



# 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](http://www.bouldercounty.org)

## BOULDER COUNTY BOARD OF ADJUSTMENT

### AGENDA ITEM

Wednesday June 7, 2023 4:00 P.M.

#### PUBLIC HEARING

**STAFF PLANNER:** Sam Walker, Planner II

**RECOMMENDATION:** Staff recommends denial of the variance request

#### **Docket VAR-23-0003: Danaher Setback Reductions**

**Request:** Variance request to reduce the required supplemental setback from 110 feet (required) to 86 feet (proposed) to allow a front porch built without permits, and reduce the rear-yard setback from 15 feet (required) to 9' 6" (proposed) for a windmill also built without permits.

**Location:** 5745 Jay Road, approximately 300 feet east of the intersection of Jay Road and N. 57<sup>th</sup> Street.

**Zoning:** Rural Residential (RR) Zoning District

**Agent:** Charlie Danaher

**Property Owners:** Danaher & Valentine Living Trust

#### PACKET CONTENTS:

Item	Pages
○ Staff Recommendation	1 – 11
○ Application Materials (Attachment A)	A1 – A20
○ Referral Agency Responses (Attachment B)	B1 – B8
○ Adjacent Property Owner Comments (Attachment C)	C1 – C20

#### SUMMARY

The applicant requests a reduction in the required supplemental setback along Jay Road from 110 feet to 86 feet to allow for the construction of a front porch addition to the main residence, as well as a reduction in the required rear-yard setback from 15 feet to 9 feet 6 inches for the construction of a windmill. Both the front porch and the windmill currently exist on the subject parcel, and were constructed without building permits. Staff recommends that this variance request be denied

because the applicable review criteria in Article 4-1202(B)(2) of the Boulder County Land Use Code (the Code) cannot be met.

## **DISCUSSION**

The subject property is located on the north side of Jay Road, approximately 300 feet east of the intersection of Jay Road and N. 57<sup>th</sup> Street. The property is approximately 1.5 acres in size, is located in the Rural Residential zoning district, and is a legal building lot. Access to the parcel is via an existing driveway onto Jay Road.

Research conducted by the Boulder County Historic Preservation Team indicates that the existing residence was originally constructed around 1920, although a specific date could not be determined. By 1949, a covered and enclosed porch had been added to the south side of the residence, although it appears that the porch was removed sometime before 1966.

Because the residence was constructed prior to 1985, it predates the adoption of the supplemental setback that the applicant seeks to reduce. However, the current covered porch does not. Historic aerial photography indicates that the current porch was constructed sometime between 2020 and 2022. Prior to 2020, a covered porch had not been present since at least 1977 (see Figures 1-3, below).



*Figure 1: 1977 Aerial photo of subject parcel, no covered porch shown on the south side of the residence.*

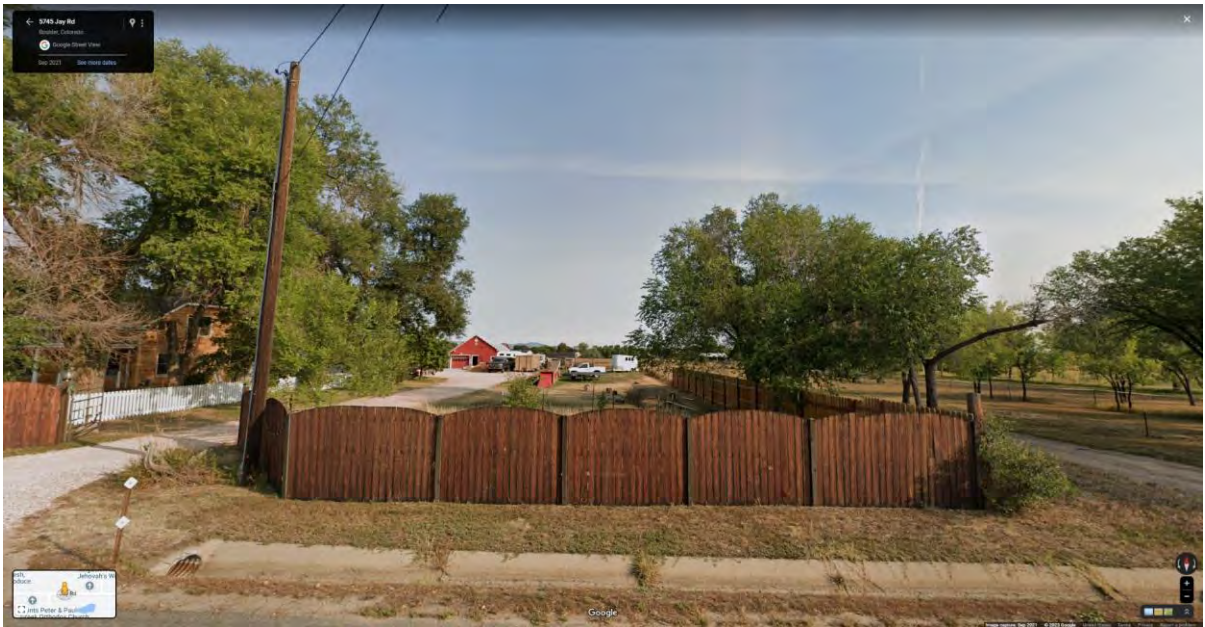


*Figure 2: 2020 Aerial photo, again showing no covered porch on the south side of the residence*

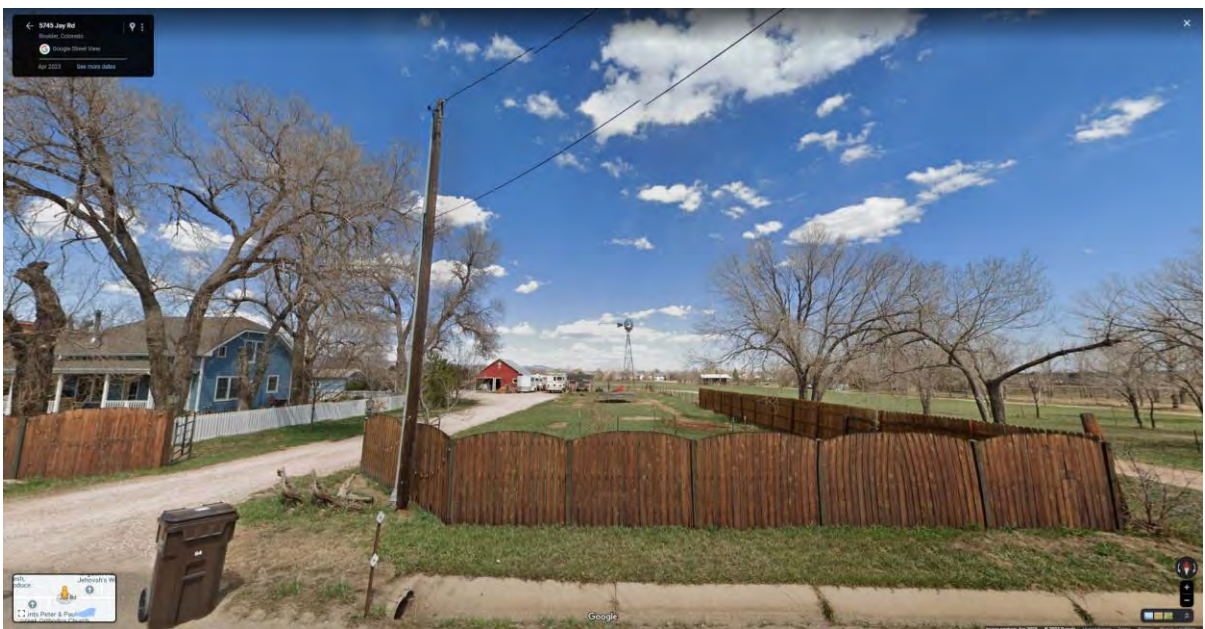


*Figure 3: 2022 Aerial photo where new covered porch has been added.*

The timeline of construction for the windmill is equally unclear. It is not apparently visible in aerial photographs from 2022 or earlier, but appears to have been constructed after the covered porch addition based on Google Streetview imagery as shown in Figures 4 and 5, below.



*Figure 4: View north from Jay Road in September 2021, image taken from Google Streetview*



*Figure 5: View north from Jay Road in April 2023, image taken from Google Streetview*

Both the new covered porch and windmill were constructed without building permits. The applicant’s hardship statement indicates that “remodeling the front porch within the current setbacks would be impossible” and that the existing leach field on the parcel prevented construction of the windmill in a location that could meet all required setbacks. Staff contend that characterization of the porch construction as a “remodel” is inaccurate at best. Figures 6-10, below, illustrate changes to the southern façade of the existing residence over the years.



*Figure 6: Southern façade of the residence including covered porch, circa 1949*



*Figure 7: Southern façade of the residence without covered porch, circa 1966*



*Figure 9: Southern façade of the residence without covered porch, circa September 2018 via Google Streetview*



*Figure 10: Southern façade of the residence with unpermitted porch addition, staff photo taken April 6, 2023*

Staff also contend that there are areas of the subject property where the windmill could have been constructed without encroaching required setbacks while simultaneously avoiding negative impacts to

the leach field that occupies most of the northeastern yard. Figure 11, below, illustrates the current location of the OWTS based on the septic permit records for the subject parcel.

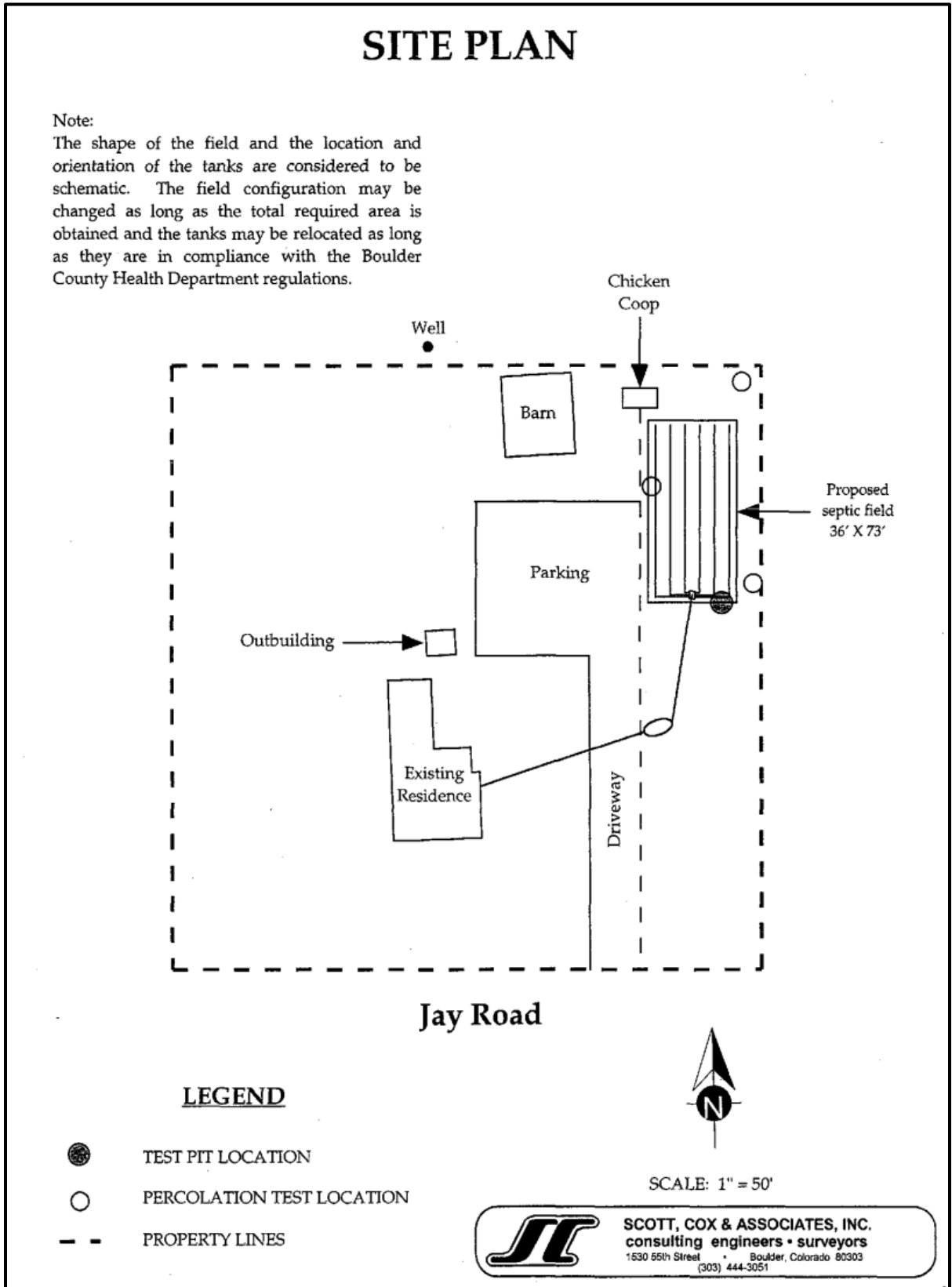


Figure 11: Septic system design for subject parcel



For these reasons, staff find that the proposal cannot meet the Variance criteria described in the Code, and therefore recommend that both requested setback reductions be denied.

## **REFERRALS**

The variance request was sent to property owners within 1,500 feet of the subject property, as well as all applicable referral agencies. Responses received by staff are attached to this staff recommendation (Attachments B and C) and summarized below.

**Boulder County Building Safety & Inspection Services Team** – This team expressed no concerns with the variance request, and noted requirements for the porch and windmill if approved, including building permits, wind and snow loads, ignition-resistant materials and defensible space, and Plan Review.

**Boulder County Development Review Team – Access & Engineering** – This team confirmed the property is legally accessed via Jay Road, that no improvements to the access drive would be required as part of the Variance process, and noted no conflicts with the proposed variance.

**Xcel Energy** – The Xcel referral response noted concerns regarding the placement of the windmill in relationship to overhead powerlines that run along the south side of the property, but indicated no concerns after staff followed up with site images showing the distance between the windmill and powerlines.

**Agencies indicating no conflicts:** Boulder County Parks & Open Space, Boulder County Conservation Easement Team, Boulder County Public Health, Boulder Rural Fire Protection District.

**Agencies that did not respond:** Boulder County Long Range Planning, Boulder County Code Compliance, Boulder County Assessor, Boulder County Attorney’s Office, Boulder County Sheriff, Boulder County Treasurer, Boulder County Surveyor, Left Hand Water District, Northern Colorado Water conservancy District, City of Boulder Planning & Development Services, History Colorado.

**Adjacent Property Owners** – 101 referrals were sent to nearby property owners, and staff received seven responses from members of the public.

Two comments raised issues regarding the proposal, expressing concerns that allowing unpermitted work to receive approval after-the-fact is unfair to those that follow the correct process, and would encourage other property owners to avoid proper permitting, as well as that the windmill poses a safety issue for the adjacent property in high winds because its unpermitted installation does not guaranteed that it meets the required wind load.

Five comments expressed support for the proposal, indicating that the proposed improvements would benefit the neighborhood character and aesthetic and that the proposed setback reductions were reasonable.

## **CRITERIA ANALYSIS**

Per Article 3-100.A.18 of the Code the Board of Adjustment (BOA) may approve a variance from the terms of the Code as set forth in Article 4-1200. To grant a variance, the BOA must find that all of the following criteria from **Article 4-1202(B)(2)** of the Code are satisfied:

*(a) There exist exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope;*

Staff do not find that the subject parcel is encumbered by extraordinary or exceptional physical circumstances. The subject parcel is completely flat, and is of a similar size and configuration to

other nearby residential parcels along the north side of Jay Road. Although the required 110-foot supplemental setback extends into the parcel, approximately half of the parcel remains outside of this setback and could conceivably be developed without the requested setback reduction. Similarly, the staff do not find that the location of the septic system drain field constitutes an extraordinary physical circumstance of the property. There are areas in the northern and northwestern sections of the parcel where the windmill could have been placed without encroaching on the required setbacks or impacting the septic system.

Therefore, staff finds this criterion is not met.

***(b) Because of these physical circumstances, the strict application of the Code creates an exceptional or undue hardship upon the property owner;***

Because staff do not find that there are exceptional or extraordinary physical circumstances on the parcel, the strict application of the Code does not create an exceptional or undue hardship on the property owner.

Therefore, staff finds this criterion is not met.

***(c) The hardship is not self-imposed;***

Staff have not identified a hardship on the parcel that would justify the proposed setback reduction.

Therefore, staff finds this criterion is not met.

***(d) The variance, if granted, will not adversely affect the uses of adjacent property as permitted under this code;***

Staff do not anticipate that the proposed variance will adversely affect the uses of adjacent properties as permitted under the Code, nor has any referral agency responded with such a concern. One adjacent property owner expressed concern that the windmill poses a fall risk to their driveway, and could limit their access to and from their property in a high wind event. However, staff do not share this concern because the structure could be issued a permit certifying that it meets the appropriate wind load for the area and building it outside of the required setback would not necessarily eliminate the fall risk for the neighboring driveway.

Therefore, staff finds this criterion is met.

***(e) The variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of the Code and the Boulder County Comprehensive Plan;***

Staff do not have concerns that the variance will change the character of the zoning district in which the property is located if granted. Aerial photographs of the area around the subject parcel indicate that many nearby properties also have development that approaches or possibly encroaches on the required supplemental or rear-yard setbacks.

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

***(f) The variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County and is in accordance with the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development.***

There is no indication that the proposed setback reductions would adversely affect the health, safety, or welfare of Boulder County citizens, and no referral agency or nearby property owners responded with such concerns.

Therefore, staff finds this criterion is met.

**RECOMMENDATION**

As discussed above, staff find that three of the criteria for a variance cannot be met. Therefore, Community Planning & Permitting staff recommend that the Board of Adjustment **DENY Docket VAR-23-0003: Danaher Setback Reductions.**



## 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](mailto:planner@bouldercounty.org)  
Web: [www.bouldercounty.org/lu](http://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 type="checkbox"/> Other:
Location(s)/Street Address(es)			
5745 Jay Road, Boulder, Colorado			
Subdivision Name			
Lot(s)	Block(s)	Section(s)	Township(s)
Area in Acres	Existing Zoning	Existing Use of Property	Number of Proposed Lots
Proposed Water Supply		Proposed Sewage Disposal Method	

### Applicants:

Applicant/Property Owner		Charlie Danaher & Rose Valentine		Email	cadanaher@aol.com
Mailing Address 5745 Jay Road, Boulder, Colorado					
City	Boulder	State	CO	Zip Code	80301
Phone	303-530-5500				
Applicant/Property Owner/Agent/Consultant				Email	
Mailing Address					
City	State	Zip Code	Phone		
Agent/Consultant				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		Printed Name	Charlie Danaher	Date	3/5/2023
Signature of Property Owner		Printed Name	Rose Valentine	Date	3/5/2023

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



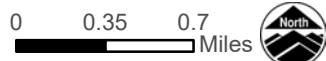
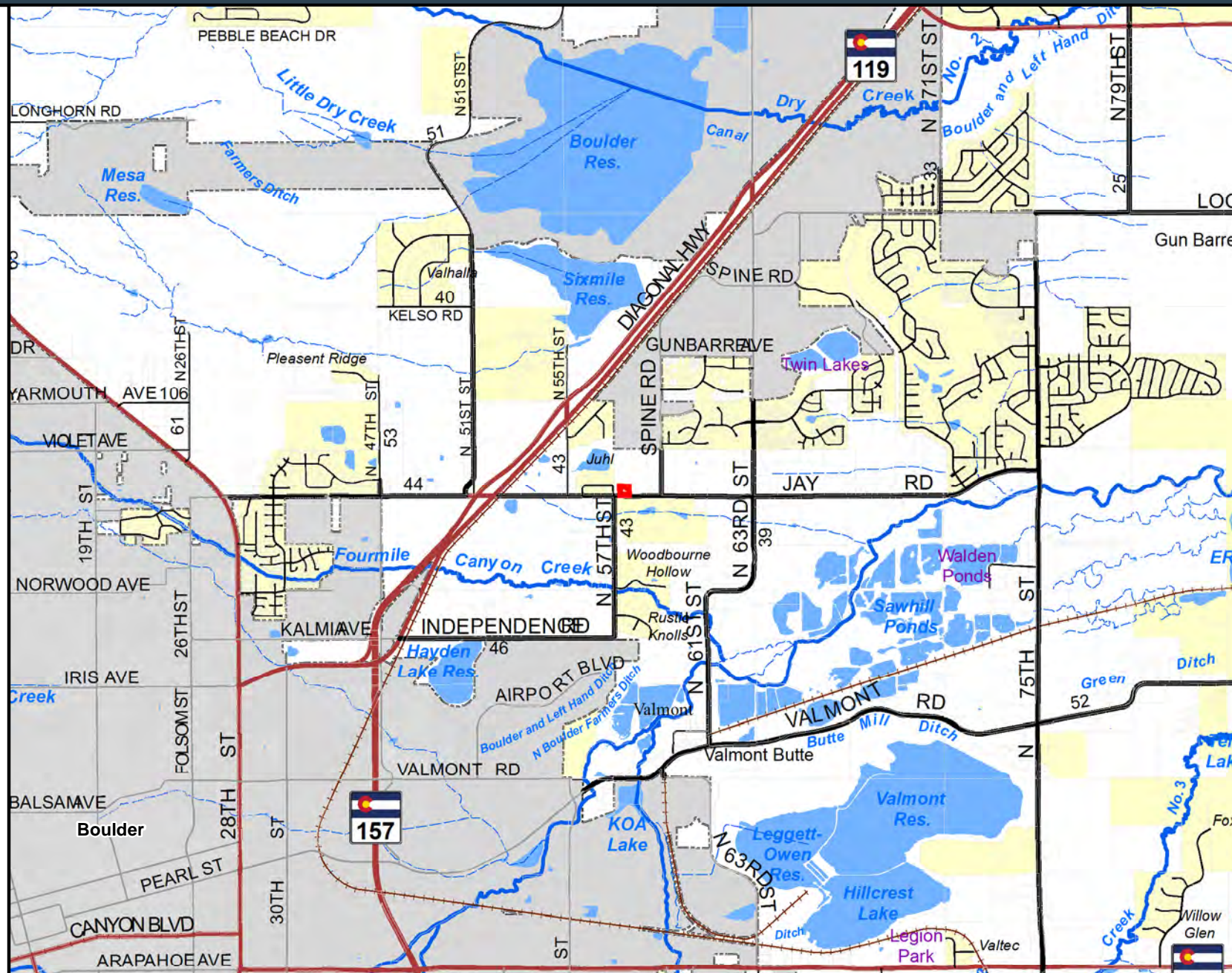
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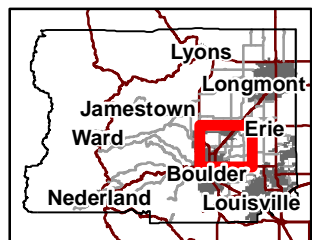
Vicinity

5745 JAY RD

- Subject Parcel
- Municipalities
- Subdivisions**
- Subdivisions



Area of Detail Date: 6/24/2022



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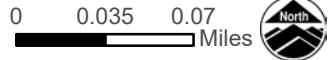
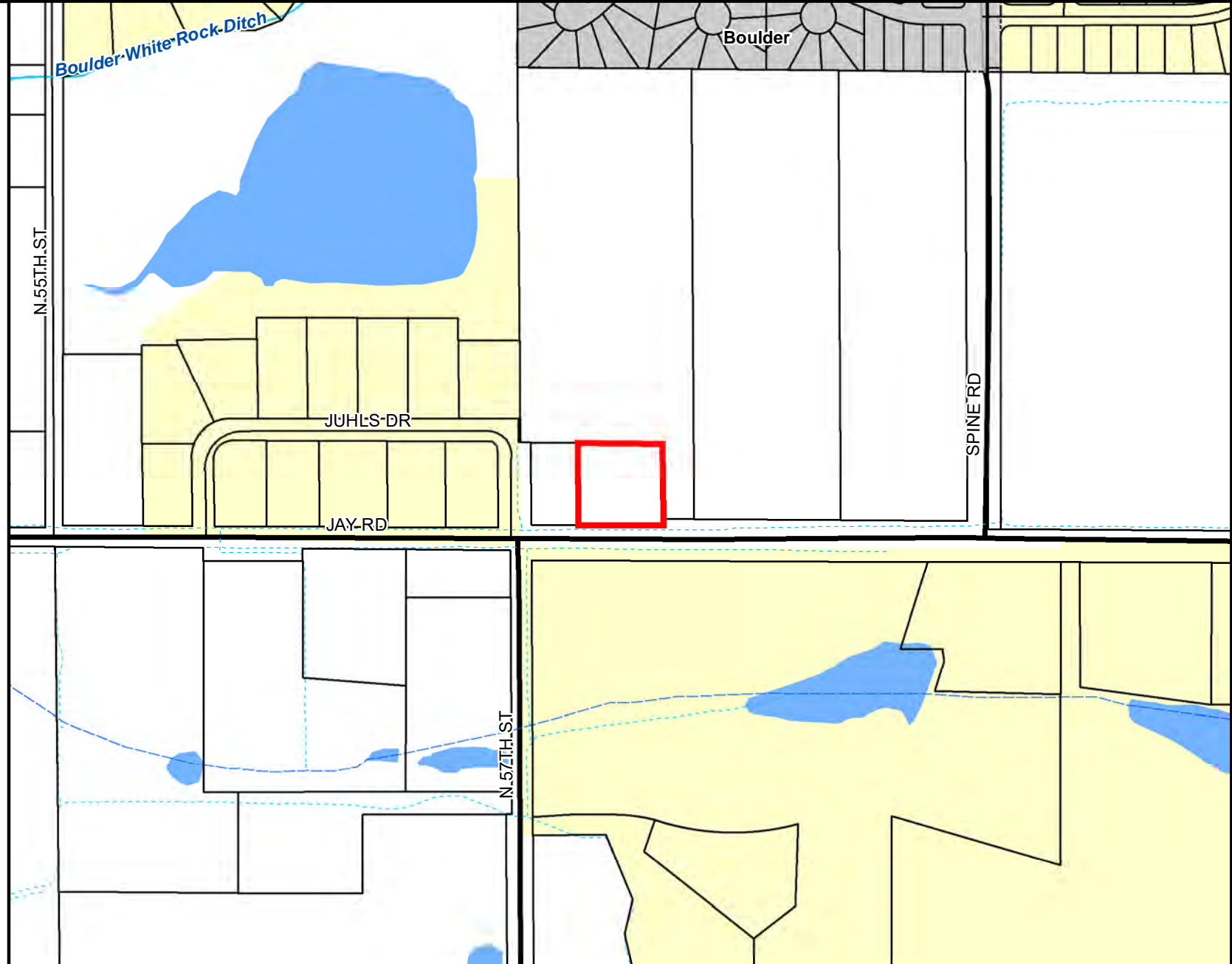
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5745 JAY RD

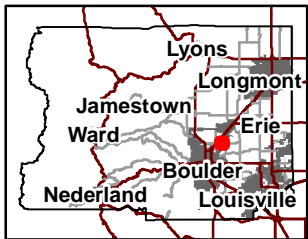
Subject Parcel

**Subdivisions**

Subdivisions



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Aerial  
5745 JAY RD

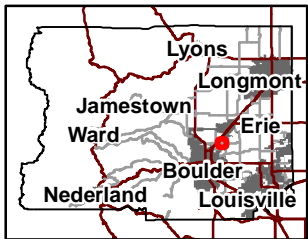
 Subject Parcel



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Miles



Area of Detail Date: 6/24/2022



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Aerial  
5745 JAY RD

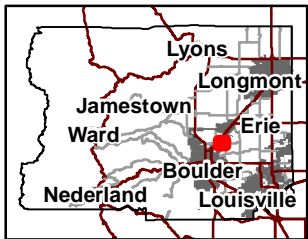
 Subject Parcel



0 0.05 0.1 Miles



Area of Detail Date: 6/24/2022



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# Community Planning & Permitting

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## Comprehensive Plan

### 5745 JAY RD

Subject Parcel

Riparian Areas

Wetlands

### Significant Agricultural Land

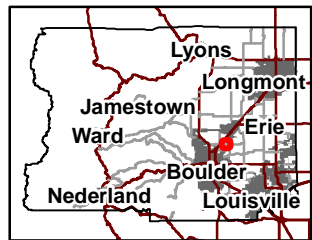
Ag of Statewide Importance



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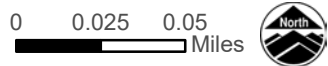
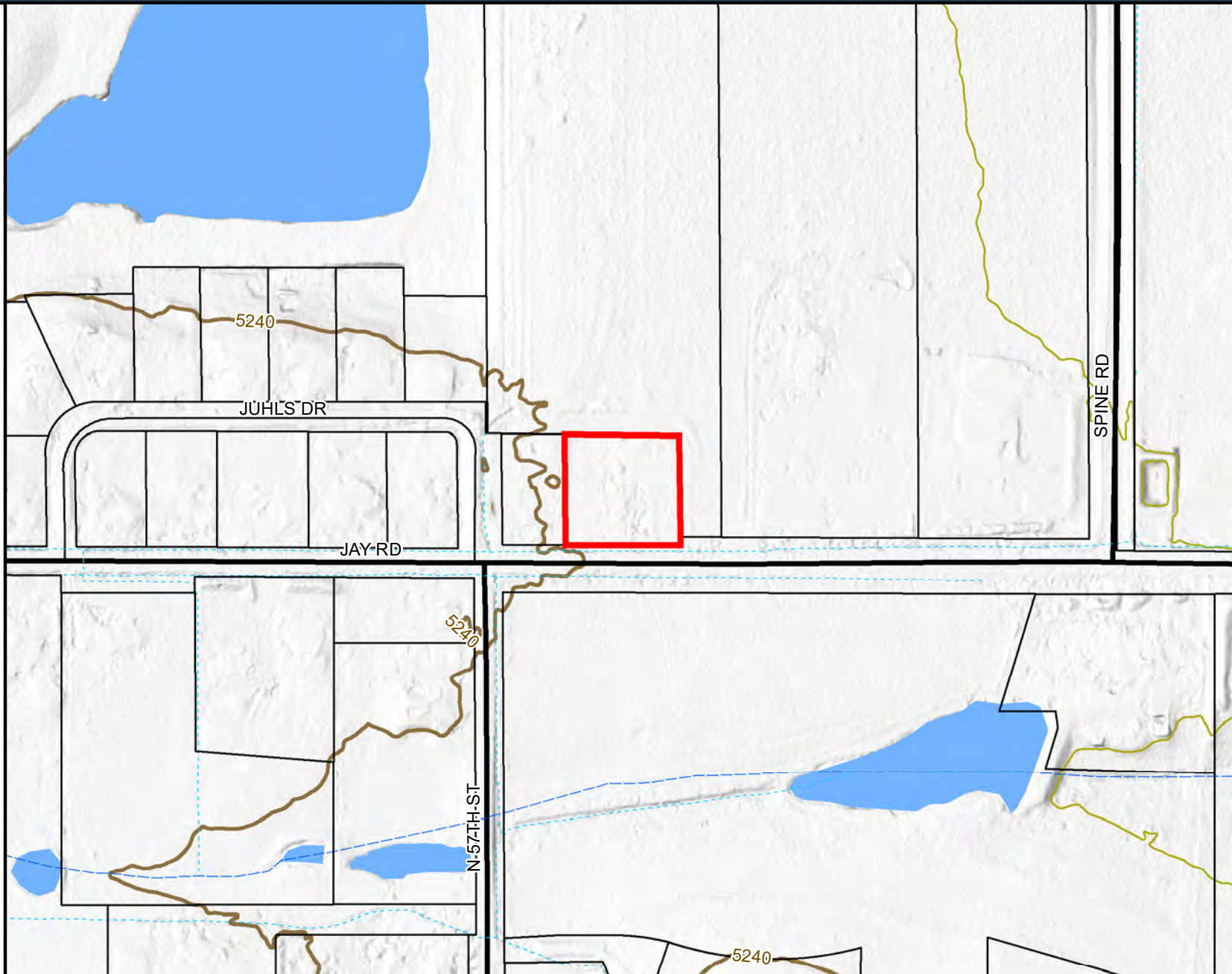
# Community Planning & Permitting

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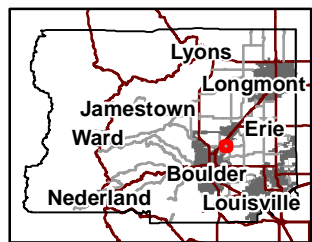
## Elevation Contours

### 5745 JAY RD

-  Subject Parcel
-  Contours 40'
-  Contours 20'



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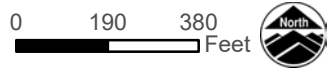
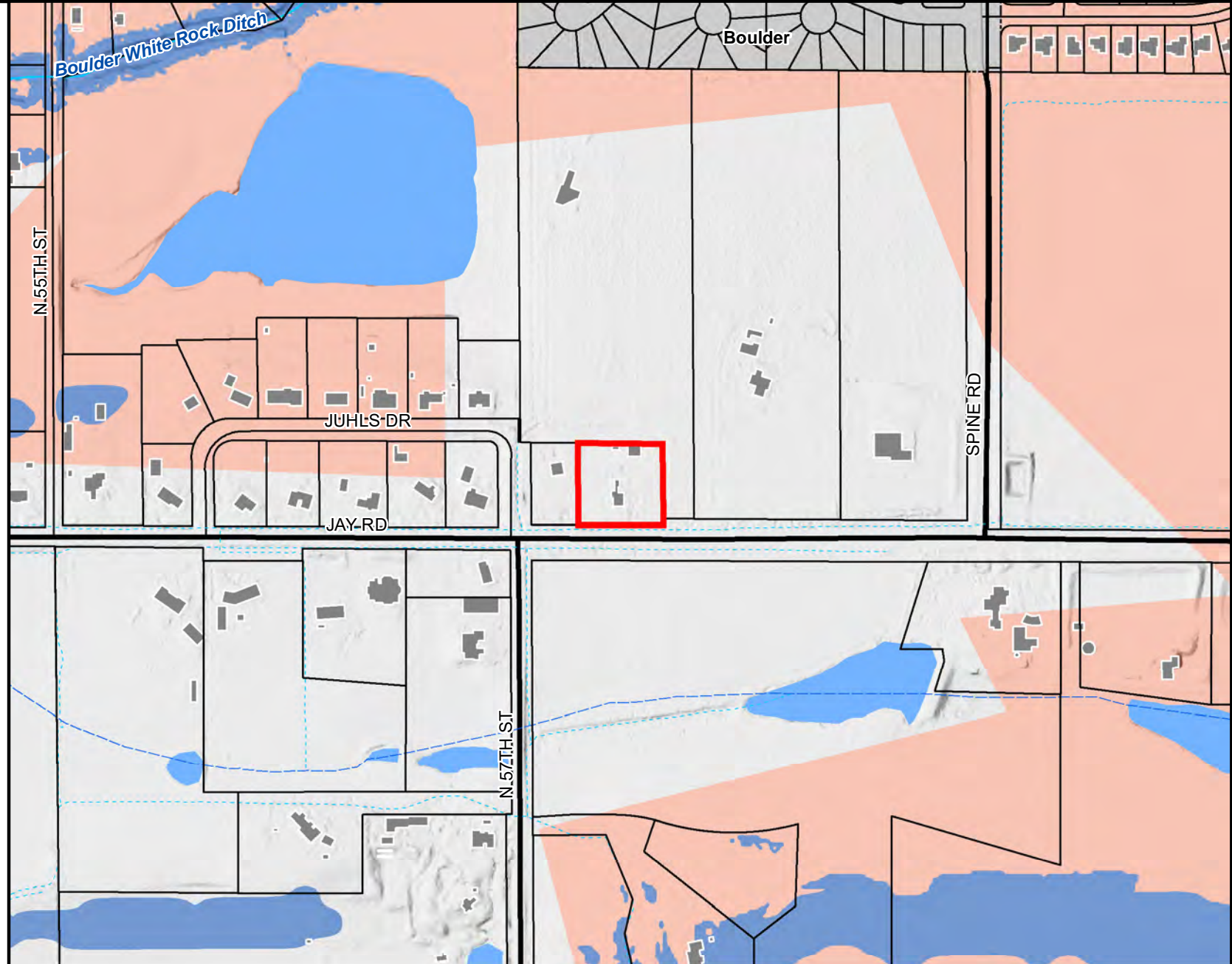
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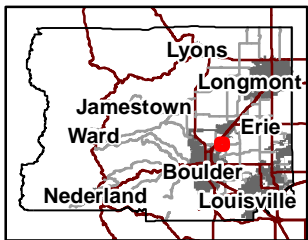
## Geologic Hazards

5745 JAY RD

-  Subject Parcel
-  High Swelling Soil Potential



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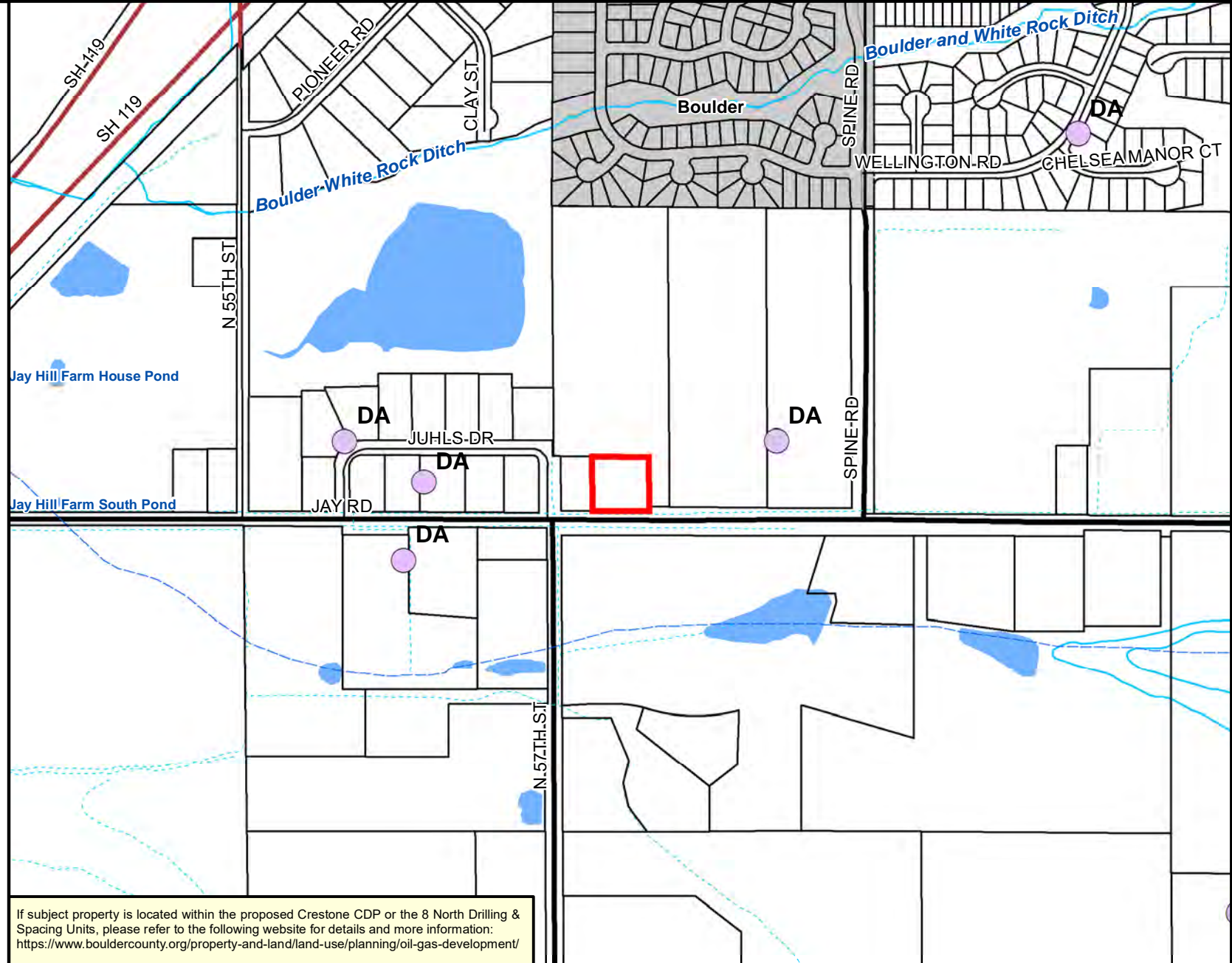
## Oil & Gas Facilities

5745 JAY RD

Subject Parcel

### Oil & Gas Well

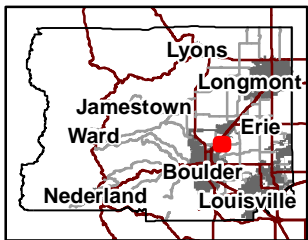
Dry & Abandoned (DA)



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If subject property is located within the proposed Crestone CDP or the 8 North Drilling & Spacing Units, please refer to the following website for details and more information: <https://www.bouldercounty.org/property-and-land/land-use/planning/oil-gas-development/>



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## Planning Areas

### 5745 JAY RD

Subject Parcel

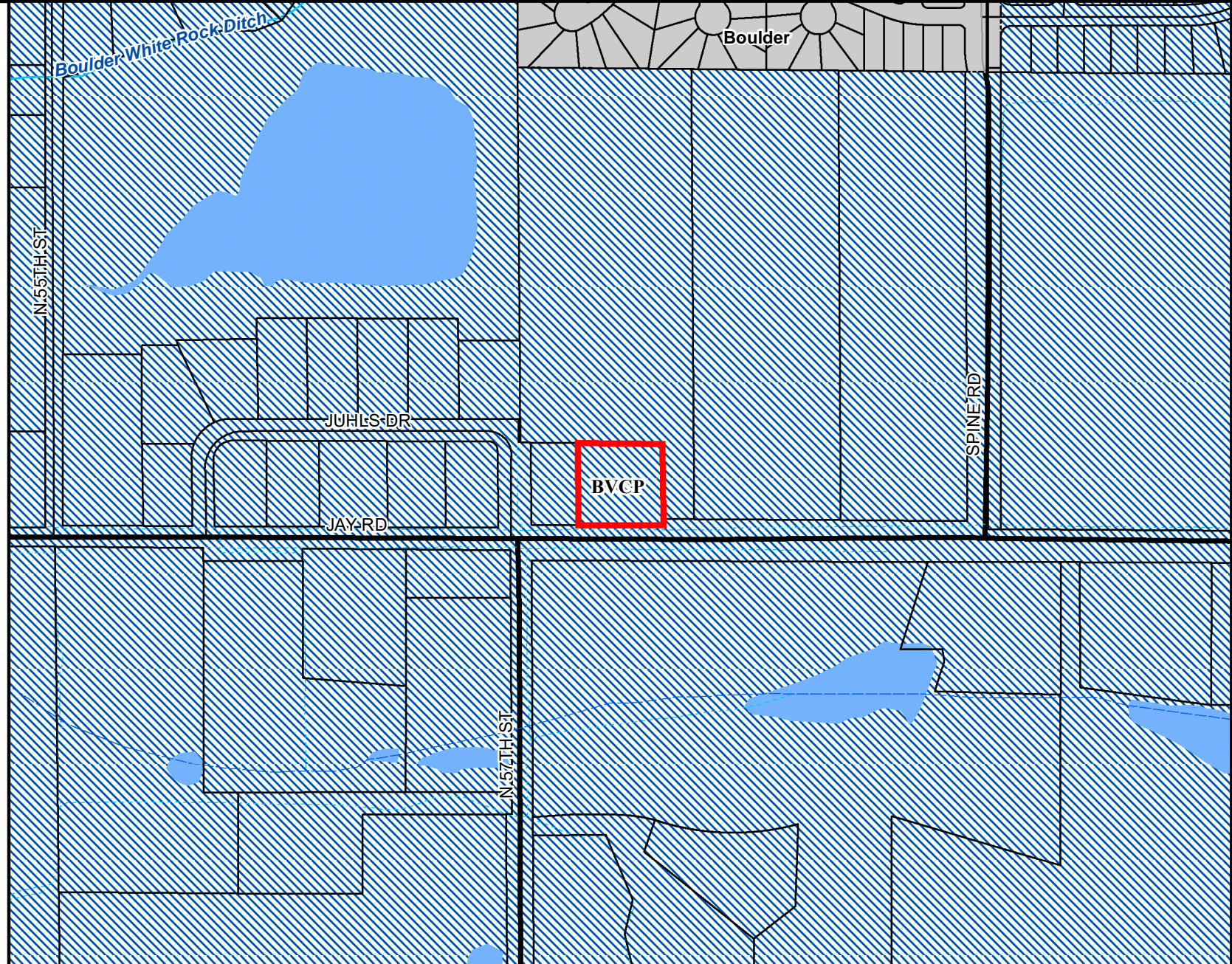
#### Airport Influence

Airport Influence

Active IGA Boundary

#### Active IGA Designation

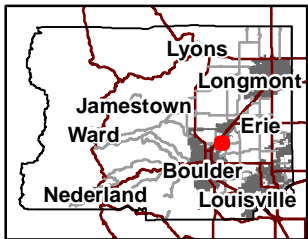
BVCP



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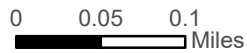
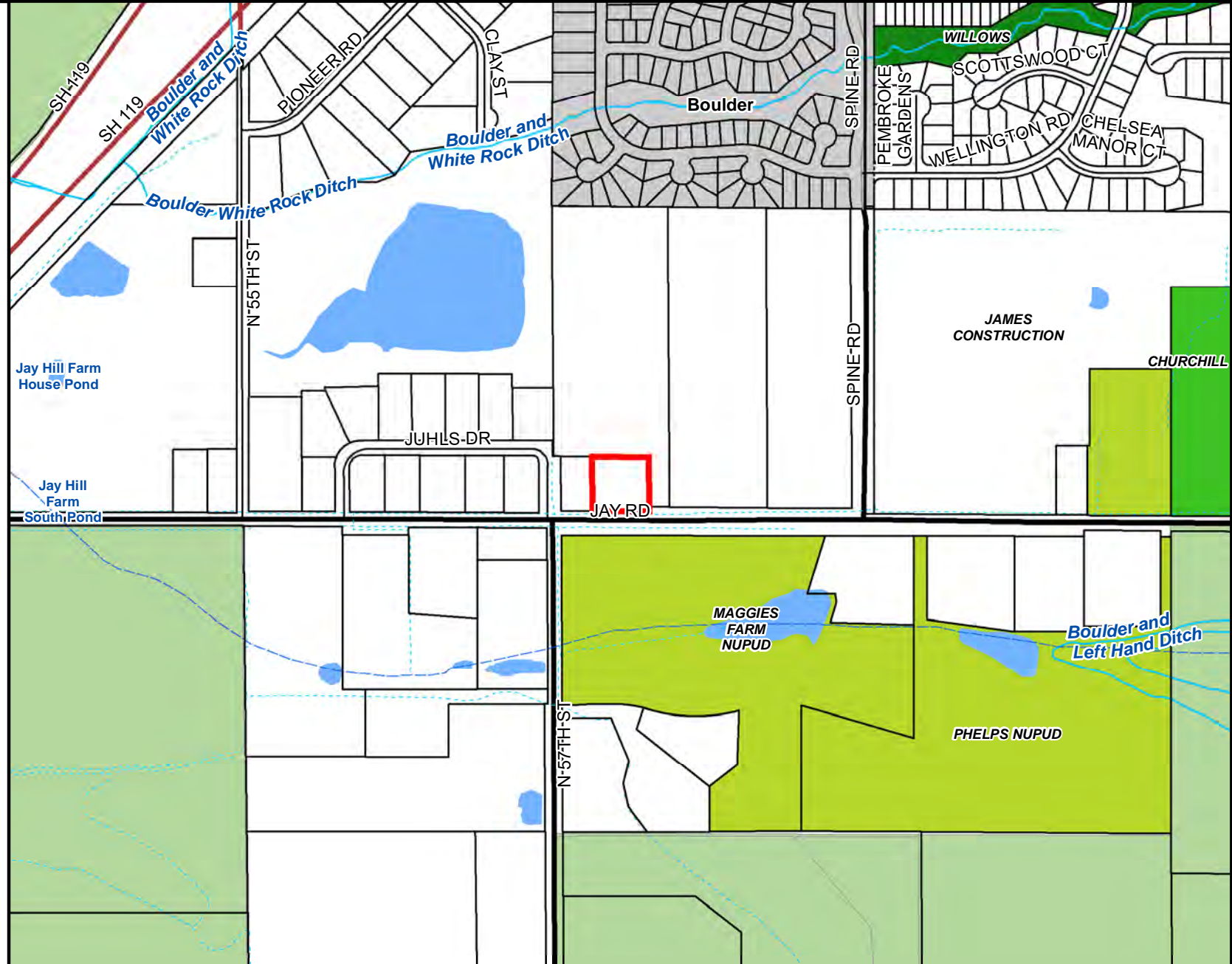
## Public Lands & CEs

### 5745 JAY RD

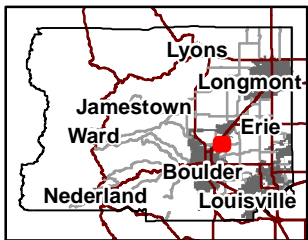
Subject Parcel

### Boulder County Open Space

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



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# Community Planning & Permitting

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## Zoning

### 5745 JAY RD

Subject Parcel

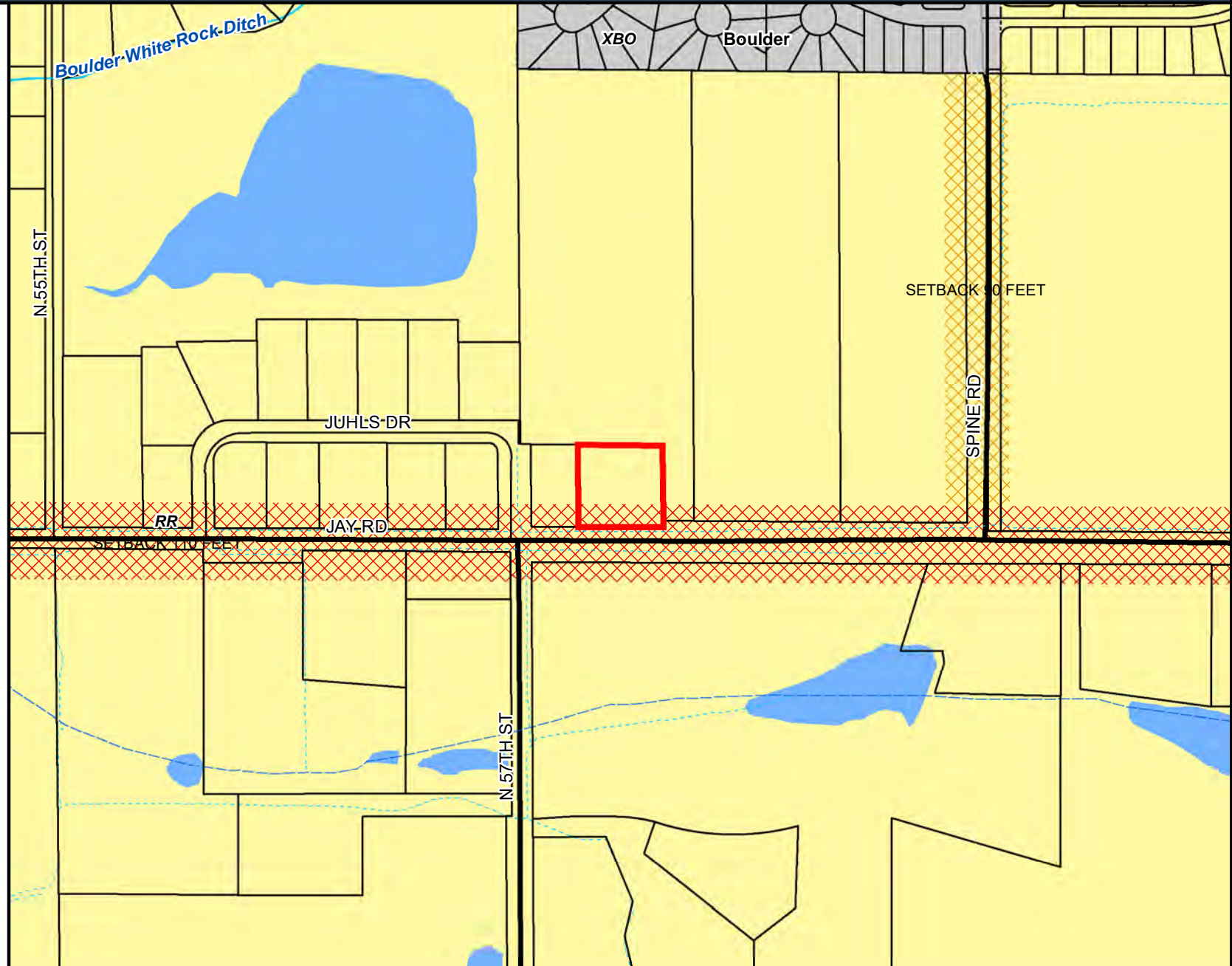
#### Major Road Setbacks

90 feet

110 feet

#### Zoning Districts

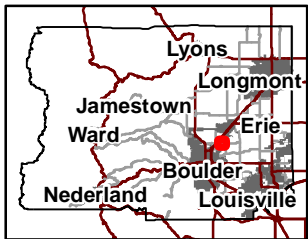
Rural Residential



0 0.035 0.07 Miles



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**Boulder County Land Use Department**

Courthouse Annex Building • 2045 13th Street • PO Box 471  
Boulder, Colorado 80302

Phone: 303-441-3930 • Fax: 303-441-4856  
Email: [planner@bouldercounty.org](mailto:planner@bouldercounty.org)  
<http://www.bouldercounty.org/lu/>

Office Hours: Monday — Friday 8:00 AM to 4:30 PM

Intake Stamp:

Docket #:

## Board of Adjustment (BOA) Hardship Statement

Explain how the following hardship criteria for granting a variance have been satisfied. Please feel free to attach your statements using a separate piece of paper.

- A. There exists exceptional or extraordinary physical circumstances of the subject property such as irregularity, narrowness, shallowness, or slope.

The house was built in 1920, long before the current setbacks existed. Remodeling the front porch within the current setbacks would be impossible. Regarding the windmill, the location of the existing leach field prevented the construction to take place further from the back property line.

- B. Because of these physical circumstances, the strict application of this Code would create an exceptional or undue hardship up the property owner.

It seems that the only way to remodel the front porch within the current (extended) setback would entail moving the house to be further from the Jay Road right-of-way. Application of the rear setback would prevent the construction of the windmill.

- C. The hardship is not self-imposed.

At some point between 1920 and now, the setbacks, both front and rear, were extended to the point where initial construction of the house would have been precluded. At some point the rear setback was extended so as to make the current location of the old barn to be impossible. The current location of the windmill is about twice as far from the back line as is the old barn.

- D. The variance, if granted, will not adversely affect the use of adjacent property as permitted under this Code.

The additions to the property do not adversely affect the adjacent properties. On the front, the house looks pleasing to passersby. The windmill is located as far from the road and the neighbors houses as feasible, resulting in >200', >300' & >600'. It was our intention to place the windmill in the most appropriate and pleasing location possible.

- E. That the variance, if granted, will not change the character of the zoning district in which the property is located, and is in keeping with the intent of this Code and the *Boulder County Comprehensive Plan*; and,

The addition of the front porch and the windmill enhance the character of the area in general, and the farm specifically. In determining the location of the windmill, we chose the location that was as far from the road and all neighboring homes. In this manner, we believe that the character of the area is best preserved. It has been noted that a windmill existed previously.

- F. That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Boulder County.

The granting of a variance for the front porch and the windmill definitely does not adversely affect the citizens of Boulder County. It is our goal that the granting of the variance would actually enhance the safety and welfare of the citizens of Boulder County. The addition of the covered front porch improves the quality of life of the residents as well as regular elderly visitors.

Applicant or Agent Signature:

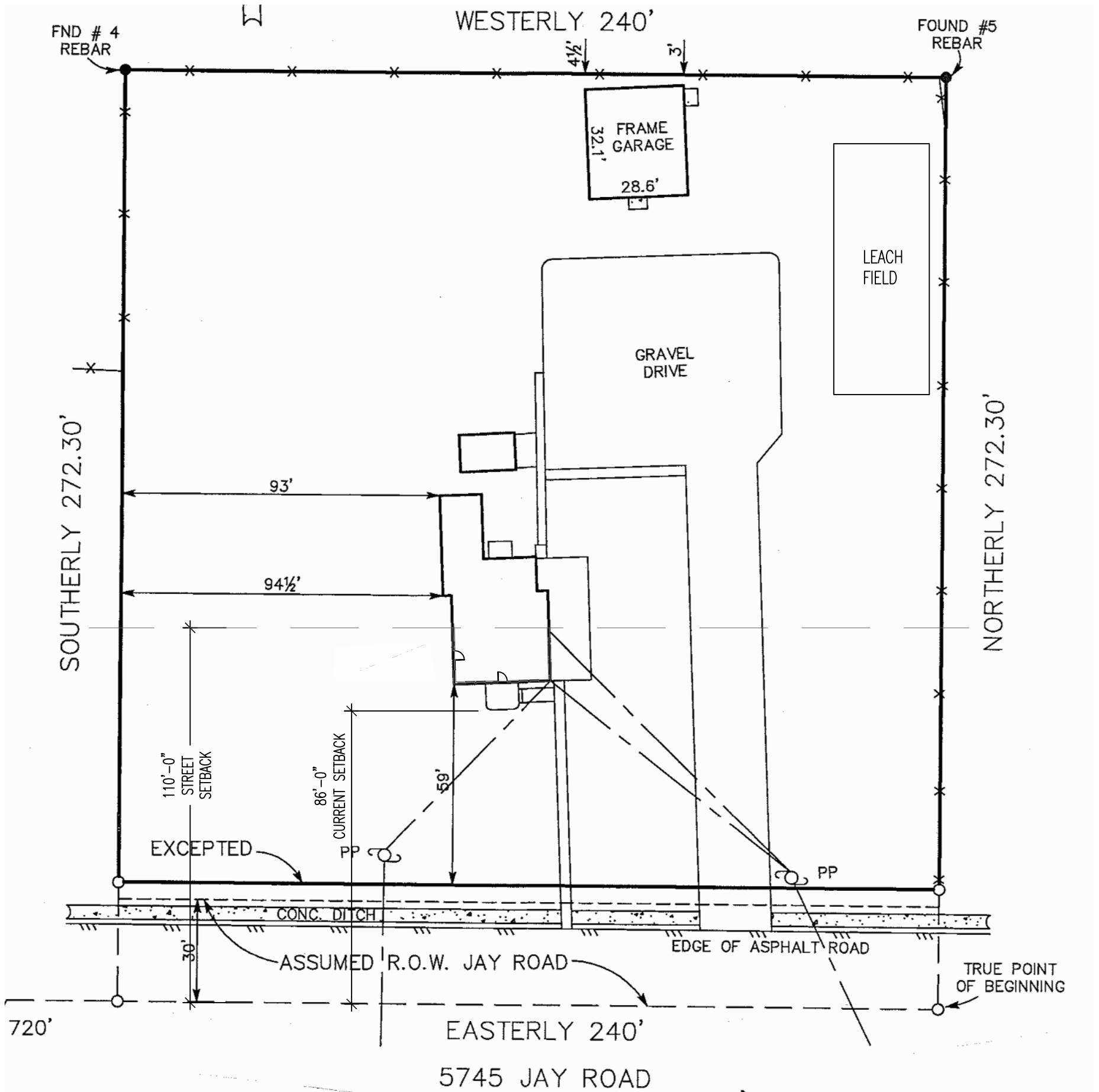
*Charlie Daraker*

Date:

*Nov 11, 2022*

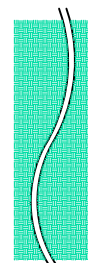






5745 JAY ROAD - EXISTING SITE PLAN

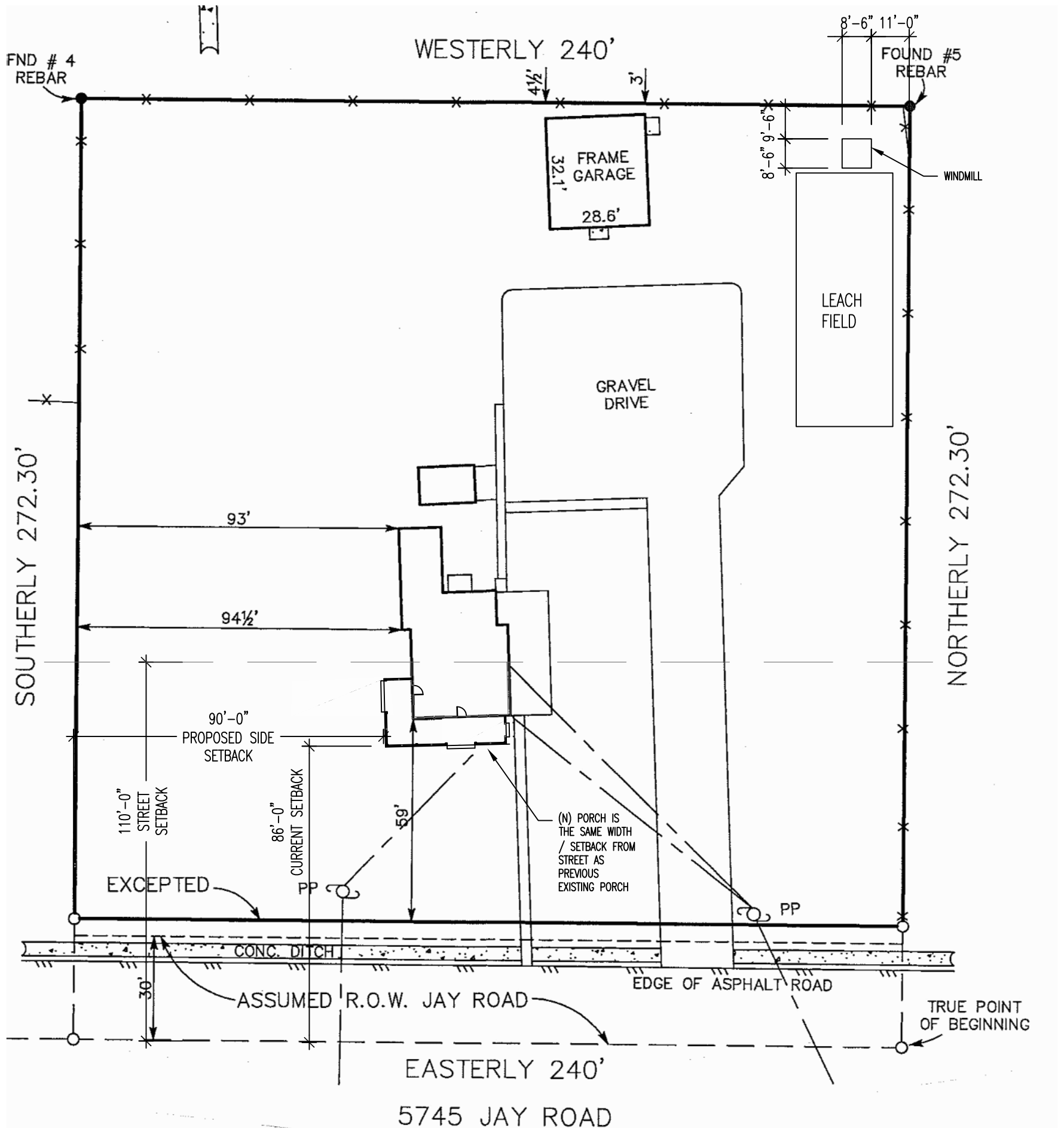
1"=400'-0"



Blue Creek Design

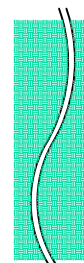
8831 SNOWBUNTING CT.  
LITTLETON, COLORADO 80126  
PH: 303.472.1311

EM: bluecreekdesign@gmail.com



5745 JAY ROAD - PROPOSED SITE PLAN

1"=400'-0"



Blue Creek Design

8831 SNOWBUNTING CT.  
LITTLETON, COLORADO 80126  
PH: 303.472.1311

EM: bluecreekdesign@gmail.com









## Walker, Samuel

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**From:** Carden, Timothy  
**Sent:** Friday, March 31, 2023 10:57 AM  
**To:** Walker, Samuel  
**Cc:** Northrup, Elizabeth (Liz)  
**Subject:** RE: Referral packet for VAR-23-0003: Danaher Setback Reductions project at 5745 Jay Road

Hi Sam,

Thank you for the opportunity to review VAR-23-0003. I have completed my review of the referral packet and as proposed this project should not impact the nearby conservation easements.

Best,

**Tim Carden** | Conservation Easement Stewardship Specialist  
 Boulder County Parks & Open Space  
 Pronouns: he/him/his  
 5201 St. Vrain Road  
 Longmont, CO 80503  
 303-413-7533 (office)  
[tcarden@bouldercounty.org](mailto:tcarden@bouldercounty.org)  
[Boulder County Open Space Website](#)



*New: Boulder County has a new website: [BoulderCounty.gov](https://www.bouldercounty.gov/)! Bookmark it today. Email addresses will transition at a later date.*

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**From:** Milner, Anna <amilner@bouldercounty.org>  
**Sent:** Friday, March 31, 2023 8:58 AM  
**To:** Historic <historic@bouldercounty.org>; #CodeCompliance <codecompliance@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>; Stadele, Lee <leestadele@bouldercounty.org>; Stadele, Lee <leestadele@flagstaffsurveying.com>; Steve Buckbee <sbuckbee@lefthandwater.org>; chrissmith@lefthandwater.org; jstruble@northernwater.org; bflockhart@northernwater.org; BDRCO@xcelenergy.com; Donna.L.George@xcelenergy.com; RanglosC@bouldercolorado.gov; hc\_filesearch@state.co.us; drogers@brfr.org; Abner, Ethan <eabner@bouldercounty.org>; Hippely, Hannah <hhippely@bouldercounty.org>; Sheehan, Jack <jsheehan@bouldercounty.org>; Vaughn, Andrea <avaughn@bouldercounty.org>; Atherton-Wood, Justin <jathertonwood@bouldercounty.org>; Moline, Jeffrey <jmoline@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>; Northrup, Elizabeth (Liz) <enorthrup@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 VAR-23-0003: Danaher Setback Reductions project at 5745 Jay Road

Please find attached the referral packet for **VAR-23-0003: Danaher Setback Reductions** project at **5745 Jay Road**.

Please return responses and direct any questions to [Sam Walker](#) by **April 17, 2023**. (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](mailto: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](http://BoulderCounty.gov)! Bookmark it today. Email addresses will transition at a later date.*

[www.bouldercounty.gov](http://www.bouldercounty.gov)



**Right of Way & Permits**

1123 West 3<sup>rd</sup> Avenue  
Denver, Colorado 80223  
Telephone: **303.571.3306**  
Facsimile: 303.571.3284  
Donna.L.George@xcelenergy.com

April 17, 2023

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

Attn: Sam Walker

**Re: Danaher Setback Reductions, Case # VAR-23-0003**

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has determined there is a **possible conflict** with the above captioned project. How far away will the proposed windmill be from the existing overhead electric structures? It is not made clear on the drawings where the windmill is to be located.

Bear in mind that per the National Electric Safety Code, a minimum 10-foot radial clearance must be maintained at all times from all overhead electric distribution facilities including, but not limited to, construction activities and permanent structures; a 3-foot clearance must be maintained away from service lines.

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:** Dean Rogers <drogers@brfr.org>  
**Sent:** Sunday, April 9, 2023 3:06 PM  
**To:** Walker, Samuel  
**Subject:** [EXTERNAL] VAR-23-0003

Sam,  
Boulder Rural has no recommendations regarding LU-23-0003, the Danaher Setback Reductions Project at 5745 Jay Road.  
Thank you,

**Dean Rogers, Engineer**

Boulder Rural Fire Rescue  
6230 Lookout Road, Boulder, CO 80301  
Office: 303-530-9575 | Cell: 720-498-0019  
drogers@brfr.org | [www.brfr.org](http://www.brfr.org)





# 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.gov](http://www.bouldercounty.gov)

## Building Safety & Inspection Services Team

### MEMO

TO: Sam Walker, Planner II  
 FROM: Michelle Huebner, Plans Examiner Supervisor  
 DATE: April 3, 2023

RE: Referral Response, VAR-23-0003: Danaher Setback Reductions. Variance request to reduce the required supplemental setback from 110 feet (required) to 86 feet (proposed) for construction of a new front porch and reduce the rear-yard setback from 15 feet (required) to 9' 6" (proposed) for a windmill.

Location: 5745 Jay Road

Thank you for the referral. We have the following comments for the applicants:

1. **Building Permit.** A building permit, plan review, and inspection approvals are required for the proposed front porch addition. A separate building permit is required for the windmill

Please refer to the county's adopted 2015 editions of the International Codes and code amendments, which can be found via the internet under the link:

**2015 Building Code Adoption & Amendments**, at the following URL:

<https://assets.bouldercounty.org/wp-content/uploads/2017/03/building-code-2015.pdf>

2. **Design Wind and Snow Loads.** The design wind and ground snow loads for the property are 155 mph (Vult) and 40 psf, respectively.
3. **Ignition-Resistant Construction and Defensible Space.** Please refer to Section R327 of the Boulder County Building Code for wildfire hazard mitigation requirements, including ignition-resistant construction and defensible space.
4. **Plan Review.** The items listed above are a general summary of some of the county's building code requirements. A much more detailed plan review will be performed at the time of building permit application, when full details are available for review, to assure that all applicable minimum building codes requirements are to be met. Our Building Safety publications can be found at: <https://assets.bouldercounty.org/wp-content/uploads/2017/03/b24-residential-plan-check-list.pdf>

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](mailto:building@bouldercounty.org)



## Parks & Open Space

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

**TO:** Sam Walker, Community Planning & Permitting Department  
**FROM:** Ron West, Natural Resource Planner  
**DATE:** April 5, 2023  
**SUBJECT:** Docket VAR-23-0003, Danaher, 5745 Jay Road

Staff has no natural resource concerns with the proposed variances.



# Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302  
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306  
303-441-3930 • [www.BoulderCounty.gov](http://www.BoulderCounty.gov)

February 27, 2023

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

FROM: Ian Brighton, Planner II; Community Planning & Permitting, Access & Engineering

SUBJECT: Docket VAR-23-0002: Stevenson Variance

32050 Coal Creek Canyon Drive

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

1. The subject property is accessed via State Highway 72 (SH72), also known as Coal Creek Canyon Drive, a Colorado Department of Transportation (CDOT) owned and maintained right-of-way (ROW). Legal access has been demonstrated via adjacency to this public ROW.
2. No site improvements have been proposed as part of the Variance Request. Future improvements to the access drive may require a Land Use review process.
3. Staff has reviewed the proposed variance and has no concerns.

This concludes our comments at this time.

**Walker, Samuel**

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**From:** Barb Rogers <sugarxtr@gmail.com>  
**Sent:** Friday, April 7, 2023 9:17 AM  
**To:** LU Land Use Planner  
**Subject:** [EXTERNAL] VR-23-0003

Hi Sam,

I am writing in response to docket # VR-23-0003 indicated in subject line. I am not clear why this is being requested now rather than not requiring them to be compliant after the fact? The porch has been completed and the Windmill has been erected some time ago, obviously without going through the process and paying for the proper permits and this was brought to your attention over a year ago.

The consistency or lack thereof with the Planning and Permitting department here is simply unacceptable and will create a big problem within our communities. The small remodel we just completed and paid thousands for, NOT just for the proper permits but thousands more to be able to even apply for the permits. There are several similar situations with current neighbors where we all had to "jump through" Boulder's over the top hoops.

It is your job to ensure that any variance and planning requests are approved not overlooked when brought to your attention. This sets an unfair precedent for those of us who go through the proper channels while others do not and then hope to not get caught.

Favoritism and looking the other way should not be accepted by our community planners. Be consistent so we have trust in what you are deciding to approve or not.

Best,

BR



**Walker, Samuel**

---

**From:** jessica brooks <jeccabrooks12@yahoo.com>  
**Sent:** Monday, April 17, 2023 2:41 PM  
**To:** LU Land Use Planner  
**Subject:** [EXTERNAL] Docket VAR-23-0003

Dear Boulder County Planning and Permitting,

Reference Docket # VAR-23-0003

I am writing in support of my neighbors at 5745 Jay RD. They have requested a variance to reduce the required setback. Any upgrades to a neighbor's house helps the whole neighborhood. I have no concerns with their variance request.

Sincerely,

Jessica and Jim Hammerstone

5617 Jay Rd

Boulder CO, 80301

720-422-6436

**Walker, Samuel**

---

**From:** kamuran@aol.com  
**Sent:** Friday, April 14, 2023 6:13 AM  
**To:** LU Land Use Planner  
**Subject:** [EXTERNAL] docket #VAR-23-0003

Dear Planner,

Please let this communication serve to support the upgrades made reference docket #VAR-23-0003 for the following reasons.

The house and property in question is in a pocket of unincorporated Boulder County. It is an old farm house, that we believe has been there for more than 50 years, when Jay rd was still a dirt road, and most of the surrounding properties were actively Ag properties. The constructed wrap around porch in my opinion totally upgrades the farm house look, and in no way impacts any of the neighbors either in a physical sense or visual sense. In our opinion, it compliments the look of the old farm house. The porch can't even be viewed from Jay rd, as there is a privacy fence blocking the view. Most of the adjacent properties are still active Ag properties, growing hay, and raising livestock. We see no safety, or health hazards occurring to any adjacent neighbors, and we feel it keeps within the Rural Residential look of unincorporated Boulder County.

We feel the same way about the windmill. It compliments the look of a rural farmhouse, in a time when we are losing too many adjacent properties to tear downs and modern houses while abandoning the rural Ag feel. Because of the windmills location, it doesn't appear to be a health or safety issue. Nor do we see it physically impacting neighboring or adjacent properties. We enjoy seeing the windmill, and hope you will allow it to stay.

In summary, we are totally supportive of both of the items in question, and feel it has upgraded the look of their property, while keeping with the rural residential and agricultural feel that we would like preserved in our neighborhood.

respectfully,

Kamuran Tepedelen  
Sheri Marks  
5554 Jay Rd  
Boulder, CO 80301

**Walker, Samuel**

---

**From:** Kent Campbell <kentling@alumni.rice.edu>  
**Sent:** Sunday, April 9, 2023 5:52 PM  
**To:** LU Land Use Planner  
**Subject:** [EXTERNAL] Docket # VAR-23-003

*Docket # VAR-23-003*

*April 9, 2023*

*We wholeheartedly support the variance requests and improvements made to 5745 Jay Road.*

*The house at 5745 Jay Rd is one of the few remaining original “homes of the neighborhood”, built in 1920 along what one can presume was once a 2 rut, graveled at best, farm road. Allowances should be made to allow this house, built close to a century before the 110’ setback regulations were enacted, to have a viable front door and historically accurate windmill.*

*Previously, the house had no useable front door; the front door was a set of deteriorating concrete steps with no shelter from the elements. To be blunt, the front door was inhospitable and uninviting, and we’d visit through the back door, via a mudroom, which was less exposed to the elements. The current front door and porch is protected and inviting. This porch is 100% authentic and in alignment with the character of the original farmhouse in what was once an agricultural ‘neighborhood’ filled with hard working families. The front porch poses no threat to anyone from a safety perspective, and it’s unlikely any maintenance will be conducted in this arbitrary 110’ foot offset area as this would require working inside the house’s kitchen, living room and perhaps upstairs bedroom. What the current porch provides is a sense of community, family, and openness. It is so neat to see the family on the porch sitting and enjoying the company of what I presume are family, friends, or guests. When the future LOBO trail is established countless ‘slow travelers’ will look over and likely see the same thing – a cute original farmhouse filled with family and all of the associated life and excitement on the front porch and an inviting front door.*

*The variance requests at hand are quite equivalent to the implicit variance request being asked of the Boulder White Rock irrigation lateral owners on the south side of Jay. Here, BOCO is requesting encroachment onto the historical BWR lateral for the development of the future BOCO trail at a great, real imposition to the lateral owners/neighbors’ quality of life.*

*The messaging of a variance denial is that it’s better to tear down artifacts of the historical agricultural and rural nature of BOCO and build ‘sustainable’ monstrosities that have no character nor sense of place than to make improvements for quality of life even if it perhaps puts oneself at odd with modern regulations. I could have sworn the mandate of the county was sustainability and denial of the variance would require the improvements to be taken to the landfill. 7426 Jay Rd not*

*too long ago had the original farmhouse, now, it could be any house, anywhere. There is nothing inviting about this new build, though it's clearly 100% in zoning compliance (at the expense of a farmhouse's worth of landfill waste and the energy and resource consumption to build the new house.)*

*As to the windmill's offset, our property, not the complainant's, is the most impacted by its placement and we 100% fully love it. Our house is the closest structure of any nature to this location.*

*The windmill's site placement has no impact on the adjacent property. The windmill resides in a corner/elbow location and the impact of it being 1.2' from the property line or 12' or 25' has no impact. It's clearly congruent in style and siting with what are 'grandfathered' structures. For 100's of feet is a field and there will never be any future structures sited even remotely close to this spot – the current owner or future owners would have to block their only road access to this property to pursue such an improvement. The complainant who initiated this clearly has no objection to the 0' offset of a different neighbor with a likely unpermitted structure.*

*To any outside perspective the windmill could have been there for the last 100 years. I'd venture a guess there was once a windmill on the original farm.*

*What this windmill does provide is a reminder of what Boulder Valley once was. The view of the setting sun through this is so striking, it should be a movie scene with an original barn and farmhouse below. The rural viewshed is only improved by adding this authentic piece of history. It's humorous that the complainant initiating this zoning violation is using a viewshed argument provided by someone else's property as a selling point but finds this historical improvement a detriment. [And the 'selling' viewshed contains several illegal structures the County has known about for several years and yet refuses to act upon.]*

*So, how do neighbor properties impact property values? Either by sale prices or improvements. This is a case of 5745 Jay Rd's improvements providing a beautiful improvement, sense of history, community and authentic viewshed. These actions are only positive influencers on all our property's values. These owners have the option of selling their property, scraping the house, or staying and making improvements on this historical property. They've chosen to stay and improve. Kudos to them!*

*To summarize, we wholeheartedly support this neighbor and anyone else in their attempt to preserve the historical nature and character of what was once an agricultural and family centric 'neighborhood'. Both improvements will only improve the neighborhood regarding a sense of history and community and also property values.*

*Common sense would dictate compromise. Charge a permit fee, maybe a penalty, and move on.*

*Thanks,*

*5801 Jay Rd Neighbors*

## Walker, Samuel

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**From:** Richard Luna <rjluna51@gmail.com>  
**Sent:** Friday, April 14, 2023 12:16 PM  
**To:** Walker, Samuel  
**Subject:** Re: [EXTERNAL] Fwd: 5745 Jay Rd. - Windmill, Bus, Etc.

Mr. Walker,

I'd like to submit the following comments for the record (I'm OK with also including the email chain after these comments):

Dear Boulder County Planning:

I filed the complaint(s) regarding the windmill and porch addition at 5745 Jay Rd. and I received the notification of the Public Hearing Notice taking place on May 5 (and have seen the info. that appears on the Boulder County website) and think that the description ('Proposal' in the letter and online) is misleading, it states:

### Project Description as Proposed:

Danaher Setback Reductions

Variance request to reduce the required supplemental setback from 110 feet (required) to 86 feet (proposed) for construction of a new front porch, and reduce the rear-yard setback from 15 feet (required) to 9' 6" (proposed) for a windmill.

This suggests that Mr. Danaher is requesting the variances to construct "a new front porch" and put up "a windmill." **Both of these were constructed over a year ago without permits - these are not 'new' to be built structures.**



photo 5:37pm 11/6/2021

The windmill was installed over the weekend of November 6, 2021 and, to the best of my recollection, the porch was completed in the spring of 2022 - well over a year ago.

It appears that Mr. Danaher made the decision that he didn't need permits (even though there's a significant history of permits for his property during the time he's owned it) - a visit to the County website or call to the Planning Department would have answered any questions. Instead he appears to have decided to go with the odds that he could escape being noticed and thereby avoid the: applications, conditions, inspections, current setbacks, fees and and re-assessment of the value of his property (and likely increase in property taxes) that would come with getting a permit. It seems he rolled the dice with the hope that he wouldn't get reported. He took the chance that in the worst case he'd ask for 'forgiveness instead of permission' because the structures are already built and would the County *really* require him to remove them because of no permits and a few feet of encroachment into current setbacks?

If the County is not prepared to require Mr. Danaher to remove and/or relocate the windmill and new porch then, I believe that you're giving him preferential treatment that's not given to all other applicants who play by the rules and live with the County's decisions; see the recent County denial of a variance of the same 110' setback - to 90' not 86' - to build a garage at 4189 57th St. - about 200' yards to the W of Mr. Danaher's property.

Regarding the windmill specifically:

- Mr. Danaher concludes that since the setback of the barn is allowed to be 3' because it is a non-conforming structure, then that means that new structures (i.e. the windmill) can also be 3' from the back property line. If you concur with that reasoning, then the 15' setback is never going into effect as long as there's non-conforming barn, chicken coop, etc., that remains standing along 5745's back property line.
- The height limit according to what I find in the County regulations is 30', has the County obtained its own measurement of how tall the windmill is?
- In his narrative he mentions: "we recently installed (Nov. 6 of 2021) an antique Aemotor windmill." What condition is it in? What does the tower and windmill weigh? How was it installed and should the County have inspected the foundation before it was buried?
- And even though far-fetched (until you see it on the 10pm news); we get strong winds and if the windmill tower were to fail and topple over it would likely be toward the E and likely land on our driveway. I think having some assurance as to the integrity of the windmill and how it was installed would be prudent.

Thank you for your time and I'd be happy to respond to any questions.

Richard Luna  
5775 Jay Rd.  
303-931-5625  
[rjluna51@gmail.com](mailto:rjluna51@gmail.com)

On Tue, Mar 28, 2023 at 2:00 PM Walker, Samuel <[swalker@bouldercounty.org](mailto:swalker@bouldercounty.org)> wrote:

Good afternoon Richard,

As Dale said, I'm the planner assigned to conduct the review for Mr. Danaher's request for a zoning Variance at 5745 Jay Road. I'd like to incorporate your comments into the record for the application, and I can do so by including the

email chain below or a distilled version of it from your perspective. All comments are publicly available, and are included in the packet sent to the applicant as well as the Board of Adjustment one week prior to the public hearing (the packet is also made available to the public at the same time).

Currently, I'm anticipating that this item will be heard by the Boar of Adjustment on May 5<sup>th</sup> unless it's delayed for some reason. I have begun (but not yet completed) the application review, and anticipate conducting a site visit sometime within the next two weeks. Please let me know if you have any questions in the meantime.

**Sam Walker**

Planner II | Boulder County Community Planning & Permitting

2045 13th Street, Boulder, CO 80302

Ph: 720-564-2738

[swalker@bouldercounty.org](mailto:swalker@bouldercounty.org)



---

**From:** Case, Dale <[dcase@bouldercounty.org](mailto:dcase@bouldercounty.org)>  
**Sent:** Tuesday, March 28, 2023 11:26 AM  
**To:** Richard Luna <[rjluna51@gmail.com](mailto:rjluna51@gmail.com)>  
**Cc:** Walker, Samuel <[swalker@bouldercounty.org](mailto:swalker@bouldercounty.org)>; Frederick, Summer <[sfrederick@bouldercounty.org](mailto:sfrederick@bouldercounty.org)>  
**Subject:** RE: [EXTERNAL] Fwd: 5745 Jay Rd. - Windmill, Bus, Etc.

Hi Richard,

The application was submitted and Sam Walker is the assigned planner. I have copied him on this e-mail. He can help you with timing of referral and hearing questions. Thanks.

Dale Case



**From:** Richard Luna <[rjluna51@gmail.com](mailto:rjluna51@gmail.com)>  
**Sent:** Monday, March 27, 2023 11:07 AM  
**To:** Case, Dale <[dcase@bouldercounty.org](mailto:dcase@bouldercounty.org)>  
**Subject:** Re: [EXTERNAL] Fwd: 5745 Jay Rd. - Windmill, Bus, Etc.

Mr. Case,

Hope you are well. I'm checking in regarding the status of the windmill at 5745 Jay Rd.; in your last email of Feb. 7 you mentioned that "The application for their variance is on our submittal schedule for March 13." Since that was 2 weeks ago should I expect to see a 'variance request' sign in front of 5745 and a postcard in the mail in the near future?

Thank you for your time.

Richard Luna

On Tue, Feb 7, 2023 at 1:56 PM Case, Dale <[dcase@bouldercounty.org](mailto:dcase@bouldercounty.org)> wrote:

Richard,

Variances are a very high bar to get in the County. A proposal must meet all the variance criteria in 4-1202 of the code to be granted a variance. That said, I don't have the ability to approve or deny variances. That power rests with the Board of Adjustment, and Mr. Danaher has the ability and is on the schedule to apply for that process. During that review the proposal will be fully evaluated based on the criteria, a sign will be posted on-site, and neighbors will be notified of the process. Public comment will be taken both during the review and at a public hearing held by the Board of Adjustment. The application for their variance is on our submittal schedule for March 13. We will continue to stay enforcement until the process is complete. Feel free to check back on the progress and if we have received an application.

Thank you

Dale Case

**From:** Richard Luna <[rjluna51@gmail.com](mailto:rjluna51@gmail.com)>  
**Sent:** Thursday, February 02, 2023 7:03 PM  
**To:** Case, Dale <[dcase@bouldercounty.org](mailto:dcase@bouldercounty.org)>  
**Subject:** [EXTERNAL] Fwd: 5745 Jay Rd. - Windmill, Bus, Etc.

Mr. Case,

I'm sure there are extensive demands on your time in the new year, in case you overlooked it, I'm forwarding the email that I sent to you on January 12.

As I have consistently stated: I object to any variance to the setbacks for Mr. Danaher's **spontaneous and unpermitted installation** of the windmill at the NE corner of his property. By my measurements it is 5' into the 15' back setback and I suspect might be taller than the stated limit of 30'. **As I mentioned in my email of Jan. 12: on 3 occasions I was told that there are no variances for setbacks, 2 times by Mr. Rounds and once by the Planner on call - she indicated the answer is no except in situations with extenuating circumstances (physical obstacles, terrain....) of which I don't think Mr. Danaher's project has.**

Below are the notes I took of each conversation: (VT = Voicemail To) (VM = Voicemail) (TT = Telephone Call To)

#### Contact details

[irounds@bouldercounty.org](mailto:irounds@bouldercounty.org) • Work

[303-441-3984](tel:303-441-3984) • Work

[2045 13th St](#)  
[Boulder, CO 80302-5201](#)  
[US](#)

[Add birthday](#)

**2022-06-06 VT:** I was under the impression that he was leaving this post - maybe even BoCo; but since his name is on the VM greeting: I want to talk about 5745 Jay Rd. - letter to comply was sent end of March, they had 30 days to come to some agreement/resolution, it is now more than 2 months. **In 2 past conversations he confirmed that the rear setback is 15' and the windmill is 10' and he also indicated variance aren't granted for that. I also talked with a planner on 5/26 (don't remember her name) and she confirmed setbacks and also that variances would only be in unusual circumstances like a steep slope, etc.** I'd like to talk and I think you know where I'm going with this.

2022-05-26 TT: Planner on Call - confirmed that setbacks are: 25' front, 7' side, 15' back. Jesse Rounds is leaving so Scott Weeks will take over this file and he's out of the office until June 6.

Verified that the County doesn't care if a license plate is from out of state?!

2022-05-06 TT:( Had left him VM) Wanted to follow up on Danaher's violations; particularly the windmill. I recapped that I recall during our earlier conversation: I asked what setbacks applied to the windmill and he paused to confirm them and told me that they are 7' from the side lot line and 15' from the back. And also asked if there were variances granted to setbacks? He had said no. On this conversation he confirmed that was correct. I told him that I measured it to be 10+/- from the side and the back both. Told him as I understood it they had 30 days to respond to the letter of complaint dated the end of March (3/31/22); he seemed to suggest that he wasn't sure of the date and sort of implied that there was some wiggle room. I told him the 30 days was up the end of April. I told him that based on the 'no variance' statement, then the windmill has to be moved, correct? He said or removed. He said that they have a heavy workload and try to prioritize matters of a more serious nature. I told him that my complaints about the unlicensed bus go back years (to at least 2018). He said that it is licensed and operational - I told him that it doesn't have a CO license plate as vehicles are required to have after 90 days by Colorado law. He said that the bus is operational, has a license plate and the County doesn't enforce the state law, just that it has a license plate!? Told him that regarding the windmill I'd be 'squealing like a pig' if BoCo doesn't require it to be moved or removed. Thanked him for his time and apologized if it got a little excited.

2022-04-22 TT: (His name was on the form from the online complaint that I submitted about 5745's windmill on 11/8/2021). Asked about status of my complaint? Waiting for 30 day notice to respond to expire (end of April). Do you need permit for windmill? Yes. Does application notice need to be posted and can neighbors have input? No. Are there setbacks? Yes, 7' from the side (I measured 10'+/-) and 15' from the back (I measured 10'+/-). Can you get a variance from setbacks? No. Are inspections of the installation required? Yes (sounded not certain). Do you make him dig up foundation to make sure it meets requirements? No necessarily - engineer could certify that it is OK.

I'd appreciate a response and an update on what's happening with my complaints regarding Mr. Danaher's violations. It seems to me that there's been ample time for this to be resolved.

Thank you for your time.

Richard Luna

----- Forwarded message -----

From: **Richard Luna** <[rjluna51@gmail.com](mailto:rjluna51@gmail.com)>

Date: Thu, Jan 12, 2023 at 11:34 AM

Subject: RE: 5745 Jay Rd. - Windmill, Bus, Etc.

To: Dale Case <[dcase@bouldercounty.org](mailto:dcase@bouldercounty.org)>

Mr. Case,

I hope that you, your family and friends had a nice holiday season and that your new year is off to a good start and has interesting possibilities to look forward to.

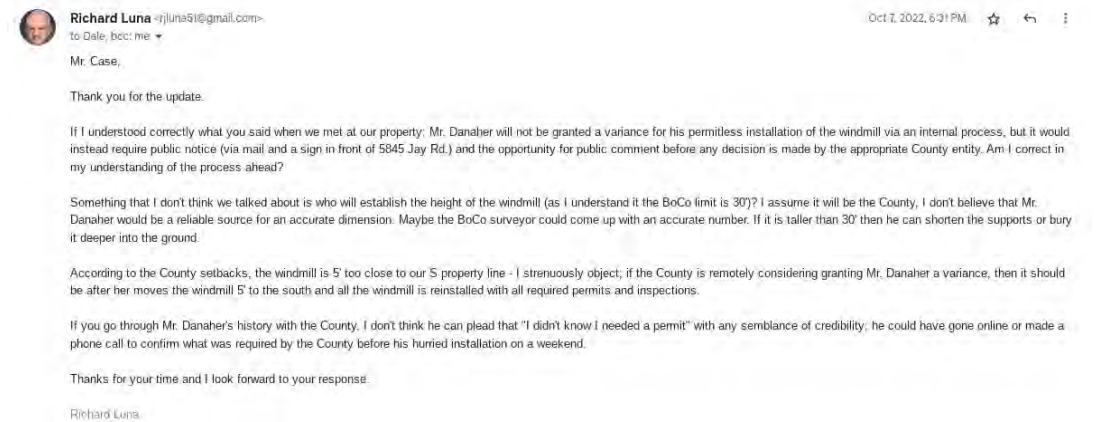
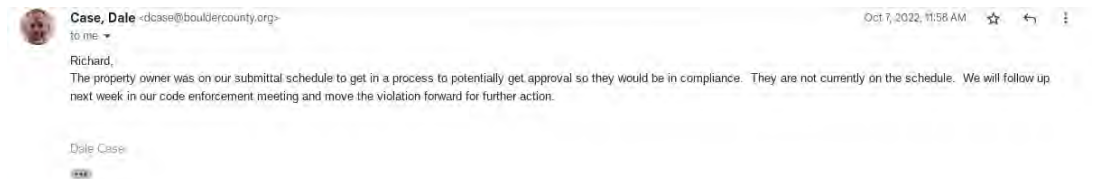
I purposely waited until after the first of the new year to touch base.

As you may recall, we first met on August 3 when you came to our property (5775 Jay Rd.) and I went over my complaints regarding Mr. Danaher's activities: the unlicensed vehicles, improvements/additions to his home without permits and the installation of 'the windmill' in early November of 2021. I filed complaints (some items more than one) via the BoCo website, and before filing a complaint I always talked to someone to verify that what I was complaining about was indeed a violation of BoCo regulations.

During that meeting I walked away with the understanding that Mr. Danaher would have to make application(s) for the work that he'd done and the installation of the windmill and the process would include requesting any variances needed - namely the rear setback violation for the windmill and possibly the height of it. And I, and any nearby and/or interested parties, would be notified via mail and the somewhat common signs placed in front of properties notifying the public of a variance request.

On October 4, 2022 I followed up with you to get an update on the status of Mr. Danaher's violations; the emails between us follow:

## 5745 Jay Rd. - Windmill, Bus, Porch and Siding Additions Update?



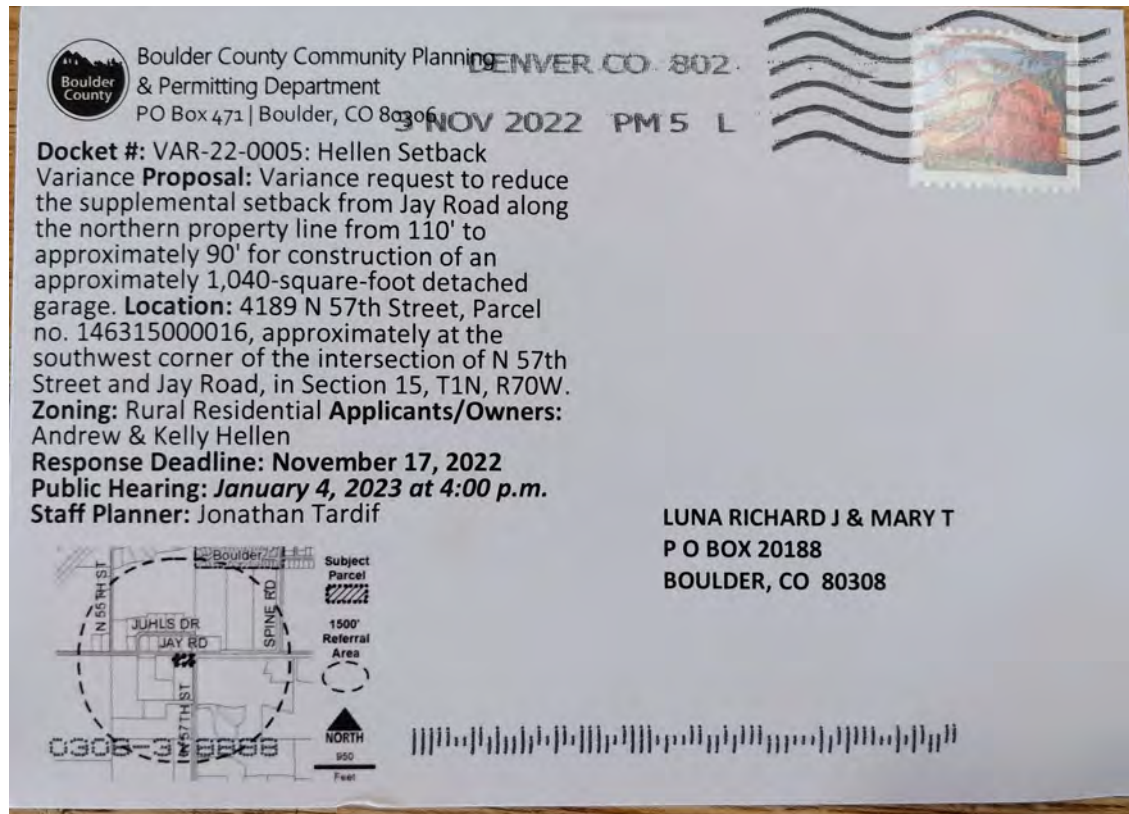
I've never heard anything since then, not via notification of a variance request via mail or sign in front of Mr. Danaher's property or from you or someone in your department.

I can see that getting a building permit for the siding and new porch might be appropriate via an internal process (and I would hope that there would be some financial penalty to discourage future violations) but not for the installation of the windmill and its violation of the rear setback and possibly its height. In my notes of conversations with members of your staff I was told 3 separate times that setback variances are not granted (told that 2 times), or only granted for unusual circumstances about a particular location, elevation variations, etc. (told that once) - things that don't apply to Mr. Danaher's property.

Here's a photo that I took of Mr. Danaher's windmill on 11/1/22 a couple of days after I noticed that they had brought in soil enhancements as though a tulip bed was being prepared for next spring. You wouldn't ordinarily do that if there's any chance that you might have to move your windmill 5' to the south because you're in violation of the rear setback. Did Mr. Danaher know something that I don't?



Here's a typical BoCo postcard that I've gotten a number of times about a requested variance or other issue regarding a nearby property, I received this one around 11/4/22 regarding a variance for a to-be-built garage at 4189 N 57th St. - less than 150 yards to the W from the entrance 5745 Jay's driveway.



Would these applicants have been smarter to have done 'a Danaher' and have poured a pad for their garage (the work would take place behind an existing fence and would be unlikely to be noticed or complained about by someone casually driving or walking past the property) and then on a weekend (like Mr. Danaher did with his windmill) have their garage installed from pre-built wall sections and wait to see if they could escape the variance and permitting process and related costs and revision to the assessed value of their property and subsequent increase in property taxes?

Except for the the cheating part, my wife and I had a structure built in Denver in the span of 2 days:



Feb. 22, 2011



Feb. 24, 2011

Correct me if I'm wrong, but given the time that's elapsed and the 'tulip bed' preparation, I suspect that you (your department) have cut a deal with Mr. Danaher and the terms and extent of that deal are not intended for dissemination to the public. If I'm wrong, then when can I expect to see a 'variance' sign in front of 5745 and to get a postcard from Boulder County notifying me? After all, the windmill was installed 14+ months ago.

If what I suspect has taken place - or is in the process of taking place - then it is evidence that not all citizens are treated equally and adds fuel to the belief that corruption and 'good 'ol boy' agreements are sometimes a part of how our government agencies operate. If I'm right, then what does this say about the future of our society and country and the integrity of the laws and agencies that we pay for and rely on? My wife and I have 7 grandchildren, this is not the kind country that I want to pass on to them.

If Mr. Danaher's windmill is not over 30' high and is located in accordance with BoCo **setbacks** and any required permits, inspections and public input, then I don't care. But if that's not the case and 'a deal' has been made, who should I contact next in the hierarchy of Boulder County to air my grievance?

Thank you for your time.

Richard Luna

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5775 Jay Rd.



Boulder, CO 80301

(Mail to: PO Box 20188, Boulder, CO 80308)  
303-931-5625

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**Walker, Samuel**

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**From:** Tracy White <twtracywhite@gmail.com>  
**Sent:** Monday, April 17, 2023 8:12 AM  
**To:** LU Land Use Planner  
**Subject:** [EXTERNAL] Docket VAR-23-0003;Danaher Setback Reductions

Dear Planner,

I would like to support the upgrades made to Var 23-0003.

The porch and windmill are aesthetically pleasing. It is nice to have original architecture with subtle updates.

Regards,

Tracy White

**Walker, Samuel**

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**From:** William D Bowman <william.bowman@colorado.edu>  
**Sent:** Sunday, April 16, 2023 12:04 PM  
**To:** LU Land Use Planner  
**Subject:** [EXTERNAL] VAR-23-0003- Danaher setback

Community Planning and Permitting Department  
Boulder County

To Whom It May Concern:

We write in support of the variance request of Charlie Danaher and Rose Valentine for reduced required setbacks for porch construction and a windmill. We live north of their house, which is visible from our property (5828 S Orchard Creek Circle).

The setbacks they request are reasonable and will not have any adverse visual or environmental impacts. The Danaher/ Valentine house was constructed prior to the designation of the current required setbacks. The front of the house is too close to Jay road to allow porch construction with the current setback requirement. The proposed porch is the same dimension as the existing porch, and will be 86 feet from the Jay road right of way. The proposed porch will provide an attractive front to the house, and is not visible from the road due to a fence.

The windmill is consistent with the rural context of the area, and provides an attractive feature. We have included the Danaher/ Valentine windmill in photographs of sky elements (e.g. full moon, sunset clouds), and hope to continue to in the future. We understand the windmill can not be re-sited to the setback requirement (15 feet) due to the presence of a leach field.

We support the proposed changes.

William D. Bowman  
Jenifer Hall-Bowman

*William D. Bowman  
Emeritus Professor  
Department of Ecology and Evolutionary Biology  
University of Colorado, Boulder*