



# Community Planning & Permitting

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**BOARD OF COUNTY COMMISSIONERS  
PUBLIC HEARING**

**October 12, 2023 at 9:30 a.m.**  
*Hearing to be Held in a Hybrid In-Person and Virtual  
Format*

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

**SE-23-0007: Kenney Lot Recognition**

**Request:** Subdivision Exemption request to recognize 795 Newland Court as a legal building lot eligible for permitting.  
**Location:** 795 Newland Court, accessed via a private drive that intersects Baseline Road .05 miles east of the intersection of Baseline Road and Lakeview Drive, in Section 35, Township 1N, Range 70W.  
**Zoning:** Estate Residential (ER) Zoning District  
**Applicants/Owners:** Sophie & Blake Kenney

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**SUMMARY**

The applicants request approval of this Subdivision Exemption docket in order to recognize 795 Newland Court as a legal building lot.

A Subdivision Exemption application is required for this request per Article 9-200 of the Land Use Code (the “Code”). For the reasons set forth below, staff finds that the proposed lot recognition can meet the current criteria under Article 9-400 of the Code to recognize the subject property as a legal building lot. Therefore, staff recommends that the proposal be approved with conditions.

## DISCUSSION

The subject property is located on the north side of Baseline Road, accessed via a private driveway that is shared with the adjacent parcels at 790 Newland Court and 6685 Baseline Road. The County Assessor identifies one single-family residence on the subject property currently, although there are also three unpermitted accessory structures that are not reflected in the Assessor's records.

In its current configuration, the parcel has been identified as a nonlegal building lot ("BLOTNOT") because it does not meet the definition of a legal building lot as described in Art. 9-100 of the Code. This determination was made per BLD-22-0082, issued on January 17, 2022, and included as Attachment F. County research conducted as part of this building lot determination request indicates that the subject property's current configuration was created in 2020, when the subject property (795 Newland Court, known as "Parcel A") was improperly subdivided by deed from "Parcel B", currently addressed as 790 Newland Court, when Parcel A was sold. The current configurations of Parcel A and Parcel B are shown in Figures 7 and 8, below.

The history of the subject property and neighboring lots is described in an illustrated timeline below.

- **July 15, 1960** – W.R. Hawes sells 2.87 acres to T.J. Bigbee via deed, Reception Number 90655587 (see Attachment E, pg. E1)

The 2.87-acre parcel sold under this deed encompasses what are now three separate parcels, including 790 Newland Court (Parcel B), 795 Newland Court (subject property, Parcel A), and a portion of a third parcel now addressed at 6685 Baseline Road. Figure 1 illustrates this original parcel configuration.



*Figure 1: Original parcel sold to T.J. Bigbee*

- July 15, 1960 – BP-60-4743 (Attachment E, pg. E2 – E11) issued

The county issued this building permit to T.J. Bigbee on the same day that he purchased the 2.87-acre parcel from W.R. Hawes, for the construction of a single-family residence. The residence constructed under this permit is now the duplex located on Parcel B at 790 Newland Court. Figures 2 and 3 show the issued permit and the plot plan submitted with the permit, indicating that it was issued before the 2.87-acre parcel was portioned off into the separate properties that exist today. No inspections were performed for the permit and no Certificate of Occupancy has been issued for the structure.

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**COUNTY OF BOULDER**  
**OFFICE OF BUILDING INSPECTOR**

**PERMIT N° 4743**

Date 7-15-60

PERMIT is hereby issued to (build) (erect) (remodel) ONE FAMILY  
(MOVED IN) DWELLING

Owner T. J. BIGBEE Address 405 PEARL

Contractor Same Address \_\_\_\_\_

Address of Proposed Building Baseline Rd - Adjunct to Parcel B

Legal Description Attached  
In SW 1/4 Sec 35 T17N

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Setback Front 140' + Side 140' Side 263 Rear 34

Valuation 4500<sup>00</sup> Area of Building 1084<sup>50</sup> Type of Construction Frame

Permit Fee \$11.50 Use of Building 1-FAM. DWELLING Zoning R

Inspection Fee \$ \_\_\_\_\_ Remarks: \_\_\_\_\_

Total \$11.50

Approved Paul R. Henkin  
Ch. of Building Inspector. als

Note:—This permit not valid without official "PAID" stamp from Boulder County Building Inspection Department.

Figure 2: BP-60-4743 issued permit

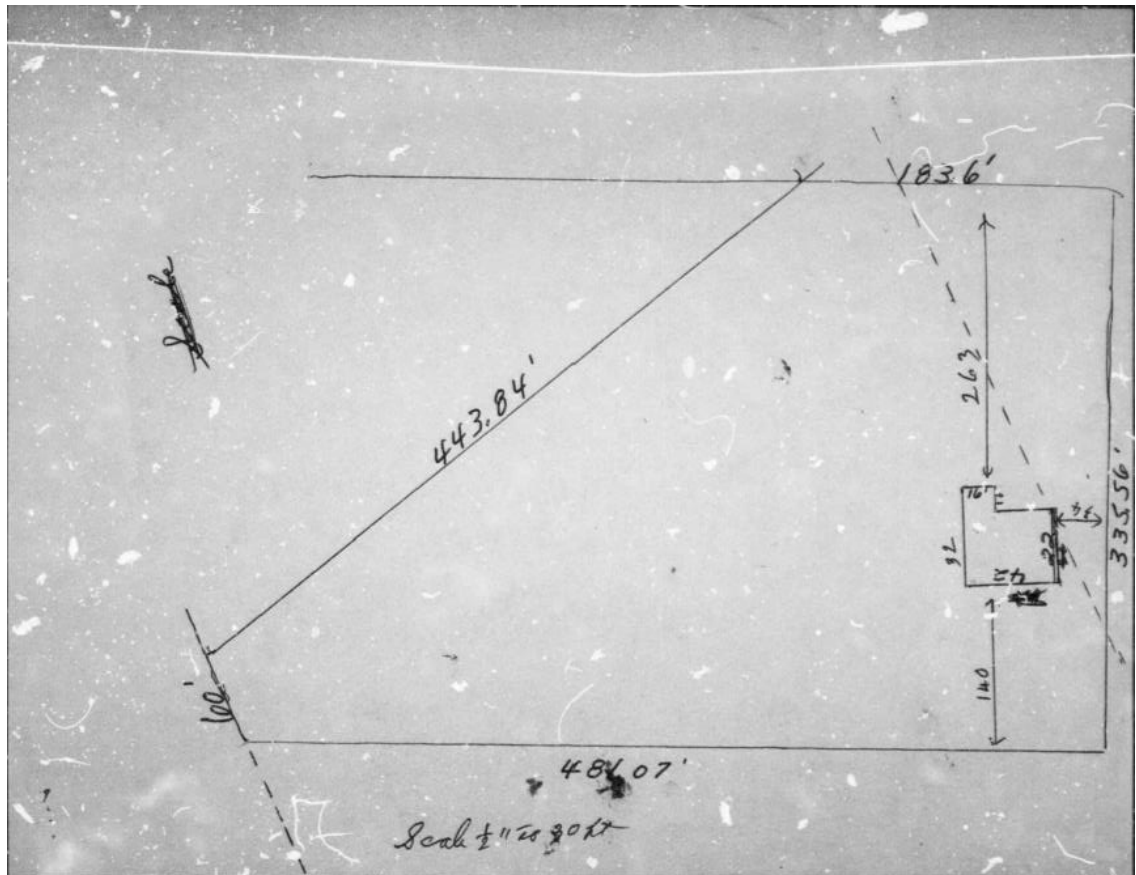


Figure 3: BP-60-4743 plot plan showing ~2.87-acre parcel

- **October 16, 1961** – T.J. Bigbee deeds Parcel A (795 Newland) and Parcel B (790 Newland) on one deed to M.J. Bigbee, Reception Number 90685346 (Attachment E, pg. E12 – E13)

This deed describes Parcel B (790 Newland) individually for the first time and also contains a description for Parcel A, now known as 795 Newland. Because this deed was created in 1961 when the minimum lot size in the Residential zoning district was 1 acre, the deed includes metes-and-bounds descriptions for both Parcel A and Parcel B, and the Code considers all contiguous land held on one deed to be a single parcel, this deed is the basis of the previous staff determination that Parcel A and Parcel B constitute a single building lot (see BLD-20-0090, included as Attachment D, and described below). This deed also created a third parcel (now a portion of 6685 Baseline) by exclusion. Figure 4 shows the portion of the deed describing the parcels. Figure 5 shows the 1.87-acre parcel created by the deed. The full text of the deed is included in Attachment E.

Recorded OCT 16 1961 at 2:45 O'clock P.M.  
Reception No. 685346 MILTON E. Tschiche, Recorder

No. 36. WARRANTY DEED—Short Form.—Bradford-Robinson Ptg. Co., Mfrs. Robinson's Legal Blanks, 1824-46 Stout St., Denver, Colorado

THIS DEED, Made this 18th day of September in the year of our Lord  
one thousand nine hundred and Sixty-one between

T. J. BIGBEE

of the County of Boulder and State of Colorado, of the first part, and

M. J. BIGBEE

of the County of Boulder and State of Colorado, of the second part:

WITNESSETH, That the said part y of the first part, for and in consideration of the sum of

-----Other Good and Valuable Considerations and Ten and NO/100----- DOLLARS,

to the said part y of the first part in hand paid by the said part y of the second part, the

receipt whereof is hereby confessed and acknowledged, ha s granted, bargained, sold and conveyed,

and by these presents do es grant, bargain, sell, convey and confirm, unto the said part y of the

second part his heirs and assigns forever, all the following described lot or parcel s

of land, situate, lying and being in the County of Boulder and State

of Colorado, to-wit:

Parcel A: A tract of land situated in Section 35, Township 1 North, Range 70 West of  
the 6th P.M., and described as follows: Beginning at the Northeast corner of Lot 3  
Block 2, Baseline Heights Subdivision, according to the recorded plat thereof,  
thence South 49° 13' West along East line of said Boulder Heights Subdivision,  
265.33 feet, thence North 85° 32' 12" East, 385.84 feet to East line of the West  
Half of the Southwest Quarter of the Southeast Quarter, Section 35, Township 1 North,  
Range 70 West of the 6th P.M., thence North 0° 04' West, 143.50 feet, thence South  
89° 56' West, 183.60 feet to the true point of beginning, and containing 1.00 acres  
more or less.

Parcel B: A tract of land situated in Section 35, Township 1 North, Range 70 West  
of the 6th P.M., and described as follows: Commencing at the Northeast corner of  
Lot 3, Block 2, Baseline Heights Subdivision, according to the recorded plat  
thereof, thence South 49° 13' West along the East line of said Boulder Heights  
Subdivision, 265.33 feet, thence North 85° 32' 12" East, 179.23 feet to the true  
point of beginning; thence North 85° 32' 12" East, 206.61 feet, thence South  
0° 04' East, 192.06 feet, thence South 89° 59' West, 173.70 feet, thence South  
89° 56' West, 32.30 feet; thence North 0° 04' West, 170 feet to the true point  
of beginning, and containing 0.87 acres, more or less.

SEE PAID UNDER S. D. No. 222  
SEE PAID UNDER PROTEST  
SEE EXPLAINED



Figure 4: First description of Parcels A and B as separate tracts held on one deed



*Figure 5: Area described by October 16, 1961 deed*

- **July 13, 1962** – M.J. Bigbee sells Parcel A (795 Newland) and B (790 Newland) to Joe and Wancee Butler, Reception Number 90703967 (Attachment E, pg. E14)

Joe and Wancee Butler purchased the 1.87-acre property from M.J. Bigbee one year after it was created. Parcel A (795 Newland) and Parcel B (790 Newland) are still described separately, but held on the same deed resulting in the configuration illustrated by Figure 5 above.

- **September 7, 1962** – BP-62-6194 (Attachment E, pg. E15 – E23) issued

After the Butlers purchased the property they applied for a building permit to construct a new residence on Parcel A (795 Newland), which (per the applicants narrative for SE-22-0003 Butler, see Attachment H) they believed to be a separate lot subdivided from Parcel B (790 Newland) by the previous owner. The plot plan for this building permit only included the bounds of Parcel A, which is 1 acre in size and therefore would have met the minimum lot size for the zoning district at the time if it was actually separate from Parcel B. The county issued the building permit without acknowledging that it was approving a second single-family residence on one parcel or that the plot plan did not illustrate the full extent of the legally existing parcel boundaries.

During the review of the subject application, the Chief Building Official completed this permit after determining that all residential inspections were completed as required prior to the permit's expiration, and that a Certificate of Occupancy would not have been issued at the time of the residence's construction. Figures 6 and 7 show the issued building permit and associated plot plan for the 1962 building permit.

COUNTY OF BOULDER  
OFFICE OF BUILDING INSPECTOR

PERMIT

No 6194

*Tom Rugh*  
Date *Sep 1962*

PERMIT is hereby issued to (build) (erect) (remodel) *1 Family Residence*

Owner *Joe Puthier* Address *Box 299 B Rte 1 Boulder*

Contractor *Same* Address \_\_\_\_\_

Address of Proposed Building *Same Baseline Road*

Legal Description *Attached*

*In Sec. 35, T.1N., R.70W*

Setback Front *310'* Side *72'* Side *32'* Rear *60'*

Valuation *15,000* Area of Building *1276* Type of Construction *Brick*

Permit Fee \$ *48.00* Use of Building *1 Family Dwelling* Zone *R*

Inspection Fee \$ \_\_\_\_\_ Remarks: \_\_\_\_\_

Total \$ *48.00*

Approved *Tom Rugh*  
Chief Building Inspector.

Note:—This permit not valid without official "PAID" stamp from Boulder County Building Inspection Department.

Figure 6: BP-62-6194 issued permit

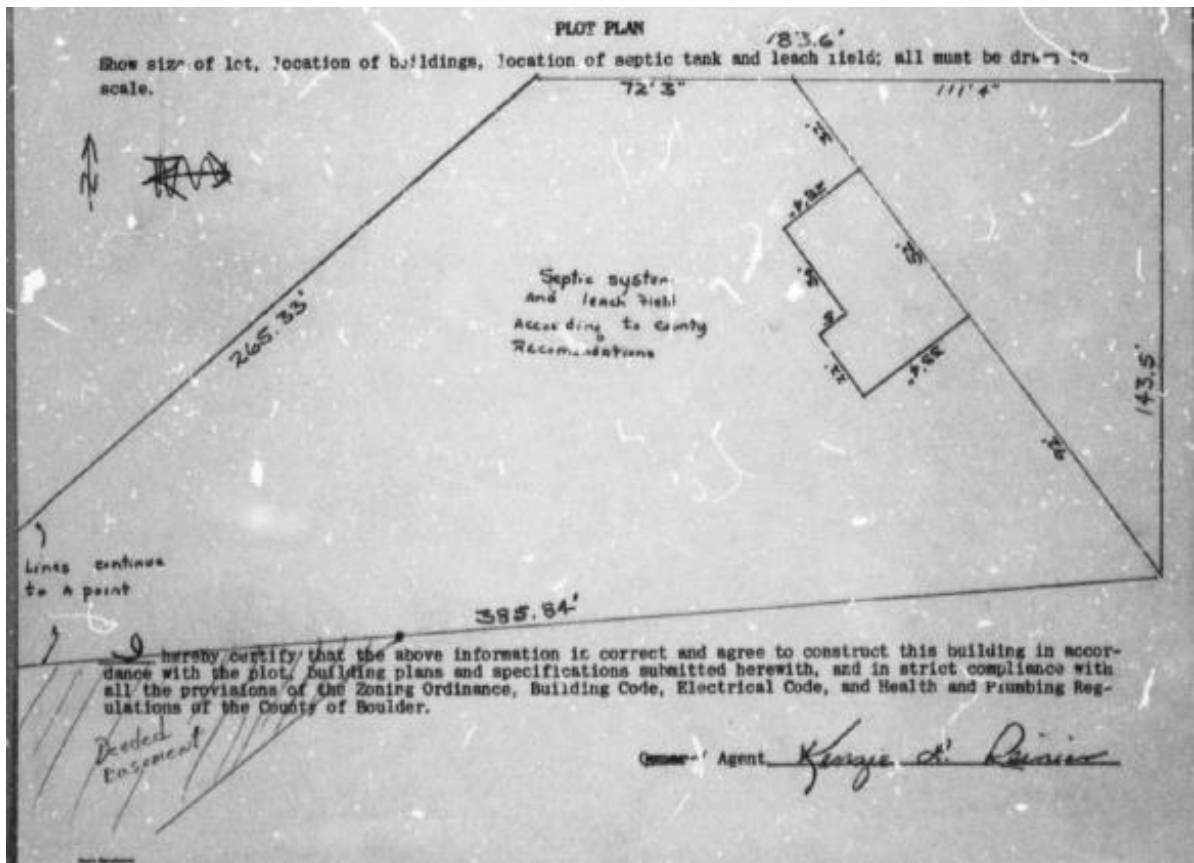


Figure 7: BP-62-6194 plot plan

- **August 23, 2000** – Joe & Wanee Butler transfer Parcel B (790 Newland) to Butler Family Trust via deed, Reception Number 2072599 (Attachment E, pg. E24)

This deed split Parcels A and B by transferring only Parcel B (790 Newland) to the Butler Family Trust. Because Parcels A and B were now held on two separate deeds, they were no longer considered to be a single parcel. Because they were created as separate lots in 2000 when the minimum lot size within the Estate Residential zoning district was 35 acres and neither lot was approved by the county through the appropriate planning process, both Parcels A and B became BLOTNOTs.

- **May 6, 2016** – Joe Butler recombines Parcels A and B via deeded sale to Butler Family Trust, Reception Number 03516606 (Attachment E, pg. E25 – E27)

In May of 2016, Joe Butler recombined Parcels A and B via deeded sale to the Butler Family Trust for estate planning purposes. This reestablished the legal building lot identified by county staff under BLD-20-0090.

- **November 17, 2020** – Application for Building Lot Determination submitted for subject property (Parcel B, 790 Newland)

On November 17, 2020, Lily Wallace submitted an application for Building Lot Determination to the Community Planning & Permitting Department because of interest in purchasing the lot.

- **December 21, 2020** – Butler Family Trust sells Parcel A to Blake & Sophie Kenney, Reception Number 03843910 (Attachment E, pg. E28 – E29)

In December of 2020, Blake & Sophie Kenney purchase Parcel A (795 Newland) from the Butler



Family Trust. Because this deed again divided Parcel A from Parcel B, it reinstated the BLOTNOT status for both parcels. Figures 8 and 9 show the current configuration of Parcel A and Parcel B, respectively, with their existing levels of development.



*Figure 8: Current configuration of Parcel A*



*Figure 9: Current configuration of the subject property, Parcel B (790 Newland)*

- **January 25, 2021** – BLOTNOT determination issued for BLD-20-0090

Following the sale of Parcel A (795 Newland) to the Kenneys, Community Planning & Permitting staff issue the determination letter for Parcel B (790 Newland) that identified both parcels as BLOTNOTS, but also noted that they form a single legal building lot when combined as one parcel.

- **November 17, 2022** – BLOTNOT Determination issued for Parcel A (subject parcel, 795 Newland)

During the review process for SE-22-0003 Butler (see below), the Kenneys applied for a separate Building Lot Determination for the subject parcel at 795 Newland. Using the lot history determined during the review of SE-22-0003, staff determined that Parcel A is not a legal building lot because it was held on the same deed as Parcel B until 2000. If Parcel A had been held on a separate deed when BP-62-6194 (for the existing residence on the subject parcel) was issued, it would have been considered a legal building lot because it would have met the at-the-time minimum lot size of 1 acre. However, as discussed previously, the only lot recognized as a legal building lot prior to the Board of County Commissioners' approval of SE-22-0003 Butler was the combination of Parcels A and B into a single parcel.

- **February 14, 2023** – **SE-22-0003 Butler Lot Recognition** approved by the Board of County Commissioners

In response to the original BLOTNOT Determination issued for Parcel B at 790 Newland, Cynthia

Butacan submitted an application for Subdivision Exemption to recognize Parcel B as a legal building lot. On February 14, 2023, the Board of County Commissioners adopted Resolution 2023-012 (see Attachment G) recognizing 790 Newland Court as a legal building lot subject to several conditions of approval, which included requirements for compliance work on the existing structure and a cap on the total residential floor area allowed to be constructed on the parcel. Staff note that although 790 Newland Court was recognized as a legal building lot, recognition of the subject parcel (795 Newland) was not contemplated as part of that review and the subject parcel still does not currently meet the definition of a Building Lot described in Art. 9-100 of the Land Use Code. The applicant for SE-22-0003 Butler has also not yet completed post-approval requirements for their application.

In summary, the subject property was first described as part of a larger parcel in 1961 (including both Parcel A and Parcel B in a combined 1.87-acre property), but was improperly subdivided by deed such that it became a BLOTNOT when the subject parcel (Parcel A, 795 Newland Court) was sold in 2020. Because the combined size of Parcels A and B exceeds the 1-acre minimum lot size required in the Residential zoning district that encompassed their location in 1961, Parcels A and B together form a single building lot eligible for permits. However, the deed splitting Parcel A and Parcel B into distinct lots in 2020 resulted in the creation of two BLOTNOTs. Parcel B was recognized as a legal building lot through the Subdivision Exemption process in 2023, but the property owner has not yet finalized the approval by completing all post-approval requirements.

The subject property is currently developed with a single-family residence as well as three unpermitted outbuildings. The residence was originally constructed in 1962, but historic aerial photography is not clear enough to determine that the unpermitted structures were added to the property at the same time (and therefore would have predated permitting requirements) or if they were brought to the property later. During the application review, the Chief Building Official finalized the 1962 Building Permit for the single-family residence and noted that it does not require a Certificate of Occupancy for habitation.

The applicants propose that 795 Newland Court (referred to previously as Parcel A) be recognized as a legal building lot, and thus be eligible for the issuance of building permits. The applicants cite the previous approval of SE-22-0003 Butler and the desire of future owners of the property to make improvements as reasons that the Board of County Commissioners should recognize the parcel.

## **REFERRALS**

This application was referred to the typical agencies, departments, and adjacent property owners within 1,500-feet of the subject property. Copies of all referral responses received by the Community Planning & Permitting Department (CP&P) are attached. Responses are summarized below.

**County Development Review Team – Access & Engineering:** Access & Engineering Staff provided comments noting that legal access to the property is demonstrated via recorded easement and expressed no concerns with the proposal.

**County Building Safety & Inspection Services Team:** The Building team referral response noted requirements for permitting, an engineer's letter certifying the existing structure can meet wind and snow loads, and a basic safety inspection for the existing residence. However, this response was issued prior to the completion of the existing 1962 building permit for the residence by the Chief Building Official, and the Building team did not submit any additional response.

**County Public Health Department:** The Public Health referral response indicated that an onsite wastewater treatment system (OWTS) was permitted on the property in 1962, adequate for a three-bedroom house.

**Agencies with no conflict:** County Historic Preservation Team, County Parks and Open Space Department, City of Lafayette, Mountain View FPD, Xcel Energy, City of Boulder Open Space & Mountain Parks

**Agencies with no response:** **County Long Range Planning**, County Assessor, County Attorney, County Sheriff, County Treasurer, County Surveyor, City of Boulder Planning & Development Services, City of Boulder Fire Rescue

**Adjacent Property Owners:** Notifications were sent to 56 adjacent property owner addresses, and staff received two comments in response that expressed support for the application.

## **SUBDIVISION EXEMPTION CRITERIA**

Section 9-400 of the Boulder County Land Use Code sets general criteria for Subdivision Exemptions. Staff has reviewed these criteria and finds the following:

- (1) ***For Subdivision Exemptions only, if the exemption would result in an increase in the number of currently existing lots, any identified land use impacts associated with the increase are sufficiently mitigated.***

Article 18-183 of the Code defines a “parcel” as *All contiguous land held under one deed, except where a portion of the land is designated a building lot pursuant to the provisions of this code.* Although the subject property (Parcel A, 795 Newland) was described separately from Parcel B (790 Newland) in deeds dating back to 1961, both parcels were held on the same deed from 1961 until 2000 when they were split without CP&P approval.

As described in the BLOTNOT letter issued by CP&P for 790 Newland on January 25, 2021, a parcel configuration that encompasses both Parcel A and Parcel B would be considered one legally created lot, as their combined size of 1.87 acres would exceed the 1-acre minimum lot size required in the Residential zoning district in which the subject property was located in 1961.

Because only one building lot would have been recognized by the county prior to the approval of SE-22-0003 Butler, and two building lots will be created out of that single previously-recognized building lot, staff find that the proposed recognition of 795 Newland as a legal building lot would result in an increase in the number of currently existing lots. In response to this criteria as part of the review of SE-22-0003 Butler, the “increase in the number of currently existing lots” was mitigated through the application of conditions that restricted the total residential floor area allowed on the parcel to that which existed at the time of the review taking place.

Staff recommend that 795 Newland be recognized as a legal building lot, and recommend a condition of approval restricting the total residential floor area on the parcel to that which currently has been permitted in order to mitigate the land use impacts caused by the additional unit of residential density. Therefore, as conditioned, staff find that this criterion can be met.

- (2) ***For Exemption Plats Only, if the originally approved Subdivided Lots were 1.1 acres or less, the size of each of the proposed lots shall not change by more than 15 percent, unless served by public water and sewer.***

The subject property is not located in a platted subdivision, so the request is not for an Exemption Plat.

Therefore, this criterion is not applicable to this proposal.

- (3) ***The proposed lots shall have legal access.***

The subject property is accessed from Baseline Road, a Boulder County owned and maintained right-of-way (ROW) via a private gravel-surfaced shared road within a 20-foot access easement recorded November 29, 1962 at Reception No. 90714345. Legal access to the subject property has been demonstrated via this easement.

Therefore, staff finds this criterion is met.

- (4) ***The proposed lots and potential development on them shall be capable of being served by an adequate physical access, including for emergency and non-emergency purposes, which meets the requirements of the County Engineer, and, if applicable, the local fire protection district.***

The subject property is physically accessed via an existing gravel drive within the easement described under Criterion 3 above. This physical access appears to be compatible with the Multimodal Transportation Standards, and the Development Review Team – Access & Engineering did not express any concerns regarding the physical access to the property.

Therefore, staff finds this criterion is met.

- (5) ***The proposed lots and potential development on them shall be capable of being served by an adequate water supply.***

The application materials included a well permit for the parcel, and no referral agency responded with concerns that the recognized lot would not have an adequate water supply.

Therefore, staff find that this criterion is met.

- (6) ***The proposed lots and potential development on them shall be capable of being served by an adequate onsite wastewater system or sewage treatment system as required by Boulder County Public Health.***

The BCPH referral response noted that a permit for an OWTS was issued for 795 Newland in 1962, and that it is adequately sized for the existing residence.

Therefore, staff finds this criterion is met.

- (7) ***Adequate public facilities and services shall exist to serve the proposed lots and potential development on them.***

Staff find that adequate public facilities and services exist in the area, and no responses to the contrary were received from any referral agency.

Therefore, staff finds this criterion is met.

- (8) ***If any of the proposed lots are in the Floodplain Overlay District:***

- a. ***The potential impacts of creating the proposed lots or portions of proposed lots within the Floodplain Overlay District shall be sufficiently mitigated; and***
- b. ***The development upon the proposed lots shall be possible outside the Floodplain Overlay District; or***
- c. ***The potential development upon the proposed lots shall be capable of obtaining a floodplain development permit under Article 4-400 of this Code, as determined by the County Engineer.***

The subject property is not located within the Floodplain Overlay District.

Therefore, staff finds this criterion is not applicable.

- (9) ***The proposed lots and development on them shall be in harmony with the character of the neighborhood and compatible with the surrounding area and shall be appropriately***

***landscaped and screened to minimize the obtrusiveness of structures and maximize visual blending with the surrounding topography.***

Staff find that the size of the proposed lot and its potential development would be in harmony with the character of the neighborhood. The subject property is 1 acre in size, and the vast majority of nearby parcels are approximately 1 acre in size. No physical development is proposed as a part of the application, although Site Plan Review would be required for new development on the property if the lot was recognized as proposed and any future development proposal would be required to incorporate the staff-recommended restriction on total residential floor area described under Criterion 1, above. Appropriate visual impact mitigation for any new development would be determined through the Site Plan Review process.

Therefore, staff finds this criterion is met.

- (10) ***The proposed lots and potential development on them shall not be subject to, or contribute to, significant risk from natural hazards such as unstable soils, steep or unstable slopes, floods, and wildfire.***

Staff does not anticipate any unreasonable risk of harm to people or property resulting from the request. Areas of moderate swelling soil potential cover the entire property, while the southeastern corner of the property is also located within an area of high landslide susceptibility, but no physical development is proposed as part of the request and appropriate mitigation measures would be determined through the Site Plan Review process if the proposal is approved.

Therefore, staff finds this criterion is met.

- (11) ***The proposed lots and potential development on them shall not have a significant adverse impact on environmental resources identified in the Comprehensive Plan or through the review of the application, such as Wetlands and Riparian Areas; plant communities and vegetative cover; Critical Wildlife Habitat and Migration corridors; Natural Areas and Natural Landmarks; Environmental Conservation Areas; agricultural, forestry, or open lands; and views, vistas, and scenic corridors.***

The Boulder County Comprehensive Plan does not identify any environmental resources on the subject property.

Therefore, staff finds this criterion is not applicable.

- (12) ***The proposed lots and potential development on them shall not have a significant adverse impact on historic, cultural, or archaeological resources identified in the Comprehensive Plan or through the review of the application***

Although the residence on the parcel is more than 50 years old, the referral response from the Historic Preservation team expressed no concerns about the proposal, and no changes to the structure are proposed as part of the request.

Therefore, staff finds this criterion is met.

- (13) ***The proposed lots and potential development on them shall not cause unnecessary or excessive site disturbance or erosion, or alter historic drainage patterns.***

No site disturbance, development, or changes to drainage have been proposed as part of the application.

Therefore, staff finds this criterion is met.

- (14) *The proposed lots and potential development on them shall be in accordance with the Comprehensive Plan and any applicable intergovernmental agreement affecting land use or development, and this Code.***

Staff find that the proposal will be in accordance with the Goals, Policies, and Objectives of the Comprehensive Plan which promote, among other things, the preservation of existing housing (HO 1.02).

However, staff note that there are several existing, unpermitted structures on the subject property which appear to encroach within the required 10-foot side-yard setback. Staff recommend a condition of approval requiring that the unpermitted structures be removed from the property within one year of approval.

Therefore, as conditioned, staff do not find that this criterion is met.

- (15) *Where the division creates Parcels for use as community facilities such as public parking areas, public or private educational facilities, public parks, and open space purchase by a public entity, and utility land acquisitions including for utility substations without any dwelling units, an exemption may be approved for the placement of a community facility where the size, location and available services are reasonable, appropriate, and customary for the proposed use.***

This application does not involve community facilities.

Therefore, this criterion is not applicable to this proposal.



**RECOMMENDATION**

Community Planning & Permitting staff finds that the application meets the criteria for a Subdivision Exemption, as discussed above. Therefore, staff recommend that the Board of County Commissioners **APPROVE** docket ***SE-23-0007 Kenney Lot Recognition*** subject to the following conditions:

1. The applicant shall comply with all applicable post-approval requirements for a Subdivision Exemption as listed in Article 3-206.C of the Boulder County Land Use Code, within one year after the date of approving the docket, unless an extension(s) of time is granted as allowed in Article 9-700 of the Boulder County Land Use Code.
2. The total residential floor area on the parcel is limited to 3,132 square feet.
3. Within one year of approval, all unpermitted accessory structures must be removed from the property.
4. The applicant shall be subject to the terms, conditions, and commitments of record and in the file for docket ***SE-23-0007 Kenney Lot Recognition***.



## 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<br><input type="checkbox"/> Correction Plat<br><input type="checkbox"/> Exemption Plat<br><input type="checkbox"/> Final Plat<br><input type="checkbox"/> Limited Impact Special Use<br><input type="checkbox"/> Limited Impact Special Use Waiver<br><input type="checkbox"/> Location and Extent | <input type="checkbox"/> Modification of Site Plan Review<br><input type="checkbox"/> Modification of Special Use<br><input type="checkbox"/> Preliminary Plan<br><input type="checkbox"/> Resubdivision (Replat)<br><input type="checkbox"/> Rezoning | <input type="checkbox"/> Road Name Change<br><input type="checkbox"/> Road/Easement Vacation<br><input type="checkbox"/> Site Plan Review<br><input type="checkbox"/> Site Plan Review Waiver<br><input type="checkbox"/> Sketch Plan<br><input type="checkbox"/> Special Use/SSDP | <input type="checkbox"/> Special Use (Oil & Gas development)<br><input type="checkbox"/> State Interest Review (1041)<br><input checked="" type="checkbox"/> Subdivision Exemption<br><input type="checkbox"/> Variance<br><input type="checkbox"/> Other: |
| Location(s)/Street Address(es) 795 Newland Ct, Boulder, CO 80303   |  |  |  |
| Subdivision Name Ridglea Hills   |  |  |  |
| Lot(s)   | Block(s)   | Section(s) Sec. 35   | 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 Sophie Kenney                 |          | Email sophie.kenney11@gmail.com |                    |
| Mailing Address W326N6946 North Lake Dr                |          |                                 |                    |
| City Hartland  | State WI | Zip Code 53029                  | Phone 262-623-7880 |
| Applicant/Property Owner/Agent/Consultant Blake Kenney |          | Email blake@blakekenney.com     |                    |
| Mailing Address W326N6946 North Lake Dr                |          |                                 |                    |
| City Hartland  | State WI | Zip Code 53029                  | Phone 262-490-7980 |
| 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.**

|   |  |                            |              |
|---|--|----------------------------|--------------|
| x | Signature of Property Owner <i>Sophie Kenney</i> | Printed Name Sophie Kenney | Date 3/17/23 |
| x | Signature of Property Owner <i>Blake Kenney</i>  | Printed Name Blake Kenney  | Date 3/17/23 |

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

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

Vicinity

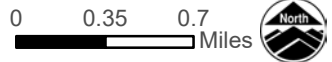
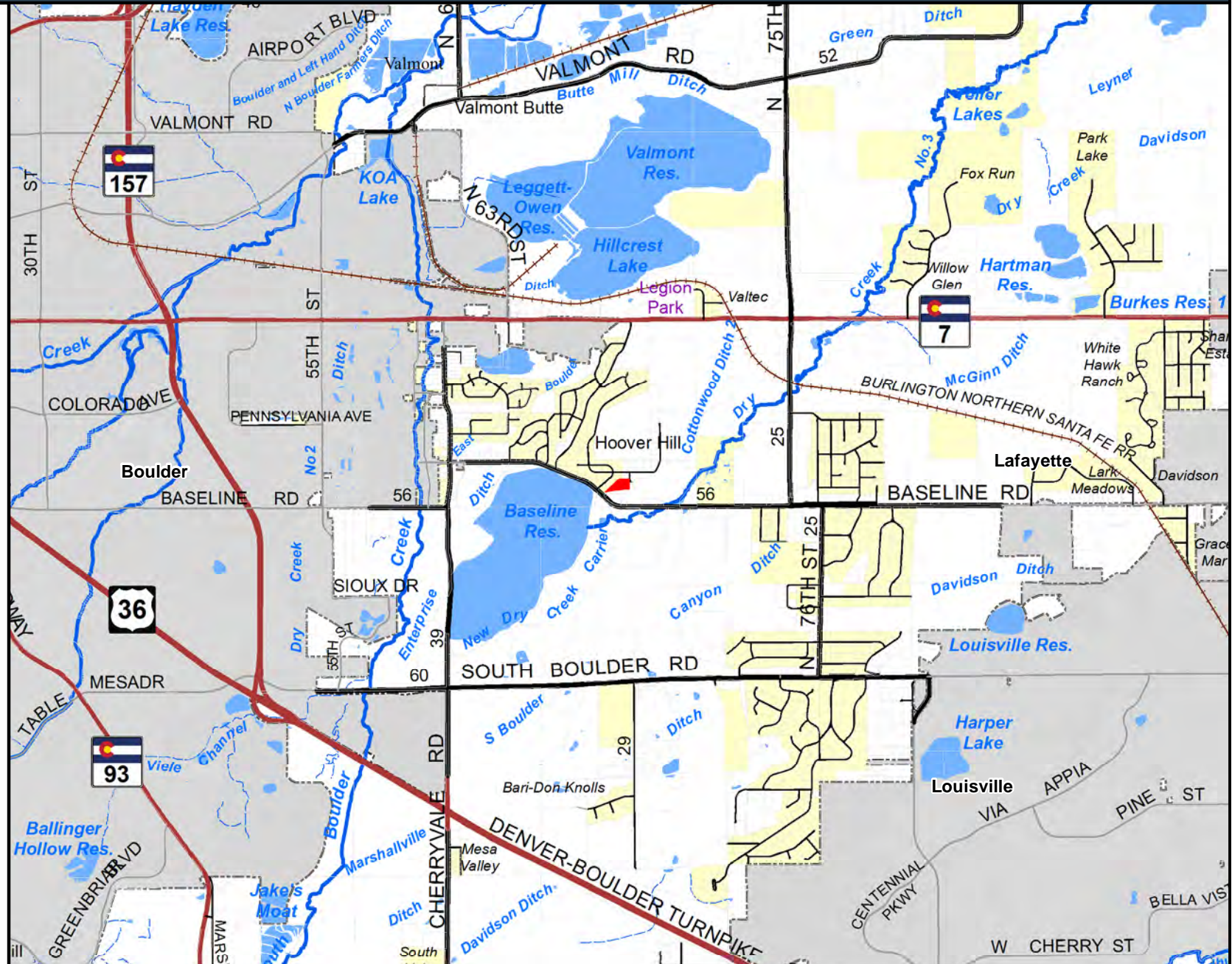
795 NEWLAND

Subject Parcel

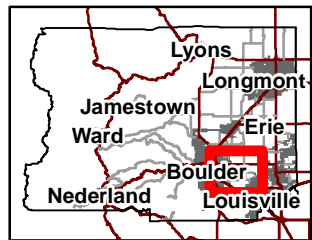
Municipalities

### Subdivisions

Subdivisions



Area of Detail Date: 3/17/2023



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# Community Planning & Permitting

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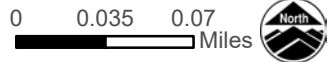
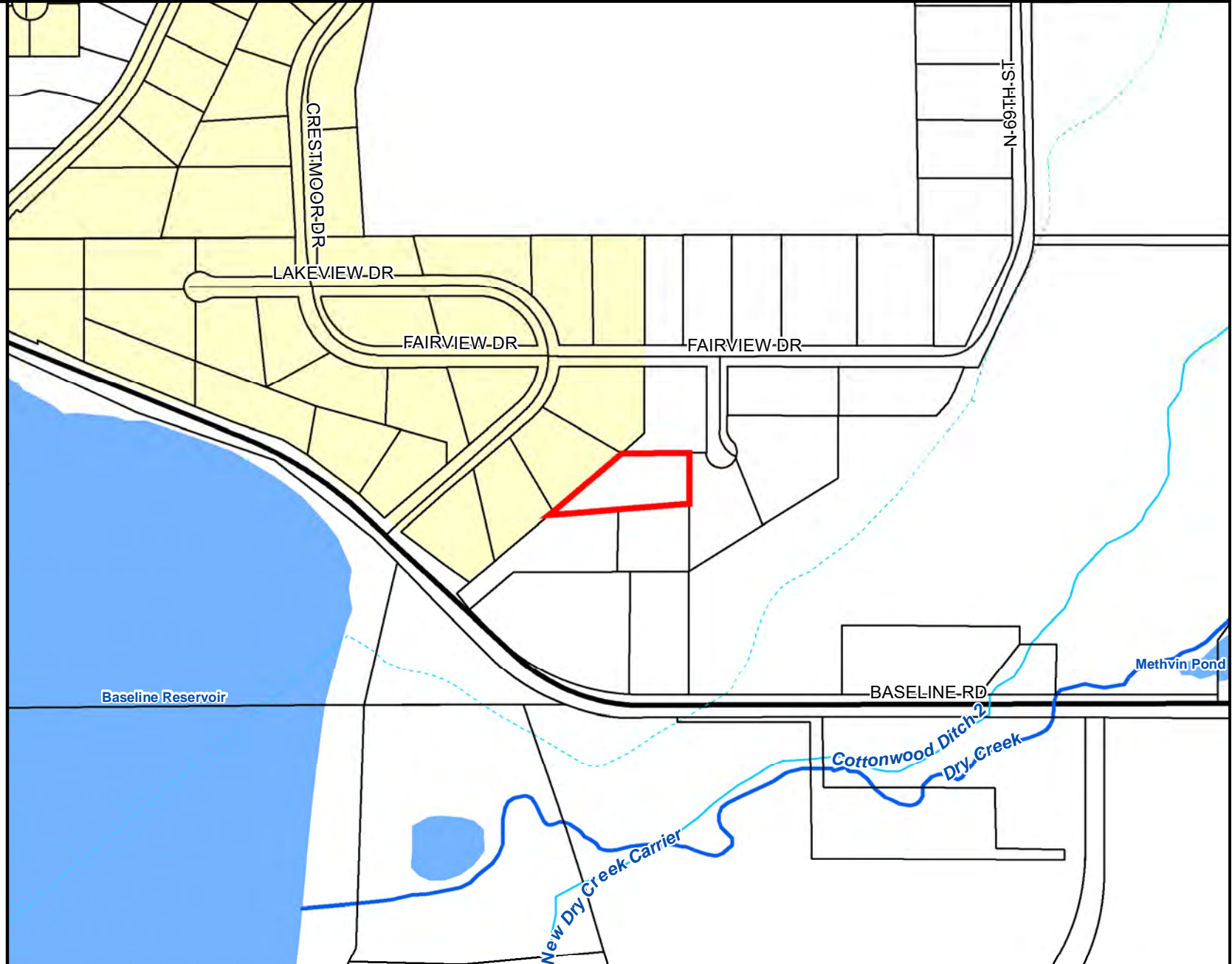
Location

795 NEWLAND

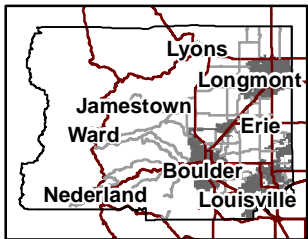
Subject Parcel

**Subdivisions**

Subdivisions



Area of Detail Date: 3/17/2023



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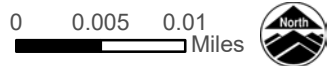
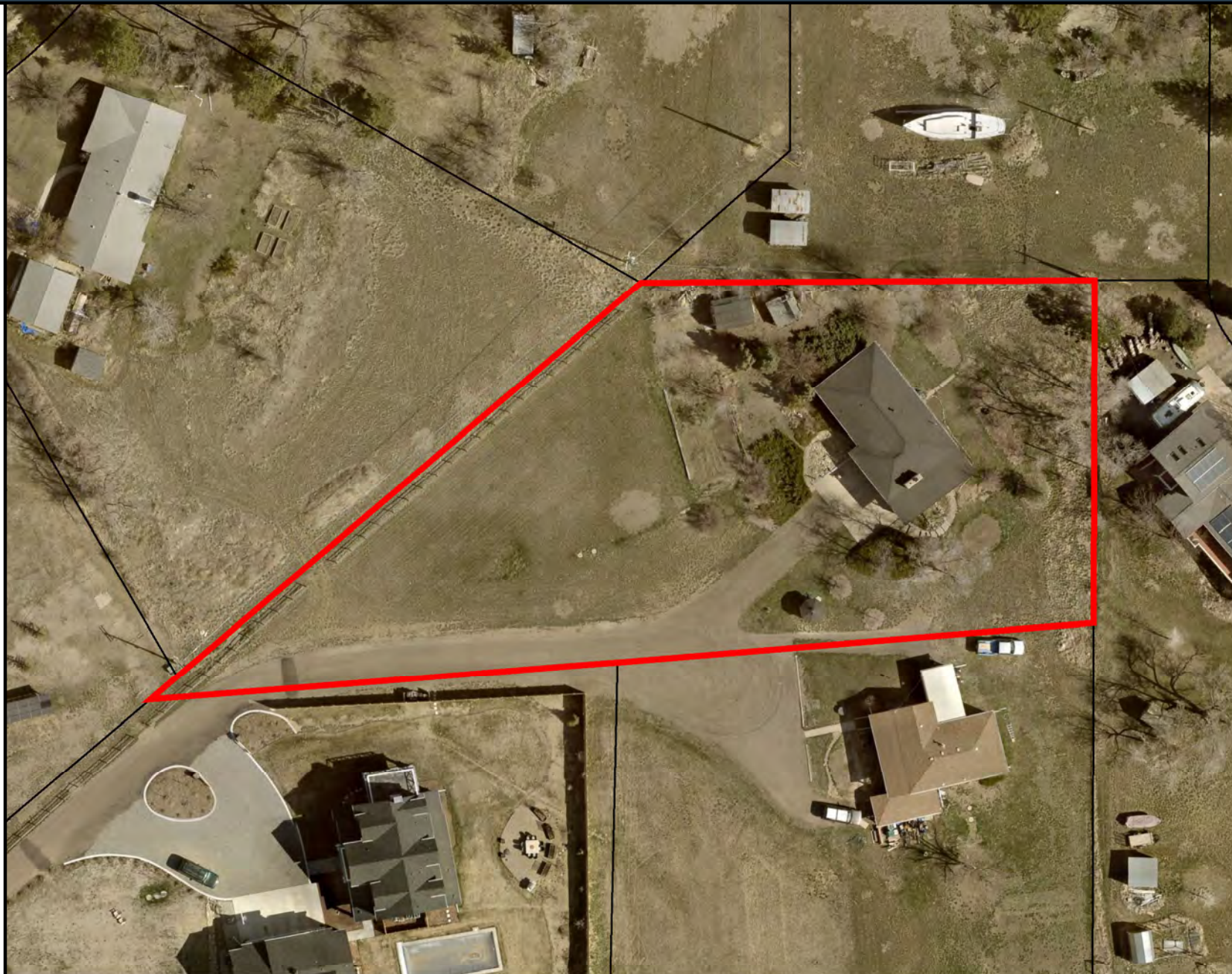
# Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

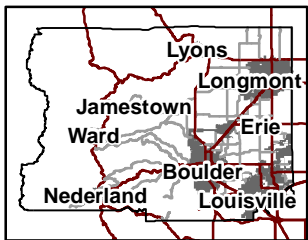
Aerial

795 NEWLAND

 Subject Parcel



Area of Detail Date: 3/17/2023



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# Community Planning & Permitting

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Aerial

795 NEWLAND

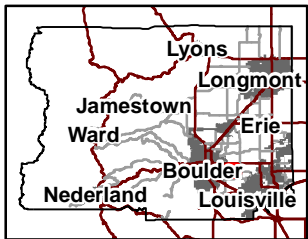
 Subject Parcel



0 0.05 0.1 Miles



Area of Detail Date: 3/17/2023



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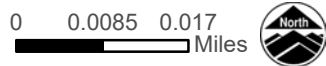
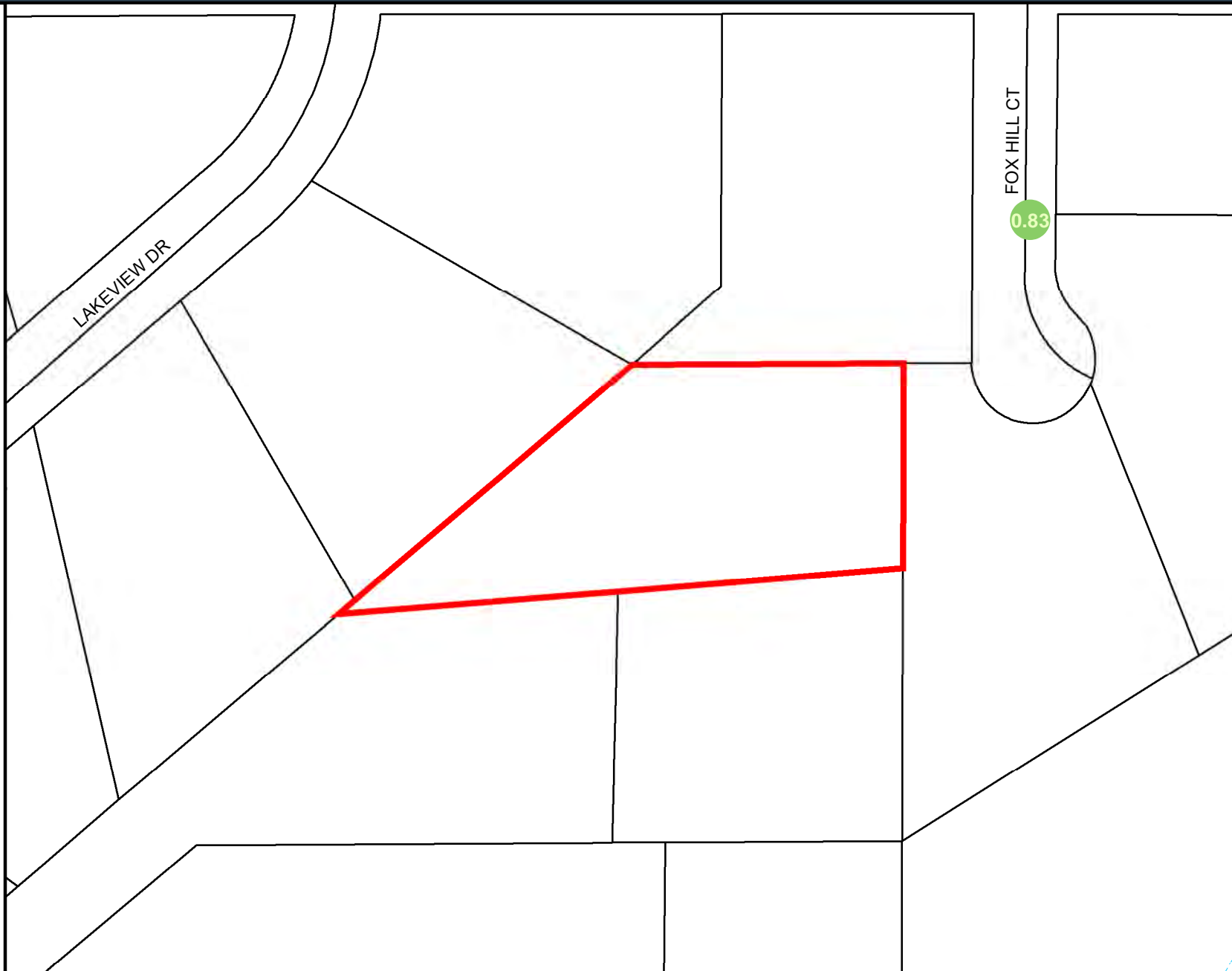
# Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

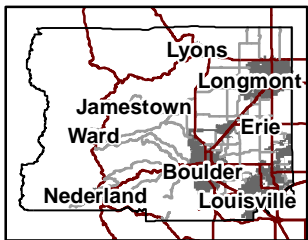
## Comprehensive Plan

### 795 NEWLAND

 Subject Parcel



Area of Detail Date: 3/17/2023



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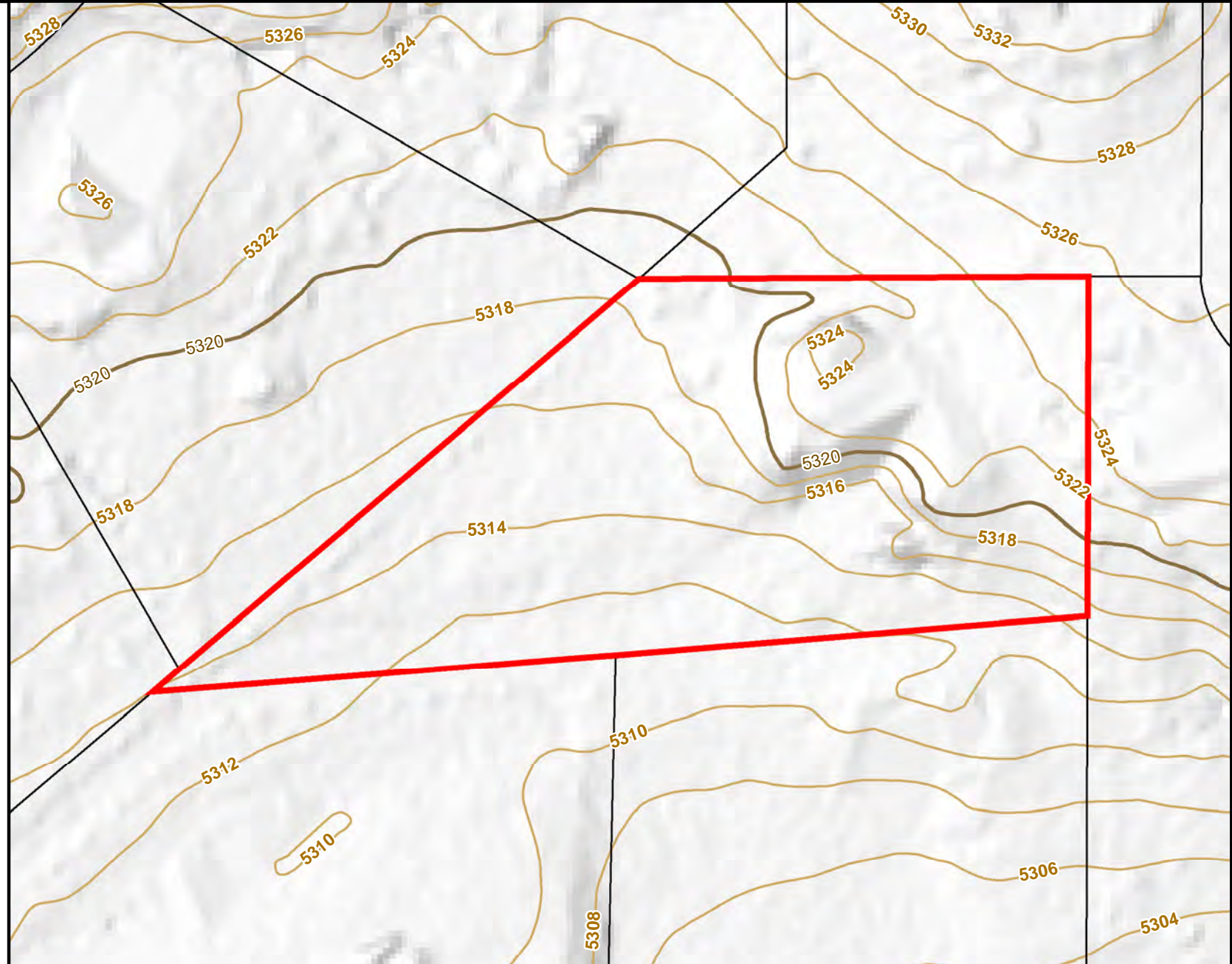
# Community Planning & Permitting

2045 13th Street, Boulder, CO 80302 303-441-3930 www.bouldercounty.org

## Elevation Contours

### 795 NEWLAND

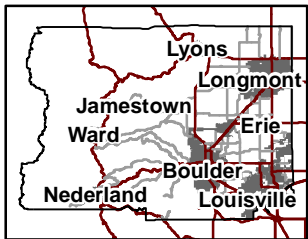
-  Subject Parcel
-  Contours 40'
-  Contours 2'



0 0.005 0.01 Miles



Area of Detail Date: 3/17/2023



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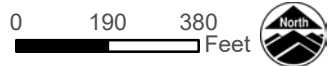
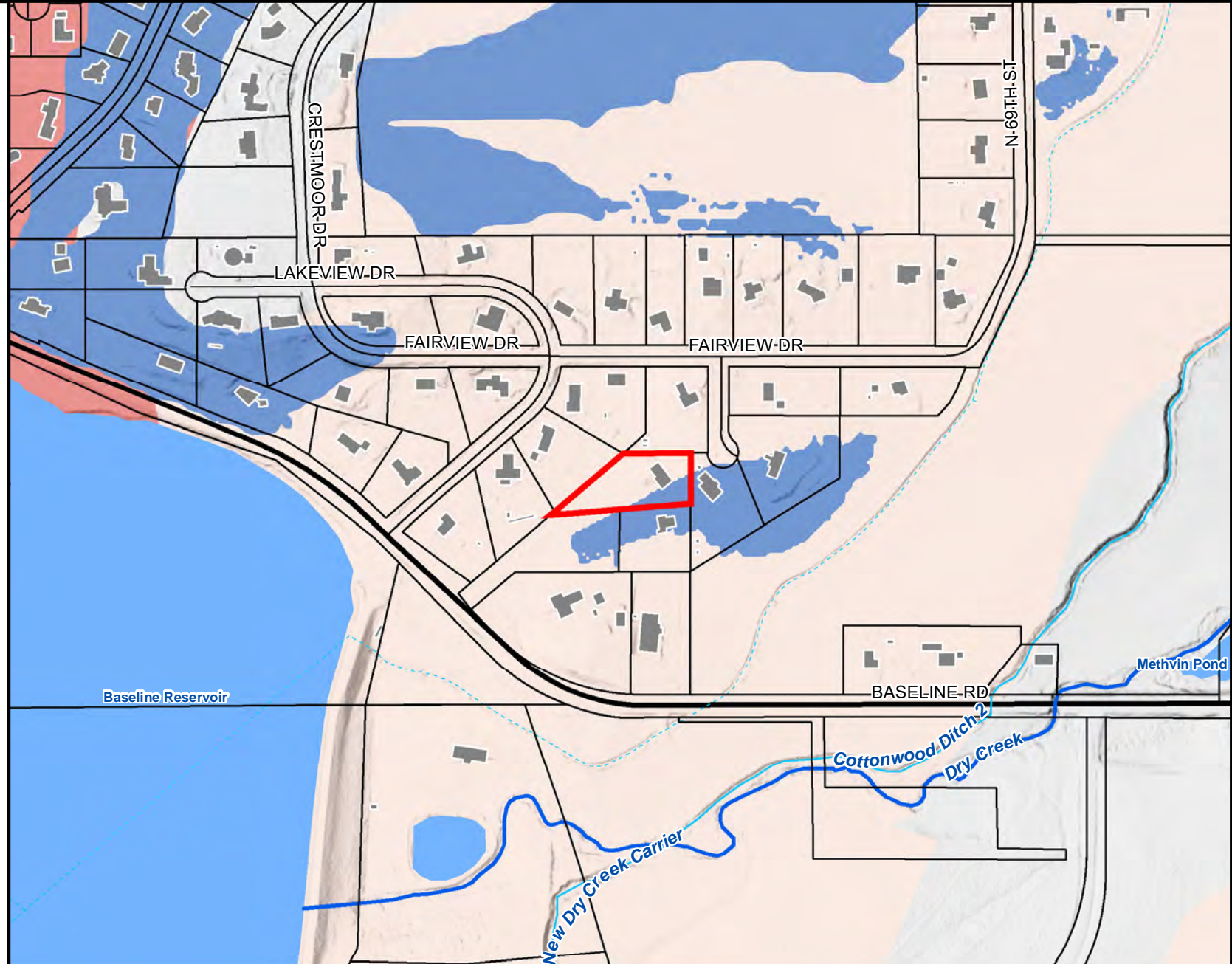
# Community Planning & Permitting

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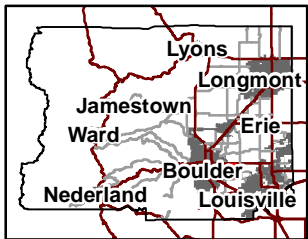
## Geologic Hazards

795 NEWLAND

-  Subject Parcel
-  Very High Swelling Soil Potential
-  Moderate Swelling Soil Potential



Area of Detail Date: 3/17/2023



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# Community Planning & Permitting

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Planning Areas

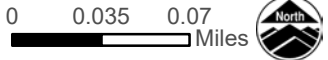
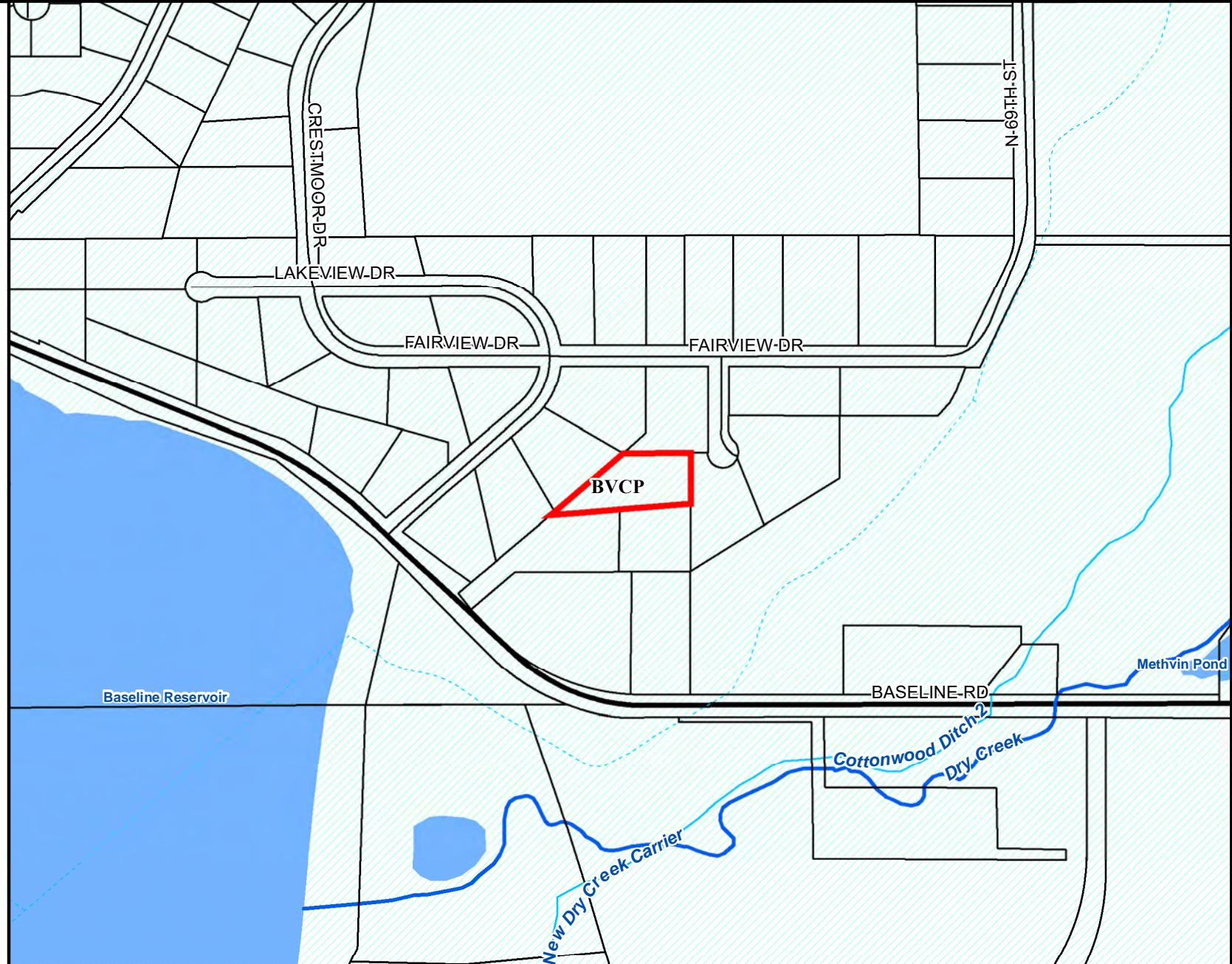
795 NEWLAND

Subject Parcel

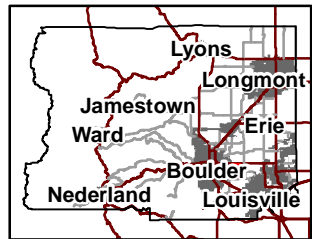
Active IGA Boundary

### Active IGA Designation

BVCP



Area of Detail Date: 3/17/2023



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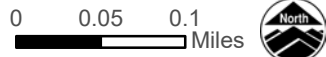
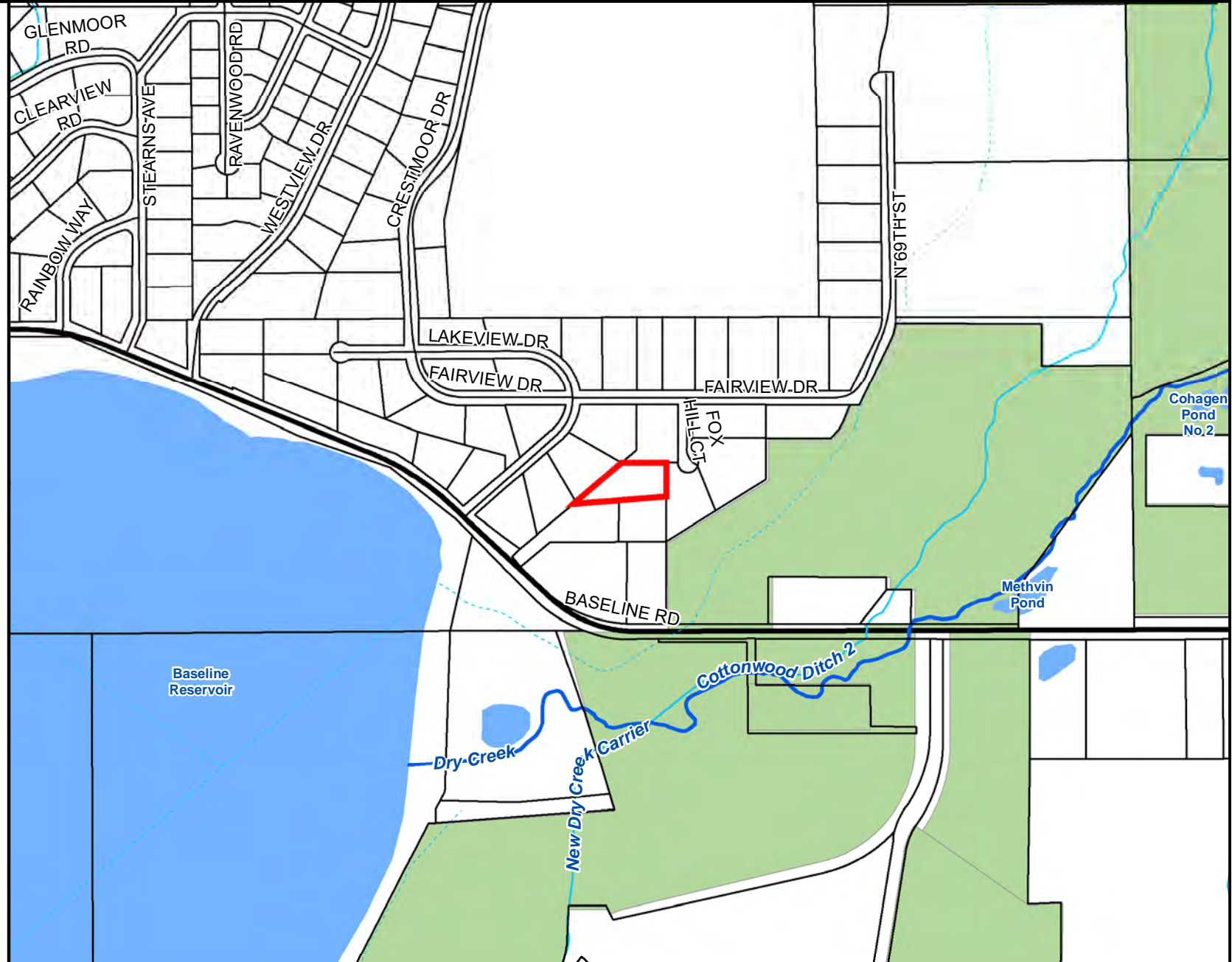
# Community Planning & Permitting

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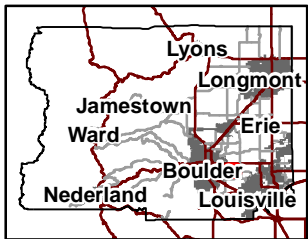
Public Lands & CEs

795 NEWLAND

-  Subject Parcel
-  OSMP Properties



Area of Detail Date: 3/17/2023



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# Community Planning & Permitting

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## Zoning

## 795 NEWLAND

Subject Parcel

### Zoning Districts

Estate Residential

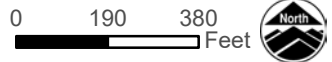
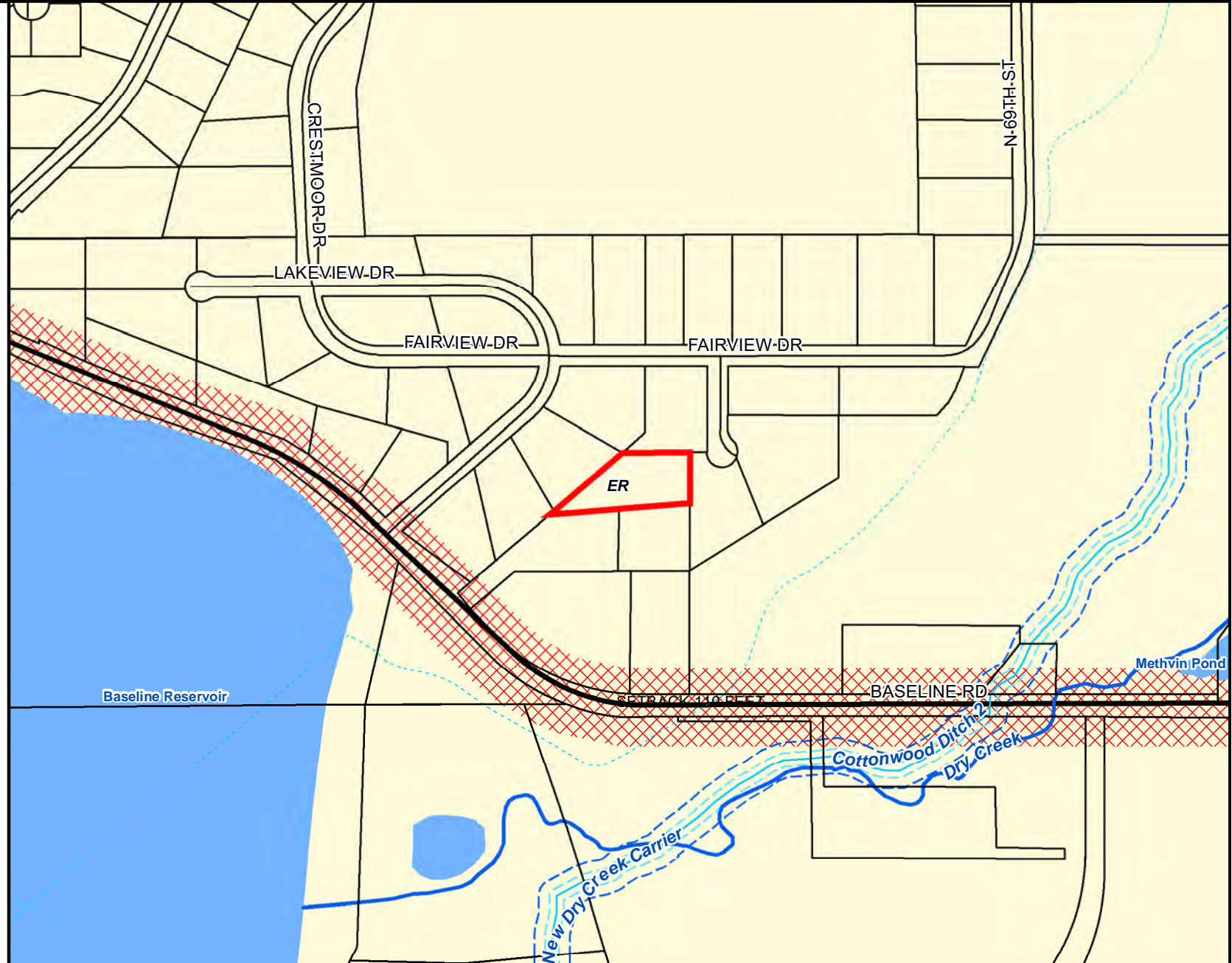
### Ditch Setbacks

20 feet

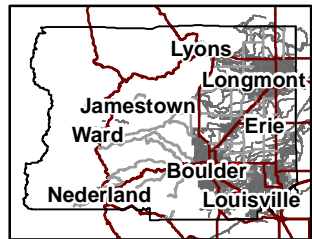
50 feet

### Major Road Setbacks

110 feet



Area of Detail Date: 3/17/2023



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**EXHIBIT A**

## Narrative for 795 Newland Ct.

We are Sophie and Blake Kenney, and this is a narrative about our home at 795 Newland Ct. in Boulder county.

In 2020, we were newly married and looking for our first home in Boulder county. We heard through the grapevine that the home on 795 Newland Ct. was going to become available. This property is next to my sister-in-law's home, so we were excited at the opportunity to live so close to family. We purchased the property and closed in December 2020.

In the summer of 2022, we received a letter in the mail notifying us about the subdivision exemption process occurring next door at 790 Newland Ct. After calling the county to learn more, we were surprised to learn that this process would affect us as well. We attended the public hearing for the property at 790 Newland and learned the following:

In 1962, Joe and Wanee Butler were interested in purchasing the property now known as 790 Newland Ct and 795 Newland Ct. The property at the time was 1.87 acres with a small duplex on the southern portion. They decided to build a new home on the northern portion of the property, which is now where our current property sits on 1.03 acres.

The Butler's real estate agent told Mr. Bigby, the seller, that Joe and Wanee would make the purchase on the condition that he subdivide one acre for a future building site for a new house and install a new leach field for the small duplex that was already there. He did both things, and then the Butlers completed the purchase in April of 1962. The Butlers have paid separate property taxes on each house since 1963, and we have paid property taxes since purchasing the home in 2020.

We knew nothing about how the two lots were subdivided back in the 1960s and even though we never had plans to add on to the existing structure, we would still like to resolve this and make the property a legal building lot for the sake of future property owners. We believe this entire ordeal was an honest oversight and want to make things right and complete the subdivision exemption process at this time.

We appreciate your time and consideration.

Sincerely,  
Sophie and Blake Kenney

Boulder County Land Use Department  
P.O. Box 471  
Boulder, CO 80302

June 26, 2023

**RE: Supporting Statement for Subdivision Exemption Docket # TBD for owners of 795 Newland Court, Boulder, CO 80303 (Estate-Residential Zone District)**

Dear People,

This narrative is submitted on behalf of Sophie and Blake Kenney owners of the parcel located at 795 Newland Court (the "Parcel"), in response to the decision in Docket BLD-22-0082 that 795 Newland Court was not a buildable lot.

In 1962, Joe and Waneé Butler purchased this land from T.J. Bigbee only after Bigbee subdivided the 1.87-acre parcel to create a one-acre parcel for the Butler's new residence (795 Newland Court, R0068370, Parcel No. 146335400028, Tract 2711-A 35-1N-70 1 AC).

Before Joe and Waneé Butler purchased Tracts 2711-A and 2711-B, T.J. Bigbee assured the Butlers that Tracts 2711-A and 2711-B were subdivided and he installed a new ISDS for the residence on Tract 2711-B. Joe Butler then obtained a permit for the new proposed home.

The Butlers built their new home at 795 Newland Ct. and have paid separate Boulder County Property Taxes on the two parcels since 1963. The Kenneys purchased the Parcel in December of 2020 and have paid Boulder County Property Taxes for parcel Tract 2711-A (2021: \$5,034.50) every year since. Several deeds have also been recorded on the property since the new residence was established in 1962.

It is clear that Mr. Bigbee played fast and loose with the subdivision and building permit requirements in effect in Boulder County in the early 1960s, and unfortunately it is the Butler and Kenney family who have been negatively affected by the actions of Mr. Bigbee. However, after 60 years, justice will be served by correcting any deficiencies and recognizing this 1.03-acre Parcel as a legal buildable lot.

Several other unique circumstances support such recognition at this time:

1. Several permits have been issued to Tract 2711-A including permits for a New Residence (BP-62-6194) in 1962, Furnace (BP-88-1102) in 1988, Tear Off & Reroof (BP-12-1339) in 2012, New Furnace & AC Unit (BP-23-1091) in 2023, and New Electrical Panel (BP-23-1080) in 2023.
2. As mentioned above, property taxes have been paid for both properties and residences since 1963. The Kenneys had every reason to believe the Parcel was a legal building lot, and both the Kenneys and Butlers have been taxed accordingly for more than sixty years.

3. Finally, the Exemption Map, included as a Land Survey Plat prepared by William .J Stengel (the "Stengel Plat") depicting Stengel Parcels A, B and C, along with Kenney Parcel A (795 Newland Court) and Butler Parcel B (790 Newland Court).

Subdivision Exemption Criteria:

(1) - Increase in number of currently existing lots. There were two lots purchased by the Butlers in 1962, and the boundaries of the two lots will not be changed. The Parcel, Tract 2711-A, has the same home on it at the time of the Kenney's purchase that exists on the Parcel today. The neighboring property, Tract 2711-B has already been approved as its own legal building lot. No increase in density will occur.

(2) - Not applicable.

(3) - Proposed lots have legal access. The lots have legal access to Baseline Road via a private access easement granted by T.J. Bigbee to Joe E. Butler (the "Bigbee Easement") recorded at Reception No.90714345, in the records of the Boulder County Clerk and Recorder on November 29, 1962. The access easement is also shown on the Exemption Map.

(4)- Lots capable of being served by an adequate physical access. The Parcel is physically accessible using the Bigbee Easement and the driveway that has served the Parcel since 1960.

(5) - Adequate water supply exists. The Colorado Division of Water Resources issued Tract 2711-A a permit (#102649) for a well completion and pump installation in 1978. This well has been acting as an adequate water supply ever since and has also passed a recent inspection by John's Well Service in November of 2020 (see attached documents).

(6) - Capable of being served by an adequate Onsite Wastewater System (OWS). In 1962, when Tract 2711-A was created, Boulder County issued a OWTS New System permit (NEWP-1900-0005957) for the approved septic system on the property. The residence on the Parcel continues to be served by the septic system.

(7) - Adequate public facilities and services exist. The public facilities and services that have effectively served the Parcel since 1962 will continue to do so going forward.

(8) - In Flood Plain Overlay District? Not applicable.

(9) - In harmony with character of the neighborhood. The existing home and Parcel have been in place since 1962 and they will continue to exist in harmony with the physical characteristics of the land and character of the surrounding neighborhood.

(10)- Lots will not be subject to significant risk from natural hazards. The Parcel is not subject to significant risk from natural hazards, and this will continue to be true in the future.

(11) - Lots will not have significant adverse impact on environmental resources. The Parcel and home have not had and will not in the future have a significant adverse impact on environmental resources.

(12) - Lots will not have significant adverse impact on historic, cultural or archaeological resources. There are no such resources that will be impacted by recognition of the Parcel.

(13) - Lot development shall not cause unnecessary or excessive site disturbance or erosion. The Parcel was developed in 1962 without unnecessary or excessive site disturbance. The site plan review process will manage potential site disturbance from any future development.

(14) - Lots will comply with Comprehensive Plan and IGAs. The Parcel and any future development will comply with the BCCP and any applicable IGA.

(15) - Community Facility? Not applicable.

The above considered, we urge Boulder County to recognize the Parcel as a legal building lot, as proposed in this Application. Thank you for your consideration of the above comments.

Sincerely,  
Sophie and Blake Kenney





## 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

# Subdivision Exemption Parcel Form

## Existing Parcel(s)

| Description           | One                     | Two | Three | Four | Five |
|-----------------------|-------------------------|-----|-------|------|------|
| Acreage               | 1.03                    |     |       |      |      |
| Frontage              | 20' per easement        |     |       |      |      |
| Date Acquired         | 12/18/20                |     |       |      |      |
| Owners                | Sophie and Blake Kenney |     |       |      |      |
| Date Created          | 1963                    |     |       |      |      |
| Existing Improvements | 1 Story - Ranch         |     |       |      |      |
| Date Constructed      | 1963                    |     |       |      |      |
| Setbacks Front/Rear   | /                       | /   | /     | /    | /    |
| Setbacks Side/Side    | /                       | /   | /     | /    | /    |

## Proposed Parcel(s)

| Description         | One              | Two | Three | Four | Five |
|---------------------|------------------|-----|-------|------|------|
| Acreage             | 1.03             |     |       |      |      |
| Frontage            | 20' per easement |     |       |      |      |
| Setbacks Front/Rear | /                | /   | /     | /    | /    |
| Setbacks Side/Side  | /                | /   | /     | /    | /    |

## Property Owners

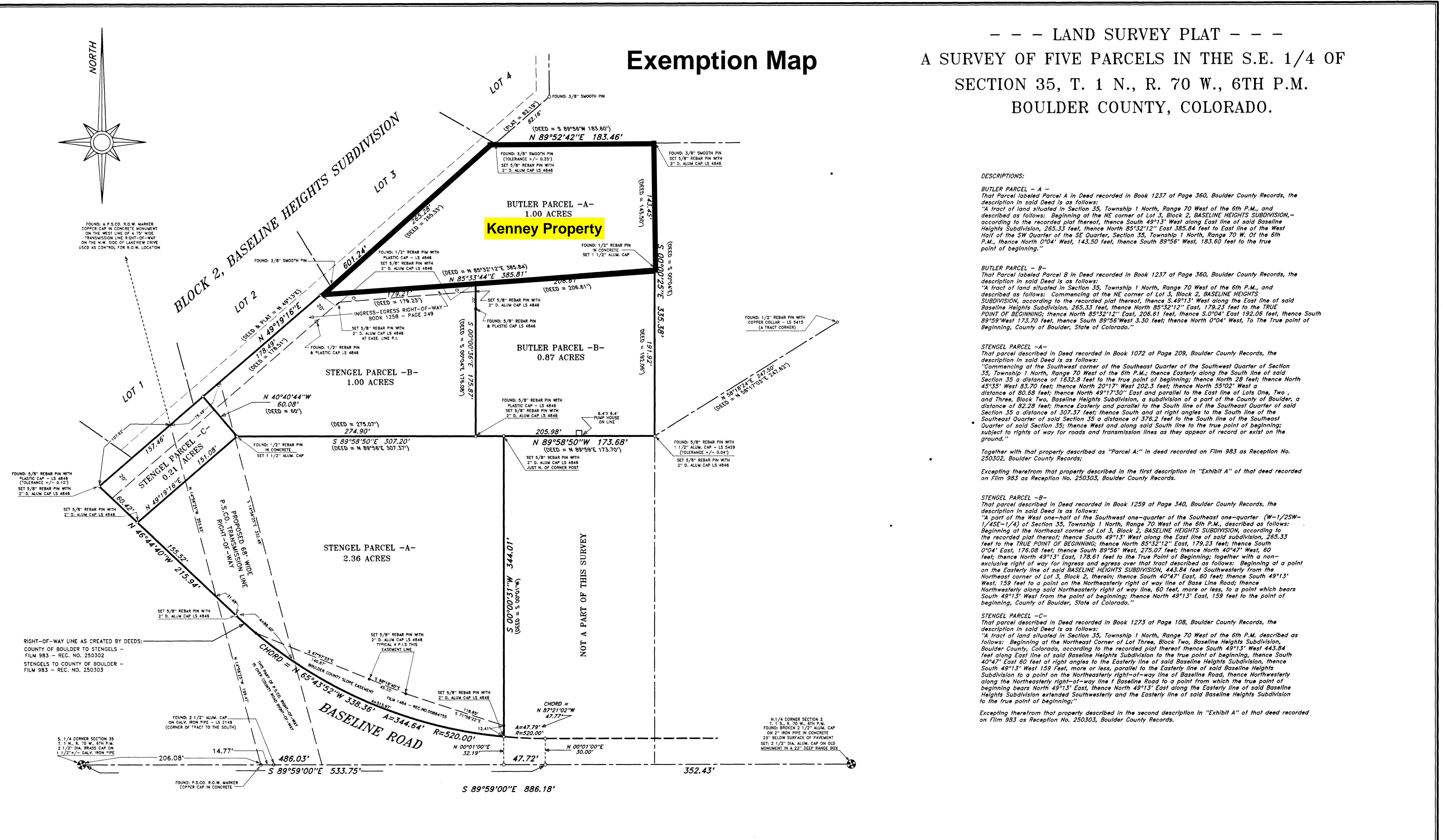
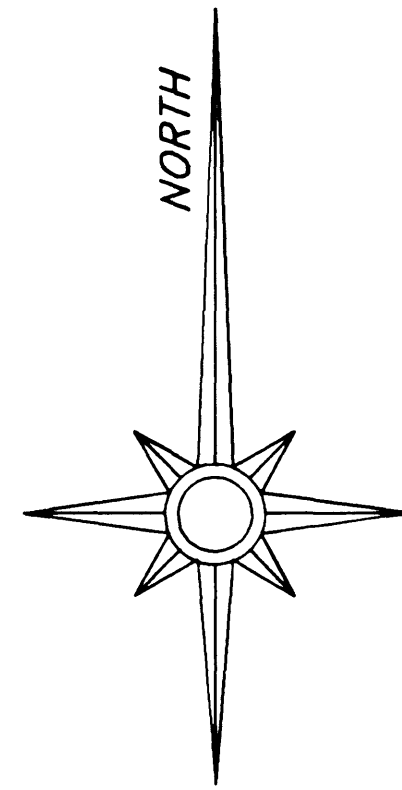
| Parcel | Address Information |                         |                |
|--------|---------------------|-------------------------|----------------|
| One    | Name                | Sophie and Blake Kenney |                |
|        | Address             | 795 Newland Ct, Boulder |                |
| Two    | Phone/Fax           | 262-623-7880            |                |
|        | State               | CO                      | Zip Code 80303 |
| Three  | Name                |                         |                |
|        | Address             |                         |                |
| Four   | Phone/Fax           |                         |                |
|        | State               |                         | Zip Code       |
| Five   | Name                |                         |                |
|        | Address             |                         |                |
|        | Phone/Fax           |                         |                |
|        | State               |                         | Zip Code       |

## Remarks:

|  |
|--|
|  |
|  |
|  |

--- LAND SURVEY PLAT ---  
A SURVEY OF FIVE PARCELS IN THE S.E. 1/4 OF  
SECTION 35, T. 1 N., R. 70 W., 6TH P.M.  
BOULDER COUNTY, COLORADO.

# Exemption Map



DESCRIPTIONS:

**BUTLER PARCEL - A -**  
That Parcel labeled Parcel A in Deed recorded in Book 1237 at Page 360, Boulder County Records, the description in said Deed is as follows:  
"A tract of land situated in Section 35, Township 1 North, Range 70 West of the 6th P.M., and described as follows: Beginning at the NE corner of Lot 3, Block 2, BASELINE HEIGHTS SUBDIVISION, according to the recorded plat thereof, thence South 49°13' West along East line of said Baseline Heights Subdivision, 265.33 feet, thence North 85°32'12" East 385.84 feet to East line of the West Half of the SW Quarter of the SE Quarter, Section 35, Township 1 North, Range 70 W. Of the 6th P.M., thence North 0°04' West, 143.50 feet, thence South 89°56' West, 183.60 feet to the true point of beginning."

**BUTLER PARCEL - B -**  
That parcel described in Deed recorded in Book 1237 at Page 360, Boulder County Records, the description in said Deed is as follows:  
"A tract of land situated in Section 35, Township 1 North, Range 70 West of the 6th P.M., and described as follows: Commencing at the NE corner of Lot 3, Block 2, BASELINE HEIGHTS SUBDIVISION, according to the recorded plat thereof, thence S.49°13' West along the East line of said Section 35 a distance of 1632.8 feet to the true point of beginning; thence North 2°8' East, 179.23 feet to the TRUE POINT OF BEGINNING; thence North 85°32'12" East, 206.61 feet, thence S.0°04' East 192.06 feet, thence South 89°59' West 173.70 feet, thence South 89°56' West 3.30 feet; thence North 0°04' West, To The True point of Beginning, County of Boulder, State of Colorado."

**STENDEL PARCEL -A-**  
That parcel described in Deed recorded in Book 1072 at Page 209, Boulder County Records, the description in said Deed is as follows:  
"Commencing at the Southwest corner of the Southeast Quarter of the Southwest Quarter of Section 35, Township 1 North, Range 70 West of the 6th P.M., thence Easterly along the South line of said Section 35 a distance of 1632.8 feet to the true point of beginning; thence North 2°8' East, 179.23 feet; thence North 45°35' West 83.70 feet; thence North 20°17' West 202.3 feet; thence North 55°02' West a distance of 80.68 feet; thence North 49°17'30" East and parallel to the East line of Lots One, Two, and Three, Block Two, Baseline Heights Subdivision, a subdivision of a part of the County of Boulder, a distance of 82.28 feet; thence Easterly and parallel to the South line of the Southeast Quarter of said Section 35 a distance of 307.37 feet; thence South and at right angles to the South line of the Southeast Quarter of said Section 35 a distance of 376.2 feet to the South line of the Southeast Quarter of said Section 35; thence West and along said South line to the true point of beginning; subject to rights of way for roads and transmission lines as they appear of record or exist on the ground."

Together with that property described as "Parcel A;" in deed recorded on Film 983 as Reception No. 250302, Boulder County Records;  
Excepting therefrom that property described in the first description in "Exhibit A" of that deed recorded on Film 983 as Reception No. 250303, Boulder County Records.

**STENDEL PARCEL -B-**  
That parcel described in Deed recorded in Book 1259 at Page 340, Boulder County Records, the description in said Deed is as follows:  
"A part of the West one-half of the Southwest one-quarter of the Southeast one-quarter (W-1/2SW-1/4SE-1/4) of Section 35, Township 1 North, Range 70 West of the 6th P.M., described as follows: Beginning at the Northeast corner of Lot 3, Block 2, BASELINE HEIGHTS SUBDIVISION, according to the recorded plat thereof; thence South 49°13' West along the East line of said subdivision, 265.33 feet to the TRUE POINT OF BEGINNING; thence North 85°32'12" East, 179.23 feet; thence South 0°04' East, 176.08 feet; thence South 89°56' West, 275.07 feet; thence North 40°47' West, 60 feet; thence North 49°13' East, 178.61 feet to the True Point of Beginning; together with a non-exclusive right of way for ingress and egress over that tract described as follows: Beginning at a point on the Easterly line of said BASELINE HEIGHTS SUBDIVISION, 443.84 feet Southwesterly from the Northeast corner of Lot 3, Block 2, therein; thence South 40°47' East, 60 feet; thence South 49°13' West, 159 feet to a point on the Northeasterly right of way line of Base Line Road; thence Northeasterly along said Northeasterly right of way line, 60 feet, more or less, to a point which bears South 49°13' West from the point of beginning; thence North 49°13' East, 159 feet to the point of beginning, County of Boulder, State of Colorado."

**STENDEL PARCEL -C-**  
That parcel described in Deed recorded in Book 1273 at Page 108, Boulder County Records, the description in said Deed is as follows:  
"A tract of land situated in Section 35, Township 1 North, Range 70 West of the 6th P.M., described as follows: Beginning at the Northeast Corner of Lot Three, Block Two, Baseline Heights Subdivision, Boulder County, Colorado, according to the recorded plat thereof thence South 49°13' West 443.84 feet along East line of said Baseline Heights Subdivision to the true point of beginning, thence South 40°47' East 60 feet at right angles to the Easterly line of said Baseline Heights Subdivision, thence South 49°13' West 159 feet, more or less, parallel to the Easterly line of said Baseline Heights Subdivision to a point on the Northeasterly right-of-way line of Baseline Road, thence Northwesterly along the Northeasterly right-of-way line 1 Baseline Road to a point from which the true point of beginning bears North 49°13' East, thence North 49°13' East along the Easterly line of said Baseline Heights Subdivision extended Southwesterly and the Easterly line of said Baseline Heights Subdivision to the true point of beginning;"

Excepting therefrom that property described in the second description in "Exhibit A" of that deed recorded on Film 983 as Reception No. 250303, Boulder County Records.

NOTES:

RECORDED AND APPARENT RIGHTS-OF-WAY AND EASEMENTS:  
Rights-of-way and easements, as shown, are those mentioned in the descriptions and those apparent in the field. The client did not request further research.

BASIS OF BEARINGS - ASSUMED  
Bearings are based upon the bearing of S.89°59'00"E, on the South of the Southeast 1/4 of Section 35, Township 1 North, Range 70 West, an historical bearing used on the baseline in this area.

CONFLICTING BOUNDARY EVIDENCE:  
No apparent conflict.

SURVEYOR'S STATEMENT:

I, William J. Stengel, do hereby state that to the best of my knowledge and belief the accompanying map accurately represents the results of a survey made by me.

William J. Stengel - Land Surveyor - Colorado Registration No. 4846

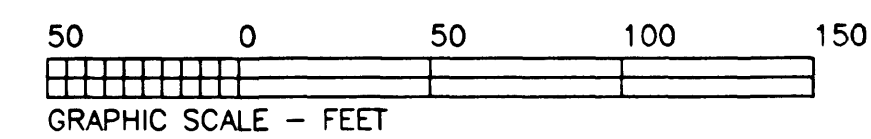
*William J. Stengel*  
10-3-96

**WILLIAM J. STENDEL**  
REGISTERED LAND SURVEYOR  
1049 STEARNS AVENUE, BOULDER, COLORADO  
COLO. REG. NO: 4846 • PHONE: (303) 494-5663

SCALE: 1" = 50'  
DATE: JUNE 1996  
COUNTY DEPOSITED-NO.

SHEET 1 OF 1  
FILE NO: 3-840

NOTICE: ACCORDING TO COLORADO LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN SIX 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.



15-96-0741



## 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:** July 20, 2023  
**SUBJECT:** Docket SE-23-0007, Kenny, 795 Newland Court

Staff has reviewed the submitted materials, and has no natural resource concerns with the proposal.



# 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)

MEMO TO: Agencies and adjacent property owners  
 FROM: Sam Walker, Planner II  
 DATE: July 18, 2023  
 RE: Docket SE-23-0007

## **Docket SE-23-0007: Kenney Lot Recognition**

Request: Subdivision Exemption request to recognize 795 Newland Court as a legal building lot eligible for permitting.  
 Location: 795 Newland Court, accessed via a private drive that intersects Baseline Road .05 miles east of the intersection of Baseline Road and Lakeview Drive, in Section 35, Township 1N, Range 70W.  
 Zoning: Estate Residential (ER) Zoning District  
 Applicants/  
 Owners: Sophie & Blake Kenney

A Subdivision Exemption is a waiver of the usual subdivision requirements to allow a Boundary Line Adjustment, a Lot Recognition, a Lot Split, or a Community Facility Lot Split. This process includes a public hearing before the Boulder County 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 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.gov](mailto:planner@bouldercounty.gov). 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.gov](mailto:planner@bouldercounty.gov) to request more information. If you have any questions regarding this application, please contact me at 720-564-2738 or [swalker@bouldercounty.gov](mailto:swalker@bouldercounty.gov).

Please return responses by **August 3, 2023**.

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

Signed  PRINTED Name Jessica Fasick

Agency or Address CP&P Historic Review

Date 7/18/23

## Walker, Samuel

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**From:** Planning Division <planning@lafayetteco.gov>  
**Sent:** Thursday, July 20, 2023 10:56 AM  
**To:** Goldstein, Andrew  
**Cc:** Walker, Samuel  
**Subject:** [EXTERNAL] RE: Referral Packet & Public Notice for Docket SE-23-0007: Kenney Lot Recognition at 795 Newland Court

Good Morning,

There are no comments on behalf of the City of Lafayette Planning and Building Department.

Thank you,

Lauren Fichtner  
 Administrative Coordinator  
 City of Lafayette | Planning & Building Department  
 Office 303-661-1270




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**From:** Goldstein, Andrew <agoldstein@bouldercounty.gov>  
**Sent:** Tuesday, July 18, 2023 8:26 AM  
**To:** lLongRange <longrange@bouldercounty.gov>; Historic <historic@bouldercounty.gov>; #AssessorReferral <AssessorReferral@bouldercounty.org>; #CAreferral <CAreferral@bouldercounty.gov>; Chamberlin, James <jchamberlin@bouldercounty.gov>; Allshouse, Alycia <aallshouse@bouldercounty.gov>; Stadele, Lee <leestadele@bouldercounty.gov>; Stadele, Lee <leestadele@flagstaffsurveying.com>; BDRCO@xcelenergy.com; George, Donna L <donna.l.george@xcelenergy.com>; Ranglos, Chris <ranglosc@bouldercolorado.gov>; bonnellj@bouldercolorado.gov; CollinsB@bouldercolorado.gov; CassidyJ@bouldercolorado.gov; Planning Division <planning@lafayetteco.gov>; planning@louisvilleco.gov; Lowrey, D <lowreyd@bouldercolorado.gov>; prevention@mvfpd.org; Atherton-Wood, Justin <jatherton-wood@bouldercounty.gov>; Milner, Anna <amilner@bouldercounty.gov>; Moline, Jeffrey <jmoline@bouldercounty.gov>; Flax, Ron <rflax@bouldercounty.gov>; Frederick, Summer <sfrederick@bouldercounty.gov>; HealthWaterQuality-EnvironmentalBP LU <HealthWQ-EnvironBPLU@bouldercounty.gov>; Huebner, Michelle <mhuebner@bouldercounty.gov>; Northrup, Elizabeth (Liz) <enorthrup@bouldercounty.gov>; Sanchez, Kimberly <ksanchez@bouldercounty.gov>; Transportation Development Review <TransDevReview@bouldercounty.gov>; West, Ron <rowest@bouldercounty.gov>  
**Cc:** Walker, Samuel <swalker@bouldercounty.gov>  
**Subject:** Referral Packet & Public Notice for Docket SE-23-0007: Kenney Lot Recognition at 795 Newland Court

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Please find attached the public notice and referral packet for Docket **SE-23-0007: Kenney Lot Recognition at 795 Newland Court**.

Please return responses and direct any questions to [Sam Walker](#) by **August 3, 2023**. (Boulder County internal departments and agencies: Please attach the referral comments in Accela.)



**Andrew Goldstein (he/him/his) | Administrative Technician**

**Planning Division | Boulder County Community Planning & Permitting**

P.O. Box 471, Boulder, CO 80306 | Courthouse Annex—2045 13th St., Boulder, CO 80302

[agoldstein@bouldercounty.gov](mailto:agoldstein@bouldercounty.gov) | [\(303\) 441-3930](tel:(303)441-3930) | [www.boco.org/cpp](http://www.boco.org/cpp)

*My usual working hours are Monday-Thursday, 7:00 a.m.-5:30 p.m.*

*Boulder County has migrated all email to the .gov domain. Please update your contact lists to reflect the change from [agoldstein@bouldercounty.org](mailto:agoldstein@bouldercounty.org) to [agoldstein@bouldercounty.gov](mailto:agoldstein@bouldercounty.gov). **Emails sent to both .org and .gov addresses will continue to work.** This work is part of the migration to the .gov domain that began in July 2022 when the Boulder County website moved to [www.bouldercounty.gov](http://www.bouldercounty.gov). This move to the .gov domain provides a higher level of cybersecurity protection.*



# Community Planning & Permitting

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 303-441-3930 • [www.BoulderCounty.gov](http://www.BoulderCounty.gov)

MEMO TO: Agencies and adjacent property owners  
 FROM: Sam Walker, Planner II  
 DATE: July 18, 2023  
 RE: Docket SE-23-0007

## **Docket SE-23-0007: Kenney Lot Recognition**

Request: Subdivision Exemption request to recognize 795 Newland Court as a legal building lot eligible for permitting.  
 Location: 795 Newland Court, accessed via a private drive that intersects Baseline Road .05 miles east of the intersection of Baseline Road and Lakeview Drive, in Section 35, Township 1N, Range 70W.  
 Zoning: Estate Residential (ER) Zoning District  
 Applicants/  
 Owners: Sophie & Blake Kenney

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Please return responses by **August 3, 2023**.

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

Signed *LuAnn Penfold* PRINTED Name LuAnn Penfold

Agency or Address Mountain View Fire District

Date 07-20-23



# Community Planning & Permitting

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 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:** July 24, 2023

**RE:** Referral Response, SE-23-0007: Kenney Lot Recognition: Subdivision Exemption request to recognize 795 Newland Court as a legal building lot eligible for permitting.

Location: 795 Newland Court

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

1. **Building Permits.** A building permit, plan review, inspection approvals, and a Certificate of Occupancy (“C.O.”) is required for the residence.
  - 795 Newland Court / BP-62-6194 – we have a record of one inspection for this building permit – plumbing.
2. A **stamped, signed and sealed plans or letter** from an engineer or architect stating that the structure can withstand the wind and snow, Wind = 155 MPH Vult and the ground snow = 40 psf,
3. **Basic Safety Items.** The inspection process will be used to assure that all currently required safety features, such as smoke detectors, carbon monoxide (“CO”) detectors, stairs, stair handrails, guardrails, egress windows or doors, door hardware and locks as well as safe electrical, mechanical and plumbing installations; etc., are in place and code-conforming.
4. 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)



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)



# Community Planning & Permitting

Courthouse Annex • 2045 13th Street • Boulder, Colorado 80302

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Tel: 303-441-3930 • [www.BoulderCounty.gov](http://www.BoulderCounty.gov)

August 1, 2023

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

**FROM:** Anita Riley, Principal Planner; Community Planning & Permitting, Development Review Team – Access & Engineering

**SUBJECT:** Docket # SE-23-0007: Kenney Lot Recognition  
795 Newland Court

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

1. The subject property is accessed from Baseline Road, a Boulder County owned and maintained right-of-way (ROW) via a private gravel road within a 20-foot access easement. Legal access to the property has been demonstrated by an easement recorded November 29, 1962 at Reception No. 90714345.
2. Staff has no concerns with the lot recognition request as proposed.

This concludes our comments at this time.

**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

July 27, 2023

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

Attn: Sam Walker

**Re: Kenney Lot Recognition, Case # SE-23-0007**

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has **no apparent conflict** with the subdivision exemption for **Kenney Lot Recognition**.

Please be aware PSCo owns and operates existing overhead electric distribution facilities along the north property line and part of the east property line, as well as natural gas distribution facilities along the west half of the south property line. For any new natural gas or electric service or modification to existing facilities, the property owner/developer/contractor must complete the application process via [xcelenergy.com/InstallAndConnect](https://www.xcelenergy.com/InstallAndConnect).

If additional easements need to be acquired by separate PSCo document, a Right-of-Way Agent will need to be contacted.

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



# Community Planning & Permitting

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 Mailing Address: P.O. Box 471 • Boulder, Colorado 80306  
 303-441-3930 • [www.BoulderCounty.gov](http://www.BoulderCounty.gov)

MEMO TO: Agencies and adjacent property owners  
 FROM: Sam Walker, Planner II  
 DATE: July 18, 2023  
 RE: Docket SE-23-0007

## **Docket SE-23-0007: Kenney Lot Recognition**

Request: Subdivision Exemption request to recognize 795 Newland Court as a legal building lot eligible for permitting.  
 Location: 795 Newland Court, accessed via a private drive that intersects Baseline Road .05 miles east of the intersection of Baseline Road and Lakeview Drive, in Section 35, Township 1N, Range 70W.  
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 Applicants/  
 Owners: Sophie & Blake Kenney

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Please return responses by **August 3, 2023**.

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

Signed Jacob Cassidy PRINTED Name Jacob Cassidy

Agency or Address City of Boulder Open Space and Mountain Parks

Date 8/2/2023



# Public Health

## Environmental Health Division

August 18, 2023

TO: Staff Planner, Community Planning and Permitting  
FROM: Jessica Epstein, Environmental Health Specialist  
SUBJECT: SE-23-0007: Kenney Lot Recognition

OWNER: Kenney  
PROPERTY ADDRESS: 795 Newland Court  
SEC-TOWN-RANGE: 35 -1N -70

The Boulder County Public Health – Environmental Health division has reviewed the submittals for the above referenced docket and has the following comments.

### OWTS:

1. Boulder County Public Health issued a new permit for the installation of an absorption bed system on 9/5/62. The permit was issued for an onsite wastewater treatment system (OWTS) adequate for a 3-bedroom house. Boulder County Public Health approved the installation of the OWTS on 10/22/62. The house is listed as a 3-bedroom home on the assessor's website currently.

### Property Transfer Regulation:

1. A Property Transfer Certificate was issued on 12/17/20 for a passing the property transfer inspection on the OWTS.

This concludes comments from the Boulder County Public Health – Environmental Health division at this time. For additional information on the OWTS application process and regulations, refer to the following website: [www.SepticSmart.org](http://www.SepticSmart.org). If you have additional questions about OWTS, please do not hesitate to email [HealthOWS@bouldercounty.org](mailto:HealthOWS@bouldercounty.org)

Cc: OWTS file, owner, Community Permitting and Planning

**Walker, Samuel**

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**From:** RMB <Robert\_Barkley@comcast.net>  
**Sent:** Thursday, August 3, 2023 4:42 PM  
**To:** LU Land Use Planner  
**Subject:** [EXTERNAL] SE-23-0007

**Comments for Docket #:SE-23-0007: Kenney Lot Recognition**

We support the request to recognize the lot generally known as 795 Newland Ct. as a legal building lot. For several years in the mid-1970's we lived in the upper portion of the duplex that is at 790 Newland Ct., adjacent to the subject property, and since 1978 have resided in our current residence at 6775 Fairview Dr., which is separated to the north of 795 Newland Ct. by one other lot and Fairview Dr.

However complicated the Boulder County records regarding this property are, since 1962 it is clear from the way Boulder County has issued building permits, issued property assessments and levied property taxes that for all intents and purposes the property was considered to be a legal building site with an ER zoning designation. The improvements to the property are consistent with ER zoning of that era and the house is compatible with the many others on nearby lots that were constructed about the same time.

Not only is it fair to the Kenney family that the Board of County Commissioners grant their request, but it is also imperative that the BOCC be consistent over time about the way such exemptions are decided. Last year, BOCC recognized 790 Newland Ct. (SE-22-0003), as a buildable lot and in 1983, a similar request (SE-83-0020) was granted for the undersized lot that is adjacent to ours. That parcel (#146335400014) of 0.77 acre at 6803 Fairview Dr, immediately to the east of the Baseline Heights subdivision, was approved as a legal building site with ER zoning. Just as the BOCC approved those requests, so should it unconditionally approve the one made by Sophie and Blake Kenney.

Bob and Addie Barkley  
6775 Fairview Dr.  
Boulder CO 80303

Telephone: 303-494-2753

**Walker, Samuel**

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**From:** Cindy Butacan <cbuta06@yahoo.com>  
**Sent:** Wednesday, August 9, 2023 12:13 PM  
**To:** LU Land Use Planner  
**Subject:** [EXTERNAL] SE-23-0007: Kenney Lot Recognition  
**Attachments:** Kenney, Subdiv Exempt letter.docx

Attached is a statement for the Subdivision Exemption for 795 Newland Ct.

Thanks,  
Cynthia Butacan

Subdivision Exemption response for SE-23-0007: Kenney Lot Recognition

I am the representative for the Butler Family Trust that owns the property south of the Kenney property. I am writing in support of the lot being recognized.

The home and lot at 795 Newland Ct. have been occupied for over 60 years. Mr. Bigby is the individual who subdivided the original lot without completing the process. This was not known to the family he sold it to, or to the Kenneys when they purchased the property in 2020. The problem was not discovered until 2021. Property taxes have been collected during this period and the property has been part of the area all these years. This lot recognition will correct what wasn't done correctly years ago.

Thank you,

Cynthia Butacan, Trustee

Butler Family Trust





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

January 25, 2021

Lilly Wallace  
3401 Arapahoe Ave #319  
Boulder, CO 80303  
Via email: [umaslove.all@gmail.com](mailto:umaslove.all@gmail.com)

**RE: LAND USE DIRECTOR'S DETERMINATION THAT PROPERTY IS NOT A LEGAL BUILDING LOT UNDER THE BOULDER COUNTY LAND USE CODE**

Dear Lilly Wallace:

On behalf of the Director of the Boulder County Land Use Department (the "Director"), I have examined the deeds and other information submitted and the Boulder County Land Use Code (the "Code."). As a result, I have determined that the land parcel of approximate .87 acres, located in Section 35, Township 1N, and Range 70W ("the parcel") as further described in this letter, is not eligible for designation as a building lot under the Code. The land parcel is presently identified by Assessor Account Number R0035278 and by Parcel Number 1463-354-000-29. It is described on the Special Warranty Deed recorded 10/20/2017 at reception number 03621999. The parcel is in the Estate Residential (ER) Zoning District. Based on this determination, the County cannot issue building permits on the parcel for structures and uses that require a legal building lot under the Code.

The parcel is not a legal building lot because:

Based on staff research noted above, the Community Planning & Permitting Department has determined that the parcel was created when T.J. Bigbee sold the land in 1961 through a Warranty Deed to M.J Bigbee, (reception number 6853465) also known as Parcel B aka Tract 2711B and was combine with Parcel A aka Tract 2711A. Together the subject properties are approximately 1.87 acres which in 1961 was zoned Residential and had a minimum lot size of 1 acre. A building permit was issued to T.J. Bigbee in 1960 which based on the plot plan was not in the configuration of Parcel B but more closely resembled the two combined lots. The permit did not have any inspections and is not a compliant structure under the building code.

The parcel was then sold to Joe and Wanee Butler under Warranty Deed reception number 703967 which describe both Parcel A and Parcel B in the deed. A building permit was issued in 1962 under (BP-62-6194) and had a plot plan descriptive of parcel A to Joe Butler. This permit was never final as well. Parcel B was then subdivided by Warranty Deed in 2000 under reception number 2072599 which was approximately .87 acres. In 2000, the minimum lot size for Estate Residential (ER) zone district was 35 acres. This was an illegal subdivision since the tract of land did not met the minimum lot size in Estate Residential (ER) and was not a legal building lot. Parcels A and B were again recombined in 2016 under reception number 3516606 as they were when the parcel was created in 1961. Pursuant to the Land Use Code definition of a parcel: *Article 18-183 Parcel- All contiguous land held under one deed,*

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

*except where a portion of the land is designated a building lot pursuant to the provisions of this Code.*

The current configuration of 1.87 acres would be considered one legally created lot as noted above. However, the creation of two dwellings on the lot in 1960 for tract 2711B and 2711A in 1962 under building permits (BP-60-4743 and BP-62-6194) respectfully, further complicates the parcel since only one dwelling can be on one parcel. To remedy this situation, would require the decommissioning of one dwelling on the parcel with the current parcel configuration.

This determination is based upon the Code in effect at the time of the determination, and any prior County land use regulation affecting the legality of the parcel's creation and its resulting building lot status. If the County amends the Code in the future or additional information becomes available that could alter this determination, the owner/applicant may request another review.

If you disagree with this determination, you may appeal it to the Boulder County Board of Adjustment under Article 4-1200 of the Code. An appeal must be in writing, accompanied by a statement of the basis for the appeal and the required appeal fee. In addition, you must file the appeal *with the Director no later than 30 days after the date of this determination.*

The County will consider this determination final if it is not timely appealed.

You may apply for a subdivision exemption to have the subject parcel recognized as a legal building lot under Article 9-100 Subdivision Exemptions (SE) of the Code. A subdivision exemption application is a request that the County create a legal building lot for the parcel under the Code. You may file a subdivision exemption application with the Community Planning & Department at any time following a pre-application conference with the Community Planning & Permitting Department staff (see Articles 3-201 and 3-202 of the Code). The Board of County Commissioners decides whether to approve a subdivision application based upon subdivision exemption criteria in the Code (see Article 9-102 of the Land Use Code). Please find attached information concerning the SE process. To initiate an SE, please call our Receptionist at 303-441-3930 and ask to make a "Pre-application appointment with a Current Planner."

A current version of the Code is online at [www.bouldercounty.org/lu/lucode](http://www.bouldercounty.org/lu/lucode). You may also obtain a paper copy of the Code at the Community Planning & Permitting Department. If you have questions about this determination or about the processes listed above, please contact me.

Sincerely,



Kathy Sandoval, AICP  
Planner II  
Boulder County Community Planning & Permitting

cc: Section 35 T1N R70W, Assessor, BLD-20-0090, property owner


**Boulder County Land Use Department**

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: 8 a.m.-4:30 p.m. Mon., Wed., Thurs., Fri.  
 10 a.m.-4:30 p.m. Tuesday

 Intake Stamp
 **Building Lot Determination Application Form**
**Applicant's Information:**

Please specify your preferred contact method by checking the appropriate box (phone or email):

|   |   |                           |
|---|---|---------------------------|
| Applicant/Property Owner<br><b>LILLY WALLACE</b>      |   |                           |
| Mailing Address<br><b>3401 ARAPAHOE AVE # 319</b>     |   |                           |
| City<br><b>BOULDER</b>                                | State<br><b>CO</b>  | Zip Code<br><b>80303</b>  |
| <input type="checkbox"/> Phone<br><b>303-827-5573</b> | <input type="checkbox"/> Email Address<br><b>umaslove.all@gmail.com</b> |                           |
| Applicant's Signature<br><i>[Signature]</i>           |   | Date<br><b>11/17/2020</b> |

**Owner's Information:**

Please note that it is our policy to notify the current owner of a parcel with the result of a Building Lot Determination.

|   |
|---|
| Property Owner's Name<br><b>Butler Family TRUST</b> |
|---|

**Parcel Information:**

Use this space to describe the proposed scope of work, including any special circumstances that you feel the Land Use Office should be aware of when reviewing your application. If more room is needed, feel free to attach a separate sheet.

|  |   |
|--|---|
| Location/Street Address<br><b>790 Newland Ct</b>   | Assessor's Tax Account Number                             |
| Section-Township-Range (STR)<br><b>35-1N-70</b>  | Parcel Identification Number (PIN)<br><b>146335400029</b> |
| Additional information you wish to submit (Land Use docket numbers, building permit numbers, related information, correspondence - attach as necessary)<br><b>Considering buying this lot and would like to add a 2 car garage + maybe a second story on that. Was told I need a building lot determination.</b> |   |

**Submitting the Application**

For Land Use staff to expediently process your request for a Building Lot Determination, please submit the following items along with the application form.

**Fee**

 There is a non-refundable processing fee collected at the time of application for each Building Lot Determination request. Refer to the Land Use publication *P04 Planning Review Fee Schedule* for the applicable Building Lot Determination fee.

**Map**

Include a map showing the specific parcel and surrounding area. Clearly highlight the parcel in question. Please include a survey map if one is available.

**Other Related Information about the Parcel (if any)**

Include planning docket numbers, building permit numbers or information about any County process related to this parcel. Also include correspondence or other information detailing relevant circumstances related to the creation of the parcel.

**Please allow approximately 10 working days for processing. Additional time maybe necessary for required research.**

FEE PAID UNDER S. B. No. 222 \$ 00.25  
 FEE PAID UNDER PROTEST  
 FEE EXCUSED

**THIS DEED,** Made this 11th day of June

in the year of our Lord one thousand nine hundred and Sixty between

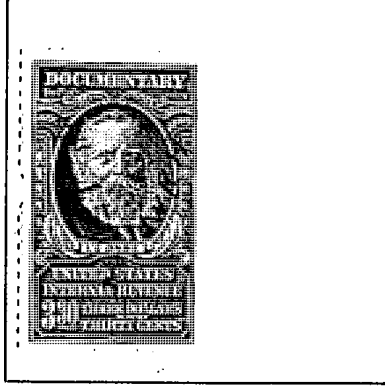
W. R. HAWES

County of Boulder of the and State of Colorado, of the first part, and

T. J. BIGBEE

of the County of Boulder and

State of Colorado, of the second part:



WITNESSETH, That the said part y of the first part, for and in consideration of the sum of Other Good and Valuable Considerations and Ten and NO/100-----DOLLARS, to the said part y of the first part in hand paid by the said part y of the second part, the receipt whereof is hereby confessed and acknowledged, ha s granted, bargained, sold and conveyed, and by these presents do es grant, bargain, sell, convey and confirm, unto the said part y of the second part, his heirs and assigns forever, all the following described lot or parcel of land, situate, lying and being in the County of Boulder and State of Colorado, to-wit: A tract of land situated in the Southwest Quarter of the Southeast Quarter of Section 35, Township 1 North, Range 70 West of the 6th P.M., described as follows: Beginning at the Northeast corner of Lot 3, Block 2, BASELINE HEIGHTS SUBDIVISION, according to the recorded plat thereof, thence South 49° 13' West along the Easterly line of said Baseline Heights a distance of 443.84 feet, thence South 40° 47' East 60.0 feet to the Northwest corner of the Stengel Tract as described in Book 1072 at Page 209, thence North 89° 56' East along the North line of the Stengel and Water District Tracts as described in Book 1127 at Page 342, a distance of 481.07 feet, more or less, to the East line of the West Half of the Southwest Quarter of the Southeast Quarter of Section 35, Township 1 North, Range 70 West of the 6th P.M., thence North 0° 04' West along the East line of the West Half of the Southwest Quarter of the Southeast Quarter of Section 35, Township 1 North, Range 70 West of the 6th P.M., a distance of 335.56 feet, more or less, to the South line of Tract sold to Jenkins in Book 1141 at Page 510, thence South 89° 56' West 183.60 feet to the point of beginning.

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said part y of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said part y of the second part, his heirs and assigns forever. And the said part y of the first part, for him sel f, his heirs, executors, and administrators, does covenant, grant, bargain, and agree to and with the said part y of the second part, his heirs and assigns, that at the time of the enscaling and delivery of these presents, he is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and ha s good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and encumbrances of whatever kind or nature soever. excepting, however, general taxes for the year 1960, due and payable in 1961, which Grantee herein assumes and agrees to pay,

and the above bargained premises in the quiet and peaceable possession of the said part y of the second part, his heirs and assigns against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said part y of the first part shall and will WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, the said part y of the first part ha s hereunto set his hand and seal the day and year first above written.

\_\_\_\_\_ (SEAL)  
 \_\_\_\_\_ (SEAL)  
 \_\_\_\_\_ (SEAL)

STATE OF COLORADO }  
 County of Boulder } ss.  
 The foregoing instrument was acknowledged before me this 11th day of June

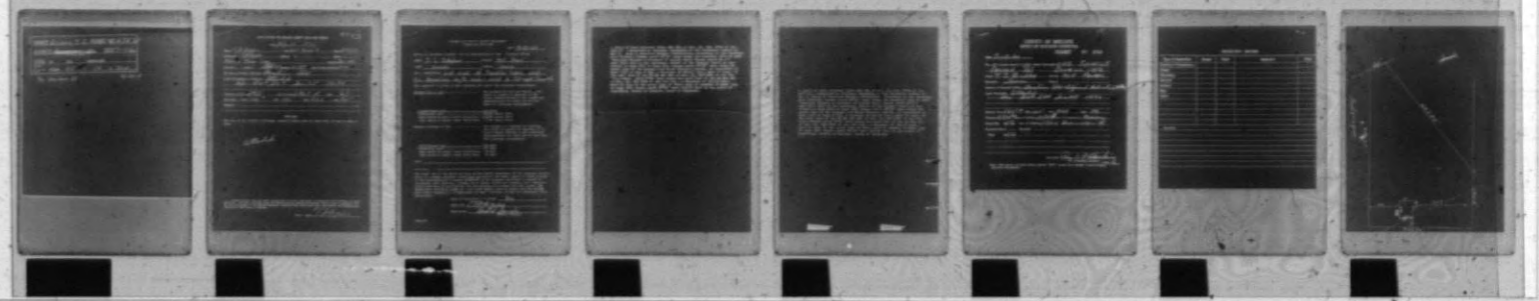
A.D. 1960 by W. R. Hawes.  
 My commission Expires January 6, 1962. Witness my hand and official seal.

\_\_\_\_\_ (Signature)  
 Notary Public.

790 Newland Ct

S35 T1N R70W

4743



ATTACHMENT E

790 Newland Ct

S35 T1N R70W

4743

E3

|   |             |                        |
|---|-------------|------------------------|
| OWNER <u>BIGBEE, T. J.</u> PERMIT NO. <u>4743</u> ✓ |             |                        |
| ADDRESS <del>XXXXXXXXXX</del> <u>Pa.</u>            |             | DATE <u>7-15-60</u>    |
| LEGAL LOT   | BLK.        | SUBDIVISION            |
| <sup>IN</sup> SE 4 SECTION                          | <u>35</u> T | <u>1N</u> R <u>70W</u> |

790 Newland Ct.

TR 2711-B

4743

APPLICATION FOR BOULDER COUNTY BUILDING PERMIT

Date July 15 1960

Owner T.J. Bigler Address 405 Pearl St Phone 1127130

Contractor T.J. Bigler Address " Phone "

Residence  Garage  Other Valuation \$45000

Stories 1 Rooms 5 Area 1084 sq ft Basement 1000 sq ft Type of Construction Frame

Address of Proposed Building Baseline Rd.

Legal Description of Property Attached  
Sec. 35 NW + SE 4 1N70

Frontage of Lot 292' Area of Lot 2.867 A. Zone SR

Set backs: Front 140' Side 140' Side 263' Rear 34'

Remarks:

PLOT PLAN

Show size of lot, location of buildings, location of septic tank and leach field; all must be drawn to scale.

*Attached*

I hereby certify that the above information is correct and agree to construct this building in accordance with the plot, building plans and specifications submitted herewith, and in strict compliance with all the provisions of the Zoning Ordinance, Building Code, Electrical Code, and Health and Plumbing Regulations of the County of Boulder.

Owner / Agent T.J. Bigler



BOULDER CITY-COUNTY HEALTH DEPARTMENT  
SANITATION DIVISION

Date 4-15-60

Review of proposed Building Site of Installation of Sewage Disposal System

OWNER T. S. Bigbee ADDRESS 405 Pearl

AGENT owner ADDRESS Same

LEGAL DESCRIPTION N.E. end of Baseline Lake next to Baseline Hgts sub - next to Stiegel (north)

This approval is given if this building site meets the following requirements:

Minimum Area of Lot . . . . . the minimum lot area per dwelling unit shall be subject to approval of the County Health Officer or his authorized representative but shall not be less than the following requirements:

- unsubdivided land . . . . . one acre.
- subdivided land . . . . . 28,000 square feet.
- land served by public water facilities. 14,000 square feet.
- land served by public sewer facilities. 7,000 square feet.

Minimum Frontage of Lot . . . . . the minimum lot frontage per dwelling unit shall be subject to approval of the County Health Officer or his authorized representative but shall not be less than the following requirements:

- unsubdivided land . . . . . 140 feet.
- subdivided land . . . . . 120 feet
- land served by public water facilities. 60 feet
- land served by public sewer facilities. 60 feet

Other \_\_\_\_\_

The acceptance of the above location by the Health Department for the proposed installation of a sewage disposal system does not relieve the owner, agent, or other parties of the responsibility of proper placement of the proposed structures in regard to topography, well location, streams, water lines, drives and building, etc. Adequate usable area must be provided for the installation of a sewage disposal system. THE UNDERSIGNED APPLICANT (OWNER OR AGENT) DOES HEREBY AGREE TO COMPLY WITH THE BOULDER CITY-COUNTY REGULATION # 2 PERTAINING TO SEWAGE DISPOSAL SYSTEMS AND APPLICABLE STATE REGULATIONS.

Copy of Regulation # 2 Issued Yes

Applicant x T. S. Bigbee

Sanitarian Donald Savelle  
(Health Officer)

A tract of land situated in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 35, T1N, R7W of the 6th P.M., described as follows; beginning at the northeast corner of Lot 3, Block 2, Baseline Heights Subdivision, according to the recorded plat thereof; thence south 49°13' west along the easterly line of said Baseline Heights a distance of 443.84 feet; thence south 40 47' east 60.0 feet to the northwest corner of the Stengel Tract as described in Book 1072 at Page 209; thence north 89°56' east along the north line of the Stengel and Water District Tracts, as described in Book 1127 at Page 2 342, a distance of 481.07 feet, more or less, to the east line of the W $\frac{1}{2}$  SE SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Swc. 35, T1N R7W of the 6th P.M.; thence north 9°04' West along the east line of the W $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 35, T1N R7W of the 6th P.M., a distance of 335.56 feet, more or less to the south line of Tract sold to Jenkins in Book 1141 at page 510; thence south 89°56' West 183.60 feet to the point of beginning, County of Boulder, State of Colorado.

A tract of land situated in the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 35, T1N, R70W of the 6th P.M., described as follows; beginning at the northeast corner of Lot 3, Block 2, Baseline Heights Subdivision according to the recorded plat thereof; thence south 49°13' west along the easterly line of said Baseline Heights a distance of 443.84 feet; thence south 40°47' east 60.0 feet to the northwest corner of the Stengel Tract as described in Book 1072 at Page 209; thence north 89°56' east along the north line of the Stengel and Water District Tracts, as described in Book 1127 at Page 2 342, a distance of 481.07 feet, more or less, to the east line of the W $\frac{1}{2}$  ~~SE~~ SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Swc. 35, T1N R70W of the 6th P.M.; thence north 9°04' West along the east line of the W $\frac{1}{2}$  SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Sec. 35, T1N R70W of the 6th P.M., a distance of 335.56 feet, more or less to the south line of Tract sold to Jenkins in Book 1141 at page 510; thence south 89°56' West 183.60 feet to the point of beginning, County of Boulder, State of Colorado.

COUNTY OF BOULDER  
OFFICE OF BUILDING INSPECTOR

PERMIT No 4743

Date 7-15-60

PERMIT is hereby issued to (build) (erect) (remodel) ONE FAMILY  
(MOVED IN) DWELLING

Owner T. J. BIGBEE Address 405 PEARL

Contractor Same Address \_\_\_\_\_

Address of Proposed Building Baseline Rd - Adjacent to Public Hlth.

Legal Description Attached  
Sec 21W 8 5 1 Sec 35 1N 7 0

Setback Front 140' Side 140' Side 263 Rear 34

Valuation 4500<sup>00</sup> Area of Building 1084<sup>50</sup> Type of Construction Frame

Permit Fee \$11<sup>00</sup> Use of Building 1 FAM. DWELLING Zone R

Inspection Fee \$ \_\_\_\_\_ Remarks: \_\_\_\_\_

Total \$11<sup>00</sup>

Approved Paul R. Harkins  
Ch. of Building Inspector. mls

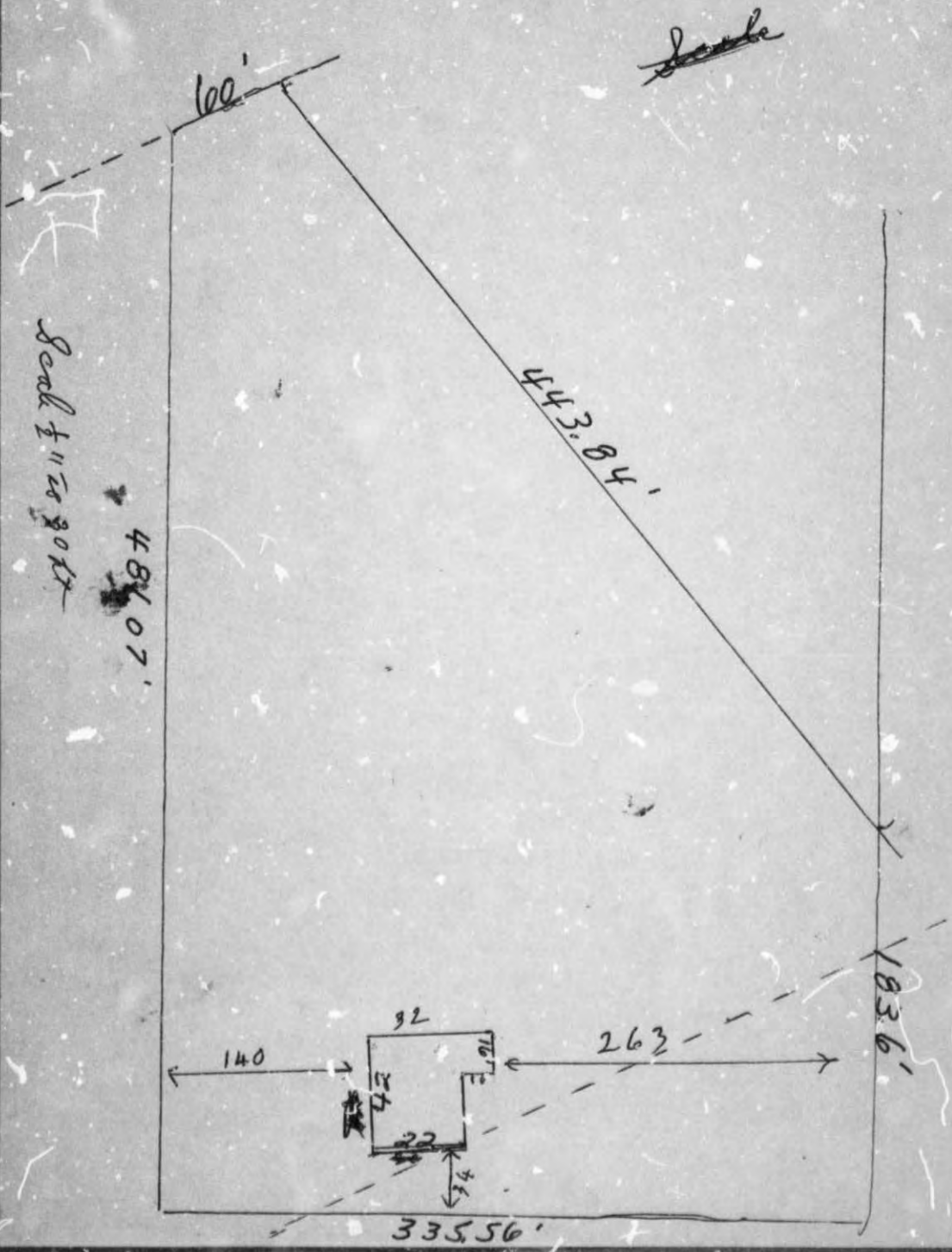
Note:—This permit not valid without official "PAID" stamp from Boulder County Building Inspection Department.

### INSPECTION RECORD

| Type of Inspection   | Rough | Final | Inspector | Date |
|----------------------|-------|-------|-----------|------|
| Footing & Foundation |       |       |           |      |
| Frame                |       |       |           |      |
| Plumbing             |       |       |           |      |
| Electric             |       |       |           |      |
| Setback              |       |       |           |      |
| Sign                 |       |       |           |      |
| Other                |       |       |           |      |
|                      |       |       |           |      |
|                      |       |       |           |      |
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Remarks:

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No. 36. WARRANTY DEED—Short Form.—Bradford-Robinson Ptg. Co., Mfrs. Robinson's Legal Blanks, 1824-46 Stout St., Denver, Colorado

THIS DEED, Made this 18th day of September in the year of our Lord one thousand nine hundred and Sixty-one between

T. J. BIGBEE

of the County of Boulder and State of Colorado, of the first part, and

M. J. BIGBEE

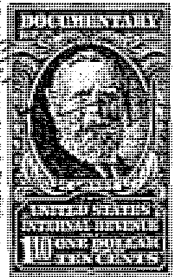
of the County of Boulder and State of Colorado, of the second part:

WITNESSETH, That the said party of the first part, for and in consideration of the sum of

-----Other Good and Valuable Considerations and Ten and NO/100----- DOLLARS, to the said party of the first part in hand paid by the said party of the second part, the receipt whereof is hereby confessed and acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the said party of the second part his heirs and assigns forever, all the following described lot or parcels of land, situate, lying and being in the County of Boulder and State of Colorado, to-wit:

Parcel A: A tract of land situated in Section 35, Township 1 North, Range 70 West of the 6th P.M., and described as follows: Beginning at the Northeast corner of Lot 3, Block 2, Baseline Heights Subdivision, according to the recorded plat thereof, thence South 49° 13' West along East line of said Boulder Heights Subdivision, 265.33 feet, thence North 85° 32' 12" East, 385.84 feet to East line of the West Half of the Southwest Quarter of the Southeast Quarter, Section 35, Township 1 North, Range 70 West of the 6th P.M., thence North 0° 04' West, 143.50 feet, thence South 89° 56' West, 183.60 feet to the true point of beginning, and containing 1.00 acres, more or less.

Parcel B: A tract of land situated in Section 35, Township 1 North, Range 70 West of the 6th P.M., and described as follows: Commencing at the Northeast corner of Lot 3, Block 2, Baseline Heights Subdivision, according to the recorded plat thereof, thence South 49° 13' West along the East line of said Boulder Heights Subdivision, 265.33 feet, thence North 85° 32' 12" East, 179.23 feet to the true point of beginning; thence North 85° 32' 12" East, 206.61 feet, thence South 0° 04' East, 192.06 feet, thence South 89° 59' West, 173.70 feet, thence South 89° 56' West, 32.30 feet; thence North 0° 04' West, 170 feet to the true point of beginning, and containing 0.87 acres, more or less.



TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said party of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances unto the said party of the second part, his heirs and assigns forever. And the said party of the first part, for himself, his heirs, executors, and administrators, does covenant, grant, bargain and agree to and with the said party of the second part, his heirs and assigns, that at the time of the ensembling and delivery of these presents he is well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and has good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and incumbrances of whatever kind or nature soever, excepting existing deed of trust of record and general taxes for the year 1961, due and payable in 1962, both of which Grantee herein assumes and agrees to pay,

and the above bargained premises in the quiet and peaceable possession of the said party of the second part, his heirs and assigns, against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said party of the first part shall and will WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, The said party of the first part has hereunto set his hand and seal the day and year first above written.

Signed, Sealed and Delivered in the Presence of

T. J. Bigbee [SEAL]

[SEAL]

[SEAL]

SEE PAID UNDER 3. D. No. 222 3-90  
SEE PAID UNDER PROTEST  
SEE EXPIRED

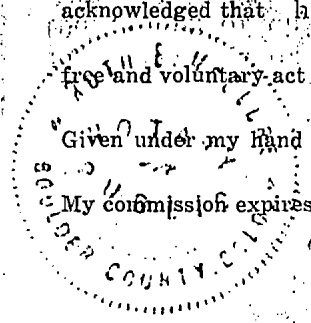
STATE OF COLORADO,  
County of Boulder } ss.

I, \_\_\_\_\_ a Notary Public in and for  
said Boulder County, in the State aforesaid, do hereby certify that

T. J. Bigbee who is personally known to me to be the  
person whose name is subscribed to the foregoing Deed, appeared before me this day in person and  
acknowledged that he signed, sealed and delivered the said instrument of writing as his  
free and voluntary act and deed for the uses and purposes therein set forth.

Given under my hand and official seal, this 28<sup>th</sup> day of September, A. D. 1961.

My commission expires January 6, A. D. 1962.  
Ruth E. McElmer  
Notary Public.



INDEXED  
685346

No. \_\_\_\_\_

**WARRANTY DEED**

T. J. BIGBEE

TO

M. J. BIGBEE

STATE OF COLORADO, } ss.  
County of BOULDER.

I hereby certify that this instrument was filed  
for record in my office this 16<sup>th</sup> day of  
October, A. D. 1961.

at 2<sup>16</sup> o'clock P. M., and duly recorded  
in Book 1203, Page 520

Milton E. Jackische  
Recorder

By Katharine Wilkins  
Deputy.

Fees, \$ 2.50

RYAN, SAYRE, MARTIN, BROTZMAN & HANSEN  
ATTORNEYS AT LAW  
BOX 1260  
BOULDER, COLORADO

BRADFORD-ROBINSON PTD. CO., DENVER  
1-57



Recorded at 8:27 o'clock A.M.

JUL 13 1962

Reception No. 715 247

MILTON E. TSCHICKE

Recorder.

19-25

SEE PAID UNDER S. W. 173  
SEE PAID UNDER PROTEST  
SEE EXCLUDED

THIS DEED, Made this 11th day of July

in the year of our Lord one thousand nine hundred and sixty-two between

M. J. Bigbee

of the

County of Boulder and State of Colorado, of the first part, and

Joe E. Butler and Wanees M. Butler as joint tenants and not tenants in common, of the County of Boulder and

State of Colorado, of the second part:

WITNESSETH, That the said part y of the first part, for and in consideration of the sum of Ten Dollars and Other Valuable Considerations-----DOLLARS, to the said part Y of the first part in hand paid by said part Y of the second part, the receipt whereof is hereby confessed and acknowledged, ha VE granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey and confirm, unto the said part Y of the second part, heirs and assigns forever, all the following described lot or parcel of land, situate, lying and being in the County of Boulder and State of Colorado, to-wit: PARCEL A: A tract of land situated in Section 35, Township 1 North, Range 70 West of the 6th P. M., and described as follows: Beginning at the NE corner of Lot 3, Block 2, BASELINE HEIGHTS SUBDIVISION, - according to the recorded plat thereof, thence South 49°13' West along East line of said Baseline Heights Subdivision, 265.33 feet, thence North 85°32' 12" East, 385.84 feet to East line of the West half of the SW Quarter of the SE Quarter, Section 35, Township 1 North, Range 70 W. of the 6th P. M., thence North 0°04' West, 143.50 feet, thence South 89°56' West, 183.60 feet to the true point of beginning.

PARCEL B: A tract of land situated in Section 35, Township 1 North, Range 70 West of the 6th P. M., and described as follows: Commencing at the NE corner of Lot 3, Block 2, BASELINE HEIGHTS SUBDIVISION, according to the recorded plat thereof, thence S. 49°13' West along the East line of said Baseline Heights Subdivision, 265.33 feet, thence North 85°32' 12" East, 179.23 feet to the TRUE POINT OF BEGINNING; thence North 85°32' 12" East, 206.61 feet, thence S. 0°04' East, (continued on back)

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversions and reversions, remainder and remainders, rents, issues and profits thereof; and all the estate, right, title, interest, claim and demand whatsoever of the said part Y of the first part, either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the said part Y of the second part, his heirs and assigns forever. And the said part Y of the first part, for him self his heirs, executors, and administrators, do covenant, grant, bargain, and agree to and with the said part Y of the second part, his heirs and assigns, that at the time of the enclosing and delivery of these presents, well seized of the premises above conveyed, as of good, sure, perfect, absolute and indefensible estate of inheritance, in law, in fee simple, and ha VE good right, full power and lawful authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments and encumbrances of whatever kind or nature soever

except the General Taxes for 1962 and subsequent years which party of the second part assume and agree to pay,

and the above bargained premises in the quiet and peaceable possession of the said part Y of the second part, his heirs and assigns against all and every person or persons lawfully claiming or to claim the whole or any part thereof, the said part Y of the first part shall and will WARRANT AND FOREVER DEFEND.

IN WITNESS WHEREOF, the said part Y of the first part ha ve hereunto set his hand and seal the day and year first above written.

M. J. Bigbee (Signature)

(SEAL)

(SEAL)

(SEAL)

STATE OF COLORADO

County of Boulder

The foregoing instrument was acknowledged before me this 11th day of July,

A.D. 1962, by M. J. Bigbee

My commission expires Jan 20, 1965

Witness my hand and official seal.

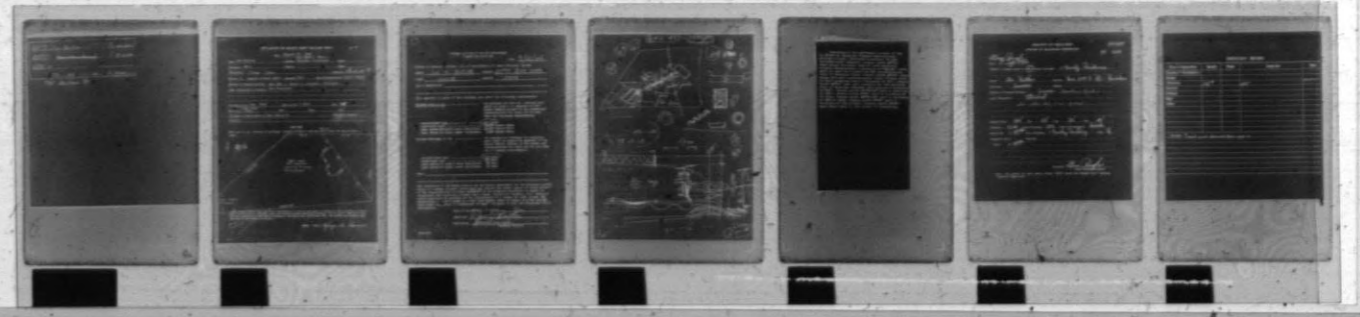
(Signature of Notary Public)

Notary Public

795 Newland Ct

S35 T1N R70W

6194



ATTACHMENT E

795 Newland Ct

S35 T1N R70W

6194

E16

OWNER Joe Butler PERMIT NO. 6194 ✓

ADDRESS ~~Baseline Road~~ DATE 9-7-62

LEGAL LOT \_\_\_\_\_

SECTION 35 T 1N R 70W

795 Newland Ct.

APPLICATION FOR BOULDER COUNTY BUILDING PERMIT

2174

Date August 17, 1962

Owner Joe Butler Address Box 299 B Route 1 Boulder, Colorado Phone

Contractor Same Address Phone

Residence Garage Other Valuation \$16,000.00

Stories 1 Rooms 5-1/2 Area 1276' Basement Full Type of Construction Brick Veneer

Address of Proposed Building Box 299 C, Route 1, Boulder, Colorado

Legal Description of Property See Attached

Frontage of Lot See Plat Area of Lot 1 Acre Zone R

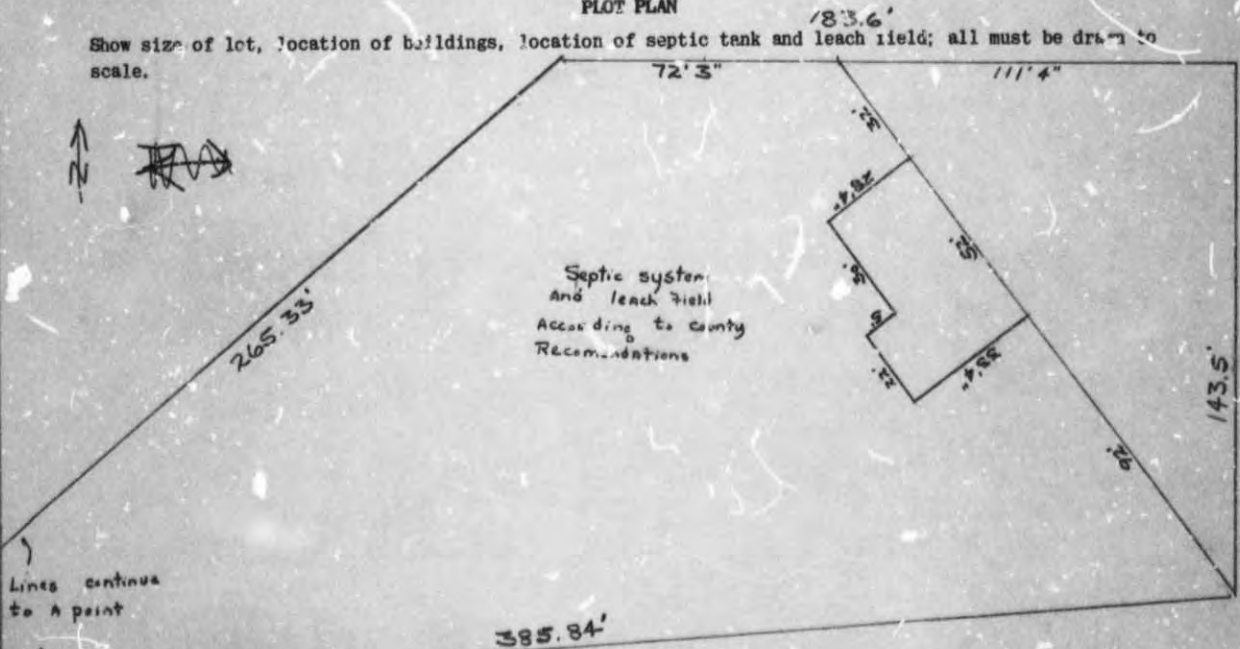
Set backs: Front Side Side Rear

Frontage on Public Street or Road Name or No. Sanitation Approval

Remarks:

PLOT PLAN

Show size of lot, location of buildings, location of septic tank and leach field; all must be drawn to scale.



Lines continue to a point

I hereby certify that the above information is correct and agree to construct this building in accordance with the plot, building plans and specifications submitted herewith, and in strict compliance with all the provisions of the Zoning Ordinance, Building Code, Electrical Code, and Health and Plumbing Regulations of the County of Boulder.

Deeded Easement

Owner's Agent George A. Pissin

BOULDER CITY-COUNTY HEALTH DEPARTMENT  
SANITATION DIVISION

Date 9/5/62

Review of proposed Building Site of Installation of Sewage Disposal System

OWNER JOE E. BUTLER ADDRESS RT #1 BOX 299C

AGENT OWNER ADDRESS SAME

LEGAL DESCRIPTION \_\_\_\_\_

This approval is given if this building site meets the following requirements:

Minimum Area of Lot . . . . . the minimum lot area per dwelling unit shall be subject to approval of the County Health Officer or his authorized representative but shall not be less than the following requirements:

- unsubdivided land . . . . . one acre
- subdivided land . . . . . 28,000 square feet.
- land served by public water facilities. 14,000 square feet.
- land served by public sewer facilities. 7,000 square feet.

Minimum Frontage of Lot . . . . . the minimum lot frontage per dwelling unit shall be subject to approval of the County Health Officer or his authorized representative but shall not be less than the following requirements:

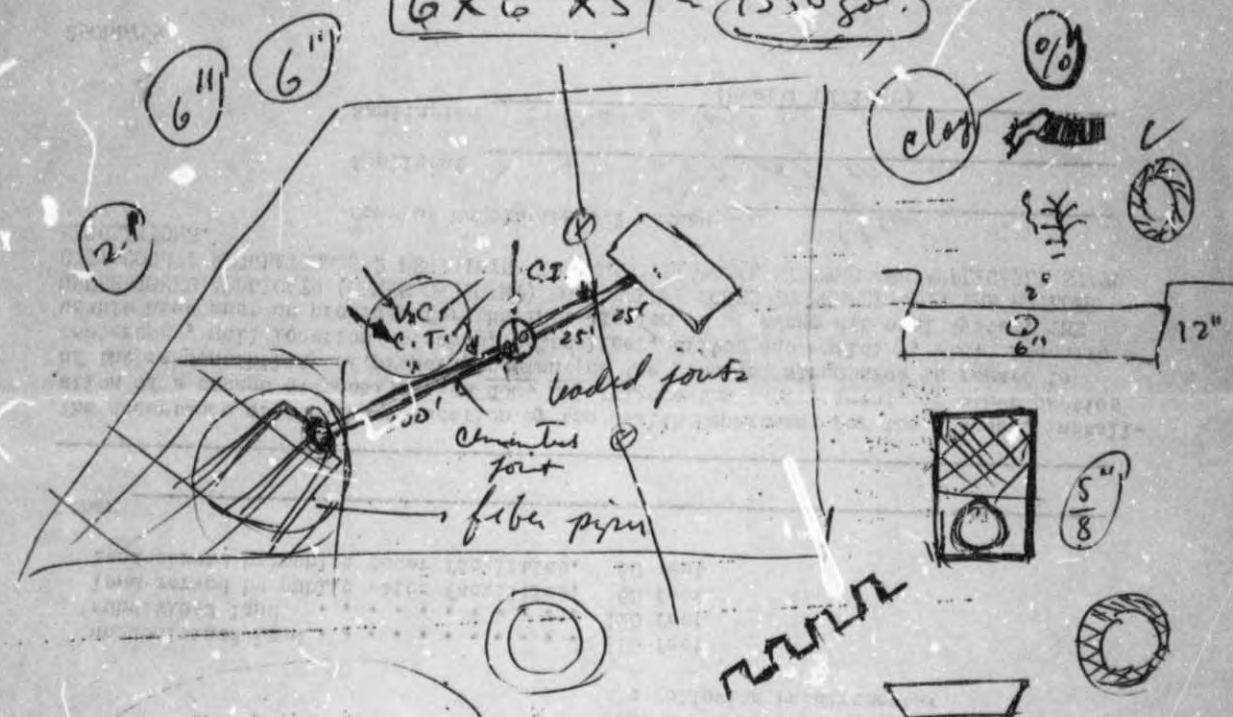
- unsubdivided land . . . . . 140 feet
- subdivided land . . . . . 120 feet
- land served by public water facilities. 60 feet
- land served by public sewer facilities. 60 feet

Other \_\_\_\_\_

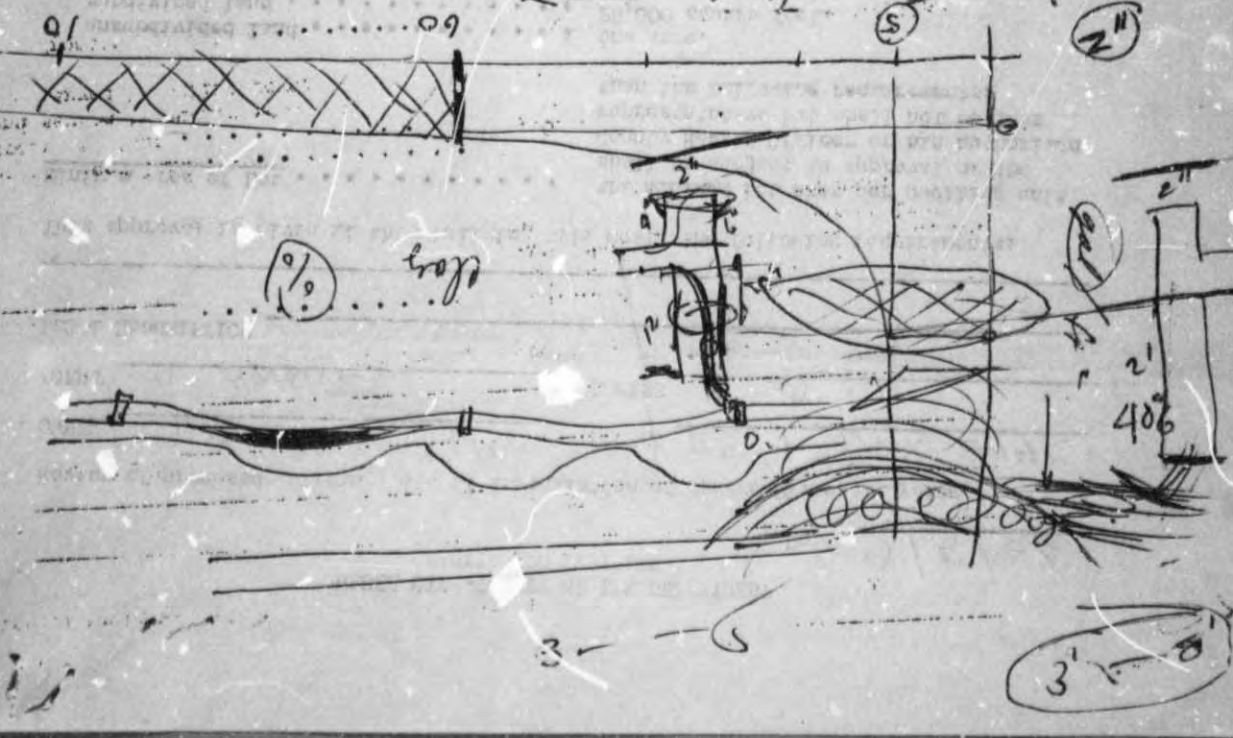
The acceptance of the above location by the Health Department for the proposed installation of a sewage disposal system does not relieve the owner, agent, or other parties of the responsibility of proper placement of the proposed structures in regard to topography, well location, streams, water lines, drives and building, etc. Adequate usable area must be provided for the installation of a sewage disposal system. THE UNDERSIGNED APPLICANT (OWNED OR AGENT) DOES HEREBY AGREE TO COMPLY WITH THE BOULDER CITY-COUNTY REGULATION # 2 PERTAINING TO SEWAGE DISPOSAL SYSTEMS AND APPLICABLE STATE REGULATIONS.

Copy of Regulation # 2 Issued Yes  
Applicant X Joe E. Butler  
Sanitarian Donald Daniels  
(Health Officer)

6x6 X5 - 1350 gal.



24" - 30" dia  
 4" - 12" dia



Beginning @ the Northeast corner of Lot 3, Block 2, Baseline Heights Subdivision, Boulder County, Colorado according to the recorded plat thereof; thence South  $49^{\circ}13'$  West along the east line of said Baseline Heights Subdivision a distance of 602.84' feet, more or less to a point on the northeasterly line of Baseline road; thence south  $40^{\circ}47'$  east along the said northeasterly right of way line of said Baseline road a distance of 20'; thence north  $49^{\circ}13'$  east and parallel to the easterly line of Baseline Heights Subdivision a distance of 260'; thence north  $85^{\circ}32'12''$  east a distance of 158'; thence north  $0^{\circ}04'$  west a distance of 10 feet; thence north  $85^{\circ}32'12''$  east a distance of 206.61 feet; thence north  $0^{\circ}04'$  west a distance of 143.5 feet; thence south  $89^{\circ}56'$  west 183.6 feet to the point of beginning.



35

COUNTY OF BOULDER  
OFFICE OF BUILDING INSPECTOR

PERMIT

NO 6194

*Tom Dough*  
Date *Sept 1962*

PERMIT is hereby issued to (build) (erect) (remodel) *1 Family Residence*

Owner *Joe Butler* Address *Box 299 B Ste 1 Boulder*

Contractor *Same* Address \_\_\_\_\_

Address of Proposed Building *Same Baseline Road*

Legal Description *Attached*

*In Sec. 35, T1N, R70W*

Setback Front *310'* Side *72'* Side *32'* Rear *60'*

Valuation *15,000* Area of Building *1276* Type of Construction *Brick*

Permit Fee \$ *49.00* Use of Building *1 Family Dwelling* Zone *R*

Inspection Fee \$ \_\_\_\_\_ Remarks: \_\_\_\_\_

Total \$ *49.00*

Approved *Tom Dough*  
Chief Building Inspector.

Note:—This permit not valid without official "PAID" stamp from Boulder County Building Inspection Department.

### INSPECTION RECORD

| Type of Inspection   | Rough      | Final | Inspector | Date           |
|----------------------|------------|-------|-----------|----------------|
| Footing & Foundation |            |       |           |                |
| Frame                |            |       |           |                |
| Plumbing             | <i>OK*</i> |       | <i>AK</i> | <i>2-11-65</i> |
| Electric             |            |       |           |                |
| Setback              |            |       |           |                |
| Sign                 |            |       |           |                |
| Other                |            |       |           |                |
|                      |            |       |           |                |
|                      |            |       |           |                |
|                      |            |       |           |                |
|                      |            |       |           |                |
|                      |            |       |           |                |
|                      |            |       |           |                |
|                      |            |       |           |                |

Remarks: *\* must re-set basement begin rough in*



### Warranty Deed

G.A.

**RECORDING REQUESTED BY GRANTEES )**  
JOE E. BUTLER )  
WANEE M. BUTLER )  
795 Newland Ct. )  
Boulder, CO 80303 )

**WHEN RECORDED, RETURN TO: )**  
SCHLENDER LAW FIRM P.C. )  
4430 Arapahoe Avenue, Suite 110 )  
Boulder, CO 80303 )

**SPACE ABOVE FOR RECORDER'S USE**

788-790 Newland Ct., Boulder, CO

For no consideration, JOE E. BUTLER and WANEE M. BUTLER do hereby grant, bargain, sell, convey and confirm to **Joe E. Butler or Wanee M. Butler, trustees, or their successors in trust, under the BUTLER LIVING TRUST dated August 3, 2000**, all of their interest in and to the following described real property in the County of Boulder, State of Colorado:

A tract of land situated in Section 35, Township 1 North, Range 70 West of the 6<sup>th</sup> P.M., and described as follows: Commencing at the Northeast corner of Lot 3, Block 2, BASELINE HEIGHTS SUBDIVISION, according to the recorded plat thereof, thence S. 49°13' West along the East line of said Baseline Heights Subdivision, 265.33 feet, thence North 85°32'12" East, 179.23 feet to the TRUE POINT OF BEGINNING; thence North 85°32'12" East, 206.61 feet, thence S. 0°04' East, 192.06 feet, thence South 89°59' West 173.70 feet, thence South 89°56' West, 32.30 feet; thence North 0°04' West, To The True point of Beginning, County of Boulder, State of Colorado.

EXEMPT FROM DOCUMENTARY FEE PURSUANT TO C.R.S. 39-13-102(2)(A); CONSIDERATION LESS THAN \$500

The Grantors shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantee, its heirs and assigns, against all and every person or persons lawfully claiming the whole or any part thereof.

August 3, 2000  
Date

Joe E. Butler  
JOE E. BUTLER

Wanee M. Butler  
WANEE M. BUTLER

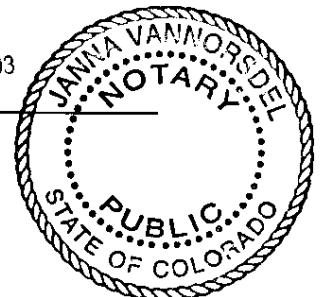
STATE OF COLORADO

COUNTY OF BOULDER

The foregoing instrument was acknowledged before me on August 3, 2000 by JOE E. BUTLER and WANEE M. BUTLER.

Janna Vannorsdel  
Notary Public

My Commission Expires 05/19/2003  
Commission expiration



8/9

03516606 05/06/2016 04:01 PM  
 RF: \$21.00 DF: \$0.00 Page: 1 of 3

Electronically recorded in Boulder County Colorado. Recorded as received.

WHEN RECORDED RETURN TO:  
**Joe E. Butler**  
**795 Newland Court**  
**Boulder, CO 80303**



*First American*

File Number: 5509-2620888

### QUIT CLAIM DEED

**THIS DEED**, Made this 8<sup>TH</sup> DAY OF APRIL, 2016, between **Joe E. Butler** of the County of Boulder and State of Colorado, grantor and **THE Butler Family Trust, dated January 18, 2011**, as thier interests may appear whose legal address is 795 Newland Court, 790 Newland Court, Boulder, CO 80303 of the County of Boulder and State of Colorado, grantee:

**WITNESSETH**, that the grantor, for and in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)**, the receipt and sufficiency of which is hereby acknowledged, has remised, released, sold, conveyed and **QUIT CLAIMED**, and by these presents does remise, release, sell, convey and **QUIT CLAIM** unto the grantee, his heirs, successors and assigns, forever, not in tenancy in common but in joint tenancy, all the right, title, interest, claim and demand which the grantor has in and to the real property, together with improvements, if any, situate, lying and being in the County of Boulder and State of Colorado, described as follows:

#### PARCEL A:

**A TRACT OF LAND SITUATED IN SECTION 35, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NE CORNER OF LOT 3, BLOCK 2, BASELINE HEIGHTS SUBDIVISION, THENCE SOUTH 49°13' WEST ALONG EAST LINE OF SAID BASELINE HEIGHTS SUBDIVISION, 265.33 FEET, THENCE NORTH 85°32' 12" EAST, 385.84 FEET TO EAST LINE OF THE WEST HALF OF THE SW QUARTER OF THE SE QUARTER, SECTION 35, TOWNSHIP 1 NORTH, RANGE 70 W. OF THE 6TH P.M., THENCE NORTH 0°04' WEST, 143.50 FEET, THENCE SOUTH 89°56' WEST, 183.60 FEET TO THE TRUE POINT OF BEGINNING, COUNTY OF BOULDER, STATE OF COLORADO.**

#### PARCEL B:

**A TRACT OF LAND SITUATED IN SECTION 35, TOWNSHIP 1 NORTH, RANGE 70 WEST OF THE 6TH P.M., AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NE CORNER OF LOT 3, BLOCK 2, BASELINE HEIGHTS SUBDIVISION, THENCE S. 49°13' WEST ALONG THE EAST LINE OF SAID BASELINE HEIGHTS SUBDIVISION, 265.33 FEET, THENCE NORTH 85°32' 12" EAST, 179.23 FEET TO THE TRUE POINT OF BEGINNING; THENCE NORTH 85°32' 12" EAST, 206.61 FEET, THENCE S. 0°04' EAST, 192.06 FEET, THENCE SOUTH 89°69' WEST 173.70 FEET, THENCE SOUTH 89°56' WEST, 32.30 FEET; THENCE NORTH 0°04' WEST, TO THE TRUE POINT OF BEGINNING, COUNTY OF BOULDER, STATE OF COLORADO.**

also known by street and number as: **795 Newland Court, 790 Newland Court, Boulder, CO 80303**

Doc Fee: \$ \_\_\_\_\_

**TO HAVE AND TO HOLD** the same, together with all and singular hereditaments and appurtenances thereto belonging, or in anywise thereunto appertaining and the reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the Grantor, either in law or equity, to the only proper use, benefit and behalf of the Grantee, his heirs and assigns forever except general taxes for the current year and subsequent years, and except easements, covenants, reservations, restrictions, and right of way, if any, of record.

The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, The grantor has executed this deed on the date set forth above.

Joe E. Butler  
Joe E. Butler

State of **Colorado** )  
County of Boulder )ss

The foregoing instrument was subscribed and sworn to before me this 8<sup>th</sup> day of April, 2016 by **Joe E. Butler**,

Witness my hand and official seal.  
My commission expires: 12/30/2016

Isabel P. Denton  
Notary Public

ISABEL P. DENTON  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID # 20004030622  
MY COMMISSION EXPIRES DECEMBER 30, 2016

SPECIAL WARRANTY DEED

THIS DEED, Made this 18th day of December, 2020 between

The Butler Family Trust, dated January 18, 2011

of the County of Boulder and State of COLORADO, grantor(s), and

Blake Kenney and Sophie Kenney

whose legal address is 795 Newland Court, Boulder, CO 80303-3134

of the County of Boulder, State of Colorado, grantee(s):

WITNESS, That the grantor(s), for and in consideration of the sum of Eight Hundred Thousand Dollars and No/100's (\$800,000.00), the receipt and sufficiency of which is hereby acknowledged, has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell, convey and confirm, unto the grantee(s), his heirs and assigns forever not in tenancy in common but in joint tenancy, all the real property together with improvements, if any, situate, lying and being in the County of Boulder, State of COLORADO, described as follows:

See Exhibit A attached hereto and made a part hereof.

also known by street and number as 795 Newland Court , Boulder, CO 80303-3134

TOGETHER with all and singular the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances except for taxes for the current year, a lien but not yet due and payable, subject to statutory exceptions as defined in CRS 38-30-113, revised.

TO HAVE AND TO HOLD the said premises above bargained and described, with the appurtenances, unto the grantee(s), his heirs, and assigns forever. The grantor(s), for himself, his heirs and personal representatives or successors, does covenant and agree that he shall and will WARRANT AND FOREVER DEFEND the above-bargained premises in the quiet and peaceable possession of the grantee(s), his heirs and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the grantor(s).

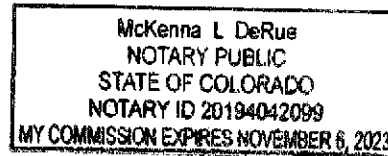
The singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

IN WITNESS WHEREOF, the grantor(s) has executed this deed on the date set forth above.

SELLER:

The Butler Family Trust, dated January 18, 2011

Cynthia S. Butacan, Trustee



STATE OF COLORADO  
COUNTY OF Boulder

}ss:

The foregoing instrument was acknowledged before me this 17th day of December, 2020 by Cynthia S. Butacan, Trustee of The Butler Family Trust, dated January 18, 2011

McKenna L. DeRue  
Notary Public:

Witness my hand and official seal.  
My Commission expires:

11/16/23

## Exhibit A

## Parcel A:

A tract of land situated in Section 35, Township 1 North, Range 70 West of the 6<sup>th</sup> P.M., and described as follows:

Beginning at the NE corner of Lot 3, Block 2, Baseline Heights Subdivision;  
Thence South 49°13' West along East line of said Baseline Heights Subdivision, 265.33 feet;  
Thence North 85°32'12" East, 385.84 feet to East line of the West half of the SW quarter of the SE quarter, Section 35, Township 1 North, Range 70 West of the 6<sup>th</sup> P.M.;  
Thence North 0°04' West, 143.50 feet;  
Thence South 89°56' West, 183.60 feet to the True Point of Beginning,

County of Boulder, State of Colorado.

## Parcel B:

An easement for right of way for ingress and egress as described in Deed recorded November 29, 1962 in Book 1258 at Page 249 at Reception No. 714345, County of Boulder, State of Colorado.





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

November 17, 2022

Sophie and Blake Kenney  
795 Newland Ct  
Boulder, CO 80303  
Via email: [Sophie.kenney11@gmail.com](mailto:Sophie.kenney11@gmail.com)

**RE: COMMUNITY PLANNING & PERMITTING DIRECTOR'S DETERMINATION THAT PROPERTY IS NOT A LEGAL BUILDING LOT UNDER THE BOULDER COUNTY LAND USE CODE**

Dear Sophie & Blake:

On behalf of the Director of the Boulder County Community Planning & Permitting Department (the "Director"), I have examined the deeds and other information submitted and the Boulder County Land Use Code (the "Code."). As a result, I have determined that the land parcel of approximately one acre, located in Section 35, Township 1N, and Range 70W (the "Property"), as further described in this letter, is not eligible for designation as a building lot under the Code. The Property is presently identified by Assessor Account Number R0068370 and by Parcel Number 146335400028. It is described on the Special Warranty Deed recorded 12/17/2020 at reception number 03843910. The Property is within the Estate Residential (ER) Zoning District. Based on this determination, the county cannot issue building permits on the Property for structures and uses that require a legal building lot under the Code.

The Property was initially described in its current form on a deed dated October 1961 at Reception 90685346, described as "Parcel A". The deed also included a description for a "Parcel B", the property now located at 790 Newland Ct. The 1956 Boulder County Zoning Resolution, the applicable regulation at the time, defined a Lot as "... a parcel of real property abutting upon at least one public street and held under separate ownership." Starting in the 1950s the county defined a parcel as "all contiguous property on one deed." This longstanding policy was later codified in the Code. Because "Parcel A" and "Parcel B" were contiguous lots on a single deed, they together constituted one single lot.

A Building Permit for a residence on the property was approved in September 1962 (BP-62-6194), however this permit was issued based on inaccurate information provided by the applicant at the time - namely that the property in question, "Parcel A", was a standalone lot and was not combined with "Parcel B". At that time "Parcel B" already contained a residence which had been constructed in 1961 (BP-60-4743), resulting in two residences on a single lot.

Later, "Parcel B" was split off from "Parcel A" via deed in August 2000, when Joe E. & Wane M. Butler transferred "Parcel B" to the Butler Living Trust (Reception 02072599), resulting in the two parcels being held on separate deeds. However, this subdivision did not comply with the applicable zoning regulations at the time, as the two parcels did not meet the minimum size requirements in the ER zoning district. This resulted in neither parcel being a legal building lot.

The parcels were recombined in May 2016 when Parcel B was transferred to the Butler Family Trust (Reception 03516606), where both "Parcel A" and "Parcel B" again appear on the same deed. "Parcel A" and "Parcel B" were held together on the same deed until 2020, when the Property was transferred via a Quit Claim Deed from the Butler Family Trust to Blake and Sophie Kinney, recorded December 2020 at Reception 03843910. At the time, the minimum lot size in the ER zoning district was 35 acres. This conveyance was therefore another illegal subdivision since the Property did not meet the minimum lot size requirements in the zoning district. Thus, the lot conveyed was not, and is not, a legal building lot.

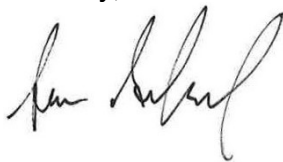
This determination is based upon the Code in effect at the time of the determination, and any prior county land use regulation affecting the legality of the Property's creation and its resulting building lot status. If the county amends the Code in the future or additional information becomes available that could alter this determination, the owner/applicant may request another review.

If you disagree with this determination, you may appeal it to the Boulder County Board of Adjustment under Article 4-1200 of the Code. An appeal must be in writing, accompanied by a statement of the basis for the appeal and the required appeal fee. In addition, you must file the appeal *with the Director no later than 30 days after the date of this determination*. The County will consider this determination final if it is not timely appealed.

You may apply for a Subdivision Exemption to request to have the subject parcel recognized as a legal building lot under Article 9-100 of the Code. An application for Subdivision Exemption is a request that the county create a legal building lot for the Property pursuant to the criteria listed in the Code. You may file an application with the Community Planning & Department at any time following a pre-application conference with staff (see Articles 3-201 and 3-202 of the Code). The Board of County Commissioners will decide whether to approve the Subdivision Exemption application based upon criteria in the Code (see Article 9-102 of the Land Use Code). To initiate an application please call our receptionist at 303-441-3930 and ask to make a "Pre-application appointment with a Current Planner."

A current version of the Code is online at [www.bouldercounty.org/lu/lucode](http://www.bouldercounty.org/lu/lucode). You may also obtain a paper copy of the Code at the Community Planning & Permitting Department. If you have questions about this determination or about the processes listed above, please contact me.

Sincerely,



Sean Gambrel, GISP  
GIS Specialist  
Boulder County Community Planning & Permitting

cc: Section 35 T1N R70W, Assessor, BLD-22-0082, property owner



## 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)

April 6, 2023

Butler Family Trust  
 790 Newman Court  
 Boulder, CO 80303

Cynthia Butacan  
 4432 S. Jellison Way  
 Littleton, CO 80123-1180

Ed Byrne  
 250 Arapahoe Ave., Suite 300  
 Boulder, CO 80302

Dear Applicant:

This letter certifies that a hearing of the Board of County Commissioners, County of Boulder, State of Colorado, was duly called and held on October 27, 2022, in consideration of the following request:

**Docket SE-22-0003: Butler Lot Recognition**

Request for Subdivision Exemption to recognize 790 Newland Court as a legal building lot. The proposal is submitted by Cynthia Butacan (applicant/trustee) and Butler Family Trust (property owner) and is in the Estate Residential (ER) zoning district at 790 Newland Court, accessed via a private drive that intersects Baseline Road .05 miles east of the intersection of Baseline Road and Lakeview Drive, in Section 35, Township 1N, Range 70W.

The Board of County Commissioners has determined that the request is CONDITIONALLY APPROVED, subject to the terms in the attached resolution.

Please contact the planner who processed your docket in order to discuss the post-approval process and specific requirements for your approval. Generally speaking, the post-approval requirements include new deeds for all involved properties, proof of property taxes paid, and the recording fee for the new deeds.

The Boulder County Land Use Code requires that the resolution of approval be recorded within one year from the date of the Commissioners' decision. The resolution can be recorded only after you have completed all post-approval requirements. If this is not done, the document will not be ratified and your approval will expire. ***Please note that the recordation of all documents related to your docket must be done by your planner.*** Your planner can explain in detail the documentation that you will need to supply, based on the specifics of your docket.

If you have any additional questions, please feel free to contact me via email at 303-441-3930 or via email at [swalker@bouldercounty.org](mailto:swalker@bouldercounty.org).

Sincerely,

Claire Levy County Commissioner Marta Loachamin County Commissioner Ashley Stolzmann County Commissioner

Sam Walker, Planner II  
Planning Division  
Community Planning & Permitting Department

## RESOLUTION 2023-012

### **A resolution conditionally approving Boulder County Community Planning & Permitting Docket SE-22-0003: Butler Lot Recognition**

#### Recitals

A. Cynthia Butacan (the “Applicant”) applied to Boulder County for a Subdivision Exemption under Article 9 of the Boulder County Land Use Code (the “Code”) to recognize 790 Newland Court (the “Property”) as a legal Building Lot.

B. The Property is located on the north side of Baseline Road and is accessed via a private driveway that is shared with the adjacent parcels at 795 Newlands Court and 6685 Baseline Road. The private drive intersects with Baseline Road approximately .05 mile east of its intersection with Lakeview Drive, in Section 35, Township 1 North, Range 70 West, in an Estate Residential zoning district in unincorporated Boulder County.

C. The County Assessor identifies one single-family residence on the Property. However, the Applicant indicates that the residence on the Property is actually a duplex and has functioned as such for decades. The Property was identified as a non-legal building lot in a determination issued on January 25, 2021 (BLD-20-0090), because it does not meet the definition of a legal building lot as described in Article 9-100 of the Code. The Property’s current configuration was created in 2020 when the Property (also known as Parcel B) was improperly subdivided by deed.

D. The relevant history of the Property is as follows:

- a. On July 15, 1960, a 2.87-acre parcel was sold via deed (reception number 90655587) which encompassed what are currently three separate parcels (the Property and two separate parcels).
- b. On July 15, 1960, a building permit (“BP-60-4743”) was issued to the new owner of the 2.87-acre parcel for the construction of a single-family residence. The residence constructed under this permit is now the duplex located on the Property. No inspections have ever been performed for BP-60-4743 and no Certificate of Occupancy has been issued for the structure.
- c. Between October 16, 1961 and December 21, 2020, the 2.87-acre parcel was divided and recombined into several configurations. On December 21, 2020, the parcel was improperly subdivided by deed, which resulted in the current configuration of the resulting 0.87-acre Property.

E. The Property is currently developed with a structure identified by the Assessor as a single-family residence, although the building permit for this structure has not been finalized nor does it have a Certificate of Occupancy. No permits for conversion of the structure into a duplex or construction of a duplex exist in the Property record. The Applicant asserts that the structure was a duplex when the Property was originally purchased by the Butlers, although this statement

CL

is not supported by the permitting history. Historic aerial photography also appears to indicate the construction of an approximately 350-square-foot structure on the Property sometime after 2013, for which no permitting records could be found.

F. The Applicant requests that the Property be recognized as a legal building lot and as a result, be eligible for the issuance of building permits. In support of this request, the Applicant points to the fact that the existing dwelling unit has existed for approximately 60 years, its continuous use as a separate residence, and the fact that the owners have paid separate taxes for the Property since 1963.

G. The above-described request was processed and reviewed as Boulder County Community Planning & Permitting Docket SE-22-0003 (the “Docket”), as further described in the memorandum and written recommendation to the Board of County Commissioners (the “Board”) by Boulder County Community Planning & Permitting Department planning staff dated October 27, 2022, together with its attachments (the “October 27, 2022 Staff Recommendation”). The October 27, 2022 Staff Recommendation found that the Docket does not meet the criteria for a Subdivision Exemption, and therefore, recommended that the Board deny the Docket.

H. At an online public hearing on the Docket held on October 27, 2022, the Board considered the October 27, 2022 Staff Recommendation as well as the documents and testimony presented by Community Planning & Permitting Department planning staff. The Board also heard testimony from Applicant Cynthia Butacan and her attorney Ed Byrne. Four members of the public spoke at the public hearing.

I. At the October 27, 2022 hearing, the Board ultimately agreed with the Applicant that the land use impacts of potential development of the lot could be sufficiently mitigated with conditions of approval. The Board therefore determined that the Property should be recognized as a legal building lot but expressed concerns that limiting the allowed residential floor area on the parcel to 2,500 square feet, as recommended by Community Planning & Permitting staff, would not accurately account for an unpermitted shed located on the property and was smaller than most homes in the surrounding neighborhood. Based on this reasoning, the Board voted to recognize the Property as a legal building lot subject to staff’s recommended conditions with an amendment to Condition 3 to restrict the floor area to the size presumed to be compatible with the surrounding area on the date of the hearing.

J. Following the hearing, Community Planning & Permitting staff discovered that incorrect information was presented at the hearing regarding the size presumed to be compatible with the surrounding area, which staff mistakenly identified as approximately 2,600 square feet. In fact, the size presumed to be compatible with the surrounding area for the Property on October 27, 2022, was 4,910 square feet. Due to this mistake, the Board scheduled a subsequent hearing on the Docket for further consideration.

K. The Board again heard the Docket during a duly noticed online public meeting on December 13, 2022, and considered an amended memorandum and written recommendation to

the Board by Boulder County Community Planning & Permitting Department planning staff dated December 13, 2022, together with its attachments (the “December 13, 2022 Staff Recommendation”), and documents and testimony presented by Community Planning & Permitting Department planning staff. The Board also heard testimony from Applicant Cynthia Butacan and her attorney, Ed Byrne. Public comments were not accepted at the public meeting.

L. Based on the public hearing and the public meeting, the Board finds that with the recommended conditions of approval, the Docket meets the criteria for a Subdivision Exemption to recognize the Property as a legal Building Lot under Article 9-400 of the Code.

M. Therefore, the Docket can be approved, subject to the conditions stated below.

Therefore, the Board resolves:

Docket SE-22-0003 is approved on the basis and terms set forth in this Resolution, above, and subject to the following conditions:

1. The duplex must be converted back to the single-family residence as applied for as part of BP-60-4743.
2. Within one year of approval, the single-family residence must be inspected, BP-60-4743 must be closed, and a Certificate of Occupancy issued for the residence.
3. Development on the Property is limited to 2,700 square feet of residential floor area.
4. Prior to the issuance of a Certificate of Occupancy, the unpermitted shed must be deconstructed or permitted.
5. Prior to the issuance of a Certificate of Occupancy, the Applicant must obtain an Onsite Wastewater Treatment System (“OWTS”) permit for the existing septic system or obtain a permit for a new OWTS.
6. Prior to the issuance of a Certificate of Occupancy, the Applicant must submit evidence to the Community Planning & Permitting Department that the Property has an adequate water supply.
7. The Applicant shall be subject to the terms, conditions, and commitments of record and in the file for SE-22-0003: Butler Lot Recognition.

**[Signature Page to Follow]**

A motion to approve the Docket was made by Commissioner Matt Jones, seconded by Commissioner Marta Loachamin, and passed by a 2-1 vote. Commissioners Matt Jones and Marta Loachamin voted in favor, and Commissioner Claire Levy, voted in opposition.

This Resolution adopts the approval of Docket SE-22-0003: Butler Lot Recognition in substantially the same form and subject to the same terms and conditions as voted by the Board at the December 13, 2022 public meeting. Due to the expiration of his term of Office on January 10, 2023, Matt Jones is not a signatory to this Resolution. The Resolution is approved by the signatories below as the current sitting Board.

**ADOPTED** as a final decision of the Board on this 14<sup>th</sup> day of February 2023.

**BOARD OF COUNTY COMMISSIONERS  
OF BOULDER COUNTY:**

\_\_\_\_\_  
Claire Levy, Chair

*Ashley Stolzmann*

\_\_\_\_\_  
Ashley Stolzmann, Vice Chair

*Marta Loachamin*

\_\_\_\_\_  
Marta Loachamin, Commissioner

ATTEST:

*Cecilia Lacey*

\_\_\_\_\_  
Clerk to the Board



**Ed Byrne, P.C.**  
**A Professional Legal Services Corporation**  
**2305 Broadway**  
**Boulder, CO 80304 – 4106**

May 2, 2022

Boulder County Land Use Department  
P.O. Box 471  
Boulder, CO 80302

**RE: Supporting Statement for Subdivision Exemption Docket # TBD for The Butler  
Family Trust dated January 18, 2011, owner of 790 Newland Court, Boulder, CO 80303  
(Estate-Residential Zone District)**

Dear People,

This narrative is submitted on behalf of The Butler Family Trust dated January 18, 2011, owner of the parcel located at 790 Newland Court (the "Parcel"), in response to the decision in Docket BLD-20-0090 that 790 Newland Court was not a buildable lot.

A duplex was built on the Parcel in 1960 by T.J. Bigbee, more than sixty (60) years ago. The duplex has been in continuous use until quite recently, but is now being occupied by a single, disabled man. Joe and Wance Butler agreed to purchase the land from T.J. Bigbee only after Bigbee subdivided the 1.87-acre parcel to create a one-acre parcel for the Butler's new residence (795 Newland Court, R0068370, Parcel No. 146335400028, Tract 2711-A) and after Bigbee installed an Independent Septic Disposal System (ISDS) for the duplex (790 Newland Court, R0035278, Parcel No. 146335400029, Tract 2711-B). See "Narrative for 790 Newland Court" (the "Narrative"), Exhibit A, attached.

In 1962, before Joe and Wance Butler purchased Tracts 2711-A and 2711-B from M. J. Bigbee, T.J. Bigbee assured the Butlers that Tracts 2711-A and 2711-B were subdivided and he installed a new ISDS for the residence on Tract 2711-B (a building permit was issued after it had been built and occupied). See BP-60-4743, 7/15/1960, Exhibit B, attached. Joe Butler then obtained a permit for the new proposed home. See BP-62-6194, 9/5/1962, Exhibit C, attached.

The Butlers built their new home while living in the basement unit of the duplex. In January of 1963, they moved in. See Narrative, attached. The Butlers have paid separate Boulder County Property Taxes on the two parcels, Tracts 2711-A (2021: \$5,034.50) and 2711-B (2021: \$4,727.62), since 1963. See 790 Newland Court Tax Account R0035278, Exhibit D, attached.

The Butler family lived in the home at 795 Newland Court and rented out the duplex on 790 Newland Court for sixty years. Several deeds have been recorded since 2000, but until the home on 795 Newland court was sold to help defray Joe Butler's assisted living expenses on 12/21/2020, all of the deeds were created for estate planning purposes without consideration.

While it is clear that Mr. Bigbee played fast and loose with the subdivision and building permit requirements in effect in Boulder County in the early 1960s, it is also now clear that Joe and Wance Butler should not

## Narrative in support of Butler Subdivision

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have trusted Bigbee to prepare the way for the Butlers' family dream. However, after 60 years, justice will be better served by correcting any deficiencies and recognizing this .87-acre Parcel, than by denying this application and rewriting history. Several other unique circumstances support such recognition at this time:

1. In 1962, when Tracts 2711-A and 2711-B were created, the water source for Tract 2711-B was a well drilled by the Baseline Water District, which the then-director of the District gave to Bigbee for the use of the duplex then being built. Boulder County's Zoning Resolution permitted "two-family dwellings" in the R, Residence District, and the Subdivision Regulations set the minimum lot size for "land served by public water facilities" at "14,000s.f.," so the Parcel might have qualified at the time.
2. Several building permits have been issued to the Butlers since the original two building permits were approved in 1960 and 1962.
3. As mentioned above, property taxes have been paid for both properties, including both residences, since 1963. The Butlers have had every reason to believe the Parcel was a legal building lot, and they have been taxed accordingly for more than sixty years.
4. The Parcel is located immediately to the southeast of the Baseline Heights Subdivision, in which eighteen (18) of the twenty-four (24) platted lots are smaller than one acre in size.
5. Finally, the Stengel Lot Recognition, Docket No. SE-00-38, included as a condition of approval a Land Survey Plat prepared by William J. Stengel (the "Stengel Plat") depicting Stengel Parcels A, B and C, along with Butler Parcels A (795 Newland Court) and B (790 Newland Court). See Exhibit E, attached.

### Subdivision Exemption Criteria, LUC §9-400(A):

(1) - *increase in number of currently existing lots.* There were two lots purchased by the Butlers in 1962, and the boundaries of the two lots will not be changed. The Parcel, Tract 2711-B, had the same home on it at the time of the Butler's purchase that exists on the Parcel today. No increase in density will occur.

(2) - Not applicable.

(3) - *Proposed lots have legal access.* The lots have legal access to Baseline Road via a private access easements granted by T.J. Bigbee to Joe E. Butler (the "Bigbee Easement") recorded at Reception No. 90714345, in the records of the Boulder County Clerk and Recorder on November 29, 1962. See Exhibit F, attached. The access easement is also shown on the Stengel Plat.

(4) - *Lots capable of being served by an adequate physical access.* The Parcel is physically accessible using the Bigbee Easement and the driveway that has served the Parcel since 1960.

(5) - *Adequate water supply exists.* The residence on the Parcel has been served by a well that was drilled by the Baseline Water District prior to 1962.

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(6) – *Capable of being served by an adequate Onsite Wastewater System (OWS).* The residence on the Parcel continues to be served by the ISDS installed by Bigbee in 1962, which has been consistently maintained and continues to function properly.

(7) – *Adequate public facilities and services exist.* The public facilities and services that have effectively served the Parcel since 1962 will continue to do so going forward.

(8) – *In Flood Plain Overlay District?* Not applicable.

(9) – *In harmony with character of the neighborhood.* The existing home and Parcel have been in place since 1962 and they will continue to exist in harmony with the physical characteristics of the land and character of the surrounding neighborhood.

(10) – *Lots will not be subject to significant risk from natural hazards.* The Parcel is not subject to significant risk from natural hazards, and this will continue to true in the future.

(11) – *Lots will not have significant adverse impact on environmental resources.* The Parcel and home have not had and will not in the future have a significant adverse impact on environmental resources.

(12) – *Lots will not have significant adverse impact on historic, cultural or archaeological resources.* There are no such resources that will be impacted by recognition of the Parcel.

(13) – *Lot development shall not cause unnecessary or excessive site disturbance or erosion.* The Parcel was developed in 1962 without unnecessary or excessive site disturbance. The site plan review process will manage potential site disturbance from any future development.

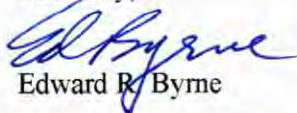
(14) – *Lots will comply with Comprehensive Plan and IGAs.* The Parcel and any future development will comply with the BCCP and any applicable IGA.

I15) – *Community Facility?* Not applicable.

The above considered, we urge Boulder County to recognize the Parcel, as proposed in this Application.

Thank you for your consideration of the above comments.

Sincerely,



Edward R. Byrne

cc: Cynthia Butacan

**EXHIBIT A**

## Narrative for 790 Newland Ct.

My name is Cynthia Butacan and my father is Joe Butler. I am now handling my father's financial affairs. This is a narrative about the house at 790 Newland Ct. in Boulder county.

In 1962 my parents, Joe and Wanee Butler, were interested in purchasing the property now known as 790 Newland Ct and 795 Newland Ct. The property at the time was 1.87 acres with a small duplex on the southern portion. My parents liked the area but wanted to build a new home on the northern portion of the property.

Their real estate agent told Mr. Bigby, the seller, that my parents would make the purchase on the condition that he subdivide one acre for a future building site for a new house and install a new leach field for the small duplex that was already there. He did both things, and then my parents completed the purchase in April of 1962.

We lived in the basement of the duplex while their new home was being built, and in January of 1963, we moved into the house. My parents have been paying separate property taxes on each house every year since 1963.

In 1994 my mother was a member of several clubs. One of them brought in a speaker who talked about trusts. She let my dad know about what she had learned and told him that was what they needed to do. He had always assumed that he would probably die before she did, so he was willing to do whatever she wanted for her later years. So, they set up trusts through an attorney.

In 2000, she was again at a club meeting, where they brought in another speaker to talk about trusts. Once again, she came home and told him that this plan is what they needed to do. So, my dad went with her and they set up trusts with a different attorney.

Sadly, my mother died in 2010. My father funded the special needs trust for my brother. Then he put their house and the duplex in the Butler Family Trust.

In November 2019, my dad slipped on some ice and broke his ankle. He was in an assisted living facility for 3 months recuperating, because his house has at least 11 steps to go up to get to the main living level. We made plans to transition him back to his independent lifestyle, but by the time he went home the end of March of 2020, COVID-19 had hit and stay at home orders were in place. I stayed with him for the rest of 2020, taking care of getting groceries, etc. He is 91 and protecting him from getting COVID-19 was our top priority.

In September of 2020, a sudden snowstorm hit. My dad and I realized that the cold, snow and icy conditions were going to keep him in the house for most of the winter. We agreed it was time to figure out a better living arrangement for him. We found a retirement community that fit his needs and talked with a realtor about selling the house and the duplex, to provide the funds to finance the change. We accepted an offer from a young couple for the house, which closed in December 2020, and my dad moved to the community in January of 2021.

My parents knew nothing about the process to subdivide the property, so would not have known what questions to ask about what Mr. Bigby did. They believed they bought two properties in 1962 and have paid taxes on two properties ever since.

My dad and I hope this can be quickly resolved as there are some buyers interested in purchasing the property. We need the funds to help cover his care for his remaining years.