



# Community Planning & Permitting

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## BOULDER COUNTY PLANNING COMMISSION AGENDA ITEM #5.3

February 21, 2024  
1:30 p.m.

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

### PUBLIC HEARING with PUBLIC TESTIMONY

STAFF: Hannah Hippely, Long Range Planning Division Manager

#### **Docket Z-23-0002 Lyons Area Zoning Map Amendment**

Comprehensive zoning amendment to the Boulder County Zoning Map, rezoning of higher intensity (Commercial, Business, Transitional, and General Industrial) zone districts within a three-mile radius of the Town of Lyons in unincorporated Boulder County.

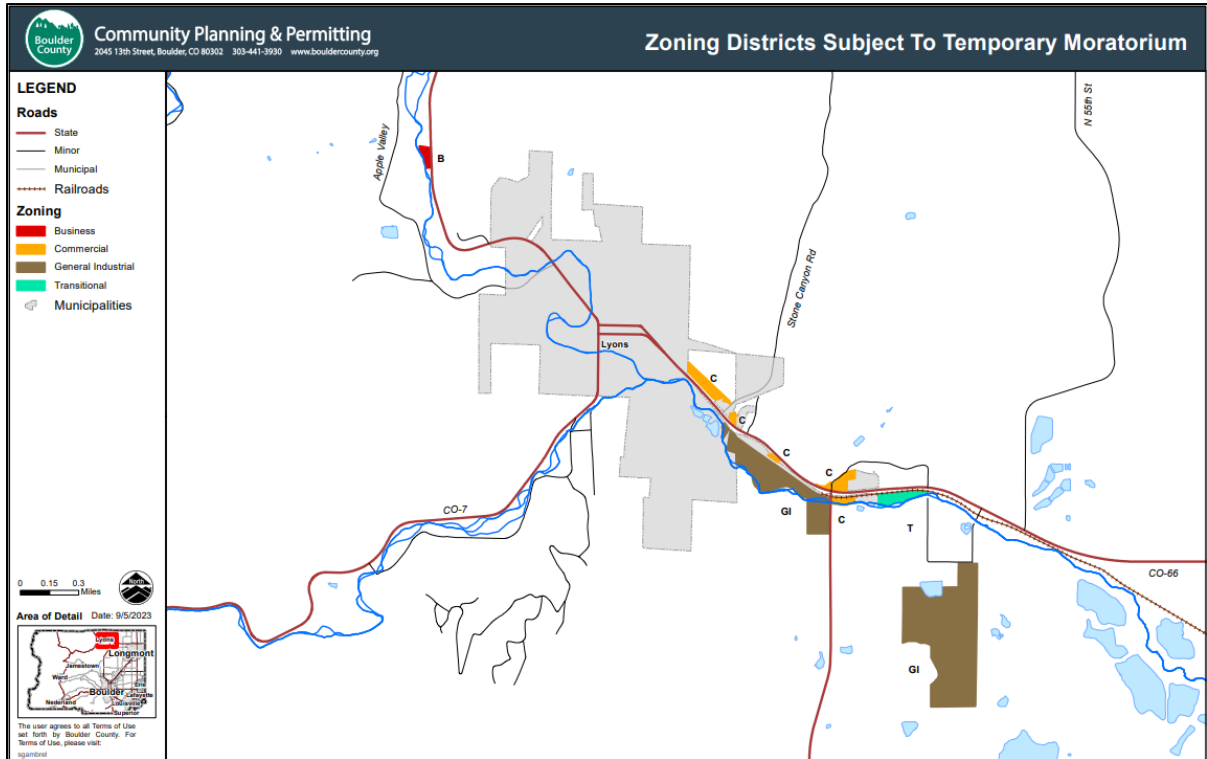
*Action Requested by Planning Commission: Recommendation of Approval to BOCC*

### PACKET CONTENTS

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Staff Recommendation	1-15
Zoning Map Amendment Table (Exhibit A)	A1
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### **BACKGROUND**

On September 5, 2023, the Boulder County Commissioners adopted a six-month moratorium (Resolution 2023-079) on processing applications for development in higher intensity (Commercial, Business, Transitional, and General Industrial) zone districts within a three-mile radius of the Town of Lyons in unincorporated Boulder County. The moratorium allowed the county time to determine if the existing county zoning map and regulations meet the needs of Boulder County and the Lyons community.



The rezoning of the properties subject to the moratorium is now under consideration. Of these properties, one is owned by Boulder County, two are owned by the Highland Ditch Company, three are owned by the Northern Colorado Water Conservancy District, one is owned by the United States Federal Government, and thirteen parcels are held by eleven private entities. Exhibit A includes a list of the properties under consideration, their current zoning, and recommended new zone district.

## **DISCUSSION**

The county zoning on the properties that are subject to the rezoning has been in place for decades as the zoning in the area was established in the mid-1980s after the 1978 adoption of the Boulder County Comprehensive Plan (BCCP). Zoning is intended set the stage for an anticipated and desired future; however, it is not unchangeable. Currently, forty years after the zoning of this area, new possibilities, plans, and experiences bring about and inform the proposed rezoning. This rezoning sets the stage for the future of these parcels, while they remain unincorporated. It does not compel property owners to annex to the Town of Lyons, and existing legal uses may continue as they have been operating. The rezoning would not force change upon property owners but does define differently what change may look like on these parcels while they remain under Boulder County's jurisdiction.

Annexations in the Lyons area in the 1990s, 2000s, and 2010s extended Town limits east and parcels along the eastern corridor now have the contiguity necessary for those property owners to consider annexation. It is now possible, in a way that it wasn't in the mid-1980s, for a significant number of the properties to consider annexation to the Town of Lyons for the purposes of redevelopment. This would be consistent with the BCCP's underlying

philosophy to channel growth to municipalities where a full and coordinated range of urban services can support growth. Figure 1 below identifies the annexations by the Town of Lyons by decade from the 1950s – 2010s. Annexations in the 2000s and 2010s expanded Town limits beyond the intersection of US-36 and CO-66.

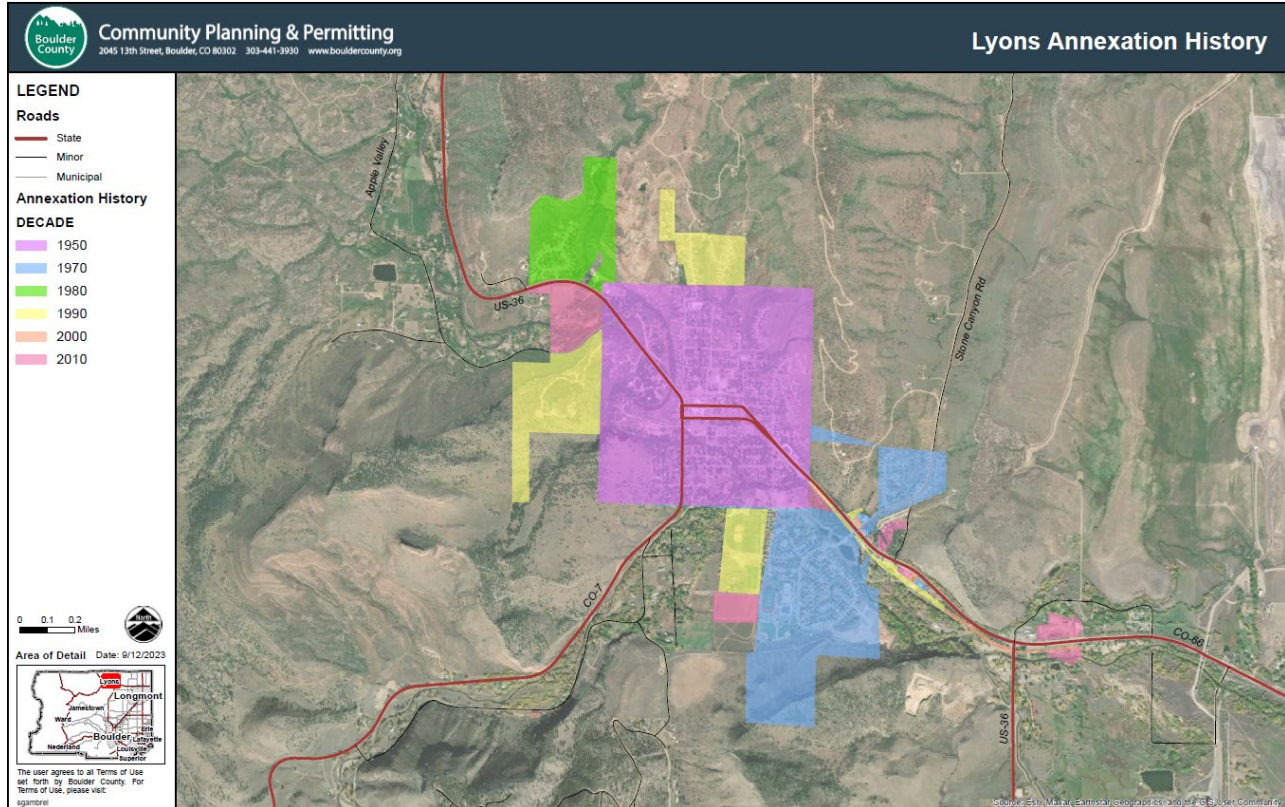


Figure 1 Lyons Annexation History by Decade

In 2003, the Town and the county first entered into the Lyons Planning Area Comprehensive Development Plan Intergovernmental Agreement (Lyons IGA). All the areas subject to the rezoning are located within the Lyons IGA boundary as shown in Figure 2 below. These are areas where the Town is anticipated to grow, and annexation is considered consistent with the Lyons IGA. The Town of Lyons adopted a new comprehensive plan in 2023, updating its vision for its future. The Town and the county are also currently working to update the Lyons IGA and continue this collaborative planning into the future.

One aspect of the BCCP philosophy that directs growth and development into municipalities which means that the county is not a competing development option for property owners. Current county zoning allows development within unincorporated areas that may conflict with the orderly growth and desired development outcomes of the Town of Lyons, presenting a competing option. Rezoning the subject properties makes clear that the expected future of these properties while in the county is low intensity development consistent with the surrounding unincorporated county lands and should more intensive development be desired by current or future property owners, this should be pursued with the Town of Lyons.

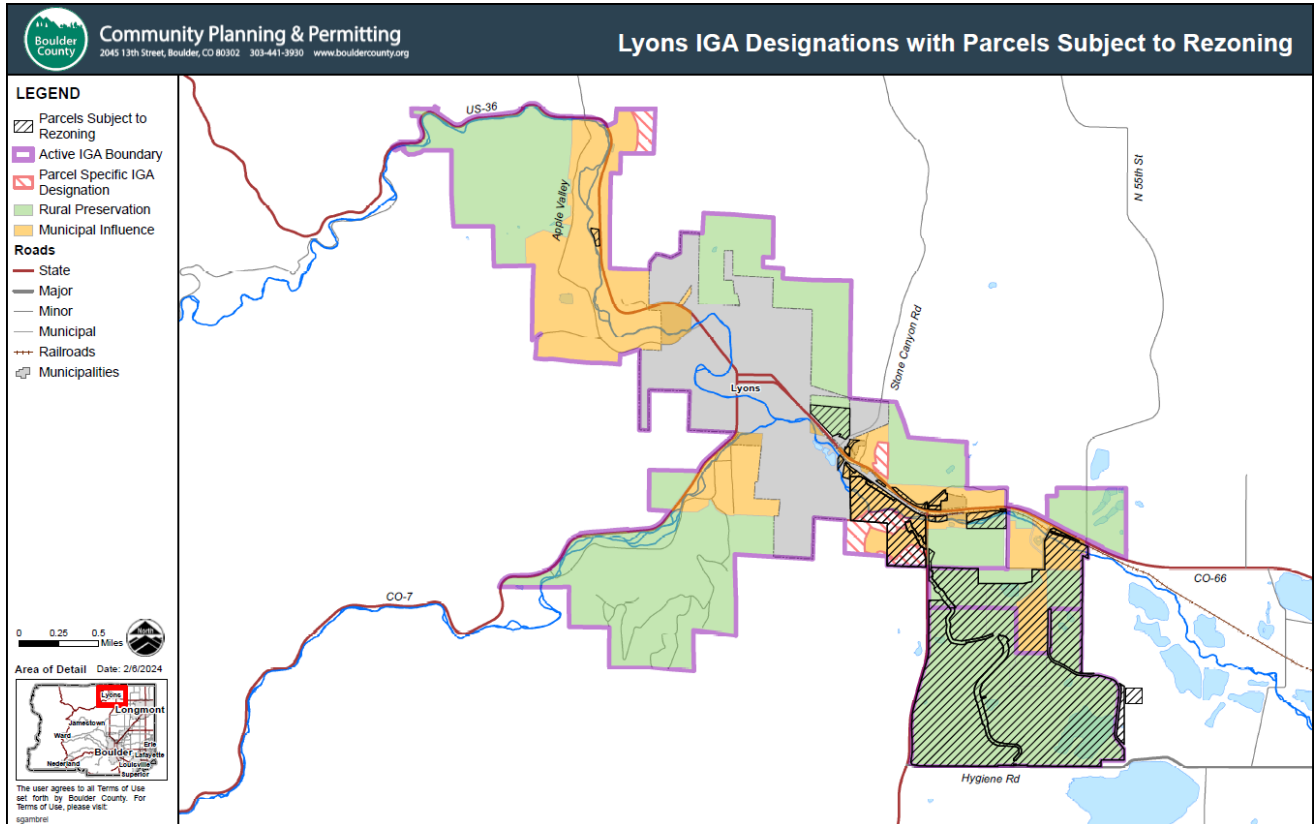


Figure 2

The Town of Lyons and surrounding areas were heavily impacted by the 2013 Flood and recovery continues to be an ongoing process. This experience requires that we consider the appropriateness of the current zoning in these flood hazard areas. Flooding in Lyons is not a new phenomenon, the [2022-2027 Boulder Hazard Mitigation Plan \(HMP\)](#) includes a list of flood events along St. Vrain Creek dating as far back as 1844. The HMP describes flooding as a hazard that covers a significant geographic extent, has a highly likely probability/frequency, is of critical magnitude/severity, and is an increased threat due to climate change is identified as severe.

Annex A of the HMP identifies the following as an action to implement the HMP (Page A-26):

Name of Action: Integration of Land Use and Mitigation Plans Hazards

Addressed: Flood, Wildfire, Landslides and other Geologic Hazards

Mitigation Goal or Objective Addressed: Goals 1, 2, 3, and 4

Issue/Background: Utilize updated data, technical expertise and community input to update and integrate County's Comprehensive Plan, Land Use Code, and Hazard Mitigation Plan. Assure linkages and policy consistency and forge a stronger tie between Land Use decisions and policies and the Hazard Mitigation Plan. Identify short- and long-term policies and programs to meet integrated goals. Recognize and address potential environmental impacts of mitigation measures so ecological health is maintained.

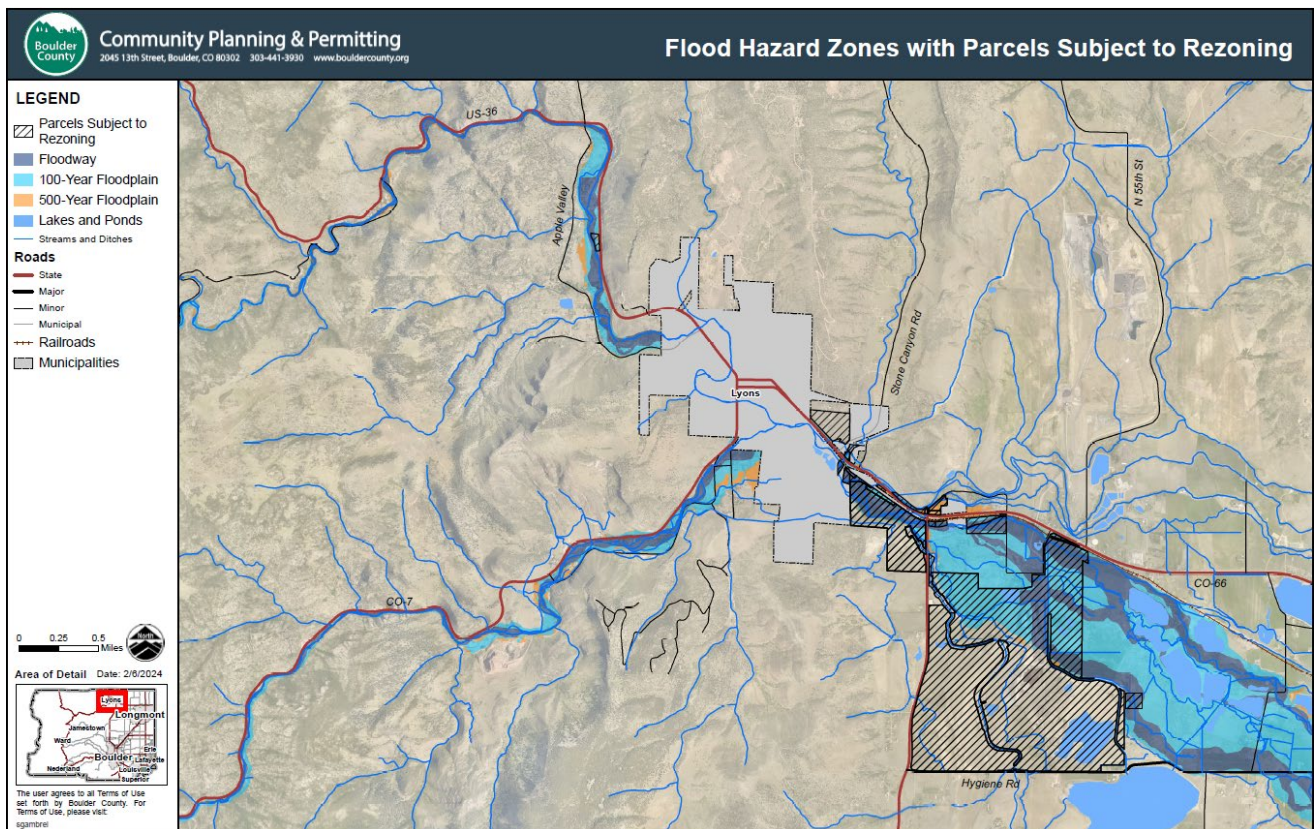
Other Alternatives: No Action

Action Status: Ongoing

Responsible Office: Boulder County Community Planning & Permitting and Office of Emergency Management Priority (High, Medium, Low): Medium

Implementation of this action means undertaking a review and evaluation of the current Land Use standard and re-evaluating it through the lens of hazard mitigation to consider if our current practices are in alignment with hazard mitigation goals. The Land Use Code and accompanying zoning map is the basis for all current Land Use practices, beginning here and evaluating the practice of having high intensity zoning in flood hazard areas is reasonable. Exhibit B provides a list of the parcels under consideration and the flood hazard designations found within each parcel.

The rezoning of parcels, where high intensity uses and development is currently permitted, to low intensity zone districts will continue efforts to respond to the 2013 Flood. This phase, now focused on resiliency planning and hazard mitigation, calls for specific action to implement the Hazard Mitigation Plan. All parcels subject to the rezoning have some degree of known flood hazard.



### **BUSINESS ZONED PROPERTY**

One property being considered for rezoning is currently zoned Business. This parcel (parcel number 120112000047 addressed as 18668 N St. Vrain) is owned by River Ministries. The current use on the property, a Church, was established in 2002 when a Site Plan Review for a change of use was approved. This property has Floodway, 100 Year Floodplain, and 500

Year Floodplain designations and was significantly impacted by the 2013 Flood. County records indicate that a Hazard Mitigation Review for repair of the structure was approved, and that the property was part of the North St. Vrain Creek rehabilitation project. The subject property is the sole Business zoned property in the area. The other parcels in the area between Apple Valley Road and N. St. Vrain (US 36), in which this parcel sits, are zoned Rural Residential and Staff recommends Rural Residential zoning for this property consistent with the zoning in the area. A Church is a permitted use in the Rural Residential zone district.

### **TRANSITIONAL ZONED PROPERTIES**

Two properties being considered for rezoning have some amount of area currently zoned Transitional.

Parcel number 120321000038 addressed as 4964 Highland Drive, is owned by Boulder County and was purchased for Open Space. It is an undeveloped parcel with the St. Vrain Creek and associated riparian area being its main feature. This parcel has both Floodway and Floodplain designations. Only the north edge of this property is zoned Transitional with the remainder of the parcel zoned Agricultural. Staff recommends Agricultural zoning for this property which would be consistent with the zoning on the majority of the parcel and that of the surrounding area.

Parcel number 120321000036, addressed as 4720 Ute Highway, is owned by Blue Mountain Stone Inc. Boulder County holds a conservation easement on this property. This parcel has both Floodway and Floodplain designations. The conservation easement prohibits the division or annexation of this parcel and limits the amount of new development. It is unclear to staff currently what the legally established uses on this property are. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area.

### **COMMERCIAL ZONED PROPERTIES**

Ten properties being considered for rezoning have some amount of area currently zoned Commercial. Six of these properties have both Commercial and Agricultural designations.

Parcel number 120320100021 addressed as 13050 N Foothills Hwy., is owned by Fred David & Dorothy Beth Dirkes. This parcel is located at the southeast corner of US 36 and CO-66. The property is zoned Commercial and is located within the Floodway and 100 Year Floodplain of the St. Vrain Creek. The 2013 Flood destroyed the residence and a shed that was located on the property which have not been rebuilt. A sawmill structure and detached garage survived the flood and exist on site today. Currently, it is unclear what the legally established uses on this property are. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area.

Parcel number 120320100020 addressed as 4592 Ute Hwy., is also owned by Fred David & Dorothy Beth Dirkes and is located immediately east of and adjacent to the previously discussed parcel. The property is zoned Commercial and is located within the Floodway, 100 Year Floodplain, and 500 Year Floodplain of the St. Vrain Creek. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area. It

appears that the principal use on the property is a Single Family Dwelling, a use permitted in the recommended Agricultural zone district.

Northeast of the intersection of US 36 and CO 66 are two properties owned by Steven Tebo. These parcels are bounded by Highland Drive to the west and north and CO-66 to the south. Parcel 120320100024, addressed as 4545 Ute Hwy and 4559 Ute Hwy, is north of and adjacent to CO-66. The parcel is primarily zoned Commercial, although a very small area at the northwest corner of the property is zoned Agricultural. This property is located within the 500 Year Floodplain of the St. Vrain Creek. The property has multiple structures and currently it is unclear what the legally established uses on this property are. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area. Parcel 120320100018, addressed as 4602 Highland Dr., is north of and adjacent to the previously discussed parcel. This property is primarily zoned Commercial except for the area along Highland Drive where the Palmerton Ditch is located and the area around the house at the north end of the parcel. This property is located within the 500 Year Floodplain of the St. Vrain Creek. The uses on the parcel appear to be residential and/or agricultural. Unused structures at the south end of the property appear to be associated with a past use as a plant nursery or similar use. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area.

West of Highland Drive north of CO 66 is Parcel number 120320100005, addressed as 4099 Ute Hwy. The parcel is primarily zoned Commercial, although a small area at the northeast corner of the property is zoned Agricultural. This property is located within the 500 Year Floodplain of the St. Vrain Creek. The property is owned by AER Investments LLC and has operated as a Marijuana Establishment since 2009. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area. The existing use is not permitted in the Agricultural zone district and would become a Nonconforming Use.

The parcel adjacent to the west is parcel number 120320100004 addressed as 4435 Ute Hwy., owned by DMRR LLC. This long narrow parcel is primarily zoned Agricultural with a portion on the east end being zoned Commercial. Several small structures are located in the eastern portion of the parcel, their current use is unknown. The remainder of the parcel is encumbered by the Rough and Ready Ditch which flows along the bottom of a steep hillside. The 100 Year Floodplain and 500 Year Floodplain of the St. Vrain Creek are delineated within this parcel however the higher elevations portions are outside of any hazard designated area. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area and the zoning on most of the property.

Parcel number 120320200015, addressed as 4278 Ute Hwy., is located south of US 36 approximately 1/3 mile west of the intersection of US 36 and CO 66. Owned by Paul Frysig, the property is zoned Commercial and the majority of the property is located within the 500 Year Floodplain. A residence and stone yard appear to be active on the property. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area.

Parcel number 120320200006, addressed as 4099 Ute Hwy, is owned by Tracy Lee & Laura A McConnell. This parcel is located on the north side of US 36 approximately ¼ mile west of the Frysig property. This parcel sits below the St Vrain Supply Canal and is the location where the canal goes underground before it crosses US 36. An easement for the canal encumbers a portion of the property. The parcel is zoned Commercial and located within the 100 Year Floodplain of the St. Vrain Creek. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area.

Parcel number 120320200017, addressed as 0 Ute Road, the parcel to the north of the McConnell property, is owned by the Northern Colorado Water Conservancy District. The majority of this parcel is zoned Agricultural except for a very small triangular area at the southeast portion of the property zoned Commercial. The parcel is occupied by the St. Vrain Supply Canal infrastructure. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area and the zoning on most of the property.

The final property with Commercial zoning is parcel number 120317000042, addressed as 520 Eagle Ridge Road. An area of approximately 215 feet in depth along the US 36 frontage of the property is zoned Commercial with the remainder being zoned Agricultural. The area zoned Commercial is a steep cliff, undeveloped and unsuitable for development given the topography. The small area at the bottom of the rock wall is located within the 500-year Floodplain. The use on this property is a Single Family Dwelling located in the Agriculturally zoned area and accessed from the north via Eagle Ridge Road. The property is designated as Rural Preservation in the Lyons IGA. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area and the zoning on most of the property.

#### **GENERAL INDUSTRIAL ZONED PROPERTIES**

Seven properties being considered for rezoning have some amount of area currently zoned General Industrial. Four of these properties have both Commercial and Agricultural designations.

Parcel 120320200010, addressed as 0 Ute Hwy, is owned by the US federal government. This 724 sq. ft. parcel appears to be one retained by the US government as tracts surrounding it were disposed of. The parcel is vacant.

The Highland Ditch Company owns parcels 120320200013 and 120320200014 addressed as 4108 Ute Hwy. and 0 Ute Hwy. respectively. These two parcels are located south of Hwy 36 approximately 0.5 miles west of the US 36 – CO 66 intersection, where the Highline Ditch branches off from the St. Vrain Creek before it goes underground to cross north under US 36. These parcels are zoned General Industrial and are encumbered by the Floodway and 100 Year Floodplain of the St. Vrain Creek. The use on these properties appears to be the Highland Ditch and Northern Colorado Water Conservancy District infrastructure. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area.



The Northern Colorado Water Conservancy District also owns two properties in this area associated with its canal system. One parcel, parcel number 120320200012 addressed as 4078 Ute Hwy has been partially annexed to the Town of Lyons, the remainder of the parcel is zoned General Industrial. The second parcel, parcel number 120320200021 addressed as 0 Ute Hwy. is made up of a series of noncontiguous pieces of land stretching to the southeast with a large segment being located east of US 36. This long narrow parcel is zoned both General Industrial and Agricultural. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area.

Parcel number 120320000038 addressed as 5134 Ute Hwy and 12350 N Foothills Hwy. is owned by Loukonen Family LLC. This large L-shaped parcel occupies the area to the southwest corner of the US 36 - CO 66 intersection stretching approximately 1/3 mile south along US 36 and extending almost ½ mile west. The north portion of the property, roughly north of the St. Vrain Creek, and the frontage portion along US 36 for a distance of approximately 950 feet are zoned General Industrial. The remainder of the parcel is zoned Agricultural. The area of the parcel north of the St. Vrain Creek and the Boulder Feder Canal are primarily delineated as Floodway however small areas are delineated as Floodplain. A stone yard has historically operated on the property however the nature and extent of this use is unclear. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area and the zoning on the remainder of the property.

Parcel number 120328000001 addressed as 4324 Ute Hwy, 12993 N Foothills Hwy, 13051 N Foothills Hwy. is owned by CEMEX Inc. This large parcel is located east of and adjacent to US 36, and north of and adjacent to Hygiene Road. Zoning of the property is primarily Agricultural with a portion zoned General Industrial in the central part of the parcel. Northern portions of the parcel are located within the Floodway and 100 Year Floodplain of St. Vrain Creek. Cemex plant operations occupy the area zoned General Industrial. Staff recommends Agricultural zoning for this property consistent with the zoning of the surrounding area and the zoning on the property.

### **SUMMARY**

This comprehensive rezoning seeks to reduce the intensity of the zoning in the Lyons area to better reflect the updated vision for development and growth in these intense-use zoning districts while the lands they encompass remain under Boulder County's jurisdiction. The Agricultural zone district is the lowest intensity zone district within the county, and most of the Plains area of the county is zoned Agricultural. With exception of the Riverside Church property, which is proposed to be rezoned to Rural Residential consistent with its surroundings, all properties are proposed to be rezoned Agricultural.

### **IMPLEMENTATION**

Upon approval by the Board of County Commissioners the new zone districts would become effective and the county will update the zoning map. During this project staff tried to determine the uses on the subject properties however there are several properties where the picture is incomplete. Given that the properties were zoned as they currently are in the mid-1980s, it is likely that properties could currently be considered Nonconforming either in regard to their use or the structure on the property. For example, the Code requires that

properties with multiple principal uses obtain a Special Use approval, however none of the properties under consideration for rezoning have obtained this approval while it appears that some could have multiple principal uses. When rezoning there is potential that some uses or structures could become Nonconforming under the Code as the Agricultural zone district may not permit uses that were legally operating under the prior zoning. Property owners are encouraged to reach out to staff to discuss their specific property, its uses and structures to have a determination made regarding their status. If uses or structures are found to be Nonconforming, they may continue as provided for in section 4-1000 of the Land Use Code.

### **CRITERIA REVIEW**

Staff reviewed the conditions and standards for approval for zoning map amendments under Article 4-1102 of the Boulder County Land Use Code, and finds the following:

**1) A public need exists for the map amendment;**

The map amendment is necessary to align the zoning with the anticipated future of these properties while they remain unincorporated, align the zoning in the area with the goals of the Town of Lyons removing the county zoning as a factor that could conflict with the Town’s implementation of its vision, and removes the potential for intensive development in flood hazard areas.

Therefore, staff determines that this criterion is met.

**2) The amendment is consistent with and in furtherance of the stated intent and purposes of this Code;**

The hazard mitigation, growth management and coordination, and environmental preservation achieved by the proposed rezoning is consistent with the stated intent and purpose of the Code (Section 1-300.A.) which is “enacted to protect and promote the health, safety, and general welfare of the present and future inhabitants of Boulder County and to guide future growth, development, and distribution of land uses within Boulder County”.

Therefore, staff determines that this criterion is met.

**3) The amendment is in accordance with the *Boulder County Comprehensive Plan* and any applicable intergovernmental agreement affecting land use development;**

Staff finds the proposed map amendment is in accordance with the Boulder County Comprehensive Plan including:

**Introduction**

The BCCP was developed to respond to the widely accepted principle that the county will make decisions affecting the future of the county’s lands in a coordinated and responsible manner. Since its initial adoption in 1978, the overall philosophy of the Plan has changed very little; the county’s vision is to channel growth to municipalities, to protect agricultural lands, and to prioritize preservation of our environmental and natural resources in making land use and related decisions. (Page IN-1)

Channeling future growth and more intensive development into the Town of Lyons and preserving the unincorporated areas as rural land uses is compatible with this goal.

#### Cross Cutting Themes

**Sustainability:** The use, development, and protection of resources in a way that enables Boulder County residents to meet their needs and maintain a high quality of life, without compromising the ability of future residents to do the same, while ensuring protection and enhancement of naturally occurring ecosystems and their native species populations.

**Climate Action:** Achieve rapid and deep greenhouse gas emission reductions and strengthen resilience and adaptive capacity to climate-induced impacts.

The higher intensity zone districts being reviewed are generally located in the St. Vrain Creek vicinity, where the Comprehensive Plan identifies various environmental resources along the creek. Reducing the level of intensity of the uses in this area will support the preservation of these resources and natural systems. Climate change leading to more severe weather events requires action to move or remove potential hazards and hazardous activities from areas subject to flooding strengthening community resiliency in the face of such events and preventing environmental damage from occurring during such events.

#### Intergovernmental Agreements

Colorado government has a long history of local control over planning issues versus a more regional approach as seen in states where the state government or county governments have authority to control the land use decisions of municipalities. In Boulder County, each municipality has the authority to make their own plans, annex land, and develop without approval of the county. Intergovernmental Agreements (IGAs) balance the concept of local control with the need to plan for regional impacts because the IGA plans are jointly created and voluntarily adopted by the involved governments. (Page IN 4 -5)

The Lyons IGA has been in place since 2003 and the Town of Lyons has recently updated their Comprehensive Plan. Aligning the county zoning to support the implementation of this plan and the IGA is consistent with the BCCP.

#### Environmental Resources – Countywide Goals

The subject properties are located in close proximity or adjacent to the St. Vrain Creek system. Except for the River Ministries parcel which has the North St. Vrain Environmental Conservation Area (ECA) to its west, the parcels lie and between the Rabbit Mountain ECA to the north and east and the South St. Vrain/Foothills ECA to the south and west. Due to the situation of the parcels within the landscape a variety of natural resources identified in the Comprehensive Plan are delineated within

these parcels including Environmental Conservation Area, Overland Habitat Connector, Riparian Habitat Connector, Riparian Area, Wetlands, Preble's Meadow Jumping Mouse Habitat, Critical Wildlife Habitat, High Biodiversity Area, Natural Areas and their buffer, and Significant Agricultural Lands of state and local importance. Exhibit C is a list of the parcels and the resources found within the parcels boundaries. Maps of the noted resources are found in Exhibit D. Given the identified Environmental Resources in the area the following goals support the rezoning of the area to low intensity zone districts:

1. Conserve & Preserve. Boulder County shall conserve and preserve environmental resources including its unique or distinctive natural features, biodiversity, and ecosystems through protection and restoration in recognition of the irreplaceable character of such resources and their importance to the quality of life in Boulder County.
2. Sustain & Protect. Boulder County sustains and protects native species, natural ecosystems and the biodiversity of the region by designating High Biodiversity Areas, Natural Areas, Natural Landmarks, Significant Natural Communities, Critical Wildlife Habitats, Species of Special Concern, Wetlands, Riparian Areas, and Rare Plant Areas. Other resources and designations may be identified in the future. These designated areas and species lists also provide a point of reference for continued monitoring of long-term ecological change.
4. Recognize Climate Change. Boulder County recognizes that climate change is having significant impacts on our environmental resources. As the body of climate science knowledge grows and potential effects are better understood, Boulder County shall incorporate the best scientific information into planning and decision-making to adapt to and offset those impacts.
6. Protect Natural Landmarks. Boulder County shall continue to protect prominent natural landmarks and other unique scenic, visual and aesthetic resources in the county.
7. Conserve & Preserve. Boulder County shall conserve and preserve Environmental Conservation Areas (ECAs) in order to perpetuate native species, biological communities, and ecological processes that function over large geographic areas and require a high degree of connectivity to thrive.

#### Natural Hazards - Countywide Goals

1. Reduce Pollution & Degradation. Air, water and noise pollution and overall environmental degradation should be reduced as much as possible or eliminated in order to prevent potential harm to life, health and property.
2. Limit Inappropriate Development. Inappropriate development in natural hazard areas should be reduced as much as possible or eliminated in order to minimize potential harm to life, health and property.

3. Mitigate Existing Areas at Risk. Efforts to mitigate existing areas at risk to the impacts of natural hazards and disasters should be made to minimize the potential for harm to life, health, and property.

#### Natural Hazards Element

NH 1.01 Reduction of Economic, Environmental and Social Costs. The total economic, environmental and social costs associated with natural hazards should be reduced first, by avoiding potential hazard situations/areas; second, by applying environmentally appropriate mitigation in areas that cannot be avoided; and, third, by prevention measures accompanied with education and incentives for mitigation.

NH 1.03 Land Use Activities. The county should ensure to the extent possible that land use activities do not aggravate, accelerate, or increase the level of risk from natural hazards.

NH 1.04 Risk Reduction. The level of risk from natural hazards should be reduced through positive county action such as guiding development away from areas prone to natural disturbances, mitigating existing development from hazards, and considering the impact on ability to provide emergency services.

NH 4.01 Limits to Development in Floodplains. The county should strongly discourage and strictly control land use development from locating in designated floodplains, as identified in the Boulder County Zoning Maps.

#### Sustainability Element

Goal 10. Protect Natural Assets. The county's rich and varied natural features, scenic vistas, ecosystems, and biodiversity should be protected from further intrusion, disruption, consumption and fragmentation.

Various goals in the Comprehensive Plan support the rezoning as proposed to better manage growth, protect environmental resources and natural systems, respond to the risk of natural hazards associated with area flooding. Therefore, staff determines that this criterion is met.

#### **4) The subject property is an appropriate site for the map amendment, and is a reasonable unit of land for such reclassification;**

In the context of a comprehensive rezoning where multiple parcels are being considered for a map amendment, staff considered whether collectively they are appropriate to rezone. The subject parcels are those with intensive zone districts within the 3-Mile Planning area of the Town of Lyons, are included in the Lyons IGA boundary, are in identified flood hazard areas, and have identified environmental resources on the properties making these properties collectively appropriate for rezoning.

Nineteen properties of various sizes are proposed for rezoning. Their configuration and size have been historically determined and occasionally reflect their specific use (such as the ditch and canal parcels), and none of the properties are Subdivided

Land. The size and configuration of the one property recommended to be changed to the Rural Residential Zone District is consistent in size and shape to the other Rural Residential Zoned properties in the vicinity. Due to the long history of land division in the county, predating zoning and subdivision regulations, the shape and configuration of parcels in the Agricultural zone district varies widely. The parcels proposed to be rezoned Agricultural are not inconsistent with other Agricultural zoned properties in the county. The parcels are reasonable units of land for reclassification.

Therefore, staff determines that this criterion is met.

**5) The map amendment would not have a material adverse effect on the surrounding area;**

The properties in question have zoning of an intensity that is atypical in Boulder County as most of the plains portion of county is zoned Agricultural and to a lesser degree one of the residential districts. Rezoning to Rural Residential and Agricultural brings the zoning on these properties into alignment with the zoning in the local area but also county wide. Zoning inconsistent with the surrounding area does have a potential to allow uses that have adverse impact while reducing the potential intensity of development in these areas to that consistent with their surrounding areas will not have an adverse impact on those areas.

Therefore, staff determines that this criterion is met.

**6) The map amendment will not result in an over-intensive use of land;**

The proposed rezoning reduces the intensity of the zone district applicable to these properties lessening their potential to allow intensive uses.

Therefore, staff determines that this criterion is met.

**7) The map amendment will not have a material adverse effect on community capital improvement programs;**

The proposed rezoning reduces the intensity of the zone district applicable to these properties lessening their potential to allow intensive uses which would have impacts on community capital improvement programs.

Therefore, staff determines that this criterion is met.

**8) The map amendment will not require a level of community facilities and services greater than that which is available;**

The proposed rezoning reduces the intensity of the zone district applicable to these properties lessening their potential to allow intensive uses which could require facilities and services greater than which is available. Many of these properties operate at a similar or lesser intensity as when they were rezoned in the 1980s, although the zoning may have allowed more intensive uses, there are not community facilities and services to support that type of development. Rezoning to less intensive zone districts aligns the zoning with the level of facilities and services available to support development on the properties.

Therefore, staff determines that this criterion is met.

- 9) The map amendment will not result in undue traffic congestion or traffic hazards;**  
The proposed rezoning reduces the intensity of the zone district applicable to these properties lessening their potential to allow uses which create congestion or traffic hazards.

Therefore, staff determines that this criterion is met.

- 10) The map amendment will not cause significant air, water, or noise pollution;**  
The proposed rezoning reduces the intensity of the zone district applicable to these properties lessening their potential to allow polluting uses.

Therefore, staff determines that this criterion is met.

- 11) The map amendment will not permit the use of any area designated within the *Boulder County Comprehensive Plan* for the extraction of commercial mineral deposits in a manner which would interfere with the present or future extraction of such deposit by an extractor to any greater extent than under the present zoning of the property;**

An Aggregate Resource Area is identified south of CO 66 and east of US 36. Two of the parcels considered for rezoning have this designation delineated within them; parcel number 120321000038 addressed as 4964 Highland Drive, owned by Boulder County and Parcel number 120328000001 addressed as 4324 Ute Hwy, 12993 N Foothills Hwy, 13051 N Foothills Hwy. owned by CEMEX INC. However, BCCP Policy GE 2.03 Lands Excluded from Aggregate Resource Areas states the county shall not include Critical Wildlife Habitat or Agricultural Lands of National or Statewide Importance in its Aggregate Resource Areas. Critical Wildlife Habitat and Significant Agricultural Lands are located within both properties and are delineated in areas the overlap a significant portion of the mapped aggregate area excluding much of the mapped mineral resource area from the Aggregate Resource Area designation. For the Aggregate Resource Area that remains relevant, BCCP Policy GE 2.04 Intensive Uses in Aggregate Resources Areas states ‘the county shall strongly discourage intensive uses in Aggregate Resource Areas’. Rezoning these properties to a less intensive zone district is consistent with this policy.

Therefore, staff determines that this criterion is met.

- 12) It must be demonstrated that any structures to be built on the property will not be affected by geologic hazards if they exist;**

This criterion is not applicable as no structures are under consideration for construction as a result of this rezoning.

- 13) The map amendment will not otherwise be detrimental to the health, safety, or welfare of the present or future inhabitants of Boulder County;**

Staff has heard from two property owners expressing concerns about how this

rezoning could impact their current operations and/or property values. Both properties are eligible for annexation to the Town of Lyons where more intensive development than is possible in the county can be allowed. Additionally, existing legal uses may continue as they historically have. No other concerns regarding this rezoning having a detrimental impact have been identified.

Therefore, staff determines this criterion is met.

**STAFF RECOMMENDS THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF COUNTY COMMISSIONERS APPROVAL OF DOCKET Z-23-0002 LYONS AREA ZONING MAP AMENDMENT** as detailed in this staff report and certify the Docket for action to the Board and the official record of the Docket before the Commission with its staff comments, public testimony, and Commission discussion/action.

The Board of County Commissioners is scheduled to review the proposed map amendments and regulations at a public hearing on ***Thursday March 7, 2024 at 9:00 A.M.***



**Exhibit A**  
**Zoning Map Amendment Table**

Parcel Number	Site Address	Owner Name	Acres	Curent Zoning	Current Zoning 2	Proposed Zoning
1	120112000047	18668 N St Vrain	RIVER MINISTRIES	2.50	Business	Rural Residential
2	120321000038	4964 Highland Dr	COUNTY OF BOULDER	11.56	Transitional	Agricultural
3	120321000036	4720 Ute Hwy	BLUE MOUNTAIN STONE INC	5.22	Transitional	Agricultural
4	120320100020	4592 Ute Hwy	DIRKES FRED DAVID & DOROTHY BETH	1.50	Commercial	Agricultural
5	120320100021	13050 N Foothills Hwy	DIRKES FRED DAVID & DOROTHY BETH	0.84	Commercial	Agricultural
6	120320100018	4602 Highland Dr	TEBO STEPHEN D	3.78	Commercial	Agricultural
7	120320100024	4545 Ute Hwy, 4559 Ute Hwy	TEBO STEPHEN D	1.22	Commercial	Agricultural
8	120320100005	4497 Ute Hwy	AER INVESTMENTS LLC	0.31	Commercial	Agricultural
9	120320100004	4435 Ute Hwy	DMRR LLC	2.99	Commercial	Agricultural
10	120320200015	4278 Ute Hwy	FRYSIG PAUL W	0.56	Commercial	Agricultural
11	120320200006	4099 Ute Hwy	MCCONNELL TRACY LEE & LAURA A	0.85	Commercial	Agricultural
12	120320200017	0 Ute Rd	NORTHERN COLORADO WATER CONSERVANCY DIST	1.12	Commercial	Agricultural
13	120317000042	520 Eagle Ridge Rd	LIVING UNIVERSE TRUST	22.81	Commercial	Agricultural
14	120320200010	0 Ute Hwy	UNITED STATES OF AMERICA	0.02	General Industrial	Agricultural
15	120320200013	4108 Ute Hwy	HIGHLAND DITCH CO	1.95	General Industrial	Agricultural
16	120320200014	0 Ute Hwy	HIGHLAND DITCH COMPANY INC	1.90	General Industrial	Agricultural
17	120320200012	4078 Ute Hwy	NORTHERN COLORADO WATER CONSERVANCY DIST	1.32	General Industrial	Lyons Agricultural
18	120320200021	0 Ute Hwy	NORTHERN COLORADO WATER CONSERVANCY DIST	13.56	General Industrial	Agricultural
19	120320000038	4324 Ute Hwy, 12993 N Foothills Hwy, 13051 N Foothills Hwy	LOUKONEN FAMILY LLC	89.56	General Industrial	Agricultural
20	120328000001	5134 Ute Hwy, 12350 N Foothills Hwy	CEMEX INC	866.36	General Industrial	Agricultural

**Exhibit B**  
**Parcel Flood Hazard Table**

	<b>Parcel Number</b>	<b>Site Address</b>	<b>Owner Name</b>	<b>Floodway Present Within the Parcel</b>	<b>100-Year Floodplain Present Within the Parcel</b>	<b>500-Year Floodplain Present within the Parcel</b>
1	120112000047	18668 N St Vrain	RIVER MINISTRIES	Yes	Yes	Yes
2	120321000038	4964 Highland Dr	COUNTY OF BOULDER	Yes	Yes	
3	120321000036	4720 Ute Hwy	BLUE MOUNTAIN STONE INC	Yes	Yes	Yes
4	120320100020	4592 Ute Hwy	DIRKES FRED DAVID & DOROTHY BETH	Yes	Yes	Yes
5	120320100021	13050 N Foothills Hwy	DIRKES FRED DAVID & DOROTHY BETH	Yes	Yes	
6	120320100018	4602 Highland Dr	TEBO STEPHEN D			Yes
7	120320100024	4545 Ute Hwy, 4559 Ute Hwy	TEBO STEPHEN D			Yes
8	120320100005	4497 Ute Hwy	AER INVESTMENTS LLC			Yes
9	120320100004	4435 Ute Hwy	DMRR LLC		Yes	Yes
10	120320200015	4278 Ute Hwy	FRYSIG PAUL W		Yes	Yes
11	120320200006	4099 Ute Hwy	MCCONNELL TRACY LEE & LAURA A		Yes	Yes
12	120320200017	0 Ute Rd	NORTHERN COLORADO WATER CONSERVANCY DIST		Yes	Yes
13	120317000042	520 Eagle Ridge Rd	LIVING UNIVERSE TRUST		Yes	Yes
14	120320200010	0 Ute Hwy	UNITED STATES OF AMERICA	Yes		
15	120320200013	4108 Ute Hwy	HIGHLAND DITCH CO	Yes		
16	120320200014	0 Ute Hwy	HIGHLAND DITCH COMPANY INC	Yes	Yes	
17	120320200012	4078 Ute Hwy	NORTHERN COLORADO WATER CONSERVANCY DIST	Yes	Yes	
18	120320200021	0 Ute Hwy	NORTHERN COLORADO WATER CONSERVANCY DIST	Yes	Yes	Yes
19	120320000038	4324 Ute Hwy, 12993 N Foothills Hwy, 13051 N Foothills Hwy	LOUKONEN FAMILY LLC	Yes	Yes	Yes
20	120328000001	5134 Ute Hwy, 12350 N Foothills Hwy	CEMEX INC	Yes	Yes	Yes

Exhibit C  
Parcel Environmental Resource Designations

	Parcel Number	Site Address	Owner Name	Environmental Conservation Area	Overland Habitat Connector	Riparian Habitat Connectors	Riparian Area	Wetlands	Prebels Meadow Jumping Mouse Habitat	Critical Wildlife Habitat	High Biodiversity Areas	Natural Landmarks or Area	Natural Landmark or Area Buffer	Significant Agricultural Land
1	120112000047	18668 N St Vrain	RIVER MINISTRIES			Yes	Yes		Zone 3	Yes				
2	120321000038	4964 Highland Dr	COUNTY OF BOULDER			Yes	Yes		Zone 1	Yes				Yes; statewide
3	120321000036	4720 Ute Hwy	BLUE MOUNTAIN STONE INC			Yes	Yes		Zone 1	Yes				Yes; statewide
4	120320100020	4592 Ute Hwy	DIRKES FRED DAVID & DOROTHY BETH			Yes	Yes		Zone 1	Yes			Yes	Yes; statewide
5	120320100021	13050 N Foothills Hwy	DIRKES FRED DAVID & DOROTHY BETH		Yes	Yes	Yes		Zone 1	Yes			Yes	Yes; statewide
6	120320100018	4602 Highland Dr	TEBO STEPHEN D		Yes		Yes		Zone 1				Yes	Yes; statewide
7	120320100024	4545 Ute Hwy, 4559 Ute Hwy	TEBO STEPHEN D		Yes	Yes			Zone 1	Yes			Yes	Yes; statewide
8	120320100005	4497 Ute Hwy	AER INVESTMENTS LLC			Yes			Zone 1	Yes			Yes	Yes; statewide
9	120320100004	4435 Ute Hwy	DMRR LLC			Yes	Yes		Zone 1	Yes	B1 - Outstanding		Yes	Yes; statewide
10	120320200015	4278 Ute Hwy	FRYSIG PAUL W				Yes			Yes				
11	120320200006	4099 Ute Hwy	MCCONNELL TRACY LEE & LAURA A			Yes	Yes		Zone 1					
12	120320200017	0 Ute Rd	NORTHERN COLORADO WATER CONSERVANCY DIST				Yes							
13	120317000042	520 Eagle Ridge Rd	LIVING UNIVERSE TRUST			Yes	Yes		Zone 1					Yes; local
14	120320200010	0 Ute Hwy	UNITED STATES OF AMERICA				Yes		Zone 1	Yes				
15	120320200013	4108 Ute Hwy	HIGHLAND DITCH CO			Yes	Yes		Zone 1	Yes				
16	120320200014	0 Ute Hwy	HIGHLAND DITCH COMPANY INC			Yes	Yes		Zone 1	Yes				
17	120320200012	4078 Ute Hwy	NORTHERN COLORADO WATER CONSERVANCY DIST			Yes	Yes		Zone 1	Yes				
18	120320200021	0 Ute Hwy	NORTHERN COLORADO WATER CONSERVANCY DIST		Yes	Yes	Yes	Yes	Zone 1	Yes		Red Hill NA	Yes	Yes; statewide
19	120320000038	4324 Ute Hwy, 12993 N Foothills Hwy, 13051 N Foothills Hwy	LOUKONEN FAMILY LLC		Yes	Yes	Yes	Yes	Zone 1	Yes		Red Hill NA	Yes	Yes; statewide
20	120328000001	5134 Ute Hwy, 12350 N Foothills Hwy	CEMEX INC	South St. Vrain/Foothills		Yes	Yes	Yes	Zone 1	Yes		Red Hill NA	Yes	Yes; local and statewide



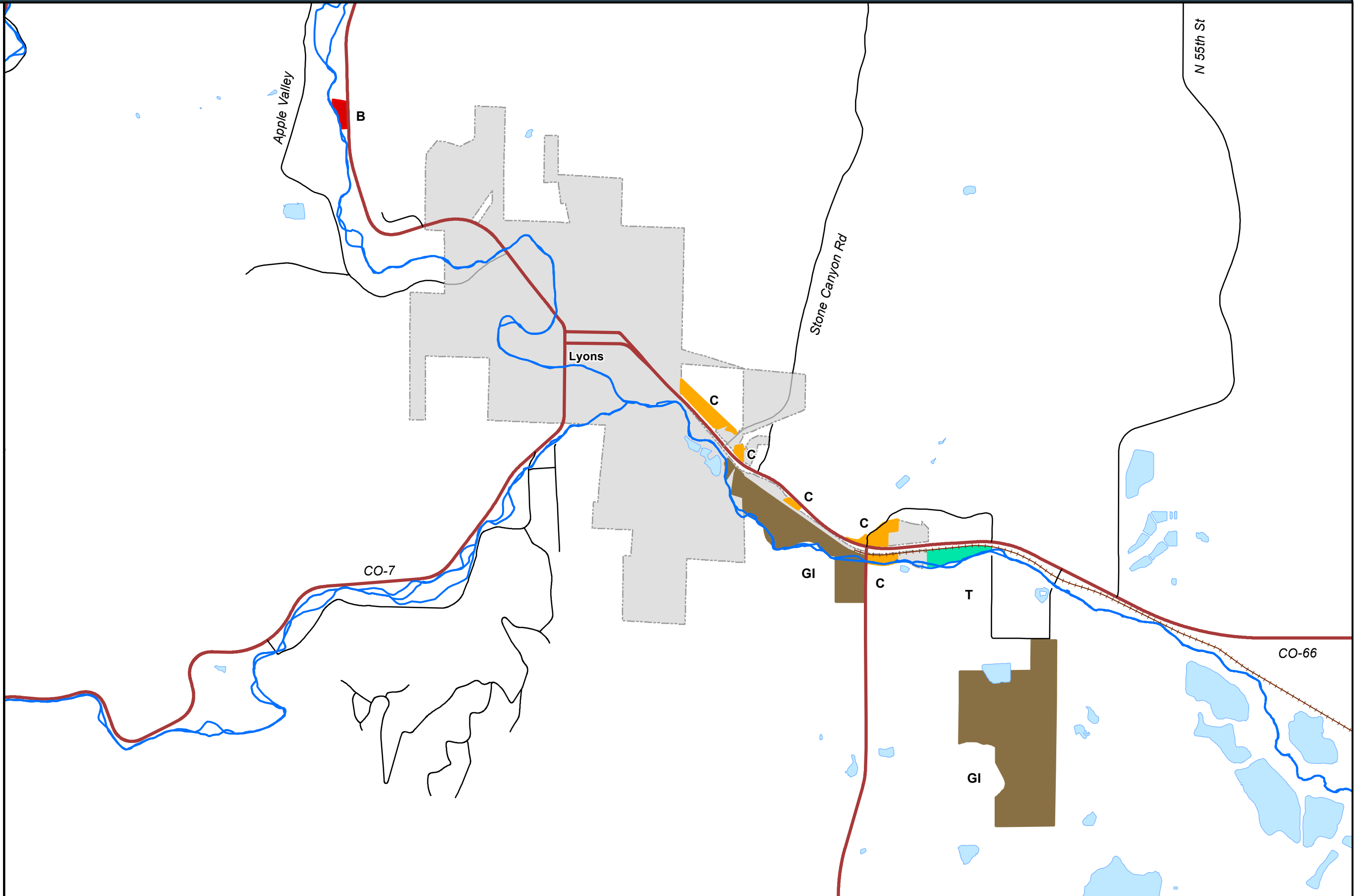
### LEGEND

#### Roads

- State
- Minor
- Municipal
- Railroads

#### Zoning

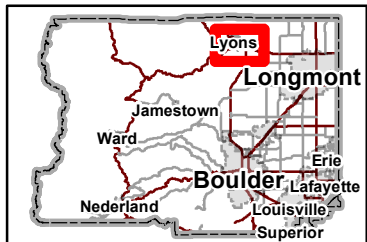
- Business
- Commercial
- General Industrial
- Transitional
- Municipalities



0 0.15 0.3 Miles



Area of Detail Date: 9/5/2023



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## LEGEND

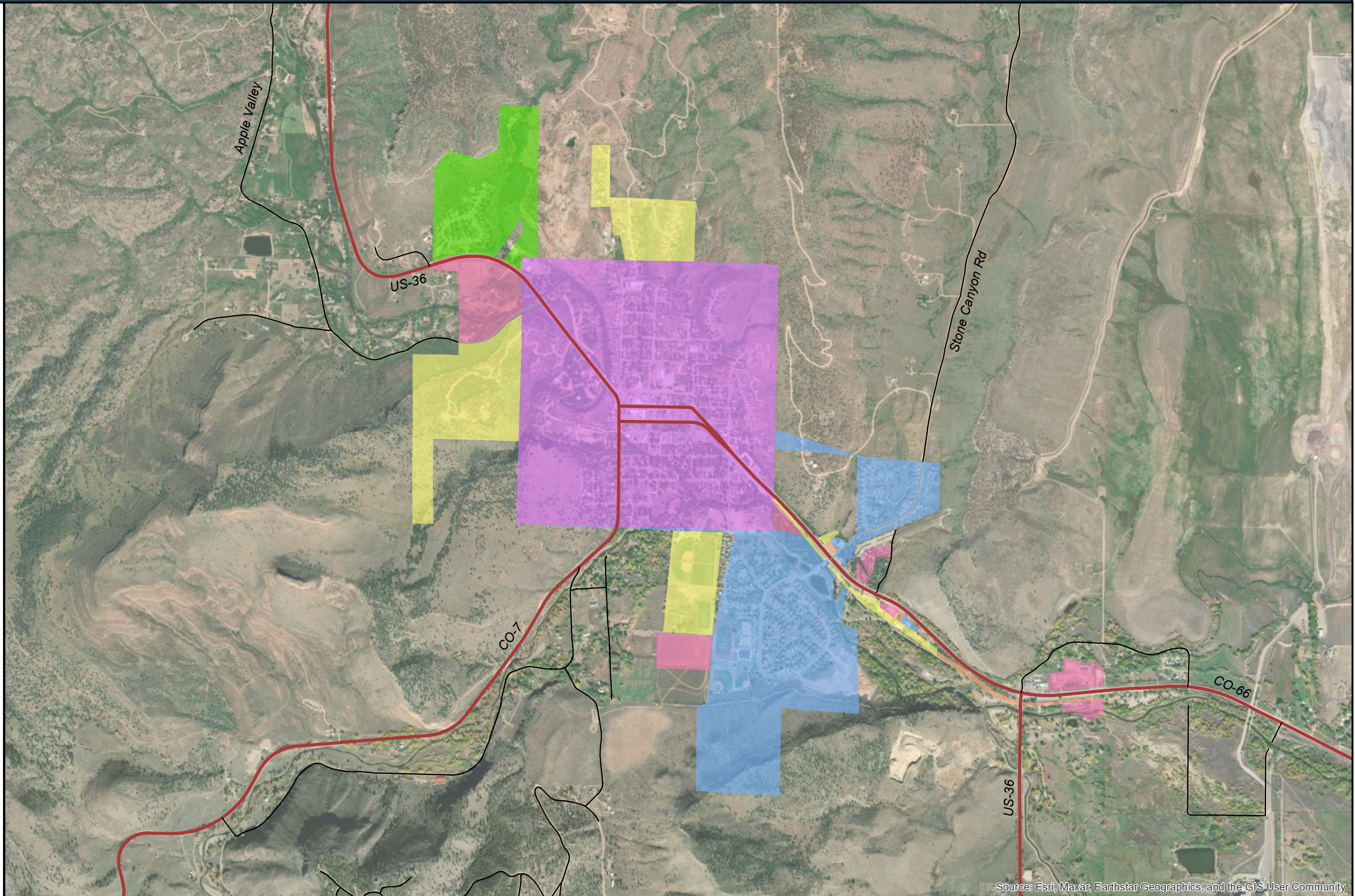
### Roads

- State
- Minor
- Municipal

### Annexation History

#### DECADE

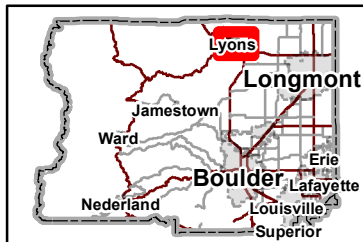
- 1950
- 1970
- 1980
- 1990
- 2000
- 2010



0 0.1 0.2 Miles



Area of Detail Date: 9/12/2023



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

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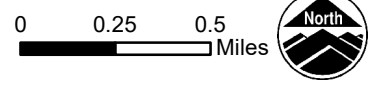
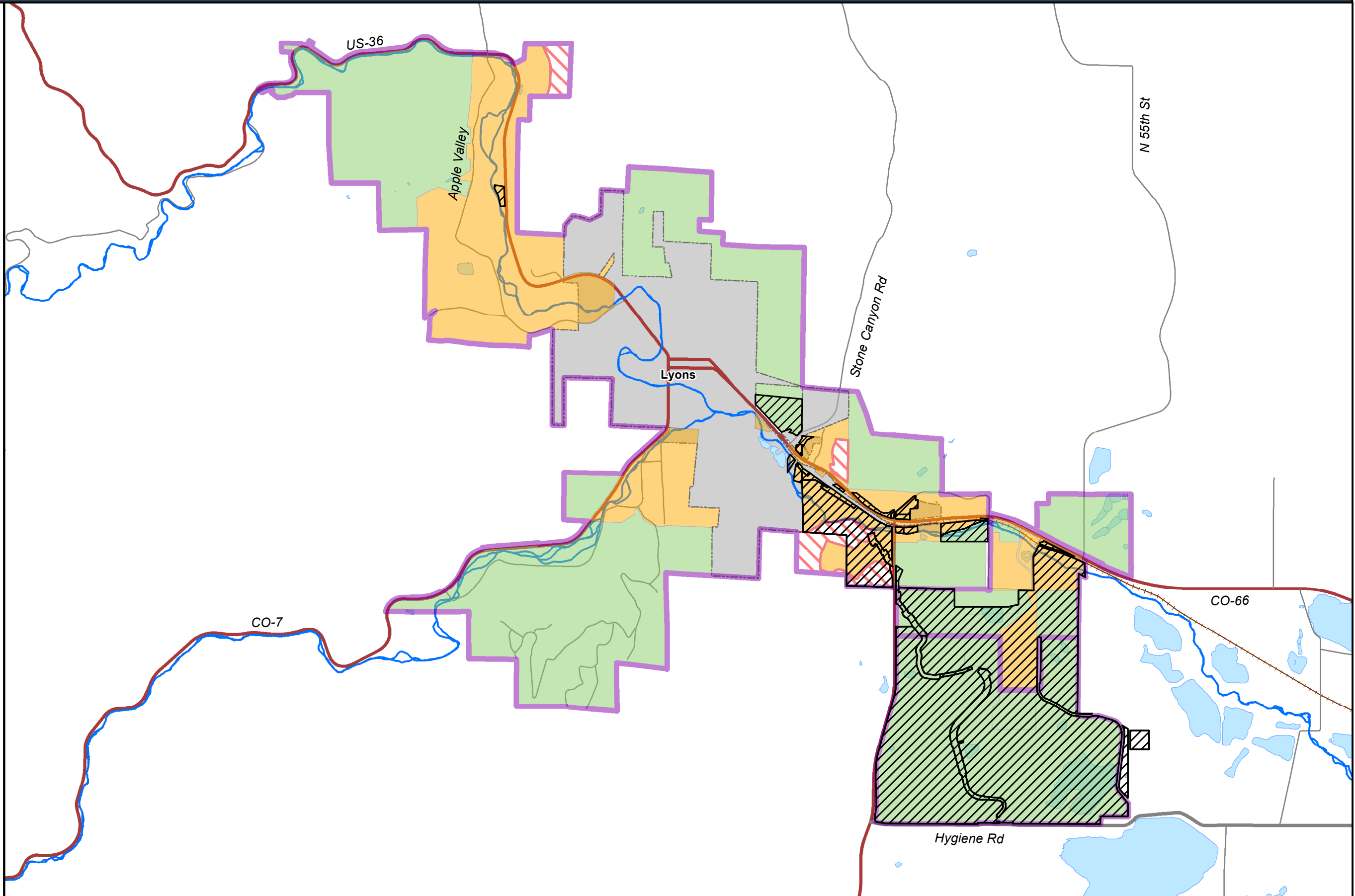
Source: Esri, Maxar, Earthstar Geographics, and the GIS User Community



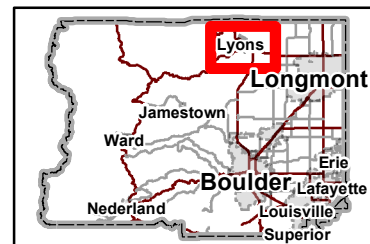
## Lyons IGA Designations with Parcels Subject to Rezoning

### LEGEND

-  Parcels Subject to Rezoning
  -  Active IGA Boundary
  -  Parcel Specific IGA Designation
  -  Rural Preservation
  -  Municipal Influence
- Roads**
-  State
  -  Major
  -  Minor
  -  Municipal
  -  Railroads
  -  Municipalities



Area of Detail Date: 2/6/2024








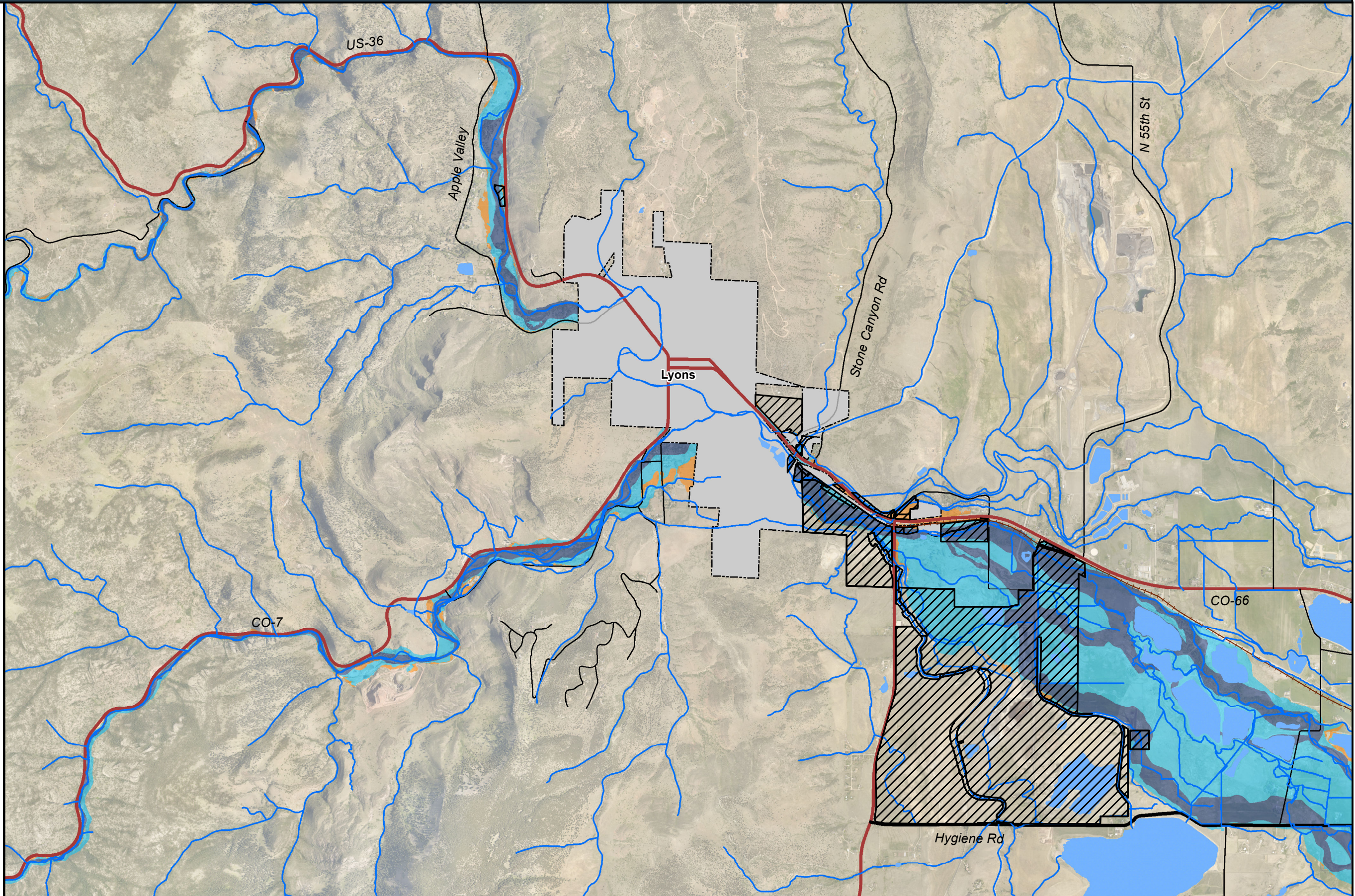
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## Flood Hazard Zones with Parcels Subject to Rezoning

### LEGEND

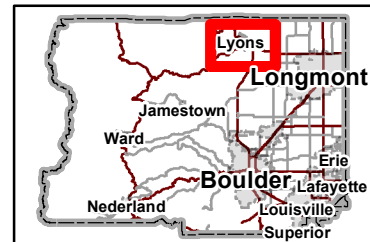
-  Parcels Subject to Rezoning
-  Floodway
-  100-Year Floodplain
-  500-Year Floodplain
-  Lakes and Ponds
-  Streams and Ditches
- Roads**
-  State
-  Major
-  Minor
-  Municipal
-  Railroads
-  Municipalities



0 0.25 0.5 Miles



Area of Detail Date: 2/6/2024



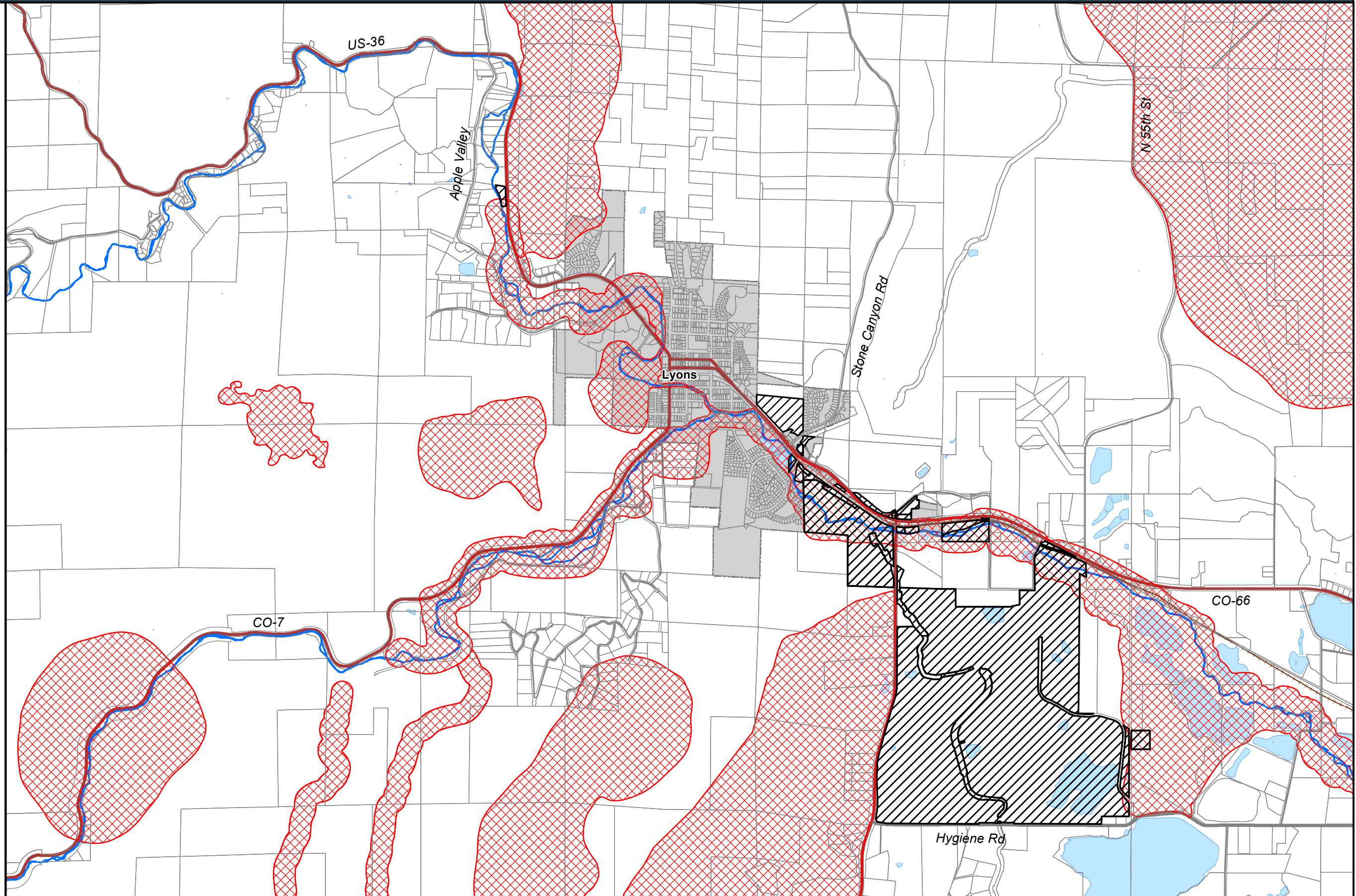
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# BCCP Environmental Resources with Parcels Subject to Rezoning

## LEGEND

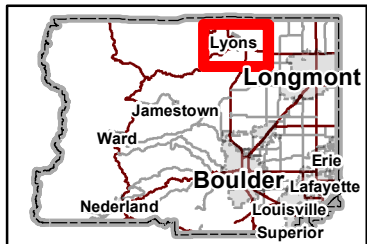
- Parcels Subject to Rezoning
- Critical Wildlife Habitats



0 0.25 0.5 Miles



Area of Detail Date: 2/12/2024



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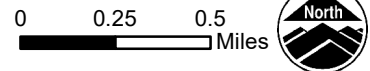
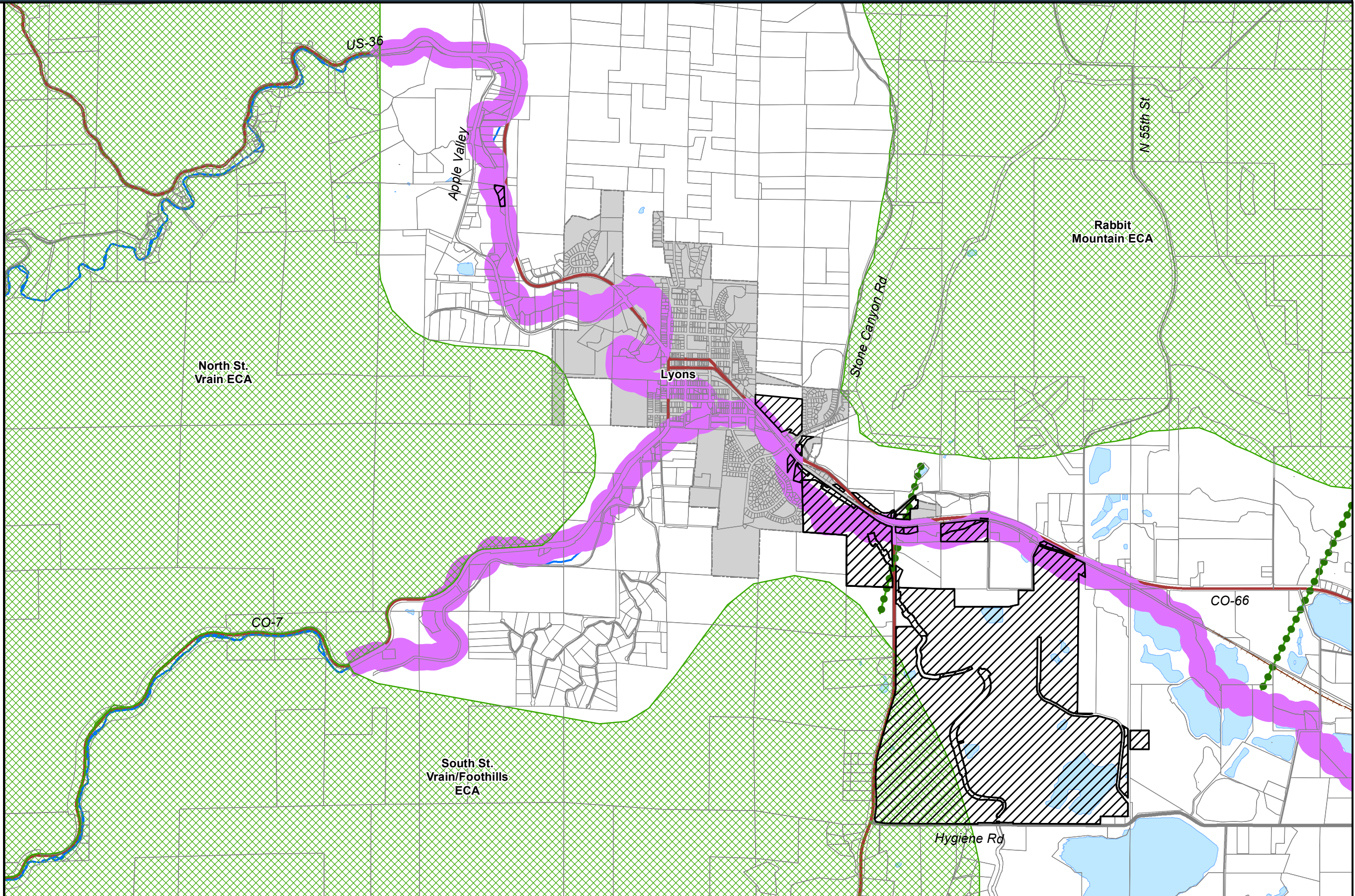




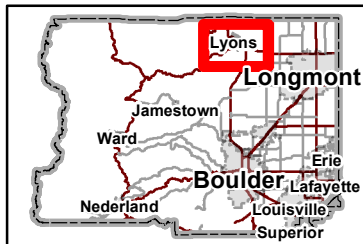
# BCCP Environmental Resources with Parcels Subject to Rezoning

## LEGEND

-  Parcels Subject to Rezoning
-  Environmental Conservation Areas
-  Riparian Habitat Connectors
-  Overland Habitat Connectors



Area of Detail Date: 2/12/2024



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# BCCP Environmental Resources with Parcels Subject to Rezoning

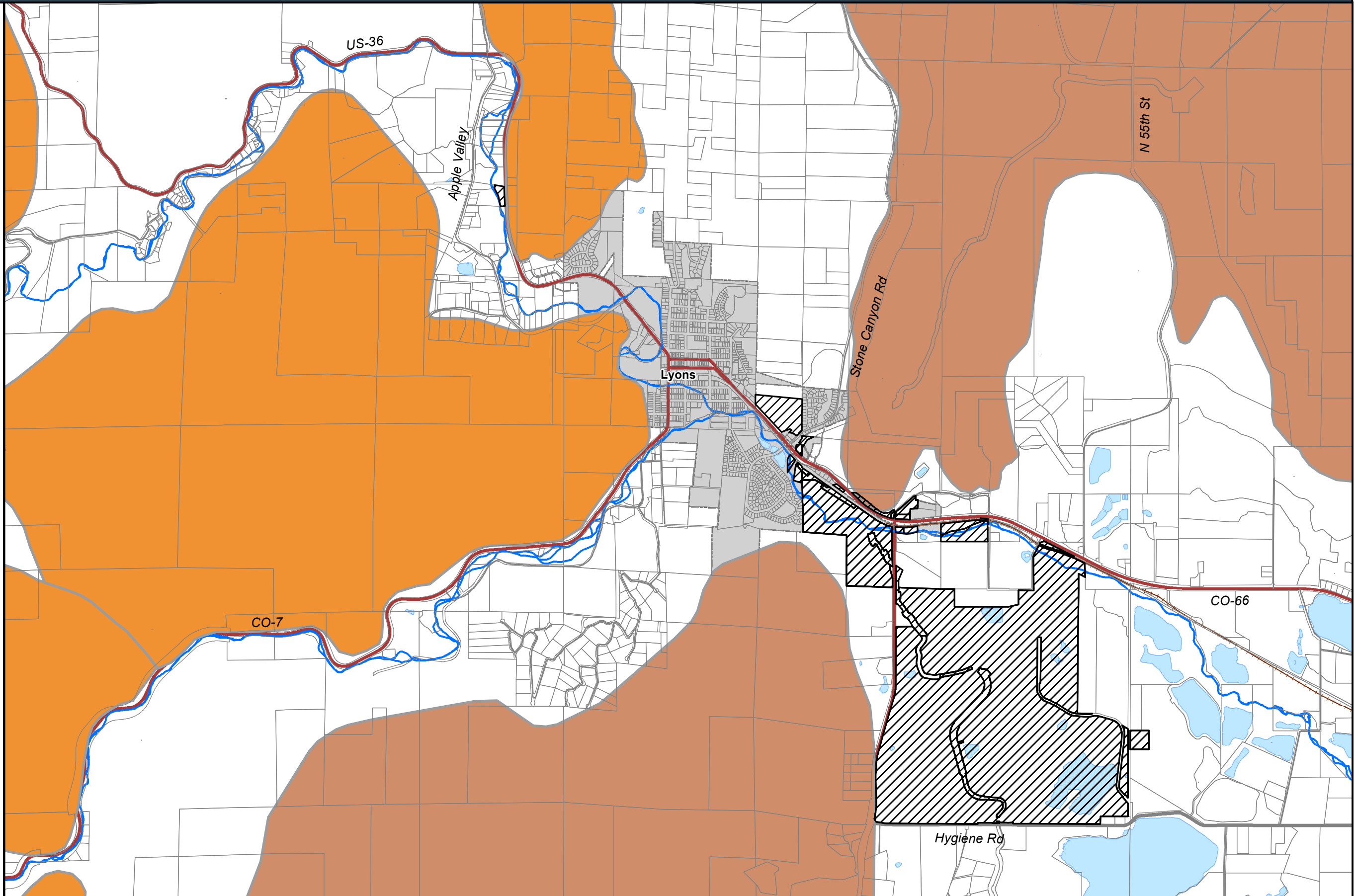
## LEGEND

Parcels Subject to Rezoning

### High Biodiversity Areas

#### Biodiversity Significance Rank

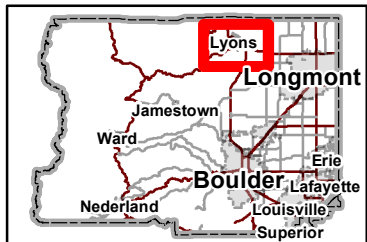
- B1: Outstanding Biodiversity Significance
- B2: Very High Biodiversity Significance



0 0.25 0.5 Miles



Area of Detail Date: 2/12/2024



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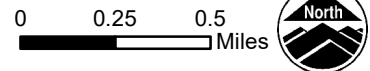
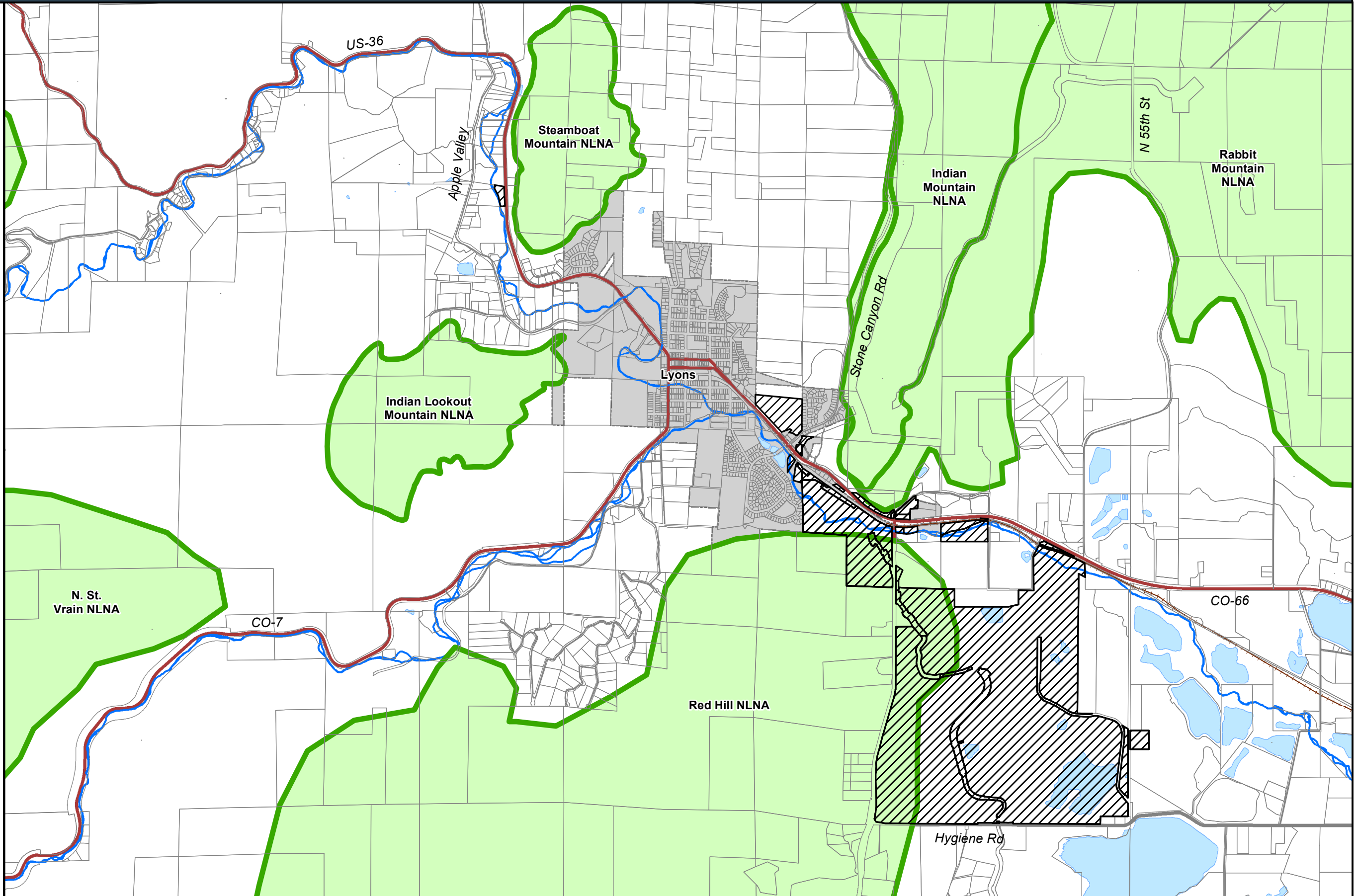
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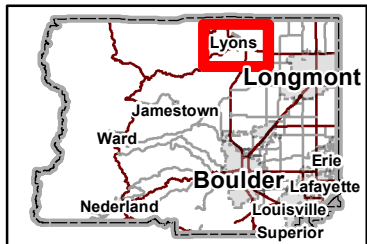
# BCCP Environmental Resources with Parcels Subject to Rezoning

## LEGEND

- Parcels Subject to Rezoning
- Natural Landmarks
- Natural Areas



Area of Detail Date: 2/12/2024








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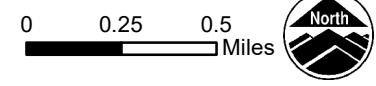
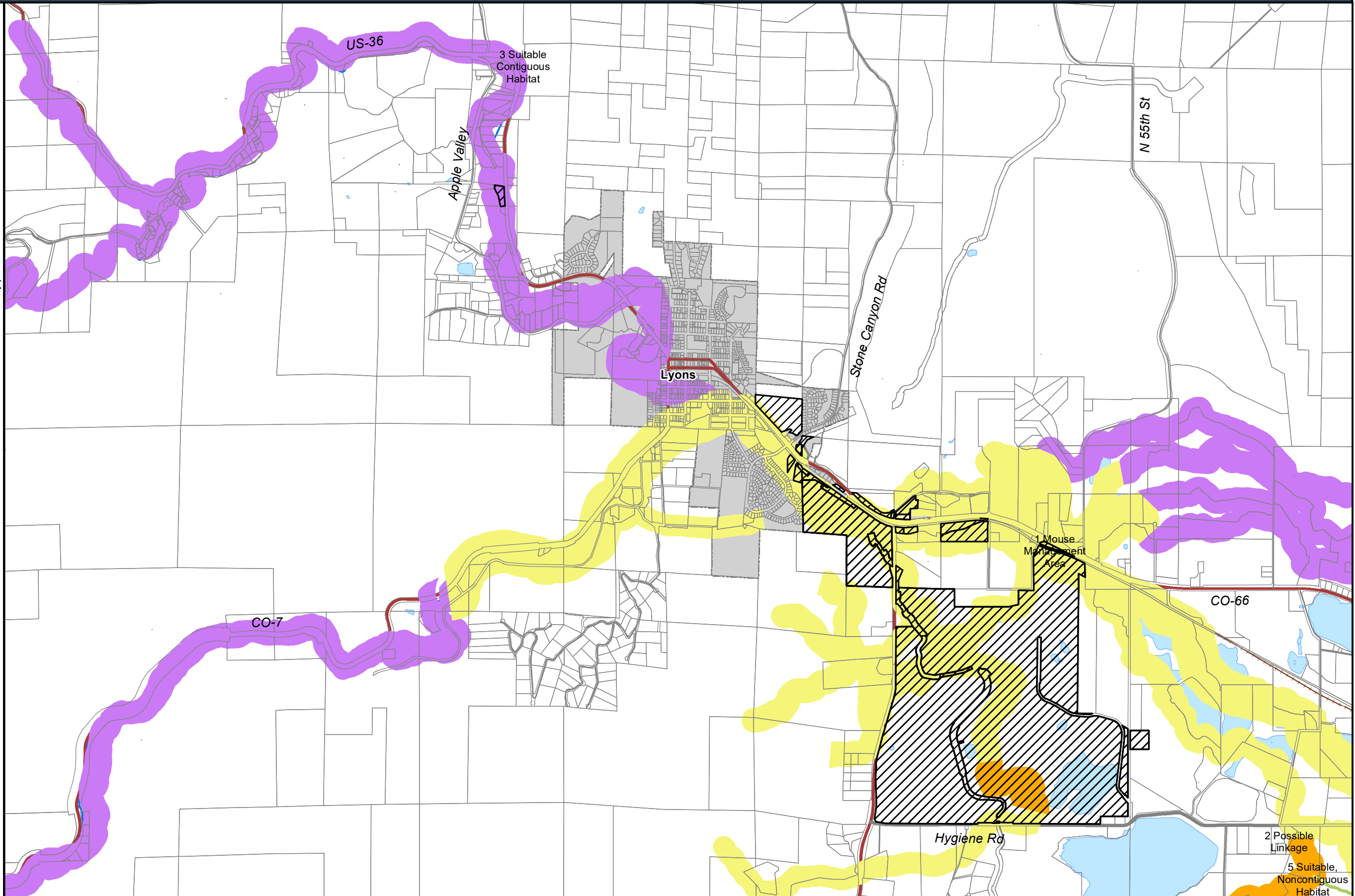
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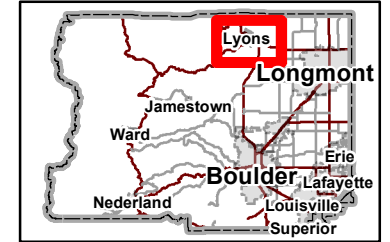
# BCCP Environmental Resources with Parcels Subject to Rezoning

## LEGEND

-  Parcels Subject to Rezoning
- Prebles Meadow Jumping Mouse Habitat**
-  Zone 1 Mouse Management Area
-  Zone 2 Possible Linkage
-  Zone 3 Suitable Contiguous Habitat
-  Zone 5 Suitable, Noncontiguous Habitat



Area of Detail Date: 2/12/2024






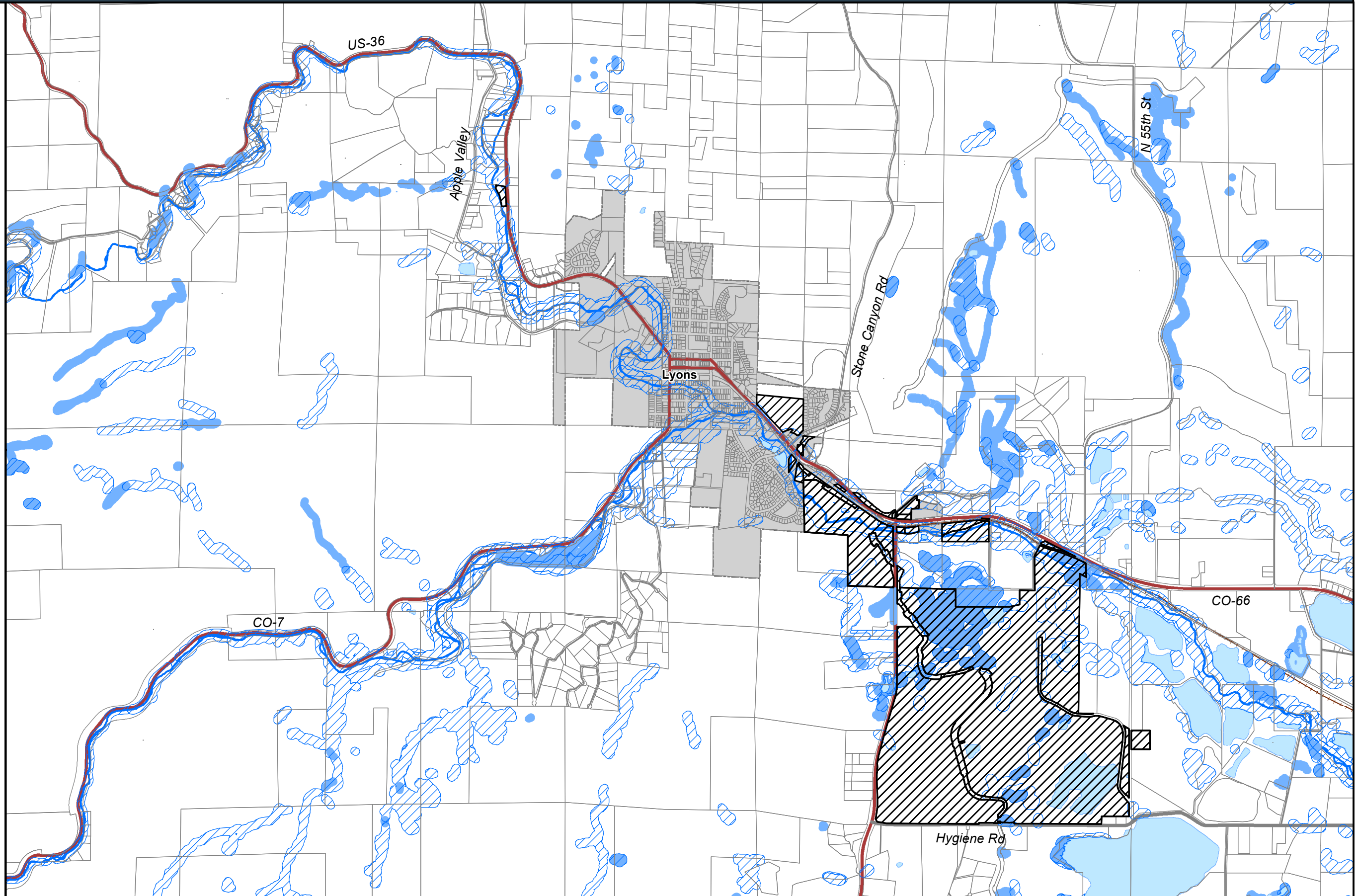
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# BCCP Environmental Resources with Parcels Subject to Rezoning

## LEGEND

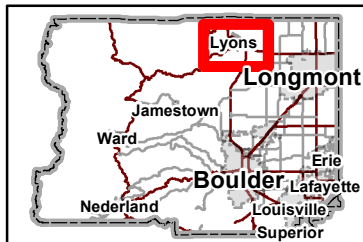
-  Parcels Subject to Rezoning
-  Riparian Areas
-  Wetlands



0 0.25 0.5 Miles



Area of Detail Date: 2/12/2024



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## Exhibit E

**From:** [Mike Verhoogen](#)  
**To:** [Hippely, Hannah](#)  
**Subject:** RE: [EXTERNAL] 4602 Highland Dr, Lyons  
**Date:** Wednesday, February 7, 2024 6:53:08 AM

---

Hannah:

Thank you for taking the time to talk with Stephen Tebo, James Dixon and me on January 30, 2024.

The purpose of this e-mail is to outline the position of the property owner as it relates to any re-zoning of the properties located at 4545 Ute Highway, 4559 Ute Highway and 4602 Highland Drive, which are currently zoned commercial.

There are currently six (6) commercial buildings on these properties, each of which is located very close to the lighted intersection located at Hwy 66 and Hwy 36.

The property owner acknowledges that the County's purpose for this re-zoning is not to convert the use to agricultural use any time soon, but the purpose is to control/restrict/stop the future commercial use of these properties.

The property owner objects to the proposed re-zoning. Additional short-term restrictions on the use of these properties, caused by a down-zoning, is not something that will help the property owner, the current tenants, nor any potential future tenants. During the next 5-10 years, it also won't help the County.

The property owner intends to annex these properties to the Town of Lyons. That process has started, with the expectation that the annexation could be complete within 18-24 months.

One thing that we discussed on January 1, 2023 during the call – the potential for the County to complete the re-zoning now, with an effective date of March 2026. That would likely be acceptable to the property owner.

Please confirm receipt of this e-mail. Please confirm that you will share it with Dale, with the Planning Commission, and with the Board of County Commissioners.

Thank you for your time, effort and expertise, and your willingness to explain the planned re-zoning during our recent call.

Regards,

Mike Verhoogen  
Counsel  
Tebo Development Company  
3111 28<sup>th</sup> Street  
Boulder, Colorado 80301  
(303) 447-8326 x102

**BLOCKWICK EISENSTEIN KRAHENBUHL, LLC**

*Attorneys at Law*

**2672 NORTH PARK DRIVE, SUITE 200, LAFAYETTE, COLORADO 80026**

PHONE (303) 449-4400 / DIRECT (303) 443-4434

DAVID G. EISENSTEIN  
dge@bek-law.com

February 12, 2024

Via email only to [hhippely@bouldercounty.gov](mailto:hhippely@bouldercounty.gov)

Hannah L. Hippely, AICP  
Long Range Planning Division Manager  
Boulder County Community Planning & Permitting  
P.O. Box 471  
Boulder, CO 80306

**RE: Z-23-0002 Lyons Area Zoning Map Amendment  
4497 Ute Hwy, Parcel No. 120320100005  
4435 Ute Hwy, Parcel No. 120320100004**

Dear Hannah:

I am writing to you on behalf of my clients, AER Investments, LLC (AER), the owner of 4497 Ute Hwy (4497), identified as parcel number 120320100005 in the Boulder County Assessor's records, and DMRR, LLC (DMRR), the owner of 4435 Ute Hwy (4435), identified as parcel number 120320100004 in the Boulder County Assessor's records. This letter is written in response to your letter dated January 11, 2024 to these property owners regarding the proposed rezoning of their properties.

AER and DMRR object to the proposed rezoning of their properties from Commercial to Agricultural. Although the parcels are currently split zoned, as Commercial and Agricultural, that is a mistake, is improper land use planning, and should never have happened. Both parcels should have been entirely zoned commercial and if there is a rezoning, that is what should occur to correct the original mistake in zoning. Attached as Exhibits 1 and 2 are photos of these properties showing their use as commercial properties.

4497 has been continuously used for commercial retail purposes at least since 1968, including for a cider stand, a garden store and most recently as a medical and retail marijuana store.

Likewise, 4435 has been used for commercial retail purposes perhaps as far back as since 1945. It has been an ice cream shop, a fireworks stand, a jerky shop among other commercial retail uses over the years.

These parcels each have properly permitted wells and septic systems to support the continued use of these properties for commercial retail purposes. The properties are already developed in

Exhibit E

Hannah L. Hippely  
RE: Z-23-0002 Lyons Area Zoning Map Amendment  
February 12, 2024  
Page 2

accordance with existing zoning and land use regulations and over time have received building permits for the continuing improvement and remodeling of these properties.

The uses of the parcels have been recognized and approved by Boulder County and the residents of Boulder County have benefitted from these uses. In this case, zoning should follow the historic use of these parcels which is commercial retail. Further the location of these properties, fronting a busy highway filled with commercial retail uses, emphasizes the appropriateness of commercial zoning. To downzone the parcels under these circumstances is confiscatory and may constitute a taking.

In summary, the property owners object to any proposed rezoning of these parcels except if the rezoning were to correct the split zoning and rezone the properties as entirely commercial. Thank you for your attention to this matter.

Sincerely,

*David Eisenstein*

David Eisenstein.  
Attorney for AER Investments, LLC  
and DMRR, LLC

ec: AER Investments, LLC distribution list  
DMRR, LLC distribution list  
Dale Case  
Cayley Byrne



Exhibit E

Hannah L. Hippely  
RE: Z-23-0002 Lyons Area Zoning Map Amendment  
February 12, 2024  
Page 3

Exhibit 1 – Photo of 4497 Ute Highway Showing Commercial Purpose



Exhibit E

Hannah L. Hippely  
RE: Z-23-0002 Lyons Area Zoning Map Amendment  
February 12, 2024  
Page 4

Exhibit 2 – Photo of 4435 Ute Highway Showing Commercial Purpose



February 2, 2024

Hannah I. Hippely  
P.O.Box 471  
Boulder, Co, 80306

RE: z-23-0002 Lyons Area Zoning Map.

Dear Hannah

in regards to Your proposed rezoning of my Property.

1. First of all you mentioned in your letter dated Jan 11 ,2024, that this area was prone to flooding , and in fact this area

was not flooded in 2013 as the area south of my property was.

2. The town of Lyons has tried to take my property or annex into the town in order to shut down my buisness.

3. I will spell out several covert actions brought on by the town of Lyons.

point A. Cancell a property lease after it was in affect.

B. Not pay proerty tax on said property.

C. Allow Contractors to destroy my property and tresspass across my property.

D. Contact building department , to stop property cleanup.

E. Contact building department when a conex container was legaly placed on my proerty with all setbacks to clean up this area. which when filled was

moved to a new locations. ( the complaint was filed by the town of Lyons).Per the boulder county building department.

F. I have recived a letter from the CDOT. about cleaning up next to the roadway we share, in talking to the state CDO. repersentive ,they were also very gratefull that i had place weed barrier on their property at my expences as a good steward . I have cleared the area they asked for .

CDO. Informed me the town of Lyons was the party complaining.

G. Now after over 50 years of stone cutting operation by a mom and pop Ameriacn small buiness , with a great Historical relationship to the Natural Stone minded in Lyons since the 1800's.

The town of Lyons is using the county in yet another attempt to take my property.

Or in this case to devalue it from market value 2,mil. to 1 mil.

and to continune to spot zoning the area .Now the county is opreating as a tool of the town of Lyons.

When i bought this property over 24 years ago the town of Lyons was a Mile from my property.

However i have seen the town over the past 5 years spot zone,right up to my property .

The town continuous to show no regards to the people that live, not in the town but on the outskirts .

It is clear the town of Lyons will use the State, County or any other means of taking the property from the citizens of the area.

I am also offering a google map of the area and the type of business in the area.

Which clearly shows this proposal to rezone from commercial to ag. is completely ridiculous and a clear sign of government overreach.

And is a complete waste of county revenue assets and time.

I look forward to a review of the material I have provided you .

I hope I have provided a clear understanding to the issue at hand .

And I trust with this information in your hands , you will come up with the obvious clear cut current and future zoning to remain the same.

3:00 dor Park



STONE  
YARD

DOPE  
SHOP

WHISKEY  
DIS.

GAS  
STATION

HARDWARE  
(WHISKEY)  
WARE HOUSE

WESTERN  
STONE



CEMENT  
PLANT

100 m

NO AG. AREA

My property has been zoned currently com. for over 50 years and the property around me has been the same for this time.

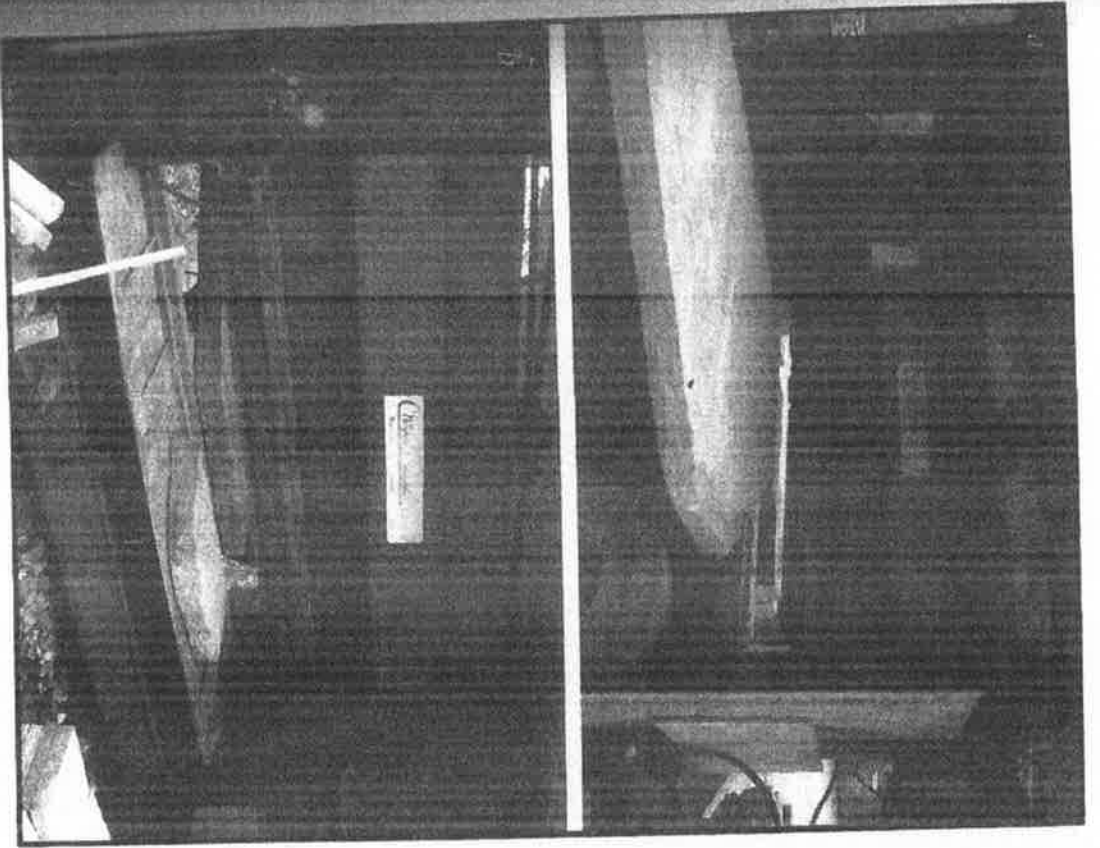
Thier is no reason to rezone it to ag. it is to small for ag. 5/8 acre and it has a house on it. to rezone it would devaluate by 1,000,000. if the county would be willing to pay this amount now , i would considered this option.

This is a clear attempt to degrade my property. In a attempt for you to rezone this propertry and the city of Lyons to take my property or to devalue

Western stone has been operating for over 50 years , I am providing you with some ref. and insights to who we are.

See below : From a book by Alfred C Pace ( Lyons Sandstone Quarries.)

Page: 91,126,127,128,133,134.



a. Chris-cutter at Western Stone in Lyons.

b. Back end of Chris-cutter showing clean cut of above slab.

Diane Goode Benedict Collection, 2002.

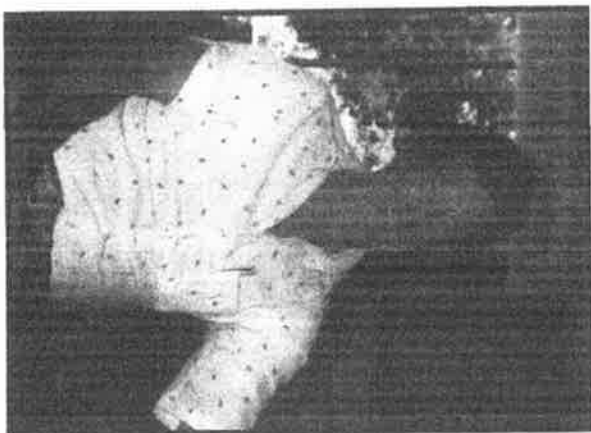
"When I first started," Jenkins said, "I got the idea I could build the machine I had in mind for \$9,000, and when I'd spent 10,000, I knew I couldn't do it. It took me a good many years to get one that would really work and people could depend on."

Personal interview with Chris Jenkins, September, 2000.



he captured the grace and beauty of the wildlife he saw in bronze, stone and wood. Today customers in the stone yard founded can see some of that sculpture alongside the house built, which Letha Tribble still calls home.

\* \* \*

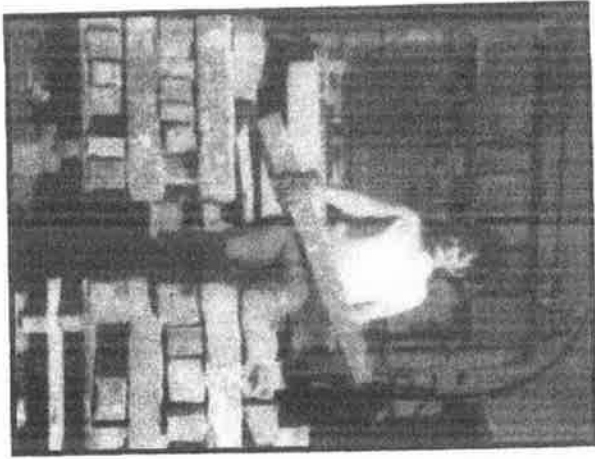


*John Fitts,  
John Fitts and Cora Burgess Collection*

As a teenager, John Fitts drove logging trucks from his father's sawmill in Lyons to the mountains and back again. When he passed by a popular swimming hole on the Saint Vrain, he would often cast a wishful glance at fellows his own age diving into the cool water or basking in the sun. As a young marine man with a family to support, he worked in the granite quarries in nearby Pinewood Springs where they used plugs and feathers up to two feet long in drill holes up to seven feet deep. The his brothers, Ray and Bobby-Joe, told him about all the money they were making working for Dewey Summers cutting sandstone strips for Colorado State University. Unlike his brother

however, John Fitts did not have a knack for cutting stone with a hammer and chisel. "I did about two days and threw all my tools away and went home,"<sup>4</sup> he said.

When he came back to work, it was as a truck driver. His failure at hand-cutting made him all the more receptive to the potential of the Chris-cutter. In the new environment after Jenkins' machine had taken hold, Fitts' mechanical aptitude made him more valuable. He proved so valuable, in fact, that Summers' foreman, Carl Pfeiffer, taught him how to work a quarry.



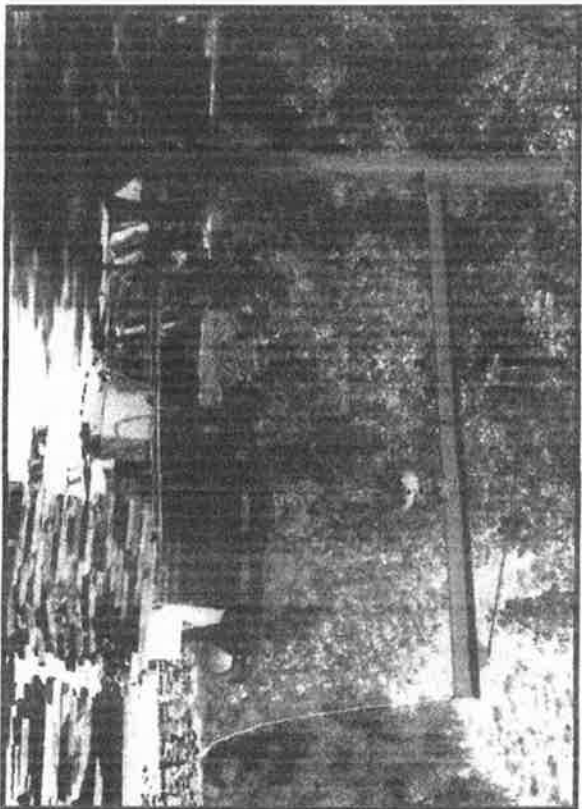
*Cora Burgess, co-founder of Western Stone and life partner of John Fitts worked heavy labor in the quarries and stone yard.  
John Fitts and Cora Burgess Collection.*

After Dewey Summers died, his wife May ran the business until 1958, when she sold it to the Sterling Stone Company of Fort Collins. Somewhat later, that company bought the Saint Vrain Red Sandstone Quarries, which had belonged to the Brodie family and to Hugh Murphy back in Lyons' boomtown

<sup>4</sup> Personal interview with John Fitts, August, 2001.

days, and moved their entire operation there. Sterling must have recognized Fitts' ability as a manager, but once promoted to foreman he encountered some problems with Carl Pfeiffer, who had been his boss previously.

"He thought he was so that good he couldn't be replaced," Fitts recalled. "He and I got into it up there one day, and then that evening he came down and told me he was going to quit." Pfeiffer thought he would beg him to stay, but Fitts told him, "Well, it's probably best because we're not getting along too good." He already had another man picked out for the spot.



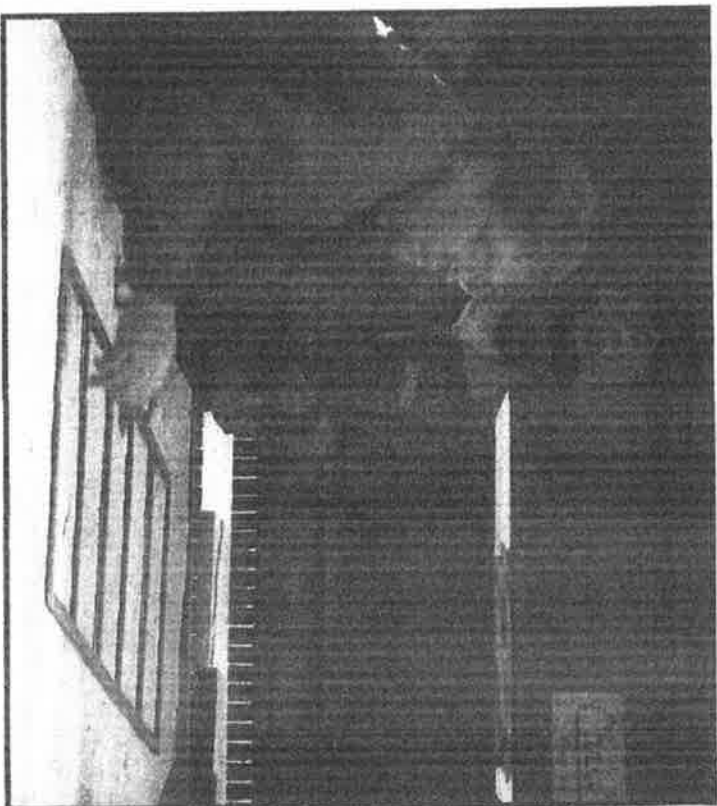
*Crane at Western Stone.  
Diane Goode Benedict Collection, 2003.*

Sometimes learning can be painful. In an effort to increase production, Sterling hired an efficiency expert. "He was about half to two-thirds psychiatrist. He could really pick you apart, and he was good at it. We'd have these meetings every other Friday, and if you listened to him, you could really learn a lot about people and human nature and working people. You got to where you could talk to somebody for three minutes, and you could tell whether he was going to be a good hand or not,

CHAPTER XI

foot. Now, I think, they got it even better than that. That's the thing I'm most proud of, that saw. . . . It's the best little saw I've seen. . . . I built this to saw thin rock. That was my original idea, but it did that so slick that we started sawing two inches, three inches, four inches, six inches."

\* \* \*

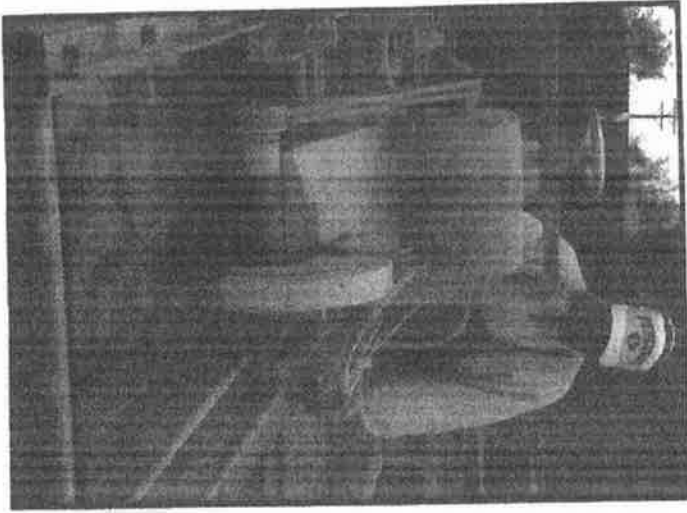


*Paul Frysig and Eloy Garza measuring stone for the Chris-cutter.  
Diane Goode Benedict Collection, 2003.*

When Fitts gave a job to Paul Frysig, the young man was a ragged high school student on his own. He worked his way through college and became an engineer. After working for Baseline Industries, Ball Aerospace, and in many consulting positions, he bought Western Stone and continued its tradition of innovation.

On a basic level, he has carried on Fitts' legacy of finding ways to reduce or eliminate some of the more backbreaking,

Fitts never gave up thinking of ways to improve his saw. One weekend his wife went on a trip to Oklahoma. "I got to thinking, instead of me sitting here being mad about her being gone, I'll put this time on my hands to good use. I started drawing pictures and inventing stuff. I finally got it down to where it [the diamond saw] worked really slick.



*Jason Tolere operating the Western Stone  
Company Diamond Back Saw.  
Diane Goode Benedict Collection, 2003.*

"They got good enough to where I started selling them. I sold one to Loukonens and one to Tribbles. . . . I think I sold eight or nine of them. They always worked real good."

At first, the diamond-embedded blades that he bought for his saws did not last very long, so the cost of the saw blade seriously impacted the price of the material they produced. But as his machines improved, so did the blades. "We finally got the cost [on wear of the blades] down to about 40 cents per square

Thank you  
Paul Frysig

A handwritten signature in black ink, appearing to read "Paul Frysig". The signature is stylized with a large, sweeping initial "P" and a long horizontal stroke extending to the right.