



# Land Use

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

## BOULDER COUNTY PLANNING COMMISSION PUBLIC HEARING

Wednesday, December 18, 2019, 1:30 pm

Hearing Room, Third Floor, Boulder County Courthouse

### PUBLIC HEARING

**STAFF PLANNER:** Sean Gambrel

#### **Docket V-19-0001: 960 Eldorado Avenue**

**Request:** Request to vacate one half of a portion of the platted right-of-way for Spencer Avenue and the full platted right-of-way for a portion of the alley located between Spencer Avenue and Eldorado Avenue in the Eldora Townsite.

**Location:** 960 Eldorado Avenue, approximately 400 feet west of the intersection of Eldorado Avenue and 9th street in the Eldora townsite, Section 21, Township 1S, Range 73W.

**Zoning:** Forestry (F) Zoning District

**Applicants/Owners:** Eyster Properties, LLC

#### **PACKET CONTENTS**

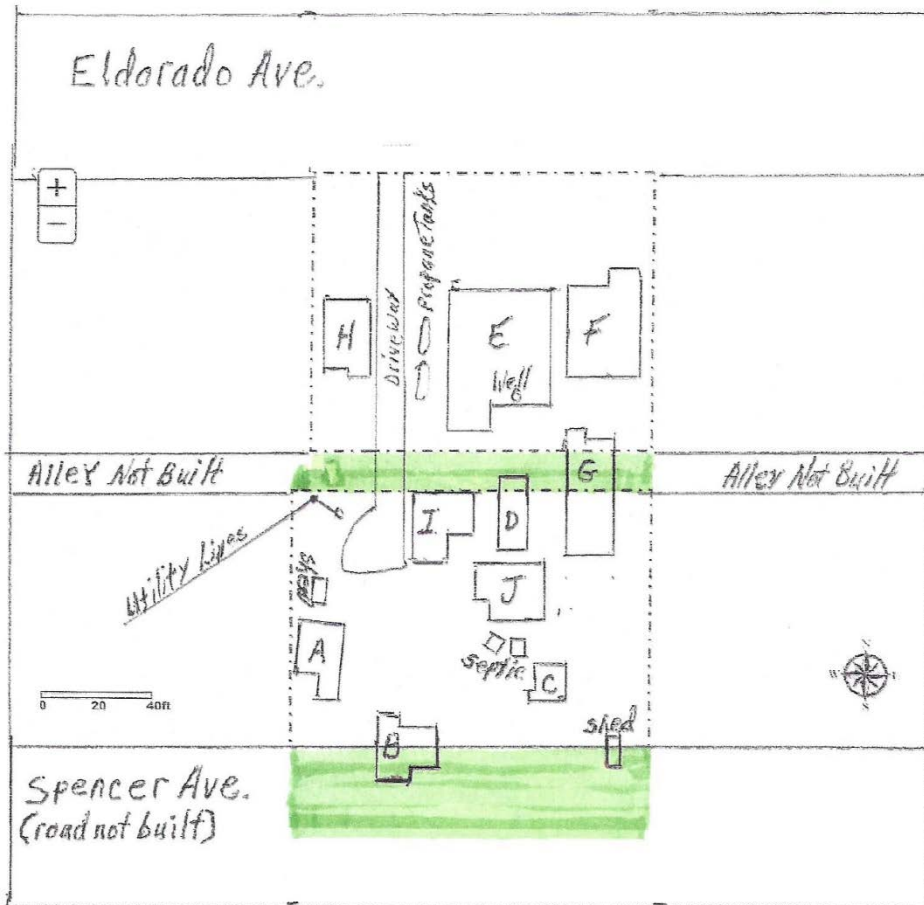
Item	Pages
○ Staff Recommendation	1 – 7
○ Application Materials (Attachment A)	A1 – A9
○ Referral Responses & Adjacent Property Owner Comment (Attachment B)	B1 – B8

#### **SUMMARY:**

Staff recommends conditional approval.

#### **PROPOSAL:**

The proposal seeks to vacate a portion of the northerly half of the 50-foot Spencer Avenue right-of-way (ROW) and the full width of an undeveloped platted 25-foot ROW for the alley located between Spencer Avenue and Eldorado Avenue in the Eldora Townsite. The proposal seeks to add the area of the vacated ROW to the subject property to remedy several longstanding encroachments, clear the title to the property, and facilitate future upgrades to the onsite wastewater treatment system (OWTS) on the property. The requested vacation is shown in Figure 1 below.

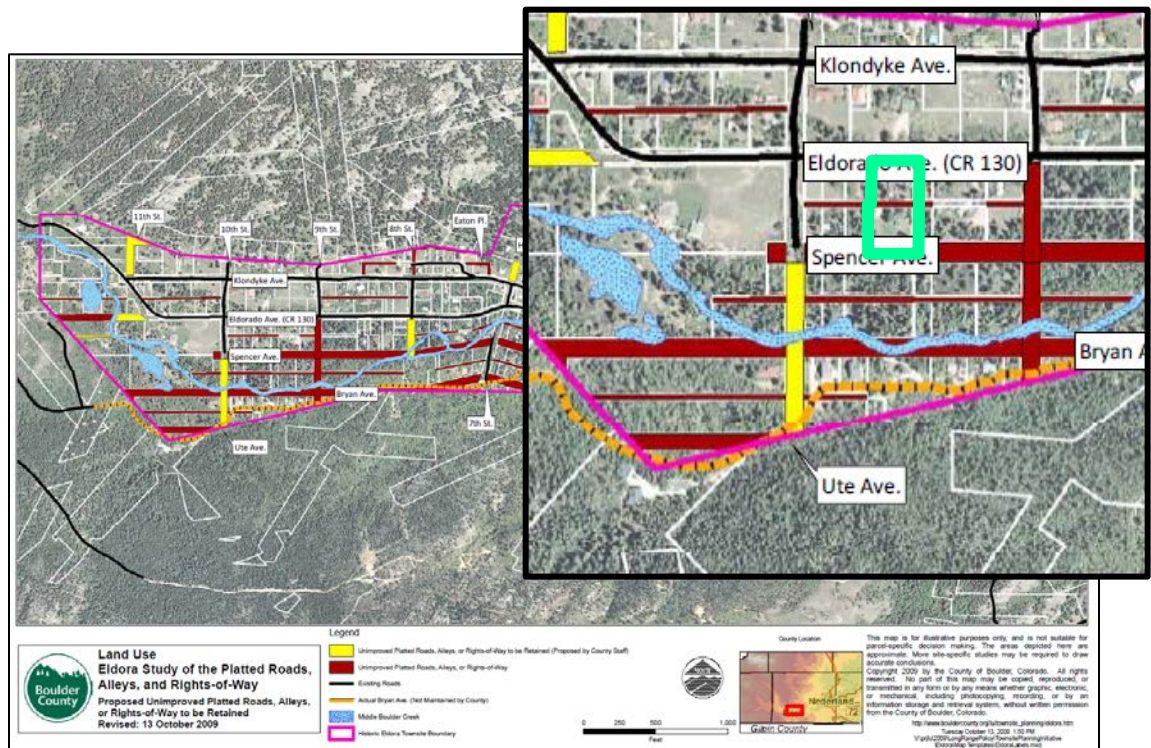


**Figure 1: Plan of 960 Eldorado Avenue showing rights-of-way to be vacated in green.**

The portions of both ROWs located within the parcel have never been developed as a thoroughfare and the Boulder County Transportation Department indicated there are no plans to develop this portion of the ROW in the future. These ROW portions are depicted on the Eldora Study of the Platted Roads, Alleys, and Rights-of-Way referenced in the Boulder County Land Use Code, shown in Figure 2 below, but are not noted for retention.

The alley ROW proposed for vacation is not necessary for access to any other parcels. The alley to the east of the proposed vacation was previously vacated and is blocked by a structure between the subject property and 9<sup>th</sup> street. The alley to the west of the proposed vacation has not been vacated and is unobstructed to its intersection with 10<sup>th</sup> street, however this portion of the alley remains unimproved.

Similarly, the proposed vacation portion of the Spencer Avenue ROW is not necessary for access to any other parcels. Abutting properties are accessible via the portions of Spencer Avenue ROW remaining to the east or west, from either 9<sup>th</sup> or 10<sup>th</sup> Streets. Additionally, only half of the Spencer Avenue ROW is proposed for vacation, leaving a 25-foot wide ROW that could be used for a driveway, walking path, or other means of access between properties if desired.



**Figure 2: Eldora Study of the Platted Roads, Alleys, and Rights-of-Way, referenced in the Boulder County Land Use Code.**

### **REFERRALS:**

The application was referred to the standard agencies and adjacent property owners. Copies of all responses received by the Land Use Department are attached. A summary of each response follows.

#### **Boulder County Transportation:**

The Transportation Department noted that the subject parcel is bisected from west to east by a ROW platted as an alley and bordered to the south by a ROW platted as Spencer Avenue (the subject ROWs). No road improvements were constructed in the subject ROWs and the Transportation Department has no future plans to develop the alley or Spencer Avenue. The ROWs are not used for existing access and vacation of these ROWs does not preclude any parcels from legal access.

The Transportation Department supports the vacation request as proposed, with the following recommendation: the proposed vacation of Spencer Avenue only vacate ½ of the ROW to the south of the subject parcel, and Transportation staff recommends the applicant coordinate with the property owner to the south of Spencer Avenue to fully vacate the ROW.

#### **Boulder County Parks & Open Space Natural Resources Planner:**

This agency supports vacating the alley ROW, as parts of it were previously vacated and thus it is already discontinuous. However, the Natural Resources Planner believes that only a minimal amount of Spencer Avenue should be vacated – the area directly under the footprint of the existing structures because it is unknown at this time if any part of the ROW is truly necessary for a new leach field, and until that is determined, no additional portions of Spencer Avenue (outside of the encroaching building footprints) should be vacated.

#### **Xcel:**

This utility provider noted that it may have poles and other facilities located within the alley ROW.

Boulder County Chief Building Official; Boulder County Surveyor; Boulder County Public Health; Boulder Valley – Longmont Conservation District;

No concerns noted.

Adjacent Property Owners:

One comment was received from the neighbor directly to the east, supporting the proposal.

## **CRITERIA REVIEW AND ANALYSIS**

Article 10-100 of the Boulder County Land Use Code sets the standards for Vacations of Public Roads, Alleys, and Easements. Staff reviewed this proposal per these criteria and finds that:

***A. Public roads, alleys, and easements may be vacated after consideration at a public hearing by both the Planning Commission and the Board of County Commissioners.***

This docket will be heard by Planning Commission on December 18, 2019. When the Planning Commission issues a recommendation for the vacation request, staff will schedule a public hearing before the Board of County Commissioners. Therefore, staff finds this criterion can be met.

***B. The vacation becomes effective upon recordation of the Board's resolution of approval with the Boulder County Clerk and Recorder's office. Prior to recordation, the applicant must complete all conditions of approval.***

If the vacation is approved by the Board of County Commissioners, upon completion of post approval requirements, Land Use Staff will record a copy of the Board's resolution of approval with the Boulder County Clerk and Recorder's office. Therefore, as conditioned, staff finds this criterion can be met.

***C. Unless otherwise noted, the portions of the road or alley vacated will be divided down the centerline and added to the respective adjacent property.***

The applicant owns the property on both sides of the alley ROW, such that the resulting vacated right-of-way will transfer to the applicant in full. The applicant only requests the vacation of the northerly half of the Spencer Avenue ROW, which abuts and will be added to the southerly extent of their property. Therefore, staff finds this criterion is met.

***D. Application and processing requirements for vacations are included in Article 3.***

The submitted application materials meet the requirements found in Article 3. In accordance with Article 3, staff referred the application to applicable referral agencies and all property owners within 1,500 feet of the subject property. The application will be heard at a public hearing before the Planning Commission on December 18, 2019, and thereafter by the Board of County Commissioners. Public testimony will be taken at both hearings. Therefore, staff finds this criterion is met.

***E. Following approval or conditional approval of a vacation, the applicant shall submit to the Land Use Department all necessary documents required by the conditional approval showing compliance with the conditional approval.***

The applicant shall comply with all conditions of approval prior to recordation of a Resolution vacating the subject ROWs. Therefore, as conditioned, staff finds this criterion can be met.

***F. The Land Use Department staff shall record the Commissioner's resolution of approval with the Clerk and Recorder's office within 45 days of the Commissioners' approval unless otherwise***

*specified.*

Staff shall record the new deed within 45 days of a Resolution for approval. As such, staff finds this criterion can be met.

Furthermore, Article 10-101 of the Boulder County Land Use Code provides guidance for Vacations of Mapped Roads, and Rights-of Way in the Eldora Townsite. Staff reviewed this proposal per these criteria and has found that:

***A. For purposes of this Section 10-101, the Eldora Townsite is the mapped Townsite recognized in Section 4-806.A.1. of this Code, as shown on the corresponding adopted zoning map.***

The requested vacation is located within the mapped Eldora Townsite. Therefore, staff finds the proposed vacation is consistent with this section of the Code.

***B. The purpose of Section 10-101 is to provide opportunities for property owners to come into compliance with county regulations, facilitating access and clear title to properties, and fostering flexibility for potential development, while preserving the rural and historic character and environmental resources of the Eldora Townsite, all in accordance with the Land Use Code and Comprehensive Plan.***

The applicant seeks this vacation in order to rectify several encroachments on the existing ROW and to clear the title to its property to facilitate an upgrade to the septic system on the property. No changes to any structures are anticipated as a result of the requested variance, and therefore the request should have no impact on the rural and historic character or environmental resources of the Eldora Townsite. Therefore, staff finds this request consistent with the purpose of Section 10-101 and supports the vacation request.

***C. The Board shall consider the following factors as favoring a vacation request:***

- 1. Is necessary for access or to clear title to land.***
- 2. Resolves long-standing structural encroachment into the rights-of-way.***
- 3. Allows the applicant to apply for a compliant onsite wastewater system or a well to serve an existing development if there is no reasonable alternative location.***
- 4. Facilitates road and rights-of-way exchange if the applicant is requesting vacation of mapped rights-of-way, and the actual constructed road is located elsewhere on the applicant's property; in that case the County may require dedication of the property under the traveled way to the County as a condition of vacating the mapped rights-of-way. Alternatively, if the applicant is requesting vacation of mapped rights-of-way, and the actual constructed road is located elsewhere off of applicant's property, the County may vacate the mapped rights-of-way so long as the traveled way is kept in public use.***
- 5. Creates an opportunity to provide for development that is more consistent with the Comprehensive Plan and Land Use Code.***

The Applicant states that it seeks this vacation to clear the title to its property, resolve longstanding structural encroachments into the alley and Spencer Avenue ROWs, and for a future upgrade to the OWTS on the property. Therefore, staff finds that the proposal includes several factors favoring the vacation request and supports the vacation request.

***D. The Board shall consider the following factors as disfavoring a vacation request:***

- 1. Facilitates new development contrary to the Comprehensive Plan or Land Use Code.***
- 2. Facilitates new development that has a negative impact on historic, archaeological, cultural, scenic, or environmental resources such as wetlands, riparian areas, and plant or wildlife habitat.***
- 3. Facilitates unsafe development in a natural hazard area.***

**4. Prevents access to County-owned lands.**

The applicant states that the vacation is not intended to allow new development on the parcel. Staff reviewed the application and does not believe that the requested vacation would prevent any public or private access to county-owned lands. Therefore, staff supports the requested vacation.

***E. The Board shall not approve a Vacation within the Eldora Townsite if:***

- 1. The Vacation will leave any adjoining land without access to an established public road. Colorado State Statute 43-2-303(2)(a).***
- 2. There is a current or foreseeable public need for the property. The evaluation of whether there is a current or foreseeable public need for the property should be made with reference to the stated purpose of preserving the rural and historic character and environmental resources of the Eldora Townsite.***
- 3. The rights-of-way have been identified as facilitating access to Middle Boulder Creek, public lands or private properties, and are among the following rights-of-way: the section of unimproved road between the west end of Eldorado Avenue where it turns north to, and including, Middle Boulder Creek; the alley between Eldorado Avenue and Spencer Avenue west of 11th Street; 11th Street north of Klondyke Avenue; 10th Street south of Spencer Avenue; 8th Street south of Eldorado Avenue to, and including, the portion that intersects with Spencer Avenue; 7th Street north of Klondyke Avenue; 6th Street north of Washington Avenue including all of Pearl Street; 6th Street south of Bryan Avenue; 5th Street south of Eldorado Avenue; 4th Street north of Huron Avenue; 3rd Street south of Eldorado Avenue; and 1st Street south of Eldorado Avenue. However, partial Vacations of these rights-of-way may be considered if they meet any of the factors in Subsection C.***
- 4. The rights-of-way are necessary for the ongoing maintenance of existing accepted roads. No roads in vicinity or accessed via this portion of ROW.***

Staff has reviewed the proposal and finds the following:

1. Vacating the portions of ROWs proposed will not remove access to any property from a public road. The alley ROW exists intact to the west of the subject property to its intersection with 10<sup>th</sup> street. The alley ROW was previously vacated and obstructed by a residence to the east of the subject property. The Spencer Avenue ROW is intact westward to 10<sup>th</sup> street and eastward to 9<sup>th</sup> street. In addition, the proposal seeks to only vacate the northerly half of Spencer Avenue, leaving 25 feet of Spencer Ave ROW remaining.
2. Staff finds no current or foreseeable public need for the ROWs requested for vacation. The alley ROW is already obstructed by several buildings on the subject property. It appears unlikely that a road or other access will be built within the Spencer Avenue ROW, due to terrain and the ROW being obstructed by two buildings on the subject property. Boulder County Transportation has no conflict with the vacation request, and the ROWs in question are not identified as ROWs to retain in the Eldora Study of the Platted Roads, Alleys, and Rights-of-Way referenced in the Boulder County Land Use Code.

Xcel indicated that it has facilities such as poles and wires in the vicinity of the requested vacation. Staff recommends a condition of approval that the applicant grant Xcel an easement over the affected areas of its property for maintenance of Xcel's facilities.

3. The requested vacation does not involve any of the listed ROWs in the criteria.
4. No roads or other access have been constructed that would require the use of these ROWs for access or maintenance purposes.

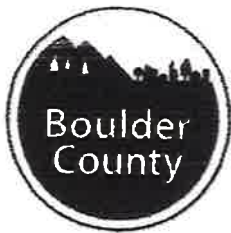
Therefore, as conditioned, staff supports the requested vacation.

## **RECOMMENDATION**

The Land Use staff finds that this application meets the criteria for a Vacation and recommends the Planning Commission recommend that the Board of County Commissioners Conditionally Approve **Docket V-19-0001 Eyster Vacation** with the following conditions:

1. The applicant shall grant an easement to Xcel allowing access to property for the purposes of operation and maintenance of Xcel's existing facilities.
2. The applicant shall meet all the post approval requirements within 45 days after the date of the Board of County Commissioners' Resolution approving this vacation. This Resolution and associated documents shall also be recorded by Land Use Staff with the County Clerk and Recorder's Office within this 45-day timeframe. This vacation approval shall not be considered final or effective until this recordation. Finally, this vacation approval shall expire if recordation does not occur within the required 45-day timeframe (unless an extension is granted).





# 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)  
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.

CHECK # : 2304  
PERMIT # : 737405  
Shaded Areas for Staff Only  
PAID  
Intake Stamp  
SEP 23 2019  
BOULDER COUNTY  
LAND USE

## Application Form

Planner: SEAN GARNER

Project Number <b>V-19-0001</b>		Project Name <b>EYSTER VACATION</b>	
<input type="checkbox"/> Limited Impact Special Use <input type="checkbox"/> Limited Impact Special Use Waiver <input type="checkbox"/> Modification of Special Use <input type="checkbox"/> Site Plan Review <input type="checkbox"/> Site Plan Review Waiver <input type="checkbox"/> Subdivision Exemption <input type="checkbox"/> Exemption Plat <input type="checkbox"/> 1041 State Interest Review <input type="checkbox"/> Other:		Application Deadline: First Wednesday of the Month <input type="checkbox"/> Variance <input type="checkbox"/> Appeal	
		Application Deadline: Second Wednesday of the Month <input type="checkbox"/> Sketch Plan <input type="checkbox"/> Preliminary Plan <input type="checkbox"/> Final Plat <input type="checkbox"/> Resubdivision (Replat) <input type="checkbox"/> Special Use/SSDP	
Location(s)/Street Address(es) <b>960 Eldorado Ave Eldora, CO 80466</b>			
Subdivision Name <b>Eldora Township</b>			
Lot(s) <b>13-17 &amp; 31-36</b>	Block(s) <b>40</b>	Section(s) <b>21</b>	Township(s) <b>15</b>
Area in Acres <b>.57a</b>	Existing Zoning <b>F</b>	Existing Use of Property <b>Residential</b>	Range(s) <b>73</b>
Proposed Water Supply <b>Well</b>		Proposed Sewage Disposal Method <b>Septic</b>	

## Applicants:

Applicant/Property Owner <b>EYSTER PROPERTIES LLC / Brad Eyster Managing Member</b>		Email Address <b>b.eyster3755@gmail.com</b>	
Mailing Address <b>12929 Observation Circle Unit # 204</b>			
City <b>Louisville</b>	State <b>KY</b>	Zip Code <b>40243</b>	Phone <b>502-693-4025</b>
Applicant/Property Owner/Agent/Consultant		Email Address	
Mailing Address			
City	State	Zip Code	Phone
Agent/Consultant <b>Brad Eyster</b>		Email Address <b>SAME</b>	
Mailing Address			
City	State	Zip Code	Phone

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

I certify that I am signing this Application Form as an owner of record of the property included in the Application. I certify that the information and exhibits I have submitted are true and correct to the best of my knowledge. I understand that all materials required by Boulder County must be submitted prior to having this matter processed. I understand that public hearings or meetings may be required. I understand that I must sign an Agreement of Payment for Application processing fees, and that additional fees or materials may be required as a result of considerations which may arise in the processing of this docket. I understand that the road, school, and park dedications may be required as a condition of approval. I understand that I am consenting to allow the County Staff involved in this application or their designees to enter onto and inspect the subject property at any reasonable time, without obtaining any prior consent.

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

Signature of Property Owner <i>Brad Eyster Managing Member</i>	Printed Name <b>Brad Eyster</b>	Date <b>9/11/19</b>
Signature of Property Owner	Printed Name	Date

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





# Boulder County Land Use Department

2045 13th Street, Boulder, CO 80302 303-441-3930 [www.bouldercounty.org/lu](http://www.bouldercounty.org/lu)

Vicinity

960 ELDORADO AVE

## Legend

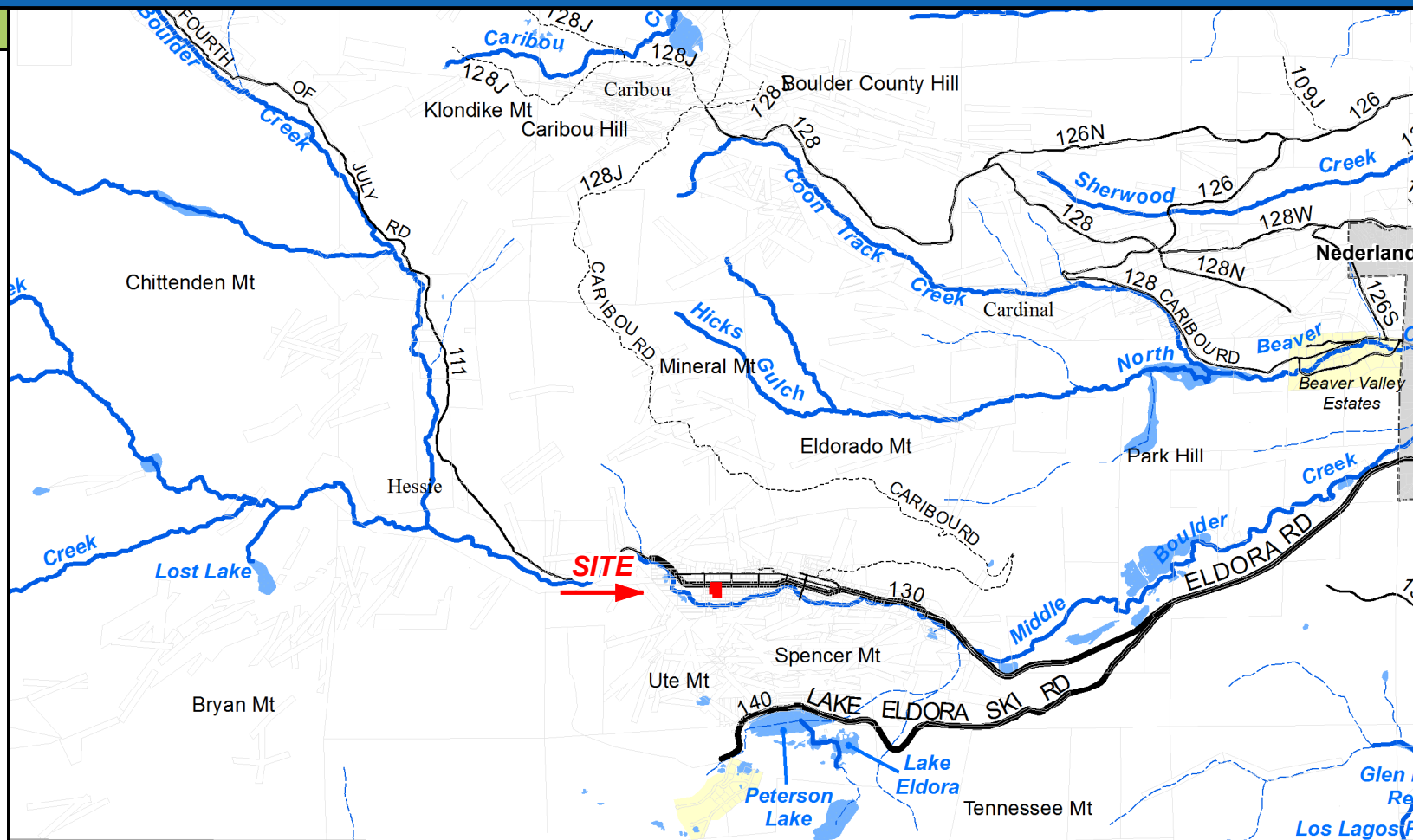
Subject Parcel

County Boundary

Municipalities

### Subdivisions

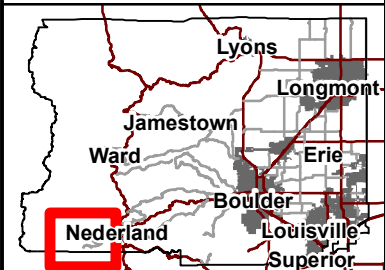
Subdivisions



0 4,000 Feet

NORTH 1 inch = 4,000 feet

Area of Detail Date: 5/31/2019



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# Boulder County Land Use Department

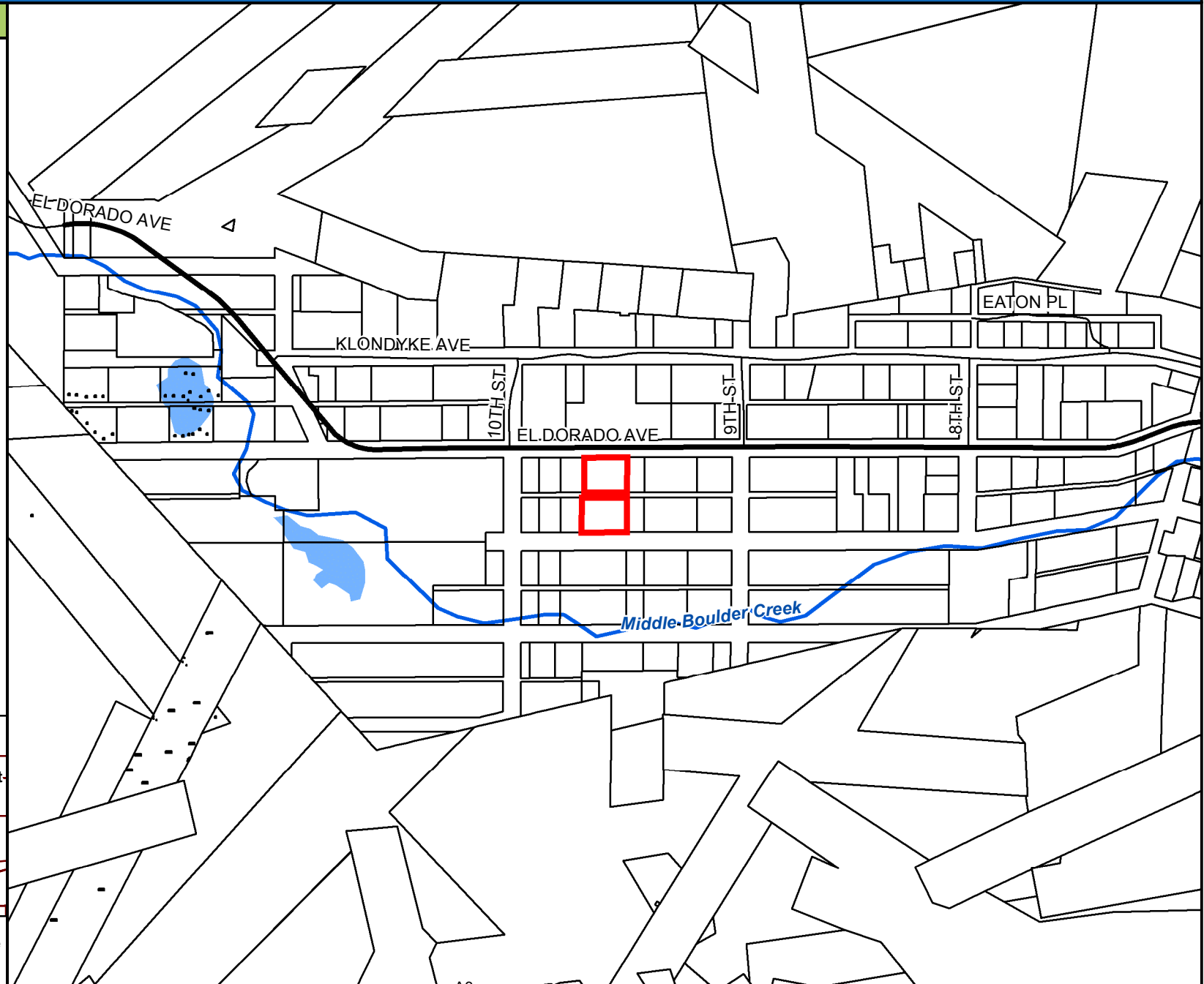
2045 13th Street, Boulder, CO 80302 303-441-3930 [www.bouldercounty.org/lu](http://www.bouldercounty.org/lu)

Location

960 ELDORADO AVE

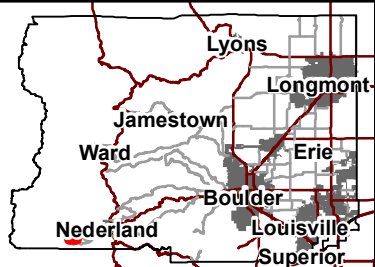
## Legend

 Subject Parcel



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Feet  
NORTH 1 inch = 400 feet

Area of Detail Date: 5/31/2019



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# Boulder County Land Use Department

2045 13th Street, Boulder, CO 80302 303-441-3930 [www.bouldercounty.org/lu](http://www.bouldercounty.org/lu)

Aerial

960 ELDORADO AVE

## Legend

 Subject Parcel

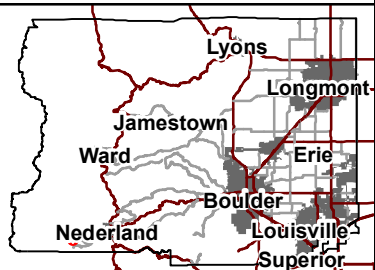


EL DORADO AVE

0 50  
Feet

NORTH 1 inch = 50 feet

Area of Detail Date: 5/31/2019



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# Boulder County Land Use Department

2045 13th Street, Boulder, CO 80302 303-441-3930 [www.bouldercounty.org/lu](http://www.bouldercounty.org/lu)

Comprehensive Plan

960 ELDORADO AVE

## Legend

Subject Parcel

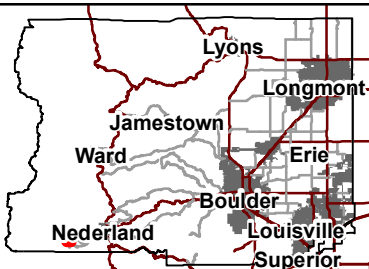
### Archeologically Sensitive Travel Routes

- Archeologically Sensitive Travel Routes
- Environmental Conservation Areas
- Riparian Areas
- Wetlands
- Significant Natural Communities

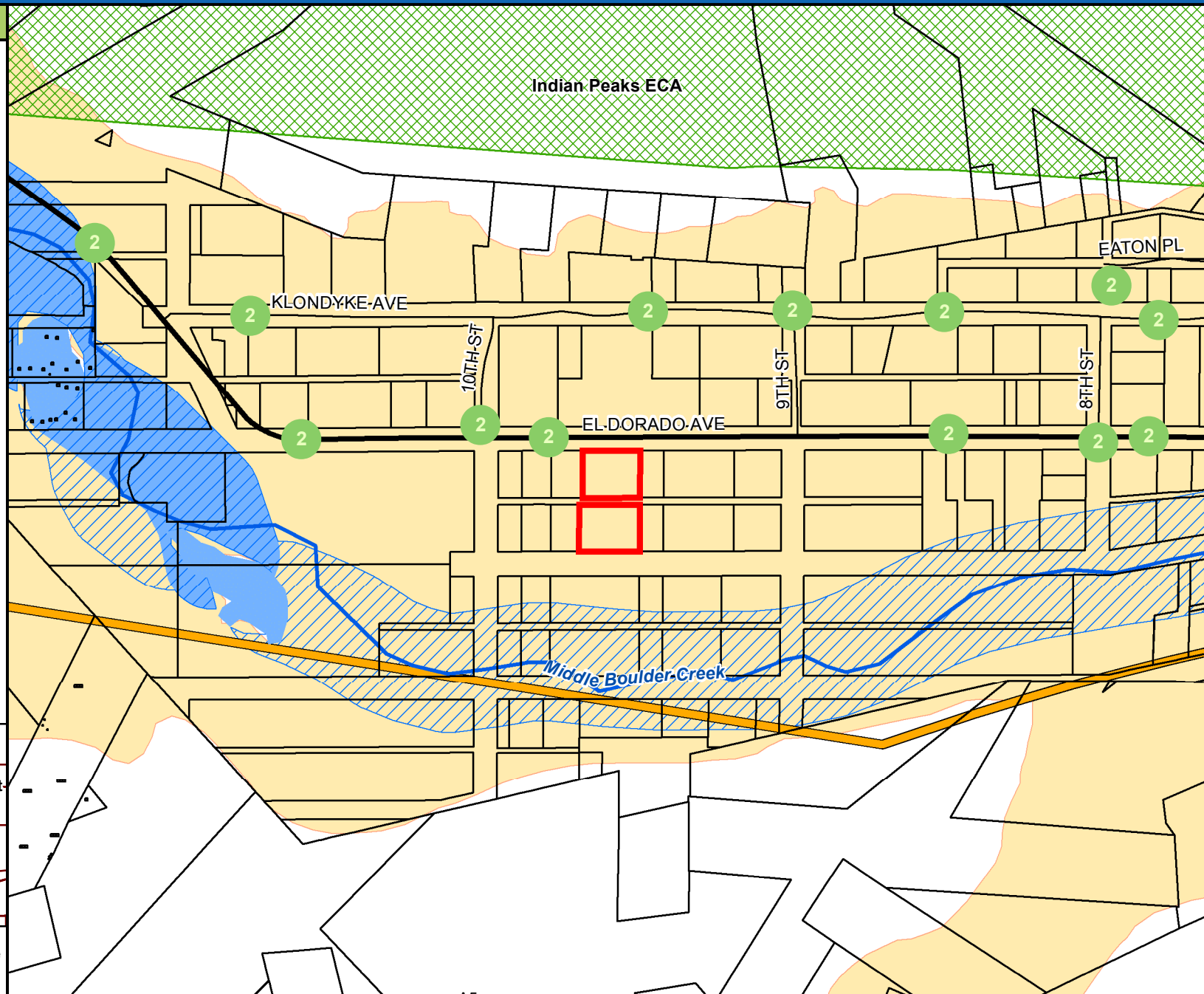
0 300 Feet

NORTH 1 inch = 300 feet

Area of Detail Date: 5/31/2019



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**Owner's Statement Regarding Vacation Request for  
960 Eldorado Avenue in Eldora, Colorado**

We are requesting both a road and alley vacation for 960 Eldorado Avenue located in Block 40 of Eldora.

The 960 Eldorado Avenue property is divided east/west by an alley and bordered on the south by Spencer Ave. On the ground, there are no streets or alley improvements in these areas, and there never has been within this right of way on Block 40 or elsewhere.

Specifically, the request is to vacate the alley between Parcel 1 and Parcel 2 (see attached legal description-Exhibit A) and to vacate Spencer Avenue south of Parcel 2.

Portions of existing cabins and accessory structures are located within the designated alley area and Spencer Avenue.

The alley is encroached by 2 cabins built in 1946 (cabins D&G), and Spencer Avenue is encroached by one cabin built in 1946 (Cabin B) and a shed (see attached site map- Exhibit B).

The subject alleyway and Spencer Ave. have been abandoned and vacated on several properties east and west of our property (see attached land use map-Exhibit C). On our block 40 the alleyway has been vacated for lots 5-10 and 39-44. Both the alleyway and Spencer Ave. have been vacated west of 10<sup>th</sup> Street.

We plan no further development or building, therefore the vacated areas will not be used for such or setback purposes.

We don't want structural encroachments or easements to cloud the title or prevent future upgrade of septic water treatment system.

Thank you for your consideration.

Sincerely,

  
Brad Eyster



# EXHIBIT "A"

## LEGAL DESCRIPTION

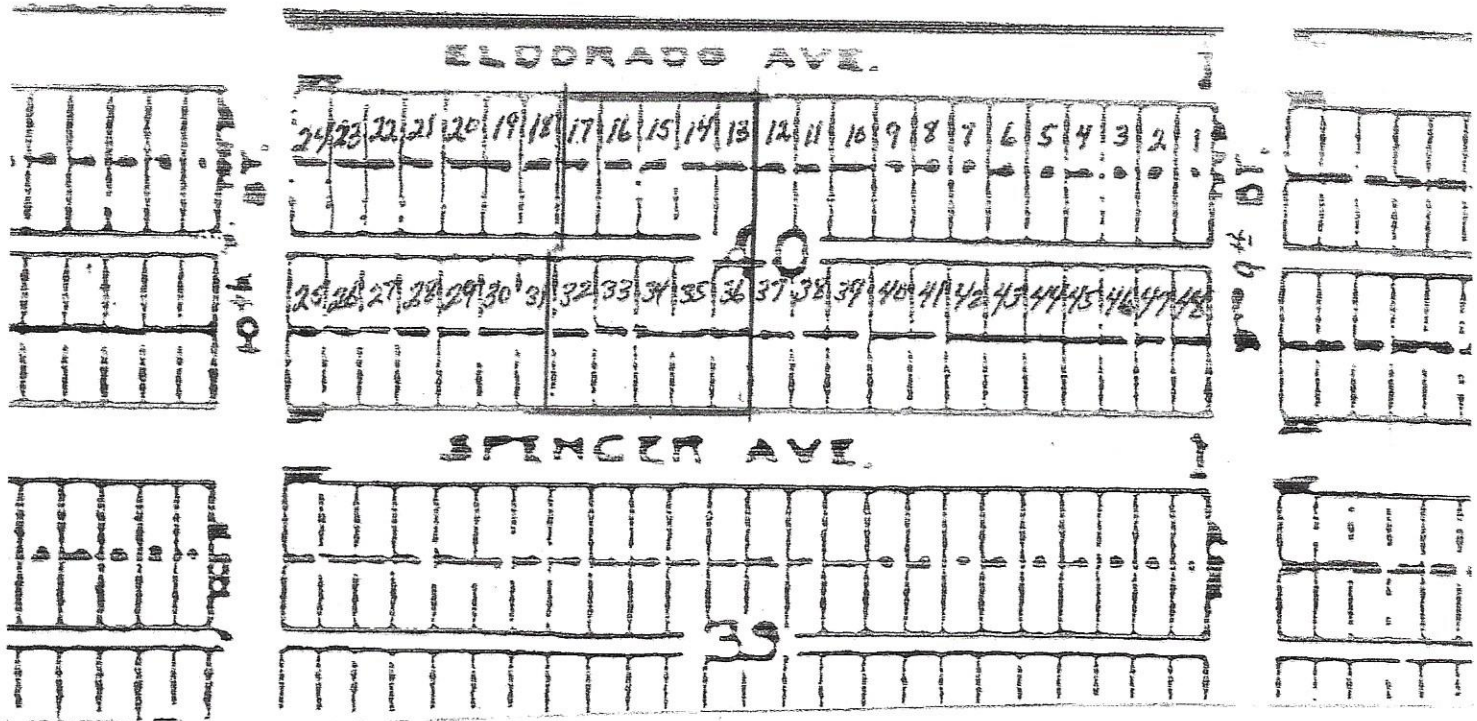
### PARCEL I:

LOTS 13, 14, 15, 16 AND 17 EXCEPT THE WEST 3.5 FEET OF LOT 17, IN BLOCK 40, ELDORA, ACCORDING TO THE HAPPY VALLEY PLACER CO.'S PLAT OF A PORTION OF CERTAIN PLACER MINING CLAIM DESIGNATED BY THE SURVEYOR GENERAL OF THE UNITED STATES OF AMERICA AS LOT 12354, WHICH PLAT IS RECORDED IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF BOULDER COUNTY, COLORADO IN PLAT BOOK 2 AT PAGE 139.

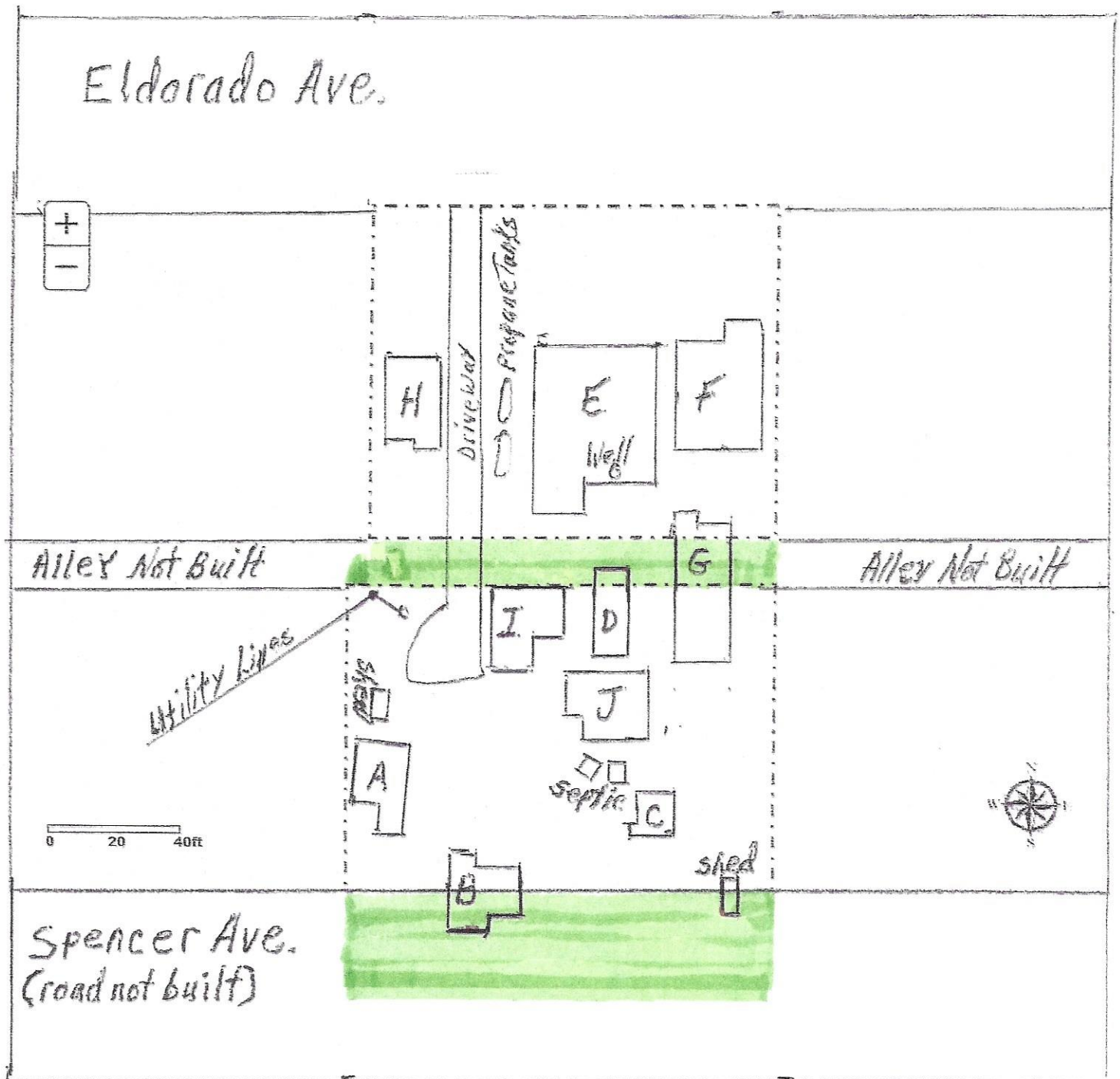
### PARCEL II:

THE EAST 3.5 FEET OF LOT 31, AND ALL OF LOTS 32, 33, 34, 35 AND 36, IN BLOCK 40, IN ELDORA, ACCORDING TO THE HAPPY VALLEY PLACER CO.'S PLAT OF A PORTION OF A CERTAIN PLACER MINING CLAIM DESIGNATED BY THE SURVEYOR GENERAL OF THE UNITED STATES OF AMERICA AS LOT 12354, WHICH PLAT IS RECORDED IN THE OFFICE OF THE COUNTY CLERK AND RECORDER OF BOULDER COUNTY, COLORADO, IN PLAT BOOK 2 AT PAGE 139.

which has the address of 960 ELDORADO AVENUE ELDORA  
[Street] [City]  
 Colorado 80466 ("Property Address");  
[Zip Code]

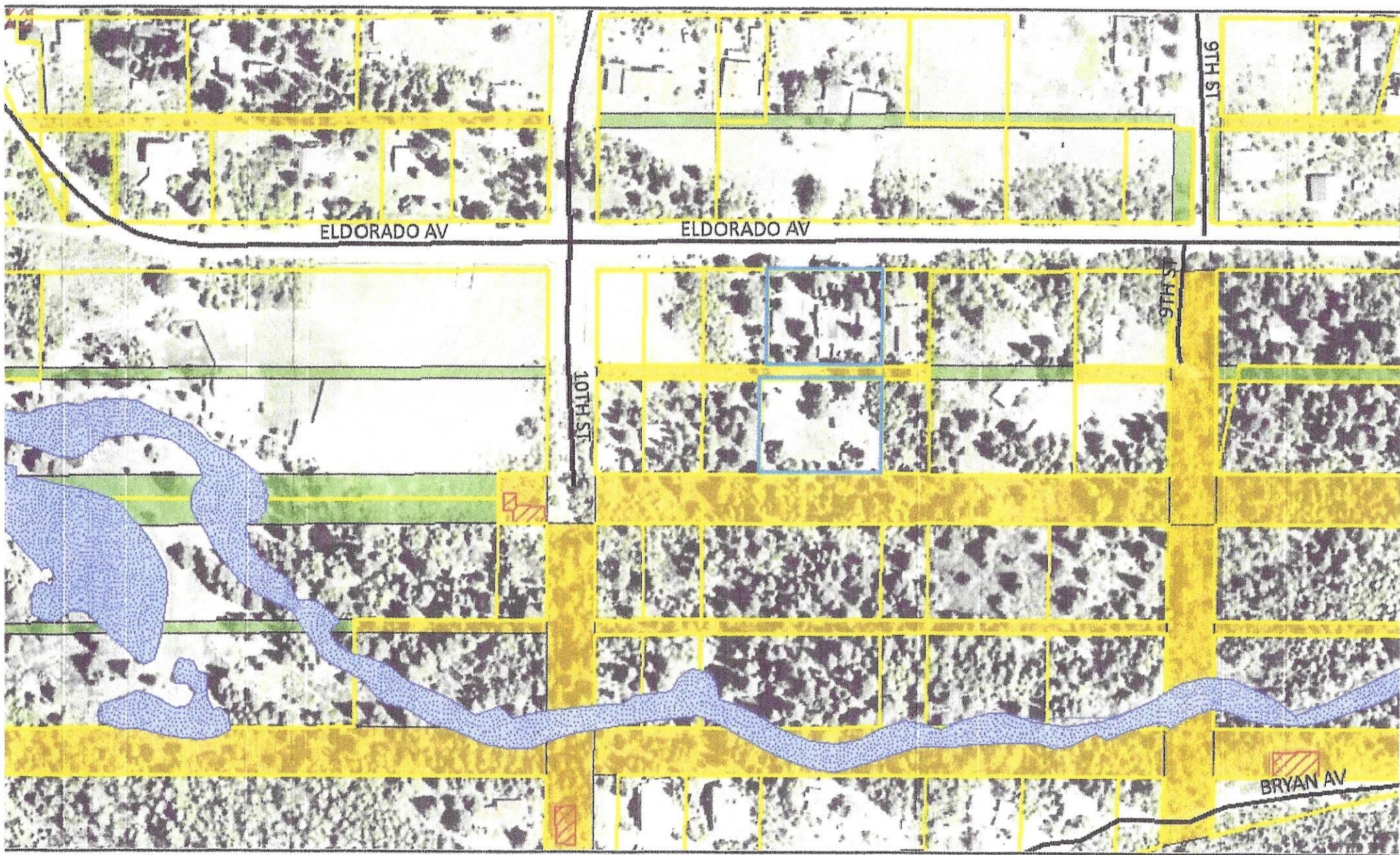


# Site Map (Exhibit B)



960 ELDORADO AVE  
 Eldora, Colorado  
 EYSTER PROPERTIES LLC.  
 EXISTING SITE CONDITIONS





"Exhibit C"



**Land Use**  
**Eldora Study of the Platted Roads, Alleys, and Rights-of-Way**

**960 Eldorado Ave.**

**Legend**



Potentially Encroaching Structure



Your Property



Previously Vacated Platted Road, Alleys, or Rights-of-Way



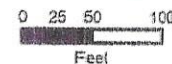
Platted Roads, Alleys, or Rights-of-Way



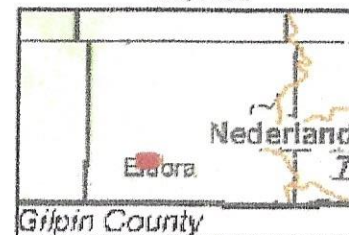
Existing Roads



Middle Boulder Creek



County Location







## Transportation Department

2525 13th Street, Suite 203 • Boulder, Colorado 80304 • Tel: 303.441.3900 • Fax: 303.441.4594  
Mailing Address: P.O. Box 471 • Boulder, Colorado 80306 • [www.bouldercounty.org](http://www.bouldercounty.org)

October 17, 2019

TO: Sean Gambrel; Planner II, Land Use Department  
FROM: Jennifer Severson, Development Review Coordinator  
SUBJECT: Docket # V-19-0001: Eyster Vacation

The Transportation Department has reviewed the above referenced docket and has the following comments:

1. The subject parcel is adjacent to El Dorado Avenue, a paved Boulder County owned and maintained right-of-way (ROW) with the Functional Classification of Collector. Legal access is demonstrated via adjacency to this public ROW.
2. The subject parcel is bisected from west to east by a ROW platted as an alley and bordered to the south by a ROW platted as Spencer Avenue (the subject ROWs).
3. No road improvements have been constructed in the subject ROWs and the Transportation Department has no future plans to develop the alley or Spencer Avenue.
4. The subject ROWs are not used for existing access and vacation of these ROWs does not preclude any parcels from legal access.
5. The Transportation Department supports the vacation request as proposed with the following recommendation: The vacation of Spencer Avenue as proposed would only vacate ½ of the alley to the south of the subject parcel. Staff recommends the applicant coordinate with the property owner to the south of Spencer Avenue to fully vacate the road ROW.

This concludes our comments at this time.



## Parks & Open Space

5201 St. Vrain Road • Longmont, Colorado 80503  
303.678.6200 • Fax: 303.678.6177 • [www.BoulderCountyOpenSpace.org](http://www.BoulderCountyOpenSpace.org)

**TO:** Sean Gambrel, Land Use Department  
**FROM:** Ron West, Natural Resource Planner  
**DATE:** October 18, 2019  
**SUBJECT:** Docket V-19-0001, Eyster

Staff has reviewed the submitted materials, and can only support part of the proposal. Vacating the alley right-of-way is acceptable, since parts of it have already been vacated – thus it is already discontinuous. However, only a minimal amount of Spencer Avenue should be vacated – this being the area directly under the footprint of the existing cabin. (The smaller shed, if encroaching, could be moved.) It is unknown if any part of the ROW is “necessary” for a new leach field. Until such time that this *may* be needed, it should not be vacated.

The undeveloped ROW of Spencer Avenue provides an east/west access for Eldora locals. This access is still intact between 10<sup>th</sup> and 5<sup>th</sup> streets. Whether or not there is an existing social trail in the ROW at the subject location is not material, since public use may only be occasional or sporadic. In general, the ROWs in the townsite have historically been used for public use -- as it should remain.

A long planning process in 2009, at the instigation of the Planning Commission and with input from town residents, determined that any vacations of the remaining Eldora ROWs should be carefully considered, on a site-by-site basis. During one iteration of the plan, all of Spencer Avenue was designated for retention. It is the longest and most intact ROW in the entire townsite, and it connects six north/south ROWs – from 10<sup>th</sup> Street all the way to 5<sup>th</sup> Street. Since the creek does not follow any ROW at all, Spencer and the six north/south ROW's maintain access to the creek for fishing and general recreation.

Staff's general rule-of-thumb for the considering of vacations is this – “Don't give away the Peoples' land.” Once it is gone, it is gone forever. The alley can be vacated, but Spencer Avenue should not be given away.





## Land Use

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)

MEMO TO: Referral Agencies, FPD and Adjacent Property Owners  
FROM: Sean Gambrel, CNUa, Planner II  
DATE: September 30, 2019  
RE: Docket V-19-0001

### Docket V-19-0001: Eyster Vacation

Request: Request to vacate one half of a portion of the platted right-of-way for Spencer Avenue and the full platted right-of-way for a portion of the alley located between Spencer Avenue and Eldorado Avenue in the Eldora Townsite.

Location: 960 Eldorado Avenue, approximately 400 feet west of the intersection of Eldorado Avenue and 9th street in the Eldora townsite, Section 21, Township 1S, Range 73W.

Zoning: Forestry (F) Zoning District


Applicant/Property Owner: Eyster Properties LLC c/o Brad Eyster, Managing Member

A Vacation (V) may be requested in order for public rights of way to be conveyed to adjacent property owners. The Vacation process includes a public hearing before the Planning Commission and Board of County Commissioners. All adjacent property owners and holders of liens, mortgages, easements or other rights in the subject property are notified of these hearings.

The Land Use staff, Planning Commission, and County Commissioners value comments from individuals and referral agencies. Please check the appropriate response below or send a letter. Late responses will be reviewed as the process permits; 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 review the entire file at the Land Use Department, 13th and Spruce, Boulder. If you have any questions regarding this application, please contact the Land Use Department office at (303) 441-3930 or me via email at [sgambrel@bouldercounty.org](mailto:sgambrel@bouldercounty.org).

Please return responses to the above address by **October 15, 2019.**

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

Signed  PRINTED Name Rom Flax  
Agency or Address Boulder County  
Building Safety & Inspection Services



**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

October 10, 2019

Boulder County Land Use  
PO Box 471  
Boulder, CO 80306

Attn: Sean Gambrel

**RE: Eyster Vacation, Case # V-19-0001**

Public Service Company of Colorado's (PSCo) Right of Way & Permits Referral Desk has determined **there is a possible conflict** with the above captioned project. The Exhibit B shows a utility line near the driveway on the west side of the property; however, our mapping program shows overhead electric facilities to include lines, poles and a down guy in the southwest area of the property – are these within the property or possibly within the Spencer Avenue right-of-way?

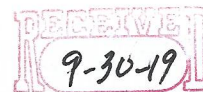
Donna George  
Right of Way and Permits  
Public Service Company of Colorado dba Xcel Energy  
Office: 303-571-3306 – Email: donna.l.george@xcelenergy.com



## Land Use

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☐ Letter is enclosed.

Signed Robert Clyncke PRINTED Name ROBERT CLYNCKE  
 Agency or Address Boulder Valley Soil Conservation District



Boulder Valley Conservation District  
9595 Nelson Road, Box D – Longmont, Colorado 80501 – Phone (720) 378-5521  
[www.bouldervalleycd.org](http://www.bouldervalleycd.org)

## Site Review Memo

Boulder Valley Conservation District Board  
Nancy McIntyre, Interim District Manager

Applicant: Eyster Properties LLC

Location: 960 Eldorado Ave

Docket No.: V-19-0001

Zoning: Forestry

Purpose: Vacate one half of a portion of the platted right-of-way for Spencer Avenue and the full platted right-of-way for a portion of the alley located between Spencer Avenue and Eldorado Avenue

Prime Farmland: N/A

Water Quality: N/A

Noxious Weed Control: Continue to monitor property for weeds and remove to prevent the spread of weeds.

Soils Limitations: N/A

Other Concerns: N/A

Summary Comments:



## Land Use

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☐ Letter is enclosed.

Signed  PRINTED Name Jessica Farick  
Agency or Address Land Use Historic Review

Deb Gardner County Commissioner

Elise Jones County Commissioner

Matt Jones County Commissioner



**From:** [Wufoo](#)  
**To:** [#LandUsePlanner](#)  
**Subject:** Ask a Planner - Web inquiry from Robert Frick - V-19-00001  
**Date:** Thursday, October 3, 2019 12:35:19 PM

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Boulder County Property Address : 960 Eldorado Avenue, Nederland, CO (Eldora Townsite)

If your comments are regarding a specific docket, please enter the docket number: V-19-00001

Name: Robert Frick

Email Address: fricklaw@gmail.com

Phone Number: (970) 397-3980

Please enter your question or comment: I am an adjacent property owner (940 Eldorado Avenue) to the Eyster Properties, LLC at 960 Eldorado Avenue. This request to vacate the existing easements is an appropriate request. This will conform the current use of the property and quiet title.

I support this request.

Please contact me with any questions or concerns.

Robert J. Frick

Public record acknowledgement:

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