[The Town of Nederland]

Agenda

[PLANNING COMMISSION]

Wednesday, February 27, 2019 @ 7:00 PM

Nederland Community Center

TOWN OF NEDERLAND
PLANNING COMMISSION
REGULAR BUSINESS MEETING

NEDERLAND COMMUNITY CENTER
750 Hwy 72 Nederland, CO 80466

February 27, 2019 - 7:00 P.M.

AGENDA

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF MINUTES FROM January 23, 2018

D. PUBLIC COMMENT

E. INFORMATION ITEMS
1. Community Development-Planning and Zoning Department Staff report

F. ACTION ITEMS
1. Consideration of a Public Hearing and Minor Subdivision/Replat Application by Town of Nederland at 211, 255, and 273 East Street

2. Review DRAFT revisions to Boulder County-Town of Nederland Intergovernmental Agreement (IGA) to make recommendations to the Board of Trustees

3. Consideration upon Long and Short-Term Rental Code modifications to make recommendations to the Board of Trustees

G. DISCUSSION ITEMS

H. OTHER BUSINESS

I. ADJOURNMENT

TOWN OF NEDERLAND
PLANNING COMMISSION
REGULAR BUSINESS MEETING

NEDERLAND COMMUNITY CENTER
750 Hwy 72 Nederland, CO 80466

January 23, 2019 - 7:00 P.M.

MINUTES

A. CALL TO ORDER
Chair Cornell called the meeting to order at 7:01 pm.

B. ROLL CALL
Present: Chair Roger Cornell, Vice Chair Steven Williams, and Trustee James Rawsthorne. Commissioners: Linda Glasser, Stephanie Herring, Ralph Hunt, Chris Perret, and Jim Reis.

Absent: Commissioners Lindsey Danforth. Trustee Rawsthorne came, but left due to the quasi-judicial (QJ) items on the agenda.

Also Present: Town Administrator Karen Gerrity; Deputy Zoning Administrator/Clerk to Planning Commission Cynthia Bakke; Town Attorney Nina Williams.

C. APPROVAL OF MINUTES FROM November 28, 2018
Commissioner Glasser motioned to approve the minutes as written, seconded by Commissioner Perret with (5) in favor, and abstention Commissioners Perret and Reis whom did not attend the last meeting.

D. PUBLIC COMMENT
There was no public comment on non-Agenda items.

E. INFORMATION ITEMS
1. Community Development-Planning and Zoning Department Staff report
Gerrity said she and Public Works Manager Chris Pelletier have been attending Denver Regional Council of Government (DRCOG) meetings looking at qualifying for funds for a project that she and Pelletier have discussed which meets the criteria. She said the Sub-regional technical committee felt the potential project could stand a good chance for funding, which would be a $2 1/2M project, to take place along Jefferson and West 1st Streets and sidewalk improvements leading into and including the Visitor Center parking lot, along with more bike racks. Gerrity said a full application would need to be completed and submitted by February 27.

Gerrity said the partial Federal government shut-down has affected the USFS, which isn't operating at normal capacity. She said this has delayed the Big Springs Egress project due to easement considerations. BOT agreed to roll over funds to complete the design and application phase to Boulder County for access through their Open Space as well. She said she has met with Boulder County and went over requirements to make the application complete.

Gerrity said DDA funding is tax incremental finance (TIF) funded, and when this was established the district's property taxes were established at a flat level, with any increases to go to the DDA. This means the school and fire districts don't receive those funds. She used the example of the building built at 80 Big Springs which has to be protected and inspected by the Fire Department, but doesn't get funding for these services. She said the lawyers who crafted the language for the DDA have said they can craft an intergovernmental agreement (IGA) to pay back the Fire Dept for fire services within the district. She said this may be something the Commission hears about, but it has been done in other places and isn't controversial. She said as part of governing requirements, the DDA will have to go to voters to reauthorize approval every few years, which will be done again in November 2019. The DDA is researching cost of design and build for an amphitheater space in Barker Meadows Park.

Gerrity said the Commission had asked staff about offering a tour of the wastewater treatment plant (WWTP), which she addressed in her staff report and included a phone contact to schedule. She said the staff report also includes a report from SAFEbuilt about building and construction from the end of last year and 2017-2018 comparison.

Gerrity said BZA met on 1.10.2019 to consider a variance request for 88 Sundance Circle for Dave McElvain, which was recommended for approval. Chair Cornell noted there is a vacancy on the BZA if anyone on the Commission knows someone who might be interested. The BZA meets quarterly. Bakke said she can provide more info if needed.

Cornell spoke about history of the DDA formation and former budget of the Fire Department when he was Mayor. He said there was 2 years of discussions when the DDA was formed, and Fire Chief Rick Dirr brought up the funding issue from the beginning.

G. ACTION ITEMS

1. Election of Officers per Bylaws Article VIII

Chair Cornell noted the Commission terms were listed in the AIM. He said he had inquired if Vice Chair Williams was interested in serving as the Chair. Vice Chair Williams said he plans to travel when his wife retires, but he is willing to remain as Vice Chair. Cornell said he has served on the Commission variously since 1986. He said the research and work is invigorating and the right amount of time for him. He is willing to continue as the Chair.

The Commission discussed the consideration of officers. Newer members said they would like to learn more upon the Commission. All were in consensus to retain the current leadership.

Commissioner Hunt motioned for Roger Cornell to serve as Commission Chair, with Steve Williams as Vice Chair, seconded by Commissioner Glasser with all in favor. (7)

2. Consideration of a Minor Subdivision/Replat Application and Public Hearing for Linda Bunce at 232 W 3rd Street

Bakke introduced the item. She said the garage upon Bunce's property at 232 W 3rd Street (built in 1936) encroaches a few feet upon Calvary Chapel's Poppy Plaza property at 268 W 3rd Street (built in 1979). Bakke said Calvary Chapel graciously donated +/- 70 square feet to resolve the issue which required the Replat. She said there were no issues presented from residents or Town staff concerning the application.

Doug Gibney, from Calvary Chapel, said Calvary was willing to donate square footage from their property to Linda Bunce in order to make her property conforming.

Chair Cornell opened the Public Comment portion.

There was no one signed up or whom desired to offer comment, thus Chair Cornell closed the Public Hearing portion.

Cornell said the Commission discussed waiving the greater subdivision requirements at the meeting in November. There were no issues or further comments by the Commission.

Commissioner Glasser motioned for recommendation of approval for the Minor Subdivision/Replat application by Linda Bunce at 232 W 3rd Street, seconded by Commissioner Perret with all in favor. (7)

3. Consideration of a Minor Subdivision/Replat Application by Boulder County Housing Authority on behalf of Calvary Chapel at 268 W 3rd Street
Bakke introduced the item. She said Calvary Chapel's property abuts the property owned by BCHA. She noted the materials were prepared by BCHA for Calvary and show a replat to combine Lots 6-7-8 at 268 W 3rd Street into one lot, although she has heard recently from Calvary that they desire to make them 2 lots. She said she had accidentally put BCHA's property address upon the neighbor notifications that were sent out, however to remedy the issue she resent the notices with the Public Hearing to be held at the Board of Trustees on February 5. This extra time will allow new surveys to be submitted showing Calvary's desire to combine lots 6 and 7, with lot 8 being a separate lot. The donation from lot 8 to neighbor Linda Bunce reduced that lot size, however if enough square footage was taken from lots 6 and 7 upon which the building was built, it could stand as its own lot.

Senior Planner BCHA Michael Lambert said they have worked with Calvary to find a mutually beneficial situation. He said the intention of the minor subdivision/replat application was to establish Calvary's new boundary lines and combine the lots. He said they will provide a new subdivision plat to show 2 lots, with lots 6 and 7 as one lot, and square footage from this put into Lot 8 to ensure the districts required 4,000sf.

Attorney Nina Williams said the minor subdivision/replat process for Calvary Chapel had been discussed at the time the applications for BCHA were approved in 2018.

Commissioner Perret asked for clarity about the process. Town Attorney Williams said the subdivision/replat would make 2 lots of the 3. There were no other Commission comments.

Chair Cornell opened the Public Comment portion.

Scott Papich, of Nederland, suggested the neighbor notification include a drawing to understand what is being discussed because it takes research to understand which property is involved.

Chair Cornell closed the Public Comment portion.

Chair Cornell motioned to recommend approval of minor subdivision/replat for Calvary Chapel by BCHA with condition that lots are drawn as explained by BCHA

Senior Planner Michael Lambert as described to the Planning Commission to be accompanied by better diagram to describe the proposal for lots 6,7, and 8 to become two (2) total lots at 268 W 3rd Street, seconded by Commissioner Glasser, with all in favor. (7)

G. DISCUSSION ITEMS

1. Advisory Committee for Long and Short-Term Rental Code modifications summary

Chair Cornell said there was no Commission meeting in December, thus Commissioners may be unaware of the formation of the Advisory Committee. He said the committee consists of representation by the Planning Commission with Vice Chair Williams and himself, of the Board of Trustees by Trustee Dallas Masters and Mayor Pro Tem Julie Gustafson, and Town staff by Town Administrator Gerrity and Deputy Zoning Administrator Bakke. This committee is looking at code modifications regarding long- and short-term rental which includes ADUs.

Gerrity noted outstanding items about accessory dwelling units (ADUs) and whether short-term rental (STR) should be considered for detached units. In the new direction that the Committee is going a "dwelling unit" would only refer to a detached unit with anything that is inside is considered a rooming unit. The current code defines these already so it would be easier to alter existing code language to fit these uses.

Vice Chair Williams said when they talked last a separated portion such as basement could be used as an ADU. Cornell directed the Commission to Sec. 16-6 for the "dwelling unit" definition which has several elements regarding separated units [whether in the main house or a detached unit] that would negate this delineation in Master's approach. Thus, that definition would have to be altered to fit. In Sec. 16-33 Yard and Bulk Requirements there are also density limits based upon the district square footage, which would be exceeded if establishing another dwelling unit. He noted the code language further for dwelling unit which defines certain factors which would indicate a multiple dwelling unit, e.g. no internal connections. Cornell noted ADUs were not in the code a year ago, so it is important to ensure the definition aligns, because this definition clarifies that any separated spaces in a main structure constitute dwelling units, not rooming units.

Gerrity asked for the Commission's thoughts about allowing STR in ADUs, seeing as ADU ordinance that was passed, but pulled back had prohibited this type of use in an ADU.

Commissioner Herring said the definition of dwelling unit seems to encompass any space in home that can be used to sleep in, and the expansiveness of the definition is different than what they intended as an ADU. Gerrity noted the code has been modified during this proposal process, with a link in the packet about the Rental Code Modification Committee included with the Staff Report. She said the language differs in this version than the existing definition. Commissioner Herring asked if they need to be able to distinguish to clarify for the rental code as they are impacted by how a bedroom is defined, along with any septic considerations. She further said there appears to be 3 types of possible habitable spaces which should be clarified, whether used for LTR or STR: the main structure, an internal separate dwelling unit, and a separate self-sufficient structure.

Chair Cornell said ADUs were initially considered when the building code update process occurred, with the intention to increase housing. Commissioner Herring said she would still support utilizing an ADU for LTR only, even if it is part of the main structure such as a basement apartment.

Commissioner Perret spoke about a former resident who made multiple dwelling units illegally out of

single-family structures in 1994. He said a locked basement or other separated unit would constitute a duplex, but rental of a few rooms is different. He said he would not support STR in the former, but does support rental of rooms.

Gerrity suggested they review the Google Doc via the provided link to see the Committee's direction and send any feedback to Town staff. She asked if detached ADUs should require a separate plant investment fee (PIF). Bakke said the Utility Department strongly supports collection of PIFs because more users increases system demand without investment into the Town's infrastructure.

Gerrity said whole house rentals could potentially be considered in commercial districts as a business, but it may be beneficial to have a cap upon how many are allowed. She also asked if the Commission supports a long-term renter being able to offer STR.

Chair Cornell said Trustee Masters and other Board members support utilizing accessory setbacks instead of primary setbacks, despite the Commission's former recommendation. Gerrity noted primary setbacks could limit the number of properties that could contain an ADU. Bakke noted Trustee Masters also supports no size requirement limitation for an ADU, which goes against the Commission's minimum and maximum size requirement. Chair Cornell said the next Committee meeting will be on Tuesday, January 29 starting at 5:30pm. He and Vice Chair Williams requested the Commission review the document and send any input to the Town staff prior to the Committee meeting.

H. OTHER BUSINESS

Chair Cornell said this is Town Attorney Nina Williams last Commission meeting. The Commission thanked Williams for her hard work on their behalf and gave her a round of applause. Williams spoke of what is next for her and said she can still be reached by her email.

I. ADJOURNMENT

Motion to adjourn was made by Commissioner Herring, seconded by Commissioner Perret, with all in favor (7). The meeting was adjourned at 8:23 pm.

Approved by the Planning Commission,

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Roger Cornell, Chairman, Planning Commission

ATTEST:

_____

Cynthia Bakke, Deputy Zoning Administrator/Clerk
to Planning Commission

AGENDA INFORMATION MEMORANDUM
PLANNING COMMISSION

Meeting Date: February 27, 2019
Prepared By: Karen Gerrity, Town Administrator
Dept: Admin
Consent ☐ **Information** ☒ **Action** ☐ **Discussion** ☐

STAFF REPORT FROM TOWN ADMINISTRATOR

TRANSPORATION IMPROVEMENT PROJECT GRANT

At the February 19th meeting, the Board of Trustees gave staff approval to submit a grant application for over $2 million in Transportation Improvement Project federal and state funds. The proposed project includes:

- Replacement of Town Hall sidewalk with extension to RTD Park-n-Ride with an ADA compliant sidewalk.
- Extending the existing sidewalk from Katmandu Plaza to First Street
- Reconstructing North Jefferson Street
- Reconstructing the VC Parking Lot
- Reconstructing West First and improving parking.
- Adding electric charging stations

This graphic shows the proposed connection to RTD Park-n-Ride to Nederland's downtown and municipal facilities. Additionally the graphic shows the proposed reconstructed roadway and parking area.

The proposed project is in the conceptual stage. Staff is requesting design funds in 2020 with construction to begin in 2021 to allow plenty of time for public input on the project.

The proposed project has an approximate value of $2.3 million. The Town will be required to make a5% cash. The DDA voted unanimously at their February meeting to make a 3% contribution in the amount of $69,000. Town will make the remaining cash match of $46,000 using funds from the Roads Sales Tax which was passed in November 2018. The application can be found at the link provided below: https://nederlandco.civicweb.net/filepro/documents/13826?fbclid=IwAR1oLuPrB2gxUKGLy6T3QlMgZkTGfpy6NETefzkDV-eFQ2jzhByfWOYFKy8&preview=13925

BARKER MEADOWS PARK IMPROVEMENTS

To engage the community in a more robust way, the Board of Trustees decided to pull the Great Outdoor Colorado Grant and resubmit in the Fall. They are hosting several public forums to solicit feedback and the first one was scheduled for February 26 from 6:30-8pm.

PALEOFLOOD STUDY REQUEST FOR FEEDBACK

The US Department of Interior Bureau of Reclamation sent a letter to the Planning Commission regarding a paleoflood study being conducted in both Larimer and Boulder County. The study is being conducted to evaluate the hydrological risk of overtopping at Olympus Dam on Lake Estes. Pertinent information follows this staff report.

Two of the 22 test sites are located on private property in Nederland. Each test pit is about 3-feet wide by 3-feet long by 2-feet deep. On average it should take a ½ to a full day to complete site analysis. Reclamation feels that this undertaking will have no adverse effect on historic properties and **invites the Planning Commission to sign the Programmatic Agreement as a concurring party.**

The addresses for the private parcels are 95 W. 1st Street, owned by Ralph Meyertons Living Trust (including the old mill located down by the creek) and 100 E. 1st Street, Ron Mitchell's parking lot and park.

The letter is part of the National Historic Preservation Act Section 106 compliance to determine whether any historic properties (defined as cultural resources eligible for inclusion on the National Register of Historic Places) may be negatively affected by the study. The private property owners are being contacted by their Lands division to obtain permission to enter their property and complete the testing. They are not planning to contact adjacent neighbors.

If you have any additional questions or know of any historic properties that may be affected by this study please let Melissa Baier know before March 15. After March 15th please contact her supervisor, Laura Harger at lharger@usbr.gov or 970-461-5437.

SAFEBUILT ACTIVITY AND BUILDING AND PLANNING

From mid-January until mid-Febuary, a total of 4 building permits were issued to include: 3 miscellaneous permits and 1 residential addition.

During this time, Cynthia took part in the BOT-appointed Advisory Committee to consider code modifications re: long and short term rental where she took notes. She also attended the Public Forum re: consideration of IGA between Boulder County and Nederland to help collect and compile feedback about the proposal.

United States Department of the Interior

BUREAU OF RECLAMATION
Great Plains Region
Eastern Colorado Area Office
11056 West County Road 18E
Loveland, CO 80537-9711

IN REPLY REFER TO:

EC-1310
2.1.1.04 (ENV-3.00)

FEB - 8 2019

Town of Nederland Planning Commission
c/o Laura Jane Baur
Town Clerk
P.O. Box 396
Nederland, CO 80466-0396

Subject: Consultation Regarding Paleoflood Study, Larimer and Boulder Counties, Colorado and Proposed Programmatic Agreement—Colorado-Big Thompson Project (ECAO Project #2019-018)

Dear Planning Commission:

The Bureau of Reclamation, Eastern Colorado Area Office, in compliance with Section 106 of the National Historic Preservation Act of 1966 (NHPA) and its implementing regulations (36 CFR Part 800), is consulting with you regarding the subject project.

Description of Undertaking

Reclamation's Technical Service Center (TSC) is proposing to conduct a paleoflood study on three watersheds (Big Thompson River, St. Vrain Creek, and Boulder Creek). The study is being conducted as part of a flood frequency analysis to evaluate the hydrological risk of overtopping at Olympus Dam on Lake Estes, Estes Park, Colorado.

The stratigraphic record present along streams in the form of terrace and flood plain deposits are direct indicators of the magnitude of large floods on a river and can be 10 to 100 times longer than the conventional stream gaging records of large floods. The study of paleofloods offers a means to reduce the uncertainty in flood frequency analyses, provides an important baseline to verify the results of rainfall-runoff models, and effectively extends the record many times longer than the length of the stream and precipitation gages or historical records.

Paleoflood studies also provide a long-term perspective that can place historical large-magnitude floods into temporal context and assist in the reconciliation of conflicting information. For example, if a gaging record contains an exceptionally large flood, a traditional flood frequency analysis may assign it an unrealistically short return period, may omit it from the frequency analysis as an outlier, or recognize the flood as a relatively rare event, but still assign it some arbitrary return period. Paleoflood data can reduce the uncertainties associated with estimates of low annual exceedance probability floods based only on short-term gage records.

The paleoflood data collected during this study, along with modern stream-flow records, will be used to improve flood frequency hydrographs needed to address hydrologic risk concerns at Olympus Dam. Data will be collected within the Big Thompson River watershed upstream and downstream of Olympus Dam. In order to reduce interpretation uncertainty, a regional comparison model will be created from paleoflood data collected on the similarly unregulated drainage systems of the main stems of St. Vrain Creek and Boulder Creek. Possible data sources include preserved flood deposits and stratigraphy from stable terraces along the margins of the rivers.

Thirty-three study sites have been identified. Twelve of the proposed sites are in Boulder County, including one site on private property in the Town of Nederland. The other 21 sites are located in Larimer County. At each site an approximately 3-feet wide by 3-feet long by 2-feet deep pit will be hand dug to expose the most recent stratigraphy of each terrace. Stratigraphy will be examined and described in detailed field notes. Limited samples of charcoal and/or other organics may be collected for macrobotanic identification and radiocarbon analysis. If organic materials are not easily identifiable in the sediment, a bulk sample (~ 1 pound) may be collected from limited horizons in order to collect micro-organics such as seeds and charcoal fragments for laboratory analysis. All pits and exposures will be backfilled within the same day of their excavation. Top vegetation cover will be replaced on the ground surface to achieve minimum disturbance of the site. In average, the time needed to complete the analysis at one site is ½ day to 1-day maximum.

Area of Potential Effect (APE)

The entire APE consists of an area 30-meters around each proposed test pit. Thirty-three test pits will be excavated on both public and private lands in Larimer and Boulder Counties for a total APE of 23 acres. The pits will be backfilled and top vegetation cover replaced, so indirect effects are considered to be negligible and temporary. A table listing the legal descriptions of each test pit location is enclosed.

Cultural Resources within the APE

Reclamation completed a Class I File Search of the APE with the Colorado Office of Archaeology and Historic Preservation on November 9, 2018, (File Search No. 21529). The file search revealed that 16 of the test pits have been previously inventoried for cultural resources. The APE for three other test pits has been partially inventoried.

Test Pit #2 is located within a parcel of land owned by the City of Loveland. The entire parcel was inventoried by the United States Forest Service in 2012 as part of the Idywilde Hydropower Facility Relicensing Project (Gabriel and Larmore 2012). The test pit is within the boundaries of the historic Viestenz-Smith Mountain Park (5LR853), a recreation area with Civilian Conservation Corps structures, the Louis Papa Homestead (late 1800s-1935), and the original Idylwilde Hydroelectric Plant (1914-1925). Site 5LR853 was determined eligible for the National Register of Historic Places (NRHP) in 2015.

Test Pit #17 is located within a parcel of land owned by Boulder County. The entire APE was inventoried at a Class III level in 1979 by the Bureau of Reclamation (Lincoln 1979). The test pit is located within the boundaries of the Walker Ranch Historic District (5BL235), which was listed on the NRHP in 1984. The proposed test pit is located along the left bank of Boulder Creek and is not near any of the ranch structures or any contributing resources of the historic district.

Test Pits #6 and #7 are located in the Town of Estes Park. A portion of the APE for each pit was inventoried by the Colorado Department of Transportation in 2015 as part of an infrastructure improvement project (McKetta and McKetta 2015). The proposed test pit locations were not within the inventoried area however.

Test Pits #15 and #16 are located on land owned by City of Boulder. This area was inventoried for paleontological resources in 2009, (Murphey and Browne 2009), but has never been investigated for cultural resources.

Test Pit #18 is located on private property in the Town of Nederland. A portion of the APE was included in a historic building survey in 1999-2000, (Norman 2000).

All of the 14 proposed test pits within Rocky Mountain National Park have been previously surveyed for cultural resources multiple times. Test Pits #20, 21, 22, 23, 28, 30, 32, and 33 were inventoried for cultural resources at a Class III level in 1997 as part of a pre-burn inventory (Butler 1997). Test Pits #24, 25, 26, and 27 were inventoried for cultural resources in 2003 for a wildfire fuels management project (Hanson 2003). Test Pits #23, 28, 29, 30, 31, and 32 were inventoried in 2004 as part of a road relocation project (Butler 2004). Test Pits #21, 22, 23, 32, and 33 were also included in a 1979-1980 inventory of Rocky Mountain National Park (Hartley 1981). Test Pits #24 and 27 were inventoried in 1999 by the University of Northern Colorado (Brunswig 2000). Test Pits #24,25, 26, and 27 were inventoried Portions of the APE for Test Pits #23, 28, 29, 30, 31, and 32 were inventoried for a new bicycle trail in 2006, (Butler 2006). Portions of the APE for Test Pits #20, 24, 25, 26, 27, 28, 29, 30, 31, and 32 were inventoried in 1990 for a waterline replacement (Borel 1990).

Four cultural resources in Rocky Mountain National Park are within or partially within the APE. Site 5LR6988.1 is the original Bear Lake Road alignment. This linear site intersects the APE for Test Pits #23, 28, 29, 30, 31, and 33. The road segment was determined not eligible for the NRHP in 2004.

Site 5LR10916.1 is the Hallowell Park-Mill Creek Basin Road. It intersects the APE of Test Pits #23, 28, 29, 30, 31, and 32. The road segment was determined not eligible for the NRHP in 2004.
Site 5LR12259.1 is a segment of the Tuxedo Park Residence Road. It intersects the APE of Test Pit #23. The road was determined not eligible for the NRHP in 2006.

Site 5LR3699 is Camp Woods, an early 20th century recreational cabin site that was demolished in the 1950s. One test pit is located within the boundaries of the site (Test Pit #21). The APE for three other test pits intersect the site boundary (Test Pits #25, 26, and 32). Site 5LR3699 has not been formally evaluated for the NRHP.

Determination of Effect

As most of the test pits have never been inventoried for cultural resources or were inventoried more than 15 years ago, Reclamation's archeologist proposes that a Programmatic Agreement be developed to allow for a phased identification of resources. The proposed phased identification would include the following procedures. An archeologist meeting the Secretary of Interior's Standards would accompany the TSC geologist to each of the proposed test pit locations. A pedestrian inventory of the APE would be completed and one shovel test excavated within 1-meter of the proposed soil test pit to identify the presence of any subsurface cultural materials. If cultural materials are identified, the new resource will be recorded and the test pit relocated to a suitable location where no cultural materials are present. If the test pit cannot be relocated because a lack of appropriate landforms, the archeologist would help the geologists excavate the test pit, and screen all sediments for cultural materials. All artifacts and features will be recorded in the field with photographs, measurements, and drawings. Recovered artifacts will either be reburied in the test pit or returned to the land owner. A report detailing the findings of the inventory and any testing completed with her assistance would be prepared and submitted to the Colorado Office of Archeology and Historic Preservation.

Reclamation feels that this undertaking will have *no adverse effect* on historic properties if the measures proposed above are implemented and invites you to sign the Programmatic Agreement as a concurring party.

Reclamation looks forward to your comments regarding the proposed undertaking. Please respond to this letter within 30 days of receipt if you wish to participate on the Programmatic Agreement as a concurring party. If you have any questions, please contact Reclamation's archaeologist, Ms. Melissa Baier, at 970-461-5448 or by e-mail at mbaier@usbr.gov.

Sincerely,

Anthony C. Curtis
Chief, Resources Division

Enclosures – 2

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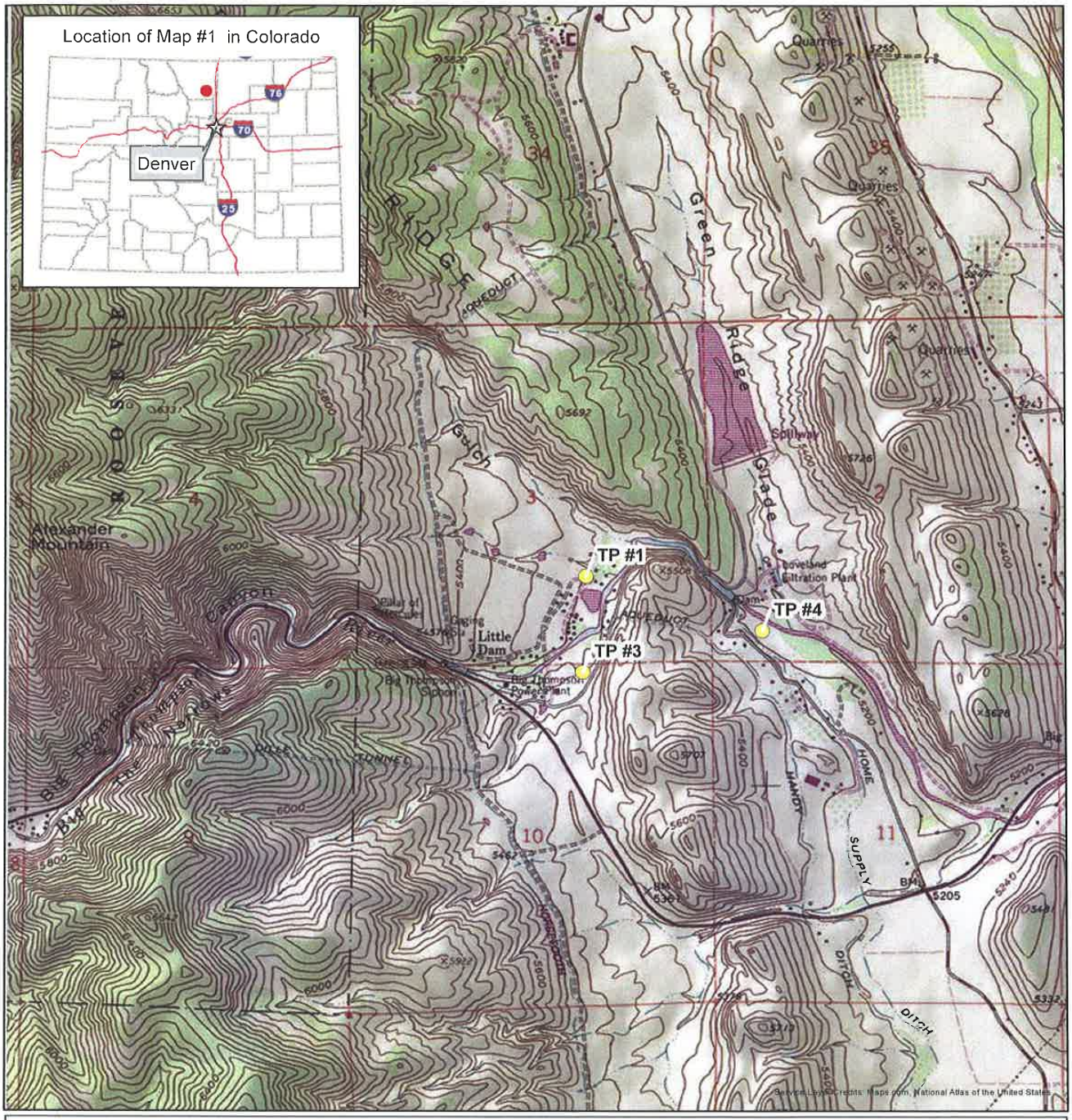


Map #1 TSC Paleoflood Study Test Pit Locations
ECAO Project #2019-018

Proposed Test Pit

County Boundary

USGS Quadrangle Boundary

Map Location (Inset)

0 500 1,000 Meters

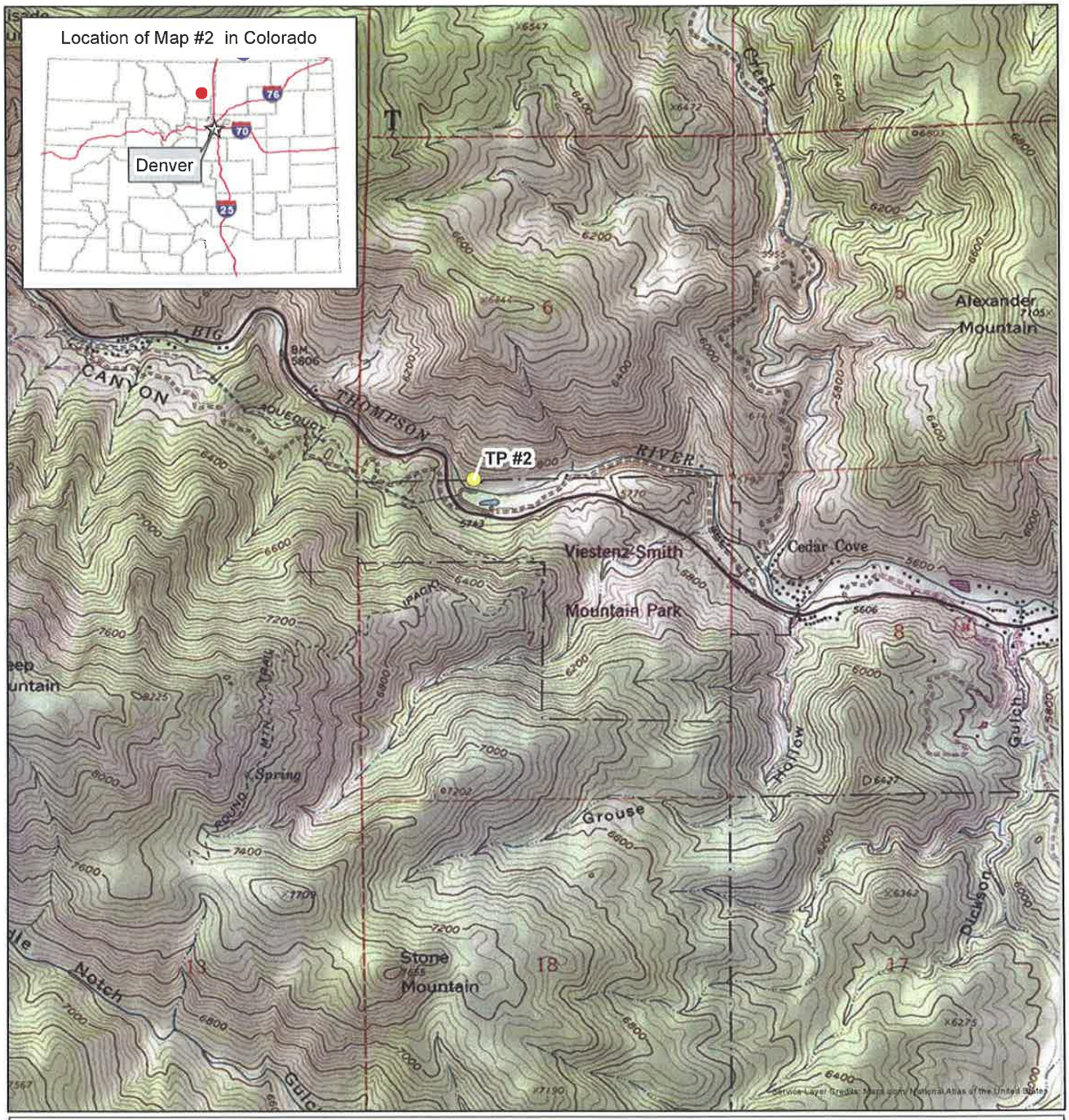
Sections 2 ,3, 10, & 11; T. 5 N., R. 70 W., 6th P.M.
Larimer County, Colorado
USGS Quadrangle: Masonville

1:24,000
1 inch = 2,000 feet

N

RECLAMATION
Managing Water in the West

This map was prepared from the best available information and is subject to certain inaccuracies. Created by Bureau of Reclamation, Eastern Colorado Area Office on 1/29/2019. MAS. T:\Environmental Res\CULTURAL RESOURCES\Projects \2019\2019-037 Flatiron Septic System



Map #2 TSC Paleoflood Study Test Pit Locations
ECAO Project #2019-018

0 500 1,000 Meters

Proposed Test Pit
County Boundary
USGS Quadrangle Boundary
Map Location (Inset)

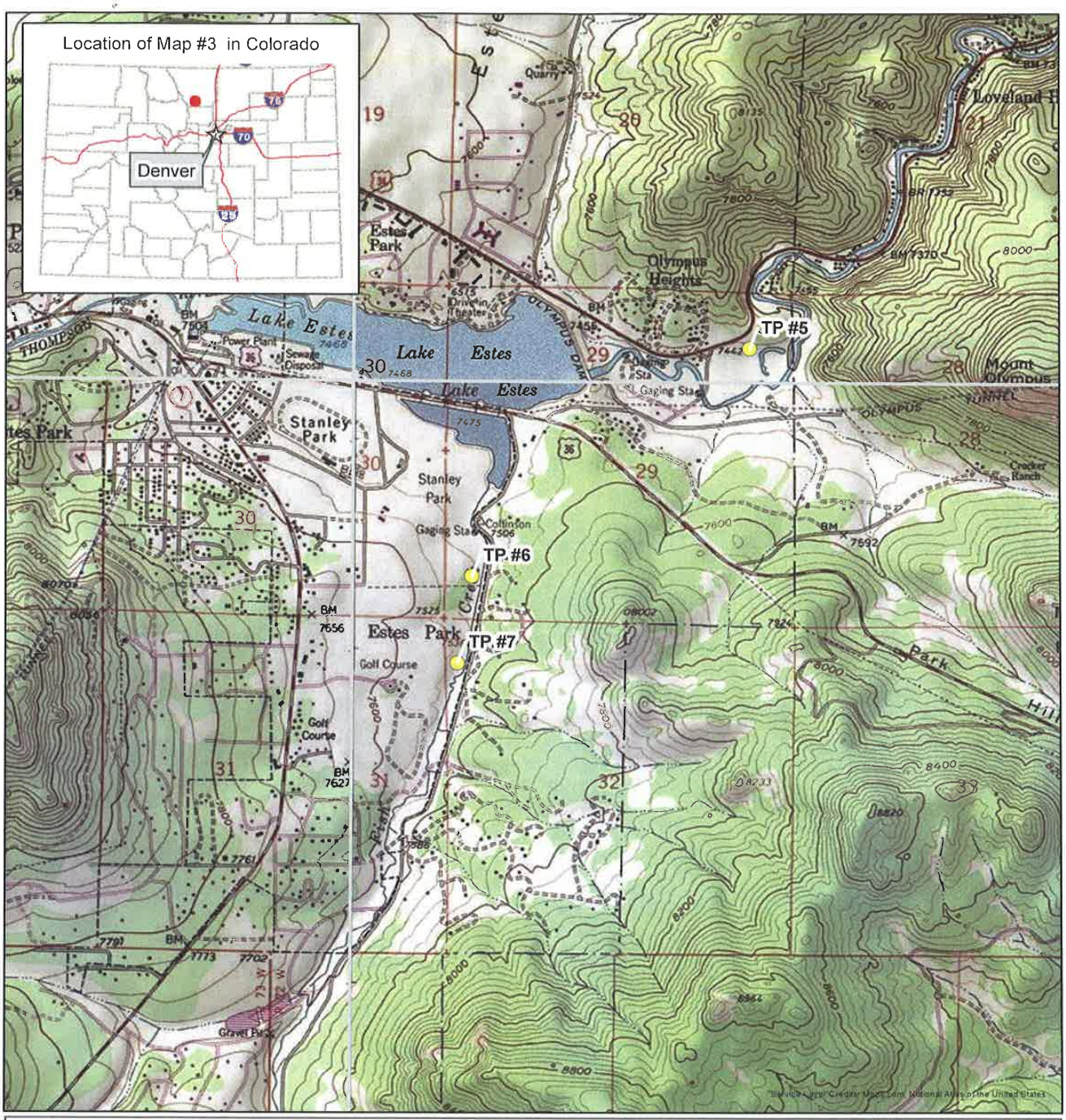
Section 7; T. 5 N., R. 70 W., 6th P.M.
Larimer County, Colorado
USGS Quadrangle: Drake

1:24,000
1 inch = 2,000 feet

N

RECLAMATION
Managing Water in the West

This map was prepared from the best available information and is subject to certain inaccuracies. Created by Bureau of Reclamation, Eastern Colorado Area Office on 1/29/2019.
MAB. T:\Environmental Res\CULTURAL RESOURCES\Projects \2019\2019-037 Flatiron Septic System



Map #3 TSC Paleoflood Study Test Pit Locations
ECAO Project #2019-018

0 500 1,000 Meters

Sections 29, 30, 31, & 32; T. 5 N., R. 72 W., 6th P.M.
Larimer County, Colorado
USGS Quadrangle: Glen Haven, Panorama Peak, & Longs Peak

1:24,000
1 inch = 2,000 feet

- Proposed Test Pit
- County Boundary
- USGS Quadrangle Boundary
- Map Location (Inset)

N

RECLAMATION
Managing Water in the West

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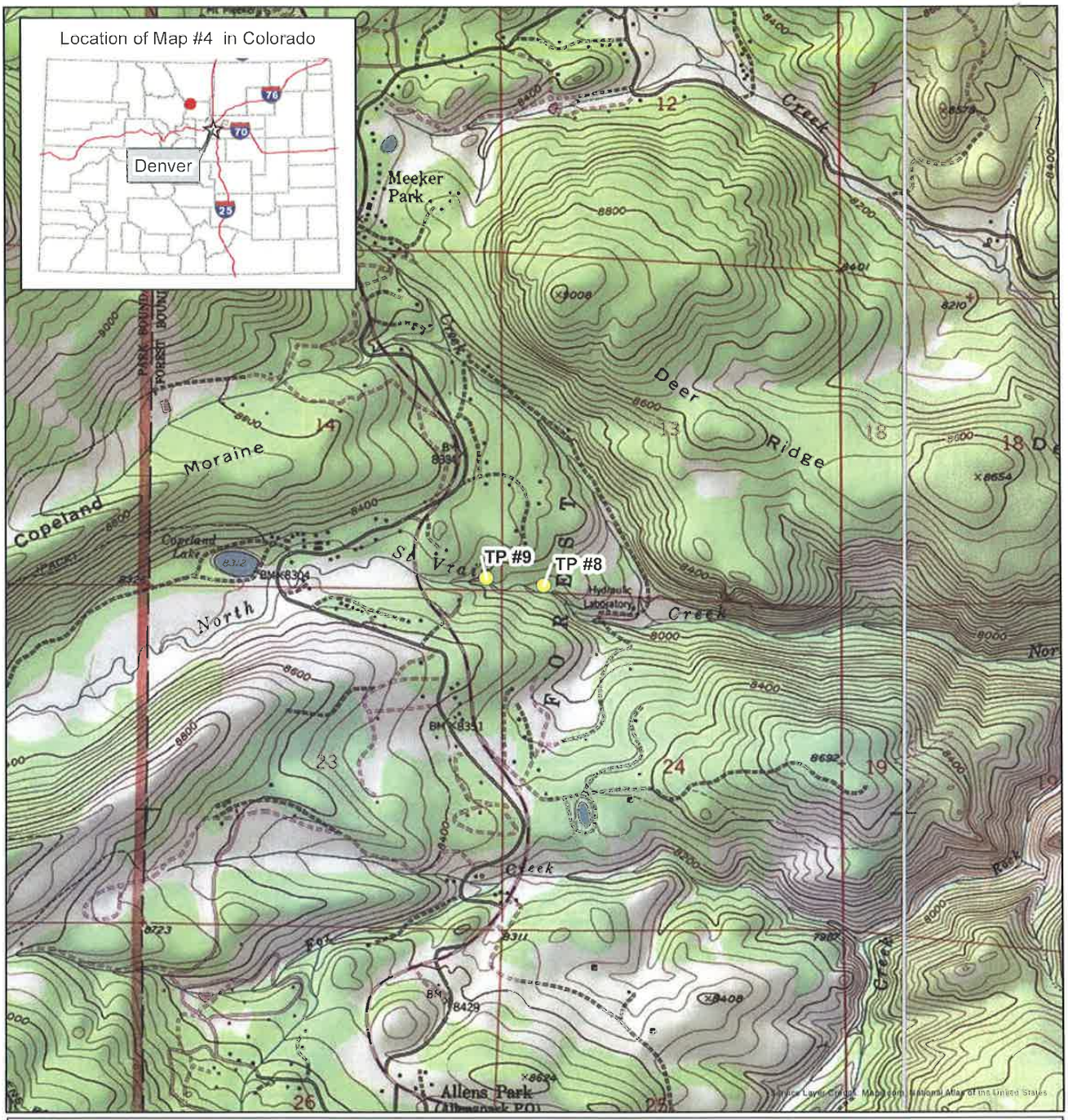

Map #4 TSC Paleoflood Study Test Pit Locations
ECAO Project #2019-018

0 500 1,000 Meters

Proposed Test Pit
County Boundary
USGS Quadrangle Boundary
Map Location (Inset)

Sections 13, 14, & 24; T. 3 N., R. 73 W., 6th P.M.
Boulder County, Colorado
USGS Quadrangle: Allens Park

1:24,000
1 inch = 2,000 feet

N

RECLAMATION
Managing Water in the West

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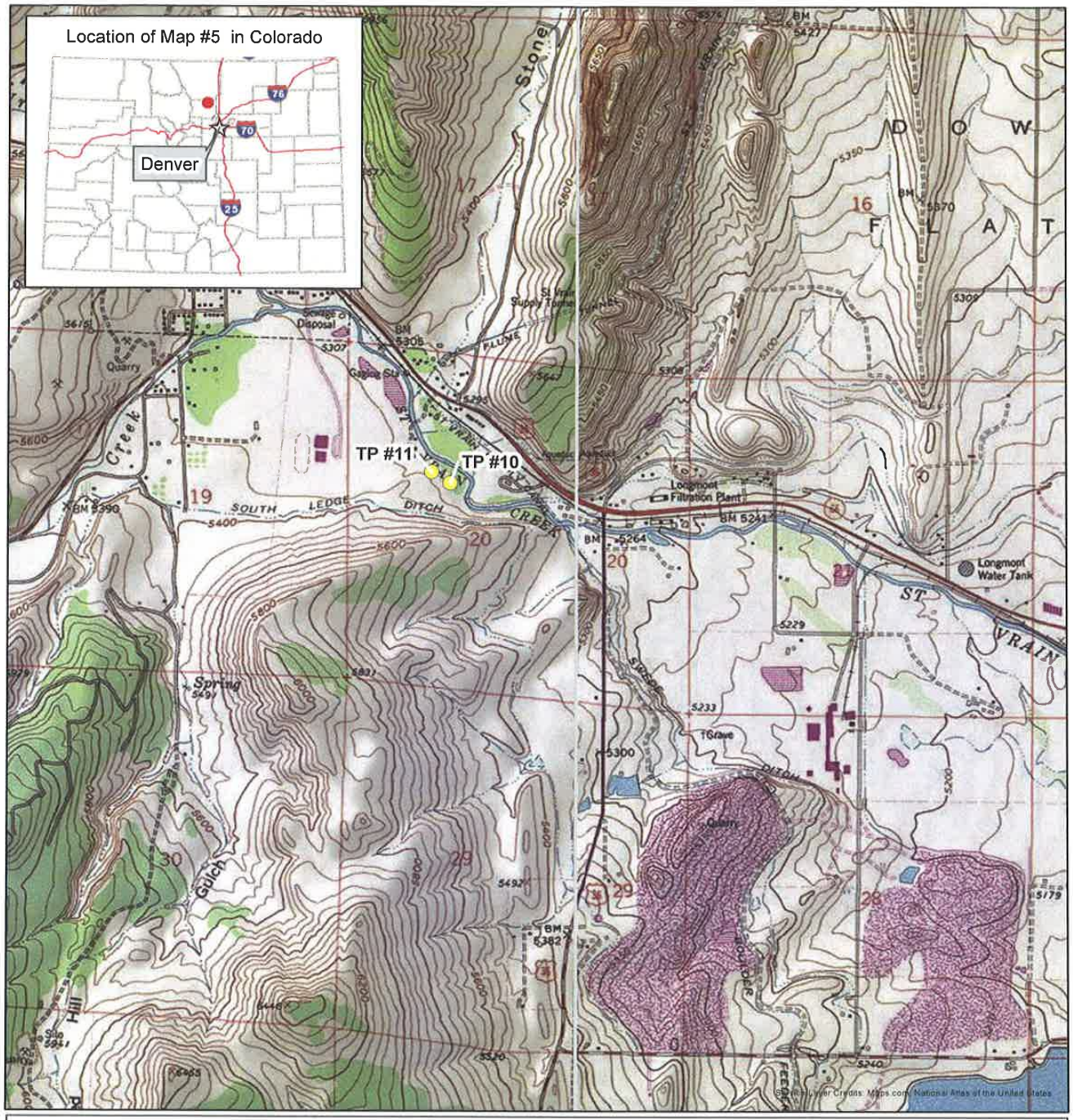

Map #5 TSC Paleoflood Study Test Pit Locations
ECAO Project #2019-018

Proposed Test Pit
County Boundary
USGS Quadrangle Boundary
Map Location (Inset)

0 500 1,000 Meters

Section 20; T. 3 N., R. 70 W., 6th P.M.
Boulder County, Colorado
USGS Quadrangle: Lyons & Hygiene

1:24,000
1 inch = 2,000 feet

N

RECLAMATION
Managing Water in the West

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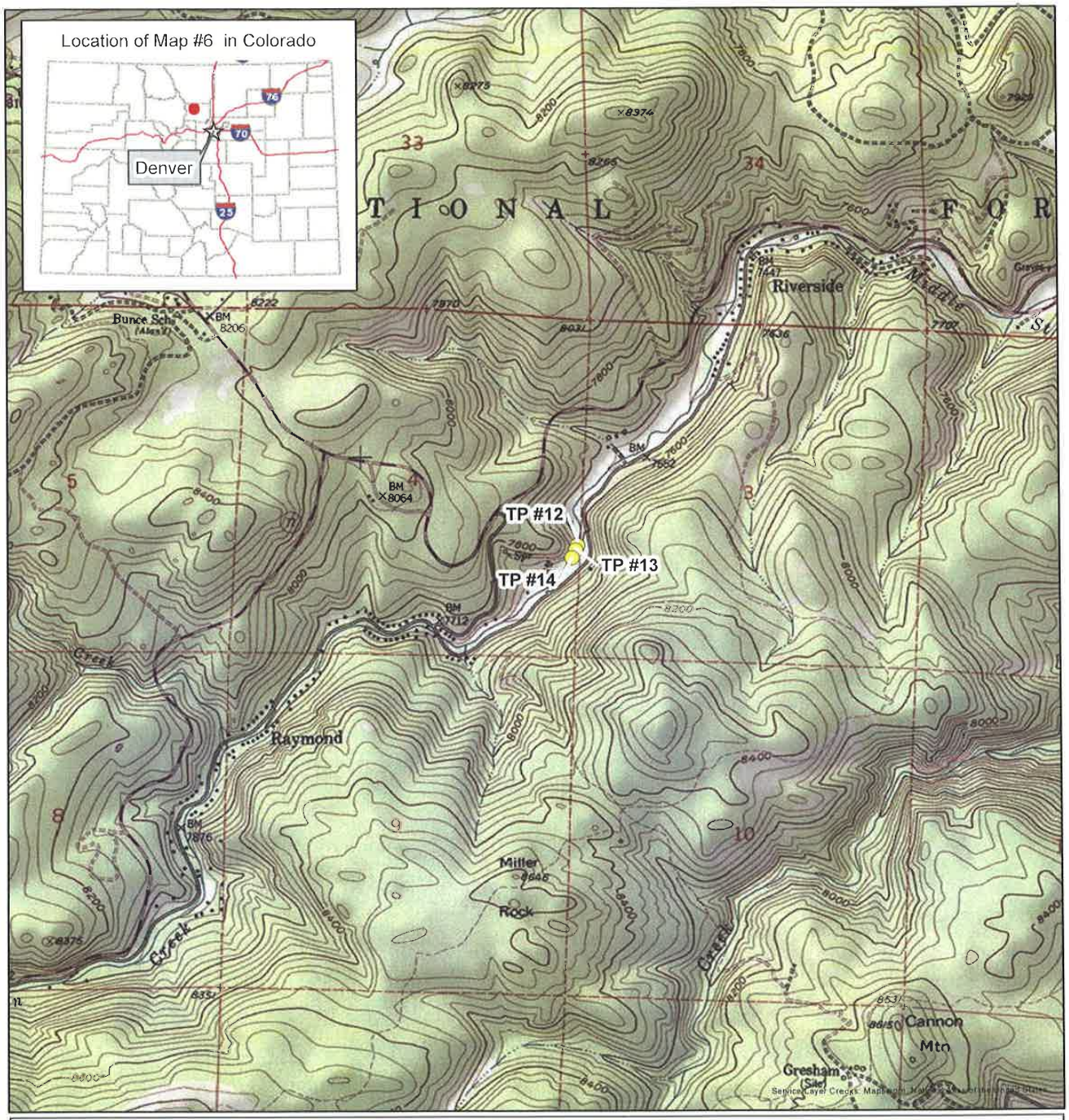

Map #6 TSC Paleoflood Study Test Pit Locations
ECAO Project #2019-018

0 500 1,000 Meters

- Proposed Test Pit
- County Boundary
- USGS Quadrangle Boundary
- Map Location (Inset)

Section 4; T. 2 N., R. 72 W., 6th P.M.
Boulder County, Colorado
USGS Quadrangle: Raymond

1:24,000
1 inch = 2,000 feet

N

RECLAMATION
Managing Water in the West

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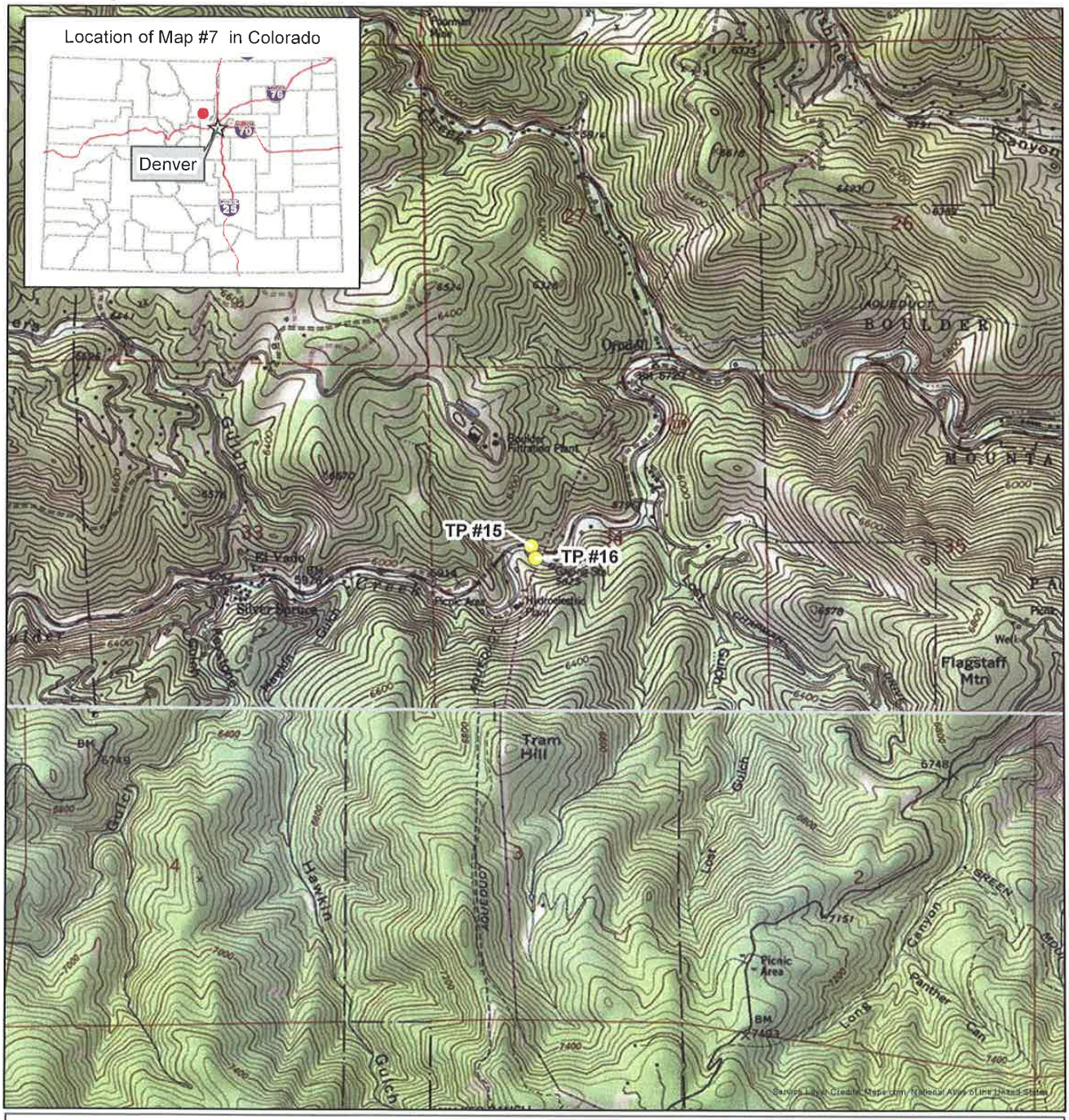

Map #7 TSC Paleoflood Study Test Pit Locations
ECAO Project #2019-018

Proposed Test Pit

County Boundary

USGS Quadrangle Boundary

Map Location (Inset)

0 500 1,000 Meters

Section 34; T. 1 N., R. 71 W., 6th P.M.
Boulder County, Colorado
USGS Quadrangle: Boulder

1:24,000
1 inch = 2,000 feet

N

RECLAMATION
Managing Water in the West

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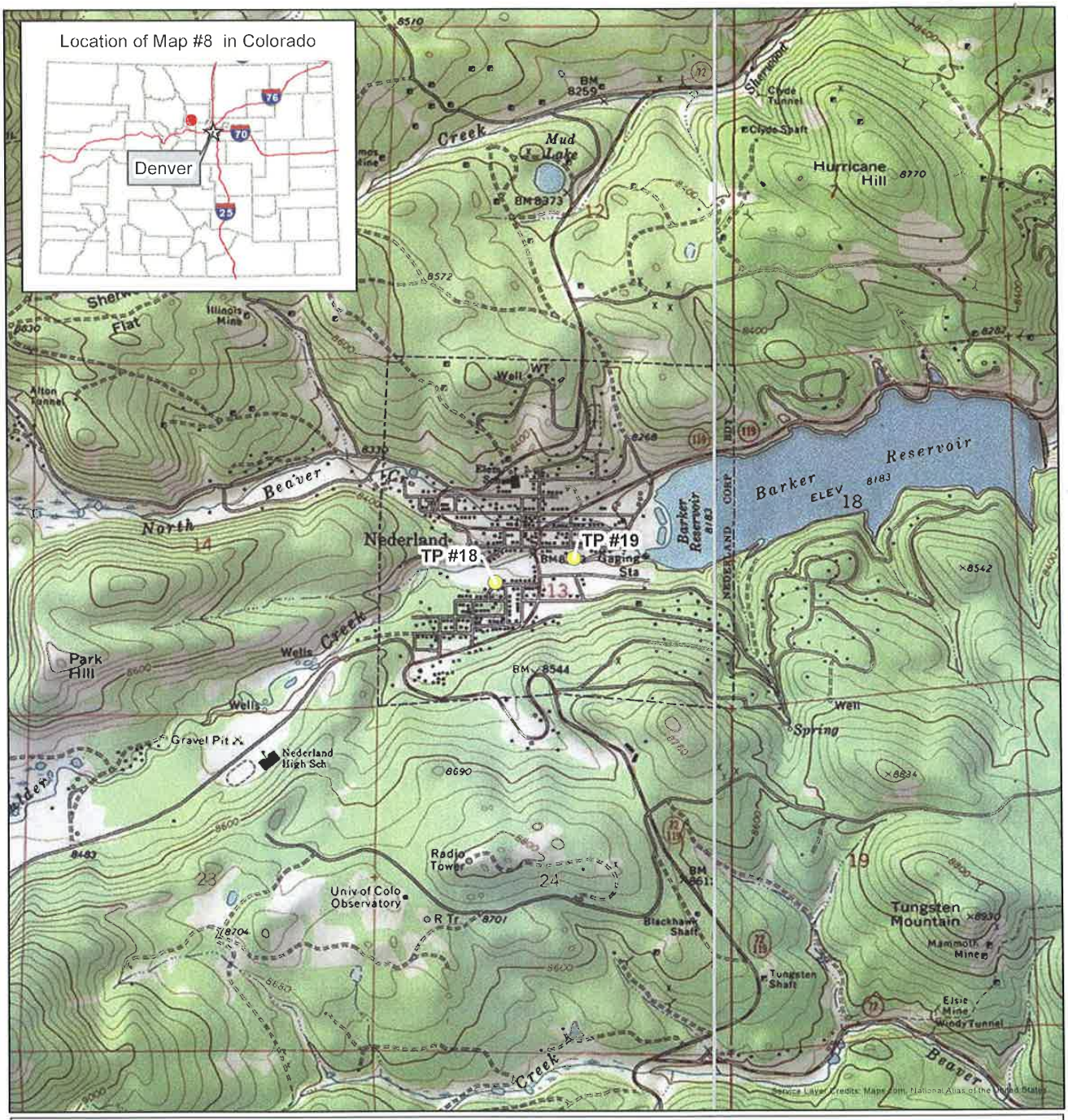
MAP: T:\Environmental Res\CULTURAL RESOURCES\Projects \2019\2019-037 Flatiron Septic System



Map #8 TSC Paleoflood Study Test Pit Locations
ECAO Project #2019-018

0 500 1,000 Meters

Proposed Test Pit

County Boundary

USGS Quadrangle Boundary

Map Location (Inset)

Section 13; T. 1 S., R. 73 W., 6th P.M.
Boulder County, Colorado
USGS Quadrangle: Nederland

1:24,000
1 inch = 2,000 feet

N

RECLAMATION
Managing Water in the West

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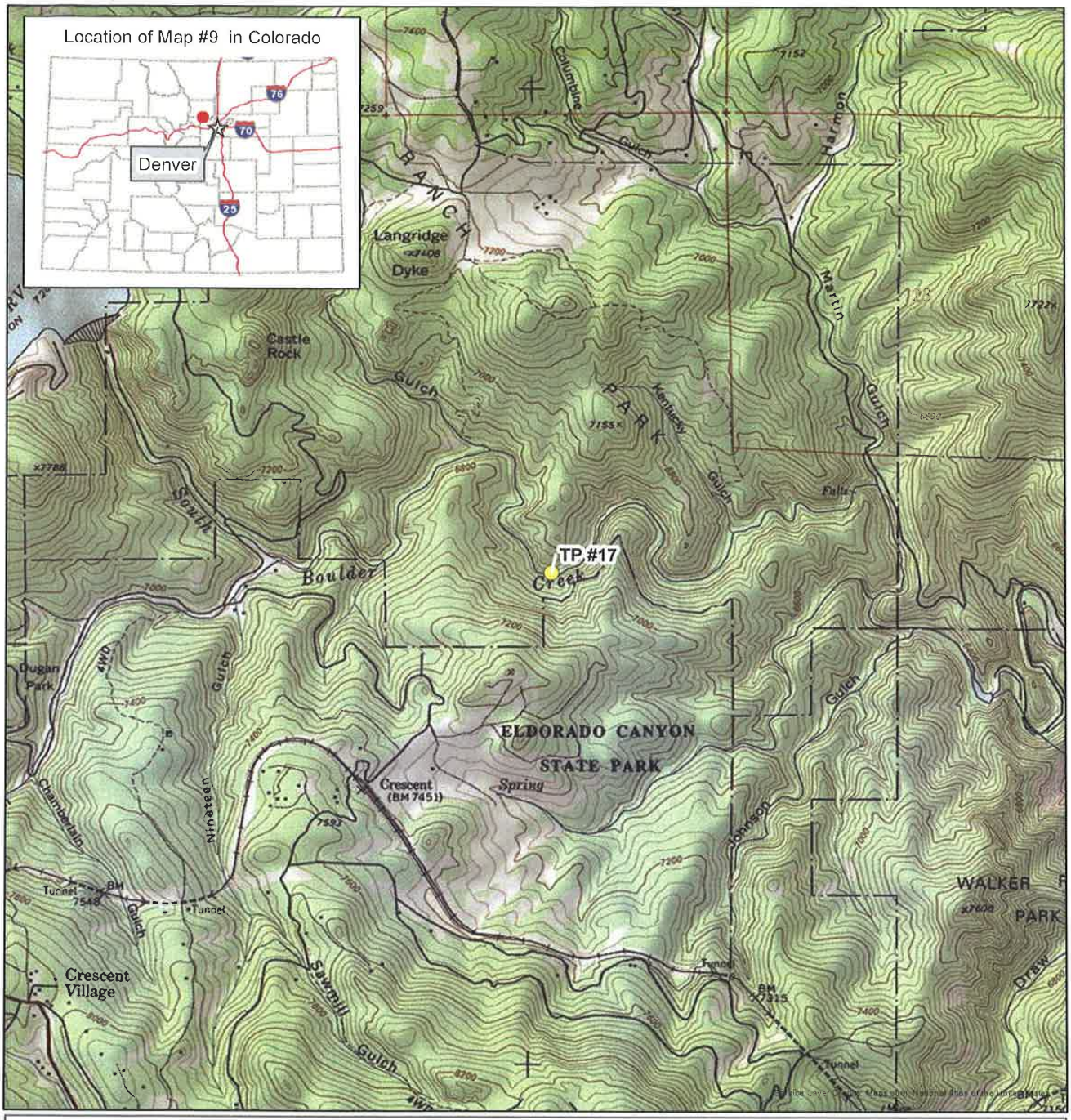

Map #9 TSC Paleoflood Study Test Pit Locations
ECAO Project #2019-018

Proposed Test Pit

County Boundary

USGS Quadrangle Boundary

Map Location (Inset)

0 500 1,000 Meters

Sections 21, 22, 27, & 28; T. 1 S., R. 71 W., 6th P.M.
Boulder County, Colorado
USGS Quadrangle: Eldorado Springs

1:24,000
1 inch = 2,000 feet

N

RECLAMATION
Managing Water in the West

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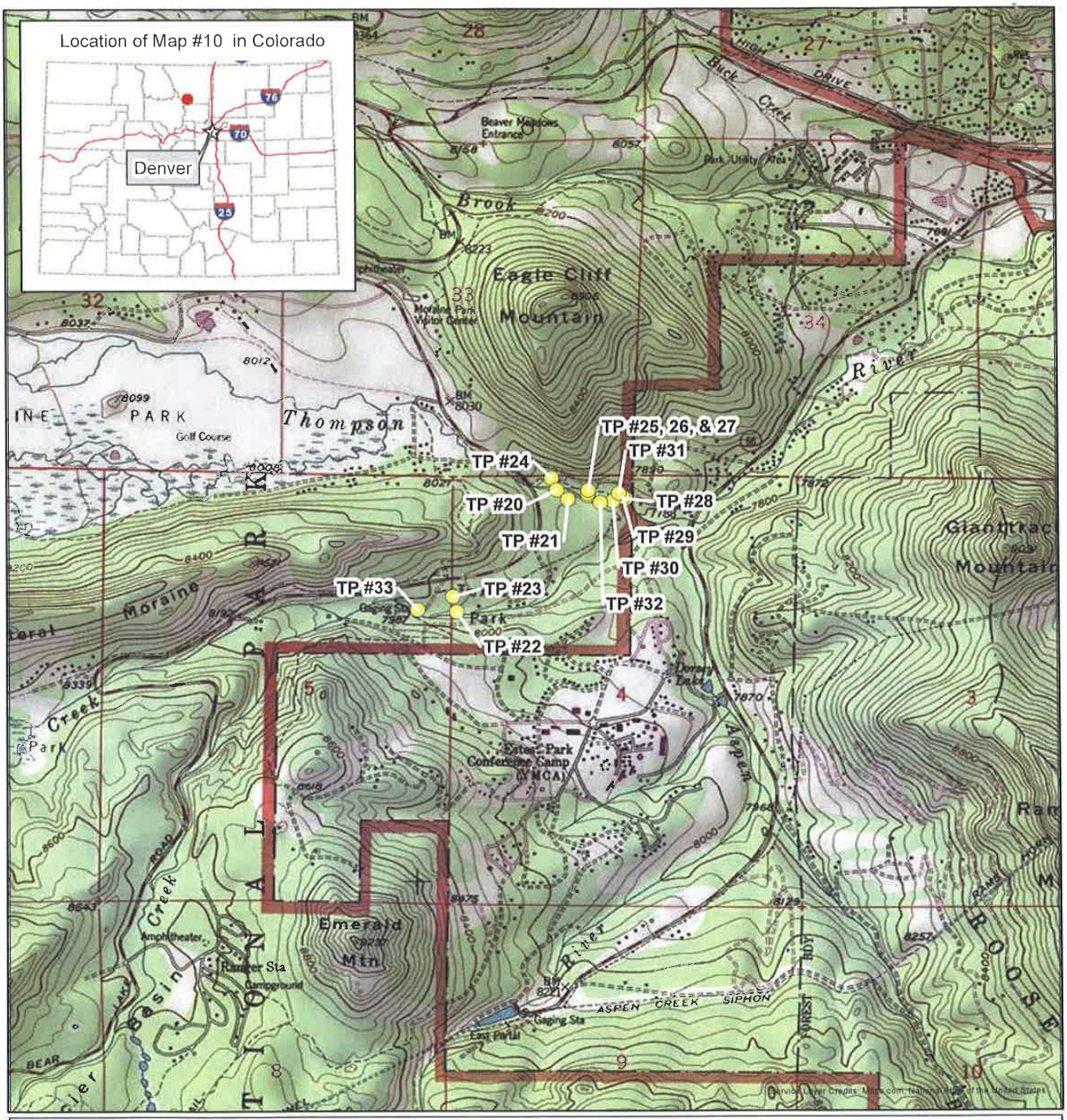


Test Pit	Map #	Geologist's notes	Jurisdiction	Previous Cultural Resource Inventory?	Legal Description	Cultural Resources
1	1	Big Thomp.- little inundated by 2013 flood ~10' above chan. or +. (private pr.) left RB.(it is a cabin backyard) Large trees, not flotsam	Private	No	Section 3, T. 5 N., R. 70 W., 6th P.M.	None in APE
2	2	surface with trees 5-8' above channel . Near to hillslope on left RB	City of Loveland	2012 (Gabriel and Larmore 2014)	Section 7, T. 5 N., R. 70 W., 6th P.M.	Within boundaries of Viestenz-Smith Mountain Park (5LR.853)
3	1	High surface ~25' on right bank near line of tall cottonwoods	Private	No	Section 10, T. 5 N., R. 70 W., 6th P.M.	None in APE
4	1	immedeatly downstream of diversion dam on right river bank extended surface ~12' above channel. grass cover (exposure recent erosion)	Private	No	Section 2, T. 5 N., R. 70 W., 6th P.M.	None in APE
5	3	~10 feet high surface on the righ river bank with grasses and pines upstream of a split flow and little island in the river channel.	Upper Thompson Sanitation District	No	Section 29, T. 5 N., R. 72 W., 6th P.M.	None in APE
6	3	surface on (Fish Creek) the left bank looking downstream ~ 6-8 feet above channel (some soil exposure shows well developed soil)	Private	No	Section 29, T. 5 N., R. 72 W., 6th P.M.	None in APE
7	3	Lower small surface on right side ~3-4 feet above channel (potentially modified with spoil from the road)	Town of Estes Park	No	Section 32, T. 5 N., R. 72 W., 6th P.M.	None in APE
8	4	surface on left river bank with grasses and pines (lot of dead on ground) 12-15 feet above channel. no recent flows. thick organic mat.	Private	No	Section 13, T. 3 N., R. 73 W., 6th P.M.	None in APE
9	4	North SV private property tall grass vegetation surface left river bank a bit uneven . ~20-25 feet above channel. connect to hillslope.	Private	No	Section 14, T. 3 N., R. 73 W., 6th P.M.	None in APE

Test Pit	Map #	Geologist's notes	Jurisdiction	Previous Cultural Resource Inventory?	Legal Description	Cultural Resources
10	5	6-8 feet surface stepping down from a riser from previous higher surface. grass cover and brushes on right river bank	Private	No	Section 20, T. 3 N., R. 70 W., 6th P.M.	None in APE
11	5	15-20' surface on right bank with grass cover raccording to hillslope.exposure from recent bank erosion.Near house development	Private	No	Section 20, T. 3 N., R. 70 W., 6th P.M.	None in APE
12	6	Middle St Vrain. surface ~4 feet above channel on right river bank. grass and minor sign of flooding but not erosion or deposition	Private	No	Section 4, T. 2 N., R. 72 W., 6th P.M.	None in APE
13	6	same site a small surface 6 feet above the previos one one pine tree on it. on right River bank no flooding.	Private	No	Section 4, T. 2 N., R. 72 W., 6th P.M.	None in APE
14	6	higher surface 4 feet above the one with pine. same surface of the road. grass vegeteted.maybe a little modified.	Private	No	Section 4, T. 2 N., R. 72 W., 6th P.M.	None in APE
15	7	8 to 10 feet surface on the left river bank, with willow and purple flower, some evidence of flooding but no erosion maybe 1 foot of water	City of Boulder	No	Section 34, T. 1 N., R. 71 W., 6th P.M.	None in APE
16	7	~10 feet surf. on the right River Bank with pines, connected to hillslope. looked from the other side of river could be slooping but seams flat, not flooded	City of Boulder	No	Section 34, T. 1 N., R. 71 W., 6th P.M.	None in APE
17	9	Site immediately outside of Eldorado State Park.	County of Boulder	1979 (Lincoln 1979)	Section 27, T. 1 S., R. 71 W., 6th P.M.	Within boundaries of Walker Ranch Historic District (5BL235), but not near buildings or other contributing resources.

Test Pit	Map #	Geologist's notes	Jurisdiction	Previous Cultural Resource Inventory?	Legal Description	Cultural Resources
18	8	surface~ 25-30 feet on the right river channel.by a tree near a brown cabin.by the road but could be private. Main surf where town is build	Private	No	Section 13, T. 1 S., R. 73 W., 6th P.M.	None in APE
19	8	surface potentially modified,8-10~ above channel on the left river bank. little exposure shows a A/B/C coarse gravelly sand orange	Private	No	Section 13, T. 1 S., R. 73 W., 6th P.M.	None in APE
20	10	higher surface ~15 feet on right river bank with tall pines and ponderosa	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	None in APE
21	10	Same high surface on right river bank with tall pines and ponderosa	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	Within boundaries of 5LR3699 Woods Camp
22	10	Lower surface by the creek. Part of the surface is modified but not the back section of the terrace	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	None in APE
23	10	Samer higher surface, very little soil development	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	APE crossed by 5LR6988.1 Bear Lake Road alignment; 5LR10916.1 Hallowell Park-Mill Creek Basin Road; and 5LR12259.1 Tuxedo Park Residence Road
24	10	soil exposure on a low skinny terrace 5 feet above channel on left river banks against a back channel with flows	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	None in APE
25	10	surface ~ 3 feet above channel on left bank (sign of historical flooding	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	Portion of APE within 5LR3699 Woods Camp
26	10	surface ~5-8 feet above channel on left bank (no sign of recent flooding)	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	Portion of APE within 5LR3699 Woods Camp
27	10	high surface by the side of the trail connecting to the hillslope on left bank large boulders with lichen (no sign of floading)	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	None in APE

Test Pit	Map #	Geologist's notes	Jurisdiction	Previous Cultural Resource Inventory?	Legal Description	Cultural Resources
28	10	low surface ~3 feet on right river bank	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	APE crossed by 5LR6988.1 Bear Lake Road alignment and 5LR10916.1 Hallowell Park-Mill Creek Basin Road;
29	10	higher surface ~6-7 feet	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	APE crossed by 5LR6988.1 Bear Lake Road alignment and 5LR10916.1 Hallowell Park-Mill Creek Basin Road;
30	10	high surface with numerous pines on the other side of the river	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	APE crossed by 5LR6988.1 Bear Lake Road alignment and 5LR10916.1 Hallowell Park-Mill Creek Basin Road;
31	10	high surface connecting tothe hillslope	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	APE crossed by 5LR6988.1 Bear Lake Road alignment and 5LR10916.1 Hallowell Park-Mill Creek Basin Road;
32	10	higher surface ~15 to 18 feet on right river bank with tall pines and ponderosa	Rocky Mountain National Park	Yes	Section 4, T. 4 N., R. 73 W., 6th P.M.	Portion of APE within 5LR3699 Woods Camp; APE crossed by 5LR10916.1 Hallowell Park-Mill Creek Basin Road
33	10	fluvial terrace 10-12' above channel on right bnk looking downstream. Surface flooded historically but during very high flows.	Rocky Mountain National Park	Yes	Section 5, T. 4 N., R. 73 W., 6th P.M.	APE crossed by 5LR6988.1 Bear Lake Road alignment

AGENDA INFORMATION MEMORANDUM
NEDERLAND PLANNING COMMISSION

Meeting Date: February 27, 2019
Prepared By: Cynthia Bakke
Dept: Community Development Planning & Zoning
Information _____ **Action** ___X___ **Discussion** _____

AGENDA ITEM:
Consideration of a Public Hearing and Minor Subdivision/Replat Application submitted by the Town of Nederland at 211, 255, and 273 East Street. [Property was readdressed in 2018 in anticipation of minor subdivision/replat.] (Legal Description: Lots 1-18 Block 3 Rooses Ned & SW ¼ SE ¼ NE ¼ 13-1S-73)

SUMMARY:
Public Works Manager Chris Pelletier submitted an application for a Minor Subdivision/Replat at 211-255-273 East Street to be heard at the Commission's February 27 meeting. This process is intended to divide the parcel into 3 total lots with separate public uses upon the parcel. The zoning for the parcel is Public (P).

There were a few considerations mentioned by Town staff specific to the minor subdivision/replat request to include the need to consider long-range upgrades to the wastewater treatment plant (WWTP) and possibility for wider access road from the City of Boulder parking lot to the future amphitheater site. Additionally, due to concerns that arose in park planning, it was noted to consider the necessary amphitheater and capacity size of Lot 1 as shown on the accompanying survey created by Flagstaff Surveying in June 2013.

All public noticing requirements were met for this application.

HISTORY AND PREVIOUS COMMISSION ACTION:
The property contains a number of municipal buildings to include the Nederland Wastewater Treatment Plant and support buildings on the SE portion (Lot 2).

In order to electrify the lot as requested by Pelletier, an addressing request was submitted on 12/3/2019. There was no opposition by Town staff for the readdressing request. This delineated 3 separate lots as noted on a survey created by Lee Stadele of Flagstaff Surveying on 6/24/2013. The survey had been prepared in anticipation of minor subdivision/replat submission at that time, although not completed. The readdressing of the lot in 2018 delineated Lot 2 as 211 East Street which contains the Wastewater Treatment Plant and support buildings, Lot 3 as 255 East Street, and Lot 1 as 273 East Street based upon size and frontage to East Street.

Site Map of parcel for minor subdivision/replat

ANALYSIS:

The application will replat the boundary lines to create 3 lots. The parcel has a current size of 244,431 square feet / 5.61 acres.

The application is regulated by Nederland Municipal Code Sec. 17-21(c):

"If the proposed subdivision is four (4) lots or less, it will constitute a minor subdivision. A minor subdivision can be shortened by the following procedure:"

(1) Staff will look at pre-application information and may recommend to the Planning Commission, for its approval, waivers of the subdivision regulations and procedure.

(2) Upon receipt of the approved waiver, staff will proceed with subdivision regulation procedures not waived.

Consistency with the Comprehensive Plan:

The plan does conform to some of the policies of the proposed updated Comprehensive Plan, such as:

Community Facilities

- Create a sustainability action plan to reduce the negative impact of facilities, e.g. adding recycling bins to parks.
- Explore grant opportunities to make improvements to recreation and community facilities and programming in Nederland.

Economy

- In conjunction with the Land Use element of the Comprehensive Plan, identify and map locations within the town that would be ideally suited for the siting of

alternative energy generation and conservation demonstration sites, such as solar arrays, wind turbines, water collection/re-use, and community gardens.
- Evaluate how current TIF and mill levy is being allocated; measure that against the priorities of the communities for possible new places to distribute funds (open space, redevelopment, etc.), per DDA and Town strategic/master plans.

Utilities
- Review and document opportunities within the Town's upcoming Master Infrastructure Plan to address the community's goals for sustainability within the infrastructure systems. Continue to review these goals for sustainable infrastructure annually.

Land Use
- Map riparian corridors, areas of higher biodiversity and other areas that feature important ecosystem functionalities (i.e. alpine meadows, wetland system, etc.) to accompany the future land use (FLU) map. Work to develop better guidelines for development within creek corridors, based on this inventory of the town's natural resources and functions.
- Identify high priority land for conservation, including open space, environmental education, and passive recreation.

RECOMMENDATIONS:
- Town staff has reviewed the application and has no objections to waiving the larger subdivision/replat review.

QUESTIONS BEFORE THE COMMISSION:
- Does the Commission wish to approve the Minor Subdivision/Replat request and agreement as presented?
- Does the Commission have any conditions it would like to attach to the application?

ALTERNATIVES:
1. Approval of the application as presented
2. Approval of the application with conditions
3. Denial of the application and direction to staff to draft findings to that effect

ATTACHMENTS:
1. Land Use application and narrative
2. Gateway Park Second Addition survey prepared by Flagstaff Surveying dated June 24, 2013

Town of Nederland

Land Use Department
45 W. 1st Street, PO Box 396, Nederland CO 80466
cynthiab@nederlandco.org, 303-258-3266, x1040

Date Application Received	**February 5, 2019**	**Application No.**	**19LU-004**
Date Application Complete	**February 5, 2019**		
Public Hearing Date	**February 27, 2019**		
Date Published in Newspaper	**February 7, 2019**		
Date Property Posted	**February 11, 2019**		
Notice Sent to Adjacent Property Owners	**February 11, 2019**		

I. Pursuant to the Town of Nederland Municipal Code (NMC) and applicable Colorado State Law, application is made to the Town of Nederland for the following:

Type of Application(s) Requested	**Fee $**
☐ 1. Annexation	
Standard	☐_____
Residential (no further development)	☐_____
☐ 2.Appeal of Administrative decision	☐_____
☐ 3. Conceptual Review	☐_____
☐ 4. Encroachment Permit	☐_____
☐ 5. Lot Line Dissolution	☐_____
☐ 6. Planned Unit Development	
Preliminary	☐_____
Final (date of Preliminary Approval _____)	☐_____
☐ 7. Rezoning/Zoning Amendment	☐_____

TOTAL FEE N/A $0 **PAID** N/A

Type of Application(s) Requested	**Fee $**
☐ 8. Site Plan	
Preliminary	☐_____
Final (date of Preliminary Approval _____)	☐_____
☐ 9. Special Review Use	☐_____
☒ 10.Subdivision/Replat	
Minor	☒_N/AP – Town application
Preliminary	☐_____
Final (date of Preliminary Approval _____)	☐_____
☐ 11.Vacation of Right-of-Way	☐_____
☐ 12.Variance	
Tier 1 General Variance	☐_____
Tier 2 Detached Structures less than 200sf	☐_____
Tier 3 Reduction in Energy Use	☐_____

II. GENERAL DATA

Applicant: Town of Nederland
Phone: (303) 258-3266
Address: PO Box 396, Nederland, CO 80466 Email: chrisp@nederlandco.org

Property Owner: Town of Nederland Phone: (303) 258-3266
Address: PO Box 396, Nederland, CO 80466 Email:kareng@nederlandco.org

Property Location/Address: 211 and 255 and 273 East Street (readdressed 12.2019 in prep for Minor Sub)
Legal Description: Lots 1-18, Block 3, Roose's Addition and SW ¼ SE ¼ NE ¼ Section 13-Town 1S-Range 73
Zoning: Public (P)
Block: 3 Lot: 1-18 Subdivision: Roose's Addition (plus unplatted portion) Acres: 5.61

Description of the proposal: Division of the 5.61-acre parcel into three lots -- one lot for the Wastewater Treatment Facility, one lot for the proposed performance space to the N of the WWTP, and to consolidate the current 1-18 lots into one, including the Guercio Ball field. This is meant to facilitate separate electrical service to the two constructed public facilities and clean up the Town's parcels for park area.

PLANS – See NMC Chapter 16 Zoning and/or Chapter 17 Subdivisions for required information to be included on plans.

Attach list of all plans and other exhibits submitted, indicating name, address, license #, and phone numbers of preparer.
1) Sketch plan for minor subdivision, 2) Grading plan for performance area, also depicting WWTP

III. OTHER INFORMATION THE APPLICANT BELIEVES WILL SUPPORT THE APPLICATION

A. How the proposed application will not substantially alter the basic character of the neighborhood, or adversely impact the public safety and welfare.
B. How the proposed application will not create more noise, dust, odors, vibrations, lights, traffic or parking than is customary for the zoning district in which it is proposed, or that such increased impacts can be adequately mitigated.
C. An explanation of the character of the application and the manner in which it has been planned in consideration of the Nederland Municipal Code, Nederland Design Standards, Nederland Comprehensive Plan, and the Envision Nederland 2020 process.
D. Are there any existing or proposed covenants or deed restrictions on the property?

IV. REQUIRED FOR A COMPLETE APPLICATION SUBMITTAL

A. Non-refundable application fee per approved fee schedule.
B. Affidavit of Ownership.
C. Address mailing labels of all property owners within 300 feet of the boundaries of the property in question, if applicable. Available from the Boulder County Assessor's Office – 303.441.3530.
D. Engineering Escrow Fee of $1000, if applicable.
It is the policy of the Town of Nederland to require a review by a licensed engineer of material submitted by the applicant. The cost of said engineering review is the responsibility of the applicant. The $1000 collected by the Town is placed in escrow for the duration of the review process. Expenses incurred by a licensed engineer are paid from the escrow account. Any unused money left in the escrow account is returned to the applicant at the end of the review process.

V. AGREEMENT

The Applicant hereby agrees to pay all costs and fees incurred by the Town of Nederland above and beyond the submitted Engineering Escrow Fee and in the hiring of planning and legal consultants as needed, in the review of the application. The obligation of the applicant to pay such fees bears no relationship to the result of the application process. The Applicant will pay all fees as billed in any event, including the event the applicant shall withdraw or delay the application, or in the event the application is denied.

This agreement is made between the Town of Nederland and ___N/AP_____
(printed name of applicant)

On the 5TH day of FEBRUARY, 2019.

The information I have submitted is true to the best of my knowledge. I understand that if this application is deemed complete, it will be submitted for consideration to the Planning Commission or the Board of Zoning Adjustment. If a recommendation of the proposal is given by the Planning Commission, the approved application will then be forwarded to the Board of Trustees for final consideration and approval. The Board of Zoning Adjustment is the final approval for a variance.

Chris Pelletier
Applicant's Signature

Town of Nederland

MEMORANDUM

To: Planning Commission and Board of Trustees
From: Chris Pelletier, Public Works Manager
Date: January 24, 2019
Re: Minor Subdivision

Dear Board,

An application is brought before you from Town Staff to subdivide the property currently occupied by the Waste Water Treatment Facility and Guercio Ball field. These two properties along with the Performance Space area are all designated as one parcel addressed as 211 East Street. Staff wishes to subdivide this lot into three individual lots for the purpose of separating the Waste Water Treatment Facility from the future development of Barker Meadows Park. In order to electrify the future park and performance area it is necessary to designate separate addresses as part of Xcel's application process to set a separate meter than that of the Waste Water Treatment Facility. This was last planned and discussed in 2013 as indicated by the attached survey and has been on hold ever since. With the beginning of the development of the park this year, Staff is asking to complete this process.

The proposed park has gone through a rigorous planning process that resulted in the 2013 Nederland Area Parks, Recreation, Open Space, and Trails Master Plan. Additionally, the park design is being vetted further through a Design Advisory Board created by PROSAB. While the project is expected to alter the basic character of the neighborhood, it is not anticipated to have an adverse impact on public safety or welfare.

Any impacts related to construction activities such as noise, dust, traffic, and so forth will be mitigated. The current use of the property is a parking lot. It is expected that the future development will be less impactful than its current use. While the proposed park is expected to accommodate more visitors, it is the goal of the development to encourage walking and recreation that aligns with appreciating the natural environment. All plans for development of the park is expected to align with Envision 2020, the Nederland Comprehensive Plan, The Park Master Plan, and vetted by PROSAB, SAB and the DDA as is customary of all Nederland Projects. There are no known covenants or deed restrictions on the property.

– Gateway Park Second Addition –

a subdivision located in the east 1/2 of Section 13
Township 1 South . Range 73 West of the 6th P.M.
Town of Nederland . Boulder County . Colorado

5.46 ACRES, MORE OR LESS – SHEET 1 OF 1

LOT 1 – GATEWAY PARK SECOND ADDITION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 1 SOUTH, RANGE 73 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE TOWN OF NEDERLAND, COUNTY OF BOULDER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST–CENTER SIXTEENTH CORNER OF SECTION 13;

THENCE NORTH 00°51'26" EAST, ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, A DISTANCE OF 169.39 FEET TO THE POINT OF BEGINNING;

THENCE CONTINUING ALONG THE SIXTEENTH LINE, NORTH 00°51'26" EAST, A DISTANCE OF 295.61 FEET TO THE NORTHWEST CORNER OF THAT PARCEL OF LAND DESCRIBED ON FILM 704 AT RECEPTION NO. 949149;

THENCE THE FOLLOWING THREE (3) COURSES AND DISTANCES ALONG THE EXTERIOR BOUNDARY OF THE PARCEL DESCRIBED ON FILM 704 AT RECEPTION NO. 949149, TO WIT:

1) SOUTH 89°26'10" EAST, A DISTANCE OF 167.40 FEET;
2) SOUTH 29°29'58" EAST, A DISTANCE OF 279.77 FEET;
3) SOUTH 11°55'06" WEST, A DISTANCE OF 93.72 FEET;

THENCE NORTH 39°11'31" WEST, A DISTANCE OF 53.20 FEET;

THENCE NORTH 89°59'27" WEST, A DISTANCE OF 256.60 FEET TO THE POINT OF BEGINNING.

LOT 1 CONTAINS 74,324 SQUARE FEET OR 1.706 ACRES, MORE OR LESS.

LOT 2 – GATEWAY PARK SECOND ADDITION

A PARCEL OF LAND LOCATED IN THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 1 SOUTH, RANGE 73 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE TOWN OF NEDERLAND, COUNTY OF BOULDER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EAST–CENTER SIXTEENTH CORNER OF SECTION 13;

THENCE NORTH 00°51'26" EAST, ALONG THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, A DISTANCE OF 169.39 FEET;

THENCE SOUTH 89°59'27" EAST, A DISTANCE OF 256.60 FEET;

THENCE SOUTH 39°11'31" EAST, A DISTANCE OF 53.20 FEET TO A POINT ON THE EASTERLY LINE OF THAT PARCEL OF LAND DESCRIBED ON FILM 704 AT RECEPTION NO. 949149;

THENCE THE FOLLOWING TWO (2) COURSES AND DISTANCES ALONG THE EASTERLY AND SOUTHERLY LINES OF THE PARCEL DESCRIBED ON FILM 704 AT RECEPTION NO. 949149, TO WIT:

1) SOUTH 11°55'06" WEST, A DISTANCE OF 286.27 FEET;
2) NORTH 89°30'34" WEST, A DISTANCE OF 235.03 FEET TO THE SOUTHWEST CORNER OF THAT PARCEL OF LAND DESCRIBED ON FILM 704 AT RECEPTION NO. 949149;

THENCE NORTH 00°31'44" EAST, ALONG THE WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING.

LOT 2 CONTAINS 84,761 SQUARE FEET OR 1.946 ACRES, MORE OR LESS.

LOT 3 – GATEWAY PARK SECOND ADDITION

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, TOWNSHIP 1 SOUTH, RANGE 73 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE TOWN OF NEDERLAND, COUNTY OF BOULDER, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING EAST–CENTER SIXTEENTH CORNER OF SECTION 13;

THENCE NORTH 00°51'26" EAST, ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 13, A DISTANCE OF 256.05 FEET TO A POINT ON THE CENTERLINE OF PLATTED LAKE STREET AS SHOWN THE PLAT OF ROOSE'S ADDITION TO NEDERLAND;

THENCE NORTH 87°49'04" WEST, ALONG THE CENTERLINE OF PLATTED LAKE STREET, A DISTANCE OF 245.99 FEET TO A POINT ON EAST STREET AS PLATTED;

THENCE SOUTH 35°35'08" WEST, ALONG THE EAST LINE OF EAST STREET, A DISTANCE OF 96.94 FEET;

THENCE SOUTH 14°56'08" WEST, ALONG THE EAST LINE OF PLATTED EAST STREET, A DISTANCE OF 179.74 FEET TO THE NORTHWEST CORNER OF LOT 1, GATEWAY PARK FIRST ADDITION;

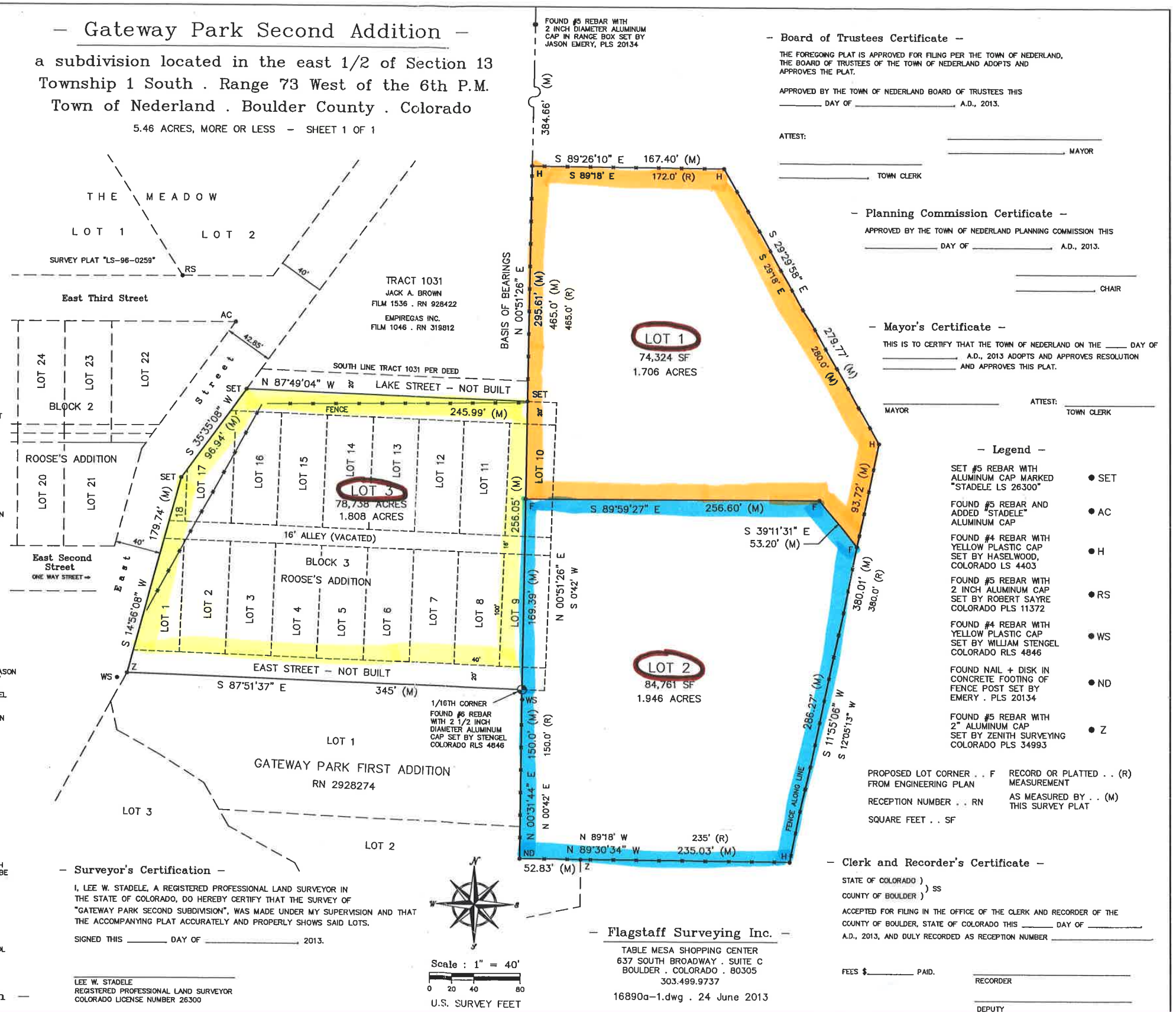
THENCE SOUTH 87°51'37" EAST, ALONG THE NORTH LINE OF LOT 1, GATEWAY PARK FIRST ADDITION, A DISTANCE OF 345 FEET TO THE POINT OF BEGINNING.

LOT 3 CONTAINS 78,738 SQUARE FEET OR 1.808 ACRES.

– Notes –

1. BASIS OF BEARINGS – PER PRIOR SURVEY PLAT FOR THE BARKER RESERVOIR BY JASON EMERY, COLORADO PLS 20134 (LS–03–0157). I HELD THE BEARING NORTH 00°51'26" EAST ALONG THE 1/16TH LINE MONUMENTED BY THE EMERY POINT IN A RANGE BOX AT THE NORTH END JUST SOUTH OF HIGHWAY 119 IN EAST STREET AND THE STENGEL (PLS 4846) POINT AT THE EAST CENTER 1/16TH CORNER.
2. THE TOWN OF NEDERLAND CURRENTLY OWNS LOTS 1–18, BLOCK 3, ROOSE'S ADDITION TO NEDERLAND (RN 71219) AND ASSESSOR'S PARCEL 002 (FILM 704 RN 949149). WHICH ARE TO BE COMBINED INTO ONE PARCEL AND RE–SUBDIVIDED INTO THREE LOTS ACCORDING TO THIS PLAT.
3. THE LOT LINES IN BLOCK 3, ROOSE'S ADDITION ARE BY THIS PLAT VACATED AND ELIMINATED.
4. NO EASEMENTS ARE SHOWN ON THE PLAT OF ROOSE'S ADDITION. A CURRENT TITLE COMMITMENT WOULD BE REQUIRED TO CHECK FOR OTHER EASEMENTS (IF ANY) THAT MAY AFFECT THESE TRACTS OF LAND.
5. TOTAL AREA SURVEYED = 5.46 ACRES, MORE OR LESS.
6. UNDERGROUND UTILITIES ARE NOT SHOWN. ALL UNDERGROUND UTILITIES SHOULD BE LOCATED BY AN APPROPRIATE COMPANY OF AUTHORITY PRIOR TO ANY CONSTRUCTION OR DIGGING ON OR ADJACENT TO THE PROPERTY.
7. ACCORDING TO STATE LAW YOU MUST COMMENCE ANY LEGAL ACTION BASED UPON ANY DEFECT IN THIS SURVEY WITHIN THREE YEARS AFTER YOU FIRST DISCOVER SUCH DEFECT. IN NO EVENT MAY ANY ACTION BASED UPON ANY DEFECT IN THIS SURVEY BE COMMENCED MORE THAN TEN YEARS FROM THE DATE OF THE CERTIFICATION SHOWN HEREON.
8. THIS SURVEY RETRACES PRIOR SURVEYS PREPARED BY JASON EMERY, PLS 20134, JAMES HASELWOOD, PLS 4403, WILLIAM STENGEL, PLS 4846 AND EARL HENDERSON, PLS 34993. ALL OF THE POINTS FOUND HAVE BEEN ACCEPTED.
9. THIS PLAT WAS PREPARED FOR THE EXCLUSIVE USE OF THE TOWN OF NEDERLAND.
10. THE SIZE AND SHAPE OF LOTS 1 AND 2 ARE BASED UPON THE HORIZONTAL CONTROL PLAN PREPARED BY FRACHETTI ENGINEERING, INC. AS SUPPLIED BY THE TOWN OF NEDERLAND.

– Gateway Park Second Subdivision –



– Surveyor's Certification –

I, LEE W. STADELE, A REGISTERED PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THE SURVEY OF "GATEWAY PARK SECOND SUBDIVISION", WAS MADE UNDER MY SUPERVISION AND THAT THE ACCOMPANYING PLAT ACCURATELY AND PROPERLY SHOWS SAID LOTS.

SIGNED THIS _____ DAY OF _____, 2013.

_____
LEE W. STADELE
REGISTERED PROFESSIONAL LAND SURVEYOR
COLORADO LICENSE NUMBER 26300

– Board of Trustees Certificate –

THE FOREGOING PLAT IS APPROVED FOR FILING PER THE TOWN OF NEDERLAND, THE BOARD OF TRUSTEES OF THE TOWN OF NEDERLAND ADOPTS AND APPROVES THE PLAT.

APPROVED BY THE TOWN OF NEDERLAND BOARD OF TRUSTEES THIS _____ DAY OF _____, A.D., 2013.

ATTEST: _____ _____, MAYOR

_____, TOWN CLERK

– Planning Commission Certificate –

APPROVED BY THE TOWN OF NEDERLAND PLANNING COMMISSION THIS _____ DAY OF _____, A.D., 2013.

_____, CHAIR

– Mayor's Certificate –

THIS IS TO CERTIFY THAT THE TOWN OF NEDERLAND ON THE ____ DAY OF _____, A.D., 2013 ADOPTS AND APPROVES RESOLUTION _____ AND APPROVES THIS PLAT.

_____ MAYOR ATTEST: _____ TOWN CLERK

– Legend –

SET #5 REBAR WITH ALUMINUM CAP MARKED "STADELE LS 26300"	● SET
FOUND #5 REBAR AND ADDED "STADELE" ALUMINUM CAP	● AC
FOUND #4 REBAR WITH YELLOW PLASTIC CAP SET BY HASELWOOD, COLORADO LS 4403	● H
FOUND #5 REBAR WITH 2 INCH ALUMINUM CAP SET BY ROBERT SAYRE COLORADO PLS 11372	● RS
FOUND #4 REBAR WITH YELLOW PLASTIC CAP SET BY WILLIAM STENGEL COLORADO RLS 4846	● WS
FOUND NAIL + DISK IN CONCRETE FOOTING OF FENCE POST SET BY EMERY . PLS 20134	● ND
FOUND #5 REBAR WITH 2" ALUMINUM CAP SET BY ZENITH SURVEYING COLORADO PLS 34993	● Z

PROPOSED LOT CORNER . . F FROM ENGINEERING PLAN
RECEPTION NUMBER . . RN
SQUARE FEET . . SF
RECORD OR PLATTED . . (R)
MEASUREMENT AS MEASURED BY . . (M) THIS SURVEY PLAT

– Clerk and Recorder's Certificate –

STATE OF COLORADO)
COUNTY OF BOULDER) SS

ACCEPTED FOR FILING IN THE OFFICE OF THE CLERK AND RECORDER OF THE COUNTY OF BOULDER, STATE OF COLORADO THIS _____ DAY OF _____, A.D., 2013, AND DULY RECORDED AS RECEPTION NUMBER _____

FEES $_____ PAID. _____ RECORDER

_____ DEPUTY

– Flagstaff Surveying Inc. –
TABLE MESA SHOPPING CENTER
637 SOUTH BROADWAY . SUITE C
BOULDER . COLORADO . 80305
303.499.9737

16890a–1.dwg . 24 June 2013

AGENDA INFORMATION MEMORANDUM
PLANNING COMMISSION

Meeting Date: February 27, 2019
Prepared By: Karen Gerrity, Town Administrator
Dept: Admin
Consent ☐ Information ☐ Action ☒ Discussion ☐

AGENDA ITEM:
Review of DRAFT Comprehensive Development Plan Intergovernmental Agreement between Nederland and Boulder County to make recommendations to Board of Trustees

SUMMARY:
There exists a Comprehensive Development Plan Intergovernmental Agreement (IGA) between Boulder County and the Town of Nederland which went into effect in March, 2002 with a 20 year term.

The current IGA requires a five-step process for amending the IGA to approve annexations, with recommendations from both the town and county planning commissions, approval by the Nederland Board of Trustees (BOT) and Boulder County Commissioners, and a vote of the town electorate.

Town staff, Boulder County Land Use staff, the Boulder County Commissioners, and the BOT have spent the past 18 months discussing the DRAFT IGA and proposed map. Based on these conversations a DRAFT version of the proposed IGA and Map was created.

The draft IGA includes changes to streamline the annexation procedure, and to ensure timely responses to referrals and establishment of clear procedures for processing amendments.

The draft IGA includes a Primary Planning Area within which annexation can occur with no amendment to the IGA or decision role for the county, and no vote of the town electorate. Annexation would need to be instigated by the property owner.

The draft reflects an expiration date of 2032, 10 years from the current 2022 expiration date.

The Board of Trustees presented the DRAFT revisions in a joint forum with the County on February 12, 2019. They solicited community feedback which is attached to this memo. The agreed to send this DRAFT to the Planning Commission to solicit your feedback.

QUESTION BEFORE THE COMMISSION:

- Do you support the DRAFT version of the Revised IGA and Maps as is or with changes?
- If you do not support the DRAFT revisions, what is your recommendation to the BOT regarding the current IGA which will expire in 2022?

ATTACHMENTS AND LINKS:

- Background and Summary Document
- Background and Summary Power Point
- 2002 IGA
- DRAFT Revised IGA and Map
- Feb 12 Community Feedback

Background and Summary for Amendment to Nederland Comprehensive Development Plan Intergovernmental Agreement

Background

The current Intergovernmental Agreement (IGA) between the Town of Nederland and Boulder County does not allow for the town to expand geographically through property owner initiated annexation without an amendment to the IGA. As the town has evolved it is exploring options to expand its boundaries to help provide development opportunities, especially for affordable housing, and address possible water quality concerns by being able to provide water and sewer service to existing development.

In 2014 the Town of Nederland referred an annexation petition to Boulder County for review and action pertaining to annexation of the "Evans property" (also referred to as "Aspen Trails" and more recently the "Bobcat Ridge Development").[1] This prompted the county to open Docket IGA-14-0001 to process the IGA amendment required for the annexation to proceed. The Boulder County Planning Commission recommended denial in a hearing on December 16, 2014. At a hearing on March 5, 2015 the Board of County Commissioners (BOCC) put the docket on hold. They expressed specific concerns with the proposed development and suggested looking at the issues more comprehensively, including looking at the IGA more broadly.

Since that annexation proposal, Boulder County staff and Town of Nederland representatives have met to discuss broader development plans and to address concerns in a comprehensive manner to help bring predictability to the growth of the area over the next 10-15 years. County staff also met with the "Bobcat Ridge" developer in the fall of 2016 to review BOCC's concerns and discuss a path forward. Discussion between town representatives and county staff resulted in development of draft updates to the IGA to address a range of topics. Parties involved in negotiating the IGA on behalf of the town and county worked through multiple iterations of the draft, and Nederland's Board of Trustees discussed these matters at meetings throughout the past year and a half.

Members of the public will have an opportunity to learn more about the IGA update and ask questions at an **open house scheduled for the Nederland Community Center on February 12 at 6:30**. Staff anticipates taking the updated IGA (docket IGA-19-0001) to town and county decision making bodies for consideration starting in late February or early March. Town officials will vote first, followed by the BOCC.

Summary of Key IGA Update Discussion Points

[1] Referred by Town of Nederland Board of Trustees Resolution 2014-14.

The draft amended IGA incorporates the Town of Nederland's goals identified for the IGA update,[2] Boulder County staff's efforts to address BOCC's previously expressed concerns related to Docket IGA-14-0001, and current land use planning priorities.

Municipal Influence Area / Primary Planning Area (PPA)

The Town of Nederland expressed an interest in the ability to annex developed parcels adjacent to the current municipal boundary. Annexation would need to comply with state statute which, except in some limited circumstances, requires a property owner to initiate and apply for annexation. The town's water and sewer infrastructure has the capacity to accommodate additional service area, and connection to the town's services would eliminate individual on-site waste water systems which would benefit water quality in the area. Recognizing the town's long-held interest in maintaining its unique character, and that additional development would have impacts on wildlife (e.g., elk migration), transportation, and the environment, the draft IGA reflects limited expansion of the area eligible for annexation. The draft includes parcel-specific language for the properties that would become eligible for annexation. For those properties the draft IGA places limits on additional residential density. These limits generally align with current levels of density on those properties, with the exception of the Bobcat Ridge property (referred to as Area 3a in the draft amended IGA).

In addition to the areas noted in the IGA (Areas 1 – 5), parties discussed including in the PPA the Whispering Pines subdivision (Tungsten Road, Horseshoe Place, and Switzerland Trail area west of SH119). Whispering Pines contains single-family development on steeply sloping forested parcels which creates extreme wildfire risk and limited access. Although the Town of Nederland has capacity to serve some of the existing development in the area with water and sewer service the potential for annexation of Whispering Pines subdivision has not been fully vetted. Further studies, community involvement, and discussion are necessary before adding this area to the PPA, and as a result will not be included with this current amendment.

Affordable Housing

The draft commits the town and county to "seek ways to implement its land use and development regulations in a manner that reflects the community values of diverse housing choice and affordability." In the case of the Bobcat Ridge property, the draft includes language specifying a 50% affordability requirement for new residential units developed on the property.

Wildlife and Natural Hazards

[2] At the December 19, 2017 Town of Nederland Board of Trustees meeting four main goals were considered for the IGA update: 1) reduction of emissions, wildfire prevention, and preservation of the rural mountain character; 2) clarification of the rules for annexation and autonomy for the Town regarding zoning and building projects, especially within town limits; 3) increased opportunities for people living on the town limits borders to be involved in the town's policy making; 4) improved standards for intelligent developments and densification. Additional goals and objectives are noted in the town's staff packet for the January 18, 2018 Board of Trustees meeting.

The draft highlights the importance of coordinated town-county planning efforts to minimize impacts on wildlife associated with any new development, as well as planning to mitigate risks associated with natural hazards with an emphasis on wildfires.

Road Annexation

Annexations need to include the entire right of way of the county road, and Nederland will take responsibility for the maintenance, repair and replacement of the roads. If the Bobcat Ridge property is annexed, it would affect CR130 (adjacent to Bobcat Ridge/Nederland High School) and Ridge Road.

Term

The current IGA went into effect in March, 2002 with a 20 year term. The draft reflects an expiration date of 2032, 10 years from the current 2022 expiration date.

Amendment Procedures and Referral Timing

The draft IGA includes changes to streamline amendment procedures, ensure timely responses to referrals, and establish clear procedures for processing amendments. The current IGA requires a five-step process for amending the IGA to approve annexations including: recommendations from both the town and county planning commissions, approval by the Board of Trustees and BOCC, and a vote of the town electorate. In contrast, the draft amended IGA includes a Primary Planning Area (PPA) within which annexation can occur with no amendment to the IGA or decision role for the county, and no vote of the town electorate. Future annexations would still need to adhere to state annexation requirements, including a public noticing requirement and a referral or Annexation Impact Report for annexations over 10 acres to the county for comment. The draft IGA includes a 30 day referral period.

Nederland Area Boulder County Comprehensive Development Plan

Intergovernmental Agreement
Proposed Revisions

Why Update the IGA?

Why is the Town considering revisions to the Comprehensive Development Plan IGA with the County?

At the December 19, 2017 BOT meeting, four main goals were considered as follows:

1. Reduction of Emissions, Wildfire Prevention and Preservation of the Rural Mountain Character
2. Clarification of the rules for Annexation and Autonomy for the Town regarding Zoning and Building Projects, especially within our own town limits
3. Increased opportunities for people living on the town limits borders to be involved in the Town's policy-making (voting, sitting on boards and commissions, running for public office, etc.)
4. Improved standards for intelligent developments and densification

Background

The current Intergovernmental Agreement (IGA) between the Town of Nederland and Boulder County does not allow for the town to expand geographically through property owner initiated annexation without an amendment to the IGA. As the town has evolved it is exploring options to expand its boundaries to help provide development opportunities, especially for affordable housing, and address possible water quality concerns by being able to provide water and sewer service to existing development.

2014 Annexation Petition

In 2014 the Town of Nederland referred an annexation petition to Boulder County for review and action pertaining to annexation of the “Evans property” (also referred to as “Aspen Trails” and more recently the “Bobcat Ridge Development”).1 This prompted the county to open Docket IGA-14-0001 to process the IGA amendment required for the annexation to proceed. The Boulder County Planning Commission recommended denial in a hearing on December 16, 2014. At a hearing on March 5, 2015 the Board of County Commissioners (BOCC) put the docket on hold. They expressed specific concerns with the proposed development and suggested looking at the issues more comprehensively, including looking at the IGA more broadly.

What are the Main Changes to IGA?

- **Primary Planning Areas added to the IGA and Map**

  5 areas have been identified adjacent to the current Town boundaries that could be annexed, when initiated by the property owner; annexation process would comply with the state statute and parcel-specific language in the IGA
- **Affordable Housing**

  DRAFT contains language specifying 50% affordability requirement for 3a
- **Wildlife and Natural Hazards**

  Coordinated Town-County efforts to minimize impacts on wildlife and mitigate risks for natural hazards
- **Term**

  Extends IGA expiration from 2022 to 2032

Primary Planning Area

- Area 1. Lots 1 through 5 of Caribou Ranch-Sherwood Gulch may be annexed subject to the deed restrictions
- Area 2. Area 2 is composed primarily of developed parcels in County-approved subdivisions.
- Area 3(a) “Eldora Road Parcel Southeast”-Consistent with previous development proposals, this parcel shall only be annexed for the purpose of multi-unit housing to address the community’s need for more diverse and affordable housing options.
- Area 3(b) “Eldora Road Parcel, Northeast”-Any additional development on the property should be designed with a goal to add to the community’s diversity of housing types.
- Area 3(c) “Water Utility Parcel”-The County and Town agree that the parcel is eligible for the Town to annex.
- Area 3(d) The “Nederland High School Parcel”-The Nederland High School Parcel is eligible for the Town to annex.
- Areas 4 & 5. The County requests that any development in these areas be completed in a manner that is sensitive to natural resources and habitat, and does not conflict with the County’s trail network

Charette

Attendees are invited to check out to the information at one of the tables. Elected Officials and staff are available from the County and Town to answer your questions and collect feedback.

Thank you for attending tonight.

INTERGOVERNMENTAL AGREEMENT
Nederland Area Boulder County
Comprehensive Development Plan

This Intergovernmental Agreement by and between the Town of Nederland, a Colorado municipal corporation (Nederland); and the County of Boulder, a body politic and corporate of the State of Colorado (Boulder County); (collectively the "Parties") is made to be effective on the 7th day of MARCH, 2002.

WITNESSETH:

WHEREAS, section 29-20-101 et seq., C.R.S. as amended, enables the Parties to enter into Intergovernmental Agreements to plan for and regulate land uses, in order to minimize the negative impacts on the surrounding areas and protect the environment, and specifically authorizes local governments to cooperate and contract with each other for the purpose of planning and regulating the development of land by means of a "Comprehensive Development Plan"; and

WHEREAS, in order to ensure that the unique and individual character of Nederland is preserved, the Parties believe that a Comprehensive Development Plan which recognizes the annexed areas and development approved by Nederland, accompanied by binding commitments by the responsible jurisdictions for the preservation of the rural character of surrounding lands within the Plan Area, is in the best interest of the citizens of each of the Parties; and

WHEREAS, the prohibition of rezoning or other discretionary land use approvals by Boulder County and of annexation or development of certain lands within the Plan Area by Nederland is intended to preclude unplanned development and urban sprawl which, if permitted in the unincorporated area, require the provision of urban services by Boulder County, in contravention of provisions of the Boulder County Comprehensive Plan; and

WHEREAS, the Parties find that designating a portion of the Plan Area to remain as rural preservation for the purpose of preserving a community buffer serves the economic and civic interests of their citizens and meets the goals of the Boulder County Comprehensive Plan; and

WHEREAS, with respect to the annexation provisions herein, the Town of Nederland declares that the rural preservation designations and land use regulations contained in this Agreement affect its future development. Consistent with the municipal annexation, utility service, and land use laws of the State of Colorado, this Agreement, including specifically the annexation and utility service portions hereof, is intended to encourage the natural and well-ordered future development of each Party; to promote planned and orderly growth in the affected areas; to distribute fairly and equitably the costs of government services among those persons who benefit therefrom; to extend government services, and facilities to the affected areas in a logical fashion; to simplify providing utility services to the affected areas; to simplify the governmental structure of the affected areas; to reduce and avoid, where possible, friction between the Parties; and to promote the economic viability of the Parties; and

WHEREAS, the functions described in this Agreement are lawfully authorized to each of the

Parties which perform such functions hereunder, as provided in article 20 of title 29; part 1 of article 28 of title 30; part 1 of article 12 of title 31; and parts 2 and 3 of article 23 of title 31, C.R.S., as amended; and

WHEREAS, section 29-1-201, et seq., C.R.S., as amended, authorizes the Parties to cooperate and contract with one another with respect to functions lawfully authorized to each of the Parties and the people of the State of Colorado have encouraged such cooperation and contracting through the adoption of Colorado Constitution, Article XIV, 18(2); and

WHEREAS, the Parties have each held hearings after proper public notice for the consideration of entering into this Agreement and the adoption of a comprehensive development plan for the subject lands, hereinafter referred to as the "Plan Area", as shown on the map attached hereto and incorporated herein as Exhibit A.

NOW THEREFORE, in consideration of the above and the mutual covenants and commitments made herein, the Parties agree as follows:

1. DEFINITIONS:

As used in this Agreement, the following terms shall be defined as indicated:

DEVELOPMENT:	Construction or establishment of structures, parking areas, and/or surfaced vehicular roadways (except expansion of existing roads), or establishment of new land uses.
PLAN AREA:	Lands included within the boundaries of the designated Plan Area as set forth on the Map attached as Exhibit A, including right-of-way, setback areas, and parcels subject to the Plan's development regulations.
STRUCTURE:	Any thing which is built or constructed, including but not limited to an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, but excluding fences, retaining walls not over 6 feet in height, stone drainage facilities, and buried utility lines.
REGULATORY PARTY:	That party having regulatory jurisdiction over the subject property at the relevant time.

2. THE PLAN AREA AND ITS COMPONENTS:

The Plan Area shall be divided into two (2) categories of land, each depicted on Exhibit A and generally described as follows:

a. Nederland Town Limits. This category shall include all lands currently within or subsequently added, in accordance with the provisions of this Agreement and Plan, to the boundaries of the Town of Nederland.

b. Rural Preservation Area. This category shall include all lands commencing at the

edge of the Nederland Town Limits and extending West to the Continental Divide, South to the Gilpin County Line, North to north of Sugarloaf Road, and East to the Boulder Falls, as depicted by the Plan Area Boundary on Exhibit A. Due to water quality concerns and possible impacts on the Town of Nederland, Boulder County agrees to refer to the Town of Nederland all applications affecting water quality and for residential development other than single family homes.

c. Regarding the Eldora Townsite, although it is included within the Rural Preservation Area, and notwithstanding any other provisions of the Boulder County Land Use Code, Boulder County agrees to refer to Nederland for comment all development applications affecting water quality and for residential development other than single family homes, and applications for installation or replacement of septic systems.

3. CONTROLLING REGULATIONS:

a. Any proposed use or development of any portion of the parcels in the Rural Preservation Area shall conform to the provisions of this Agreement, or, if nonconforming, shall require amendment of the Plan in the manner provided in Section 6 of the Agreement. Any proposed rezoning, subdivision, special use or other regulatory process, or amendment or modification of any existing zoning, PUD, special or conditional use, or subdivision plat, or proposed annexation, whether or not coupled with any such regulatory process, entered into for any lands within the Rural Preservation Area, shall conform to the Plan, or with an approved amendment thereof, in order to be approved by the Regulatory Party.

b. Within the Nederland Town Limits the Nederland Planning Commission and the Nederland Board of Trustees shall have the sole authority to review and approve or deny applications for subdivisions or other developments or land uses proposed to take place entirely within the Nederland Town Limits and no approval by the Boulder County Planning Commission or the Boulder County Board of County Commissioners shall be required.

c. (1) Within the Rural Preservation Area, existing uses of parcels which conform to Boulder County's regulations, or which are legally nonconforming, shall be permitted to continue, either as legal or legal nonconforming uses, in accordance with the provisions of the Boulder County Land Use Code. No density increase beyond the limits currently permissible under the Boulder County Land Use Code shall be approved for any parcel in the Rural Preservation Area.

(2) Pursuant to regulations in the Boulder County Land Use Code as it may exist from time to time, parcels within the Rural Preservation Area may be "sending parcels" for purposes of transferring development rights (TDRs). However, such parcels shall not serve as "receiving parcels" without amendment of this Agreement. TDR units shall not be "sent" from parcels designated in this Agreement as Rural Preservation to be located upon a receiving site within the Nederland Town Limits without the consent of the Nederland Board of Trustees.

(3) Development on parcels for which "vested rights" for further development have been acquired through an estoppel against Boulder County for parcels in the Rural Preservation Area, precluding the prohibition of such development, established by a

final non-appealable court judgment in a proceeding of which Nederland has been given timely notice and the opportunity to join or intervene, shall be permitted notwithstanding this Agreement, to the extent such development is in conformance with the rights so acquired and occurs within the vested period. Boulder County represents that it has disclosed to Nederland all vested rights of which it has knowledge for any of the properties in the Plan Area that may have been established or approved by Boulder County.

4. ANNEXATION:

a. Nederland commits that it is not currently pursuing any annexations within the Rural Preservation Area.

b. Except as provided in sub-paragraph c. below, the Rural Preservation Area as shown on Exhibit A is intended to remain in Boulder County's regulatory jurisdiction for the term of this Agreement. Further, the Town Board of the Town of Nederland, by authorizing the execution of this Agreement, finds and determines, for the term of this Agreement, that there is no community of interest between the Rural Preservation Area and the Town, that none of the Rural Preservation Area is urban nor is likely to urbanize, and that none of the Rural Preservation Area is currently integrated with, nor will it be capable of being integrated with the Town. The Town agrees it will not initiate nor approve any annexation of any Rural Preservation Area lands unless such annexation is referred for recommendation to the Boulder County Planning Commission, approved by the Boulder County Board of County Commissioners, referred for recommendation by the Nederland Planning Commission, approved by the Nederland Board of Trustees, and approved at an election of the qualified electors of the Town of Nederland, with the applicant for any such annexation to bear all costs and fees associated with such election.

c. Notwithstanding any other provisions of this Agreement, the Nederland Board of Trustees may determine, in its sole discretion, that it needs land in the Rural Preservation Area for utilities, including but not limited to water, water storage, water treatment, sewer, sewage treatment, or roads. Should the Town proceed with acquisition of such land, whether or not through the exercise of eminent domain, the Town may then annex such land, and such annexation need not be submitted to review or approval by the Boulder County Planning Commission or the Boulder County Board of County Commissioners. However, such annexation will require referral to the Nederland Planning Commission for recommendation, approval by the Nederland Board of Trustees, and approval by the qualified electors of the Town of Nederland at an election.

d. The County agrees that it will not initiate or approve or consent to annexation of any Rural Preservation Area lands to a municipal entity other than the Town of Nederland unless such annexation is referred to the Boulder County Planning Commission for recommendation, approved by the Boulder County Board of County Commissioners, referred to the Nederland Planning Commission for recommendation, and approved by the Nederland Board of Trustees.

5. REFERRALS:

Any petition, application or other proposal for development or land use on any parcel within the Rural Preservation Area, other than an application for a building permit or an individual site plan, shall be immediately referred in writing by the County to the Town of Nederland. Any offer, proposal, request or application by the County to purchase any parcel within the Nederland Town Limits shall be immediately referred in writing by the County to the Town of Nederland. No action shall be taken thereon by the referring Party until the other Party has had the opportunity to respond concerning the proposal's conformity to this Agreement and Plan, and other land use concerns, all such responses to be received within twenty (20) days of date of referral. No action shall be taken thereon by the referring Party unless it is in compliance with this Agreement and Plan, or an amendment thereto is agreed upon by the Parties.

6. AMENDMENTS:

This Agreement, including Exhibit A, contains the entire agreement between the Parties. Any proposed amendment of the Plan affecting the jurisdiction over lands or the development or regulation of lands must be referred to the other Party by the Party initiating such proposed amendment in writing. Amendment of the Plan shall take place only after referral to and recommendation by the Nederland Planning Commission and the Boulder County Planning Commission, and after approval by resolution or ordinance adopted by the governing body of each of the Parties, after notice and hearing as may be required by law. No Party shall acquire any parcel, or approve or permit any development or change of use, of any parcel in the Rural Preservation Area by any means or in any manner inconsistent with this Agreement until and unless the Agreement and Plan have been amended so that the proposed acquisition, development, or use of such parcel is consistent with the Agreement and Plan. Any proposed amendment that would affect the process for annexations as provided in Section 4. above, in addition to requiring the approval of the bodies listed above, shall also require approval at an election by the qualified electors of the Town of Nederland.

7. BENEFICIARIES:

The Parties, in their corporate and representative governmental capacities, are the only entities, intended to be the beneficiaries of the Plan, and no other person or entity is so intended.

8. ENFORCEMENT:

Any one or more of the Parties may enforce this Agreement by any legal or equitable means including specific performance, declaratory and injunctive relief. No other person or entity shall have any right to enforce the provisions of this Agreement.

9. DEFENSE OF CLAIMS/INDEMNIFICATION:

If any person allegedly aggrieved by the Rural Preservation Area provisions of this Agreement or the Plan and who is not a Party to the Plan should sue any Party concerning such Plan provisions, Boulder County shall, and Nederland may, defend such claim upon receiving timely and

appropriate notice of pendency of such claim. Defense costs shall be paid by the Party providing such defense. The defense by Boulder County shall include defending the Town of Nederland, unless the Town requests otherwise.

In the event that any person not a Party to the Plan should obtain a final money judgment against any Party for the diminution in value of any regulated parcel resulting from the Rural Preservation Area provisions of this Agreement or the Plan or regulations adopted by the Regulatory Party implementing said provisions of the Plan, Boulder County shall, to the extent permitted by law, indemnify such Party for the amount of said judgment.

10. GOVERNING LAW AND VENUE:

This Agreement shall be governed by the laws of the State of Colorado and venue shall lie in the County of Boulder.

11. TERM AND EFFECTIVE DATE/NON-SEVERABILITY:

a. This Agreement shall become effective upon signature of an authorized representative of the governing bodies of the Parties. Except as provided herein, this Agreement shall remain in effect for a period of twenty (20) years from the effective date, unless terminated prior thereto by agreement of the Parties.

b. If any portion of this Plan is held by a court in a final, non-appealable decision to be per se invalid or unenforceable as to any Party, the entire Agreement and the Plan shall be terminated, it being the understanding and intent of the Parties that every portion of the Agreement and Plan is essential to and not severable from the remainder.

12. PARTY REPRESENTATIVES:

Referrals made under the terms of this Agreement shall be sent to the Parties' representatives as follows:

County of Boulder:
Director
Boulder County Land Use Department
Post Office Box 47 l
Boulder, CO 80306

Town of Nederland:
Mayor, Town of Nederland
45 West First Street
Post Office Box 396
Nederland, CO 80466

Name and address changes for representatives shall be made in writing, mailed to the other Party at the then current address.

THIS AGREEMENT is made and entered into to be effective on the date set forth above.

ATTEST:

Sheridan Garcia, Town Clerk

TOWN OF NEDERLAND

By: Jim Miller, Mayor

APPROVED AS TO FORM:

Scotty P. Krob, Town Attorney

[SEAL]

ATTEST:

Clerk to the Board

COUNTY 0F BOULDER
BOARD OF COUNTY COMMISSIONERS

BY:

Jana L. Mendez, Chair

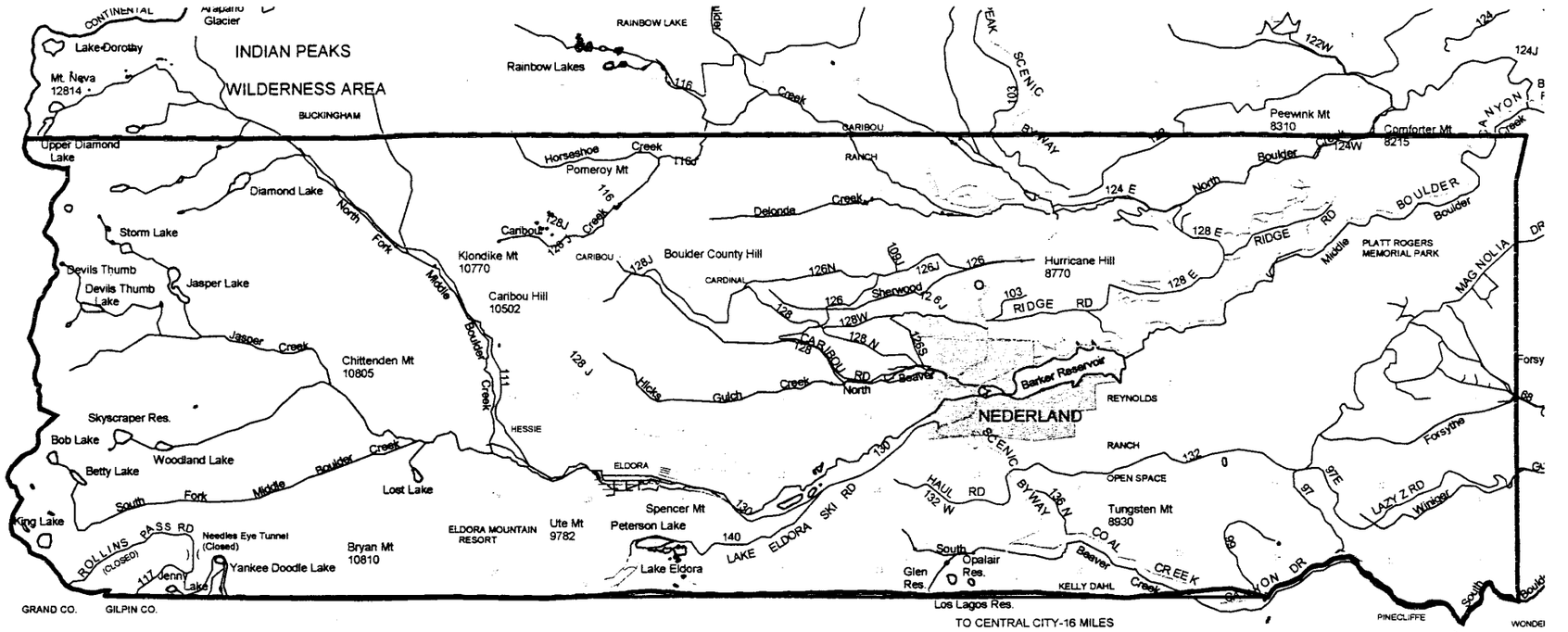
(EXCUSED)

Paul D. Danish, Vice-Chair

Ronald K. Stewart, Commissioner

APPROVED AS TO FORM:

H. Lawrence Hoyt County Attorney



NEDERLAND AREA - BOULDER COUNTY COMPREHENSIVE DEVELOPMENT PLAN
Exhibit A

June 5, 2001

Plan Boundary

Rural Preservation Area

Town of Nederland

1 0 1 2 3 4 5 6 7 8 Miles

This map is for illustrative purposes only, and is not suitable for parcel-specific decision making. The areas depicted here are approximate. More site-specific studies may be required to draw accurate conclusions.

COMPREHENSIVE DEVELOPMENT PLAN
INTERGOVERNMENTAL AGREEMENT

This Intergovernmental Agreement ("IGA") by and between the Town of Nederland, a Colorado statutory municipal corporation ("Nederland" or the "Town"), and the County of Boulder, a body politic and corporate of the State of Colorado ("Boulder County" or the "County") (collectively, the "Parties") is made to be effective on the Effective Date as defined on the signature page of this IGA.

RECITALS

A. Sections 29-20-101 through 29-29-109, C.R.S. as amended ("LUCEA") authorizes the Parties to enter into intergovernmental agreements to plan for and regulate land uses in order to minimize the negative impacts on the surrounding areas and to protect the environment. LUCEA specifically authorizes local governments to cooperate and contract with each other for the purposes of planning and regulating the development of land by means of a "comprehensive development plan."

B. Sections 29-1-201 through 29-1-207, C.R.S., as amended, authorizes the Parties to cooperate and contract with one another with respect to functions lawfully authorized to each of the Parties and the people of the State of Colorado have encouraged such cooperation and contracting through the adoption of Colorado Constitution, Article XIV, § 18(2).

C. The functions described in this IGA are lawfully authorized to the Parties which perform such functions hereunder, as provided in Article 20 of Title 29; Part 1 of Article 28 of Title 30; Part 1 of Article 12 of Title 31; and Parts 2 and 3 of Article 23 of Title 31, C.R.S., as amended.

D. On March 7, 2002, the Parties entered into a Comprehensive Development Plan Intergovernmental Agreement (the "Original IGA") for a period of 20 years. The Original IGA was amended in 2009 for the Town to annex the 6.68 acre Town Maintenance Shop Parcel.

E. The term of the Original IGA as amended ends in March 2022, and the Parties believe it is in the best interests of the citizens of the Town and the County to enter into a new intergovernmental agreement with the goal of continuing the spirit of collaboration that was established by the Original IGA and demonstrated through the Parties' course of dealing throughout the term of the Original IGA.

F. In October 2003, the Parties entered into the Boulder County Countywide Coordinated Comprehensive Development Plan Intergovernmental Agreement (the "Super IGA") which is designed to coordinate all of Boulder County's comprehensive development plan IGAs, to recognize and protect each municipality's planning area, and to preserve the rural character of the land outside of each community's respective planning areas.

G. The Parties believe that it is in the best interest of the residents of both communities to enter into a new IGA in order to preserve Nederland's unique and individual character through orderly development within a newly defined Nederland Planning Area (the "NPA"). The NPA

contains a Primary Planning Area ("PPA") where annexation and development may occur in accordance with the provisions of this IGA. The areas of the NPA not designated as PPA are designated as Rural Preservation Area ("RPA") where the Parties' intent is to preserve the rural quality of the land.

H. The Parties have each held hearings after proper public notice for the consideration of entering into this IGA and the adoption of a comprehensive development plan for the subject lands.

NOW THEREFORE, in consideration of the above and the mutual covenants and commitments made herein, the Parties agree as follows:

1.0 PURPOSE AND INTENT. This IGA is intended to protect and enhance the Town's ability to coordinate its future growth into the PPA, and specifically for the following purposes:

1.1 Implementing Comprehensive Plans. This IGA is designed to implement the goals and policies set forth in the Parties' respective comprehensive plans.

1.1.1. The Nederland Comprehensive Plan (referred to herein as the NCP) emphasizes the Town's commitment to quality of life, sustainability and preservation of small town character, while addressing the need for quality, affordable housing, a diversified, sustainable local economy, and a compact, walkable land use pattern.

1.1.2. The NCP emphasizes proactively planning for the future and balancing the demands of environmental and economic sustainability with community character, historical preservation and property owners' rights.

1.1.3. The Boulder County Comprehensive Plan, as amended from time to time, (the "BCCP") seeks to protect agricultural lands, channel growth to municipal planning areas and consider environmental factors, natural resources, and natural hazards in land use decisions.

1.1.4 BCCP policy CW 1.07 states that "[t]o accomplish a cooperative and coordinated land use planning effort among the region's municipalities, it is herein the policy of Boulder County to enter into intergovernmental contracts with the municipalities for the purpose of implementing the land use proposals and policies of the jointly adopted municipal comprehensive plans."

1.2 Recognizing Future Development is Appropriate in the PPA. The Parties through this IGA intend to direct future development within the PPA to: avoid sprawl, ensure the provision of adequate services, provide access to opportunities for affordable housing and living, limit impacts on wildlife, minimize risks related to wildfire and natural hazards, maximize the utility of funds invested in public facilities, transportation and services, distribute fairly and equitably the costs of government services among those persons who benefit therefrom, extend government services and facilities in an efficient, logical fashion, simplify the governmental structure of the affected areas, and reduce and avoid, where possible, conflict between the Parties.

1.2.1 Affordable Housing. The Town and County will seek ways to implement its land use and development regulations in a manner that reflects the community values of diverse housing choice and affordability.

1.2.2 Wildlife. Upon annexation and review of any development proposals the Town will consider and limit to the extent possible impacts to wildlife. The cumulative impacts of development on elk migration in the Nederland area is of particular importance, and the Town and County will consider opportunities to establish a plan to address this topic.

1.2.3 Natural Hazards. Upon annexation and review of any development proposals the Town will consider and seek to limit and mitigate risks related to natural hazards, with a particular emphasis on minimizing risk related to wildfire given the community's location and proximity to heavily forested land.

1.2.4 Parcel-Specific Provisions. The language within this Section 1.2.4 reflects the Parties' understanding that it is appropriate to consider annexation of developed parcels adjacent to the current municipal boundary. The Town's water and sewer infrastructure has the capacity to accommodate additional service area, and connection to the Town's services would benefit water quality. Recognizing the Town's long-held interest in maintaining its unique character, and that additional development would have impacts on wildlife, transportation, and the environment, this IGA allows for very limited expansion and additional intensity of use of areas eligible for annexation, identified as Primary Planning Area in Exhibit B. The Parties' intent is to generally restrict additional residential density beyond that which is currently allowed under county jurisdiction, with the exception of Area 3(a).

1.2.4.1 Area 1. Lots 1 through 5 of Caribou Ranch-Sherwood Gulch may be annexed subject to the deed restrictions recorded on May 29, 2013 in the real property records of the Boulder County Clerk and Recorder at Reception Nos. 3315352, 3315353, 3315354, 3315355, 3315356 respectively.

1.2.4.2 Area 2. Area 2 is composed primarily of developed parcels in County-approved subdivisions. It contains single-family development in forested areas with some steep slopes. The area is very susceptible to wildfire and has limited access. The Town has indicated it has capacity in its water and sewer systems to serve some of the existing development if properties in Area 2 were annexed. Providing services may benefit water quality and protect wildfire. The County and Town agree that Area 2 is eligible for the Town to annex. This area is suitable for a limited increase in development density, recognizing that any additional development would require a heightened level of attention to wildfire mitigation and wildlife impacts.

1.2.4.3 Area 3(a) ("Eldora Road Parcel Southeast"). The parcel contains a number of development constraints that must be addressed at the time of annexation. Consistent with previous development proposals, this parcel shall only be annexed for the purpose of multi-unit housing to address the community's need for more diverse and affordable housing options. As a result, annexing this parcel

is contingent upon the following limits, which restrictions shall be implemented at the time of annexation through a mechanism acceptable to both the Town and County: (a) Residential development on the parcel may not exceed 50 units; (b) Prior to annexation, the property owner must agree to restrict at least 50 percent of the total number of units to be affordable. Of those units with affordability requirements, 50 percent (i.e., one-quarter of the total number of units on the property) will be deed-restricted as permanently affordable units. The remainder of the units with affordability requirements at the time of development may be sold at market rate after a period of no less than 30 years.

In addition, special consideration will be given to areas of the property with high landslide susceptibility based on County mapping, and any proposed development must be referred to the Colorado Geological Survey. Prior to any development on the parcel, the following plans for the site must be established with input from the County: wildfire mitigation, safe routes to school, access location and improvements to address issues such as visibility and sight lines, and a plan for how impacts to elk migration will be minimized.

1.2.4.4 Area 3(b) ("Eldora Road Parcel, Northeast"). The Town has indicated it has capacity in its water and sewer systems to serve existing development if the "Eldora Road Parcel, Northeast" was annexed. Providing services would benefit water quality. Therefore, the County and Town agree that the parcel is eligible for the Town to annex. Any additional development on the property should be designed with a goal to add to the community's diversity of housing types.

1.2.4.5 Area 3(c) ("Water Utility Parcel"). The County and Town agree that the parcel is eligible for the Town to annex.

1.2.4.6 Area 3(d) (the "Nederland High School Parcel"). The Nederland High School Parcel is eligible for the Town to annex.

1.2.4.7 Areas 4 & 5. The County requests that any development in these areas be completed in a manner that is sensitive to natural resources and habitat, and does not conflict with the County's trail network. In recognition of potential cumulative impacts on elk migration in the Nederland area, the County requests establishment of a plan, with input from the County, for how impacts to elk migration will be minimized.

1.3 Maintaining Community Buffer. This IGA is intended to keep the RPA and the land outside the NPA rural in character to preserve a community buffer.

1.4 Protecting View Corridors, Watersheds and Allowing Only Compatible Development in the NPA. This IGA acknowledges the importance to both Parties of protecting sensitive natural areas, maintaining view corridors, enforcing nuisance ordinances and ensuring that new development is compatible with the character of both Nederland and adjoining County properties.

1.5 Fostering Intergovernmental Cooperation. This IGA encourages the Parties to collaborate to achieve common goals, including becoming more socially, economically and environmentally

sustainable and supporting the public and private provision of cultural, educational, social and healthcare services in the NPA.

1.6 Encouraging Transparent and Timely Decisions. This IGA is intended to encourage transparent, open communication between the Parties and to ensure that decisions pertaining to this IGA are made in a timely and efficient manner.

2.0 NEDERLAND COMPREHENSIVE DEVELOPMENT PLAN (IGA Plan).

2.1 IGA Plan Defined. This IGA, including the Maps attached hereto as Exhibits A and B, is hereby adopted by the Parties as the Nederland Comprehensive Development Plan, and shall be known herein as the IGA Plan, as distinguished from the NCP. The IGA Plan shall govern and control the NPA, which is defined as the unincorporated area of Boulder County as shown on Exhibit A, or as subsequently amended in accordance with this IGA. With the exception of the Super IGA, this IGA Plan replaces and supersedes any and all previous agreements between the Parties concerning the NPA.

2.2 Nederland Planning Area Designations. Exhibit A and B identify, designate and define the land to be known as the NPA, which consists of the Primary Planning Area (the "PPA") and the Rural Preservation Area (the "RPA").

2.2.1 The PPA is the land that is planned for the expansion of the Town limits and which the Parties recognize is appropriate and intended for development.

2.2.3 The RPA represents areas that are expected to remain rural for the duration of this IGA, unless the Parties agree to an amendment of this IGA pursuant to section 11, below.

3.0 ANNEXATION AND DEVELOPMENT OF PROPERTY.

3.1 Land within the Primary Planning Area.

3.1.1 The Town may annex into its corporate boundaries any and all property located within the PPA, in accordance with state and local laws governing annexation. The Town agrees that it will only annex parcels in their entirety, not portions of a parcel, into the Town, unless mutually agreed to by the Parties. By executing this IGA, the County finds and declares that a community of interest exists between the Town and all property located within the PPA. The County will make reasonable efforts to cooperate with Town efforts to annex land in the PPA.

3.1.2 Any property that is disconnected from the Town after the Effective Date of this IGA (whether currently located within the municipal limits of the Town or later annexed into the Town after the Effective Date of this IGA) shall continue to be within the PPA for purposes of this IGA unless it is specifically excluded by a duly executed amendment to this IGA.

3.1.3 The Town and the County acknowledge and agree that the property within the RPA is intended to remain in the County's regulatory jurisdiction and shall not be annexed or

developed by the Town during the term of this IGA, unless mutually agreed to by the Parties.

3.1.4 The Town agrees that in establishing the boundaries of any area proposed to be annexed, any portion of a platted street that is within, or directly adjacent to, the area to be annexed, the entire width of said street or alley shall be included within, or directly adjacent to, the area annexed.

3.2 Land Outside of the NPA.

3.2.1 The area outside the NPA is intended to remain in the County's regulatory jurisdiction for the term of this IGA, unless otherwise provided herein or by a duly executed amendment to this IGA.

3.2.2 The Town may annex lands outside of the PPA and expand the NPA only in accordance with Section 4 of this IGA.

3.3 Developing Areas with Constraints. When evaluating development applications within their respective areas of responsibility, both Parties will consider the impact of proposed development on the floodplain, natural areas, wildlife habitat, steep slopes, watershed and historically-and archaeologically-significant areas, and will require impacts to be reasonably minimized and mitigated.

4.0 EXPANSION OF THE NPA

4.1 Mutual Agreement. During the term of this IGA, expansion of the PPA, RPA, or NPA may only occur with the mutual agreement of the Parties and the corresponding amendment of Exhibits A and B in accordance with this IGA.

4.2 Nederland Planning Process. Any request for expansion of the PPA, RPA, or NPA must be consistent with the BCCP and the NCP and the Nederland Public Process.

5.0 OPEN SPACE. Acquisitions within the PPA. The County agrees that for the term of this IGA it will not purchase or otherwise acquire any land within the PPA for open space purposes, including conservation easements and transfer of development right sending sites without the approval of the Town.

6.0 COMMUNITY BUFFER. The County agrees not to process any zoning map amendments other than a change to Mountain Institutional that would allow more intensive zoning designation for lands remaining in the County's regulatory jurisdiction within the PPA and RPA, unless mutually agreed to by the Parties.

7.0 TOWN OF NEDERLAND UTILITIES.

7.1 Nederland Service Area. It may be necessary for the Town to seek additional water supplies, water storage, and water and wastewater treatment and delivery facilities, both within and outside the NPA. The areas designated in the Map portion of Exhibit A as the NPA shall constitute the

Town's "Service Area" for all purposes, including but not limited to the County's Regulations of Areas and Activities of State Interest in Article 8 of the Boulder County Land Use Code.

8.0 IMPLEMENTATION PROCEDURES.

8.1 Plan Amendment Required. A Plan amendment, agreed to by both the Town and the County, must occur in order to annex or to allow any use or development , or acquire for open space any parcel within the PPA where such annexation, use or development, or acquisition does not comply with the IGA Plan. The provisions of Section 11.0 of this IGA shall apply to any such Plan amendment.

8.2 Notice Required. The Parties each agree to undertake all steps necessary to adopt procedures, plans, policies, and ordinances or other regulations as may be necessary to implement and enforce the provisions of this Plan. The Parties agree that in adopting such procedures, plans, policies, ordinances or regulations, each will give the other Party sufficient notice of such action as will enable such Party, if it so desires, to comment upon the planned actions of that Party. Sufficient notice shall generally mean notice delivered to the other Party at least fifteen (15) days before the date of any public hearing or, where no public hearing will be conducted, before any deadline for the submission of public comment.

8.3 County Zoning Changes within the NPA. Where the County seeks to approve changes to the zoning of properties within the NPA after referral as provided herein, the Board of Trustees shall respond by resolution, approving or disapproving such change or suggesting conditions of approval.

9.0 REFERRALS.

9.1 Nederland Referrals to Boulder County. The Town shall refer in writing to the County:

9.1.1 Any application for annexation; and

9.1.2 Any proposed amendment to the NCP affecting any lot, tract, or parcel within the NPA.

9.2 Boulder County Referrals to Nederland. The County shall treat the Town as a formal referral agency and shall refer in writing to the Town:

9.2.1 Any application for zoning, rezoning, subdivision, PUD, replat, special use, limited impact special use, vacation, transfer of development rights, conservation easement or development (including site plan reviews) for any lot, tract, easement, rights-of-way or parcel within the NPA; and

9.2.2 Any proposed map amendment to the BCCP affecting any lot, tract, or parcel within the NPA; and

9.2.3 In addition to referring the foregoing applications and proposals to the Town, the County agrees to advise any applicant owning land in the PPA during the pre-application process (i.e., prior to formal application submittal) for any of the categories of development listed in Section 9.2.1 of the possibility of annexation into the Town, to encourage any such

applicant to contact the Town concerning possible annexation, and to provide such applicants with the Town's appropriate contact information.

9.3 Referral Period and Waiver of Period for Response to Referrals. The standard period for referrals shall be 30 days. Either Party may, for any given referral, elect to waive or reduce the period of time it requires to submit a response, and such election shall be made by written letter or electronic mail.

9.4 Failure to Respond to Referrals. Failure by either Party to respond to a referral shall entitle the referring Party to assume that the receiving Party has no comment concerning the application or proposal.

9.5 Communication with referral party. For any application or proposal required to be referred by Section 9.1 or 9.2, the referring Party shall use its best efforts to keep the other Party apprised of the status of each application or proposal, including but not limited to, mailing to the other Party notices of public hearings and meetings, staff reports, non-confidential memoranda concerning the status of the application or proposal, and notification of other activities and events associated with the processing of the application or proposal. Upon any final decision concerning the application or proposal, the referring Party shall notify the other Party in writing of the final decision including a general summary of any terms, conditions, or other details of the decision.

10.0 PARTNERSHIPS.

10.1 Intergovernmental Cooperation. The Parties recognize and acknowledge the need for intergovernmental cooperation on important local and regional land use matters and to achieve common goals. In accordance with the NCP, the Town and the County agree to cooperate in good faith in:

10.1.1 Collaborating to design, fund and construct regional trails that connect Nederland to Boulder County open space and other municipalities;

10.1.2 Working with the Colorado Department of Transportation, the Regional Transportation District and the Denver Regional Council of Governments to improve Nederland's multimodal transportation system, including continuing to explore ways to improve bus service between the Town, its neighboring communities, and Boulder County destinations and to reduce emissions;

10.1.3 Continuing to freely share geographic information system data, maps and expertise;

10.1.4 Identifying and implementing programs to enhance opportunities for senior housing and affordable housing within the Town and the NPA; and

10.1.5 Cooperating in the identification of sites to provide more efficient governmental services, including, without limitation, sustainable waste management activities, and solar or other forms renewable energy generation facilities.

10.1.7 Enforcing nuisance ordinances to improve the appearance of properties in the NPA.

10.1.8 Implementing the Boulder County Sustainable Energy Plan.

10.8.9 Implementing the Boulder County Regional Affordable Housing Strategic Plan.

10.1.10 Cooperating on joint ventures to finance and provide for cultural and recreational opportunities for Town residents and people living in the NPA and surrounding neighborhoods.

10.1.11 Collaborating to construct a cost effective, highly diverse, and resilient wastewater treatment system to serve the NPA that is both environmentally beneficial and aesthetically pleasing.

10.1.12 Cooperating on the provision of water and sewer services to properties in the RPA by the Town.

10.1.13 Cooperating to preserve historic and cultural resources within the NPA.

11.0 AMENDMENTS.

11.1 Entire Agreement. This IGA, together with the Super IGA, contains the entire agreement between the Parties and, with the exception of the Super IGA, supersedes any other or prior agreements concerning the same subject matter.

11.2 Changes to IGA. Any proposed amendment to the IGA affecting the jurisdiction over lands or the development regulation of lands must be referred to the other Party by the Regulatory Party. The "Regulatory Party" shall mean the Party having final land use or annexation approval jurisdiction, as the context requires. Amendment of the IGA shall take place only upon approval by resolution or ordinance adopted by the governing body of both of the Parties, after notice and hearing as may be required by law. The Regulatory Party shall not approve nor permit any development or change of use of any parcel within the NPA by any means in a manner inconsistent with this IGA until and unless the IGA has been amended so that the proposed development or use of such parcel is consistent with the IGA.

11.3 Timely Decisions on Amendments to IGA. The Parties agree that within thirty (30) days after receipt by one Party of an amendment proposed by the other Party, the Parties will agree on and establish a schedule for processing and taking final action upon the amendment proposal.

12.0 NON-SEVERABILITY. If any portion of this IGA is held by a court of competent jurisdiction in a final, non-appealable decision to be *per se* invalid or unenforceable as to any Party, the entire IGA shall be terminated, it being the understanding and intent of the Parties that every portion of the IGA is essential to and not severable from the remainder.

13.0 BENEFICIARIES. The Parties, in their corporate and representative governmental capacities, are the only entities intended to be the beneficiaries of the IGA, and no other person or entity is so intended.

14.0 ENFORCEMENT. Either or both of the Parties may enforce this IGA by any legal or equitable means including specific performance, declaratory relief, and injunctive relief. No other person or entity shall have any right to enforce the provisions of this IGA. The Parties agree to discuss and attempt to resolve any dispute in the interpretation or application of this IGA, including but not limited to any dispute regarding a request to terminate this IGA, but if they are unable to do so, either Party may request that the matter be presented to a mediator selected and paid for jointly by the Parties.

15.0 DEFENSE OF CLAIMS/INDEMNIFICATION If any person allegedly aggrieved by a provision of this IGA who is not a party to the IGA asserts or attempts to assert any claim against any Party concerning such IGA provision, Boulder County shall, and the Town may, defend such claim upon receiving timely and appropriate notice of the pendency of such claim. Defense costs shall be paid by the Party providing such defense. In the event that any person not a party to the IGA should obtain a final money judgment against the Town for the diminution in value of any regulated parcel resulting from regulations in the IGA or regulations adopted by the Town implementing the IGA, the County shall, to the extent permitted by law, indemnify the Town for the amount of said judgment.

16.0 GOVERNING LAW AND VENUE This IGA shall be governed by the laws of the State of Colorado and venue shall lie in the appropriate court(s) for Boulder County, Colorado.

17.0 TERM AND TERMINATION This IGA shall remain in effect until [date], 2032, unless otherwise terminated earlier by mutual agreement of the Parties.

18.0 PARTY REPRESENTATIVES Referrals made under the terms of this IGA shall be sent to the Parties' representatives as follows:

County of Boulder

Director, Land Use Department
P.O. Box 471
Boulder, Colorado 80306

With a copy to:
Boulder County Attorney's Office
PO Box 471
Boulder, Colorado 80306

Town of Nederland
Karen Gerrity, Town Administrator
P.O. Box 396
45 W. First Street

Nederland, Colorado 80466

Name and address changes for representatives shall be made in writing and mailed to the other representatives at the then current address.

19.0 COUNTERPART. This IGA may be executed in any number of counterparts which together shall constitute the agreement of the Parties.

20.0 EFFECTIVE DATE. The effective date of this IGA shall be the date on which both Parties have approved and executed the IGA by signing where indicated below.

TOWN OF NEDERLAND:
Board of Trustees

By: _____Mayor
Kristopher Larsen, Mayor

Date:_____

ATTEST:

_____

APPROVED AS TO FORM:

_____

COUNTY OF BOULDER:
BOARD OF COUNTY COMMISSIONERS

By:_____
Elise Jones, Chair

Date:_____, 2019

ATTEST:

_____

APPROVED AS TO FORM:

_____

Boulder County Land Use Department

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

NEDERLAND PLANNING AREA IGA MAP

Legend

- Proposed Nederland Planning Area (NPA)
- Primary Planning Area (PPA)
- Rural Preservation Area (RPA)
- Town of Nederland

NPA Boundary Description
All lands in Boulder County that are also within T1S-R74W; T1S-R73W; and the western 5/6th of T1S-R72W.

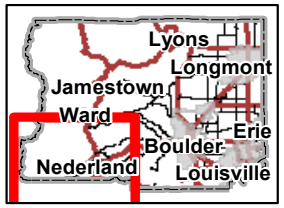
**See the Nederland Primary Planning Area Map for PPA details*

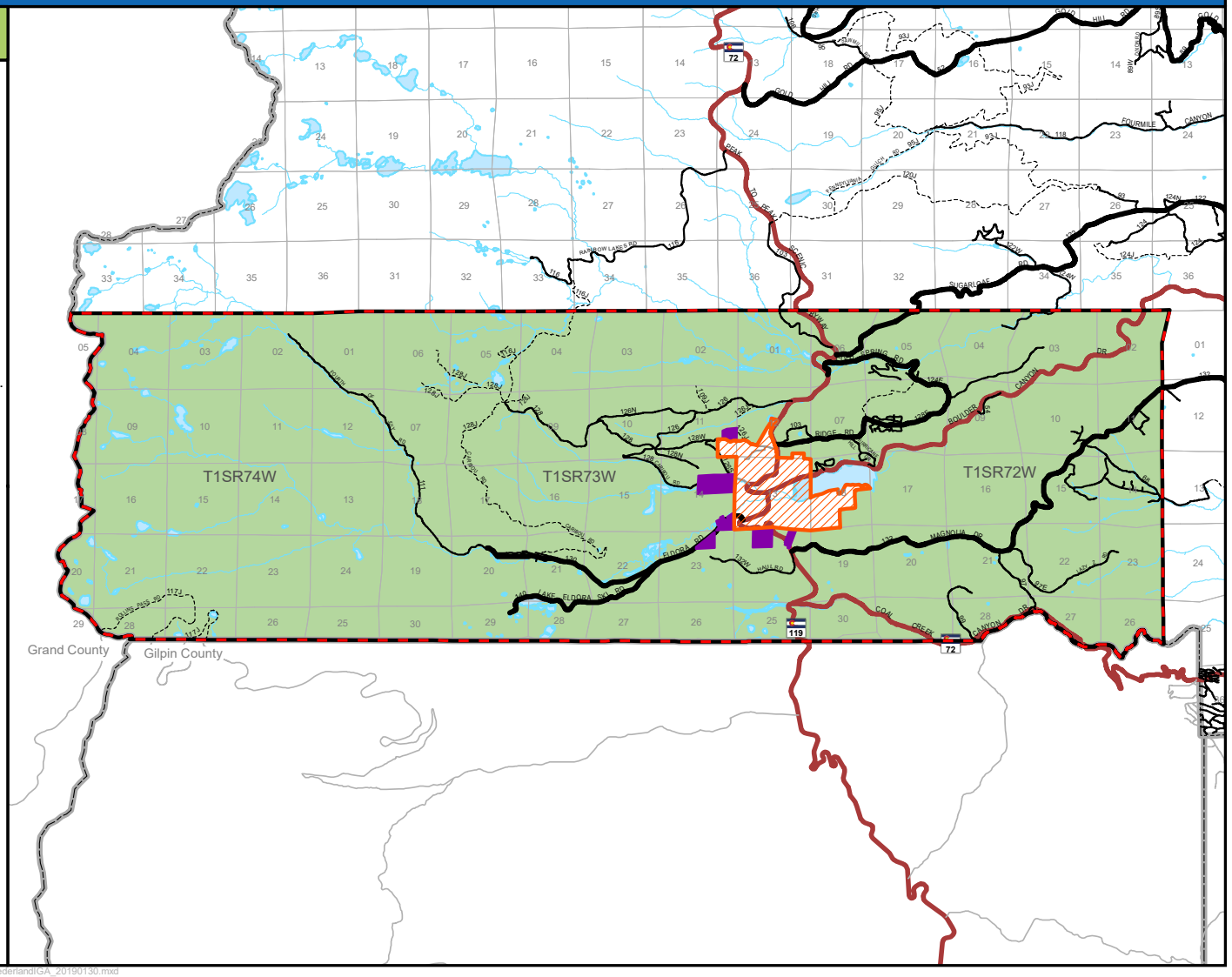
Adopted: __/__/2019

0 1 2 mi
1 inch = 2 miles

NORTH

Area of Detail





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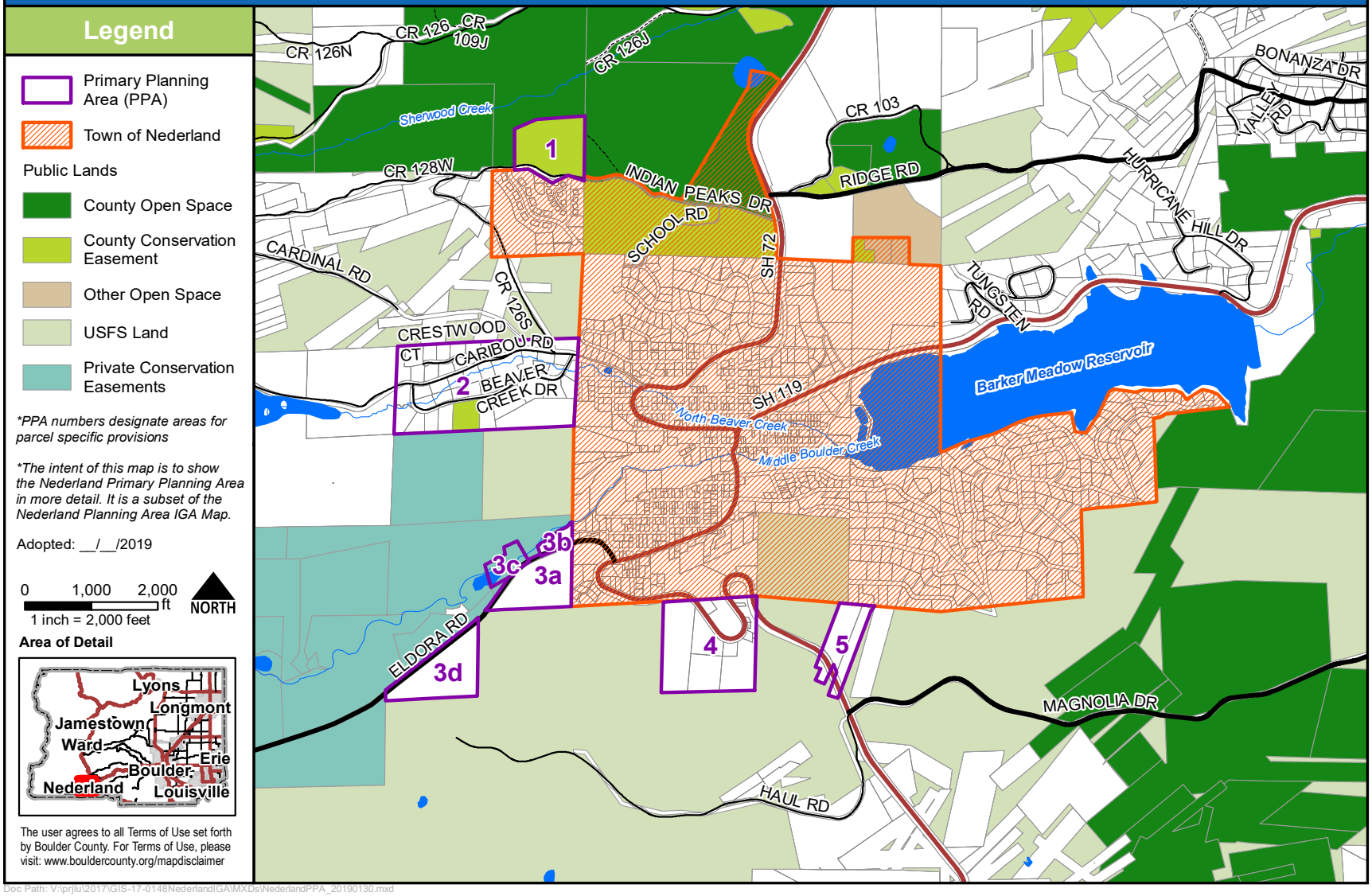
Boulder County Land Use Department

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

NEDERLAND PRIMARY PLANNING AREA



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IGA-19-001: Proposed Amendment to the Nederland Area Boulder County Comprehensive Development Plan

Public Feedback from 2/13/2019 Open House and Afterwards

For information about this topic and to provide feedback click on the link below:

https://www.bouldercounty.org/property-and-land/land-use/planning/intergovernmental-agreements-iga/iga-19-0001/

General Q and A:

Q: What if more areas want to annex, beyond those listed in the PPA? A: This would require an amendment to the IGA which would need approval of Town and County.

Q: When was the last comprehensive plan completed? A: 2013

Q: Was annexation listed as a goal in the 2013 Comp Plan? A: No

Q: Since the PPA has pros and cons, can we bring this question of annexation to the voters? A: Currently the Town would not have to do that. The current IGA gives the County and Town the authority to revise the document.

Q: Will you notify residents that would be impacted by this revised IGA prior to making a decision? A: This hasn't been done as yet.

Q: According to the state annexation requirements, 1/6 of a property would need to be contiguous to the Town. It appears that not all PPA areas meet that requirement. Who will make sure this requirement is met? A: The county and town staff will need to research.

Q: Is this current version of the DRAFT IGA flexible and can it still change? A: Yes, that is why we are seeking public input.

Q: Are the Town and County considering changes to any other aspects of the IGA? A: No, what we are sharing tonight is all that has been discussed.

Q: Once you annex, is there a way to be un-annexed? A: No

Q: Can some of the properties adjacent to Town limits hook up to Town utilities now? A: Yes, code allows that at an increase rate for fees.

Q: What other changes could be made to the IGA after tonight? A: Changes could happen based on public input and will be considered by the Town BOT and then sent to the County for approval.

Q: Can this be sent back to the Planning Commission so they can make a recommendation to the BOT? A: Yes

Q: Are annexation applications property-owner driven? A: Yes, in most cases.

Q: Does the BOT want to change any Town zoning and in particular for the Ridge Road area? A: Not at this time

Q: For people who live outside the Town limits, is it possible to change the voting district to align with library district? A: No, voting protocol is driven by the state statute.

Q: Is there a path to annexation with the current IGA? A: Yes, there would need to be an amendment to the IGA which requires approval by the County and the Town.

Q: Can we poll the residents in the proposed PPA to see if they are interested in the changes to the IGA? A: That can be considered.

Questions/Concerns/Comments provided verbally by individuals during small groups:

- Why does PPA 3a have many parcel-specific conditions and others don't?
- Annexing would increase safety (access, hydrants, tax revenues, etc.).
- Have been walking on 3a for 20 years and it is not a wildlife corridor. It's across the street from Arapaho Ranch which is where the elk hang out.
- "Rural" means they don't get a voice and can't apply for grants.
- Town and County need to confirm 1/6 percentage property contiguity requirement of state annexation requirements because some of the PPA doesn't meet.
- The Food Pantry Board supports annexation and the revisions to the IGA.
- The Town should just wait for the current IGA to expire in 2022 instead of agreeing to a revised IGA with the County.
- We really need this expansion of available housing. As a business, I can tell you we are having a very difficult time recruiting and keeping employees due to the lack of availability of anywhere they can rent. And I know this is a problem for other local businesses.
- The town needs to grow a little to provide affordable housing and expand the tax base so that it is not only a few of us residents paying for everything. The placement of the Evans property as a place to grow and have some affordable housing makes total sense being on the bus route and walkable to town

Feedback Provided in Writing:

- Would like PPA #2 to be removed from the map and proposal. Heard no support for inclusion, nor was she contacted prior to the proposal. Lauded existing services for plowing and road maintenance by Boulder County. Agrees with PPA areas #1, 3a, 3b, 3c, and 3d due to development proposals and ability to tap into Town utilities, but doesn't know if the Town has capacity to serve new areas. Noted areas she supports for annexation will require major road

infrastructure overhaul due to traffic increases that would also affect Town. No input for PPA #4 or 5, but not sure why the area next to PPA #5 wasn't included.

- In support of annexation for PPA #3a (Bobcat Ridge). Long-time resident of Eldora. Would like this development to be available when needing to transition to a smaller home closer to public transportation and amenities in Nederland. Feels that development would offer middle range and affordable apartment and townhome rental options. It would also provide housing options for young families, workforce housing, and senior population.
- Concern about ecological wellbeing of landscape for wide-ranging mammals, and effects upon long-distance movements for mountain lion, bobcat, elk, moose, lynx, and black bear. Landscape fragmentation due to roads affecting full utilization of their range. Elk migration = a positive sign. Counties can deal with landscape-scale ecological issues better than cities/towns, so he supports equal Boulder County involvement for annexation proposals. Wildlife movement corridor links from Ned's south side to Magnolia road for prime winter range to summer range in Indian Peaks. Arapaho Ranch and Caribou Ranch are exceptionally rich wildlife habitats. Arapaho Ranch designation as critical wildlife habitat and area of high biodiversity significance in Boulder County Comprehensive Plan - Environmental Resources. Specific challenges for wildlife movement include Barker Reservoir and Nederland on east side. Main elk access is CR-130 with partial fragmentation by school and a residence, with a principle route through PPA 3a. He provided previous comments about his involvement tracking the elk herd since late 1970's, hired to track in late 1980's, results in Lake Eldora Elk Study in 1991. Specific suggestions: A "plan" on impacts to elk migration should be done prior to annexation consideration by Town, particularly those to S and SW of Nederland. CPW should be asked to be involved in effort to assess cumulative impacts of development upon elk herds. Secondly, re: PPA #3a - Boulder County should retain some approval authority instead of just input. CPW should be involved. He favors this parcel remaining in the Rural Preservation designation and not in the PPA. Considers it impossible to place 35-50 dwellings on 17 acres through [this movement corridor].
- Person appreciates opportunity for feedback and questions while in process. She noted it is nice to have responsiveness for IGA renegotiation.
- Noted part of her property is located in the town limits and part in Boulder County. She loves the Town and wants to be all in the Town of Nederland.
- Overall support for annexation, especially that no "forced annexation" will happen, all must be at request of property owner. 2) She hopes some level of "fairness" standards applied to concerns about wildlife corridors. Noted example of neighbors who built a 6'-8' wooden fence lack credibility to object to neighboring property because of need for "wildlife corridor"
- One member of couple is supportive of PPA #1, Other member is not supportive calling it a "slippery slope". Noting county-approved development should be in Town with sewer. Wildlife needs are ignored/disrupted already.
- Noted there isn't enough affordable housing in the Nederland Greater area. Almost all renters who he knows can't afford to rent here or cannot find housing. Has lived in the area 30+ years and the area now rivals Aspen for lack of affordable housing.
- Supportive of annexation as long as clear parameters around permanently affordable housing are established

- Noted concerns as a town member that the Town isn't capable of dealing with annexing properties properly. Fast decisions are made that don't include the people. Town wants to push things through and then are done without proper guidelines. She has mixed feelings about giving the Town this power. Noted support for PPA #3a (Bobcat Ridge) proposed annexation
- What are the costs and benefits of annexation that might add, say, five additional residences?

AGENDA INFORMATION MEMORANDUM
NEDERLAND PLANNING COMMISSION

Meeting Date: February 27, 2019
Prepared By: Karen Gerrity, Town Administrator
Dept: Planning and Zoning
Information _____ Action __X____ Discussion _____

AGENDA ITEM:

Consideration of code modifications pertaining to long and short-term rental to make recommendations to the Board of Trustees

SUMMARY:

The Board of Trustees (BOT) appointed an advisory committee comprised of town staff, trustees and planning commissioners to further research modifications to the Nederland Municipal Code and then present their findings to the BOT in February. The advisory committee met on December 19, 2018, January 14 and January 29, 2019 and the suggestion was made to create a google doc of the code which would be easier to edit and share. This document is accessible to the public and feedback can be sent to staff. The link below will take you to a PDF of the document that shows comments and edits and will be updated regularly.

https://drive.google.com/open?id=1pV8X8u1BWhdRRLi5YLMEaK5-Ex_XWAhA

The Board of Trustees discussed this topic at their February 12 meeting and Planning Commission Chair Roger Cornell will provide an update. Chair Cornell also thought it might be helpful to have the commissioners revisit the DRAFT ADU and STR ordinances that were prepared last fall. The DRAFT ADU shows the language as originally passed by the BOT as well as suggested edits.

At the February 12, 2019 Board of Trustees meeting, it was noted that there was not consensus from the advisory committee or the BOT regarding several items as listed below:

Accessory Dwelling Units (ADUs)

1. Should ADUs be defined as spaces both internal and external to primary residence or just as detached units?

2. Should there be a size requirement for ADUs?

3. How should the setbacks for ADUs be determined (principal or accessory)?

4. Can ADUs be used for short-term rentals?

5. When used for long term-rentals, should ADUs be licensed or registered with the Town?

6. Should ADUs be required to be on separate utilities and pay a Plant Investment Fee? If so, should this fee be reduced as incentive for ADUs?

Short Term Rentals

1. Since Short-term rentals are being considered for primary residences only, can it include the whole house?

2. Is there a desire to allow a limited number of days for seasonal residents to provide short term rentals?

The BOT requested that the PC reconsider these questions and provide recommendations.

ATTACHMENTS:

1. ADU Ordinance 785 with DRAFT edits-ILLUSTRATIVE PURPOSES ONLY
2. DRAFT STR Ordinance-ILLUSTRATIVE PURPOSES ONLY

THIS IS A DRAFT FOR ILLUSTRATIVE PURPOSES ONLY

TOWN OF NEDERLAND, COLORADO

ORDINANCE NUMBER ___

AN ORDINANCE AMENDING CHAPTER 16 OF THE NEDERLAND MUNICIPAL CODE CONCERNING ACCESSORY DWELLING UNITS

WHEREAS, pursuant to C.R.S. § 31-23-301, the Board of Trustees ("Board") of the Town of Nederland, Colorado ("Town") possesses the authority to create regulations and restrictions concerning planning and zoning within the Town; and

WHEREAS, the Planning Commission made certain recommendations to the Board of Trustees regarding amendments to Chapter 16, Zoning, of the Town of Nederland Municipal Code ("Code"), related to regulating accessory dwelling units; and

WHEREAS, after due and proper notice as required by C.R.S. §§ 31-23-304 and 305, the Planning Commission held a public hearing on April 25, 2018; and

WHEREAS, the Planning Commission found that it is advantageous to the Town's goal of increasing diverse and affordable housing stock to permit and regulate accessory dwelling units; and

WHEREAS, the Board has conducted its own review of the issues, including the Planning Commission's recommendations, and found that it would further the health and welfare of the citizens of Nederland to permit and regulate accessory dwelling units; and

WHEREAS, on May 16, 2018, by Ordinance 785, the Board therefore amended the Nederland Municipal Code by the addition of a new section 16-98 concerning Accessory Dwelling Units; and

WHEREAS, Ordinance 785 was scheduled to go into effect six months after May 16, 2018; and

WHEREAS, since that time, the Board has conducted additional meetings with the public, and has determined that it is in the best interests of the health and welfare of the citizens of Nederland to remove the requirement that accessory dwelling units be exclusively limited to long term rentals, as well as clean up and clarify some other language within the section.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Nederland, Colorado, as follows:

Section 1. Nederland Municipal Code section 16-98 is hereby amended as follows:

Sec. 16-98. Accessory Dwelling Units.

(a) Definitions. As used in this section, the following words shall be interpreted and defined as set forth below:

(1) *Accessory dwelling units* means a second dwelling unit created on a lot with an existing residential structure such as a house, attached house or ~~manufactured~~ **MODULAR** home, or within said existing principal residential structure, which shall be a distinct and separate housekeeping unit.

(2) *Primary residence* means a residence which is the usual place of return for housing for more than six months out of the calendar year as documented by the occupant's: (1) driver's license OR Colorado state identification card; AND (2) voter registration; motor vehicle registration; OR designated residence for tax purposes. An applicant for an accessory dwelling unit may have only one (1) primary residence for purposes of this section.

(b) An owner(s) of a single family dwelling in the residential zone districts may construct and/or permit the occupancy of an accessory dwelling unit in such principal residential structure, attached to a principal residential structure, or in an accessory building on the same lot, provided the following conditions are met:

(1) The residence in which the accessory unit is constructed or permitted shall be the primary residence of the owner(s).

(2) Both dwelling units shall be on the same Town utility service.

(3) The accessory dwelling unit shall meet the setbacks of ~~a principal~~ **AN ACCESSORY** use and all other yard and bulk requirements set forth in Section 16-33 of this Code. Maximum lot coverage and maximum floor area ratios may not be exceeded.

(4) The applicant shall provide a parking plan for off street parking for renters of the accessory dwelling unit.

(5) Separate outside access shall be created for the accessory dwelling unit, provided, however, that one airlock type entry may be used if separate access to the accessory dwelling exists following the initial outside entry of the principal residential structure.

(6) There shall be no more than one (1) accessory dwelling unit per property.

(7) The accessory dwelling unit shall not exceed 800 gross square feet, unless said accessory dwelling unit is located within the principal residential structure, in which case there shall be no limitation to gross square footage.

(8) The accessory dwelling unit shall be more than 200 gross square feet.

(9) There shall be a maximum of two bedrooms within an accessory dwelling unit, unless said accessory dwelling unit is located within the principal residential structure, in which case there shall be no limitation on number of bedrooms.

(10) The applicant shall comply with the provisions of Chapter 13 of this Code as it relates to sewer and water utilities and fees.

(11) The accessory dwelling unit shall meet the standards of the International Building Code applicable at the time.

(12) The applicant shall demonstrate approved, inspected septic for all bedrooms, if applicable.

(13) The applicant for accessory dwelling units shall apply on forms provided by the town administrator, showing how and in what manner the criteria of this subsection are met, provide a statement of current ownership and a legal description of the property, and pay the appropriate application fee(s).

~~(14) The accessory dwelling unit shall be used exclusively for long term rental(s).~~

(14) If ownership is transferred, the new owner shall apply with the Town within ten (10) days after the transfer.

(15) The accessory dwelling unit must otherwise follow all applicable provisions within Chapter 16 of this Code.

Section 2. This ordinance shall go into effect three months after final date of adoption.

Section 3. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 4. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however,

that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

INTRODUCED, ADOPTED AND ORDERED PUBLISHED THIS DAY OF , 2018.

TOWN OF NEDERLAND, COLORADO

_____
Kristopher Larsen, Mayor

ATTEST:

_____
Hope Jordan, Town Clerk

APPROVED AS TO FORM:

_____
Carmen Beery, Town Attorney

THIS IS A DRAFT FOR ILLUSTRATIVE PURPOSES ONLY

TOWN OF NEDERLAND, COLORADO

ORDINANCE NUMBER 7XX

AN ORDINANCE AMENDING CHAPTERS 6 AND 16 OF THE NEDERLAND MUNICIPAL CODE, CONCERNING BUSINESS LICENSING AND ZONING, RESPECTIVELY, TO ESTABLISH A SHORT-TERM RENTAL LICENSING PROGRAM

WHEREAS, the Town of Nederland, Colorado ("Town") is a statutory municipality, duly organized and existing under the laws of the state of Colorado; and

WHEREAS, pursuant to C.R.S. § 31-15-501, the Town possesses the authority to regulate the operation and licensing of businesses generally within its jurisdiction; and

WHEREAS, the Board of the Town finds that there exists within the Town from time to time, residential dwelling units that are offered for rent for the purpose of vacation or other short-term stays of less than 30 days; and

WHEREAS, in discussion with the Planning Commission at a joint work session on August 24, 2016, the Board determined it prudent to establish regulations governing such uses, so as to protect the health, safety and welfare of residents of the Town, and so directed the Planning Commission to draft related policy for the Board's consideration; and

WHEREAS, the Planning Commission has made certain recommendations to the Board of Trustees regarding amendments to Chapters 6, Licensing, and 16, Zoning, of the Town of Nederland Municipal Code ("Code"), related to short-term rental of housing units and related licensing; and

WHEREAS, after due and proper notice as required by C.R.S. §§ 31-23-304 and 305, the Planning Commission held a continuing public hearing at many meetings, including on June 27, 2018; and

WHEREAS, in order to protect residential integrity within the Town, the Board finds and determines it is necessary to adopt licensing regulations and restrictions on the renting or leasing of real property for residential occupancy of less than 30 days; and

WHEREAS, the Board finds that the establishment of a licensing program will accomplish this goal, protect the health, safety, and welfare of the public, and prevent adverse impacts to adjacent properties, neighborhoods and quality long-term rental housing units within the Town.

NOW THEREFORE, BE IT ORDAINED by the Board of Trustees of the Town of Nederland, Colorado, as follows:

Section 1. The following Article is hereby added to Chapter 6 of the Nederland Municipal Code.

ARTICLE XII

Short-term Rental Business Licensing

Sec. 6-291. Definitions.

Advertise means any act, method or means of drawing attention to a short term rental for purposes of promoting the same for rent or occupancy.

Imminent danger shall mean a condition that could cause serious or life-threatening injury or death at any time.

Licensed premises means the premises specified in an approved application for a license under this Article which are owned or in the possession of the licensee and within which such licensee is authorized to provide short term rental accommodations in accordance with this Article.

Primary residence means a residence which is the usual place of return for housing for more than six months out of the calendar year as documented by the occupant's: (1) driver's license OR Colorado state identification card; AND (2) voter registration; motor vehicle registration; OR designated residence for tax purposes. An applicant for a license under this Article may have only one (1) primary residence for the purposes of this Article.

Seasonal residence means a residence which is the usual place of return for housing for an individual for at least four months out of a calendar year.

Short term rental means a residence or portion thereof used for lodging accommodations for transients for a period of less than thirty (30) consecutive days per transient renter.

Sec. 6-292. Application for license; term; renewal; non-transferable.

(a) License application. Applications for a short term rental license shall be submitted to the Town Clerk on a form provided by the Town, and the Town Clerk shall accept no incomplete applications. Applications shall provide the following information:

(1) The full name, residential address and telephone number for the applicant.

(2) The full name, address and telephone number of an authorized agent with either a residential or business address within fifty (50) miles of the Town, along with a copy of the writing designating the agent to act, in the applicant's absence, as the representative of the applicant on issues related to the short term rental.

(3) A sworn affidavit that the applicant has followed all license requirements, that there are no private rules or covenants that prohibit the use of the licensed premises as a short term rental, and that the application is complete and contains no false, misleading or fraudulent statements.

(4) The address of the proposed licensed premises and a description or illustration of the area(s) that will be used for short term rental purposes.

(5) Proof of the lawful possession of the licensed premises by the applicant, either by deed or lease. If the applicant is not the owner, the application shall include written authorization, signed and notarized, from the owner of the licensed premises for the use of the same for short term rentals.

(6) If applicable, proof of applicant's primary residence at the licensed premises, by providing: (1) the applicant's driver's license OR Colorado state identification card; AND (2) the applicant's voter registration; motor vehicle registration; OR document(s) designating a residence for tax purposes.

(7) An application fee in an amount set forth in the Town Fee Schedule.

(8) A delineated off-street parking plan for guests' cars, which provides for parking for all users of the rental space.

(9) Information as to how the rental unit is served by utilities. If the unit is served by a septic system, a copy of the latest inspection must be included with the application. All utility payments owed to the Town, related to the rental unit, must be kept current.

(10) A certification by the applicant that the dwelling unit is equipped with operational smoke detectors, carbon monoxide detectors, fire extinguishers, and other life safety equipment as required by the locally adopted International Residential Code (IRC) Building Code and Fire Code.

(11) A completed short-term rentals self-inspection form, which form shall be provided by the Town Clerk, signed by the applicant under penalty of perjury.

(12) An acknowledgement that the licensed premises of the dwelling unit may be subject to a request for a pre-arranged inspection by appropriate building, fire, and zoning officials, and that a failure to allow such pre-arranged inspection shall, in

the discretion of the Town Administrator, result in a suspension of the short-term rental license pursuant to Section 6-10 of this Code.

(13) Such other information determined necessary by the Town Clerk to evaluate the compliance of the applicant, licensed premises or proposed short term rental activity with the requirements of this Code.

(b) It is the duty of each short term rental licensee to ensure that all of the information provided in a license application is kept up to date at all times, and it shall be unlawful for a licensee to fail to provide updated information to the Town within ten (10) days after the date upon which any information provided is no longer accurate.

(c) Each license issued under this Article shall be issued on a calendar year basis and shall expire with the calendar year for which issued.

(d) The renewal of a license under this Article shall follow the annual renewal process and requirements set forth under Section 6-9 of this Code.

(e) No license issued under this Article shall be transferable and no license is valid as to any person or entity other than the person or entity named thereon.

(f) Upon the issuance or renewal of a license, the Town Clerk shall send written notice of such issuance to each distinct mailing address within two hundred (200) feet of the licensed premises. The Town Clerk shall notify the Town Administrator of any objective, Code-based concerns or alleged violations identified by such property owners responding to said written notice, and the Town Administrator, or his or her designee, may refer to these concerns at the applicable time.

(g) The Town Administrator is hereby authorized to promulgate any necessary rules or regulations associated with the license application.

(h) Upon receipt by the Town Clerk of an alleged violation of this Article or a discrepancy in the rental license application and the use of the building, the information provided on the application shall be updated by the landlord.

Sec. 6-293. Minimum health and safety standards; inspections.

(a) Each licensed premises licensed under this Article shall comply with all building, housing and health codes which, if violated, would constitute an imminent danger.

(b) No license under this Article shall be issued until the applicant submits a completed short-term rentals self-inspection form, which form shall be provided by the Town Clerk, signed by the applicant under penalty of perjury, as well as an acknowledgement that the licensed premises of the dwelling unit may be subject to

a request for a pre-arranged inspection by appropriate building, fire, and zoning officials, and that a failure to allow such pre-arranged inspection shall, in the discretion of the Town Administrator, result in a suspension of the short-term rental license pursuant to Section 6-10 of this Code.

(c) A short-term rentals self-inspection form of the license premises shall be completed and signed by the applicant before the initial issuance of any license under this Article, and shall be submitted every year thereafter.

Sec. 6-294. Limitations; Requirements.

(a) A licensee shall not provide short term rental accommodations for more than **[? days]** per month or more than **[? days]** per calendar year.

(b) A licensee who is a seasonal resident shall not provide short term rental accommodations for more than **[? days]** per calendar year.

(c) Each licensee shall submit to the Town, on a yearly basis, an affidavit, signed by the licensee and notarized, confirming payment of all applicable sales and lodging taxes. **[add "attesting to the duration and frequency of the prior year's short term rental history, as well as confirmation of payment" if BOT decides to limit the number of days rented]**

(d) Each licensee shall post at a prominent place inside the premises a notice containing the following:

(1) Licensee's contact information;
(2) Emergency contact information if the licensee cannot be reached;
(3) Local trash and recycling schedule;
(4) Parking restrictions, if applicable;
(5) Water restrictions, if applicable;
(6) Evacuation directions in the event of fire or emergency;
(7) Location of the fire extinguisher;
(8) Contact information of the owner or agent authorized to respond to emergencies or inquiries**;** and
(9) Town contact information for purposes of complaints concerning the licensed premises.

(e) There shall be an owner or representative who is on call full time to manage the property during any period which the property is occupied as a short term rental. The owner or representative shall be required to respond to an active guest within three (3) hours by phone or in person.

(f) The license number shall be prominently displayed on all hosting sites and advertising listings of the licensed premises.

(g) Sales tax must be collected and remitted on each short-term rental stay in accordance with State and Local requirements.

(h) Recreational Vehicles (RVs), which includes all vehicles that bear a Vehicle Identification Number (VIN), tents, campers or other temporary structures are not eligible for a short term rental license, and such use is prohibited for short term rentals.

(i) [Accessory Dwelling Units (ADUs) or other detached accessory structures are not eligible for a short-term rental license, and such use is prohibited for short term rentals.] – may be deleted depending on ADU amending ordinance vote

(j) Each licensee/applicant may only obtain one license within the Town limits. No individual/family/legal entity shall obtain more than one short term rental license by the Town, nor may any individual/family/legal entity rent out more than one residence or property within the Town under this Article.

Sec. 6-295. Suspension and revocation; appeal.

Each license issued under this Article is subject to suspension and revocation proceedings, including the availability to appeal the outcome thereof, as set forth under this Code.

Sec. 6-296. Unlawful acts.

It is unlawful for any person to:

(a) Operate a short term rental without a smoke detector, carbon monoxide detector and fire extinguisher on the licensed premises during each short term rental occupancy period.

(b) Operate a short tern rental in any location other than the person's primary residence or seasonal residence.

(c) Operate a short term rental that does not comply with all applicable State and Town laws and codes.

(d) Advertise any short term rental without including in such advertisement the short term rental license number issued by the Town under this Article.

(e) Fail to collect or remit sales tax due on the sale of short term rentals as required by law.

(f) Operate a short term rental or permit the use or occupancy of the same in violation of any the requirements of this Code, concerning zoning, including but not limited to occupancy limitations.

(g) Construct or modify a licensed premises for short term rental purposes in violation of this Code, concerning building regulations, including any code adopted by reference therein.

Secs. 6-297—6-310. Reserved.

Section 2. Section 16-32, entitled "Use Groups," is hereby amended as follows:

Sec. 16-32. Use groups.

USE GROUPS	*DISTRICTS*						
	F	***MR LDR MDR HDR***	***NC***	***CBD***	***GC***	***I***	***P*** [7]
Commercial Use Groups							
Hotels and motels	N	N	R	R	R	N	N
Campgrounds and resort cabins	R	N	N	N	N	N	R
Short-term Rental Units	**N**	**Y**	**Y**	**Y**	**Y**	**Y**	**N**

"N" = use groups prohibited
"R" = use groups permitted by special review
"Y" = use groups permitted outright

Section 3. Should any one or more sections or provisions of this Ordinance or of the Code provisions enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of such Code provision, the intention being that the various sections and provisions are severable.

Section 4. Any and all Ordinances or Codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such Ordinance or Code or part thereof shall not revive any other section or part of any Ordinance or Code provision heretofore repealed or superseded.

Section 5. **Effective Date.** This ordinance shall take effect **[six months]** after adoption by the Board of Trustees.

INTRODUCED, ADOPTED AND ORDERED PUBLISHED THIS _____ DAY OF _____, 201_

TOWN OF NEDERLAND, COLORADO

_____
Mayor

ATTEST:

_____
Town Clerk

APPROVED AS TO FORM:

_____
Town Attorney