annex into the Town of Erie to increase residential density, and the establishment of a precedent for increased density on nearby properties.

Agencies that responded with no conflict: Boulder County Building Safety and Inspection Services Team, Boulder County Historic Preservation Team, Boulder County Long Range Planning Team, Mountain View FPD, Town of Lyons, City of Louisville, Xcel Energy.

Agencies that did not respond: Boulder County Assessor, Boulder County Attorney, Boulder County Sheriff, Boulder County Treasurer, Boulder County Parks & Open Space Environmental Resource Planner, Boulder County Surveyor, Xcel Energy, City of Lafayette, Boulder Valley & Longmont Conservation Districts.

STANDARDS AND CRITERIA FOR APPROVAL OF A PLANNED UNIT DEVELOPMENT

The Community Planning & Permitting staff has evaluated the review standards for approval of a Non-Urban Planned Unit Development, per Article 6-1000 of the Code, and finds the following:

- (1) *The development achieves the purposes of the PUD and the Comprehensive Plan when development at one unit per 35 acres would interfere with or be counter to those purposes;*

Article 6-400.A of the Code indicates that the purpose of a NUPUD is to create “A residential PUD consisting of subdivided land which may allow for an increase in density from one dwelling unit per 35 acres up to one unit per 17.5 acres on a minimum of 320 acres in order to preserve agricultural, environmental, or open space resources. The mechanism to preserve these resources is a conservation easement held by Boulder County on that portion of the subdivided land platted as an outlot, which may not be developed for residential use.”

Staff find that the proposal to replat the Horst Estate NUPUD to enlarge the existing residential lot, plat a second, and reduce the size of the conserved outlot does not meet the criteria as proposed because it will significantly reduce the size of the CE, which runs counter to the purposes of the Comprehensive Plan. However, with the condition of approval requiring restrictive covenants as explained below, the proposal can meet the criteria because the restrictive covenants will effectively mitigate concerns related to the reduced CE and potential for increased residential development.

The applicants request to amend the CE to remove 8.63 acres of nationally significant agricultural land from conservation and instead fragment it with dense residential development. Concerns related to reduction and fragmentation of the CE are reflected in the referral response from BCPOS.

Loss of conserved land directly conflicts with the stated purpose for the creation of a NUPUD described in the Code because it removes a current protected resource from protection and will instead open that area up to residential development.

The proposal also conflicts with the Comprehensive Plan. Goal C.3 of the Plan notes that “Productive agricultural land is a limited resource of both environmental and economic value and should be conserved and preserved.” while Policy AG 1.03 specifically emphasizes the importance of “preservation and utilization of those lands identified in the Agricultural Element as Agricultural Lands of National, Statewide, or Local Importance...for agricultural or rural uses.” Contrary to this goal and policy, the proposal would remove existing preserved agricultural lands and instead open them for residential development.

Staff recognizes that the subject proposal would result in the creation of a second building lot within the NUPUD where one was previously conceptually approved by the county. This would not result in an increase in residential density on its own, because the two residential lots proposed by the applicants would encompass the existing homes without adding an additional unit of density through the creation of an entirely new building lot or the addition of a homestead unit. However, the proposed reconfiguration would allow the applicants to obtain adjacency to the Town of Erie, meaning that the parcel would be eligible for annexation. Although annexation is not part of this application, the applicants have stated that they intend to pursue annexation in order to be able to further develop the parcel.

In order to mitigate concerns with the reduction of the CE, which would conflict with the purposes of the PUD and Comprehensive Plan described above, staff recommend a condition of approval requiring the signing of restrictive covenants which prohibit the two residential lots from being further subdivided beyond one unit of residential density each, regardless of annexation.

Staff also recommends a condition of approval requiring that an amended Conservation Easement be executed over the agricultural outlot (Lot 1) to better conserve the lands that will remain outside of the residential lots. This new Easement should include provisions for a building envelope to limit the area of disturbance for any approved agricultural structures and avoid further fragmentation of the designated agricultural lands.

Therefore, as conditioned, staff finds this criterion can be met.

- (2) ***the PUD would be a benefit through the provision of interconnected open space, conservation of environmental features, aesthetic features and harmonious design, and/or energy efficient site design;***

With the recommended conditions of approval described above, the NUPUD would continue to be a benefit through the conservation of environmental features, specifically with regard to the preservation of existing Agricultural Lands of National Importance. The recommended conditions requiring an amended conservation easement over the outlot as well as restrictive covenants limiting development to one unit of residential density per lot will avoid further fragmenting these identified agricultural lands, and will preserve the aesthetic features of the unincorporated lands in the vicinity by continuing to limit their development.

Therefore, as conditioned, this criterion can be met.

- (3) ***the development will not have a material adverse impact on the surrounding area and will be in harmony and compatible with the neighborhood (compatibility includes but is not limited to size, scale, mass, architectural design, and landscaping);***

Staff have not identified any adverse material impacts that would result from the proposed replat of the NUPUD. Approval of the proposed lot reconfiguration would maintain the existing status quo of the NUPUD, in that there would be the same amount of residential density present with the recommended restrictive covenants to prevent additional density. While division of the NUPUD into three lots is somewhat uncharacteristic for the area (where unincorporated parcels to the north, west, and south are primarily 35 or more acres in size and unsubdivided), it is also adjacent to dense residential development within the Town of Erie across N. 111th Street.

With the amended CE and restrictive covenants, staff find that the proposed replat would result in a development that is in-harmony with the surrounding area because it would

preserve the existing level of development within the NUPUD by moving both existing residences into the bounds of building lots while restricting further development. As conditioned, the NUPUD would continue to serve as a transitional area between the rural unincorporated lands west of N. 111th Street and the relatively dense residential development on the east side of the ROW.

Therefore, as conditioned, staff finds this criterion can be met.

(4) *the proposal fully complies with the minimum zoning and Subdivision Regulations requirements set forth in this Code;*

Article 6-400.B.1.a of the Code requires that **“A NUPUD must contain an area of at least 320 acres, of which 75% or more is covered by one or more of the following designations identified for preservation in the Boulder County Comprehensive Plan: agricultural lands of state or national significance, designated open space, critical wildlife habitats and corridors, critical plant associations and rare plant sites, natural landmarks and natural areas, wetlands, and archeological sites; or”**

Article 6-400.B.1.c of the Code requires that **“A NUPUD may contain an area of 35 up to (but not including) 320 acres if the following circumstances are met:**

- i. 75% or more of the area is covered by one or more of the designations listed in subsection (a), above; and**
- ii. the area is within one mile of an existing municipality, or is entirely included within the Rural Preservation area of the East Central Boulder County Intergovernmental Agreement, in which case it does not have to meet (i) above, except that no NCNUPUD shall be approved in the Rural Preservation area; and**
- iii. the residences to be constructed on the proposed subdivided lots do not exceed 2,500 square feet above grade;”**

As referenced above in Article 6-400.B.1.c.i, subsection (a) includes agricultural lands of state or national significance as a designation by which the a parcel between 35 and 320 acres in size can meet the minimum qualifications for NUPUD establishment. The entirety of the NUPUD lands are designated in the Comprehensive Plan as being nationally significant agricultural lands, which exceeds the 75% requirement. The NUPUD is also directly adjacent to an existing municipality, and although one of the existing residences currently exceeds the 2,500-square-foot restriction on above-grade floor area, no new residential development is proposed as part of the application.

In order to meet this standard, staff recommend a condition of approval restricting development on the new Lot 2 parcel to 2,500 square feet of above-grade floor area, and a restriction on Lot 3 that it cannot exceed 3,520 square feet of above-grade residential floor area (which is the current total identified in the Assessor’s record).

Article 6-400.B.2 of the Code addresses the uses allowed in an NUPUD, requiring the following:

- a. Any use, or combination of uses, allowed in the underlying zoning district may be included in a NUPUD. The uses permitted in the NUPUD must be specifically defined and approved as a part of the development plan, with the following requirements:**
 - i. Outlot...Agricultural uses, and accessory agricultural structures**

- ii. **Subdivided Lots...Single family residential units, homestead units, open or intensive agricultural uses, and any use requiring special review.**

Staff recommend a condition of approval requiring that uses on the agricultural outlot be restricted to agricultural uses and accessory agricultural structures, and that the residential lots be restricted to single-family residential use and open or intensive agricultural uses. Article 6-400.B.3 addresses homestead units within NUPUDs. Although there is an existing homestead unit within the NUPUD, the proposed replat will move the homestead into a normal building lot, and staff do not have concerns related to potential increase in development of the former homestead due to the floor area and use restrictions described above.

Article 6-400.B.4 addresses the density and developed area of an NUPUD, requiring the following:

- a. **The overall density of the NUPUD shall not exceed one dwelling unit per 17.5 acres. Any fraction of a unit of density shall be rounded down to the next whole number.**
- b. **All residential improvements, including, but not limited to, subdivided lots, residential roads, recreation areas, water systems, and waste facilities, to be used by the residential area, shall be considered as part of the developed area of the NUPUD.**
- c. **In no case shall the developed area of a NUPUD exceed 25% of the total area of the NUPUD. However, the Board of County Commissioners, after review by the Planning Commission, may reduce the allowable developed area to no less than 15%, if it is determined that a reduction is justified by the unique characteristics of the particular site, including but not necessarily limited to the existence of designated agricultural lands or environmental resources.**

With the conditions limiting residential development, the proposed density for the replatted NUPUD will remain as it exists currently at one dwelling unit per 19 acres. No new residential improvements are proposed, and existing improvements are already considered a part of the NUPUD's developed area. Currently, the developed area of the NUPUD encompasses approximately three acres, or 8%, of the total NUPUD area. The proposal to replat the NUPUD would increase the developable area of the NUPUD to 9.89 acres, or 25% of the total NUPUD area. Staff do not have concerns related to the increase in developable area as long as the conditions that restrict development on the newly created parcels are met.

Article 6-400.B.5 addresses the subdivided lot and use design of the NUPUD, requiring the following:

- a. **The subdivided lots created through the NUPUD process should be located on the least productive agricultural land and in such a manner as to have little impact on any environmental or open space resource area located on the parcel. The subdivided lots shall also be located outside any known hazard area.**
- b. **The subdivided lots shall be clustered in such a manner to make efficient use of land resources and infrastructure. The subdivided lots and dwelling units in the NUPUD should also be clustered with respect to dwellings on surrounding properties. The impact on the existing uses and the rural character of the area must be included in the consideration of the number of units allowed in a cluster including undeveloped lots.**

- c. **Subdivided lots should be located nearest to utilities and roads to minimize the amount of construction and the loss of agricultural land, unless this directly conflicts with 6-400 (B)(5)(a) or other preservation goals.**
- d. **Where technically feasible, joint or common water and/or sanitation systems should be used**

It is unclear whether the original plat of the NUPUD placed the residences on the least productive agricultural land. However, it is unlikely that the land underneath the existing residences could be easily remediated if less suitable agricultural land was identified elsewhere within the NUPUD boundary. The proposed lots are also located outside of the area of moderate swelling soil potential identified by the Plan along the southern boundary of the NUPUD. The proposed lots will be clustered closely and follow logical boundaries created by existing physical development. Because the proposed lots utilize existing disturbed areas, staff find their location reasonable although they are not located as close as possible to existing public utilities and roads. The original staff recommendation for SD-80-0005 noted that platting of the third lot would require interconnection of the two existing wells within the NUPUD as well as evidence that a suitable individual sewage disposal system could be installed on the third lot. However, since the current proposal will not change the existing approved residential density of the NUPUD, joint or common water or sanitation systems are not needed at this time.

Thorough staff review of the Code’s subdivision regulations indicates that the proposal generally complies with the subdivision requirements.

Therefore, as conditioned, staff finds this criterion can be met.

(5) *the development will be in accordance with the Comprehensive Plan, and any applicable intergovernmental agreement affecting land use or development;*

Staff find that the proposal to remove identified Agricultural Lands of National Significance from conservation would conflict with the goals, policies, and objectives of the Plan. However, staff-recommended conditions of approval would sufficiently mitigate these conflicts by limiting development on these lands even though they are removed from the CE that encumbers the platted outlot.

Although the Town of Erie’s referral response indicates that the NUPUD is within their planning area and is designated as agricultural in the Town’s Comprehensive Plan, there is no active intergovernmental agreement between the Town of Erie and Boulder County that would conflict with this standard.

Therefore, as conditioned, staff finds this criterion is met.

(6) *the project will be served by adequate facilities including streets, fire protection, water and sanitation;*

The existing lots are accessed from N 111th Street, a paved Town of Erie owned and maintained right-of-way (ROW), via a private paved road within a 40-foot-wide access easement as shown on the Horst Estate Subdivision Replat A. Legal access to the subject parcels is demonstrated via the easement as shown on the Horst Estate Subdivision Replat A recorded 12/4/2017 at Reception No. 03628831.

Staff recommend a condition of approval requiring that a revised access easement be recorded on the new plat that provides vehicular access to all three lots prior to recordation.

No response was received from the Fire Protection District, but staff do not have concerns relating to the ability of emergency services to access the property. The existing private drive appears adequate to allow emergency service response, and the DRT A&E response did not require the construction of an emergency access turnaround.

Both residences are currently served by existing permitted septic systems and no concerns were expressed by Boulder County Public Health (BCPH) relating to sanitation.

Therefore, as conditioned, staff finds this criterion can be met.

- (7) ***the PUD results in no significantly greater burden on present and projected public facilities and services than development at one unit per 35 acres;***

Because, as conditioned, the proposed NUPUD replat will maintain the existing density of residential development that has existed since the early 80's, and that intensity of development has created no discernable burden on public facilities and services, staff do not have concerns that the proposed replat will create a significantly greater burden on current or projected public facilities and services.

Therefore, as conditioned, staff finds this criterion can be met.

- (8) ***undue traffic congestion or traffic hazards will not result from the proposed PUD; roadways, existing and proposed, are suitable and adequate to carry anticipated traffic within the proposed PUD and in the vicinity of the proposed PUD;***

The referral response from DRT A&E did not express concerns relating to the creation of congestion or traffic hazards related to the proposed NUPUD replat and indicated that the private access road appeared to meet residential access standards for parcels in the plains.

Therefore, staff finds this criterion can be met.

- (9) ***the development will not cause significant air, water, or noise pollution;***

Staff have not identified any concerns that the proposed NUPUD replat will cause significant air, odor, water, or noise pollution, and no referral agency responded with such a concern.

Therefore, as conditioned, staff finds this criterion is met.

- (10) ***detrimental conditions will not result due to development on excessive slopes or in geologic hazard areas;***

Staff do not have concerns that the proposed replat will result in development on excessive slopes or in geologic hazard areas. The land within the NUPUD boundaries is mostly flat, and neither of the proposed residential lots will be located in areas of identified geologic hazards (although the Plan does identify areas of moderate swelling soil potential along the southern boundary of the outlot).

Therefore, staff finds this criterion is met.

- (11) ***the soil and drainage conditions are of a sufficiently stable nature to support development, including whatever sewage disposal treatment is used;***

Structural development on the parcel appears to have been stable for decades, both existing residences are served by permitted on-site wastewater treatment systems, and no increase in residential density is proposed by the applicants. Further, BCPH expressed no concerns regarding the ability of the soil to adequately dispose of sewage.

Therefore, staff finds this criterion can be met.

- (12) ***fire hazards will not be created or increased.***

Staff have not identified any potential fire hazards that would be created or increased by the proposed replat, and no referral agency responded with such a concern.

Therefore, staff finds this criterion is met.

- (13) ***the PUD will not adversely affect any land of significant historical, cultural, recreational or aesthetic value.***

The Comprehensive Plan does not identify any lands of historic, cultural, recreational, or aesthetic value within the NUPUD, and staff could not identify any of these resources during the course of the application review. However, nearby property owners expressed concern that the proposed replat would allow the property to be developed to a higher residential density through annexation into the Town of Erie and that their views would be negatively impacted. They also expressed concerns that approval of the proposed replat and subsequent development by the applicants would establish a precedent for the same thing happening on nearby unincorporated lands, meaning that the proposal would potentially impact the aesthetic value of lands both within and outside of the NUPUD boundaries. With the previously-described staff-recommended conditions, much of the land would still be preserved and its aesthetic value maintained.

Therefore, as conditioned, staff finds this criterion is met.

- (14) ***the benefits of preservation of the larger land area which is accomplished by the banking or transfer of units shall clearly outweigh the potential impacts of approving a development which preserves a smaller area***

The proposed replat of the existing NUPUD will continue a previously-approved bank of development rights while continuing to preserve a wide swath of significant agricultural lands. While the subject proposal will decrease the total protected lands by approximately 8.6 acres, the staff-recommended conditions will still effectively restrict development of the larger platted building lots such that the land is still preserved.

Therefore, as conditioned, staff find this criterion can be met.

- (15) ***the PUD will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Boulder county***

Staff have not identified any concerns that the proposed NUPUD replat would be otherwise detrimental to the health, safety, or welfare of the present or future inhabitants of Boulder County, and no referral agency responded with such a concern.

Therefore, staff find this criterion can be met.

RECOMMENDATION

Staff has determined that the proposal can meet all the applicable criteria of the Boulder County Land Use Code for approval of an NUPUD. Therefore, staff recommends that the Planning Commission recommend conditional approval of docket *RE-21-0001 Horst Estate NUPUD Replat* to the Board of County Commissioners with the following conditions:

1. Prior to the issuance of any permits by the Boulder County Community Planning & Permitting Department and within one-year of the signing of the Resolution, the applicants shall provide a Development Agreement for review and approval by County staff. Once approved by County staff, the Development Agreement shall be signed and notarized by the applicant, and will be recorded by County staff.
2. Restrictive covenants that run with the land are required for Lot 2 and Lot 3 of the NUPUD Replat. These covenants must limit development on each parcel to one single-family residence and associated accessory structures. The covenant for Lot 2 must include a restriction that limits above-grade residential floor area on the parcel to 2,500 square feet above-grade. The covenant for Lot 3 must include a restriction that limits above-grade residential floor area on the parcel to 3,520 square feet above-grade.
 - a. These covenants must be recorded as part of the NUPUD plat.
3. Uses on the agricultural outlot are restricted to agricultural uses as described in the Code. Only accessory agricultural structures can be built on the parcel, subject to county approval through the appropriate permitting or planning process. This restriction must be recorded on the plat and reflected in the required Conservation Easement.
4. Uses on Lots 2 and 3 are restricted to single-family residential, open agriculture, or intensive agriculture as described in the Code. This restriction must be recorded on the plat.
5. A revised access easement must be included on the plat such that vehicular access is provided to all three lots.
6. The applicant must sign an amended and restated conservation easement that updates the Conservation Easement to the county's current standards and satisfies Boulder County's requirements for restrictions on this property, and confining agricultural structures to a designated building envelope.
7. The applicants shall be subject to the terms, conditions, and commitments of record and in the file for docket *RE-21-0001 Horst Estate NUPUD Replat*.



Boulder County Land Use Department

Courthouse Annex Building
2045 13th Street • PO Box 471 • Boulder, Colorado 80302
Phone: 303-441-3930
Email: planner@bouldercounty.org
Web: www.bouldercounty.org/lu
Office Hours: Mon., Wed., Thurs., Fri. 8 a.m. to 4:30 p.m.
Tuesday 10 a.m. to 4:30 p.m.

Shaded Areas for Staff Use Only

Intake Stamp

Planning Application Form

The Land Use Department maintains a submittal schedule for accepting applications. Planning applications are accepted on Mondays, by appointment only. Please call 303-441-3930 to schedule a submittal appointment.

Project Number		Project Name			
<input type="checkbox"/> Appeal <input type="checkbox"/> Correction Plat <input type="checkbox"/> Exemption Plat <input type="checkbox"/> Final Plat <input type="checkbox"/> Limited Impact Special Use <input type="checkbox"/> Limited Impact Special Use Waiver <input type="checkbox"/> Location and Extent		<input type="checkbox"/> Modification of Site Plan Review <input type="checkbox"/> Modification of Special Use <input type="checkbox"/> Preliminary Plan <input type="checkbox"/> Resubdivision (Replat) <input type="checkbox"/> Rezoning		<input type="checkbox"/> Road Name Change <input type="checkbox"/> Road/Easement Vacation <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Site Plan Review Waiver <input type="checkbox"/> Sketch Plan <input type="checkbox"/> Special Use/SSDP	<input type="checkbox"/> Special Use (Oil & Gas development) <input type="checkbox"/> State Interest Review (1041) <input type="checkbox"/> Subdivision Exemption <input type="checkbox"/> Variance <input checked="" type="checkbox"/> Other: NUPUD
Location(s)/Street Address(es) 2801 & 2853 N 111th Street Erie CO 80516					
Subdivision Name Horst Estate Subdivision					
Lot(s) 1 and 2	Block(s) n/a	Section(s) 27	Township(s) 1 North	Range(s) 69 West	
Area in Acres 39.58	Existing Zoning Agricultural	Existing Use of Property Agricultural		Number of Proposed Lots 3 total, one additional	
Proposed Water Supply Existing Wells, no change		Proposed Sewage Disposal Method Existing Onsite Septic Systems, no change			

Applicants:

Applicant/Property Owner Mark Rockwell & Kelli Sexton			Email markr@rocktonsoftware.com	
Mailing Address 2801 N 111th St				
City Erie	State CO	Zip Code 80516	Phone 303-564-5016	
Applicant/Property Owner/Agent/Consultant			Email	
Mailing Address				
City	State	Zip Code	Phone	
Agent/Consultant Mark Rockwell			Email	
Mailing Address				
City	State	Zip Code	Phone	

Certification (Please refer to the Regulations and Application Submittal Package for complete application requirements.)

I certify that I am signing this Application Form as an owner of record of the property included in the Application. I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. I understand that all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that I must sign an Agreement of Payment for Application processing fees, and that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that the road, school, and park dedications may be required as a condition of approval.

I understand that I am consenting to allow the County Staff involved in this application or their designees to enter onto and inspect the subject property at any reasonable time, without obtaining any prior consent.

All landowners are required to sign application. If additional space is needed, attach additional sheet signed and dated.

Signature of Property Owner: <i>Mark H Rockwell</i>	Printed Name Mark Rockwell	Date 11-15-21
Signature of Property Owner: <i>Kelli Sexton</i>	Printed Name Kelli Sexton	Date 11.15.21

The Land Use Director may waive the landowner signature requirement for good cause, under the applicable provisions of the Land Use Code.



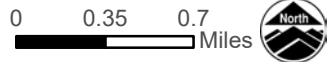
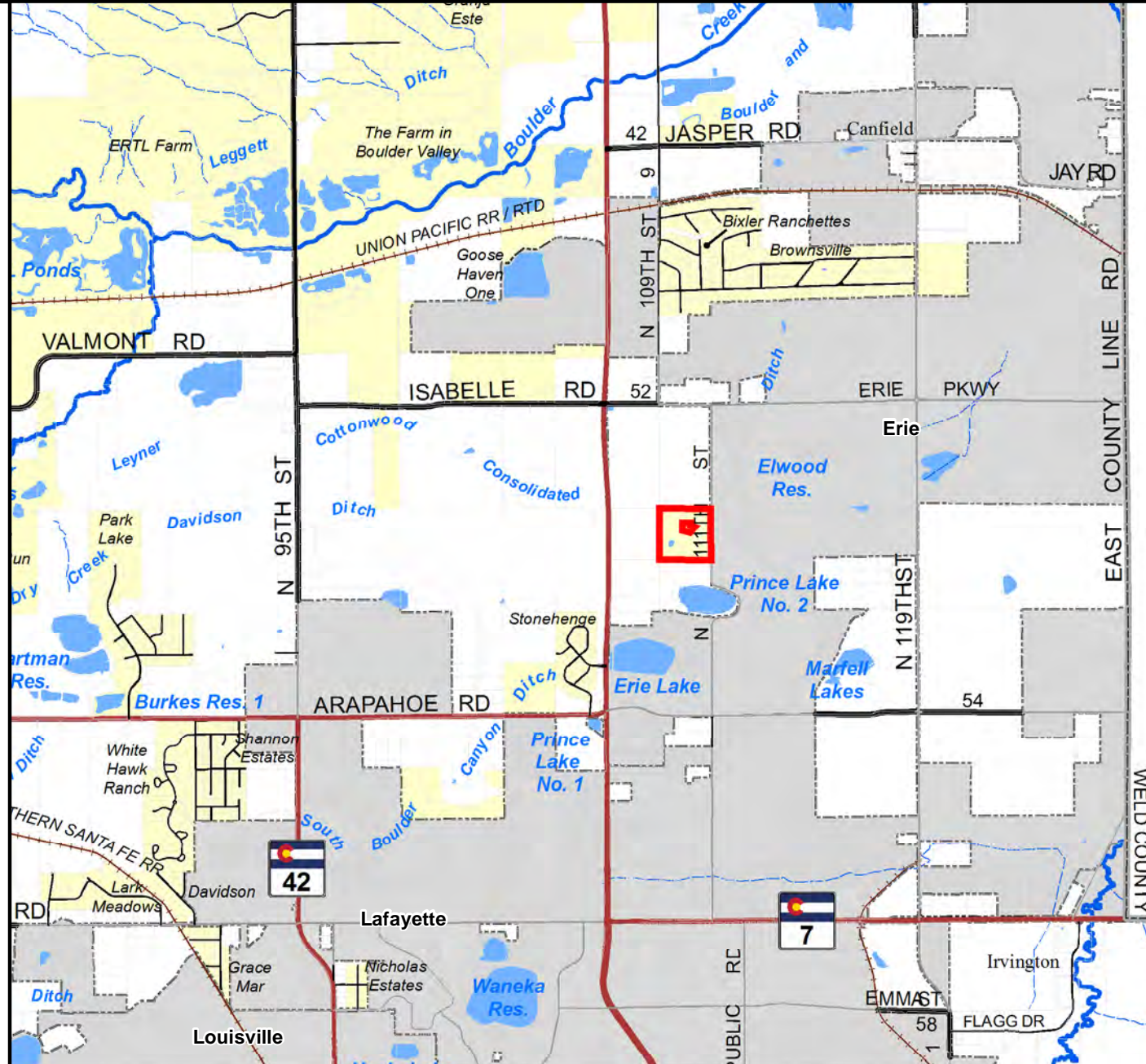
Community Planning & Permitting

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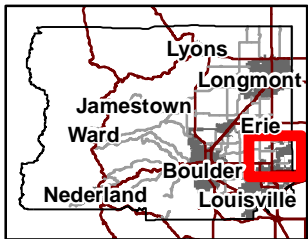
Vicinity

2853, 2801 N 111TH ST

- Subject Parcel
- Municipalities
- Subdivisions**
- Subdivisions



Area of Detail Date: 11/2/2022



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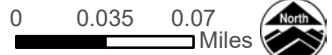
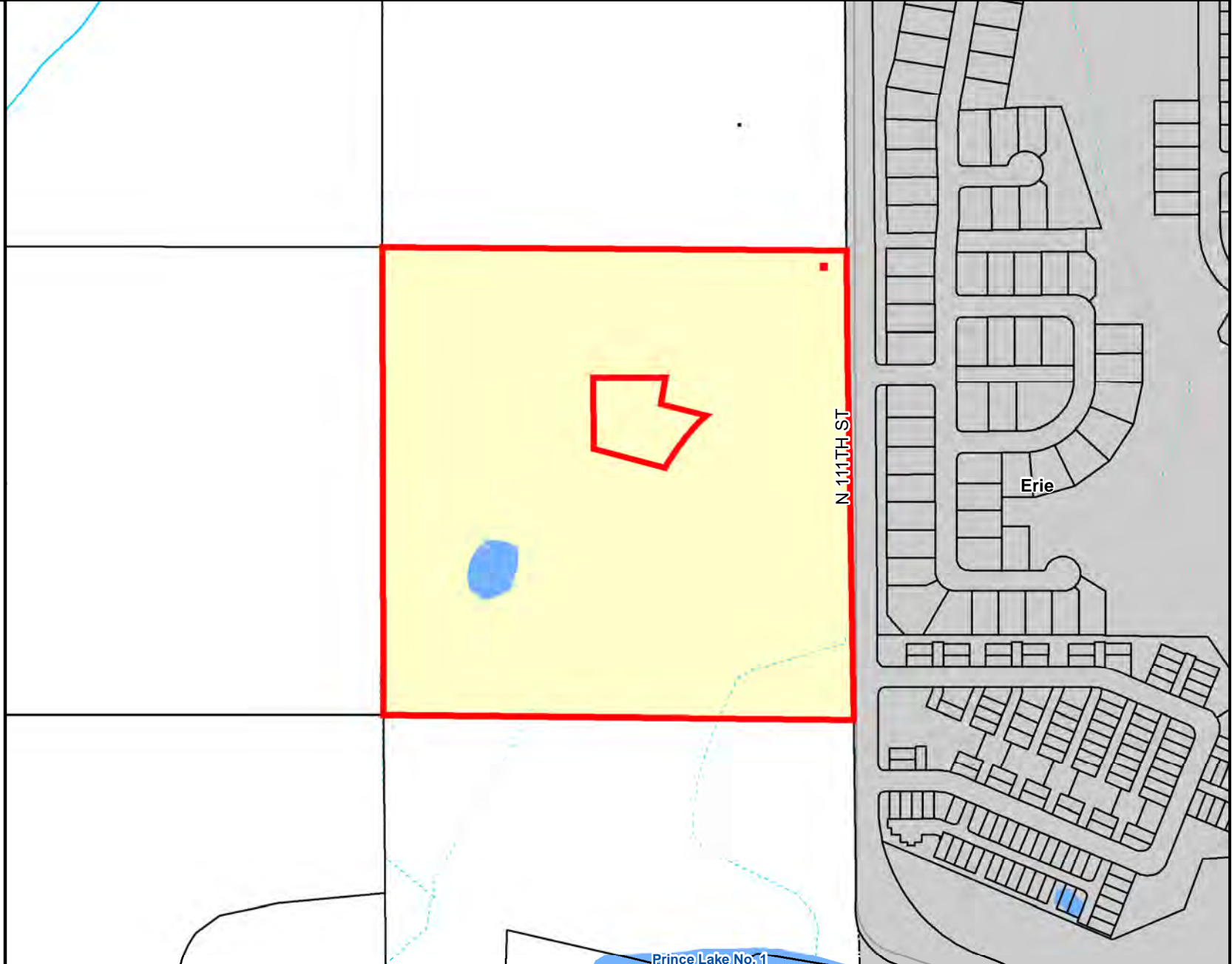
Location

2853, 2801 N 111TH ST

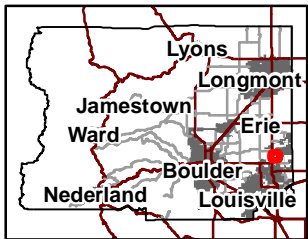
Subject Parcel

Subdivisions

Subdivisions



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Aerial

2853, 2801 N 111TH ST

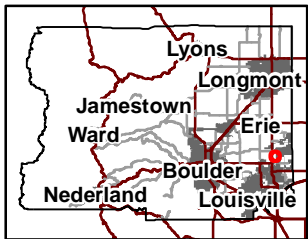
 Subject Parcel



0 0.015 0.03 Miles



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Aerial

2853, 2801 N 111TH ST

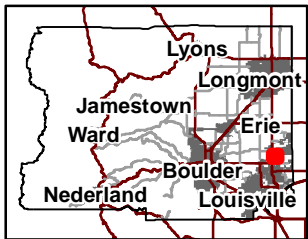
 Subject Parcel



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Comprehensive Plan

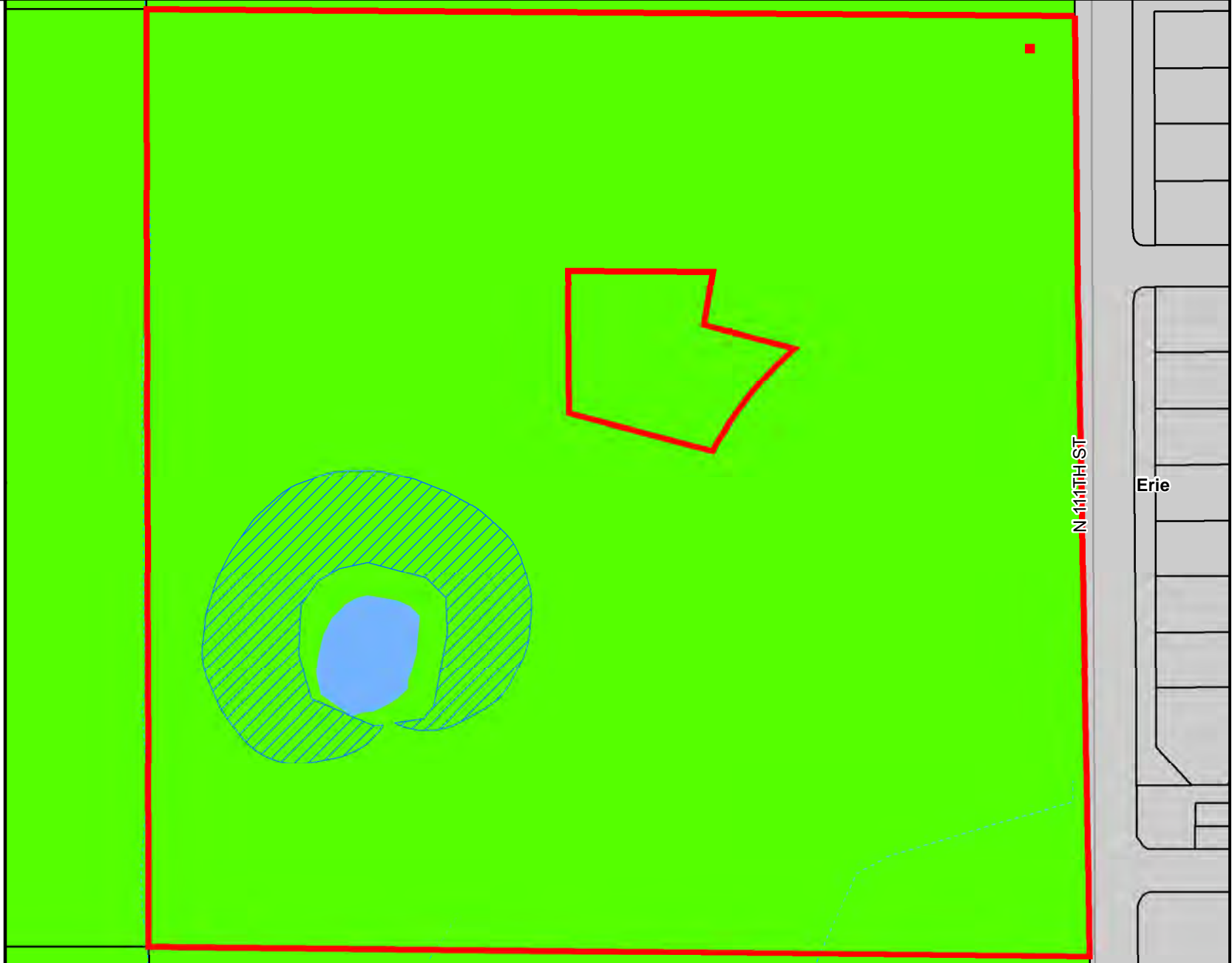
2853, 2801 N 111TH ST

Subject Parcel

Riparian Areas

Significant Agricultural Land

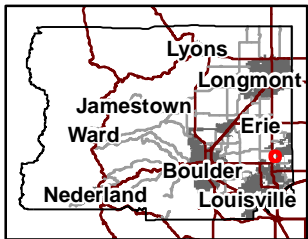
Ag of National Importance



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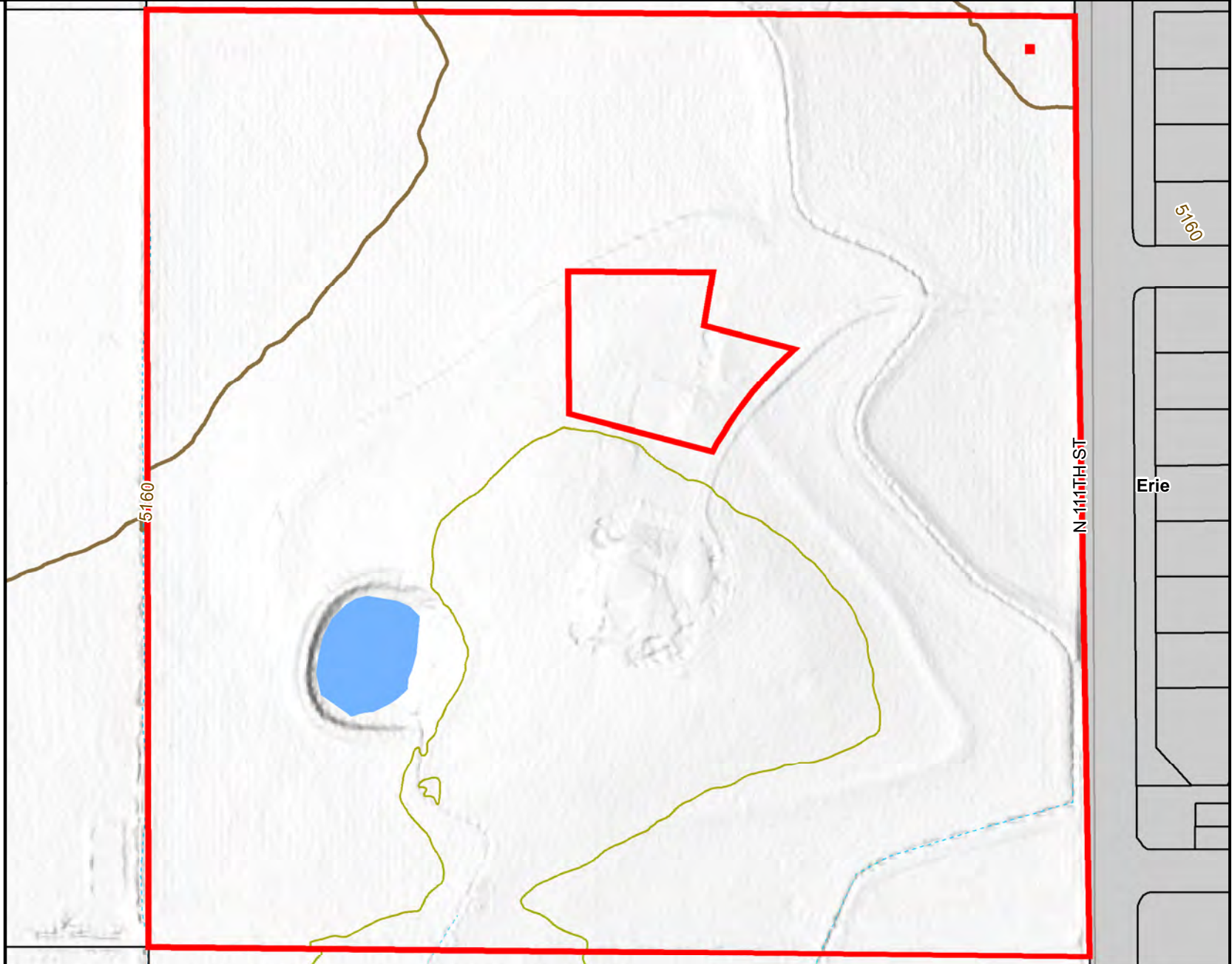
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Elevation Contours

2853, 2801 N 111TH ST

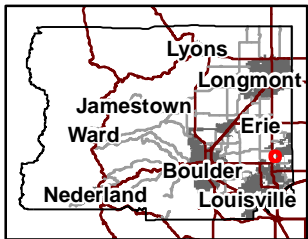
- Subject Parcel
- Contours 40'
- Contours 20'



0 0.015 0.03 Miles



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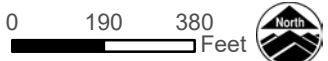
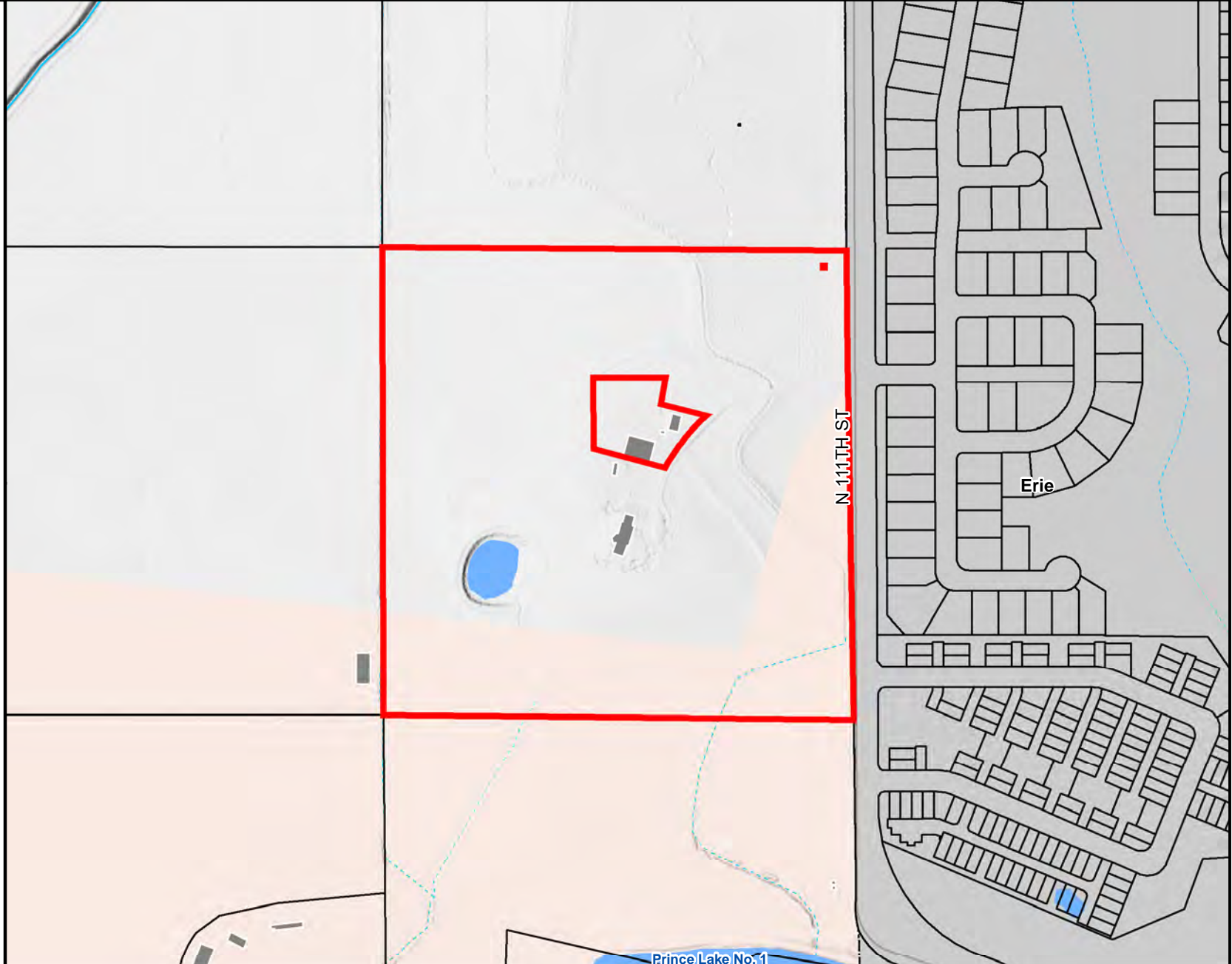
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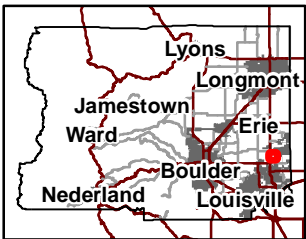
Geologic Hazards

2853, 2801 N 111TH ST

- Subject Parcel
- Moderate Swelling Soil Potential



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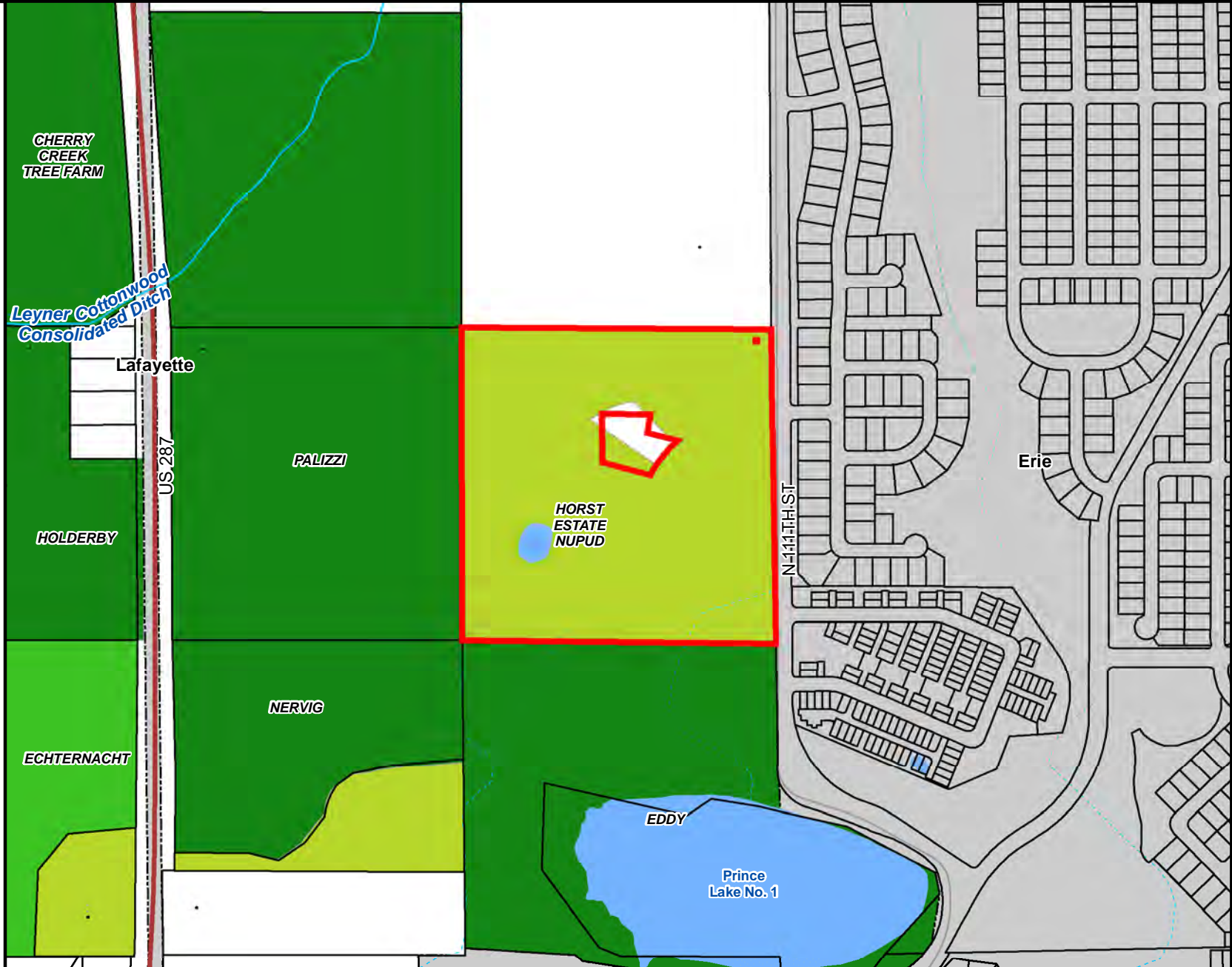
Public Lands & CEs

2853, 2801 N 111TH ST

Subject Parcel

Boulder County Open Space

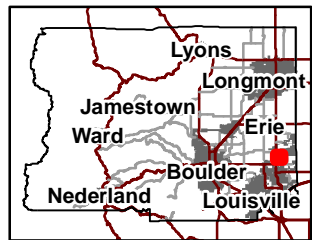
- County Open Space
- Joint County/Municipal Open Space
- County Conservation Easement



0 0.05 0.1 Miles



Area of Detail Date: 11/2/2022



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Zoning

2853, 2801 N 111TH ST

Subject Parcel

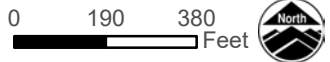
Zoning Districts

Agricultural

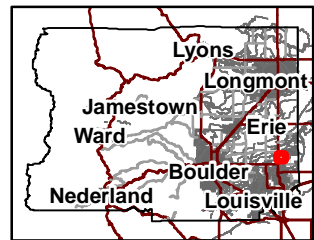
Ditch Setbacks

20 feet

50 feet



Area of Detail Date: 11/2/2022



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PROJECT DESCRIPTION

HORST ESTATE NUPUD 2022

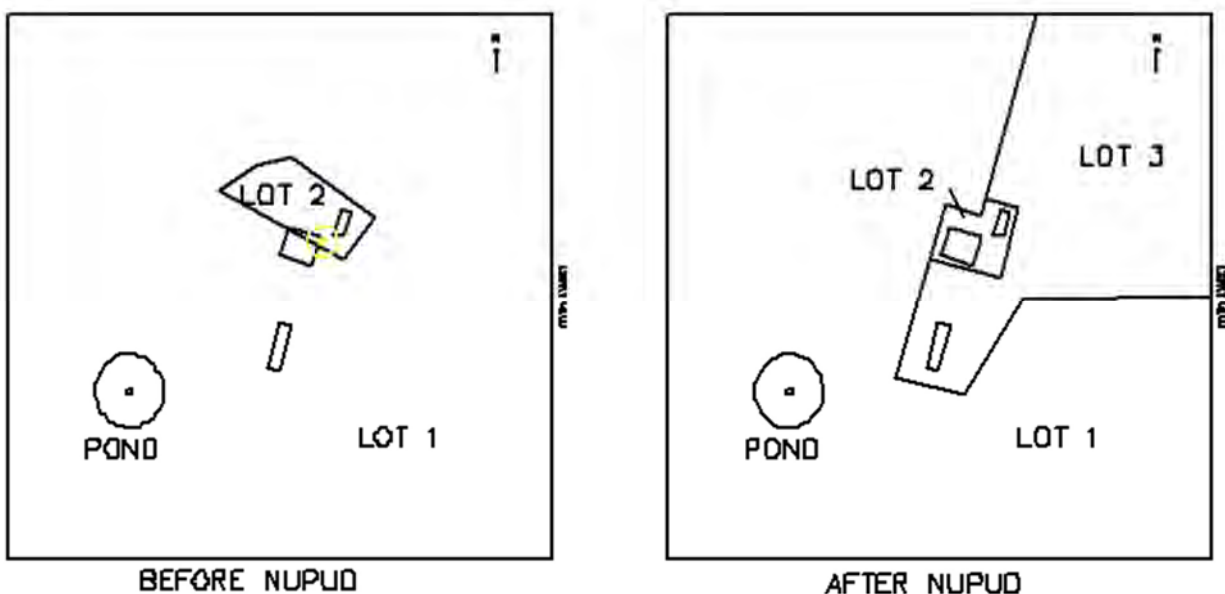
Overview

The purpose of this NUPUD project is provide a third lot to the Horst Estate property as granted in its 1982 Conservation Easement.

Summary

In the early 1980's, landowners Thomas and Cheryl Horst proposed subdividing their 39.58-acre parcel into three lots, which was approved by Boulder County. At the time, the Horsts chose to subdivide into two lots, creating a 1.01-acre donut-hole lot (Lot 2) in the center of the remaining 38.57 acres (Lot 1). This NUPUD (see PDF titled 'Horst Estate Original NUPUD 432702 1981') was recorded in 1981 with Reception #432702. Shortly after, in 1982, with the intention of keeping the right to a third lot, the Horsts granted Boulder County a simple conservation easement on Lot 1. In that CE (see PDF titled 'Horst Estate Conservation Easement 1982') the Horsts specifically allowed for the future creation of a third lot, provided Lot 1 remained in a CE and retained a minimum 75% of the entire acreage.

Because of this granting by the Horsts to allow for Lot 3, we are proposing an NUPUD process to subdivide Horst Estate into three lots. We have been in discussion with Boulder County for about five years on this project. In 2018, Boulder County's Christian Martin suggested we use an Exemption Plat process. More recently, Dale Case and Summer Frederick have advised us to use the NUPUD process to subdivide the land. It is our understanding that an NUPUD has not happened in Boulder County in over two decades, and that the process is challenging. It is our hope that in working together we can find a path forward that meets the needs and intentions of all parties.



Ownership and Replat

The Horst Estate (the entirety of Lots 1 and 2) was owned by the Horsts and changed ownership once or twice until it was purchased in August 2016 by Mark Rockwell and Kelli Sexton, who purchased Lot 1 and Lot 2. It was discovered shortly after that an outbuilding straddled the property line between Lots 1 and 2, and so the County required us to replat Lot 2 (as part of an SPR). This plat (see PDF titled 'Horst Estate Subdivision Replat A 2017') was recorded in 2017 as part of that SPR process. Unfortunately, the replat documentation is incomplete. The Assessor's online map of Lot 2 remains outdated since its update in 2017, which can lead to confusion for anyone working on this project and using electronic records.

In 2017, Lot 1, with address 2801 N 111th Street, was deeded into our personal trusts of Theatre Trust and Pink Peony Trust.

In 2017, Lot 2, with address 2853 N 111th Street, was legally deeded into the name Rockton 111, LLC.

It is useful to know that the legal ownership of these properties varies, but all ownership ties back to Mark Rockwell and Kelli Sexton. For purposes of this process and application, unless specific legal ownership is required to be specified, we will use Mark Rockwell and Kelli Sexton as applicants and owners, to hopefully help in understanding these documents.

Concept

As stated in the Boulder County Land Use Code (June 2019), Article 6, section 6-100-A-1, a PUD is "an entire development concept and shall be reviewed as a whole." We believe it is important for all parties to keep this clear directive in mind.

It is our goal to annex our residential properties into the neighboring Town of Erie. Erie has high density housing across 111th Street, and many landowners along 111th and 109th have opted to leave unincorporated Boulder County and annex into Erie. Besides being part of that community, having water and sewer resources from Erie, along with potentially other utilities such as natural gas, makes Erie compelling for us. However, we do not feel it is appropriate or warranted to move all 39.58 acres of this land into Erie, and that the portion left in the CE should remain in Boulder County.

In our discussions with Erie, they have made it clear they do not desire to annex agricultural land in a conservation easement but are willing to if we amend the zones in the Erie UDC.

Lot 2, which is currently not in a conservation easement, is on its own island oasis. It is impossible to annex Lot 2 into Erie because it lacks contiguousness with anything but Lot 1. Also, enlarging Lot 2 to include all residences would yield two residences on one lot, so a third lot is necessary to keep residential lots as part of the annexed properties. If Boulder County allowed for two residences on one lot, we could redraw Lot 2 to include both residences and be contiguous with 111th Street.

In creating Lot 3, we can encompass the primary home currently on Lot 1 and configure it in such a way as to allow for Lot 3 and Lot 2 to be contiguous to Erie, while the remainder of Lot 1 remains in the CE in Boulder County. This meets the intention of the now-expired inter-governmental agency agreement between Erie, Lafayette, and Boulder County.

If Lot 3 is not granted by Boulder County, we plan to reluctantly annex the entire 39.58 acres into Erie. Because Erie does not want property with a CE, we will need to create a new zoning option in Erie, a cumbersome approach. We could then subdivide the property in Erie, still honoring the CE, and then re-annex Lot 1 back into Boulder County. The result is the same, just much more bureaucratic and time consuming. Hopefully Boulder County will work with us to find a more direct approach by keeping the overarching goals and final Concept in mind.

During our discussions with Boulder County over the past five years, we have repeatedly asked “what’s best for Boulder County?” We have been instructed by Summer Frederick that what Boulder County wants is immaterial; that we need to apply based on what we want. We ask once again in this narrative that the County work with us on this Concept and propose alterations to our plans as appropriate to yield the most wins for all parties involved.

Benefits to the NUPUD

In our view, having our residences in Erie with most of our acreage in a protected CE in Boulder County is inevitable. The route we take is uncertain. By creating this NUPUD, we mitigate current problems and provide additional wins for the County.

- **Create a New, Modern Conservation Easement.** The 2-page 1982 conservation easement is vague, ambiguous, and open for opposing interpretation. In this NUPUD process, we allow for the newer modern conservation easement to be placed on Lot 1, which further protects the interests of Boulder County.
- **Fix the Lot 2 Donut Hole.** It has baffled many how Lot 2 could be recorded on a plat map as a donut hole amid another lot. We have an opportunity to bring Lot 2 into conformity of modern and expected parcels, which benefits everyone.
- **Eliminate a Residence in the Conservation Easement.** Parks & Open Space directors claim having a residence in a conservation easement is an anomaly and creates management problems. By moving the primary residence out of the CE, we remove the competing interests of these opposing zones.
- **Development Managed by Erie.** The Town of Erie plans to zone the proposed annexed Lots 1 and 2 as Rural Residential. This has a density of 1 residence per two acres.
- **Modern Wastewater System.** With annexation, we eliminate septic systems and have access to a reliable water source. Modern sewers provide greater community benefit over septic systems.
- **Create a Transitional Buffer.** Erie’s Flatirons Meadows development across 111th is high-density housing that abruptly changes to agricultural. This NUPUD allows for a transition to include Rural Residential in between these two zones.
- **Set a Precedent for Neighboring Land.** North of our acreage is a privately owned 60-acre farm with no conservation easement. It is highly likely that land will be annexed into Erie by the next buyer. By creating a Rural Residential area on our property, we provide a precedent to incentivize the neighboring land to also be Rural Residential, rather than high density.

Application Submittal Requirements

Table 3-202 of the Boulder County Land Use Code lists submission requirements which are outlined below.

Effectively, there is little change in this NUPUD. Lot 1 is being split into Lot 1 and 3, removing almost 30 acres of agricultural land into its own parcel. All utilities remain as-is for the existing structures.

Building Plans. There are no new structures proposed in this NUPUD, so there are no plans.

Development Report. There is no development to report.

Engineering Report. There is no engineering to report.

Landscape Plans. There is no change in any existing landscaping proposed in this NUPUD.

Mineral Rights. There are no changes or concerns related to mineral rights.

Preliminary Map. Included in the submission.

Title Information. Included in the submission.

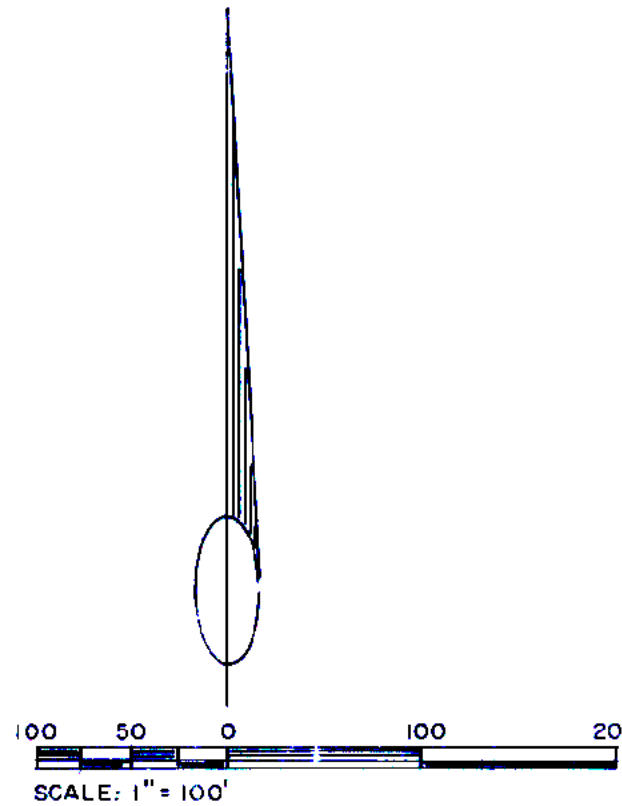
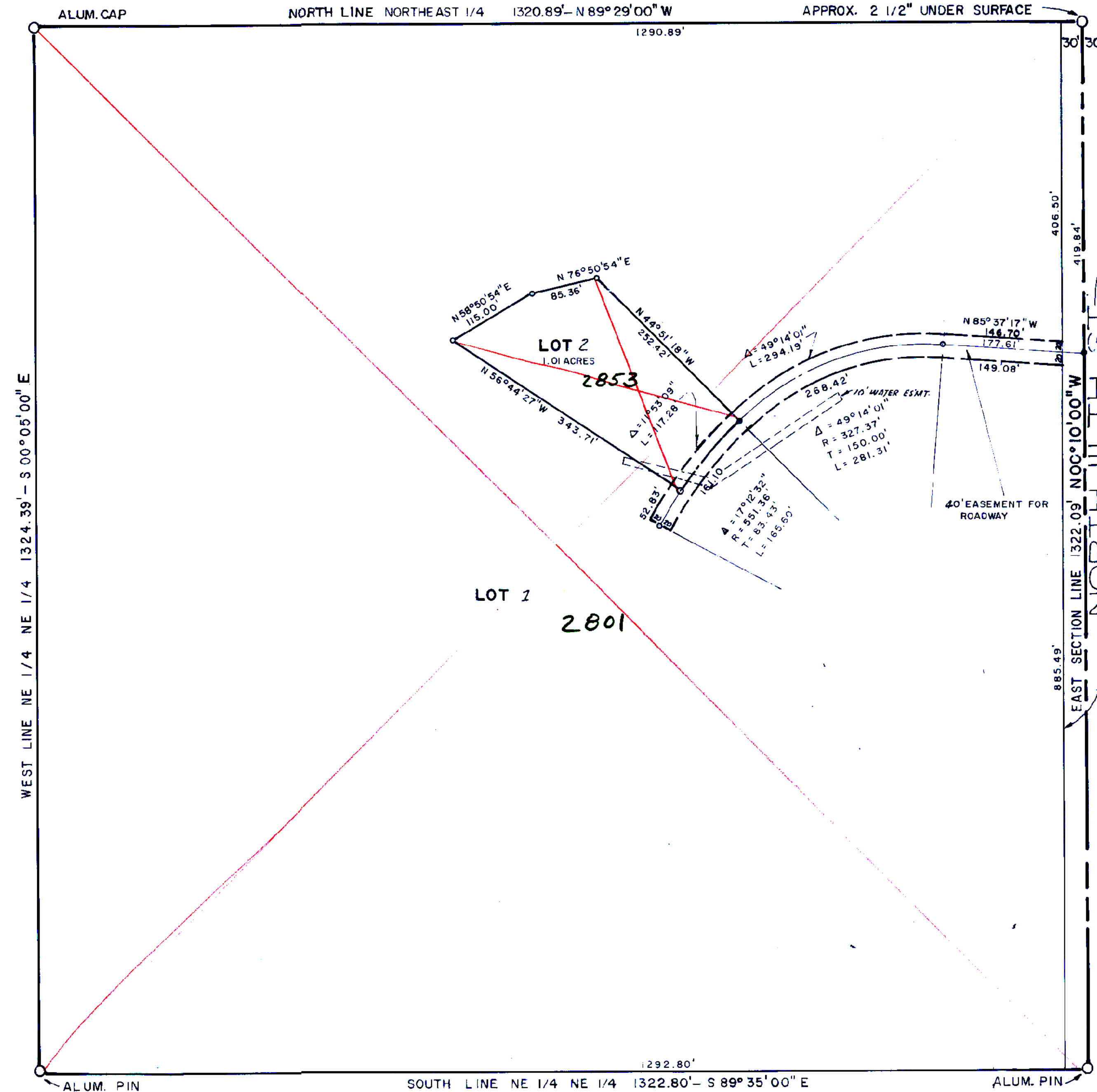
Site Plan. There are no changes to the Site, just a delineation of lots. An SPR has already been performed on this property and is actively being processed. There is no need for an additional Site Plan.

Sketch Map. This is provided as the beginning of this narrative.

HORST ESTATE SUBDIVISION

THE NE 1/4, NE 1/4 OF SEC. 27, T1N, R69W, OF THE 6PM. BOULDER COUNTY, COLORADO

NORTHEAST CORNER, SECTION 27
STEEL PIN 8" BELOW SURFACE SET ON
TOP OF SQUARE HEADED BOLT
APPROX. 2 1/2" UNDER SURFACE



PLANNING COMMISSION CERTIFICATE:

APPROVED THE 17th DAY OF December, A.D. 1980, COUNTY PLANNING COMMISSION
BOULDER COUNTY, COLORADO

CHAIRMAN Carroll Tucker

COMMISSIONERS' CERTIFICATE:

APPROVED THIS 15th DAY OF January, A.D. 1981, BOARD OF COUNTY COMMISSIONERS
BOULDER COUNTY, COLORADO.
THIS APPROVAL DOES NOT GUARANTEE THAT THE SIZE, SOIL CONDITIONS, SUBSURFACE GEOLOGY,
GROUNDWATER CONDITIONS, OR FLOODING CONDITIONS OF ANY LOT SHOWN HEREON ARE SUCH THAT
BUILDING PERMIT, WELL PERMIT, OR SEWAGE DISPOSAL PERMIT WILL BE ISSUED.
THIS APPROVAL IS WITH THE UNDERSTANDING THAT ALL EXPENSES INVOLVING REQUIRED IMPROVEMENTS
FOR ALL UTILITY SERVICES, PAVING, GRADING, LANDSCAPING, CURBS, GUTTERS, SIDEWALKS,
ROAD LIGHTING, ROAD SIGNS, FLOOD PROTECTION DEVICES, DRAINAGE STRUCTURES, AND ALL OTHER
IMPROVEMENTS THAT MAY BE REQUIRED SHALL BE THE RESPONSIBILITY OF THE SUBDIVIDER AND
NOT THE COUNTY OF BOULDER.

ATTEST: Cecilia S. McKinney CLERK OF BOARD CHAIRMAN Margaret B. Wallace

CLERK AND RECORDER'S CERTIFICATE:

(STATE OF COLORADO)
(COUNTY OF BOULDER) SS
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT 11:20 AM O'CLOCK,
2 DAY OF February, A.D. 1981, AND IS DULY RECORDED IN PLAN FILE
P-10 F-4 #25 FEES \$10.00 PAID Film 1153 Reception #432702

RECORDER Charlotte Houston DEPUTY Travis Howard

NOTARIAL CERTIFICATE:

(STATE OF COLORADO)
(COUNTY OF BOULDER)
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 15th DAY
OF January, A.D. 1981, BY Thomas A. Horst

MY COMMISSION EXPIRES SEPTEMBER 23, 1984
NOTARY PUBLIC Cynthia E. Shockey

NOTICE:

PUBLIC NOTICE IS HEREBY GIVEN THAT ACCEPTANCE OF THIS PLATTED SUBDIVISION BY THE COUNTY OF
BOULDER DOES NOT CONSTITUTE AN ACCEPTANCE OF THE ROADS AND OTHER IMPROVEMENTS REFLECTED
HEREON FOR MAINTENANCE BY SAID COUNTY.
UNTIL SUCH ROADS AND OTHER IMPROVEMENTS MEET COUNTY REQUIREMENTS AND ARE SPECIFICALLY
ACCEPTED BY THIS COUNTY BY RECORDING WITH THE CLERK AND RECORDER OF THIS COUNTY AN OFFICIAL
ACCEPTANCE, THE MAINTENANCE, CONSTRUCTION, AND ALL OTHER MATTERS PERTAINING TO OR AFFECTING
SAID ROADS AND OTHER IMPROVEMENTS AND RIGHT-OF-WAY ARE THE SOLE RESPONSIBILITY OF THE
OWNERS OF THE LAND WITHIN THIS SUBDIVISION.
THE 40' WIDE "EASEMENT FOR ROADWAY" ENCOMPASSES A PRIVATE ROAD WHICH IS TO BE
PRIVATELY MAINTAINED BY THE OWNER OR OWNERS OF LOT 1 AND LOT 2.

DEDICATION:

KNOW ALL MEN BY THESE PRESENTS
THAT THOMAS A. HORST IS THE OWNER OF THE REAL PROPERTY
SITUATED IN BOULDER COUNTY, COLORADO AND LYING WITHIN
THE EXTERIOR OF HORST ESTATE SUBDIVISION THAT IT HAS
CAUSED SAID REAL PROPERTY TO BE LAID OUT AND SURVEYED
AS HORST ESTATE SUBDIVISION, A SUBDIVISION IN THE COUNTY
OF BOULDER, STATE OF COLORADO, AND DOES HEREBY ACCEPT THE
RESPONSIBILITY FOR THE COMPLETION OF REQUIRED IMPROVEMENTS
AND DOES HEREBY DEDICATE AND SET APART ALL OF THE ROADS AND
OTHER PUBLIC IMPROVEMENTS AND PLACES AS SHOWN ON THE ACCOMPANYING
PLAT TO THE USE OF THE PUBLIC FOREVER, AND DOES HEREBY DEDICATE
THOSE PORTIONS OF SAID REAL PROPERTY WHICH ARE INDICATED AS EASEMENTS
ON THE ACCOMPANYING PLAT AS EASEMENTS FOR THE PURPOSE SHOWN HEREON,
AND DOES HEREBY GRANT THE RIGHT TO INSTALL AND MAINTAIN NECESSARY
STRUCTURES TO THE ENTITY RESPONSIBLE FOR PROVIDING THE SERVICES FOR WHICH
THE EASEMENTS ARE ESTABLISHED.

IN WITNESS WHEREOF THOMAS A. HORST HAS CAUSED HIS NAME TO BE HEREUNTO
SUBSCRIBED, THIS 15th DAY OF January, A.D. 1981
Thomas A. Horst
THOMAS A. HORST

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT A SURVEY OF THE ABOVE DESCRIBED PROPERTY
WAS MADE UNDER MY SUPERVISION AND THAT CORNERS SHOWN AND
SET BY LS NO. 2152 ARE CORRECT TO THE BEST OF MY KNOWLEDGE

Dolly S. Williams
COLO. REG. LAND SURVEYOR, L.S. 10737

ROAD IMPROVEMENT FUND
THE OWNER ACKNOWLEDGES THAT THE COUNTY IS
CONTEMPLATING THE USE OF A COUNTY-WIDE OR REGIONAL
ROAD SYSTEM IMPROVEMENT FUND TO FACILITATE
ROAD IMPROVEMENTS NECESSITATED BY NEW
DEVELOPMENTS, AND THAT AT SUCH TIME AS LOT 2 IS
ELIGIBLE FOR A BUILDING PERMIT THE LOT WILL BE
SUBJECTED TO ASSESSMENTS OF ANY SUCH ESTABLISHED
BY RESOLUTION OF THE COUNTY COMMISSIONERS.

485003

Reception No: Charlotte Houston, Boulder County Recorder

GRANT OF CONSERVATION EASEMENT

THIS INDENTURE, entitled Grant of Conservation Easement, made this 23 day of FEBRUARY, 1982 by and between THOMAS A. HORST AND CHERYL LYNN HORST, Grantors, and THE COUNTY OF BOULDER, a body corporate and politic, Grantee:

WITNESSETH:

WHEREAS, the Grantors are the owners in joint tenancy and fee simple of a certain tract of real property designated as Lot 1 on the plat of Horst Estate Subdivision, a part of the NE $\frac{1}{4}$ of Section 27, Township 1 North, Range 69 West of the 6th P.M. in the County of Boulder, State of Colorado; and

WHEREAS, the Grantee has determined that to accomplish the purpose of preserving agricultural land, it is desirable to acquire a conservation easement which preserves open land for agricultural purposes within the above-described property, and Grantor is willing to grant the same;

NOW, THEREFORE, the Grantors, for the sum of Ten Dollars and other good and valuable consideration to the said Grantor in hand paid by the Grantee, the receipt of which is hereby confessed and acknowledged, has granted and conveyed and by these presents does grant and convey a conservation easement over Lot 1 of the Horst Estate Subdivision to Grantee, its successors and assigns, which easement shall be described in the following manner, to-wit:

1. This conservation easement shall:

A. Prohibit the Grantors, their successors and assigns, from erecting or constructing any residential structures or structures which are not accessory to an existing principal agricultural use on Lot 1; the construction of agriculturally related buildings and structures may be permitted on this property as long as they are not for residential purposes, they are constructed and used as accessory structures to a single principal use of agriculture, and are determined to be such in accordance with County Land Use regulations.

B. Prohibit the Grantors, their successors and assigns, from dividing such Lot 1 into two or more parcels, separate interests, or interests in common, unless exempted under CRS 30-28-101(10)(d), 1973, as amended, or resubdivided under the applicable provisions of the Boulder County Subdivision Regulations.

C. Prohibit the Grantors, their successors and assigns, from erecting, constructing, or expanding any structure and/or pavement on Lot 1, such that the total coverage of structure and/or pavement on such Lot 1 exceeds 10 acres or 10% of the area of such Lot 1, whichever is less, unless the use of such structure and/or pavement is accessory to a principal open agricultural use and required by government regulation.

D. Require the Grantors, their successors and assigns, provide for the management and use of Lot 1 as a single agricultural unit, and cause the assignment of maintenance responsibility for such Lot 1 to a single legally responsible individual who is a resident of Boulder County.

2. The Grantors further grant through this conservation easement to the Grantee, its agents and contractors, the right to enter upon the property described above to inspect for violations of the terms and covenants of this easement and to remove or eliminate any conditions

or operations which violate the same as may be desirable or necessary. No further right of access, entry or possession is conveyed hereby.

- 3. The easement granted herein shall run with the land and shall remain an easement on the land until terminated or transferred by the Grantee and by the operation of all of the following provisions:
 - A. Where the Boulder County Planning Commission and Boulder County Board of Commissioners have determined that the proposed and/or allowed development and/or land use resulting from such termination or transfer is consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use regulations
 - B. And the recipient(s) of these transferred interests or rights is (are) a municipality and/or the owner (2) of fee title; and in the instance where these interests or rights are to be transferred to a municipality which is not owner of fee title, Boulder County will:
 - I require the consent of or compensation to the owner(s) of fee title at an amount equal to the fair market value of such interest or rights, less costs of transfer, and
 - II condition or restrict the transfer to prohibit use for future speculative purposes by the municipality.

It is understood, that Grantee may require compensation for and attach conditions to these transfers, and that these conditions may include restrictions of the future use of Lot 1.

4. It is acknowledged and understood that the easement granted herein shall not have the effect of adding any additional restrictions to the use of the existing residence on Lot 1 as a single-family dwelling or of preventing the expansion or addition to the existing use or structure, as long as the proposed use is in compliance with the applicable requirements of the Boulder County Zoning Resolution and the Boulder County Subdivision Regulations.

5. Upon application by the Grantors for an additional lot on the property, and upon approval of such by the County, the Grantee agrees to release this conservation easement provided that a new conservation easement in favor of the Grantee is recorded encompassing a minimum of 75% of the total land area described on the plat recorded at Reception # 432702 of the records of the Boulder County Clerk and Recorder's Office, which conservation easement limits the use of the property described therein in like manner to the provisions of Items 1, 2 and 3 above.

IN WITNESS WHEREOF, the said Grantors have caused their names to be hereunto subscribed the day and year first above written.

Thomas A. Horst
Grantor

STATE OF COLORADO)
)
COUNTY OF BOULDER)

Cheryl Horst
Grantor

The foregoing instrument was acknowledged before me this 23 day of February, 1982, by Thomas A. Horst and Cheryl Lynn Horst
Witness my hand and official seal.

My commission expires: My Commission expires Jan. 14, 1984

J. Ellen Kull
Notary Public



HORST ESTATE SUBDIVISION REPLAT A

A REPLAT OF LOTS 1 & 2, HORST ESTATE SUBDIVISION, LOCATED IN THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 1

Parcel Description
LOTS 1 AND 2, HORST ESTATE SUBDIVISION, COUNTY OF BOULDER, STATE OF COLORADO

Ownership Certificate

KNOW ALL PERSONS BY THESE PRESENTS, THAT THE UNDERSIGNED, ARE THE OWNERS OF THAT REAL PROPERTY SITUATED IN THE COUNTY OF BOULDER, STATE OF COLORADO, AND LYING WITHIN THE EXTERIOR BOUNDARY OF HORST ESTATE SUBDIVISION, A SUBDIVISION IN THE COUNTY OF BOULDER, STATE OF COLORADO, THAT THE UNDERSIGNED HAVE CAUSED SAID REAL PROPERTY TO BE LAID OUT AND SURVEYED AS "HORST ESTATE SUBDIVISION REPLAT A" IN THE COUNTY OF BOULDER, STATE OF COLORADO.

OWNER LOT 1:
THEATRE TRUST

Mark Rockwell
MARK ROCKWELL, AS TRUSTEE OF THEATRE TRUST

ACKNOWLEDGEMENT

STATE OF COLORADO } SS.
COUNTY OF BOULDER

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 6th DAY OF November, 2017, BY MARK ROCKWELL, AS TRUSTEE OF THEATRE TRUST

WITNESS MY HAND AND OFFICIAL SEAL

MY COMMISSION EXPIRES: 01/28/2018

NOTARY PUBLIC

OWNER LOT 1:
PINK PEONY TRUST

Kelli Sexton
KELLI SEXTON, AS TRUSTEE OF PINK PEONY TRUST

ACKNOWLEDGEMENT

STATE OF COLORADO } SS.
COUNTY OF BOULDER

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 6th DAY OF November, 2017, BY KELLI SEXTON, AS TRUSTEE OF PINK PEONY TRUST.

WITNESS MY HAND AND OFFICIAL SEAL

MY COMMISSION EXPIRES: 01/28/2018

NOTARY PUBLIC

OWNER LOT 2:
ROCKTON 111, LLC

Mark Rockwell
MARK ROCKWELL, AS MEMBER MANAGER

Kelli Sexton
KELLI SEXTON, AS MEMBER MANAGER

ACKNOWLEDGEMENT

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 6th DAY OF November, 2017, BY MARK ROCKWELL, AS MEMBER MANAGER AND KELLI SEXTON AS MEMBER MANAGER, OF ROCKTON 111, LLC.

WITNESS MY HAND AND OFFICIAL SEAL

MY COMMISSION EXPIRES: 01/28/2018

NOTARY PUBLIC

Legend

- ◆ FOUND ALIQUOT MONUMENT AS DESCRIBED
- SET 18" #5 REBAR WITH 1 1/2" ALUMINUM CAP "FLATIRONS SURV 16406"
- CALCULATED ALIQUOT MONUMENT FROM FOUND OFFSET
- (P) AS PER THE PLAT OF HORST ESTATE SUBDIVISION REC. NO. 432702

Authorization To Record

I, *Debra Gardner*, SECRETARY TO THE BOULDER COUNTY PLANNING COMMISSION, DO HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE ALL CONDITIONS OF COUNTY APPROVAL OF THIS PLAT OF HORST ESTATE SUBDIVISION REPLAT A HAVE BEEN FULLY SATISFIED AND THAT THE SAME IS HEREBY AUTHORIZED FOR RECORDATION.

WITNESS MY HAND ON THE 14 DAY OF Nov, 2017.

Debra Gardner
SECRETARY TO THE BOULDER COUNTY PLANNING COMMISSION

Notes

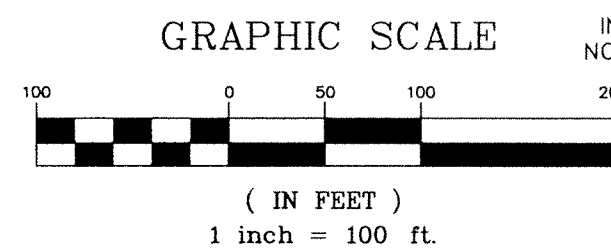
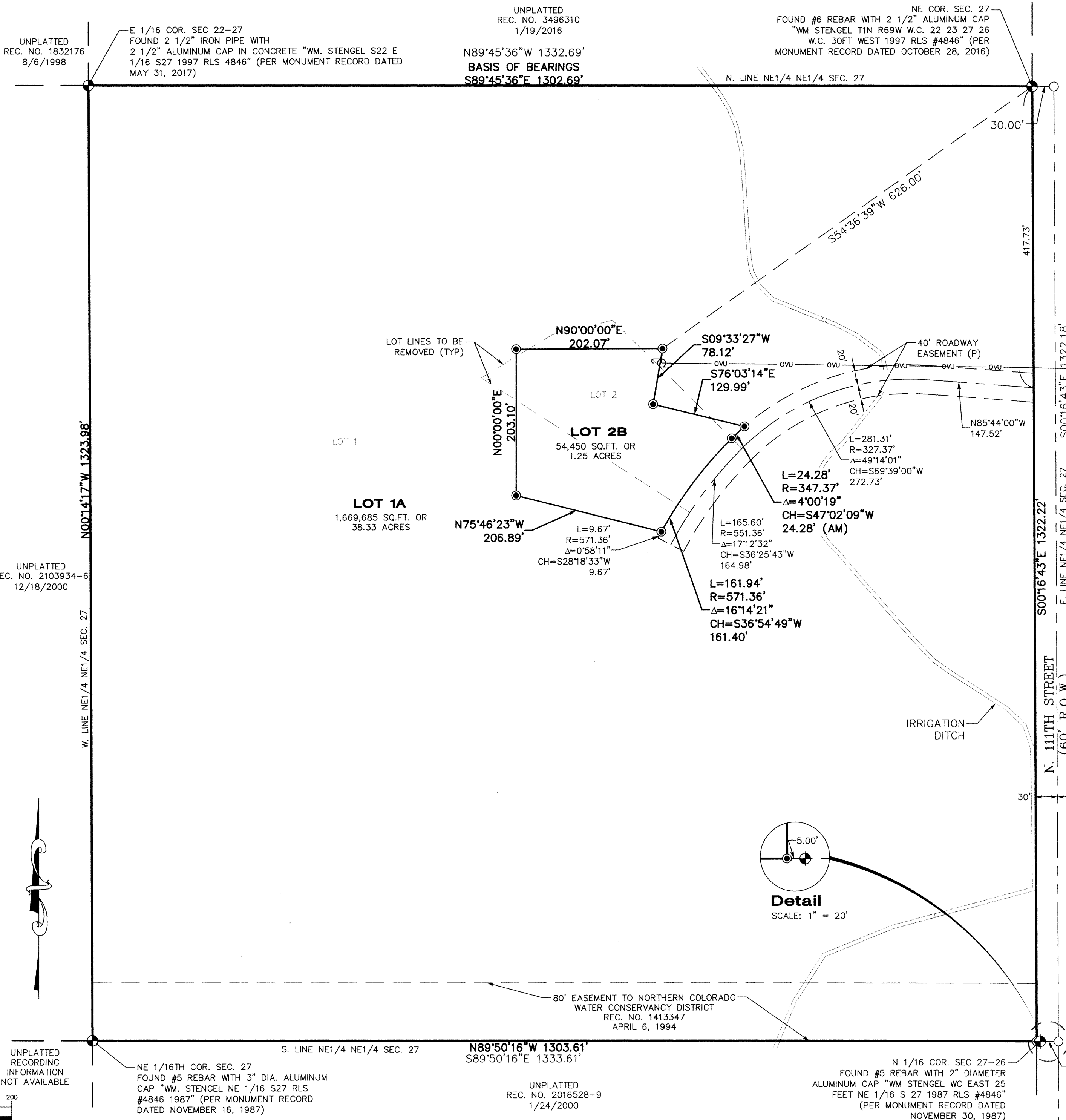
- FIDELITY NATIONAL TITLE INSURANCE COMPANY COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0540358 (LOT 1, HORST ESTATE SUBDIVISION), DATED AUGUST 8, 2017 AT 6:00 P.M., AND FIDELITY NATIONAL TITLE INSURANCE COMPANY COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0545099 (LOT 2, HORST ESTATE SUBDIVISION), DATED AUGUST 8, 2016 AT 5:00 P.M. WERE ENTIRELY RELIED UPON FOR RECORDED INFORMATION REGARDING RIGHTS-OF-WAY, EASEMENTS AND ENCUMBRANCES IN THE PREPARATION OF THIS SURVEY. THE PROPERTY SHOWN AND DESCRIBED HEREON IS ALL OF THE PROPERTY DESCRIBED IN SAID TITLE COMMITMENTS.
- 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.
- BASEIS OF BEARINGS: GPS DERIVED BEARINGS BASED ON A BEARING OF S89°45'36"E ALONG THE NORTH LINE OF THE NE1/4 NE1/4 SEC 27, BETWEEN A FOUND 2 1/2" IRON PIPE WITH 2 1/2" ALUMINUM CAP IN CONCRETE "WM. STENGL TIN R69W W.C. 22 23 27 26" AT THE E 1/16TH CORNER OF SECTIONS 22-27 AND A FOUND #6 REBAR WITH 2 1/2" ALUMINUM CAP "WM STENGL TIN R69W W.C. 22 23 27 26" W.C. 30FT WEST 1997 RLS #4846" AT THE 30 FOOT WITNESS CORNER TO THE NORTHEAST CORNER OF SECTION 27 AS SHOWN HEREON. COLORADO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM 1983 (NAD83). ALL BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT AND/OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE C.R.S. SEC 18-4-508. WHOEVER WILLFULLY DESTROYS, DEFACES, CHANGES, OR REMOVES TO ANOTHER PLACE ANY SECTION CORNER, QUARTER-SECTION CORNER, OR MEANDER POST, ON ANY GOVERNMENT LINE OF SURVEY, OR WILLFULLY CUTS DOWN ANY WITNESS TREE OR ANY TREE BLAZED TO MARK THE LINE OF A GOVERNMENT SURVEY, OR WILLFULLY DEFACES, CHANGES, OR REMOVES ANY MONUMENT OR BENCH MARK OF ANY GOVERNMENT SURVEY, SHALL BE FINED UNDER THIS TITLE OR IMPRISONED NOT MORE THAN SIX MONTHS, OR BOTH, 18 U.S.C. § 1185B.
- THE DISTANCE MEASUREMENTS SHOWN HEREON ARE U.S. SURVEY FOOT.
- DATES OF FIELDWORK: OCTOBER 1, 2017 (CREW CHIEF D. WILSON)
- THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE DOCUMENT (COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0540358) AND APPEAR TO AFFECT THE SUBJECT PROPERTY BUT CANNOT BE SHOWN GRAPHICALLY. THE FOLLOWING LIST CONTAINS THE TITLE DOCUMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.

#3 JULY 11, 1891	BK 138, PG 518	RESERVATION OF MINERALS
MAY 17, 2002	REC. NO. 2288464	REQUEST FOR NOTIFICATION OF SURFACE DEVELOPMENT
#6 FEB 2, 1981	REC. NO. 432703	CONSERVATION EASEMENT
#7 APRIL 23, 1981	REC. NO. 443242	OIL AND GAS LEASE
FEB 3, 1984	REC. NO. 602452	AFFIDAVIT
JUNE 12, 1995	REC. NO. 1523079	AGREEMENT TO AMEND
JAN 23, 2001	REC. NO. 2112338	NOTICE OF OIL AND GAS INTERESTS AND SURFACE USE
#8 MARCH 1, 1982	REC. NO. 485003	CONSERVATION EASEMENT
#10 OCT 23, 2007	REC. NO. 2890878	REQUEST FOR NOTIFICATION OF SURFACE DEVELOPMENT
#11 DEC 21, 2007	REC. NO. 2900941	REQUEST FOR NOTIFICATION
#13 AUG 2016	REC. NO. 03535622	DEED OF TRUST
#14 AUG 8, 2016	REC. NO. 3535665	AGREEMENT FOR A REPAIR TO AN ONSITE WASTEWATER TREATMENT SYSTEM
- THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE DOCUMENT (COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0540358) AND DO NOT APPEAR TO AFFECT THE SUBJECT PROPERTY. THE FOLLOWING LIST CONTAINS THE TITLE DOCUMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.

#4 MAY 4, 1997	REC. NO. 221094	PUBLIC SERVICE LICENSE/EASEMENT (LOCATED EAST AND NORTH)
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- THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE DOCUMENT (COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0545099) AND APPEAR TO AFFECT THE SUBJECT PROPERTY BUT CANNOT BE SHOWN GRAPHICALLY. THE FOLLOWING LIST CONTAINS THE TITLE DOCUMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.

#3 JULY 11, 1891	BK 138, PG 518	RESERVATION OF MINERALS
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#8 DEC 21, 2007	REC. NO. 2900941	REQUEST FOR NOTIFICATION
#10 AUG 8, 2016	REC. NO. 3535665	AGREEMENT FOR A REPAIR TO AN ONSITE WASTEWATER TREATMENT SYSTEM
- THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE DOCUMENT (COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0540358) AND DO NOT APPEAR TO AFFECT THE SUBJECT PROPERTY. THE FOLLOWING LIST CONTAINS THE TITLE DOCUMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.

#4 MAY 4, 1997	REC. NO. 221094	PUBLIC SERVICE LICENSE/EASEMENT (LOCATED EAST AND NORTH)
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Board of Commissioner's Approval

APPROVED THIS 15th DAY OF November, 2017 BOARD OF COMMISSIONERS, BOULDER COUNTY, COLORADO. THIS APPROVAL DOES NOT GUARANTEE THAT THE SIZE, SOIL CONDITIONS, SUBSURFACE GEOLOGY, GROUND WATER CONDITIONS, OR FLOODING CONDITIONS OF ANY LOT SHOWN HEREON ARE SUCH THAT A BUILDING PERMIT, WELL PERMIT, OR SEWAGE DISPOSAL PERMIT WILL BE ISSUED. THIS APPROVAL IS WITH THE UNDERSTANDING THAT ALL EXPENSES INVOLVING REQUIRED IMPROVEMENTS FOR ALL UTILITY SERVICE, PAVING, LANDSCAPING, CURBS, GUTTERS, SIDEWALKS, ROAD LIGHTING, ROAD SIGNS, FLOOD PROTECTION DEVICES, DRAINAGE STRUCTURES AND ALL OTHER IMPROVEMENTS THAT MAY BE REQUIRED SHALL BE THE RESPONSIBILITY OF THE OWNER AND/OR PROPRIETOR AND NOT THE COUNTY OF BOULDER.

Debra Gardner
CHAIR

Mike Jahn
CLERK OF BOARD

Surveyor's Certificate

I, JOHN B. GUYTON, A PROFESSIONAL LAND SURVEYOR LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY OF HORST ESTATE SUBDIVISION REPLAT A WAS MADE BY ME OR DIRECTLY UNDER MY SUPERVISION ON OR ABOUT THE 16TH DAY OF OCTOBER, 2017, AND THAT THE SURVEY IS BASED UPON MY KNOWLEDGE, INFORMATION AND BELIEF. IT HAS BEEN PREPARED IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE. THE SURVEY IS NOT A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED, AND THE ACCOMPANYING PLAT ACCURATELY AND PROPERTY SHOWS SAID SUBDIVISION AND THE SURVEY THEREOF.

JOHN B. GUYTON
COLORADO P.L.S. #16406 FSI JOB NO. 17-70,287
CHAIRMAN & CEO, FLATIRONS, INC.

Clerk and Recorder's Certificate

STATE OF COLORADO }
COUNTY OF BOULDER } SS.

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT 11:16 O'CLOCK A.M., THIS 14th DAY OF December, 2017 AND IS RECORDED RECEPTION # 231628831

FEES PAID: \$ 13.94

Debra Gardner
CLERK AND RECORDER

Marisa Cogan
DEPUTY

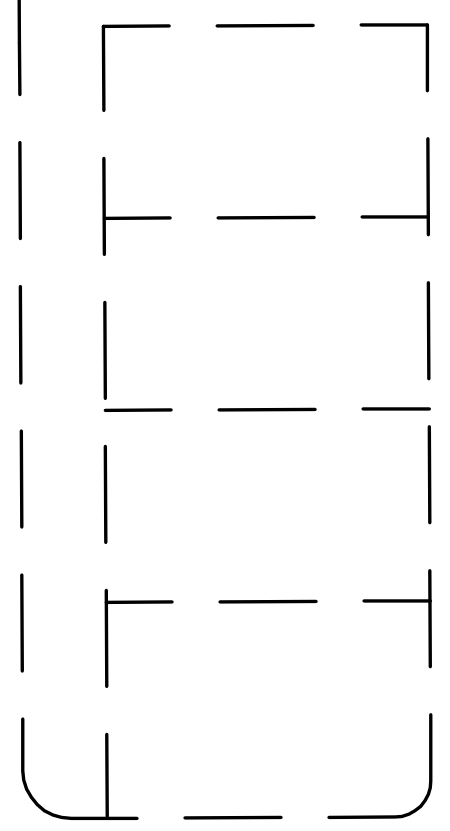
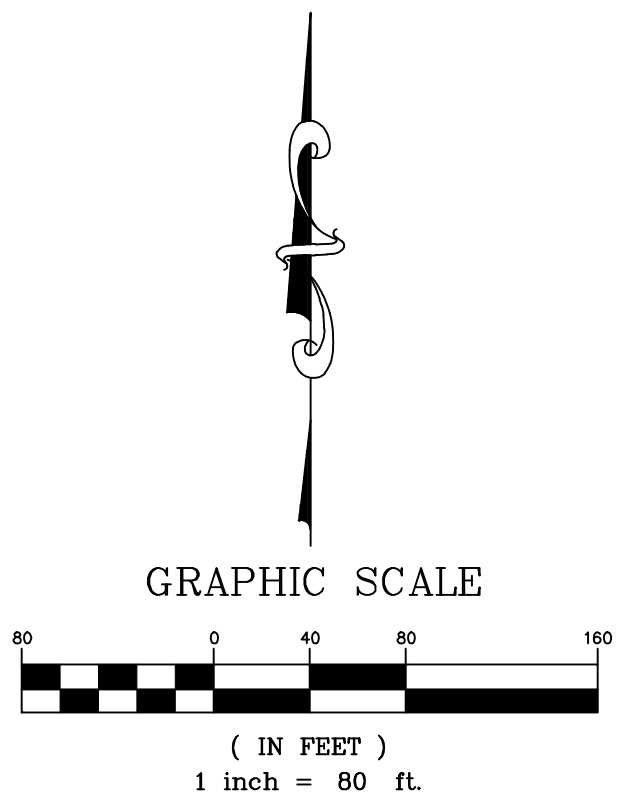
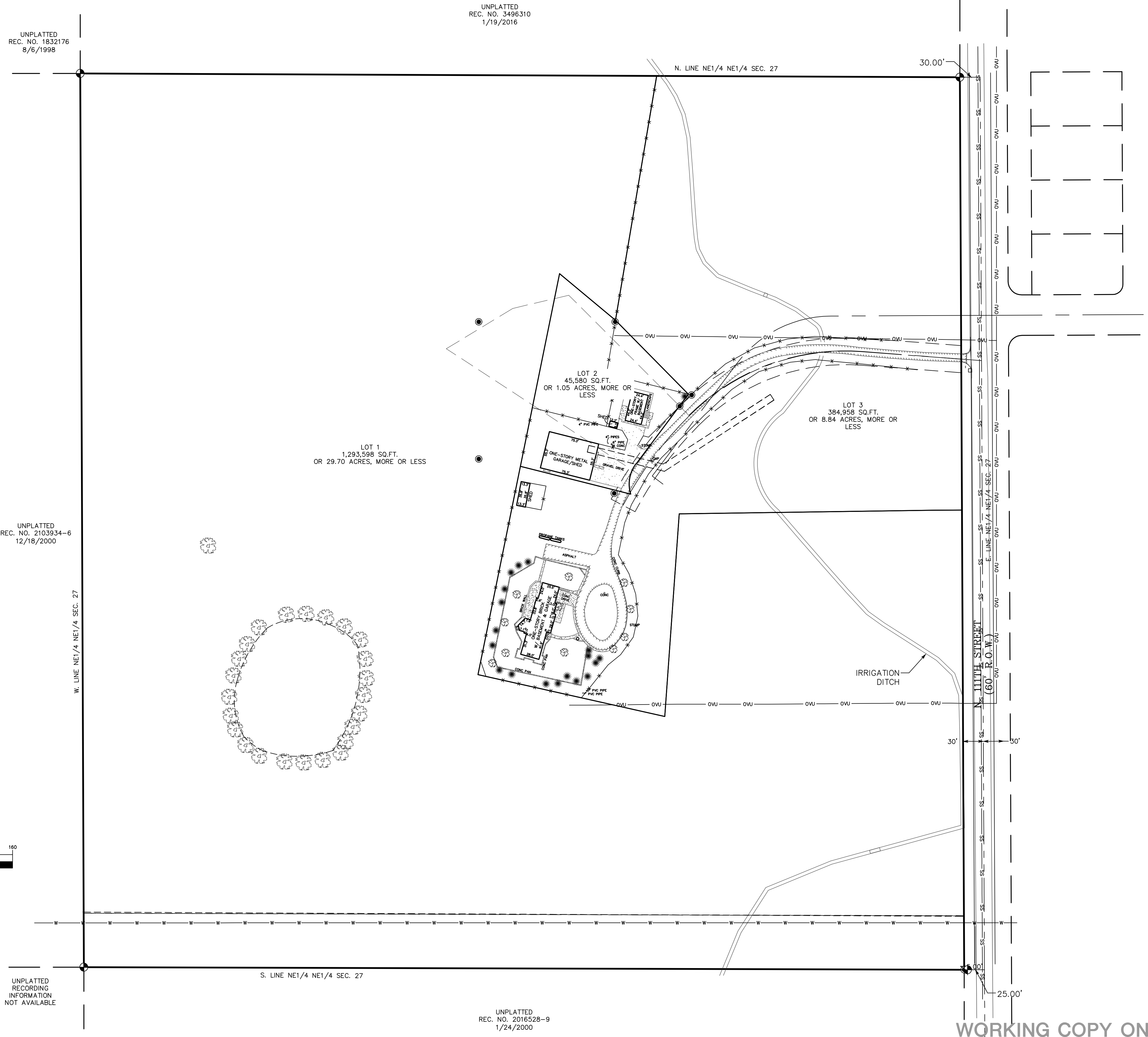
DATE	
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HORST ESTATE SUBDIVISION REPLAT A

Flatirons, Inc.
www.FlatironsInc.com
3660 DOWNING ST UNIT 6 DENVER, CO 80205
3825 IRIS AVE, STE 395 BOULDER, CO 80501
PH: (303) 776-1733 PH: (303) 443-7001
FAX: (303) 776-4355 FAX: (303) 443-9630

JOB NUMBER: 17-70,287
DATE: 11-03-2017
DRAWN BY: E. PRESCOTT
CHECKED BY: JZC/WW/JK/BB
SHEET 1 OF 1

03628631
Page 1 of 1
DF: 80.00
RF: 313.00
BOULDER COUNTY CLERK
Boulder County Clerk, CO



DRAFT
WORKING COPY ONLY. ONLY FINAL VERSION
WILL HAVE STAMP AND SIGNATURE

MAINTENANCE ELIGIBILITY PROGRAM (MEP)

MHFD Referral Review Comments

For Internal MHFD Use Only.	
MEP ID:	106621
Submittal ID:	10010136
MEP Phase:	Referral

Date: 12/07/2022
To: Sam Walker, Planner, Boulder County
Via email
RE: MHFD Referral Review Comments – Dockett RE -21-0001

Project Name:	Horst Estate NUPUD Replat
Location:	2801 N. 111 th St and 2853 N 111 th St

This letter is in response to the request for our comments concerning the referenced project. We have reviewed this proposal only as it relates to maintenance eligibility of major drainage features, in this case: We have no comments on the referenced project as there are no proposed storm drainage features that would be eligible for District maintenance assistance. The proposed development (Horst Estate NUPUD Replat) is not adjacent to a MHFD major drainageway or mapped floodplain and does not include any MHFD master plan recommended drainage improvements. We do not need to review future submittals

We appreciate the opportunity to review this proposal. Please feel free to contact me with any questions or concerns.

Sincerely,



Ryan Tigera, P.E.
 Project Engineer
 Mile High Flood District



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930

Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

MEMO TO: Referral Agencies
 FROM: Sam Walker, Planner II
 DATE: November 2, 2022
 RE: Docket RE-21-0001

Docket RE-21-0001: Horst Estate NUPUD Replat

Request: Request to replat the Horst Estate NUPUD to create a second building lot and three total lots.

Location: 2801 and 2853 N. 111th Street, Lots 1A and 2B Horst Estate Replat A, approximately .5 miles south of the intersection of Isabelle Road and N. 111th Street, in Section 27, Township 1N, Range 69W.

Zoning: Agricultural (A) Zoning District

Applicants: Mark Rockwell & Kelly Sexton

Owners: Rockton 111 LLC, Pink Peony Trust Et Al, Theatre Trust Et Al

A Replat (RE) is the process for amending a recorded subdivision plat and/or agreement. The RE process reviews the new plat and any other necessary documents.

This process includes public hearings before the Boulder County Planning Commission and the Board of County Commissioners. Adjacent property owners and holders of liens, mortgages, easements or other rights in the subject property are notified of these hearings.

The Community Planning & Permitting staff, Planning Commission, and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter to the Community Planning & Permitting Department at P.O. Box 471, Boulder, Colorado 80306 or via email to planner@bouldercounty.org. All comments will be made part of the public record and given to the applicant. Only a portion of the submitted documents may have been enclosed; you are welcome to call the Community Planning & Permitting Department at 303-441-3930 or email planner@bouldercounty.org to request more information. If you have any questions regarding this application, please contact me at 720-564-2738 or swalker@bouldercounty.org.

Please return responses by **December 7, 2022.**

(Please note that due to circumstances surrounding COVID-19, application timelines and deadlines may need to be modified as explained in the CPP Notice of Emergency Actions issued March 23, 2020 (see <https://boco.org/covid-19-cpp-notice-20200323>).

We have reviewed the proposal and have no conflicts.

Letter is enclosed.

Signed  PRINTED Melissa Arnold, Land Officer

Agency or Address Parks & Open Space dept

Please note that all Community Planning & Permitting Department property owner's mailing lists and parcel maps are generated from records maintained by the County Assessor and Treasurer Office. We are required to use this list to send notices to the "property owner" of land in Boulder County. If you feel you should not be considered a "property owner," or if the mailing address is incorrect, contact the County Assessor's Office at (303) 441-3530.

Matt Jones County Commissioner **Claire Levy** County Commissioner **Marta Loachamin** County Commissioner



Parks & Open Space

5201 St. Vrain Road • Longmont, CO 80503
 303-678-6200 • POSinfo@bouldercounty.org
 www.BoulderCountyOpenSpace.org

December 7, 2022

Delivery by email: swalker@bouldercounty.org

Sam Walker, Planner II
 Community Planning & Permitting department
 2045 13th Street
 Boulder, CO 80302

Re: Referral Response for RE-21-0001, Request to Replat Horst Estate NUPUD

Dear Sam,

Parks & Open Space staff has reviewed above-referenced docket for Lots 1A and 2B of the Horst Estate Subdivision Replat A (the 'Property'). Lot 1A consists of 38.33 acres and is encumbered with a conservation easement recorded on March 1, 1982, at Reception #485003 in the real estate records of Boulder County, Colorado ('Conservation Easement'). Lot 2B consists of 1.25 acres and is an unencumbered lot.

Paragraphs 1.B and 5 of the Conservation Easement recognize that the Grantor of the Conservation Easement may apply for an additional lot on the Property, which the landowner is requesting under this docket. The landowner is proposing an additional 8.84-acre lot, a reconfiguration of Lot 2B to 1.05 acres, and the removal of 8.63 acres from the Conservation Easement, reducing the conserved land from 38.33 to 29.70 acres. The landowner has offered to amend the Conservation Easement over the remaining acreage with the county's modern long-form document with more restrictive terms. The landowner also stated in their application that if this proposal is approved, they would work with the Town of Erie to annex the two unencumbered lots, developing them to the greatest extent possible.

If Community Planning & Permitting (CP&P) grants the landowner's request for an additional lot, Parks & Open Space will work with the landowner to amend the Conservation Easement over the remaining acreage subject to conditions. Staff does not support maximizing the size of the additional lot and will request that a minimal amount of land be taken out of the total acreage encumbered by the Conservation Easement. Additionally, Staff does not support relinquishing acreage encumbered by the Conservation Easement unless the two unencumbered lots are subject to restrictive covenants, forever limiting their development to one house per lot. Limiting the Property to two developable lots is consistent with the intent of the parties at the time of the original subdivision and is necessary to protect the open space interests protected by the Conservation Easement.

Accordingly, if CP&P approves the landowner's request for an additional lot, Parks & Open Space requests the following conditions of approval be included in the final staff determination:

1. Minimize the acreage relinquished from the Conservation Easement, resulting in an additional lot that is comparable in size to the existing 1.25-acre Lot 2B.

2. The applicants must work with Parks & Open Space to:
 - a. Sign an amended and restated conservation easement (“Amended Conservation Easement”), that updates the Conservation Easement to the county’s current standards and satisfies Boulder County’s requirements for restrictions on this property, including tying the landowner’s interest in the water rights (as described below) to the land, and confining agricultural structures to designated building envelopes.
 - b. Grant Boulder County a 50% undivided interest in all water rights that Boulder County ascertains are necessary to irrigate the Amended Conservation Easement property in perpetuity.
 - c. Sign restrictive covenants prohibiting the two house lots from being further subdivided or developed beyond one development right each, regardless of whether it is annexed to a municipality.

Thank you,



Therese Glowacki
Director of Parks & Open Space
tglowacki@bouldercounty.org
(303) 678-6206



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303-441-3930
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.BoulderCounty.org

MEMO TO: County Health and Parks Departments, FPD
FROM: Sam Walker, Planner II
DATE: October 19, 2022
RE: Site Plan Review application SPR-22-0098

Docket SPR-22-0098: Shaw Addition, Accessory Structures, and Parcel Merger

Request: Site Plan Review to deconstruct an existing 384 sq. ft. sunroom before constructing a 796 sq. ft. residential addition, a 1,175 sq. ft. detached garage, 432 sq. ft. loafing shed, and 804 sq. ft. barn. Also proposed are the permitting of two existing 288 sq. ft. loafing sheds.

Location: 8080 Hygiene Road, Section 31, Township 3N, Range 69W

Zoning: Agricultural (A) Zoning District

Applicants/Owners: Thea Shaw & Betty Kershner

Site Plan Review by the Boulder County Community Planning & Permitting Director is required for new building/grading/access or floodplain development permits in the plains and mountainous areas of unincorporated Boulder County. The subject review process considers potential significant impact to the ecosystem, surrounding land uses and infrastructure, and safety concerns due to natural hazards.

The Community Planning & Permitting staff values comments from individuals and referral agencies. Please check the appropriate response below or send a letter to the Community Planning & Permitting Department at P.O. Box 471, Boulder, Colorado 80306 or via email to planner@bouldercounty.org. All comments will be made part of the public record and given to the applicant. Only a portion of the submitted documents may have been enclosed; you are welcome to call the Community Planning & Permitting Department at 303-441-3930 or email planner@bouldercounty.org to request more information.

Please return responses by **November 7, 2022**

(Please note that due to circumstances surrounding COVID-19, application timelines and deadlines may need to be modified as explained in the CPP Notice of Emergency Actions issued March 23, 2020 (see <https://boco.org/covid-19-cpp-notice-20200323>)).

We have reviewed the proposal and have no conflicts.

Letter is enclosed.

Signed _____ PRINTED Name _____ Ayanna Reed _____

Agency or Address _____ City of Longmont _____

Walker, Samuel

From: Amelia Brackett Hogstad <abrackett@louisvilleco.gov>
Sent: Wednesday, November 9, 2022 9:22 AM
To: Walker, Samuel
Subject: [EXTERNAL] RE: Referral packet for RE-21-0001: Horst Estate NUPUD Replat project at 2801 and 2853 N. 111th Street

Good morning,

Thank you for the opportunity to comment on the proposed replat. The City of Louisville Planning Department has no comment.

Thank you again,
 Amelia

Amelia Brackett Hogstad
 Historic Preservation Planner
 303-335-4594 (M – TH)
 720-767-1822 (F)
 abrackett@louisvilleco.gov
[Historic Preservation in Louisville](#)

From: Milner, Anna <amilner@bouldercounty.org>
Sent: Wednesday, November 2, 2022 10:57 AM
To: Historic <historic@bouldercounty.org>; Hippely, Hannah <hhippely@bouldercounty.org>; Vaughn, Andrea <avaughn@bouldercounty.org>; Abner, Ethan <eabner@bouldercounty.org>; #AssessorReferral <AssessorReferral@bouldercounty.org>; #CAreferral <CAreferral@bouldercounty.org>; #CEreferral <CEreferral@bouldercounty.org>; Johnson, Curtis <cjohnson@bouldercounty.org>; Allshouse, Alycia <aallshouse@bouldercounty.org>; Stadele, Lee <leestadele@bouldercounty.org>; Stadele, Lee <leestadele@flagstaffsurveying.com>; BDRCO@xcelenergy.com; Donna.L.George@xcelenergy.com; Planning <planning@Louisvilleco.gov>; kdean@louisvilleco.gov; Vanessa McCracken <bldrvalleyandlongmontcds@gmail.com>; submittals@udfcd.org; prevention@mvpfd.org; jana.easley@cityoflafayette.com; mhelmer@erieco.gov; dbach@erieco.gov; Cavaleri, Keli <kcavaleri@bouldercounty.org>; Moline, Jeffrey <jmoline@bouldercounty.org>; Strenge, Ernst <estrenge@bouldercounty.org>; Flax, Ron <rflax@bouldercounty.org>; Frederick, Summer <sfrederick@bouldercounty.org>; Goldstein, Andrew <agoldstein@bouldercounty.org>; HealthWaterQuality-EnvironmentalBP LU <HealthWQ-EnvironBPLU@bouldercounty.org>; Huebner, Michelle <mhuebner@bouldercounty.org>; Sanchez, Kimberly <ksanchez@bouldercounty.org>; Transportation Development Review <TransDevReview@bouldercounty.org>; West, Ron <rowest@bouldercounty.org>
Cc: Walker, Samuel <swalker@bouldercounty.org>
Subject: Referral packet for RE-21-0001: Horst Estate NUPUD Replat project at 2801 and 2853 N. 111th Street

Please find attached the electronic referral packet for **RE-21-0001: Horst Estate NUPUD Replat** project at **2801 and 2853 N. 111th Street**.

Please return responses and direct any questions to [Sam Walker](#) by **December 7, 2022**. (Boulder County internal departments and agencies: Please attach the referral comments in Accela.)

Best Regards,
 Anna

Anna Milner | Admin. Lead Tech.

Boulder County Community Planning & Permitting

Pronouns: she/her/hers

Physical address: 2045 13th St., Boulder CO 80302

Mailing address: PO Box 471, Boulder, CO 80306

(720) 564-2638 (Direct)

amilner@bouldercounty.org

Service hours are 8 a.m.-4:30 p.m. Monday, Wednesday, Thursday, Friday, and 10 a.m.-4:30 p.m. Tuesday

*My core working hours are 7am-5:30pm Tues - Fri

New: Boulder County has a new website: BoulderCounty.gov! Bookmark it today. Email addresses will transition at a later date.

www.bouldercounty.gov



Invitation to participate!!!

Boulder County Community Planning & Permitting is currently working on a new strategic plan! The plan will be a long-term vision and roadmap for CPP's future and will guide decisions. The plan's recommendations and strategies will be based on the community's vision for the future of Boulder County.

Your input is critical to developing a plan that reflects the values and goals of the community.

To participate please see this link -- <https://berrydunn.mysocialpinpoint.com/boulder-county-cpp-strategic-plan/home>

==CAUTION: EXTERNAL EMAIL==

This email originated from outside the City of Louisville's email environment. Do not click links or open attachments unless you validate the sender and know the content is safe. Please contact IT if you believe this email is suspicious.



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303-441-3930 Mailing
Address: P.O. Box 471 • Boulder, Colorado 80306 • www.BoulderCounty.org

TO: Sam Walker
FROM: Andrea Vaughn, Long-Range Planning Division
RE: Referral for RE-21-0001 Horst Estates
DATE: December 8, 2022

The Boulder County Long-Range Team has reviewed the provided referral materials for docket SE-22-0003 and does not have any conflict with the proposed replat, so long as the standards for NUPUD and Subdivision Exemptions are met. These standards were established to further the County's goal of preserving agricultural lands and open space.

Please note that the portion of the property that is proposed to be entirely encumbered by a conservation easement is labeled as "Lot 1", when it should be labeled as an "outlot".

Best,

A handwritten signature in black ink, appearing to read "A. Vaughn", followed by a horizontal line.

Andrea Vaughn, Planner I

Matt Jones County Commissioner **Claire Levy** County Commissioner **Marta Loachamin** County Commissioner



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930

Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

MEMO TO: Referral Agencies
 FROM: Sam Walker, Planner II
 DATE: November 2, 2022
 RE: Docket RE-21-0001

Docket RE-21-0001: Horst Estate NUPUD Replat

Request: Request to replat the Horst Estate NUPUD to create a second building lot and three total lots.
 Location: 2801 and 2853 N. 111th Street, Lots 1A and 2B Horst Estate Replat A, approximately .5 miles south of the intersection of Isabelle Road and N. 111th Street, in Section 27, Township 1N, Range 69W.
 Zoning: Agricultural (A) Zoning District
 Applicants: Mark Rockwell & Kelly Sexton
 Owners: Rockton 111 LLC, Pink Peony Trust Et Al, Theatre Trust Et Al

A Replat (RE) is the process for amending a recorded subdivision plat and/or agreement. The RE process reviews the new plat and any other necessary documents.

This process includes public hearings before the Boulder County Planning Commission and the Board of County Commissioners. Adjacent property owners and holders of liens, mortgages, easements or other rights in the subject property are notified of these hearings.

The Community Planning & Permitting staff, Planning Commission, and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter to the Community Planning & Permitting Department at P.O. Box 471, Boulder, Colorado 80306 or via email to planner@bouldercounty.org. All comments will be made part of the public record and given to the applicant. Only a portion of the submitted documents may have been enclosed; you are welcome to call the Community Planning & Permitting Department at 303-441-3930 or email planner@bouldercounty.org to request more information. If you have any questions regarding this application, please contact me at 720-564-2738 or swalker@bouldercounty.org.

Please return responses by **December 7, 2022.**

(Please note that due to circumstances surrounding COVID-19, application timelines and deadlines may need to be modified as explained in the CPP Notice of Emergency Actions issued March 23, 2020 (see <https://boco.org/covid-19-cpp-notice-20200323>).

We have reviewed the proposal and have no conflicts.
 Letter is enclosed.

Signed LuAnn Penfold PRINTED LuAnn Penfold

Agency or Address Mountain View Fire District

Please note that all Community Planning & Permitting Department property owner's mailing lists and parcel maps are generated from records maintained by the County Assessor and Treasurer Office. We are required to use this list to send notices to the "property owner" of land in Boulder County. If you feel you should not be considered a "property owner," or if the mailing address is incorrect, contact the County Assessor's Office at (303) 441-3530.

Matt Jones County Commissioner **Claire Levy** County Commissioner **Marta Loachamin** County Commissioner



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930 • Fax: 303.441.4856
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

Building Safety & Inspection Services Team

MEMO

TO: Sam Walker, Planner II
FROM: Michelle Huebner, Plans Examiner Supervisor
DATE: November 2, 2022

RE: Referral Response, RE-21-0001: Horst Estate NUPUD Replat: Request to replat the Horst Estate NUPUD to create a second building lot and three total lots.

Location: 2801 and 2853 N. 111th Street

Thank you for the referral. We have reviewed the proposal and have no conflicts with it.

If the applicants should have questions or need additional information, we'd be happy to work with them toward solutions that meet minimum building code requirements. Please call (720) 564-2640 or contact us via e-mail at building@bouldercounty.org



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930

Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

December 13, 2022

TO: Sam Walker, Planner II; Community Planning & Permitting, Zoning Development Review

FROM: Jena Van Gerwen, Planner I; Community Planning & Permitting, Development Review – Access & Engineering

SUBJECT: Docket # RE-21-0001: Horst Estate NUPUD Replat
2801 and 2853 N. 111th Street

The Development Review – Access & Engineering Team has reviewed the above referenced docket and has the following comments:

1. The subject properties, Lots 1 and 2 in the Horst Estate Subdivision Replat A, are accessed from N 111th Street, a paved Town of Erie owned and maintained right-of-way (ROW), via a private paved road within a 40-foot-wide access easement as shown on the Horst Estate Subdivision Replat A. Legal access to the subject parcels is demonstrated via the easement as shown on the Horst Estate Subdivision Replat A recorded 12/4/2017 at Reception No. 03628831.
2. If a transfer of ownership of amended Lots 1, 2, or 3 occurs and results in different owners of each parcel, an access easement must be recorded to ensure legal access to each of the resulting properties:
 - a. Access to Lot 2, through Lot 3, from N 111th Street
 - b. Access to Lot 1, through Lot 3, from N 111th Street
3. The existing driveway appears to measure approximately 10-11 feet in width from aerial imagery, which complies with the [Boulder County Multimodal Transportation Standards \(the “Standards”\)](#) for residential development in the plains.
4. The existing structures are located more than 400 feet from N 111th Street; therefore, an emergency access turnaround and pullout area are typically required. Given the nature of the proposal, no driveway modifications will be required at this time.

This concludes our comments at this time.

HORST ESTATE SUBDIVISION REPLAT A

A REPLAT OF LOTS 1 & 2, HORST ESTATE SUBDIVISION, LOCATED IN THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 1

Parcel Description
LOTS 1 AND 2, HORST ESTATE SUBDIVISION, COUNTY OF BOULDER, STATE OF COLORADO

Ownership Certificate

KNOW ALL PERSONS BY THESE PRESENTS, THAT THE UNDERSIGNED, ARE THE OWNERS OF THAT REAL PROPERTY SITUATED IN THE COUNTY OF BOULDER, STATE OF COLORADO, AND LYING WITHIN THE EXTERIOR BOUNDARY OF HORST ESTATE SUBDIVISION, A SUBDIVISION IN THE COUNTY OF BOULDER, STATE OF COLORADO, THAT THE UNDERSIGNED HAVE CAUSED SAID REAL PROPERTY TO BE LAID OUT AND SURVEYED AS "HORST ESTATE SUBDIVISION REPLAT A" IN THE COUNTY OF BOULDER, STATE OF COLORADO.

OWNER LOT 1:
THEATRE TRUST

Mark Rockwell
MARK ROCKWELL, AS TRUSTEE OF THEATRE TRUST

ACKNOWLEDGEMENT

STATE OF COLORADO } SS.
COUNTY OF BOULDER }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 6th DAY OF November, 2017, BY MARK ROCKWELL, AS TRUSTEE OF THEATRE TRUST

WITNESS MY HAND AND OFFICIAL SEAL

MY COMMISSION EXPIRES: 01/28/2018

NOTARY PUBLIC

OWNER LOT 1:
PINK PEONY TRUST

Kelli Sexton
KELLI SEXTON, AS TRUSTEE OF PINK PEONY TRUST

ACKNOWLEDGEMENT

STATE OF COLORADO } SS.
COUNTY OF BOULDER }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 6th DAY OF November, 2017, BY KELLI SEXTON, AS TRUSTEE OF PINK PEONY TRUST.

WITNESS MY HAND AND OFFICIAL SEAL

MY COMMISSION EXPIRES: 01/28/2018

NOTARY PUBLIC

OWNER LOT 2:
ROCKTON 111, LLC

Mark Rockwell
MARK ROCKWELL, AS MEMBER MANAGER

Kelli Sexton
KELLI SEXTON, AS MEMBER MANAGER

ACKNOWLEDGEMENT

STATE OF COLORADO } SS.
COUNTY OF BOULDER }

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 6th DAY OF November, 2017, BY MARK ROCKWELL, AS MEMBER MANAGER AND KELLI SEXTON AS MEMBER MANAGER, OF ROCKTON 111, LLC.

WITNESS MY HAND AND OFFICIAL SEAL

MY COMMISSION EXPIRES: 01/28/2018

NOTARY PUBLIC

Legend

- ◆ FOUND ALIQUOT MONUMENT AS DESCRIBED
- SET 18" #5 REBAR WITH 1 1/2" ALUMINUM CAP "FLATIRONS SURV 16406"
- CALCULATED ALIQUOT MONUMENT FROM FOUND OFFSET
- (P) AS PER THE PLAT OF HORST ESTATE SUBDIVISION REC. NO. 432702

Authorization To Record

I, *Debra Gardner*, SECRETARY TO THE BOULDER COUNTY PLANNING COMMISSION, DO HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE ALL CONDITIONS OF COUNTY APPROVAL OF THIS PLAT OF HORST ESTATE SUBDIVISION REPLAT A HAVE BEEN FULLY SATISFIED AND THAT THE SAME IS HEREBY AUTHORIZED FOR RECORDATION.

WITNESS MY HAND ON THE 14 DAY OF Nov, 2017.

Debra Gardner
SECRETARY TO THE BOULDER COUNTY PLANNING COMMISSION

Notes

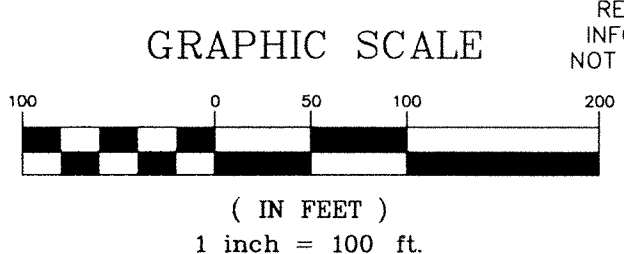
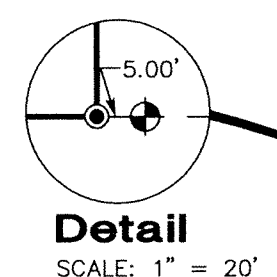
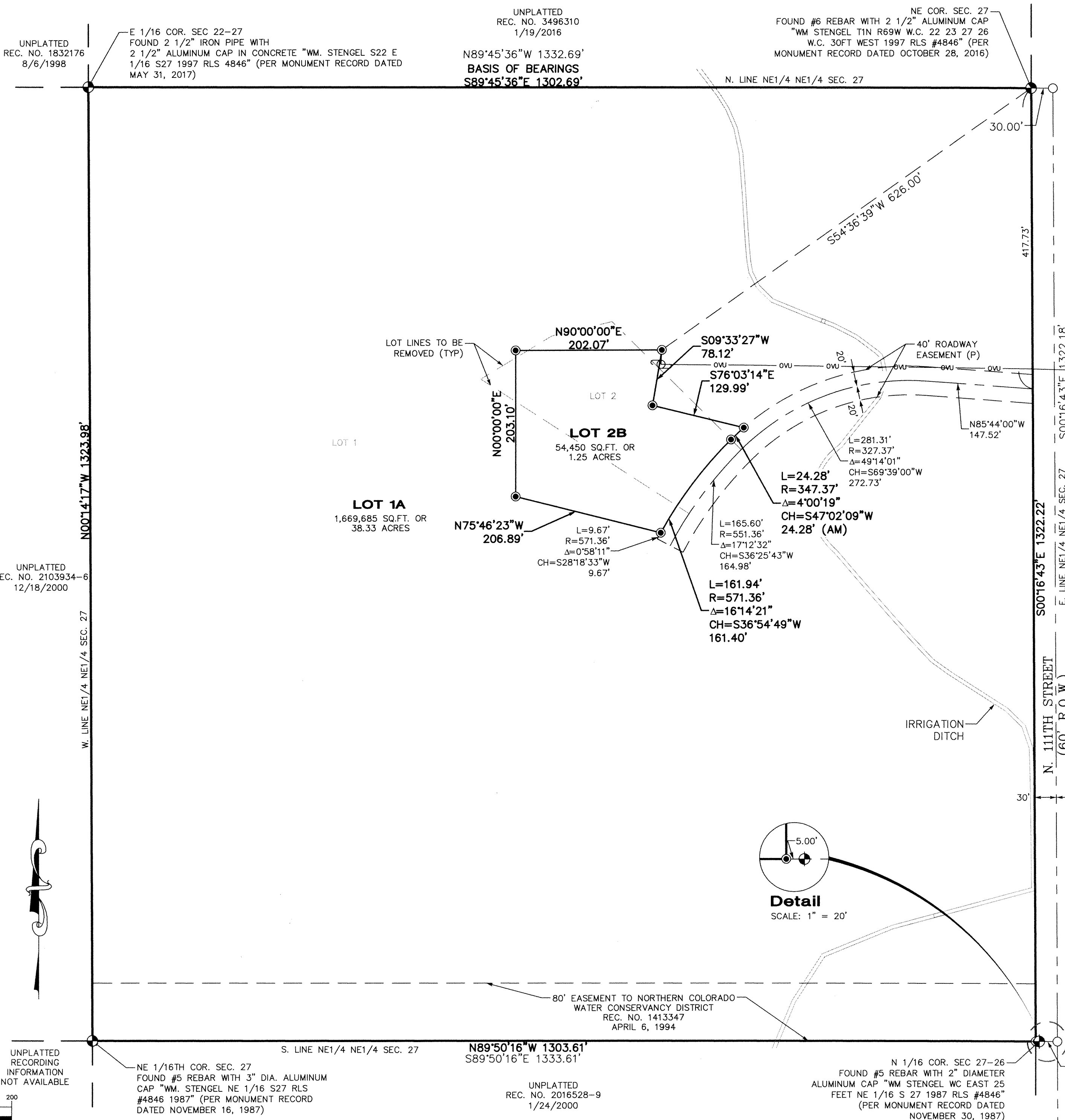
- FIDELITY NATIONAL TITLE INSURANCE COMPANY COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0540358 (LOT 1, HORST ESTATE SUBDIVISION), DATED AUGUST 8, 2017 AT 6:00 P.M., AND FIDELITY NATIONAL TITLE INSURANCE COMPANY COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0545099 (LOT 2, HORST ESTATE SUBDIVISION), DATED AUGUST 8, 2016 AT 5:00 P.M. WERE ENTIRELY RELIED UPON FOR RECORDED INFORMATION REGARDING RIGHTS-OF-WAY, EASEMENTS AND ENCUMBRANCES IN THE PREPARATION OF THIS SURVEY. THE PROPERTY SHOWN AND DESCRIBED HEREON IS ALL OF THE PROPERTY DESCRIBED IN SAID TITLE COMMITMENTS.
- 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.
- BASEIS OF BEARINGS: GPS DERIVED BEARINGS BASED ON A BEARING OF S89°45'36"E ALONG THE NORTH LINE OF THE NE1/4 NE1/4 SEC 27, BETWEEN A FOUND 2 1/2" IRON PIPE WITH 2 1/2" ALUMINUM CAP IN CONCRETE "WM. STENGL TIN R69W W.C. 22 23 27 26" AT THE E 1/16TH CORNER OF SECTIONS 22-27 AND A FOUND #6 REBAR WITH 2 1/2" ALUMINUM CAP "WM STENGL TIN R69W W.C. 22 23 27 26 W.C. 30FT WEST 1997 RLS #4846" AT THE 30 FOOT WITNESS CORNER TO THE NORTHEAST CORNER OF SECTION 27 AS SHOWN HEREON. COLORADO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM 1983 (NAD83). ALL BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT AND/OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE C.R.S. SEC 18-4-508. WHOEVER WILLFULLY DESTROYS, DEFACES, CHANGES, OR REMOVES TO ANOTHER PLACE ANY SECTION CORNER, QUARTER-SECTION CORNER, OR MEANDER POST, ON ANY GOVERNMENT LINE OF SURVEY, OR WILLFULLY CUTS DOWN ANY WITNESS TREE OR ANY TREE OR BLAZED TO MARK THE LINE OF A GOVERNMENT SURVEY, OR WILLFULLY DEFACES, CHANGES, OR REMOVES ANY MONUMENT OR BENCH MARK OF ANY GOVERNMENT SURVEY, SHALL BE FINED UNDER THIS TITLE OR IMPRISONED NOT MORE THAN SIX MONTHS, OR BOTH, 18 U.S.C. § 1858.
- THE DISTANCE MEASUREMENTS SHOWN HEREON ARE U.S. SURVEY FOOT.
- DATES OF FIELDWORK: OCTOBER 1, 2017 (CREW CHIEF D. WILSON)
- THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE DOCUMENT (COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0540358) AND APPEAR TO AFFECT THE SUBJECT PROPERTY BUT CANNOT BE SHOWN GRAPHICALLY. THE FOLLOWING LIST CONTAINS THE TITLE DOCUMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.

#3 JULY 11, 1891	BK 138, PG 518	RESERVATION OF MINERALS
MAY 17, 2002	REC. NO. 2288464	REQUEST FOR NOTIFICATION OF SURFACE DEVELOPMENT
#6 FEB 2, 1981	REC. NO. 432703	CONSERVATION EASEMENT
#7 APRIL 23, 1981	REC. NO. 443242	OIL AND GAS LEASE
FEB 3, 1984	REC. NO. 602452	AFFIDAVIT
JUNE 12, 1995	REC. NO. 1523079	AGREEMENT TO AMEND
JAN 23, 2001	REC. NO. 2112338	NOTICE OF OIL AND GAS INTERESTS AND SURFACE USE
#8 MARCH 1, 1982	REC. NO. 485003	CONSERVATION EASEMENT
#10 OCT 23, 2007	REC. NO. 2890878	REQUEST FOR NOTIFICATION OF SURFACE DEVELOPMENT
#11 DEC 21, 2007	REC. NO. 2900941	REQUEST FOR NOTIFICATION
#13 AUG 20, 2016	REC. NO. 03535622	DEED OF TRUST
#14 AUG 8, 2016	REC. NO. 3535665	AGREEMENT FOR A REPAIR TO AN ONSITE WASTEWATER TREATMENT SYSTEM
- THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE DOCUMENT (COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0540358) AND DO NOT APPEAR TO AFFECT THE SUBJECT PROPERTY. THE FOLLOWING LIST CONTAINS THE TITLE DOCUMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.

#4 MAY 4, 1997	REC. NO. 221094	PUBLIC SERVICE LICENSE/EASEMENT (LOCATED EAST AND NORTH)
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- THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE DOCUMENT (COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0545099) AND APPEAR TO AFFECT THE SUBJECT PROPERTY BUT CANNOT BE SHOWN GRAPHICALLY. THE FOLLOWING LIST CONTAINS THE TITLE DOCUMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.

#3 JULY 11, 1891	BK 138, PG 518	RESERVATION OF MINERALS
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#4 MAY 4, 1997	REC. NO. 221094	PUBLIC SERVICE LICENSE/EASEMENT (LOCATED EAST AND NORTH)
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Board of Commissioner's Approval

APPROVED THIS 15th DAY OF November, 2017 BOARD OF COMMISSIONERS, BOULDER COUNTY, COLORADO. THIS APPROVAL DOES NOT GUARANTEE THAT THE SIZE, SOIL CONDITIONS, SUBSURFACE GEOLOGY, GROUND WATER CONDITIONS, OR FLOODING CONDITIONS OF ANY LOT SHOWN HEREON ARE SUCH THAT A BUILDING PERMIT, WELL PERMIT, OR SEWAGE DISPOSAL PERMIT WILL BE ISSUED. THIS APPROVAL IS WITH THE UNDERSTANDING THAT ALL EXPENSES INVOLVING REQUIRED IMPROVEMENTS FOR ALL UTILITY SERVICE, PAVING, LANDSCAPING, CURBS, GUTTERS, SIDEWALKS, ROAD LIGHTING, ROAD SIGNS, FLOOD PROTECTION DEVICES, DRAINAGE STRUCTURES AND ALL OTHER IMPROVEMENTS THAT MAY BE REQUIRED SHALL BE THE RESPONSIBILITY OF THE OWNER AND/OR PROPRIETOR AND NOT THE COUNTY OF BOULDER.

Debra Gardner CHAIR
Mike Jahn CLERK OF BOARD

Surveyor's Certificate

I, JOHN B. GUYTON, A PROFESSIONAL LAND SURVEYOR LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY OF HORST ESTATE SUBDIVISION REPLAT A WAS MADE BY ME OR DIRECTLY UNDER MY SUPERVISION ON OR ABOUT THE 16TH DAY OF OCTOBER, 2017, AND THAT THE SURVEY IS BASED UPON MY KNOWLEDGE, INFORMATION AND BELIEF. IT HAS BEEN PREPARED IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE. THE SURVEY IS NOT A GUARANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED, AND THE ACCOMPANYING PLAT ACCURATELY AND PROPERTY SHOWS SAID SUBDIVISION AND THE SURVEY THEREOF.
JOHN B. GUYTON
COLORADO P.L.S. #16406 FSI JOB NO. 17-70,287
CHAIRMAN & CEO, FLATIRONS, INC.

Clerk and Recorder's Certificate

STATE OF COLORADO } SS.
COUNTY OF BOULDER }

I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT 11:16 O'CLOCK A.M., THIS 14th DAY OF December, 2017, AND IS RECORDED RECEPTION # 231628831
FEES PAID: \$ 13.94

Debra Gardner CLERK AND RECORDER
Marisa Gibson DEPUTY

DATE: _____

REVISION: _____

HORST ESTATE SUBDIVISION REPLAT A

Flatirons, Inc.
www.FlatironsInc.com
3660 DOWNING ST UNIT 6 DENVER, CO 80205
3825 IRIS AVE, STE 395 BOULDER, CO 80301
PH: (303) 776-1733 PH: (303) 443-7001 PH: (303) 443-9630 PH: (303) 936-6997
FAX: (303) 776-4355

JOB NUMBER: 17-70,287
DATE: 11-03-2017
DRAWN BY: E. PRESCOTT
CHECKED BY: JZC/WW/JK/BB
SHEET 1 OF 1

03628631
Page 1 of 1
DF: 80.00
RF: 313.00
BOULDER COUNTY CLERK
Boulder County Clerk, CO



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930
 Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

MEMO TO: Referral Agencies
 FROM: Sam Walker, Planner II
 DATE: November 2, 2022
 RE: Docket RE-21-0001

Docket RE-21-0001: Horst Estate NUPUD Replat

Request: Request to replat the Horst Estate NUPUD to create a second building lot and three total lots.
 Location: 2801 and 2853 N. 111th Street, Lots 1A and 2B Horst Estate Replat A, approximately .5 miles south of the intersection of Isabelle Road and N. 111th Street, in Section 27, Township 1N, Range 69W.
 Zoning: Agricultural (A) Zoning District
 Applicants: Mark Rockwell & Kelly Sexton
 Owners: Rockton 111 LLC, Pink Peony Trust Et Al, Theatre Trust Et Al

A Replat (RE) is the process for amending a recorded subdivision plat and/or agreement. The RE process reviews the new plat and any other necessary documents.

This process includes public hearings before the Boulder County Planning Commission and the Board of County Commissioners. Adjacent property owners and holders of liens, mortgages, easements or other rights in the subject property are notified of these hearings.

The Community Planning & Permitting staff, Planning Commission, and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter to the Community Planning & Permitting Department at P.O. Box 471, Boulder, Colorado 80306 or via email to planner@bouldercounty.org. All comments will be made part of the public record and given to the applicant. Only a portion of the submitted documents may have been enclosed; you are welcome to call the Community Planning & Permitting Department at 303-441-3930 or email planner@bouldercounty.org to request more information. If you have any questions regarding this application, please contact me at 720-564-2738 or swalker@bouldercounty.org.

Please return responses by **December 7, 2022.**

(Please note that due to circumstances surrounding COVID-19, application timelines and deadlines may need to be modified as explained in the CPP Notice of Emergency Actions issued March 23, 2020 (see <https://boco.org/covid-19-cpp-notice-20200323>).

We have reviewed the proposal and have no conflicts.
 Letter is enclosed.

Signed  PRINTED Jessica Fasick

Agency or Address CP&P Historic Review

Please note that all Community Planning & Permitting Department property owner's mailing lists and parcel maps are generated from records maintained by the County Assessor and Treasurer Office. We are required to use this list to send notices to the "property owner" of land in Boulder County. If you feel you should not be considered a "property owner," or if the mailing address is incorrect, contact the County Assessor's Office at (303) 441-3530.

Matt Jones County Commissioner **Claire Levy** County Commissioner **Marta Loachamin** County Commissioner



Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302 • Tel: 303.441.3930

Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • www.bouldercounty.org

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We have reviewed the proposal and have no conflicts.

Letter is enclosed.

Signed Erin Fosdick PRINTED Erin Fosdick

Agency or Address Town of Erie

Please note that all Community Planning & Permitting Department property owner's mailing lists and parcel maps are generated from records maintained by the County Assessor and Treasurer Office. We are required to use this list to send notices to the "property owner" of land in Boulder County. If you feel you should not be considered a "property owner," or if the mailing address is incorrect, contact the County Assessor's Office at (303) 441-3530.

Matt Jones County Commissioner **Claire Levy** County Commissioner **Marta Loachamin** County Commissioner



MEMO

To: Sam Walker
From: Erin Fosdick, Principal Planner, efosdick@erieco.gov
Date: December 7, 2022
Subject: **Boulder County Referral: Docket RE-21-0001**
CC: Chad Schroeder
Deborah Bachelder

Thank you for sending the referral for the Horst Estate NUPUD Replat, located west of 111th and south of Erie Parkway, to the Town of Erie for comment. This property is located within Erie's planning area, and adjacent to the Town's current municipal limits. This area is designated as Agriculture in the Town of Erie Comprehensive Plan; Agriculture uses are included as a Public and Open Space Land Use. The comprehensive plan offers the following guidance in terms of uses and land use characteristics:

- Primary Uses: Farming, ranching, and other agriculturally related uses.
- Secondary Uses: Very low density rural residential
- Characteristics/Notes: Current agricultural lands are located in the northern half of the planning area. These lands serve a vital role in defining the history and character of Erie and should be maintained, where viable, to serve as gateways and buffers, preserve vistas, and retain the desired character for the town.

Based on the materials submitted as part of the referral packet, it appears that the proposal to create an additional lot, while retaining the majority of the conservation easement, could be consistent with this type of land use designation.

Town staff have spoken with the property owner about the possibility of annexation to the Town of Erie in response to a pre-application submittal in 2021. Applications for annexation and initial zoning require a public hearing and decision by the Board of Trustees.

We appreciate the opportunity to provide comments on this application. Please let me know if you have any questions or need additional information from the Town.

**Right of Way & Permits**

1123 West 3rd Avenue
Denver, Colorado 80223
Telephone: **303.571.3306**
Facsimile: 303. 571. 3284
donna.l.george@xcelenergy.com

December 9, 2022

Boulder County Community Planning and Permitting
PO Box 471
Boulder, CO 80306

Attn: Sam Walker

Re: Horst Estate NUPUD Replat, Case # RE-21-0001

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has reviewed the documentation for **Horst Estate NUPUD Replat** and has no concerns with the lot split.

Please be aware PSCo owns and operates existing overhead and underground electric distribution facilities within the subject property. The property owner/developer/ contractor must complete the application process for any new natural gas or electric service, or modification to existing facilities via xcelenergy.com/InstallAndConnect. It is then the responsibility of the developer to contact the Designer assigned to the project for approval of design details.

Public Service Company has no objection to a rezone, contingent upon PSCo's ability to maintain all existing rights and this amendment should not hinder our ability for future expansion, including all present and any future accommodations for natural gas transmission and electric transmission related facilities.

Boulder County must send us notification after an annexation has been finalized. This notification should be sent to dAnnexationNotifications@xcelenergy.com. This will allow our mapping department to make the necessary updates to our mapping system.

For additional easements that may need to be acquired by separate document, the Designer must contact a Right-of-Way and Permits Agent.

Donna George
Right of Way and Permits
Public Service Company of Colorado dba Xcel Energy
Office: 303-571-3306 – Email: donna.l.george@xcelenergy.com

Walker, Samuel

From: Frank <fjb@skybeam.com>
Sent: Friday, November 11, 2022 10:47 AM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket number RE-21-0001

I want to make some comments regarding Docket Number Re-21-0001. There are already too many houses in this area. Erie has developed the land across the road which has houses sitting on top of houses. The result of this housing development has made this area less desirable to live in this area. The land adjacent to this property has been in our family since the 1870's and further development is very unwanted. In addition to the fact that when this couple bought this property, they told us that they bought the land because they wanted to live in the country. Now it appears that they want to subdivide the property. In addition to the objection of more homes being built, we have a concern about our irrigation ditch from the lake to the south of that property that carries our water to irrigate our farm which is directly north of their property. As a result of these concerns, we are definitely against any further development close to our property.

Sent from [Mail](#) for Windows

Walker, Samuel

From: Sarah Blake <sblake0424@gmail.com>
Sent: Tuesday, December 6, 2022 7:46 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Docket RE-21-0001: Horst Estate NUPUD Replat
Attachments: RE-21-0001.pdf

For your consideration,

I'm writing today with concern regarding the replat proposal of the Horst property, docket RE-21-0001. This application combines many factors into one proposal which I'm sure brings its own set of challenges. At a surface level the application creates a third lot, but adds an additional layer of complexity by annexing Lots 2 and 3 to Erie, which would change the current zoning for the property. Many of the neighbors wish the owners would reconsider their full proposal. While adding an additional lot may not be as concerning, the change in zoning is. The Horst family placed their land in the CE for the sole purpose of preserving the land, its agricultural integrity, and providing open, natural space for the county. Allowing for a large block of the property (Lot 2 and the very large Lot 3) to be rezoned to a rural residential area goes against everything Cheryl and Thomas set out to protect. The application states that there is strong interest in having water and sewer resources from Erie, however the Planning Application Form states that the party has not requested any changes to the supply. Both the "Proposed Water Supply" and "Proposed Sewage Disposal Method" are indicated with "no change" as they wish to continue using existing supply/resources. The size of Lot 3 is drawn to be much larger than simply gaining contiguous access from 111th Street. This creates a feeling of unease, as perhaps true intentions are not being fully presented in this application. Historically, Boulder County has acted to preserve our natural resources and open space, more than surrounding counties. Speaking as a Boulder native, this is an aspect of living in Boulder County that many of the neighbors cherish and do want to see change. Creating a "transitional buffer" as the application states, is not a "benefit to the NUPUD" and we certainly do not want to "set a precedent for neighboring land"! Many of the neighbors intentionally purchased lots, away from the Flatirons Meadows neighborhood (separated by beautiful greenspace) and with lots that back the Horst and Bishopp farms, for the purpose of enjoying the open land (no buffer needed!). If the intention is truly to gain access to Erie services perhaps a smaller, more direct Lot 3 proposal could be considered. Perhaps there is a way to convince Erie to protect the proposed annexed lots with the same care that Boulder County was trusted to with the conservation easement. As much as we don't have a direct vote in the outcome of this proposal, myself and others sincerely encourage the current owners and the county to act in the best interest of conserving the land, as intended by the creation of the conservation easement. Thank you for your time and consideration.

Sincerely,
Sarah Blake

planning division

P.O. Box 47133rd and Spruce Street Boulder, Colorado 80306 441-3930



CO. CLERK
Boulder County, Colorado

March 18, 1980

Mr. Roman V. Bockus, AICP
P.O. Box 243
Eastlake, CO 80614

Re: Preliminary Staff Critique Comments for Docket #SD-80-5/#SU-80-3,
Horst Estate Subdivision Sketch Plan/Non-Urban PUD

Dear Mr. Bockus:

On Tuesday, March 11, 1980, the Planning, Public Works and Health Department Staffs held a Joint Preliminary Staff Critique Meeting to discuss and review referral comments received on the above-referenced application. Copies of all referral replies received to date are attached for your reference. Please respond in writing to the following items of concern on or before Wednesday, March 26th in order to allow sufficient time for Staff review prior to the Final Critique Staff meeting which will be held on Tuesday, April 1st.

1) General Planning Comments

a) Non-Urban PUD Design - It is realized that the two (2) new lots proposed fall well under the 25% of total acreage allowed for residential use. However, in order to maximize the continued agricultural use of the land, it is suggested that you consider restricting the new lots to the area south and west of the existing irrigation lateral. Please refer to the attached sketch. This alternative would seem to provide for the least disruption of the existing lateral and also provide for an easily distinguishable physical boundary on two sides of the lot area. Success of the suggested alternative would depend upon meeting a number of criteria, listed as follows:

1) Each lot should be at least one (1) acre in size, as this is the smallest size currently being allowed for Non-Urban PUDs. The area on the sketch is very close to two (2) acres, according to preliminary area calculations.

2) The existing barn would have to maintain a distance of at least seven (7) feet from the new property line, according to current side yard setback requirements. The attached sketch shows a setback of approximately ten (10) feet.

3) Both lots would of course, have to afford acceptable building sites, including the ability of the easternmost lot to contain its own septic system and leach field.

Mr. Roman V. Bockus, AICP
 March 18, 1980
 Page Two

It is thought that a lot arrangement similar to the one depicted on the attached sketch would utilize existing physical boundaries of the site, maximize the future use of the remaining land for agricultural purposes and provide two (2) acceptable building sites.

- b) Miscellaneous - It is realized that the initial purpose of the application is to simply allow the construction of a caretaker's residence on the property. However, the end result of the subdivision process will be the platting of two (2) lots which can be used or sold for building purposes without consideration for any kind of relationship to the existing ownership and operation. For this reason, the following requirements will be in order:
- 1) As requested by the Public Works Department (summarized below), provide a 40'-wide private access easement for the existing drive to the proposed lots.
 - 2) At the time of Final Plat processing, it will be necessary to provide documents assigning private maintenance responsibility for the road to the three (3) potential lot owners.
 - 3) Clarify the future use of the existing barn septic system and if barn use is to continue, provide for joint use and maintenance of the system by the owner of the existing structure and the owner of the proposed westernmost lot. An easement will also need to be provided to allow access for maintenance of the septic system.
 - 4) "Parcel-A", "Parcel-B" and the remaining land with the existing residence should be assigned lot numbers.
- 2) Referral Agency Comments - The following are outline summaries of referral responses received to date. Please refer to the attached copies of referral replies for specific details.
- a) County Public Works Department
- 1) Sketch Site Plan
 - a) Lots should be numbered
 - b) Show locations of existing wells and distribution lines
 - c) Show location of existing septic and leach field
 - d) Need cross-section for existing road and 40'-wide access easement
 - 2) Add two-foot gravel-based shoulders to driveway to meet NUPUD standards
 - 3) Water Supply
 - Question adequacy of well for two homes
 - Irrigation requirements
 - 4) Fire protection requirements
 - 5) Potential for application of County-wide or regional road system improvement fund

Mr. Roman V. Bockus, AICP
 March 18, 1980
 Page Three

- b) County Extension Agent - No conflicts
- c) County Health Department
 - No major conflicts
 - Maximum 2-bedroom house on existing (barn) septic system
 - 2nd lot will require an individual sewage disposal review at building permit level
- d) Parks and Open Space Advisory Committee (POSAC) - Recommends approval, subject to standard conservation easement terms for preservation of agricultural land.
- e) County Sheriff - No conflicts
- f) Soil Conservation Service - General Information, no conflicts.
- g) State Engineer - Recommends approval,
 - 1) Legally dependable water supply exists
 - 2) Well does not appear physically capable of supplying two (2) units
 - 3) Developer to supply a more detailed water supply plan at Preliminary Plan stage.
- h) State Geologist - No objection to approval, if:
 - 1) Plans to connect well to storage facility, no lawn irrigation unless demonstration of adequate water supply
 - 2) Water supply should be treated for high sulfate
 - 3) Soil and foundation investigation prior to construction of homes
- i) City of Lafayette - No conflicts
- j) Public Service - Will need easements from North 111th Street to lots
- k) Mountain Bell - Easements required
- l) Boulder Valley Public Schools - No conflicts

This concludes the summary of referral responses received to date. The most critical item, which is mentioned in several responses, is the physical ability of the existing well to serve two (2) additional houses. As mentioned by Public Works, County policy requires a minimum of three (3) gallons per minute per house. Options available to resolve this concern are listed as follows:

- 1) Connect the existing domestic well, which has more than adequate production, to the proposed lots, or interconnect the two (2) wells.
- 2) Improve the second well to produce at least six (6) gallons per minute.
- 3) Limit irrigation on the two (2) new lots and utilize the 2400-gallon storage tank as proposed to serve the two (2) houses. The storage tank

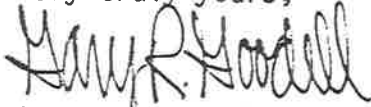
Mr. Roman V. Bockus, AICP
March 18, 1980
Page Four

if equipped with a dry hydrant to local fire department specifications, could also serve as a fire protection water supply and satisfy the requirement discussed under Public Works Dept. Item #4. This option would also seem more feasible in conjunction with reducing the lot sizes as discussed under Item 1)a), "Non-Urban PUD Design". The smaller lot sizes could effectively reduce potential outside irrigation requirements.

- 4) Seek approval from the State Engineer for installation of a third well on the third lot. This would no doubt require prior approval of a plan for augmentation in the District One Water Court. Since this would be both costly and time-consuming, it is the least likely alternative.

If you should have any questions or require additional information, please feel free to contact me.

Very truly yours,



Gary R. Goodell
Operational Planner

GRG/akg

cc: Mr. Tom Horst
Curt Parker, Public Works
Rick Hay, Health Department

planning division

p.o. box 471 · 13th and spruce street · boulder, colorado 80306 · 441-3930



edward a. repp
land use department director

MEMORANDUM

TO: Boulder Board of County Commissioners
 FROM: Boulder County Planning Staff *ERG*
 DATE: January 14, 1981

Staff Recommendation

Docket #SD-80-5/#SU-80-3 - Horst Estate-39.24 acres/2 lots

Applicant: Thomas A. Horst

Location:

General: On the west side of N. 111th Street approximately 2 miles north of Baseline Road

Legal: The NE $\frac{1}{2}$ NE $\frac{1}{2}$ Section 27, T1N, R69W

Zoning: Agricultural (A)

Request: Approval of a Subdivision Preliminary Plan and Final Plat for a Non-Urban PUD

Acres/Lots: 39.24 acres/2 lots (one existing residence)

Loy Size Range: 1 - 38.24 acres

Acres/Percent Residential : 1.0 acre plus area around existing house/2.5%+

Acres/Percent Agricultural Preservation: 38.24 acres less area around existing house/97%+

Water Supply: Two (2) existing domestic wells

Sewage Disposal: Two (2) existing septic systems

Access: Existing paved drive connecting to North 111th Street

The Sketch Plan for this application was approved by the Board of County Commissioners on May 29, 1980. The approval included two (2) 1-acre lots in addition to the existing house on the property. The primary reason stated by the applicant for the subdivision is to allow the construction of a caretaker's residence on the property. The applicant has no foreseeable desire to either sell or build on the third lot proposed at Sketch Plan.

Platting of the third lot would require interconnection of the two (2) existing wells on the property, proof that an approved individual sewage disposal system could be installed on the third lot and a performance guarantee for the construction of the required improvements. The applicant has chosen to plat only one of the 1-acre lots at this time. This will allow the construction of the caretaker's residence but will not require any additional improvements.

The proposed 1-acre lot will utilize an existing well and 2,400-gallon cistern as a water supply and an existing septic tank and leach field for sewage disposal.

Staff Recommendation
Horst Estate
January 14, 1981
Page Two

One of the Sketch Plan approval requirements was that 2'-wide gravel shoulders be added to the existing 12'-wide paved drive in order to meet the road width requirement of 16 feet for roads serving two or more lots. The applicant has objected to this requirement, primarily because he has established permanent pasture grass on either side of the drive and does not wish to tear it up and replace it with gravel. The paved condition of the drive is over and above the required standards, which would require only a gravel surface. A waiver of the 16' width requirement would be necessary in order to allow the 12'-wide roadway. Under the circumstances, staff is willing to support the waiver of this requirement.

Even though only one (1) of the two (2) additional lots for which the property is eligible under current zoning is currently being platted, the property will remain eligible for an additional lot. The conservation easement which will cover the larger lot containing the existing residence will also contain a provision for alteration of the area subject to the conservation easement if and when the Non-Urban PUD is amended and the subdivision is replatted to include a third lot.

The Planning Commission approved the application at their December 17, 1980 regular meeting. The approval included the waiver of the 16' roadway requirement.

RECOMMENDATION:

The staff and the Planning Commission recommend that the Board of County Commissioners APPROVE Docket #SD-80-5/#SU-80-3, Horst Estate Final Plat and AUTHORIZE the Chairman of the Board to sign the plat and the acknowledgement of the grant of conservation easement.

GRG/cld

FILM 1198

Recorded 9:50 AM On MAR 1 1982
 485003
 Reception No. Charlotte Houston, Boulder County Recorder

2-1

GRANT OF CONSERVATION EASEMENT

THIS INDENTURE, entitled Grant of Conservation Easement, made this 23 day of FEBRUARY, 1982 by and between THOMAS A. HORST AND CHERYL LYNN HORST, Grantors, and THE COUNTY OF BOULDER, a body corporate and politic, Grantee:

WITNESSETH:

WHEREAS, the Grantors are the owners in joint tenancy and fee simple of a certain tract of real property designated as Lot 1 on the plat of Horst Estate Subdivision, a part of the NE $\frac{1}{4}$ of Section 27, Township 1 North, Range 69 West of the 6th P.M. in the County of Boulder, State of Colorado; and

WHEREAS, the Grantee has determined that to accomplish the purpose of preserving agricultural land, it is desirable to acquire a conservation easement which preserves open land for agricultural purposes within the above-described property, and Grantor is willing to grant the same;

NOW, THEREFORE, the Grantors, for the sum of Ten Dollars and other good and valuable consideration to the said Grantor in hand paid by the Grantee, the receipt of which is hereby confessed and acknowledged, has granted and conveyed and by these presents does grant and convey a conservation easement over Lot 1 of the Horst Estate Subdivision to Grantee, its successors and assigns, which easement shall be described in the following manner, to-wit:

1. This conservation easement shall:

A. Prohibit the Grantors, their successors and assigns, from erecting or constructing any residential structures or structures which are not accessory to an existing principal agricultural use on Lot 1; the construction of agriculturally related buildings and structures may be permitted on this property as long as they are not for residential purposes, they are constructed and used as accessory structures to a single principal use of agriculture, and are determined to be such in accordance with County Land Use regulations.

B. Prohibit the Grantors, their successors and assigns, from dividing such Lot 1 into two or more parcels, separate interests, or interests in common, unless exempted under CRS 30-28-101(10)(d), 1973, as amended, or resubdivided under the applicable provisions of the Boulder County Subdivision Regulations.

C. Prohibit the Grantors, their successors and assigns, from erecting, constructing, or expanding any structure and/or pavement on Lot 1, such that the total coverage of structure and/or pavement on such Lot 1 exceeds 10 acres or 10% of the area of such Lot 1, whichever is less, unless the use of such structure and/or pavement is accessory to a principal open agricultural use and required by government regulation.

D. Require the Grantors, their successors and assigns, provide for the management and use of Lot 1 as a single agricultural unit, and cause the assignment of maintenance responsibility for such Lot 1 to a single legally responsible individual who is a resident of Boulder County.

2. The Grantors further grant through this conservation easement to the Grantee, its agents and contractors, the right to enter upon the property described above to inspect for violations of the terms and covenants of this easement and to remove or eliminate any conditions

or operations which violate the same as may be desirable or necessary. No further right of access, entry or possession is conveyed hereby.

3. The easement granted herein shall run with the land and shall remain an easement on the land until terminated or transferred by the Grantee and by the operation of all of the following provisions:

A. Where the Boulder County Planning Commission and Boulder County Board of Commissioners have determined that the proposed and/or allowed development and/or land use resulting from such termination or transfer is consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use regulations

B. And the recipient(s) of these transferred interests or rights is (are) a municipality and/or the owner (2) of fee title; and in the instance where these interests or rights are to be transferred to a municipality which is not owner of fee title, Boulder County will:

I require the consent of or compensation to the owner(s) of fee title at an amount equal to the fair market value of such interest or rights, less costs of transfer, and

II condition or restrict the transfer to prohibit use for future speculative purposes by the municipality.

It is understood, that Grantee may require compensation for and attach conditions to these transfers, and that these conditions may include restrictions of the future use of Lot 1.

4. It is acknowledged and understood that the easement granted herein shall not have the effect of adding any additional restrictions to the use of the existing residence on Lot 1 as a single-family dwelling or of preventing the expansion or addition to the existing use or structure, as long as the proposed use is in compliance with the applicable requirements of the Boulder County Zoning Resolution and the Boulder County Subdivision Regulations.

5. Upon application by the Grantors for an additional lot on the property, and upon approval of such by the County, the Grantee agrees to release this conservation easement provided that a new conservation easement in favor of the Grantee is recorded encompassing a minimum of 75% of the total land area described on the plat recorded at Reception # 432702 of the records of the Boulder County Clerk and Recorder's Office, which conservation easement limits the use of the property described therein in like manner to the provisions of Items 1, 2 and 3 above.

IN WITNESS WHEREOF, the said Grantors have caused their names to be hereunto subscribed the day and year first above written.

Thomas A. Horst

Grantor

STATE OF COLORADO)
COUNTY OF BOULDER)

Cheryl Lynn Horst

Grantor

The foregoing instrument was acknowledged before me this 23 day of February, 1982, by Thomas A. Horst and Cheryl Lynn Horst
Witness my hand and official seal.

My commission expires: My Commission expires Jan. 14, 1984

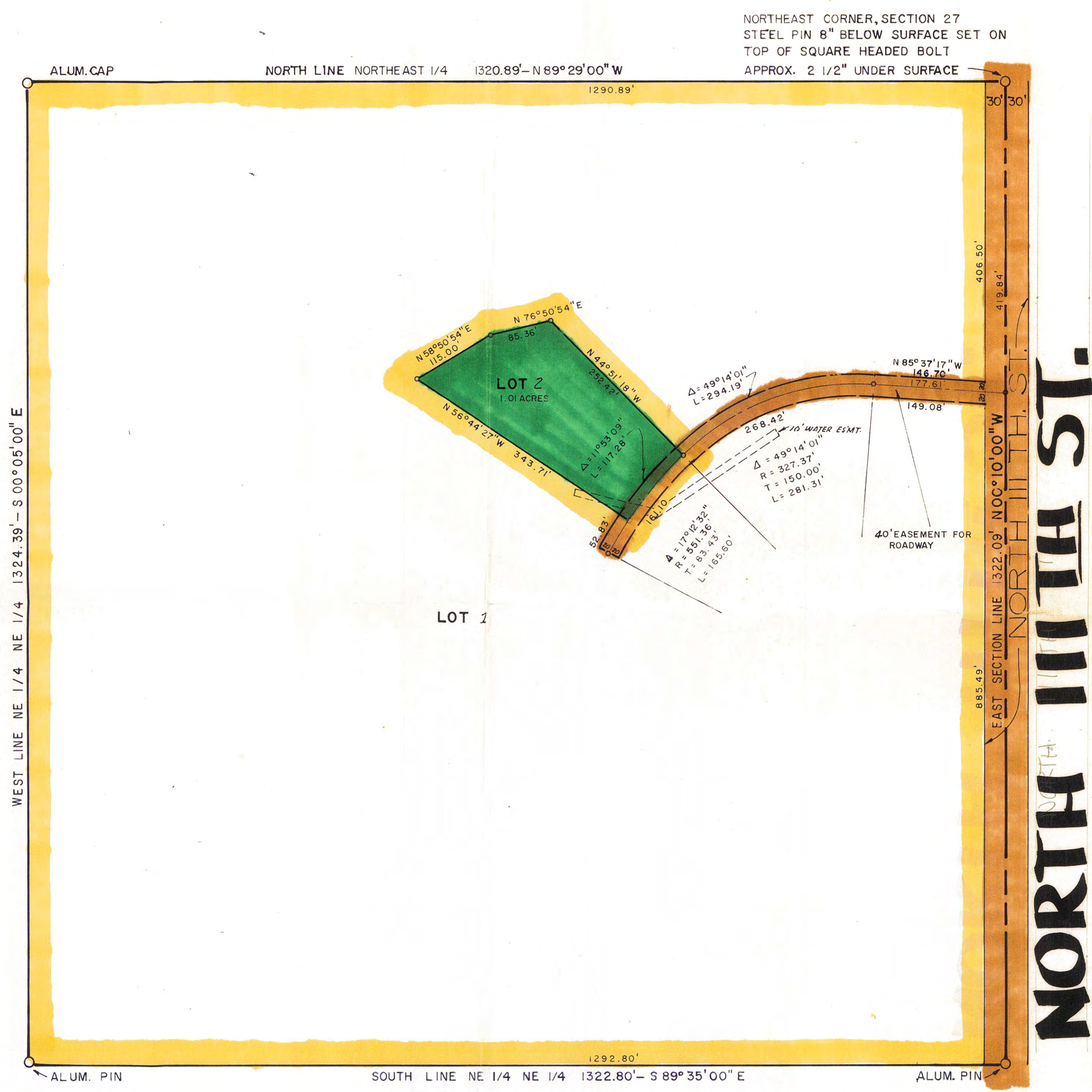
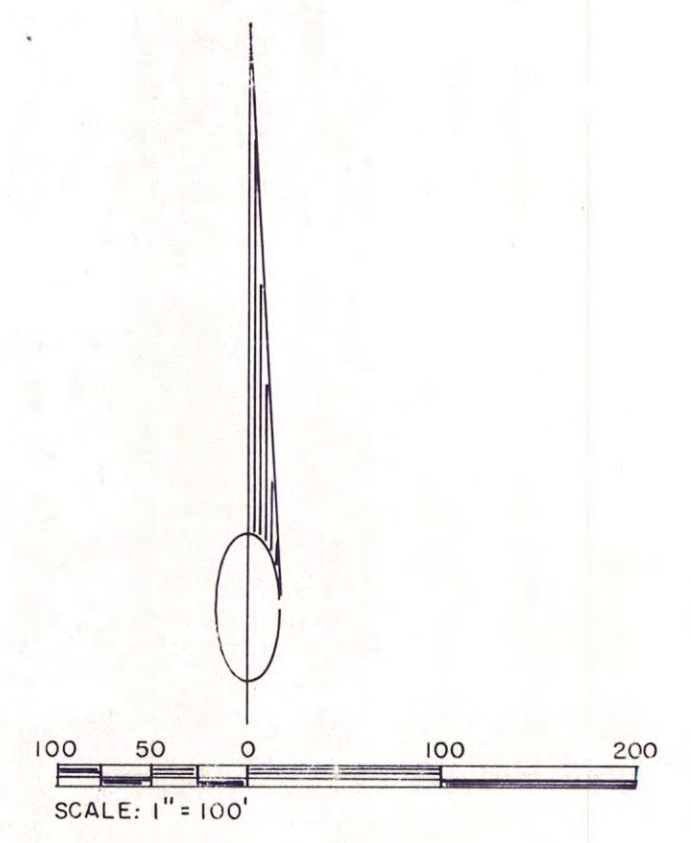
William Kull

Notary Public

DOCKET # SD-80-5/SU-80-3 FINAL PLAT

H O R S T E S T A T E S U B D I V I S I O N

THE NE 1/4, NE 1/4 OF SEC. 27, T1N, R69W, OF THE 6PM. BOULDER COUNTY, COLORADO



NORTHEAST CORNER, SECTION 27
STEEL PIN 8" BELOW SURFACE SET ON
TOP OF SQUARE HEADED BOLT
APPROX. 2 1/2" UNDER SURFACE

PLANNING COMMISSION CERTIFICATE:

APPROVED THE _____ DAY OF _____, AD 1980, COUNTY PLANNING COMMISSION
BOULDER COUNTY, COLORADO.
CHAIRMAN _____

COMMISSIONERS' CERTIFICATE:

APPROVED THIS _____ DAY OF _____, AD 1980, BOARD OF COUNTY COMMISSIONERS
BOULDER COUNTY, COLORADO.
THIS APPROVAL DOES NOT GUARANTEE THAT THE SIZE, SOIL CONDITIONS, SUBSURFACE GEOLOGY,
GROUNDWATER CONDITIONS, OR FLOODING CONDITIONS OF ANY LOT SHOWN HEREON ARE SUCH THAT
BUILDING PERMIT, WELL PERMIT, OR SEWAGE DISPOSAL PERMIT WILL BE ISSUED.
THIS APPROVAL IS WITH THE UNDERSTANDING THAT ALL EXPENSES INVOLVING REQUIRED IMPROVEMENTS
FOR ALL UTILITY SERVICES, PAVING, GRADING, LANDSCAPING, CURBS, GUTTERS, SIDEWALKS,
ROAD LIGHTING, ROAD SIGNS, FLOOD PROTECTION DEVICES, DRAINAGE STRUCTURES, AND ALL OTHER
IMPROVEMENTS THAT MAY BE REQUIRED SHALL BE THE RESPONSIBILITY OF THE SUBDIVIDER AND
NOT THE COUNTY OF BOULDER.

ATTEST: _____ CHAIRMAN _____
CLERK OF BOARD _____

CLERK AND RECORDER'S CERTIFICATE:

(STATE OF COLORADO)
(COUNTY OF BOULDER) SS
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT _____ O' CLOCK,
_____ DAY OF _____, A.D., 1980, AND IS DULY RECORDED IN PLAN FILE
_____ FEES _____ PAID
RECORDER _____ DEPUTY _____

NOTARIAL CERTIFICATE:

(STATE OF COLORADO)
(COUNTY OF BOULDER)
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY
OF _____, A.D. 1980, BY
MY COMMISSION EXPIRES _____
NOTARY PUBLIC _____

DEDICATION:

KNOW ALL MEN BY THESE PRESENTS
THAT THOMAS A. HORST IS THE OWNER OF THE REAL PROPERTY
SITUATED IN BOULDER COUNTY, COLORADO AND LYING WITHIN
THE EXTERIOR OF HORST EASTATE SUBDIVISION THAT IT HAS
CAUSED SAID REAL PROPERTY TO BE LAID OUT AND SURVEYED
AS HORST ESTATE SUBDIVISION, A SUBDIVISION IN THE COUNTY
OF BOULDER, STATE OF COLORADO, AND DOES HEREBY ACCEPT THE
RESPONSIBILITY FOR THE COMPLETION OF REQUIRED IMPROVEMENTS
AND DOES HEREBY DEDICATE AND SET APART ALL OF THE ROADS AND
OTHER PUBLIC IMPROVEMENTS AND PLACES AS SHOWN ON THE ACCOMPANYING
PLAT TO THE USE OF THE PUBLIC FOREVER, AND DOES HEREBY DEDICATE
THOSE PORTIONS OF SAID REAL PROPERTY WHICH ARE INDICATED AS EASEMENTS
ON THE ACCOMPANYING PLAT AS EASEMENTS FOR THE PURPOSE SHOWN HEREON,
AND DOES HEREBY GRANT THE RIGHT TO INSTALL AND MAINTAIN NECESSARY
STRUCTURES TO THE ENTITY RESPONSIBLE FOR PROVIDING THE SERVICES FOR WHICH
THE EASEMENTS ARE ESTABLISHED.

IN WITNESS WHEREOF THOMAS A. HORST HAS CAUSED HIS NAME TO BE HEREUNTO
SUBSCRIBED, THIS _____ DAY, OF _____ A.D. 1980
THOMAS A. HORST

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT A SURVEY OF THE ABOVE DESCRIBED PROPERTY
WAS MADE UNDER MY SUPERVISION AND THAT CORNERS SHOWN AND
SET BY LS NO. 2152 ARE CORRECT TO THE BEST OF MY KNOWLEDGE
Bobbi Lee Williams
COLO. REG. LAND SURVEYOR, L.S. 10737

ROAD IMPROVEMENT FUND
THE OWNER ACKNOWLEDGES THAT THE COUNTY IS
CONTEMPLATING THE USE OF A COUNTY-WIDE OR REGIONAL
ROAD SYSTEM IMPROVEMENT FUND TO FACILITATE
ROAD IMPROVEMENTS NECESSITATED BY NEW
DEVELOPMENTS, AND THAT AT SUCH TIME AS LOT 2 IS
ELIGIBLE FOR A BUILDING PERMIT THE LOT WILL BE
SUBJECTED TO ASSESSMENTS OF ANY SUCH ESTABLISHED
BY RESOLUTION OF THE COUNTY COMMISSIONERS.

NOTICE:

PUBLIC NOTICE IS HEREBY GIVEN THAT ACCEPTANCE OF THIS PLATTED SUBDIVISION BY THE COUNTY OF
BOULDER DOES NOT CONSTITUTE AN ACCEPTANCE OF THE ROADS AND OTHER IMPROVEMENTS REFLECTED
HEREON FOR MAINTENANCE BY SAID COUNTY.
UNTIL SUCH ROADS AND OTHER IMPROVEMENTS MEET COUNTY REQUIREMENTS AND ARE SPECIFICALLY
ACCEPTED BY THIS COUNTY BY RECORDING WITH THE CLERK AND RECORDER OF THIS COUNTY AN OFFICIAL
ACCEPTANCE, THE MAINTENANCE, CONSTRUCTION, AND ALL OTHER MATTERS PERTAINING TO OR AFFECTING
SAID ROADS AND OTHER IMPROVEMENTS AND RIGHT-OF-WAY ARE THE SOLE RESPONSIBILITY OF THE
OWNERS OF THE LAND WITHIN THIS SUBDIVISION.
THE 40'-WIDE "EASEMENT FOR ROADWAY" ENCOMPASSES A PRIVATE ROAD WHICH IS TO
PRIVATELY MAINTAINED BY THE OWNER OR OWNERS OF LOT 1 AND LOT 2

HORST ESTATE SUBDIVISION REPLAT A

A REPLAT OF LOTS 1 & 2, HORST ESTATE SUBDIVISION, LOCATED IN THE NORTHEAST QUARTER OF SECTION 27, TOWNSHIP 1 NORTH, RANGE 69 WEST OF THE 6TH P.M., COUNTY OF BOULDER, STATE OF COLORADO
SHEET 1 OF 1

Parcel Description
LOTS 1 AND 2, HORST ESTATE SUBDIVISION, COUNTY OF BOULDER, STATE OF COLORADO

Ownership Certificate

KNOW ALL PERSONS BY THESE PRESENTS, THAT THE UNDERSIGNED, ARE THE OWNERS OF THAT REAL PROPERTY SITUATED IN THE COUNTY OF BOULDER, STATE OF COLORADO, AND LYING WITHIN THE EXTERIOR BOUNDARY OF HORST ESTATE SUBDIVISION, A SUBDIVISION IN THE COUNTY OF BOULDER, STATE OF COLORADO, THAT THE UNDERSIGNED HAVE CAUSED SAID REAL PROPERTY TO BE LAID OUT AND SURVEYED AS "HORST ESTATE SUBDIVISION REPLAT A" IN THE COUNTY OF BOULDER, STATE OF COLORADO.

OWNER LOT 1:
THEATRE TRUST
Mark Rockwell
MARK ROCKWELL, AS TRUSTEE OF THEATRE TRUST

ACKNOWLEDGEMENT
STATE OF COLORADO } SS.
COUNTY OF BOULDER }
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 6th DAY OF November, 2017, BY MARK ROCKWELL, AS TRUSTEE OF THEATRE TRUST

WITNESS MY HAND AND OFFICIAL SEAL
MY COMMISSION EXPIRES: 01/28/2018

NOTARY PUBLIC
OWNER LOT 2:
PINK PEONY TRUST
Kelli Sexton
KELLI SEXTON, AS TRUSTEE OF PINK PEONY TRUST

ACKNOWLEDGEMENT
STATE OF COLORADO } SS.
COUNTY OF BOULDER }
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 6th DAY OF November, 2017, BY KELLI SEXTON, AS TRUSTEE OF PINK PEONY TRUST.

WITNESS MY HAND AND OFFICIAL SEAL
MY COMMISSION EXPIRES: 01/28/2018

NOTARY PUBLIC
OWNER LOT 2:
ROCKTON 111, LLC
Mark Rockwell
MARK ROCKWELL, AS MEMBER MANAGER

ACKNOWLEDGEMENT
STATE OF COLORADO } SS.
COUNTY OF BOULDER }
THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 6th DAY OF November, 2017, BY MARK ROCKWELL, AS MEMBER MANAGER AND KELLI SEXTON AS MEMBER MANAGER, OF ROCKTON 111, LLC.

WITNESS MY HAND AND OFFICIAL SEAL
MY COMMISSION EXPIRES: 01/28/2018

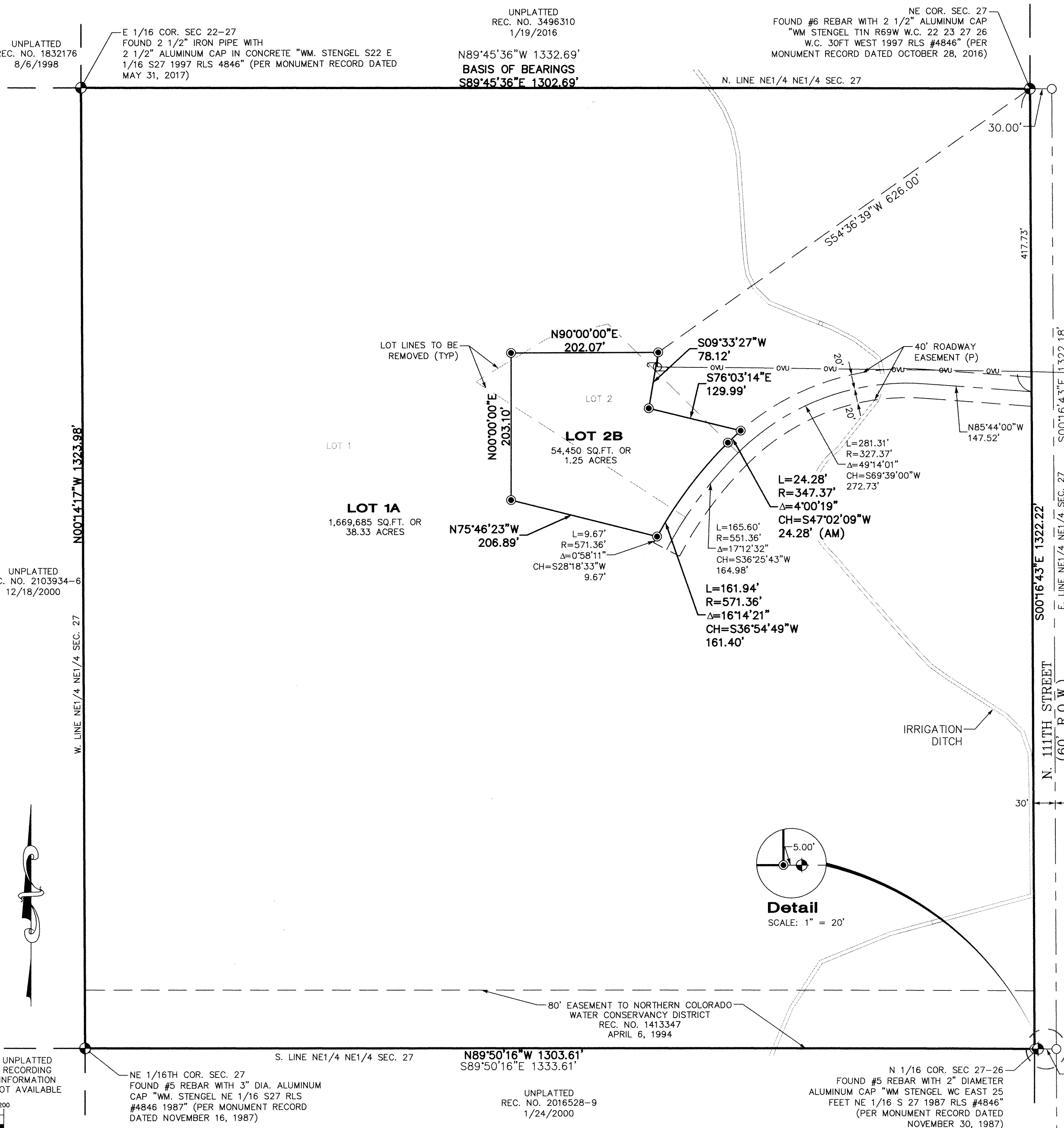
NOTARY PUBLIC

- Legend**
- ◆ FOUND ALIQUOT MONUMENT AS DESCRIBED
 - SET 18" #5 REBAR WITH 1 1/2" ALUMINUM CAP "FLATIRONS SURV 16406"
 - CALCULATED ALIQUOT MONUMENT FROM FOUND OFFSET
 - (P) AS PER THE PLAT OF HORST ESTATE SUBDIVISION REC. NO. 432702

Authorization To Record

I, Debra Gardner, SECRETARY TO THE BOULDER COUNTY PLANNING COMMISSION, DO HEREBY CERTIFY THAT TO THE BEST OF MY KNOWLEDGE ALL CONDITIONS OF COUNTY APPROVAL OF THIS PLAT OF HORST ESTATE SUBDIVISION REPLAT A HAVE BEEN FULLY SATISFIED AND THAT THE SAME IS HEREBY AUTHORIZED FOR RECORDATION.

WITNESS MY HAND ON THE 14 DAY OF Nov, 2017.
Debra Gardner
SECRETARY TO THE BOULDER COUNTY PLANNING COMMISSION



Notes

- FIDELITY NATIONAL TITLE INSURANCE COMPANY COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0540358 (LOT 1, HORST ESTATE SUBDIVISION), DATED AUGUST 8, 2017 AT 6:00 P.M., AND FIDELITY NATIONAL TITLE INSURANCE COMPANY COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0545099 (LOT 2, HORST ESTATE SUBDIVISION), DATED AUGUST 8, 2016 AT 5:00 P.M. WERE ENTIRELY RELIED UPON FOR RECORDED INFORMATION REGARDING RIGHTS-OF-WAY, EASEMENTS AND ENCUMBRANCES IN THE PREPARATION OF THIS SURVEY. THE PROPERTY SHOWN AND DESCRIBED HEREON IS ALL OF THE PROPERTY DESCRIBED IN SAID TITLE COMMITMENTS.
- 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.
- BASES OF BEARINGS: GPS DERIVED BEARINGS BASED ON A BEARING OF S89°45'36"E ALONG THE NORTH LINE OF THE NE 1/4 NE 1/4 SEC 27, BETWEEN A FOUND 2 1/2" IRON PIPE WITH 2 1/2" ALUMINUM CAP IN CONCRETE "WM. STENGL TIN R69W W.C. 22 23 27 26" AT THE E 1/16TH CORNER OF SECTIONS 22-27 AND A FOUND #6 REBAR WITH 2 1/2" ALUMINUM CAP "WM STENGL TIN R69W W.C. 22 23 27 26" W.C. 30FT WEST 1997 RLS #4846" AT THE 30 FOOT WITNESS CORNER TO THE NORTHEAST CORNER OF SECTION 27 AS SHOWN HEREON. COLORADO STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NORTH AMERICAN DATUM 1983 (NAD83). ALL BEARINGS SHOWN HEREON ARE RELATIVE THERETO.
- ANY PERSON WHO KNOWINGLY REMOVES, ALTERS OR DEFACES ANY PUBLIC LAND SURVEY MONUMENT AND/OR BOUNDARY MONUMENT OR ACCESSORY, COMMITS A CLASS TWO (2) MISDEMEANOR PURSUANT TO STATE STATUTE C.R.S. SEC 18-4-508. WHOEVER WILLFULLY DESTROYS, DEFACES, CHANGES, OR REMOVES TO ANOTHER PLACE ANY SECTION CORNER, QUARTER-SECTION CORNER, OR MEANDER POST, ON ANY GOVERNMENT LINE OF SURVEY, OR WILLFULLY CUTS DOWN ANY WITNESS TREE OR ANY TREE OR BLAZED TO MARK THE LINE OF A GOVERNMENT SURVEY, OR WILLFULLY DEFACES, CHANGES, OR REMOVES ANY MONUMENT OR BENCH MARK OF ANY GOVERNMENT SURVEY, SHALL BE FINED UNDER THIS TITLE OR IMPRISONED NOT MORE THAN SIX MONTHS, OR BOTH, 18 U.S.C. § 1858.
- THE DISTANCE MEASUREMENTS SHOWN HEREON ARE U.S. SURVEY FOOT.
- DATES OF FIELDWORK: OCTOBER 1, 2017 (CREW CHIEF D. WILSON)
- THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE DOCUMENT (COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0540358) AND APPEAR TO AFFECT THE SUBJECT PROPERTY BUT CANNOT BE SHOWN GRAPHICALLY. THE FOLLOWING LIST CONTAINS THE TITLE DOCUMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.

#3 JULY 11, 1891	BK 138, PG 518	RESERVATION OF MINERALS
MAY 17, 2002	REC. NO. 2288464	REQUEST FOR NOTIFICATION OF SURFACE DEVELOPMENT
#6 FEB 2, 1981	REC. NO. 432703	CONSERVATION EASEMENT
#7 APRIL 23, 1981	REC. NO. 443242	OIL AND GAS LEASE
FEB 3, 1984	REC. NO. 602452	AFFIDAVIT
JUNE 12, 1995	REC. NO. 1523079	AGREEMENT TO AMEND
JAN 23, 2001	REC. NO. 2112338	NOTICE OF OIL AND GAS INTERESTS AND SURFACE USE
#8 MARCH 1, 1982	REC. NO. 485003	CONSERVATION EASEMENT
#10 OCT 23, 2007	REC. NO. 2890878	REQUEST FOR NOTIFICATION OF SURFACE DEVELOPMENT
#11 DEC 21, 2007	REC. NO. 2900941	REQUEST FOR NOTIFICATION
#13 AUG 2016	REC. NO. 03535622	DEED OF TRUST
#14 AUG 8, 2016	REC. NO. 3535665	AGREEMENT FOR A REPAIR TO AN ONSITE WASTEWATER TREATMENT SYSTEM
- THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE DOCUMENT (COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0540358) AND DO NOT APPEAR TO AFFECT THE SUBJECT PROPERTY. THE FOLLOWING LIST CONTAINS THE TITLE DOCUMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.

#4 MAY 4, 1997	REC. NO. 221094	PUBLIC SERVICE LICENSE/EASEMENT (LOCATED EAST AND NORTH)
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- THE FOLLOWING DOCUMENTS ARE MENTIONED IN THE ABOVE REFERENCED TITLE DOCUMENT (COMMITMENT NUMBER CO-FSTG-IMP-27306-1-16-F0545099) AND APPEAR TO AFFECT THE SUBJECT PROPERTY BUT CANNOT BE SHOWN GRAPHICALLY. THE FOLLOWING LIST CONTAINS THE TITLE DOCUMENT EXCEPTION NUMBER, DATE RECORDED, RECEPTION NUMBER AND/OR BOOK AND PAGE.

#3 JULY 11, 1891	BK 138, PG 518	RESERVATION OF MINERALS
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#4 MAY 4, 1997	REC. NO. 221094	PUBLIC SERVICE LICENSE/EASEMENT (LOCATED EAST AND NORTH)
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Board of Commissioner's Approval

APPROVED THIS 15th DAY OF November, 2017 BOARD OF COMMISSIONERS, BOULDER COUNTY, COLORADO. THIS APPROVAL DOES NOT GUARANTEE THAT THE SIZE, SOIL CONDITIONS, SUBSURFACE GEOLOGY, GROUND WATER CONDITIONS, OR FLOODING CONDITIONS OF ANY LOT SHOWN HEREON ARE SUCH THAT A BUILDING PERMIT, WELL PERMIT, OR SEWAGE DISPOSAL PERMIT WILL BE ISSUED. THIS APPROVAL IS WITH THE UNDERSTANDING THAT ALL EXPENSES INVOLVING REQUIRED IMPROVEMENTS FOR ALL UTILITY SERVICE, PAVING, LANDSCAPING, CURBS, GUTTERS, SIDEWALKS, ROAD LIGHTING, ROAD SIGNS, FLOOD PROTECTION DEVICES, DRAINAGE STRUCTURES AND ALL OTHER IMPROVEMENTS THAT MAY BE REQUIRED SHALL BE THE RESPONSIBILITY OF THE OWNER AND/OR PROPRIETOR AND NOT THE COUNTY OF BOULDER.

Debra Gardner CHAIR
Mike Jahn CLERK OF BOARD

Surveyor's Certificate

I, JOHN B. GUYTON, A PROFESSIONAL LAND SURVEYOR LICENSED TO PRACTICE LAND SURVEYING IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY OF HORST ESTATE SUBDIVISION REPLAT A WAS MADE BY ME OR DIRECTLY UNDER MY SUPERVISION ON OR ABOUT THE 16TH DAY OF OCTOBER, 2017, AND THAT THE SURVEY IS BASED UPON MY KNOWLEDGE, INFORMATION AND BELIEF. IT HAS BEEN PREPARED IN ACCORDANCE WITH APPLICABLE STANDARDS OF PRACTICE. THE SURVEY IS NOT A WARRANTY OR WARRANTY, EITHER EXPRESSED OR IMPLIED, AND THE ACCOMPANYING PLAT ACCURATELY AND PROPERTY SHOWS SAID SUBDIVISION AND THE SURVEY THEREOF.
JOHN B. GUYTON
COLORADO P.L.S. #16406 FSI JOB NO. 17-70,287
CHAIRMAN & CEO, FLATIRONS, INC.

Clerk and Recorder's Certificate

STATE OF COLORADO }
COUNTY OF BOULDER } SS.
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT 11:16 O'CLOCK A.M., THIS 14th DAY OF December, 2017, AND IS RECORDED RECEPTION # 231628831
FEES PAID: \$ 13.94
Debra Gardner CLERK AND RECORDER
Mike Jahn DEPUTY

03628631
Page 1 of 1
DF: 80.00
RF: 313.00
BOULDER COUNTY CLERK
Boulder County Clerk, CO

REVISION DATE

HORST ESTATE SUBDIVISION REPLAT A

Flatirons, Inc.
www.FlatironsInc.com
3660 DOWNING ST UNIT 6 DENVER, CO 80205
3825 IRIS AVE, STE 395 BOULDER, CO 80501
PH: (303) 776-1733 PH: (303) 443-7001 PH: (303) 443-9630 PH: (303) 936-6997
FAX: (303) 776-4355

JOB NUMBER: 17-70,287
DATE: 11-03-2017
DRAWN BY: E. PRESCOTT
CHECKED BY: JZC/WW/JK/BB
SHEET 1 OF 1