



Community Planning & Permitting

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BOULDER COUNTY BOARD OF COUNTY COMMISSIONERS

July 6, 2023, at 1:00 p.m.

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

PUBLIC HEARING with PUBLIC TESTIMONY

STAFF: Hannah Hippely, AICP – Community Planning and Permitting

APPLICANT: Jack Bestall, Bestall Collaborative Limited

PROPERTY OWNER: Lefthand Ranch, LLC

Kanemoto Estates Conservation Easement Termination

Request to terminate a conservation easement on Outlot A of Kanemoto Estates pursuant to the terms of the conservation easement. Termination is required to allow the annexation of Kanemoto Estates into the City of Longmont for the construction of a mixed housing development. The property is located east of Airport Road approximately 0.5 miles north of the intersection of Airport Road and SH 119 at 8702 N 87th Street.

Action Requested: Approval

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BACKGROUND

The Kanemoto Estates Subdivision was approved in 1982. The plat (Exhibit A) was signed by the

Planning Commission on April 21, 1982, by the Board of County Commissioners on April 29, 1982 and recorded on May 17, 1982. The subdivision consists of three parcels: Lot 1- 3.9 acres with one house; Lot 2 - 5.6 acres with one house; and Outlot A - 28.76 acres encumbered by a conservation easement. The subdivision regulations in the Boulder County Land Use Code allowed the Kanemoto property to be subdivided into two building lots. These regulations also required the creation of Outlot A (Figure 1) along with the granting of a conservation easement over Outlot A (see Exhibit B; the "Conservation Easement"). Since the granting of the conservation easement was a requirement of the subdivision process, the county did not purchase the Conservation Easement, which is a real property right held by the county. The applicant requests that the Conservation Easement be terminated pursuant to its terms.



Figure 1: Aerial view of the Kanemoto subdivision

The applicant proposes to annex the entire area of the Kanemoto Estates Subdivision into the City of Longmont. The annexation area is 40.5 acres: 2.25 acres of Airport Road right of way and 38.25 acres within the Kanemoto Estates Subdivision. The proposed development is for a mixed residential community referred to as Somerset Village. The planned community would include single family and paired homes, four-plexes, townhomes, flats, and community amenities (Figure 2). To proceed with the development as proposed, the Conservation Easement must be terminated.



Figure 2: Concept Plan of Somerset Village

The applicant's request for termination of the Conservation Easement and additional information on the redevelopment of the property are included as Exhibit C. Staff requests the Board of County Commissioners consider the termination of the Conservation Easement pursuant to its terms. If the county agrees to terminate the Conservation Easement and the property is annexed, decisions regarding zoning and redevelopment of the site will be made by the City of Longmont.

DISCUSSION

Outlot A was created subject to the Conservation Easement granted to Boulder County as a regulatory requirement of the subdivision process. Outlot A has been held in private ownership since that time and is not open to the public. The Conservation Easement prohibited the construction of residential structures on Outlot A, prohibited further division of Outlot A, limited structure or pavement coverage on Outlot A to 10 acres or 10% of the parcel area, and required the Outlot A be managed and used as a single agricultural unit by a single legally responsible individual who is a resident of Boulder County. The Conservation Easement was to run with the land and remain an easement on the land until terminated or transferred. The Conservation Easement allows for its termination as follows:

- 3.A. Where the Boulder County Planning Commission and Boulder County Board of Commissioners have determined that the proposed and/or allowed development and/or land use resulting from such termination or transfer is consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use Regulations.

The county's intention for allowing termination of this Conservation Easement as spelled out in its terms was based upon the concept that the community may decide in the future (i.e. sometime after 1982) that development of the property would be appropriate.

For the following reasons, staff recommends that the BOCC terminate the Conservation Easement because doing so is consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use Regulations.

(1) Consistent with the current Boulder County Comprehensive Plan (the “Comprehensive Plan”)

As part of the county’s efforts to implement the Comprehensive Plan, the county enters into intergovernmental agreements with local governments effecting collaboration and cooperation for planning and regulating land development in Boulder County. The Boulder County Comprehensive Plan Introduction includes a section on Intergovernmental Agreements (IGAs) where the role of these agreements in implementing the Comprehensive Plan is explained:

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

IGAs between Boulder County and one or more cities are used to address land use planning issues in a specific geographic area. IGAs are like localized comprehensive or master plans, but instead of being advisory like the Boulder County Comprehensive Plan, IGAs are legally binding contracts between the governmental entities.

Boulder County and the City of Longmont entered into the Longmont Area Transferrable Development Rights Intergovernmental Agreement (TDR IGA) in 1996 (Exhibit D). The Transferrable Development Rights program allowed the development right(s) on a property to be separated from that property and be moved (transferred) to a property that was designated as an appropriate location for additional development (receiving site). The county Transferrable Development Rights program was developed as a mechanism for moving development out of the rural areas of the county into areas where development was found to be consistent with the Comprehensive Plan. This program supports a variety of goals found in the Comprehensive Plan since development rights were removed from land that is now preserved through county open space purchases and conservation easements. The development rights from these lands can be used only in locations specifically identified as receiving sites. The funds generated by these sales are rolled back into the open space fund to be used in the preservation of additional lands. Open Space purchase and preservation is a significant tool in the implementation of the goals found in the Agricultural and Environmental Resource Elements of the Comprehensive Plan. The 1996 TDR IGA designated the Kanemoto Estates Subdivision as a receiving site for development as shown on the Longmont Area TDR Map (Exhibit E).

In addition, Boulder County and the City of Longmont entered into the current Comprehensive Plan Intergovernmental Agreement (CDP IGA) in 1997. The CDP IGA has been amended over the years and the most recent 2003 CDP IGA is included in the packet (Exhibit F). The CDP IGA defined the Longmont Planning Area (LPA) and recognizes the area of potential urbanization within the LPA as shown on the associated map (Exhibit G). Kanemoto Estates is located within the LPA and is also a designated receiving site under the TDR IGA. Together these documents articulate where future growth and rural preservation is intended to occur.

The TDR IGA and the CDP IGA, which serve as the localized combined (County and Municipal)

comprehensive plan, have been entered into after consideration of all of the various and sometimes competing elements of the Boulder County Comprehensive Plan. As stated in the Purpose and Role of the portion of the county Comprehensive Plan portion of the plan:

The Plan is advisory in nature. Circumstances may arise that the Plan does not directly address, and occasionally aspects of one goal may conflict with those of another. The Plan provides guidance in the decision-making process, but not the “final word.” It is the responsibility of decision makers to balance a range, of goals and policies in the context of a specific case. There is no formulaic path to accomplish this; it is not a matter of counting policies that support one factor versus another, but rather an exercise in determining the outcome that best reflects the Plans overall Guiding Principles given the unique circumstances of the situation.

On the basis of the proposal’s conformance with the CDP IGA and TDR IGA alone, which serve as legally binding “localized comprehensive or master plans” and which are entered into after decision makers have balanced the range of goals and policies found within the Comprehensive Plan, staff finds proposal to be consistent with the Comprehensive Plan.

Boulder County has grown substantially since the IGAs were adopted and the intergovernmental agreements sought to plan for that growth in a way that would support the needs of the growing region while remaining consistent with the goals of the Boulder County Comprehensive Plan and the goals expressed in the Comprehensive Plans of the municipality.

Additionally, the development of this property as part of the City of Longmont supports a variety of Comprehensive Plan goals related to the design of the region, housing, sustainability, and the economy. These ideas are articulated in the Comprehensive Plan:

Countywide Goals:

Design of the Region:

1. Cluster Development. Future urban development should be located within or adjacent to existing urban areas in order to eliminate sprawl and strip development, to assure the provision of adequate urban services, to preserve agriculture, forestry, and open space land uses, and to maximize the utility of funds invested in public facilities and services.
2. Appropriate Rate of Growth. Existing communities should grow at whatever rate they consider desirable, within the limits of what is acceptable to the citizens of areas potentially affected by that growth, and to the citizens of the county, while preserving and improving the quality of life and the aesthetic and functional fitness of land uses within the county.

Housing:

PH 5.01 *Affordable Housing*. Boulder County recognizes there is a connection between individuals having safe, affordable housing and their physical and mental health, and the county supports efforts to create, conserve and preserve affordable housing.

Sustainability:

4. Employment & Housing: Within Community Service Areas a suitable balance between employment opportunities and available housing, in light of the labor force and other demographic characteristics of the community, should be established and maintained.

Economics Element:

Goal 2. Steward: EC 2.02 Intergovernmental Collaboration. Boulder County collaborates with and supports the economic vision of municipalities by fostering well planned development efforts that contribute to economic vitality for the region, without placing an undue burden on resources and infrastructure available within the municipalities and the county, and without exacerbating challenges related to balancing economic growth with housing supply in the region.

EC 3.06 Balancing Regional Economic Growth and Housing Supply. Boulder County recognizes that regional economic growth places a strain on housing supply throughout the county. The county seeks to collaborate with regional partners to better understand and address those impacts. Strategies may include identifying and communicating (e.g., through referral comments) best practices for minimizing and mitigating the impacts of a new employer locating in a municipality within the county, as well as conducting studies to identify job growth indicators that warrant more rigorous efforts to limit regional impacts.

Secure housing is essential to the wellbeing of community members and the lack of affordable and attainable housing in the region has been well documented in the Boulder County Regional Housing Partnership's Regional Housing Strategy. Annexation into Longmont will allow the city to apply its inclusionary zoning requirements for affordable housing and the applicant's materials indicate a commitment to attainable and affordable housing beyond that which is required by the city. The project proposes a mix of housing types and unit sizes and while the final number of units would be determined through the City's development review processes, the resulting number of units is anticipated to exceed 300.

Consistent with the goals of the Comprehensive Plan, the development plan would locate necessary housing in an area where a full range of urban services can be provided. Land that has been identified as appropriate for additional development and which may be provided with the full range of urban services necessary to support development is a limited resource. Development of this property within the city at an urban level locates necessary housing in an employment area contributing to a better balance of housing and employment within the area. Locating housing in employment areas also furthers the county sustainability goals as commuting distances are reduced and access to alternative transportation modes increases within municipal areas, both of which help reduce greenhouse gas emissions from vehicles.

The proposal implements a long-standing joint development plan spelled out the two intergovernmental agreements and the development of the property within the city will provide housing in a community service area where people may live in proximity to employment furthering a variety of Comprehensive Plan goals. Staff finds the proposal consistent with the Boulder County Comprehensive Plan.

(2) Consistent with the Current Boulder County Land Use Regulations

Due to the proposed annexation of this property into the City of Longmont, it will be developed and administered by the Longmont Development Code. Analysis of the Boulder County Land Use Code would only be necessary if the property were to remain unincorporated and pursue development within the county. Therefore, staff finds the proposal consistent with the Boulder County Land Use Regulations.

PUBLIC COMMENT

Property owners who live within 1,500 feet of the Kanemoto Estates Subdivision were notified of this public hearing. Staff also notified additional individuals who requested such notification. Public comment on this matter is included as Exhibit H.

PLANNING COMMISSION

The Boulder County Planning Commission considered the Conservation Easement termination request at a public hearing on March 15, 2023. The Planning Commission found that termination of the Conservation Easement on Kanemoto Estates Outlot A is consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use Regulations.

STAFF RECOMMENDATION

Staff recommends that the Board of County Commissioners find that termination of the Conservation Easement on Kanemoto Estates Outlot A is consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use Regulations.

Unofficial Copy

EXHIBIT A

KANEMOTO ESTATES SUBDIVISION

LEGAL DESCRIPTION:

A TRACT OF LAND LOCATED IN THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 17 T2N, R69W OF THE 6TH. PM. BOULDER COUNTY, COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 17; THENCE ALONG THE WEST LINE OF THE SOUTHWEST ONE-QUARTER NORTH 00°07'30" EAST 1316.88 FEET TO THE SOUTH ONE-SIXTEENTH CORNER OF SECTIONS 17 AND 18; THENCE SOUTH 89°56'05" EAST 1330.64 FEET TO THE SOUTHWEST ONE-SIXTEENTH CORNER; THENCE SOUTH 00°07'27" WEST 1312.42 FEET TO THE WEST ONE-SIXTEENTH CORNER OF SECTIONS 17 AND 20; THENCE SOUTH 89°52'24" WEST 1330.67 FEET TO THE POINT OF BEGINNING CONTAINING 40.159 ACRES MORE OR LESS.

DEDICATION:

KNOW ALL MEN BY THESE PRESENTS: THAT JIMMIE T. KANEMOTO & GEORGE K. KANEMOTO ARE THE OWNERS OF THAT REAL PROPERTY SITUATED IN BOULDER COUNTY, COLORADO AND LYING WITHIN THE EXTERIOR OF KANEMOTO ESTATES SUBDIVISION. THAT IT HAS CAUSED SAID REAL PROPERTY TO BE LAID OUT AND SURVEYED AS KANEMOTO ESTATES SUBDIVISION, A SUBDIVISION IN THE COUNTY OF BOULDER, STATE OF COLORADO AND DOES HEREBY ACCEPT THE RESPONSIBILITY FOR THE COMPLETION OF REQUIRED IMPROVEMENTS AND DOES HEREBY DEDICATE AND SET APART ALL THE ROADS AND OTHER PUBLIC IMPROVEMENTS AND PLACES AS SHOWN ON THE ACCOMPANYING PLAT TO THE USE OF THE PUBLIC FOREVER, AND DOES HEREBY DEDICATE THOSE PORTIONS OF SAID REAL PROPERTY WHICH ARE INDICATED AS EASEMENTS ON THE ACCOMPANYING PLAT AS EASEMENTS FOR THE PURPOSE SHOWN HEREON, AND DOES HEREBY GRANT THE RIGHT TO INSTALL AND MAINTAIN NECESSARY STRUCTURES TO THE ENTITY RESPONSIBLE FOR PROVIDING THE SERVICES FOR WHICH THE EASEMENTS ARE ESTABLISHED.

IN WITNESS WHEREOF HAS CAUSED THEIR NAMES TO BE HEREUNTO SUBSCRIBED, THIS 21ST DAY OF APRIL, A.D. 1982.

Jimmie T. Kanemoto
JIMMIE T. KANEMOTO

George K. Kanemoto
GEORGE K. KANEMOTO

NOTARIAL CERTIFICATE:

(STATE OF COLORADO) SS
(COUNTY OF BOULDER)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 21ST DAY OF APRIL, A.D. 1982, BY JIMMIE T. KANEMOTO AND GEORGE K. KANEMOTO.

MY COMMISSION EXPIRES JUNE 29, 1985

Michael Alan Morris
NOTARY PUBLIC
500 COFFMAN ST., SUITE 107
LONGMONT, COLORADO 80501

SURVEYOR'S CERTIFICATE:

I, RONALD W. ADAMS, A DULY REGISTERED LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY CERTIFY THAT THIS PLAT OF KANEMOTO ESTATES SUBDIVISION TRULY AND CORRECTING REPRESENTS THE RESULTS OF A SURVEY MADE BY ME OR UNDER MY DIRECT SUPERVISION.

Ronald W. Adams
RONALD W. ADAMS COLORADO R.L.S. NO. 13446

PLANNING COMMISSION CERTIFICATE:

APPROVED THE 21ST DAY OF April, A.D. 1982, COUNTY PLANNING COMMISSION, BOULDER COUNTY, COLORADO.

Leona P. Stueck
CHAIRMAN

COMMISSIONER'S CERTIFICATE:

APPROVED THIS 29th DAY OF April, A.D. 1982, BOARD OF COUNTY COMMISSIONERS, BOULDER COUNTY, COLORADO. THIS APPROVAL DOES NOT GUARANTEE THAT THE SIZE, SOIL CONDITIONS, SUBSURFACE GEOLOGY, GROUND WATER CONDITIONS, OR FLOODING CONDITIONS OF ANY LOT SHOWN HEREON ARE SUCH THAT A BUILDING PERMIT, WELL PERMIT, OR SEWAGE DISPOSAL PERMIT WILL BE ISSUED. THIS APPROVAL IS WITH THE UNDERSTANDING THAT ALL EXPENSES INVOLVING REQUIRED IMPROVEMENTS FOR ALL UTILITY SERVICES, PAVING, GRADING, LANDSCAPING, CURBS, GUTTERS, SIDEWALKS, ROAD LIGHTING, ROAD SIGNS, FLOOD PROTECTION DEVICES, DRAINAGE STRUCTURES, AND ALL OTHER IMPROVEMENTS THAT MAY BE REQUIRED SHALL BE THE RESPONSIBILITY OF THE SUBDIVIDER AND NOT THE COUNTY OF BOULDER.

ATTEST *Carol J. Lerdinier*
CLERK OF BOARD

James J. Jusky
CHAIRMAN

CLERK AND RECORDER'S CERTIFICATE:

(STATE OF COLORADO) SS
(COUNTY OF BOULDER)

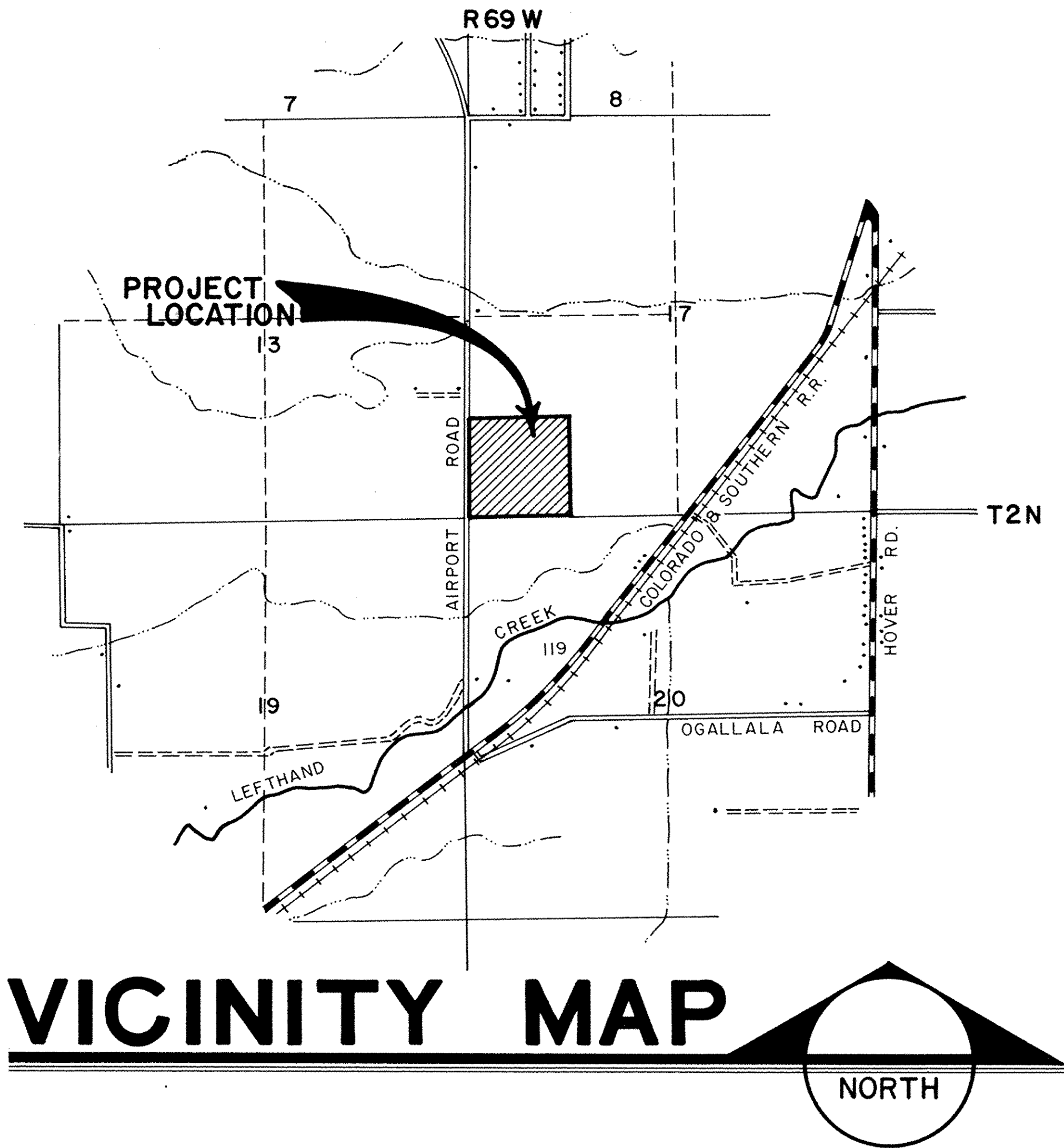
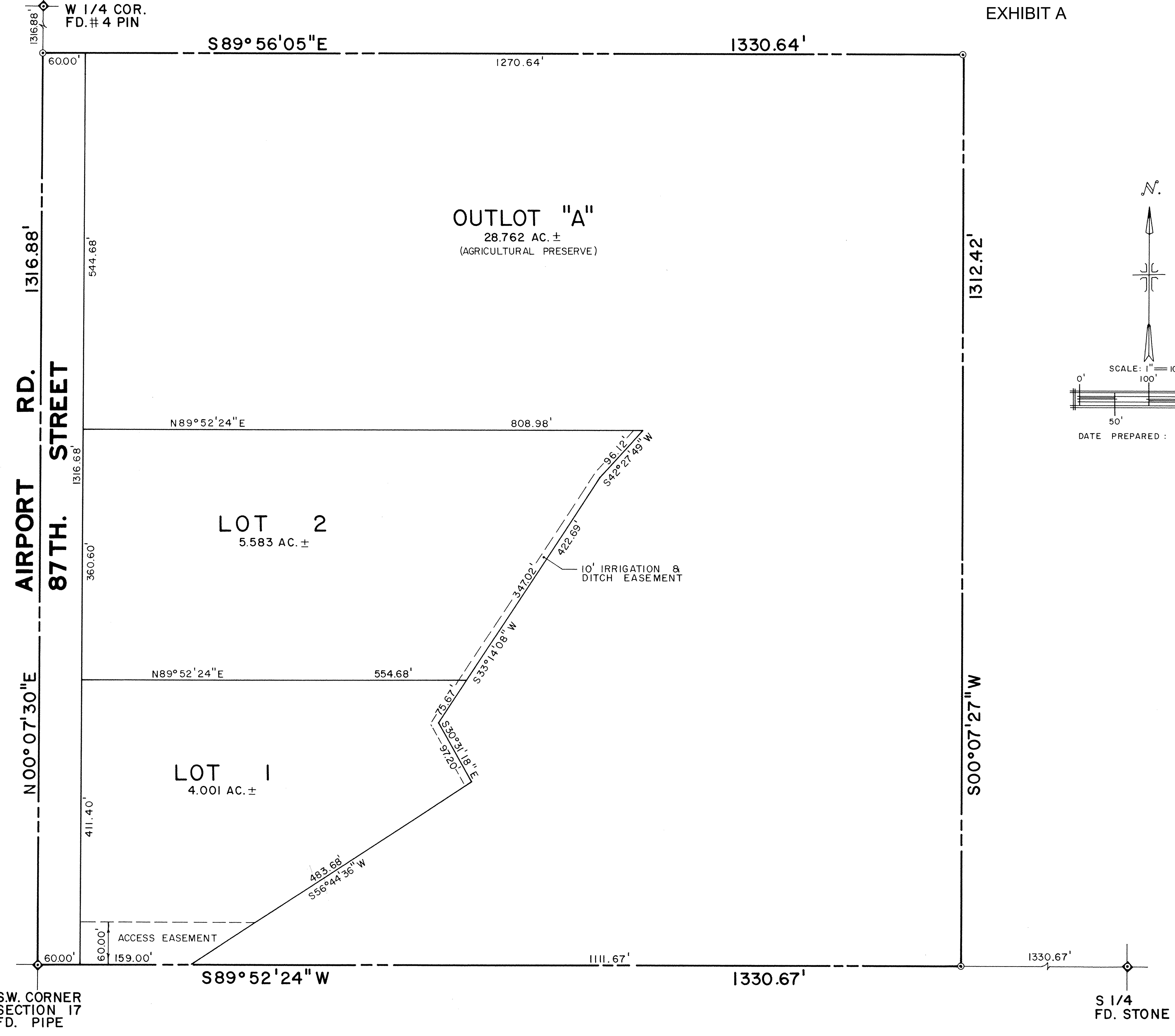
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED IN MY OFFICE AT 2:12 P.M. ON THE 17th DAY OF May, A.D. 1982, AND IS DULY RECORDED IN PLAN FILE P-12 F-3 #29. FEES 410.00 PAID.

Charlotte Hovata
RECORDER

Marian G. Archuleta
DEPUTY

Film # 1207
Reception # 494790

P-12 F-3 #29



BASIS OF BEARINGS:

THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 17, AS BEING N00°07'30"E.

NOTICE:

PUBLIC NOTICE IS HEREBY GIVEN THAT ACCEPTANCE OF THIS PLATTED SUBDIVISION BY THE COUNTY OF BOULDER DOES NOT CONSTITUTE AN ACCEPTANCE OF THE ROADS AND OTHER IMPROVEMENTS REFLECTED HEREON FOR MAINTENANCE BY SAID COUNTY.

UNTIL SUCH ROADS AND OTHER IMPROVEMENTS MEET COUNTY REQUIREMENTS AND ARE SPECIFICALLY ACCEPTED BY THIS COUNTY BY RECORDING WITH THE CLERK AND RECORDER OF THIS COUNTY AND OFFICAL ACCEPTANCE, THE MAINTENCE, CONSTRUCTION, AND ALL OTHER MATTERS PERTAINING TO OR AFFECTING THE ROADS AND OTHER IMPROVEMENTS AND RIGHT-OF-WAY ARE THE SOLE RESPONSIBILITY OF THE OWNERS OF THE LAND WITHIN THIS SUBDIVISION. LOT 1 IS SUBJECT TO FUTURE ROAD SYSTEM IMPROVEMENT FUNDS IF ADOPTED BY THE BOULDER COUNTY COMMISSIONERS PRIOR TO THE ISSUANCE OF A BUILDING PERMIT FOR LOT 1.

AGREEMENT:

THIS SUBDIVISION IS SUBJECT TO THE TERMS AND CONDITIONS OF THAT CERTAIN SUBDIVISION AGREEMENT DATED April 21st 1982 BETWEEN Jimmie T. Kanemoto and George K. Kanemoto AND THE COUNTY OF BOULDER RECORDED AT THE FILM AND RECEPTION NUMBER IMMEDIATELY FOLLOWING THE FILM AND RECEPTION NUMBER OF THIS PLAT.

FILM1207

GRANT OF CONSERVATION EASEMENT

THIS INDENTURE, entitled Grant of Conservation Easement, made this 21 day of APRIL, 1982, by and between Jimmie T. Kanemoto and George K. Kanemoto dba Kanemoto Farms, a Partnership, Grantors, and THE COUNTY OF BOULDER, a body corporate and politic, Grantee:

WITNESSETH:

WHEREAS, the Grantor is the owner in fee simple of a certain tract of real property designated as Outlot "A" on the plat of Kanemoto Estates Subdivision, a part of the SW1/4, SW1/4 of Section 17, Township 2 North, Range 69 West of the 6th P.M. in the County of Boulder, State of Colorado; and

WHEREAS, the Grantee has determined that to accomplish the purpose of preserving agricultural land, it is desirable to acquire a conservation easement which preserves open land for agricultural purposes within the above-described property, and Grantor is willing to grant the same;

NOW, THEREFORE, the Grantor, for the sum of Ten Dollars and other good and valuable consideration to the said Grantor in hand paid by the Grantee, the receipt of which is hereby confessed and knowledge, has granted and conveyed and be these presents does grant and convey a conservation easement over Agricultural Outlot "A" of the Kanemoto Estates Subdivision to Grantee, its successors and assigns, which easement shall be described in the following manner, to-wit:

1. This conservation easement shall:

A. Prohibit the Grantor, his successors and assigns, from erecting or constructing any residential structures or structures which are not accessory to an existing principal agricultural use on Agricultural Outlot "A"; the construction of agriculturally related buildings and structures may be permitted on this property so long as they are not for residential purposes, they are constructed and used as accessory structures to a single principal use of agriculture, and are determined to be such in accordance with County Land Use Regulations.

B. Prohibit the Grantor, his successors and assigns, from dividing such Agricultural Outlot "A" onto two or more parcels, separate interests, or interest in common, unless exempted under CRS 30-28-101 (10) (d), 1973, as amended, or resubdivided under the applicable provisions of the Boulder County Subdivision Regulations;

C. Prohibit the Grantor, his successors and assigns, from erecting, constructing, or expanding any structure and/or pavement on Agricultural Outlot "A", such that the total coverage of structure and/or pavement on such Agricultural Outlot "A", exceeds 10 acres or 10% of the area of such Agricultural Outlot "A", whichever is less, unless the use of such structure and/or pavement is accessory to a principal open agricultural use and required by government regulation.

D. Require the Grantor, his successors and assigns, provide for the management and use of Agricultural Outlot "A" as a single agricultural unit, and cause the assignment of maintenance responsibility for such Agricultural Outlot "A" to a single legally responsible individual who is a resident of Boulder County.

2. The Grantor further grants through this conservation easement to the Grantee, its agents and contractors, the right to enter upon the property described above to inspect for violations of the terms and covenants of this easement and to remove or eliminate any conditions or operations which violate the same as may be desirable or necessary. No further right of access, entry or possession is conveyed hereby.

3. The easement granted herein shall run with the land and shall remain an easement on the land until terminated or transferred by the Grantee by the operation of all of the following provisions:

Recorded. 2:14 PM MAY 17 1982
494792
 Reception No. Charlotte Houston, Boulder County Recorder

A. Where the Boulder County Planning Commission and Boulder County Board of Commissioners have determined that the proposed and/or allowed development and/or land use resulting from such termination or transfer is consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use Regulations

B. And the recipient(s) of these transferred interests or rights is (are) a municipality and/or the owner(s) of fee title; and in the instance where these interests or rights are to be transferred to a municipality which is not owner of fee title, Boulder County will:

- I. require the consent of or compensation to the owner(s) of fee title at an amount equal to the fair market value of such interest or rights, less costs of transfer, and
- II. condition or restrict the transfer to prohibit use

It is understood, that Grantee may require compensation for and attach conditions to these transfers, and that these conditions may include restrictions of the future use of Agricultural Outlot "A".

IN WITNESS WHEREOF, the said Grantor has caused his name to be hereunto subscribed the day and year first above written.

STATE OF COLORADO
COUNTY OF BOULDER

Jimmie T. Kanemoto
Jimmie T. Kanemoto, Grantor

George K. Kanemoto
George K. Kanemoto, Grantor

The foregoing instrument was acknowledged before me this 21ST day of APRIL, 1952, by JIMMIE T. KANEMOTO & GEORGE K. KANEMOTO

Witness my hand and official seal.
My commission expires: JUNE 29, 1955

Madeline Clara McQuinn
Notary Public
505 N. Foothill Parkway
Boulder, Colorado

Chairman
Boulder County Board of Commissioners.

Carol O. Gardner
Clerk of Board

IN WITNESS AND ACCEPTANCE WHEREOF, the said Grantee has caused its name to be hereunto subscribed the day and year first above written.

Boulder County Board of Commissioners.

Attest: Carol O. Gardner
Clerk of Board

February 1 2023

Hannah Hippley
Planning Division Manager
Long Range Planning & Policy Team
Boulder County Land Use Department
2045 13th Street Boulder, CO 80302

Re: Kanemoto Estates NUPUD
Termination Request: Outlot A - Agricultural Conservation Easement

The owners of Kanemoto Estates, Lefthand Ranch LLC, request termination of the agricultural conservation easement encumbering the Kanemoto Estates Subdivision NUPUD Outlot A.

TDR IGA Policy Conformance. Currently in unincorporated Boulder County, the property is designated as a Municipal Influence Area and as a TDR receiving site under a prior Longmont Area TDR IGA. Boulder County and the City of Longmont have recognized and maintained the policy documented in the IGA since it lapsed. The termination of the agricultural conservation easement is provided for under terms of the easement and land use policy of Boulder County and the City of Longmont; and an agreement has been reached with Boulder County Parks & Open Space and Lefthand Ranch LLC to terminate the easement.

Annexation Regulatory Conformance. Within the Longmont Planning Area and adjacent the City's service area – the property meets all of requirements of the City of Longmont and State of Colorado for annexation into the City of Longmont. The property was referred by the Longmont City Council to be considered for annexation; and Lefthand Ranch, LLC has made formal application to the City for annexation – and have made Submittal 3 in response to the City's comments regarding Lefthand Ranch's plans for development of the property once it is annexed.

City of Longmont Comprehensive Plan Conformance. The Envision Longmont Multimodal & Comprehensive Plan provides Longmont's future policy guidance. A land use plan amendment has been requested as part of the annexation to provide for a more compact development plan that supports greater sustainability and provision of attainable housing. The plan has a high degree of compliance with the Envision Longmont plan goals.

The area around the Kanemoto Estates property is identified as an area of change in the plan - where future growth is most desirable and/or beneficial to the community. This site was originally designated as rural neighborhood, in part out of recognition of the agricultural conservation easement. The site will continue to be designated primarily for residential land uses, although at higher densities than originally contemplated; this change will increase the types of housing that can be constructed within this neighborhood, including much needed affordable and attainable housing. This property is also located near Primary Employment, which may provide a benefit of more residents joining the workforce for local jobs.

The Concept Plan is compliant with the following Envision Longmont Plan goals and policies:

Goal 1.2 – Promote a sustainable mix of land uses

Policy 1.2A: Overall mix of uses. This policy encourages a balanced mix of residential, employment, retail, commercial, and other uses to increase the self-sufficiency of the community.

- *The plan increases the type and amount of residential uses; and community facilities which will improve the overall mix of uses and increased walkability.*

Policy 1.2E: Mix of Housing Types and 1.2F Higher Density Housing.

Both policies aim at addressing the changing needs of the community by diversifying Longmont's housing stock to include a wide range of types, sizes, prices and densities.

- *The change to Mixed Neighborhood for this plan creates the potential for a truly mixed, diverse neighborhood and encourages working with the private sector to promote and potentially incent the construction of housing in short supply, which currently includes affordable and attainable housing.*

Goal 3.1 – Ensure there are affordable and accessible housing options that meet the needs of residents of all ages, abilities, and income levels.

Policy 3.1A: Housing Options and 3.1B: Affordable Housing. Policy 3.1A aims to further diversify the City's housing stock to meet a variety of groups and lifestyles through allowing a mix of housing types; providing incentives for projects with affordable housing in corridors and centers, and seeking public/private partnerships to support the construction of permanently affordable homes.

- *This proposal supports by increasing the types of housing that can be constructed and directly supporting the provision of affordable and attainable housing.*

Goal 3.4 - Ensure all Longmont residents have access to arts, cultural, and education by encouraging the growth of educational institutions, community facilities and programs that increase literacy and provide opportunities for learning.

- *The plan supports this policy through the inclusion of the early childhood education center and community center.*

We appreciate your consideration of this request.

Thank you.



Jack Bestall
Owner's Representative - Lefthand Ranch LLC
Principal – Bestall Collaborative Limited

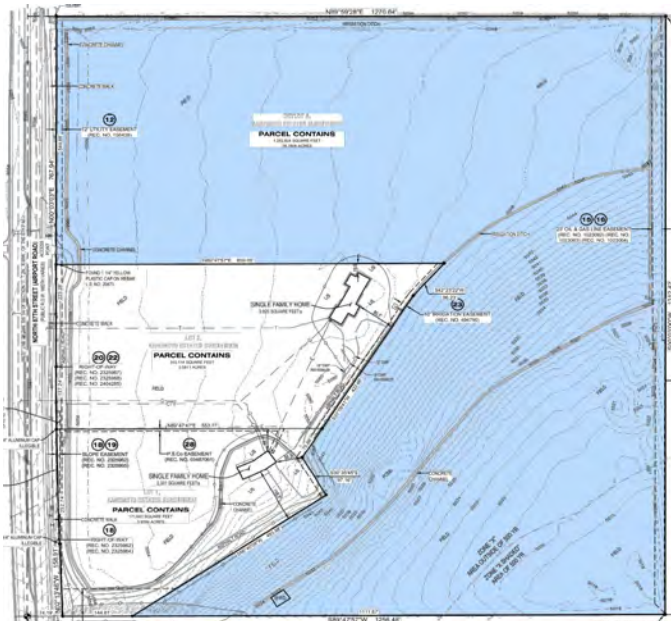
Exhibit C

Kanemoto Estates is a subdivision within Boulder County along Airport Road north of the Diagonal Highway. Within a Municipal Influence Area and designated a TDR Receiving Site – the property is in a Longmont Planning Area adjacent the City's service area. The property was referred by the City of Longmont Council to be considered for annexation at the owner's request – Lefthand Ranch LLC.



Kanemoto Estates Property View North

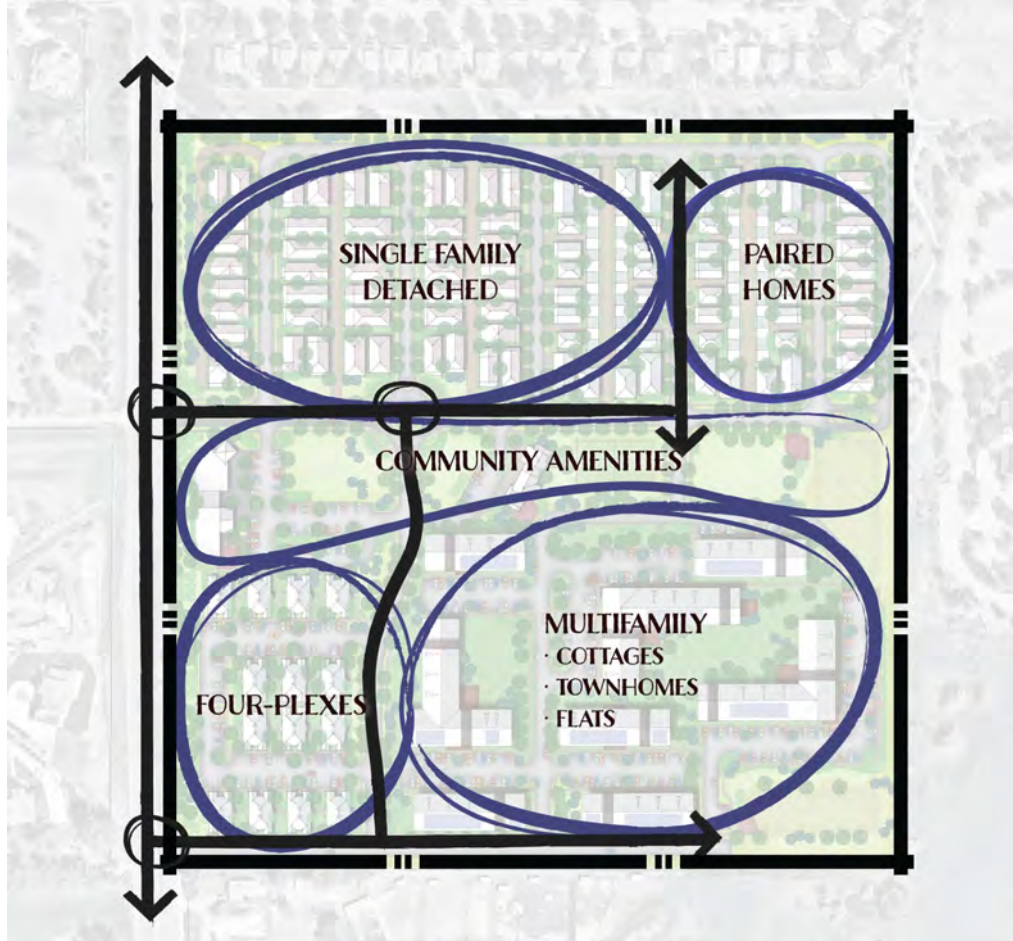
Consisting of fallow agricultural land and two private residences - adjacent parcels to the north and west previously in agriculture were annexed and developed in the City of Longmont; including Clover Creek subdivision (zoned R-SF 1-8du/ac) and AMD/Western Digital (zoned Primary Employment).



Kanemoto Estates - Agricultural Conservation Easement (blue)

The annexation area is 40.5ac: 2.25 acres in Airport Road right of way and 38.25ac in the Kanemoto Estates subdivision. The subdivision consists of three lots: Lot 1- 3.9ac; Lot 2 - 5.6ac with one house each; and Outlot A - 28.8ac in the agricultural conservation easement held by Boulder County Parks & Open Space. An agreement is in place between the Lefthand Ranch LLC and Boulder County to terminate the conservation easement.

Somerset Village Concept Plan Intent. The concept is focused on achievement of Envision Longmont goals for properties like Kanemoto Estates in a compact, village pattern. Along transportation corridors and in designated areas of change the plan focuses on achieving Envision Longmont Plan Goals.



Somerset Village Concept Plan

Longmont Envision Goals incorporated into the Somerset Village Concept Plan.

- Energy conservation in support of the City's 2035 Net-0 goal
- A livable neighborhood along major transportation corridors
- New and diversified housing in areas of change
- Attainable housing - affordable & middle tier
- Amenities: early childhood & community centers, ride-share plaza, bodega, OS
- Additional housing near employment
- Reduced vehicle dependency, walkable environment
- Increased City density with a sustainable, buffered plan

Circulation & Transportation. Primary access is planned on Airport Road - a Principal Arterial that includes regional transit. No daily travel is planned thru the existing residential neighborhoods. The Diagonal Highway (SR-119) - a regional arterial is approximately one-third of a mile to the south. Major employment facilities, located to the east and northeast, are connected by a trail system extending northeast into downtown Longmont.

Exhibit C

The plan supports walkability with an interconnected sidewalk and trail system tied to community amenities and the open space system. It is planned to link to trails on adjacent properties and the existing and regional trail system



Local Streetscape: porch fronts, treelawns, pedestrian connectivity

Sustainability. Energy conservation building guidelines will frame the design of all structures to achieve a high level of self-sufficiency; minimizing carbon footprints in support of the Longmont 2035 Net-0 goal. The Natural Resources Assessment conducted on the property indicates little natural habitat because of the years of onsite agricultural production practices; no endangered species and raptor habitation (nests).



Sustainable Forms of Community

Water, Sanitary Sewer, Storm Sewer & Public Utilities. The property is adjacent the municipal service area and water, sanitary sewer, power, and public safety services will be provided by the City of Longmont. Water and sanitary sewer connect to existing infrastructure to the north and east. LPC power will connect from the northeast. Water quality ponds are planned to fit the historic drainage pattern to the southeast.

Attainable Housing. Somerset Village is subject to Longmont Municipal Code 15.05.220, which requires an Inclusionary Housing obligation of 12% affordable residential units. The plan goal is to provide 100% attainable housing targeting missing middle, workforce and affordable housing for the Longmont workforce; including, healthcare, 1st responders, teachers; and local government employees. Affordable housing will be provided through a collaboration with Habitat for Humanity.

Exhibit C

This commitment is made with the recognition that achievement of these goals is dependent on cost, development standards, fees, and market factors. The intent is to develop a diverse mix of attainable and affordable forsale and rental homes onsite bolstered with proximity to an arterial with regional bus service, one minute from the Diagonal Highway, a ride-share program, and a planned interconnected community trail system.



Attainable Choices: townhomes and paired homes typical

Community Character. The predominate development pattern and massing at Somerset Village is horizontal – emphasizing detached, low-scale residential building types nearest the existing residential on the periphery in the neighborhoods to the north and west. A major effort has been made to study the architectural forms and character of the residential at this conceptual stage of design.

Land Use. The Residential – Mixed Neighborhood (R-MN) zone designation allows a sustainable mix of residential homes; integrated with community amenities which includes the Somerset Early Child facility; a bodega and community center. The planned residential includes: single family, paired, 4-plexes, townhomes and flats; sized from 450sf to 2,800sf; providing housing choices and opportunities; and the flexibility necessary to address changing economic, lifestyle and demographic conditions which will affect development of a plan of this type. Unique character neighborhoods are planned; including cottages, townhomes and flats in the Middle Neighborhood which is buffered by 550' to 700' from existing residential neighborhoods - adjacent major employment at AMD and Western Technologies.



Illustrative Middle Neighborhood Concept - Cottages

Exhibit C



Cottages



Townhomes



Flats

Middle Neighborhood Architecture.

Community Amenities. Facilities targeted to support livability at Somerset Village include an early childhood education and community centers; active/passive open space; a bodega; and a ride share program located near the Bodega and Early Child Education Center at the entrance on Airport Road. TLC Learning Center and Wild Plum Center are advising on the Child Education Center.



Child Center, General Store, Ride Share Plaza

Exhibit C

Open Space. Up to 20% of the project is allocated to an integrated open space system of active and passive fields, pocket parks, plazas, water quality basins and landscape buffers, with trails.



Community Commons adjoining cottages and Community Center

Community Center. A community center for meeting, recreation, and receptions for residents is currently planned in the repurposed, existing north residence.

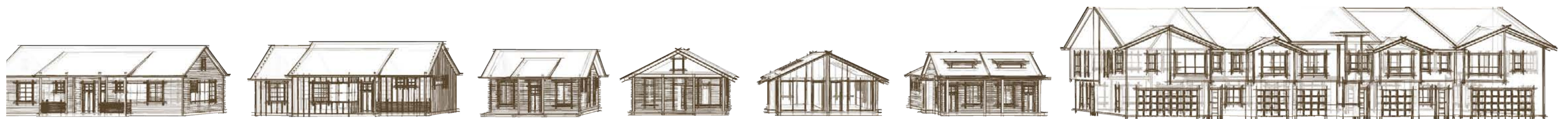


Community Center conceptual repurposing of the north residence



SOMERSET VILLAGE

Planning & Vision Workbook - Notes & Illustrations



Imagine a home in a community that
is welcoming, secure and sustainable.

SOMERSET VILLAGE

LONGMONT, COLORADO

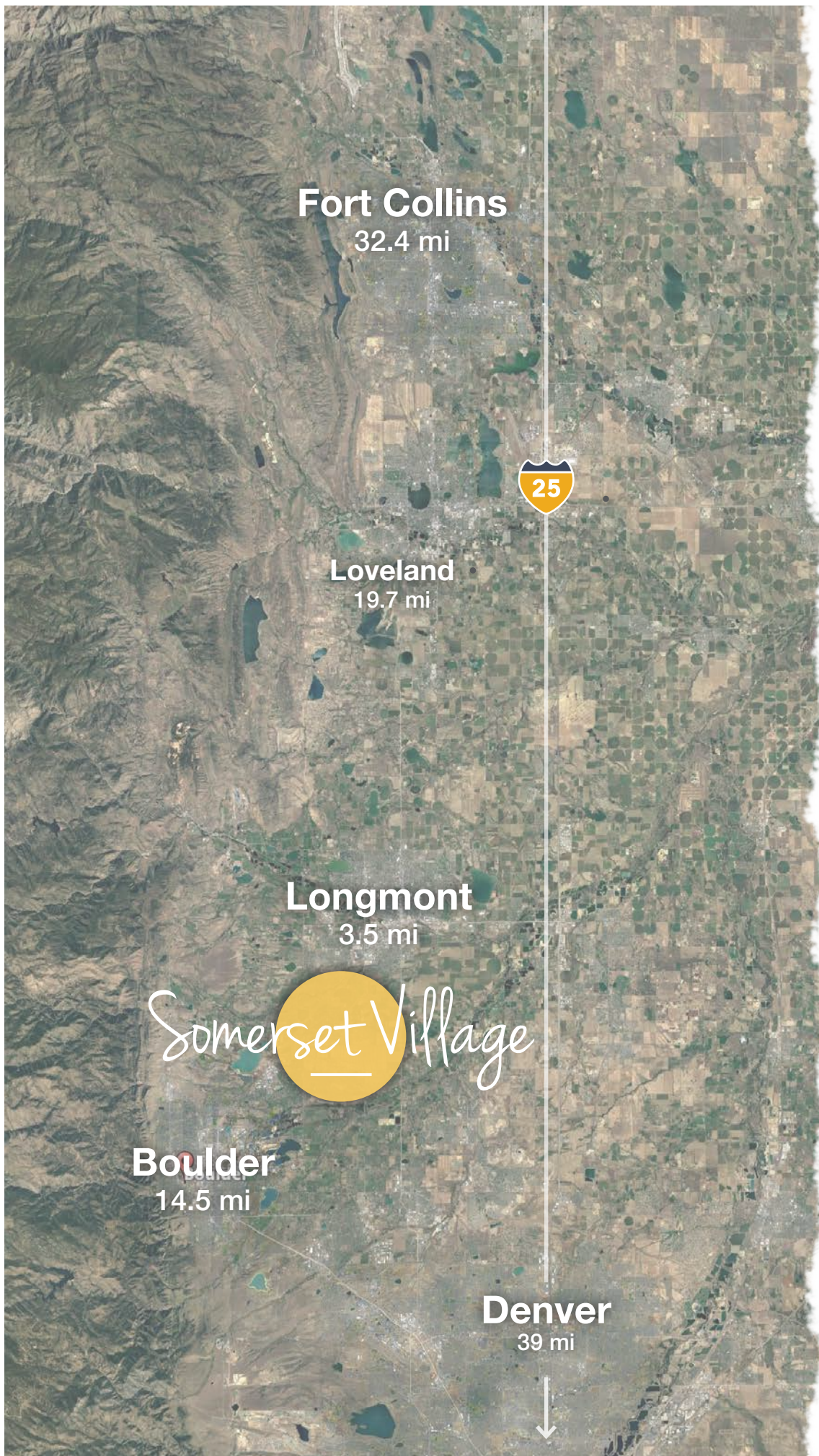
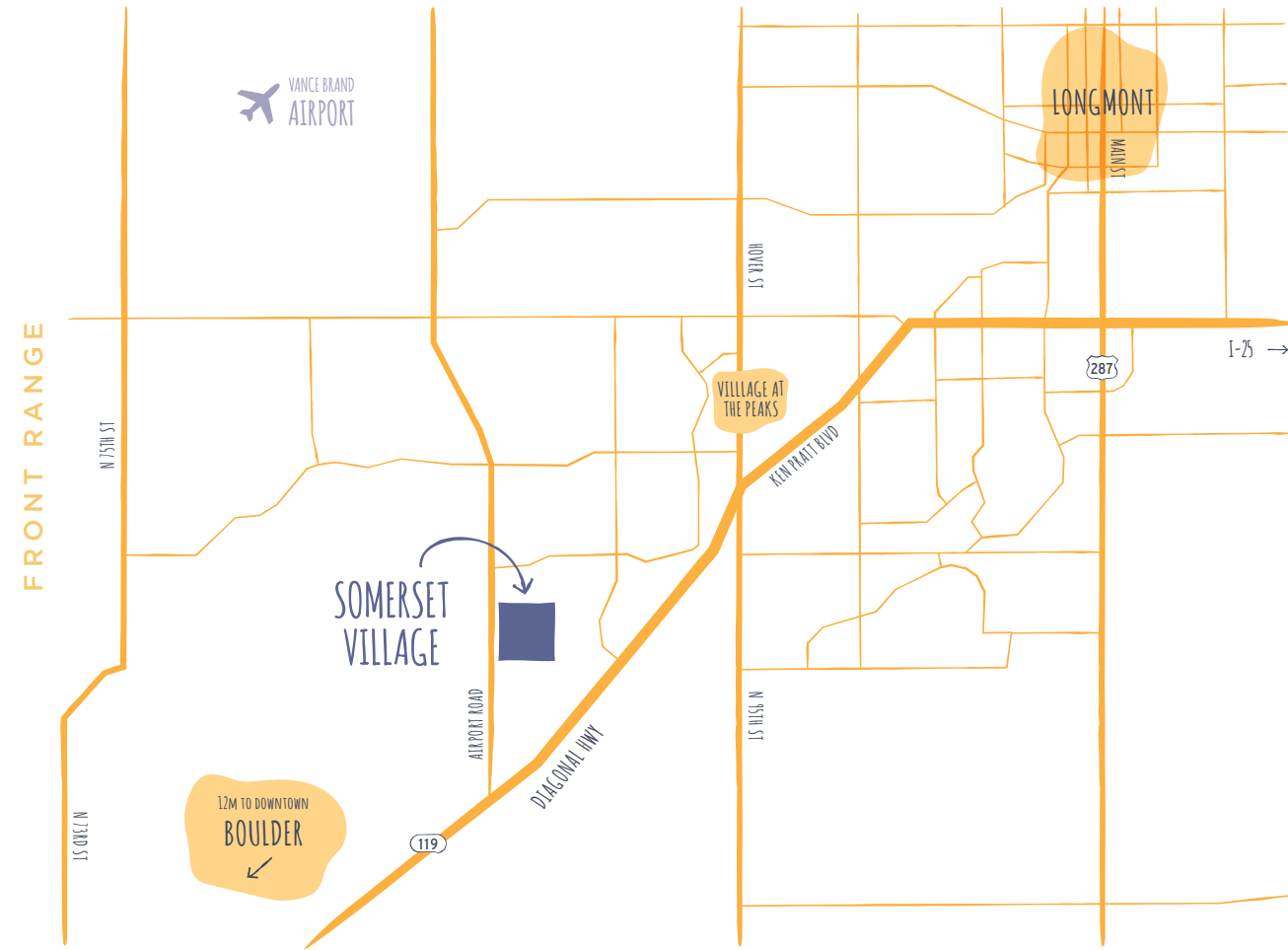


Exhibit C



PROJECT INTRODUCTION

A part of the Longmont community with convenient access to major employment, Downtown Longmont and multi-modal connectivity to Boulder, Fort Collins and Denver for regional employment, education, culture and recreation – the property is central, connected, and represents a complete opportunity for sustainable community.

Located on Airport Road in East Boulder County the Kanemoto family farmed and built two homes on the land in the early 1980's. The family's estate homes have been conserved in the Village plan – to be repurposed as community amenities. The property was included in the City of Longmont Planning and Service Areas to be considered for annexation and development in the City as a designated 'area of change' in 1997. The property is immediately adjacent Xilinx and a major employer area to the east; and Clover Creek - a large small-lot single family subdivision to the north.

GUIDING PRINCIPLES

The **Envision Longmont Goals** provide a framework and vision for the planning of Somerset Village - blending the needs and desires of Longmont residents with best practices in sustainability and community design - to provide value and choices for future residents.

Longmont Goals that form Guiding Principles for planning Somerset Village include:

- Develop in areas of change with new dwellings.
- Provide greater opportunities for home ownership.
- Target energy conservation principles and new energy technologies.
- Plan livable, self-sustaining neighborhoods.

CREATE LASTING VALUE

During the planning process the planning team is focusing on **people-centric design of homes and amenities - supported by sustainable technologies. This can provide lasting value and least cost over time**

Value-actions:

- > Create a true sense of place and belonging.
- > Avoid 'trendy' decisions - focus on decisions that create timeless value.
- > Create enduring character and quality for residents of all walks of life.
- > Counter sprawl with compact development integrated with open and usable space.

PLAN FOR FUTURE ADAPTABILITY

The value of this place is how it appeals and works for today's and tomorrow's homeowner.

- > Integrate sustainable technology applications and value-added design elements into the planning process.
- > Design-in flexibility to provide a community framework that is adaptive to people's changing needs while maintaining the long-term vision of the Village.
- > Prepare guidelines that maintain a quality and vibrant community character.
- > Incorporate energy conservation in building design.
- > Support non-fossil fuel vehicles and multi-modal transportation options.

PLAN A PLACE TO GROW

Plan infrastructure that will support a community of diversity and those who aspire to live in unity.

- > Plan for community facilities that support multi-modal transportation; early child development, community gathering and health/wellness.
- > Plan a safe and walkable environment encouraging people to spend time in various locations throughout the village.
- > Plan for "porch front living" - to support interactive gathering with neighbors.
- > Design attractive, affordable, energy conservative homes that live larger than their footprint through innovative plans that appeal to a range of people.



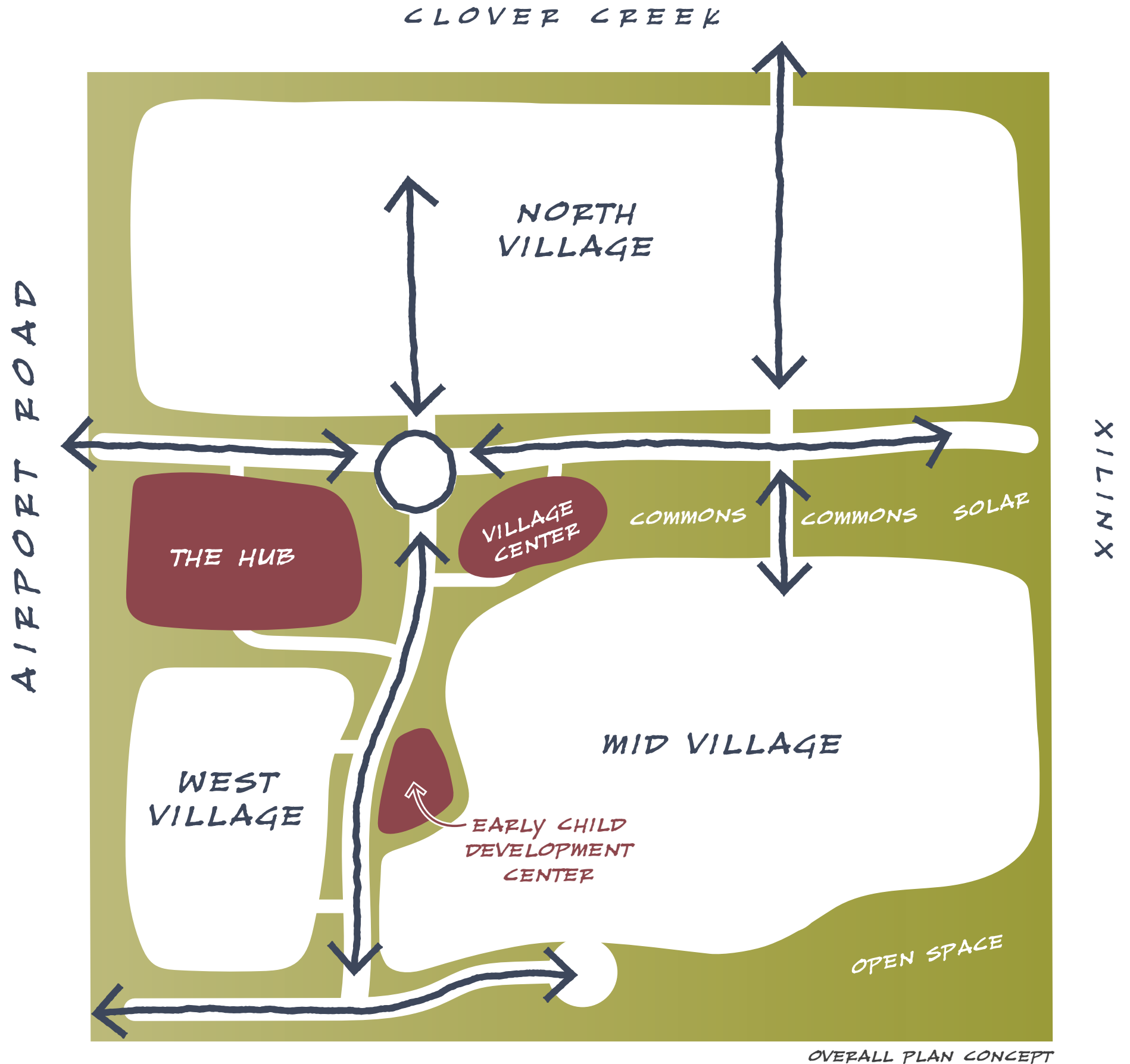
INITIAL CONCEPTS

Traditional neighborhood compact patterns of development have been integrated with energy conservation & sustainable design in the initial planning stages of the Village. Best practices and the values from these traditions add to the resident's quality of life.

- Multi-generational
- Shared Spaces
- Walkable & Connected
- Conversation
- Warmth of Hearth & Home

VILLAGE PLACE-MAKING

A traditional street and sidewalk system establish an easily understood pattern for the Village. From the main entrance on Airport road & Village Drive, community facilities are arrayed along what is the backbone of the community. At the entrance - the Hub will provide the prime mobility interface and daily support for residents with a transit and ride-share plaza and general store. Past the roundabout on Village Drive the Village Center in the 1st repurposed residence provides meeting, game and exercise facilities as part of the Community Commons. East of the Green a solar array is planned, providing off grid energy for community use and export. South of the Village Center in the Middle Neighborhood the Early Childhood Development Center is planned in the 2nd repurposed Kanemoto family home.



OVERALL PLAN CONCEPT



THE HUB

The Hub provides the primary mobility interface for community with Longmont and the region with support functions including the general store, office; and charging stations and a transit ride share plaza. The intent of the Hub is to support reduced usage of fossil-fuel based vehicles and provide

alternate modes. The general store is envisioned as a locally owned business offering goods and service for Somerset Village and the area - relying on the Village, transportation & general store activity; and the community programming.



active connection to the community



welcoming moments



vibrant gathering place



Living at **Somerset Village** is about

quality of life



Quality of life is the prime driver of the planning & design of the Village in an effort to create a *sustainable place* that is livable and supports multigenerational *community* through housing choices, child development, and sustainable technologies.



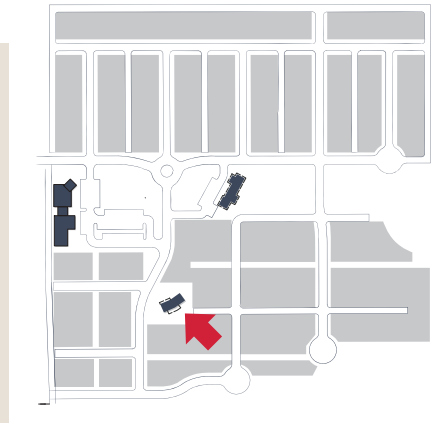


EARLY CHILD DEVELOPMENT CENTER

The 2nd Kanemoto home is intended to be re-purposed as an Early Child Development Center providing enriched pre and primary school age education and child-care for residents.



outdoor play areas



TOWNHOMES



fun & engaging spaces to learn



adaptive reuse
of existing building



NEW TRADITIONS

**Honoring the Past &
Building the Future.**

At the heart of the early stages of the planning process is a recognition of the rich agricultural heritage that sustained the Boulder Valley for generations. The conceptual plan is intended to produce a new generation of sustainable living on the land that honors the past while creating a future of sustainable technology and design applications.

It's all in the details.



Exhibit C



hearth & home. family friendly. front porch living.



C21



VILLAGE CENTER

The Kanemoto Residence is planned to be re-purposed and used as the Community center. The facility includes meeting, recreation and reception space for residents; adjoining the Center is a commons outdoor activity venue.



fitness center

indoor & outdoor gathering spaces



neighborhood events

NEIGHBORHOOD & SUSTAINABLE LIVING

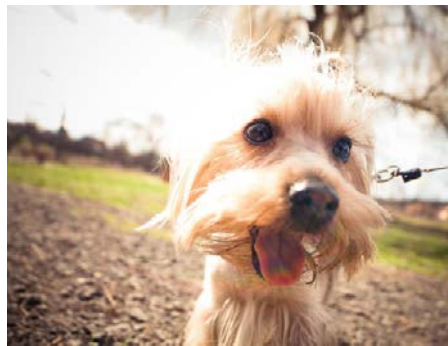
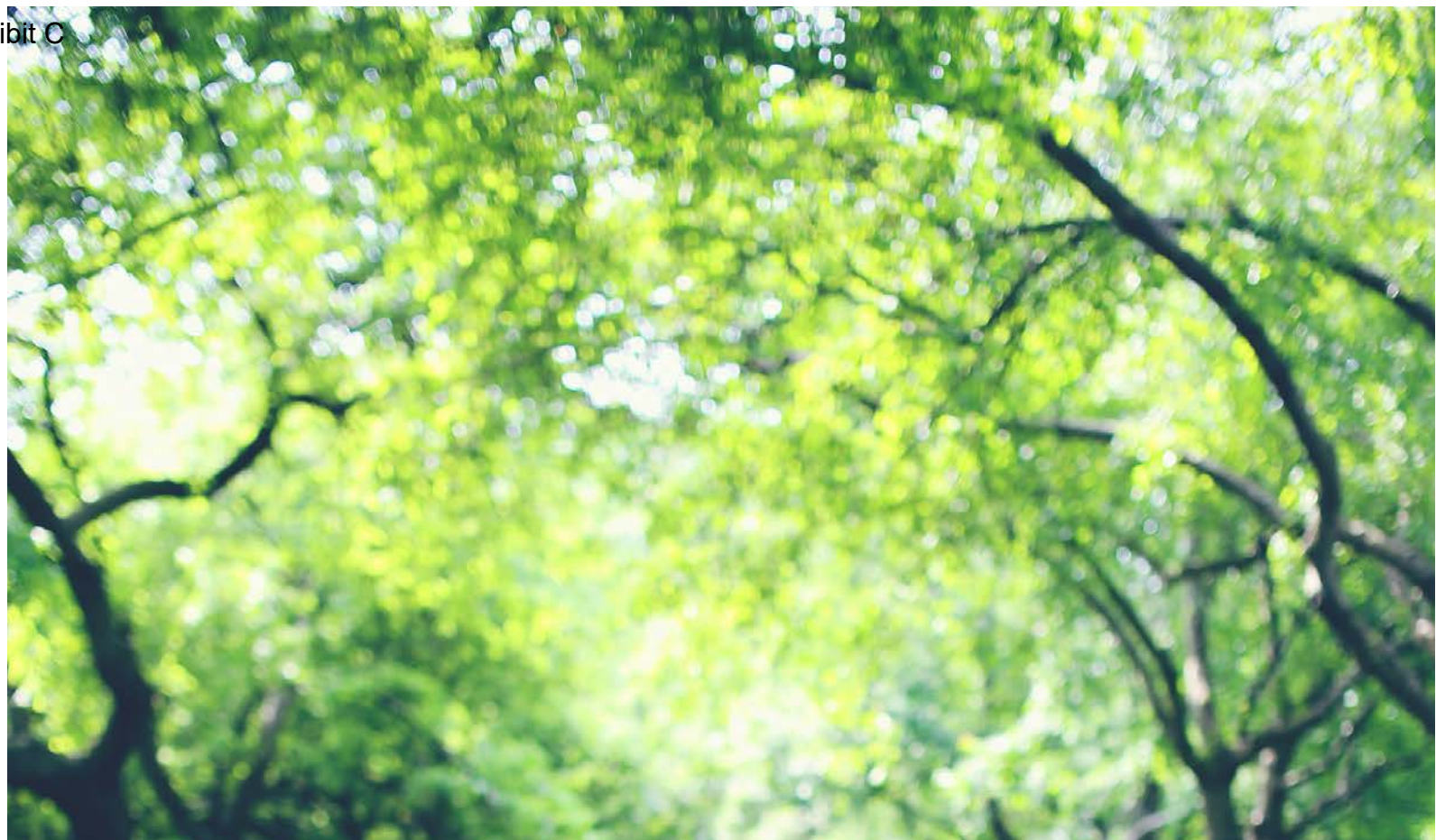
Homes and spaces that support community.

The plan has been structured for neighbors can get to know one another and develop relationships. People-centric design creates neighborhoods with character, builds value, promotes security, and allows people to feel at home. Facilities like the Hub, Village Center, Commons and Early Childhood Development Center provide settings for community interface and form the organizing elements of the community.

It's what you make of it.



Exhibit C



multi-generational. multi-cultural. multi-use.

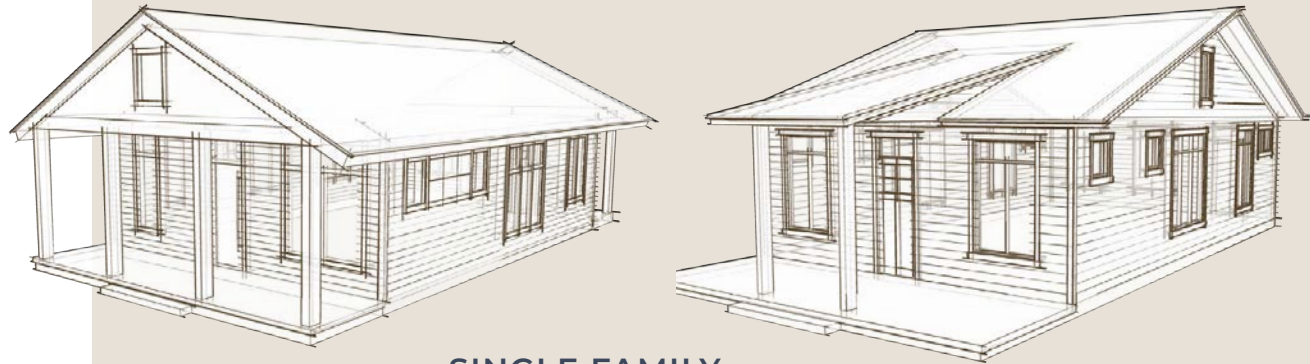


C25

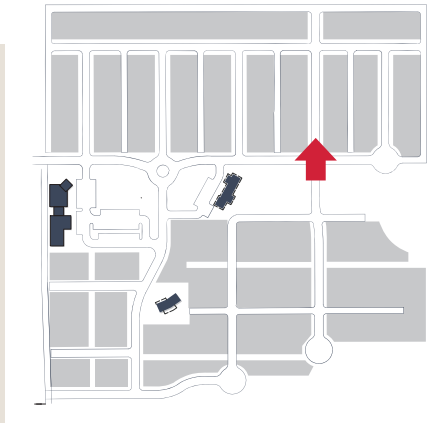


NORTH VILLAGE

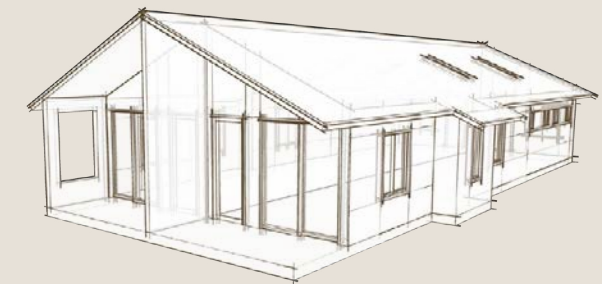
The North Village is planned as a single family residential area with individual homes, accessory dwelling units and paired homes. Within close proximity of the Hub and Village Center, the homes are accessed from a street and alley system designed to minimize intrusions of the automobile and maximize pedestrian connectivity.



SINGLE FAMILY



DUPLEX



front porch life-style



sense of community



HEALTH & WELLNESS

Play is a part of the plan and is important for all generations.

The plan allows residents to never be more than a few blocks away from the Village Center, general store, Early Child Development Center, Commons, a trail, or rural vista to the mountains and their restorative nature.

Take it outside.





Discover living with less of a footprint, a focus on lifestyle, and a healthier way.





COMMONS

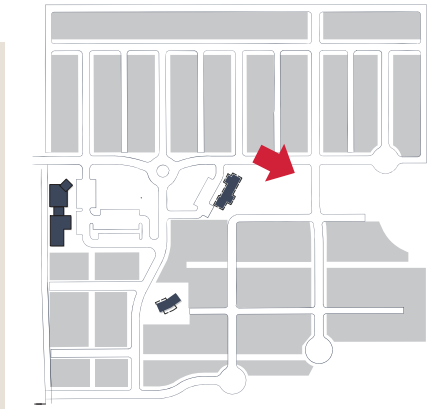
The Commons links the Hub with the Village. The 'green' provides a space for gathering and organized and informal recreation. It is located for every day access between the North and Middle neighborhoods and adjoining the Village Center.



spaces for community events and entertainment



SINGLE COTTAGE



PAIRED COTTAGE



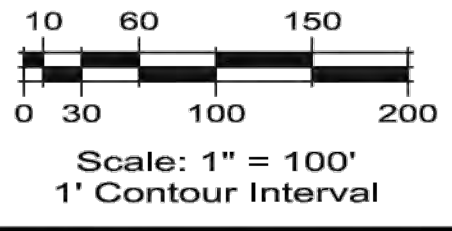
plenty of green space



sustainable energy—solar array

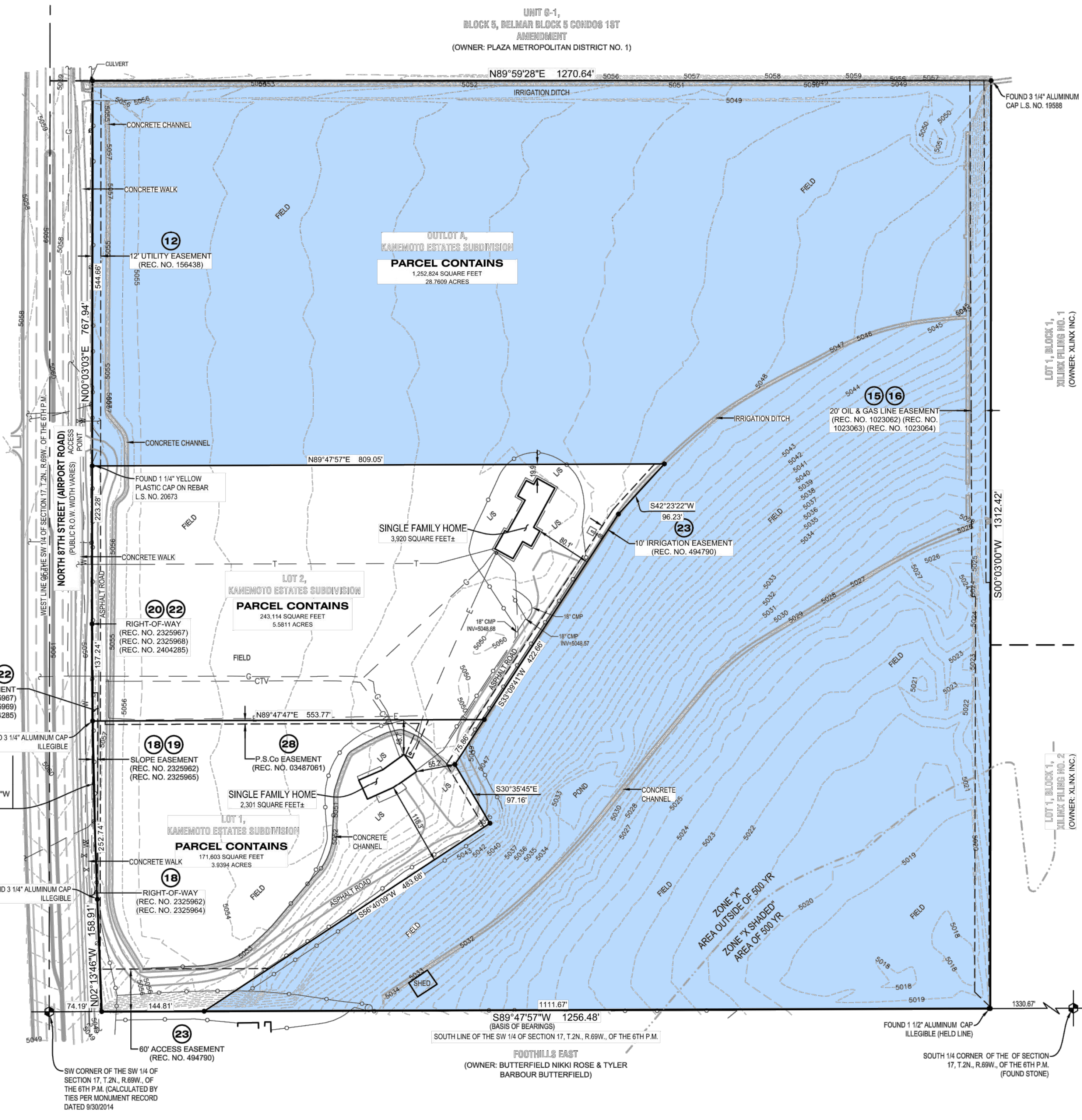
SOMERSET VILLAGE

village living at Somerset

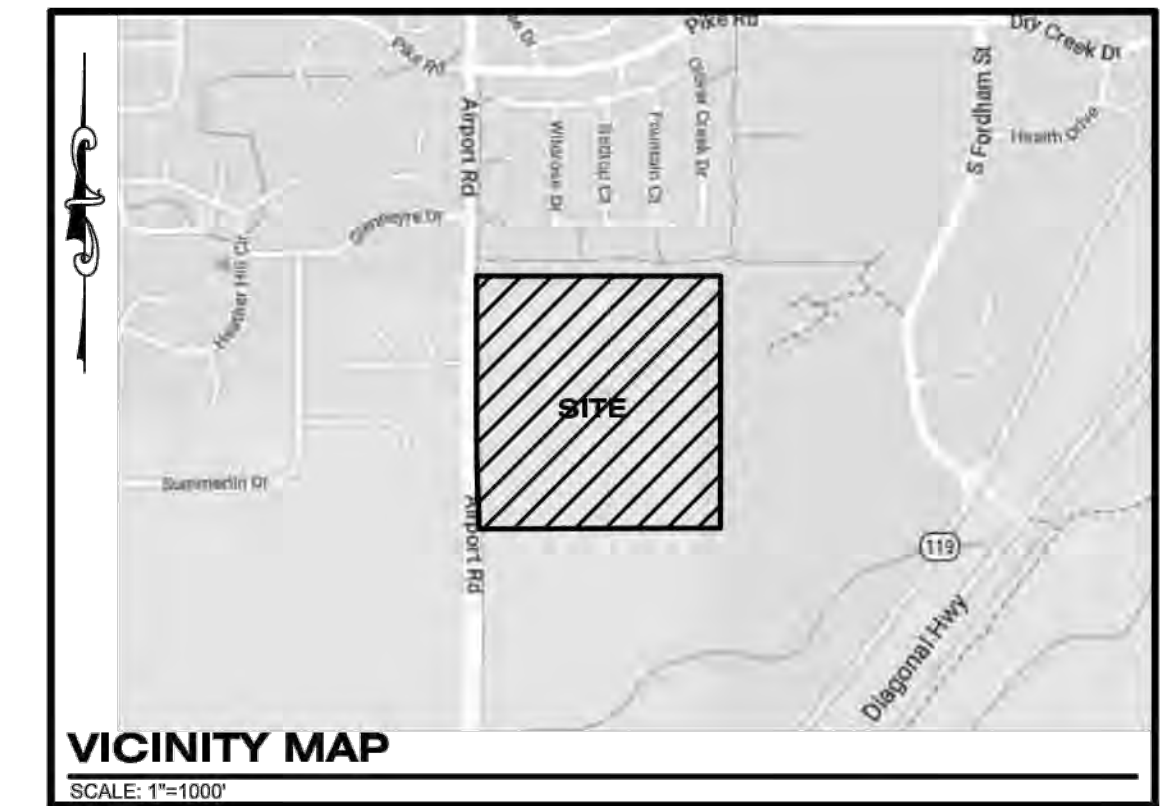


LEGEND

— CTV —	CABLE TELEVISION LINE
— E —	ELECTRICAL LINE
— STS —	STORM SEWER LINE
— G —	GAS LINE
— T —	TELEPHONE LINE
— W —	WATER LINE
— — —	OVERHEAD UTILITY LINE
— 0 —	CONTOUR LINE
— — —	FENCE LINE
□	COMMUNICATIONS PEDESTAL
□	ELECTRIC TRANSFORMER
⊠	LIGHT POLE (DIRECTIONAL)
○	MANHOLE
⊙	UTILITY POLE
⊗	WATER VALVE
—	R.O.W. RIGHT-OF-WAY
L.S. NO.	LAND SURVEYOR NUMBER
BK. PG.	BOOK AND PAGE
REC. NO.	RECEPTION NUMBER
L/S	LANDSCAPE
•	SET 5/8" x 24" PIN & 1 1/4" YELLOW PLASTIC CAP OR NAIL & 1" BRASS TAG L.S. NO. 33202 UNLESS NOTED OTHERWISE



- NOTES CORRESPONDING TO SCHEDULE B - SECTION 2 OF TITLE COMMITMENT:**
9. RIGHTS OF WAY AND EASEMENTS AS RESERVED BY THE DENVER PACIFIC RAILWAY AND TELEGRAPH COMPANY IN DEED RECORDED SEPTEMBER 2, 1880 IN BOOK 60 AT PAGE 135. (APPLIES TO SUBJECT PROPERTY, HOWEVER, CONTAINS NO PLOTTABLE ITEMS.)
 10. RESERVATION AS CONTAINED IN UNITED STATES PATENT RECORDED IN BOOK 167, PAGE 40 AS FOLLOWS: RIGHT OF THE PROPRIETOR OF A VEN OR LOBE TO EXTRACT AND REMOVE HIS ORE THEREFROM, SHOULD THE SAME BE FOUND TO PENETRATE OR INTERSECT THE PREMISES AND RIGHTS OF WAY FOR DITCHES OR CANALS CONSTRUCTED BY AUTHORITY OF THE UNITED STATES. (APPLIES TO SUBJECT PROPERTY, HOWEVER, CONTAINS NO PLOTTABLE ITEMS.)
 11. RESERVATION OF MINERAL RIGHTS AS CONTAINED IN DEED RECORDED FEBRUARY 21, 1950 IN BOOK 854 AT PAGE 588. (APPLIES TO SUBJECT PROPERTY, HOWEVER, CONTAINS NO PLOTTABLE ITEMS.)
 12. UTILITY EASEMENT TO PUBLIC SERVICE COMPANY OF COLORADO RECORDED OCTOBER 30, 1975 AS RECEPTION NO. 156438. (APPLIES TO SUBJECT PROPERTY, HOWEVER, CONTAINS NO PLOTTABLE ITEMS.)
 13. TERMS, CONDITIONS, PROVISIONS AND OBLIGATIONS AS CONTAINED IN SUBDIVISION AGREEMENT RECORDED MAY 17, 1982 AS RECEPTION NO. 494791. (APPLIES TO SUBJECT PROPERTY, HOWEVER, CONTAINS NO PLOTTABLE ITEMS.)
 14. TERMS, CONDITIONS, PROVISIONS AND STIPULATIONS AS CONTAINED IN GRANT OF CONSERVATION EASEMENT RECORDED MAY 17, 1982 AS RECEPTION NO. 494792. (APPLIES TO OUTLOT A, HOWEVER, CONTAINS NO PLOTTABLE ITEMS.)
 15. TERMS, CONDITIONS, PROVISIONS AND OBLIGATIONS AS CONTAINED IN RIGHT-OF-WAY GRANT RECORDED JANUARY 11, 1990 AS RECEPTION NO. 1023062. (APPLIES TO OUTLOT A, PLOTTABLE ITEMS ARE SHOWN HEREON.)
 16. TERMS, CONDITIONS, PROVISIONS AND OBLIGATIONS AS CONTAINED IN OIL AND GAS PIPELINE AGREEMENT RECORDED JANUARY 11, 1990 AS RECEPTION NO. S 1023063 AND 1023064. (APPLIES TO OUTLOT A, PLOTTABLE ITEMS ARE SHOWN HEREON.)
 17. TERMS, CONDITIONS, PROVISIONS, OBLIGATIONS AND AGREEMENTS AS CONTAINED IN AGREEMENT RECORDED APRIL 19, 2002 AS RECEPTION NO. 2279173. (APPLIES TO SUBJECT PROPERTY, HOWEVER, CONTAINS NO PLOTTABLE ITEMS.)
 18. TERMS, CONDITIONS, PROVISIONS, OBLIGATIONS AND AGREEMENTS AS CONTAINED IN RIGHT-OF-WAY AND SALE AGREEMENT RECORDED AUGUST 30, 2002 AS RECEPTION NO. 2325967. (APPLIES TO SUBJECT PROPERTY, PLOTTABLE ITEMS ARE SHOWN HEREON.) NOTE: THIS SHOULD BE AN EXCEPTION.
 19. TERMS, CONDITIONS, PROVISIONS, OBLIGATIONS AND AGREEMENTS AS CONTAINED IN SLOPE EASEMENT RECORDED AUGUST 30, 2002 AS RECEPTION NO. 2325965. (APPLIES TO SUBJECT PROPERTY, PLOTTABLE ITEMS ARE SHOWN HEREON.)
 20. TERMS, CONDITIONS, PROVISIONS, OBLIGATIONS AND AGREEMENTS AS CONTAINED IN RIGHT-OF-WAY AND SALE AGREEMENT RECORDED AUGUST 30, 2002 AS RECEPTION NO. 2325962. (APPLIES TO SUBJECT PROPERTY, PLOTTABLE ITEMS ARE SHOWN HEREON.) NOTE: THIS SHOULD BE AN EXCEPTION.
 21. TERMS, CONDITIONS, PROVISIONS, OBLIGATIONS AND AGREEMENTS AS CONTAINED IN SLOPE EASEMENT RECORDED AUGUST 30, 2002 AS RECEPTION NO. 2325969. (APPLIES TO SUBJECT PROPERTY, PLOTTABLE ITEMS ARE SHOWN HEREON.)
 22. TERMS, CONDITIONS, PROVISIONS, OBLIGATIONS AND AGREEMENTS AS CONTAINED IN SLOPE EASEMENT RECORDED FEBRUARY 28, 2003 AS RECEPTION NO. 2404285. (APPLIES TO SUBJECT PROPERTY, PLOTTABLE ITEMS ARE SHOWN HEREON.)
 23. NOTES AND EASEMENTS AS CONTAINED ON RECORDED PLAT OF KANEMOTO ESTATES SUBDIVISION RECORDED MAY 17, 1982 AT RECEPTION NO. 494790. (APPLIES TO SUBJECT PROPERTY, PLOTTABLE ITEMS ARE SHOWN HEREON.)
 24. WATER, WATER RIGHTS, CLAIMS OF TITLE OR INTEREST IN WATER. (NOT ADDRESSED.)
 25. ANY EXISTING LEASES OR TENANCIES. (NOT ADDRESSED.)
 26. FENCE LINE DISCREPANCIES AS DISCLOSED ON ALTA/ACSM LAND TITLE SURVEY BY TETRA TECH RMC, DATED AUGUST 28, 2008 WITH JOB NO. 2982.005.00. (FENCES ARE SHOWN HEREON.)
 27. RIGHTS OF OTHERS TO ACCESS DITCHES AS SHOWN ON ALTA/ACSM LAND TITLE SURVEY BY TETRA TECH RMC, DATED AUGUST 28, 2008 WITH JOB NO. 2982.005.00. (DITCHES ARE SHOWN HEREON.)
 28. TERMS, AGREEMENTS, PROVISIONS, CONDITIONS AND OBLIGATIONS AS CONTAINED IN PUBLIC SERVICE COMPANY OF COLORADO EASEMENT RECORDED NOVEMBER 24, 2015 AT RECEPTION NO. 0348701. (APPLIES TO LOT 1, PLOTTABLE ITEMS ARE SHOWN HEREON.)



LEGAL DESCRIPTION:
 LOT 1 & LOT 2 & OUTLOT "A"
 KANEMOTO ESTATES SUBDIVISION, COUNTY OF BOULDER,
 STATE OF COLORADO.

SURVEYOR'S CERTIFICATION:
 TO DIO VOLENDO, L.L.P., COLORADO ESCROW AND TITLE SERVICES, LLC AND WESTCO LAND TITLE INSURANCE COMPANY.

THIS IS TO CERTIFY THAT THIS MAP OR PLAN AND THE SURVEY ON WHICH IT IS BASED WERE MADE IN ACCORDANCE WITH THE 2016 MINIMUM STANDARD DETAIL REQUIREMENTS FOR ALTA/ACSM LAND TITLE SURVEYS, JOINTLY ESTABLISHED AND ADOPTED BY ALTA AND NSPS, AND INCLUDES ITEMS 1, 2, 3, 4, 6(a), 7(a), 7(b), 7(c), 8, 9, 11 AND 13 OF TABLE A THEREOF. THE FIELD WORK WAS COMPLETED ON FEBRUARY 15, 2019.

DATE OF PLAT OR MAP: FEBRUARY 19, 2019
 CHARLES N. BECKSTROM
 PROFESSIONAL L.S. NO. 33202
 Email: cbeckstrom@engineeringserviceco.com



- GENERAL NOTES:**
1. THIS SURVEY WAS BASED ON TITLE COMMITMENT NUMBER 27408CEW WITH AN EFFECTIVE DATE OF JANUARY 17, 2019 AT 8:00 A.M. TITLE COMMITMENT NUMBER 30134CT WITH AN EFFECTIVE DATE OF APRIL 24, 2019 AT 8:00 A.M. AND TITLE COMMITMENT NUMBER 27408CEW WITH AN EFFECTIVE DATE OF JANUARY 17, 2019 AT 8:00 A.M. PREPARED BY COLORADO ESCROW AND TITLE SERVICES, L.L.S. AS AGENT FOR WESTCO LAND TITLE INSURANCE COMPANY, AND DOES NOT CONSTITUTE A TITLE SEARCH BY THIS SURVEYOR FOR OTHER EASEMENTS AND/OR EXCEPTIONS OF RECORD.
 2. THE USE OF THE WORD "CERTIFY" OR "CERTIFICATION" AS SHOWN AND USED HEREON CONSTITUTES AN EXPRESSION OF PROFESSIONAL OPINION REGARDING THOSE FACTS OF FINDINGS WHICH ARE THE SUBJECT OF THE CERTIFICATION AND DOES NOT CONSTITUTE A WARRANTY OF WARRANTY, EITHER EXPRESSED OR IMPLIED.
 3. THIS SURVEY WAS PREPARED FOR THE EXCLUSIVE USE OF THE ENTITIES NAMED IN THE SURVEYOR'S CERTIFICATION HEREON. SAID CERTIFICATE DOES NOT EXTEND TO ANY UNNAMED PERSON OR ENTITY WITHOUT AN EXPRESS WRITTEN RECERTIFICATION BY THE SURVEYOR OF RECORD NAMING SAID PERSON OR ENTITY.
 4. BEARINGS ARE BASED ON THE SOUTH LINE OF THE SW 1/4 OF SECTION 17, TOWNSHIP 2 NORTH, RANGE 69 WEST, OF THE 6TH PRINCIPAL MERIDIAN BEARING N89°47'57" E AS REFERENCED AND BOUNDED BY THE MONUMENTS SHOWN HEREON.
 5. THE ADDRESS OF THE SURVEYED PROPERTY IS 8610, 8700 & 8702 NORTH 87TH STREET, LONGMONT, CO.
 6. BY GRAPHIC PLOTTING ONLY THE SUBJECT PROPERTY IS SITUATED IN FLOOD ZONE "X" AND ZONE "X SHADDED" ACCORDING TO FLOOD INSURANCE RATE MAP (FIRM) COMMUNITY PANEL NO. 08013C0268J WITH AN EFFECTIVE DATE OF DECEMBER 18, 2012. NO OFFICE CALCULATIONS OR FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS INFORMATION. THE FLOOD PLAIN LINE SHOWN HEREON WAS SCALED FROM SAID FEMA MAP AND IS CONSIDERED APPROXIMATE.
 7. BENCHMARK: CITY OF LONGMONT BM #164 - 3" DIAMETER BRASS CAP 33' EAST OF CL AIRPORT & 100' SOUTH OF PIKE ROAD & 1.5' EAST OF FLOWLINE ON AIRPORT ROAD BETWEEN WALK AND CURB. ELEVATION: 5054.15 FEET (NAVD 1988 DATUM). THE CONTOURS SHOWN HEREON ARE AT ONE (1) FOOT INTERVALS.
 8. THIS SITE IS CURRENTLY ZONED: AGRICULTURE PER THE COUNTY OF BOULDER. NO ZONING REPORT OR LETTER WAS PROVIDED TO THE SURVEYOR.
 9. THERE ARE 0 STRIPED PARKING SPACES ON THE SURVEYED PROPERTY.
 10. THE LOCATION OF ALL UNDERGROUND UTILITY LINES, IF SHOWN HEREON, ARE BASED ON FIELD LOCATION OF VISIBLE EVIDENCE AND MARKINGS PROVIDED BY A UTILITY LOCATING SERVICE AND ARE TO BE CONSIDERED AN APPROXIMATE LOCATION ONLY. ALL UNDERGROUND UTILITY LINES SHOULD BE FIELD VERIFIED PRIOR TO ANY DESIGN AND CONSTRUCTION.
 11. BURIED UTILITIES AND PIPELINES SHOWN HEREON ARE PER VISIBLE AND APPARENT SURFACE EVIDENCE, RECORD DRAWINGS OF THE CONSTRUCTION UTILITY LINES AND/OR LOCATION DERIVED FROM THE FIELD SURVEY OF UTILITY MARKINGS PROVIDED BY AN INDEPENDENT UTILITY LOCATING FIRM. NO GUARANTEE OR WARRANTY, EITHER EXPRESS OR IMPLIED, IS MADE AS TO THE ACCURACY OR THOROUGHNESS OF SUCH INFORMATION. ENGINEERING SERVICE COMPANY DOES NOT ALLOW FIELD PERSONAL TO ACCESS UTILITY MANHOLES OR ENCLOSED STRUCTURES, THEREFORE SUB-SURFACE PIPE SIZES IF NOTED HEREIN ARE OBSERVED FROM SURFACE LOCATIONS AND/OR TAKEN FROM RECORD DRAWINGS. IF MORE ACCURATE LOCATIONS AND/OR SIZES OF UNDERGROUND UTILITIES OF PIPELINES ARE REQUIRED, THE UTILITY OR PIPELINE LOCATION AND/OR SIZE WILL HAVE TO BE VERIFIED BY FIELD POT-HOLING. ENGINEERING SERVICE COMPANY AND THE SURVEYOR OF RECORD SHALL NOT BE HELD LIABLE FOR THE LOCATION OF OR THE FAILURE TO NOTE THE LOCATION OF NON-VISIBLE UNDERGROUND UTILITIES AND PIPELINES.
 12. THERE WAS NO VISIBLE EVIDENCE OF CEMETERIES, GRAVESTONES OR BURIAL GROUNDS LOCATED ON THE SUBJECT PROPERTY.
 13. DISTANCES ON THIS SURVEY ARE EXPRESSED IN U.S. SURVEY FEET AND DECIMALS THEREOF. A U.S. SURVEY FOOT IS DEFINED AS EXACTLY 1200/3937 METERS.

NOTICE:
 ACCORDING TO COLORADO 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.

ANY PERSON WHO KNOWINGLY REMOVES, ALTERS, OR DEFACTS ANY PUBLIC LAND SURVEY MONUMENT, LAND BOUNDARY MONUMENT, OR ACCESSORY COMMITS A CLASS TWO (2) MISDEMEANOR, PURSUANT TO STATE STATUTE 18-4-508 OF THE COLORADO REVISED STATUTES.

ENGINEERING SERVICE COMPANY
 Creative Solutions Since 1954
 CIVIL ENGINEERS & LAND SURVEYORS

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 F 303.337.7481
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DIO VOLENDO, L.L.P.
 7871 LEFFLAND CANYON DRIVE
 JAMESTOWN, COLORADO 80455

ALTANSPS LAND TITLE SURVEY
 LOT 1, 2 AND OUTLOT A, KANEMOTO ESTATES SUBDIVISION
 SITUATED IN THE SW 1/4 OF SECTION 17, T.2N., R.69W., OF THE 6TH P.M.
 COUNTY OF BOULDER, STATE OF COLORADO
 8610 NORTH 87TH STREET, LONGMONT

Designed By: SAM Date: 03/19/2019
 Drawn By: SLH Survey No.: 19029-S
 Checked By: SAM Project No.: 1354.1
 Field Book No.: Scale: 1"=100'
 Sheet No.: 1 OF 1

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF LONGMONT AND
COUNTY OF BOULDER
CONCERNING TRANSFERRED DEVELOPMENT RIGHTS**

EFFECTIVE: FEBRUARY 5, 1996

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF LONGMONT AND
COUNTY OF BOULDER
CONCERNING TRANSFERRED DEVELOPMENT RIGHTS**

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**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE CITY OF LONGMONT AND
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CONCERNING TRANSFERRED DEVELOPMENT RIGHTS**

THIS AGREEMENT is entered into by and between the City of Longmont (City), a municipal corporation, and the County of Boulder (Boulder County), a body politic and corporate of the State of Colorado, to be effective as of the 5th day of February, 1996, (Effective Date).

RECITALS

A. Local governments are encouraged and authorized to cooperate or contract with other units of government, pursuant to C.R.S. § 29-20-105, for the purpose of planning or regulating the development of land; and

B. Section 29-1-201, et seq., C.R.S., as amended, authorizes the City and Boulder County to cooperate and contract with one another with respect to functions lawfully authorized to each other, 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

C. Pursuant to C.R.S. § 31-23-202, and Article XX of the Colorado Constitution, the City Council of the City of Longmont has adopted the Longmont Area Comprehensive Plan, which provides goals and policies to plan for the orderly growth of the City of Longmont; and

D. By identifying sending and receiving sites for transferred development rights, the City and Boulder County are cooperating with respect to managing orderly growth; and

E. Requiring sending and receiving sites for transferred development rights implements the goals and policies of the Longmont Area Comprehensive Plan to make provision for public improvements in a manner appropriate for a modern, efficiently functioning city, and to ensure that new development does not negatively impact the provision of municipal services; and

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F. This Agreement augments Boulder County's nonurban planned unit development (NUPUD) program, and transferred development rights planned unit development (TDR/PUD) program; and

G. Providing for sending and receiving sites for transferred development rights is reasonable and necessary to protect, enhance, and preserve the public health, safety, and welfare of the City's citizens and the citizens of Boulder County; and

H. The City and Boulder County have held hearings, after proper public notice, for the consideration of entering into this Agreement.

IN CONSIDERATION of the objectives and policies expressed in the recitals and the mutual promises contained in this Agreement, the City and Boulder County agree as follows:

1 Definitions

As used in this Agreement, the following terms shall have the meanings stated below:

1.1 "Development" shall mean construction or establishment of a Structure, parking area, or surfaced vehicular roadway (except expansion of existing roads), or establishment of a new land use.

1.2 "LPA" shall mean the Longmont Planning Area, as it currently exists, together with any additional portions of the LPA as are jointly approved by the City and Boulder County.

1.3 "Parties" shall mean the City and Boulder County collectively.

1.4 "Structure" shall mean anything built or constructed above or below the ground, including, but not limited to, an edifice or building of any kind, or any piece of work artificially

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built up or composed of parts joined together in some definite manner, but excluding fences, retaining walls under 6 feet in height, and above ground or buried utility lines and related appurtenances.

1.5 "TDR Area" shall mean all real property designated as a transferred development right sending site or transferred development right receiving site in Exhibit A.

1.6 "TDR Receiving Sites" shall mean the transferred development rights receiving site designations in the TDR Area, attached as Exhibit A, and any receiving site jointly approved by the City and Boulder County that is within or contiguous to the LPA.

1.7 "TDR Sending Sites" shall mean the transferred development rights sending site designations in the TDR Area, attached as Exhibit A.

2 Controlling Regulations

2.1 Except as stated herein, no party shall agree with any landowner, or other person or entity, to allow Development on the TDR Sending Sites or the TDR Receiving Sites which does not comply with this Agreement. Boulder County agrees that approval of any proposed Development on the TDR Receiving Sites within or contiguous to the LPA shall be subject to review and approval by the City.

2.2 The City and Boulder County agree to adopt their own procedures, plans, policies, ordinances, or other regulations to implement and enforce the provisions of this Agreement, and to give the other party notice to comment on the same.

2.3 This Agreement shall not restrict the City's authority to annex property, or regulate the use and Development on any annexed property or other property within its boundaries,

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according to Colorado law, the Longmont Municipal Charter, and Longmont Municipal Code, as amended from time to time.

2.4 This Agreement shall not restrict Boulder County's ability, under its regulations, to approve receiving sites outside the LPA, and to approve Development on receiving sites outside and not contiguous to the LPA.

3 TDR Sending Sites

3.1 The Parties agree that all land within the TDR Sending Sites shall be eligible to participate in Boulder County's transferred development rights planned unit development program.

4 TDR Receiving Sites

4.1 The Parties agree that all land within the TDR Receiving Sites shall be eligible to participate in Boulder County's transferred development rights planned unit development program.

4.2 Upon confirmation by Boulder County that the land is within the TDR Sending Sites, and after Boulder County's issuance and recordation of its certificate(s) of development rights, according to its regulations, Boulder County and the City may jointly approve the location of Development represented by the certificate(s) of development rights upon land within the TDR Receiving Sites located within or contiguous to the LPA.

4.3 Boulder County and the City, either individually or collectively, upon acquisition of certificate(s) of development rights from land within the TDR Sending Sites, shall have the right to market those rights to others who may seek Development within the TDR Receiving Sites.

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5 Conservation Easements in the TDR Area

5.1 Within the TDR Area, Boulder County shall obtain conservation easements for continued agricultural production or preservation of the land's identified environmental resource values on land in the TDR Sending Sites that participates in the Boulder County transferred development rights planned unit development program, and shall require the easements to be granted to Boulder County and the City jointly.

5.2 Within the LPA, Boulder County shall obtain conservation easements on land participating in the Boulder County transfer development rights planned unit development program, and shall require the easements to be granted to Boulder County and the City jointly. The conservation easements shall require that such lands remain open, but may provide for other recreational uses beyond those permitted under paragraph 5.1 above, as may be agreed by Boulder County and the City at the time such easements are granted. Upon the annexation by the City of any land within the LPA upon which a conservation easement has been obtained pursuant to this Agreement, Boulder County shall forthwith deed to the City its interest in the conservation easement.

5.3 Any conservation easements granted jointly to Boulder County and the City, under this Agreement, shall not be construed as county-owned open space under C.R.S. § 31-12-104(1)(a).

6 Agreement Term

6.1 The term of this Agreement shall commence on the Effective Date, and continue for ten years thereafter unless renewed or extended by the mutual consent of the City and Boulder County. However, either party may terminate this Agreement, at any time and for any reason, upon one year written notice to the other party. The City and Boulder County agree that

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termination shall not affect the validity of conservation easements, nor Development approvals, that may occur during the term of this Agreement.

7 Defense of Claims

7.1 If any person, other than the Parties, allegedly aggrieved by any provision of this Agreement should sue Boulder County or the City concerning this Agreement, Boulder County shall, and the City 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. If any person, other than Boulder County, should obtain a final money judgment against the City for the diminution in value of any regulated parcel resulting from regulations in this Agreement or regulations adopted by the City in implementing this Agreement, Boulder County shall, to the extent permitted by law, indemnify the City for the amount of said judgment. Nothing contained in this Agreement shall constitute any waiver by the City or Boulder County of the provisions of the Colorado Governmental Immunity Act or other applicable immunity defense. This provision shall survive termination of this Agreement, and be enforceable until all claims are precluded by statutes of limitation.

8 Notice

8.1 Any notice required by this Agreement shall be in writing. If such notice is hand delivered or personally served, it shall be effective immediately upon such delivery or service. If given by mail, it shall be effective upon receipt, and addressed as follows:

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LONGMONT
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City of Longmont
Attention: Community Development Director
Civic Center Complex
408 Third Avenue
Longmont, Colorado 80501

County of Boulder
Attention: Land Use Director
P.O. Box 471
Boulder, Colorado 80306-0471

9 Miscellaneous Provisions

9.1 Amendments. This Agreement may be amended only by mutual agreement of the Parties and shall be evidenced by a written instrument authorized and executed with the same formality as accorded this Agreement.

9.2 Headings for Convenience. All headings, captions and titles are for convenience and reference only and of no meaning in the interpretation or effect of this Agreement.

9.3 Governing Law and Venue. This Agreement, and the rights and obligations of the Parties hereto, shall be interpreted and construed according to the laws of the State of Colorado, and venue shall be in the County of Boulder.

9.4 Severability. If this Agreement, or any portion of it, is for any reason held invalid or unconstitutional in a final and non-appealable decision by any court of competent jurisdiction, the entire Agreement shall terminate. The Parties agree that every provision of this Agreement is essential and not severable from the remainder.

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9.5 Provisions Construed as to Fair Meaning. The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any party based upon any attributes to such party of the source of the language in question.

9.6 Compliance with Ordinances and Regulations. This Agreement shall be administered consistent with all current and future laws, rules, charters, ordinances and regulations of the City and Boulder County.

9.7 No Implied Representations. No representations, warranties or certifications, express or implied, between the Parties exist except as specifically stated in this Agreement.

9.8 No Third Party Beneficiaries. None of the terms, conditions or covenants in this Agreement shall give or allow any claim, benefit, or right of action by any person not a party hereto. Any person other than the City or Boulder County receiving services or benefits under this Agreement shall be only an incidental beneficiary.

9.9 Integrated Agreement and Amendments. This Agreement is an integration of the entire understanding of the Parties with respect to the matters stated herein. The Parties shall only amend this Agreement in writing with the proper official signatures attached thereto.

9.10 Financial Obligations. This Agreement shall not be deemed a pledge of the credit of the City or Boulder County. Nothing in this Agreement shall be construed to create a multiple-fiscal year direct or indirect debt, or financial obligation.

9.11 Waiver. No waiver of any breach or default under this Agreement shall be a waiver of any other or subsequent breach or default.

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AND COUNTY OF BOULDER CONCERNING TRANSFERRED DEVELOPMENT RIGHTS

IN WITNESS WHEREOF, the Parties have executed this Agreement.

CITY OF LONGMONT



ATTEST:

By: *Lona Stecher*
Mayor

Valeria G. Skitt
City Clerk

Date: 1-26-96

APPROVED AS TO FORM:

[Signature]
Deputy City Attorney

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF LONGMONT
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**COUNTY OF BOULDER, by its Board of
County Commissioners**

By: Ronald K Stewart
Chair

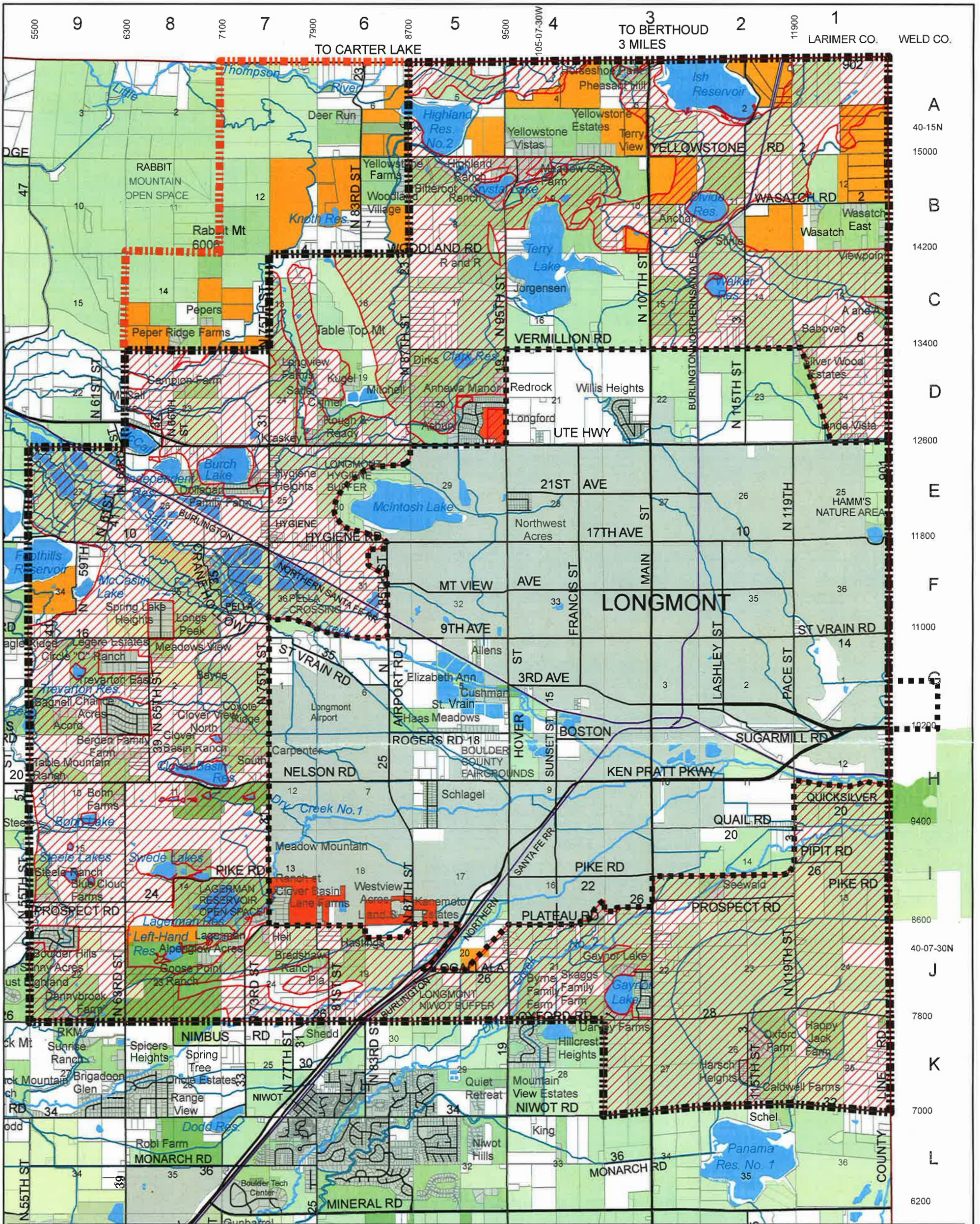
ATTEST:

Brian M. Schraft
Clerk to the Board

Date: 2-6-96

APPROVED AS TO FORM:

H. Lawrence
County Attorney



LONGMONT TDR AREA - Exhibit A

- ▬▬▬ Existing Longmont TDR Plan Area Boundary
- ▨ Existing TDR Sending Sites
- ▨▨▨ Proposed Longmont TDR Plan Area and Sending Sites Boundary
- Additional TDR Sending Sites, 35 acres and over
- Designated Receiving Sites
- ▬▬▬ Longmont Planning Area Boundary
- County Subdivision

- NUPUD Conservation Easement
- City of Boulder Open Space
- Boulder County Open Space
- Boulder County Conservation Easement
- County Regulatory Conservation Easements
- County Gravel Resources
- Other Municipal Open Space
- Joint County/City CEs
- Joint County/City Open Space



DISCLAIMER:
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.

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jbellis, Boulder County Parks and Open Space, September 30, 2005
kziebarth, Boulder County Land Use, November 9, 2005

**THIRD AMENDED
LONGMONT PLANNING AREA
COMPREHENSIVE DEVELOPMENT PLAN
INTERGOVERNMENTAL AGREEMENT**

This Intergovernmental Agreement by and between the City of Longmont, a Colorado home rule municipal corporation (Longmont), and the County of Boulder, a body politic and corporate of the State of Colorado (Boulder County); (collectively the "Parties").

WITNESSETH:

WHEREAS, §29-20-101 et seq., CRS 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 (i.e., City and County) 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 Longmont and of the rural area within Boulder County outside the Longmont Planning Area (hereinafter "the LPA") are preserved, the Parties believe that a comprehensive development plan which recognizes the area of potential urbanization within the LPA which would not be interrupted by Boulder County open space, accompanied by a commitment by Longmont for the preservation of the rural character of lands surrounding the LPA within Boulder County, is in the best interest of the citizens of each of the Parties; and

WHEREAS, the Parties find that the acquisition of open space by Boulder County within the LPA does not serve the public interest in that Longmont's plan for infrastructure and other services to the LPA should occur without unanticipated interruptions brought by open space purchases within the LPA; and

WHEREAS, the Parties find that providing for the area outside the LPA within Boulder County to remain as rural in character through the term of this Agreement for the purpose of preserving a community buffer serves the economic and civic interest of their citizens and meets the goals of the Boulder County Comprehensive Plan; and

WHEREAS, with respect to the annexation provisions herein, the City of Longmont declares that the area outside the LPA within Boulder County is not appropriate for urban development, unless certain criteria are met, during the term of this Agreement; and

WHEREAS, consistent with the municipal annexation, utility service, and land use laws of the State of Colorado, this Agreement, including specifically the annexation and open space 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; CRS, as amended; and

WHEREAS, §29-1-201, et seq., CRS, 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 as Exhibit A; and

WHEREAS, the Parties desire to enter into this Intergovernmental Agreement in order to plan for the use of the lands within the Plan Area through joint adoption of a mutually binding and enforceable comprehensive development plan.

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

1. LONGMONT PLANNING AREA (LPA) COMPREHENSIVE DEVELOPMENT PLAN.

This Agreement, including the Map attached hereto as Exhibit A, is adopted by the Parties as the Longmont Planning Area (LPA) Comprehensive Development Plan (the "Plan") governing the Plan Area. The "Plan Area" is hereby defined as the unincorporated area of Boulder County outside the Longmont Planning Area as shown on Exhibit A, or as subsequently amended in accordance with this Agreement.

2. ANNEXATION PROVISIONS.

(a) Longmont agrees that it will disclose to Boulder County any and all instances in which they receive an application for annexation of land outside the LPA within Boulder County. Further, Longmont commits that it is not currently pursuing any annexations within the Rural Preservation Area. Also, Boulder County commits that it

will not actively pursue open space acquisitions in the LPA not currently designated as open space.

(b) The area outside the LPA is intended to remain in Boulder County's regulatory jurisdiction for the term of this Agreement, unless changed by mutual agreement of the Parties. Further, the City Council of the City of Longmont, by authorizing the execution of this Agreement, finds and determines that there is no community of interest between said area and the City for the term of this Agreement, and the City will annex lands outside the LPA within Boulder County only pursuant to mutual agreement of the Parties.

(c) The City agrees that, during the term of this Agreement, it will expand the LPA within Boulder County only pursuant to mutual agreement of the Parties. Expansion would include only properties adjacent to the then existing LPA boundary, and would not be comprised of flagpoles to nonadjacent properties. The City and Boulder County agree to the following set of criteria by which proposals for expansion of the LPA will be allowed by the City Council and the Board of County Commissioners.

(1) Transfer of Development Rights - (TDR) receiving sites, in accordance with the Longmont TDR IGA, and TDR sending sites in accordance with the map attached thereto.

(2) Major Industrial User -if land inside LPA does not meet the needs of the development. The developer must demonstrate that factors other than land price preclude building within the LPA.

(3) Changes in the rural character of land (e.g., existing unincorporated residential subdivisions) outside the LPA that would be better served by the urban structure of Longmont (e.g., creation of significant institutional uses or the presence of existing residential subdivisions on surrounding unincorporated area properties).

(4) Enclaves of more than one home site per five (5) acres and which result from annexation that has left county property an island surrounded by Longmont, and where the provision of infrastructure from the City of Longmont would be more beneficial to property owners.

(d) Longmont Planning Area: The Map portion of this Plan identifies areas encompassing the LPA, which are currently located within unincorporated Boulder County but which may in the future and possibly during the term of this Agreement, be annexed to the City of Longmont. By authorizing the execution of this Agreement, Boulder County finds and declares that a community of interest in the area designated as the LPA on Exhibit A of this Plan, which is attached hereto and incorporated herein, exists with the City of Longmont.

(e) Any property located within the current municipal limits of Longmont, and any property which hereafter annexes to Longmont in accordance with the provisions of this Agreement, which subsequently is disconnected from the municipality, shall thereafter, for purposes of this Agreement, continue to be within the LPA unless excluded by action of the City.

3. OPEN SPACE.

(a) Any of the lands shown on the attached Exhibit A of the Plan outside the LPA may be acquired as open space by either of the Parties.

(b) Boulder County agrees that, for the term of this Agreement, it will not purchase any of the lands within the LPA for open space purposes, excepting only those lands which are designated "open space" on the Longmont Area Comprehensive Plan or otherwise changed to open space pursuant to an LACP amendment, and excepting those lands which are currently under contract or for which a letter of intent has been sent to the owner and which have been referred to the City of Longmont and except for those lands for which the consent of the City Council has been obtained as provided in section 5. Nothing in this section is intended to affect the continued ownership and maintenance of open space lands within the LPA which Boulder County currently owns or which are currently under contract with Boulder County or for which a letter of intent has been sent to the owner, and which have been referred to the City for comment.

(c) For lands within the LPA upon which Boulder County currently owns a conservation easement (identified on Exhibit A), Longmont agrees that it will annex said land only after release of the conservation easement thereon by Boulder County (except for those easements which automatically terminate upon annexation by any municipality) and will thereafter approve development of said land only in accordance with the provisions for TDR receiving and sending sites in the Longmont TDR Comprehensive Development Plan Intergovernmental Agreement (hereinafter "TDR Agreement") previously executed by these Parties. Upon expiration of said TDR Agreement and for the term of this Agreement, these lands will continue to be governed by the provisions of the TDR Agreement, said provisions being incorporated into this Agreement as if fully set forth herein. It is the intent of the Parties that this Agreement, and to the extent cross-referenced herein the Longmont TDR IGA, be and is the sole mutually adopted comprehensive plan related to these lands. However, nothing herein shall be construed to rescind Longmont's adoption and application of its comprehensive plan(s) to these lands.

(d) In the event Boulder County purchases 40 acres of John M. Keyes Trust farm, located within the LPA, Boulder County agrees it will provide Longmont the right-of-way necessary for the extension of Pike Road across said parcel upon such terms and conditions as are mutually agreed, including at least 120 foot width for an arterial street, and located as shown on the Longmont Comprehensive Plan, unless otherwise mutually agreed. Boulder County further agrees to allow Longmont to construct, operate, and maintain a trail under its St. Vrain River Greenways program, across the Keyes parcel through which the St Vrain River runs.

4. CITY OF LONGMONT UTILITIES AND ARTERIAL HIGHWAYS

It will be necessary for the City to seek additional water supplies, water storage, and water and sewer transportation and treatment facilities, both within and without the Plan Area. The areas designated in the Map portion of Exhibit A as the LPA shall be deemed to be the City's "Service Area" for all purposes, including, but not limited to, Boulder County's Regulations of Areas and Activities of State Interest in Article 8 of the Boulder County Land Use Code. To the extent such supplies and facilities are necessary to serve development within the LPA which is consistent with the provisions of this Agreement, the County agrees to use its best efforts in good faith to take action under any permitting requirements without undue delay, recognizing applications for such permits as being in conformance with this comprehensive development plan.

To this end, the County agrees that the City, in applying for such permits under the provisions of the Regulation of Areas and Activities of State Interest in Article 8 of the Boulder County Land Use Code, shall not be required to demonstrate compliance with the following provisions of said Regulation: Sections 8-511 B.3, 10, 11, 12, 13 & 14 C.1 & 2.a, D & E. Section 8-511 C.2.b shall not apply to applications for projects that involve the removal of native agricultural water rights after the effective date of this agreement from land located within the Longmont Planning Area or TDR Receiving Sites located within the TDR Area. For the purposes of this Agreement, TDR Receiving Sites and TDR Area shall have the same meanings as set forth in the Intergovernmental Agreement Between the City of Longmont and County of Boulder Concerning Transferred Development Rights which was effective as of February 5, 1996. Sections 8-511 B.5.c & d shall only be applicable to sanitary sewage facilities. Sections 8-511 B.5.b, e, f & g, B.6, 7 & 8 shall apply to site location, construction and operation of facilities within areas designated on Maps 2, 3 & 4 of the Boulder County Comprehensive Plan, and with respect to other areas shall be limited in its application to construction and operation of such facilities. The application of Section 8-511 B.7 concerning archeological resources shall be limited to a determination whether archeologically-significant resources will be negatively impacted by the proposed project, and if so, provide for mitigation of those impacts. The application of Section 8-511 B.5.h concerning geologic hazards shall be limited to resolution of floodplain issues. The remaining portions of Section 8-511 shall only be applicable to the direct, site specific, impacts of the proposal. The County through the Board of County Commissioners finds pursuant to Section 8-504 of the Boulder County Land Use Code, that this intergovernmental agreement shall serve in lieu of review of permit applications under those regulations of Article 8, Section 5 of the County land Use Code which are limited herein, to the extent of such limitations. Section 8-407 shall exempt all upgrades to existing facilities that are required maintenance or otherwise required by federal, state, or County regulations, including repairing and/or replacing old or outdated equipment, or installing new equipment, provided the improvements do not expand levels of service beyond the design capacity, and provided further that the upgrade does not alter the location of the existing facility.

Boulder County agrees to exempt Longmont from the Regulations of Areas and Activities of State Interest in Article 8 of the Boulder County Land Use Code, if Boulder County passes amendments to those regulations governing arterial highways and interchanges. Specifically, this exemption shall apply to:

- (a) the site section and construction of arterial highways and interchanges by Longmont within the LPA, which are designated on the Longmont Comprehensive Plan as adopted as of the effective date of this Agreement; and
- (b) areas around arterial highway interchanges (as those areas are defined in the County's regulations), which interchanges are designated on the Longmont Comprehensive Plan, as adopted as of the date of this Agreement.]

5. IMPLEMENTATION PROCEDURES.

A plan amendment agreed to by both the city and county must occur in order to annex, or allow any use or development, or acquire for open space any parcel within the

Plan Area where such annexation, use or development, or acquisition does not comply with the Plan. Where the County seeks to acquire land for open space within the LPA after referral as provided in section 6(a), the City Council may, by resolution, agree to such acquisition and may condition its consent, and substantial compliance with such conditions shall be required for such acquisition to proceed.

The Parties each agree to undertake all steps 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 advance notice of such action as will enable such Party, if it so desires, to comment upon the planned actions of that Party.

6. REFERRALS

(a) Any application for annexation or development on any parcel outside the LPA, and/or any proposal for acquisition of open space within the LPA, shall be referred in writing to the other Party, and no action shall be taken thereon by the referring Party until the receiving Party has had the opportunity to respond concerning the proposal's conformity to this Plan and any other land use concerns, provided those comments are made within existing state and local regulations regarding the processing of the application. All such responses shall be sent within 30 days of the date of receipt of the referral by the receiving Party.

(b) The City shall refer in writing to the County, any application for annexation and/or development, for an amendment to the Longmont Comprehensive Plan, for any parcel within the LPA and outside of the Municipal Service Area, unless otherwise determined through this Agreement.

(c) The County shall refer in writing to the City, any application for discretionary development and/or amendment to the Boulder County Comprehensive Plan for any parcel within the St. Vrain Valley Planning Area, Longmont Planning Area, or Municipal Service Area unless otherwise determined through this Agreement.

(d) Annexation applications of 10 or more acres within the LPA, and Longmont Area Comprehensive Plan amendments shall adhere to the following referral process unless otherwise determined through this Agreement:

(i) The staff of the referring party shall send the receiving party the pertinent information.

(ii) The staff of the receiving party shall have 30 days from the date of receipt of the referral to respond in writing to the referring party, unless otherwise required by state statute. The receiving party will call the referring party for clarification on questions and to give an idea of issues before sending formal comments. If the referring party does not receive a response within the 30 day period, the referring party may assume that the receiving party has no conflict with the proposal.

(e) Annexation applications of less than 10 acres within the LPA and County discretionary review processes other than PUD development, shall adhere to the following referral process unless otherwise determined through this Agreement:

- (i) The staff of the referring party shall mail the receiving party the pertinent information.
- (ii) The staff of the receiving party shall have 14 days from the date of receipt of the referral to respond in writing to the referring party, unless otherwise required by state statute. The receiving party will call the referring party for clarification on questions and to give an idea on issues before sending formal comments. If the referring party does not receive a response within the 14 day period, the referring party may assume that the receiving party has no conflict with the proposal.
- (f) Every six months, each party shall provide the other party with a written notice of the status of each referral, including but not limited to, the status of the proposal within the approval process and, if applicable, the final density approved for a proposal.

7. AMENDMENTS.

This Plan contains the entire agreement between the Parties. Any proposed amendment of the Plan 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" is hereby defined as the Party having final land use or annexation approval jurisdiction, as the context requires. Amendment of the Plan shall take place only upon 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. The Regulatory Party shall not approve nor permit any development or change of use of any parcel in the Plan by any means in a manner inconsistent with this Agreement until and unless the Plan has been amended so that the proposed development or use of such parcel is consistent with the Plan.

8. NON-SEVERABILITY.

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.

9. 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.

10. 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.

11. DEFENSE OF CLAIMS/INDEMNIFICATION.

If any person allegedly aggrieved by any provision of the Plan and who is not a Party to the Plan should sue any Party concerning such Plan provision, Boulder County shall, and any other Party 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.

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

12. 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.

13. TERM AND EFFECTIVE DATE. 8/12/03

This Agreement shall become effective when signed by authorized representatives of the governing bodies of each of the Parties. Except as provided herein, this Agreement shall remain in effect for a period of twenty (20) years, unless terminated prior thereto by agreement of all the Parties or pursuant to the terms of section 7 above.

At any time until ninety days prior to the tenth anniversary of the effective date of the Agreement, either Party may give written notice to the other Party by first class certified mail that it intends to terminate the Agreement effective on that anniversary and may, accordingly, terminate the Agreement.

Each Party shall, at least 90 days before the then current expiration date, hold a duly noticed public hearing to determine whether the term of this Agreement shall be extended an additional five (5) years from the expiration date then in effect. Notices of the hearing and subsequent action of the Party shall be sent to the other Party.

14. PARTY REPRESENTATIVES.

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

ENTITY: REPRESENTATIVE:

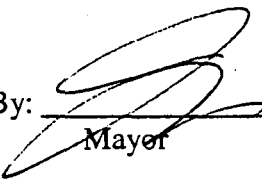
County of Boulder
 Director, Land Use Department
 P.O. Box 471
 Boulder, CO 80306

City of Longmont
Director of Community Development
Civic Center Complex
350 Kimbark Street
Longmont, CO 80501


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

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

CITY OF LONGMONT

By: 
Mayor

ATTEST:


City Clerk



APPROVED AS TO FORM:

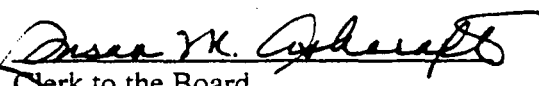

Deputy City Attorney

COUNTY OF BOULDER
BY: BOARD OF COUNTY COMMISSIONERS


Paul D. Danish, Chair 8/12/2003

ATTEST:

APPROVED AS TO FORM:


Clerk to the Board

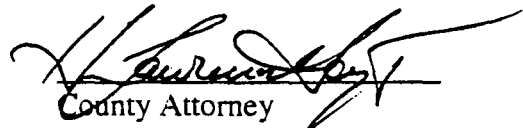
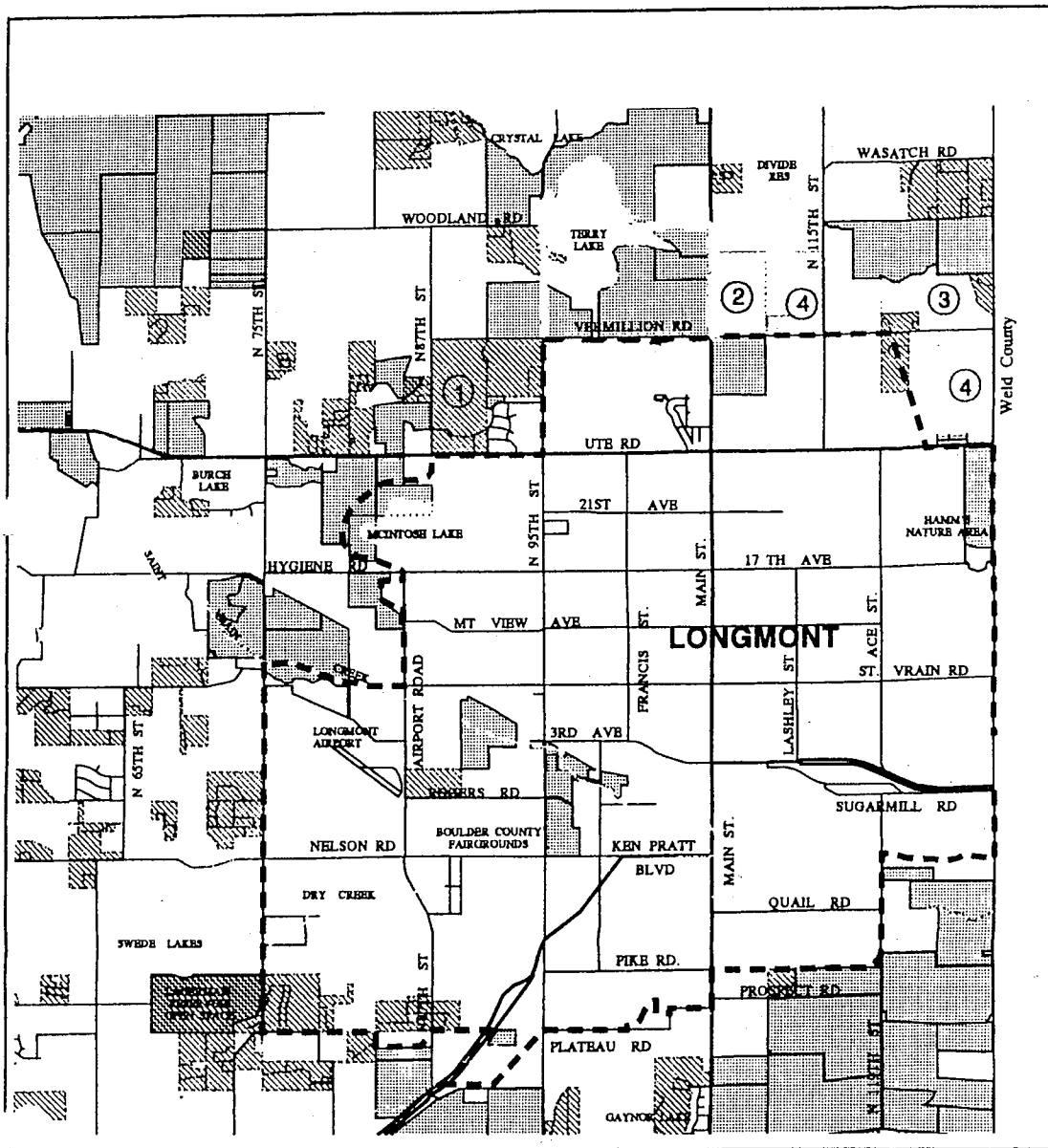

County Attorney



EXHIBIT F
LONGMONT AREA
INTERGOVERNMENTAL AGREEMENT
EXHIBIT A



- Longmont Planning Area Boundary
- Open Space
- NUPUD
- 1) Soon to be recorded Dfns Dairy Sub. with 200ac +/- conservation easement
- Other Fully Developed Areas

- 2) 35 acre country estate sub. with covenants about further division, setback from highway, etc.
- 3) 35 acre country estate subdivision
- 4) Numerous smaller acreages with single family homes

Note: Boulder County is negotiating for additional properties in this vicinity outside the Longmont Planning Area.

© 1997 County of Boulder, Colorado. All Rights Reserved.
 This Map Is For Illustrative Purposes Only.

Map Compiled 05/08/97 by A. Hargis
 Boulder County Land Use Dept.

RESOLUTION 2003-103

A RESOLUTION APPROVING THE "THIRD AMENDED LONGMONT PLANNING AREA COMPREHENSIVE DEVELOPMENT PLAN INTERGOVERNMENTAL AGREEMENT" BETWEEN THE CITY OF LONGMONT AND COUNTY OF BOULDER, CONCERNING THE COUNTY'S ACQUISITION OF OPEN SPACE IN THE LONGMONT PLANNING AREA ("LPA"), THE CITY'S EXERCISE OF ITS ANNEXATION POWERS IN THE LPA, AND RELATED MATTERS

WHEREAS, the Board of County Commissioners of the County of Boulder ("the Board") and the City Council of the City of Longmont ("the City") (jointly, "the Parties") are authorized to enter into intergovernmental agreements to plan for and regulate land uses pursuant to C.R.S. §§ 29-20-101, et seq.; and

WHEREAS, the Parties believe that a comprehensive development plan which provides for binding commitments by the Parties regarding the future development of lands within the Longmont Planning Area ("LPA"), with respect to such issues as the County's acquisition of open space lands in the LPA, the City's annexation of lands for development within the LPA, and related matters, is in the best interests of the citizens of each of the Parties; and

WHEREAS, to this end, the Parties, through their designated representatives, entered into a "Longmont Planning Area Comprehensive Development Plan Intergovernmental Agreement" effective June 19, 1997, which has been amended since that time ("the IGA"); and

WHEREAS, the Parties now wish to amend the IGA again, in the form of a proposed "Third Amended Longmont Planning Area Comprehensive Development Plan Intergovernmental Agreement" ("Third Amended IGA"), to update the citations to and amend the provisions of the IGA regarding the County's "1041" regulations ("Regulations of Areas and Activities of State Interest in Article 8 of the Boulder County Land Use Code"), and to update the term of the IGA providing for a term of 20 years following the Third Amended IGA's effective date, with allowance for termination by either party on the tenth anniversary of the effective date of the Third Amended IGA; and

WHEREAS, the proposed Third Amended IGA is attached to and incorporated into this Resolution as Exhibit A, and has been approved following a duly noticed public hearing by the City Council; and

EXHIBIT F

WHEREAS, on August 12, 2003, the County's Board of County Commissioners ("the Board") held a duly noticed public hearing on the proposed Third Amended IGA ("the Public Hearing"), at which hearing the Board considered the proposed IGA as set forth in Exhibit A, and the explanatory comments of the County Attorney, with no members of the public being present to speak to the proposed Third Amended IGA; and

WHEREAS, based on the Public Hearing, the Board determines that the proposed Third Amended IGA, in the form set forth in Exhibit A hereto, serves the best interests of the County's residents, and furthers the County's desire to appropriately protect the rural character of the LPA in conformity with the principles set forth in the Boulder County Land Use Code and the goals and policies of the Boulder County Comprehensive Plan, and should be approved.

NOW, THEREFORE, BE IT RESOLVED that the Board approves the proposed Third Amended IGA, as set forth in Exhibit A hereto.

A motion to approve the proposed Third Amended IGA, as set forth in Exhibit A hereto, was made by Commissioner Stewart, seconded by Commissioner Danish, and passed by a 2-0 vote, with Commissioner Mayer being excused.

ADOPTED this 19th day of August, 2003, nunc pro
tunc the 12th day of August, 2003.

BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:



Paul D. Danish, Chair



Ronald K. Stewart, Vice Chair



Thomas A. Mayer, Commissioner
(EXCUSED)

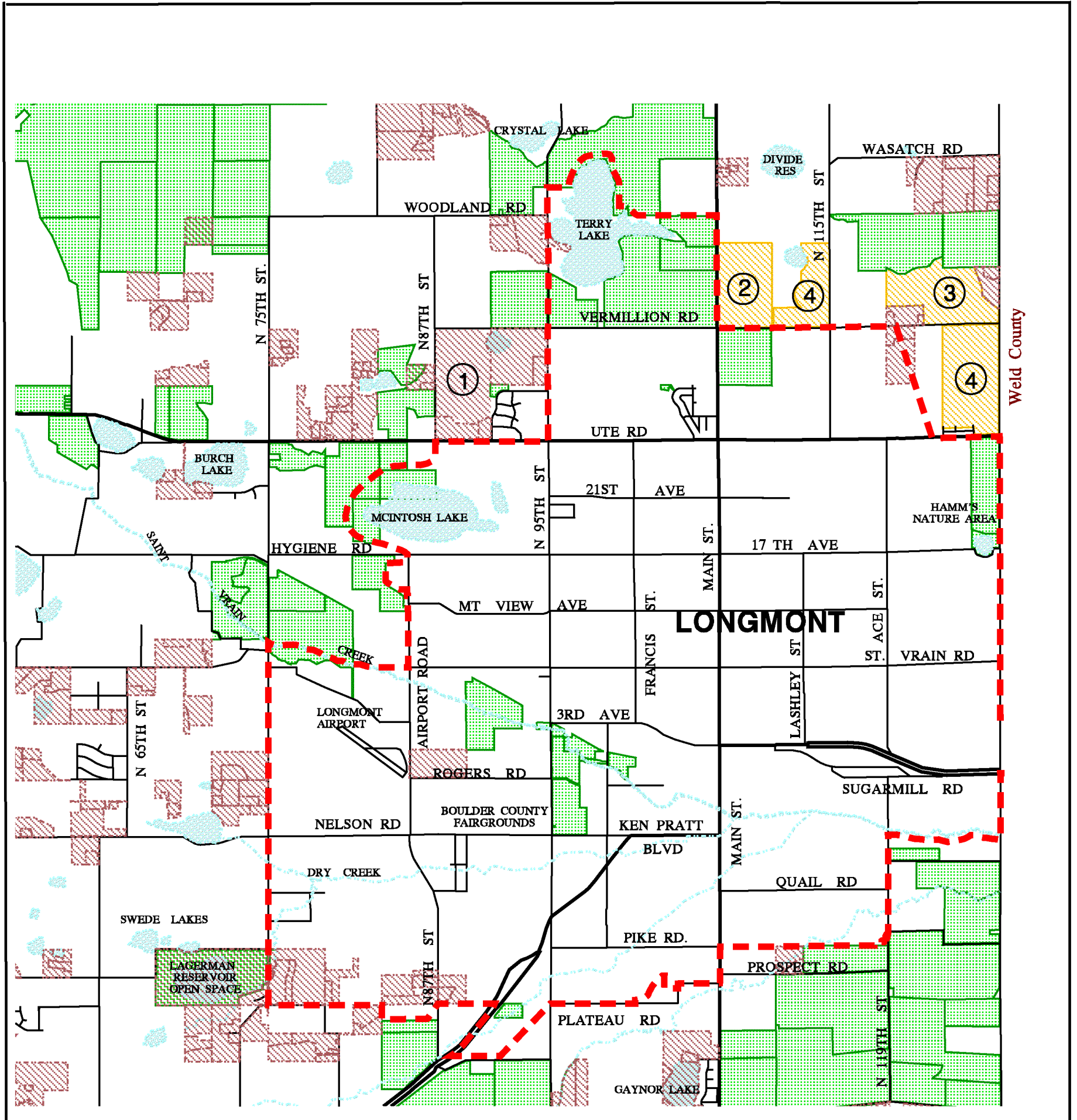
ATTEST:



Clerk to the Board

LONGMONT AREA INTERGOVERNMENTAL AGREEMENT

EXHIBIT A



Longmont Planning Area Boundary

Open Space

NUPUD

1) Soon to be recorded Dirks Dairy Sub. with 200ac +/- conservation easement

Other Fully Developed Areas

2) 35 acre country estate sub. with covenants about further division, setback from highway, etc.

3) 35 acre country estate subdivision

4) Numerous smaller acreages with single family homes

Note: Boulder County is negotiating for additional properties in this vicinity outside the Longmont Planning Area.

Exhibit H

June 20, 2023

Boulder of County Commissioners
Boulder County Courthouse
3rd Floor Hearing Room
1325 Pearl Street
Boulder, CO 80302

Delivery via email (hhippely@bouldercounty.org; planner@bouldercounty.org; commissioners@bouldercounty.org; hhippely@bouldercounty.org)

**RE: Public Hearing, July 6, 2023, 1pm
Kanemoto Estates Conservation Easement Termination**

Dear Boulder County Commissioners,

Our office represents Keep Airport Road Environmental & Safe (“KARES”), a coalition of Longmont citizens residing in the vicinity of Kanemoto Estates and opposing this proposed termination.

Since we submitted comments to the Planning Commission (dated March 8, 2023, included in Planning Commission’s Kanemoto Estates Outlot A CE Termination 3.15.23 PC Packet), this letter addresses only new subjects. It addresses (1) comments by Ron Stewart and staff in support of this proposed termination, and (2) a procedural infirmity that should legally prevent you from approving the matter at this time.

1. Ron Stewart and County staff miss the point on what you are being asked to do.

First, Ron Stewart casts an admittedly, and deserved, long shadow in this County on open space matters and he supports the extinguishment of the Kanemoto Estates conservation easement. Mr. Stewart bases his support on the idea that Kanemoto Estates is “within Longmont’s [urban growth] planning area” and that development should be allowed to occur however Longmont chooses. Staff (Hannah Hippely) echoed his approach before the Planning Commission, pointing to two provisions in the Boulder County Comprehensive Plan (“BCCP”) that support the concept of “cluster development” and an “appropriate rate of growth” to argue that the BCCP is not “no growth” but rather a “growth in an appropriate location” plan.

However, both Mr. Stewart and Ms. Hippely miss the point of what you are being asked to do. You are being asked to evaluate an extraordinary request to terminate open space in Boulder County whereupon it will be replaced with what most uninterested parties would agree is a densely packed, uninspired, box development where currently hawks soar, elk migrate, and citizens, who have for forty years relied on open space to enhance their lives, have had the

Exhibit H

reasonable expectation that the land they walk on with their families was protected in perpetuity by a conservation easement. (Indeed, for forty years, and as recently as last month, real estate brokers led buyers of homes directly abutting the conservation easement to believe that this land was “protected” by a conservation easement.) After all, Boulder County has devoted a great deal of effort and prestige on creating open space, and it is precisely when the development pressures are great that the County Commissioners should fulfill their fiduciary obligations to maintain the conservation easements already in place.

Even worse, from a credibility standpoint, is the fact that the developer is paying into the County Parks & Open Space Department’s revolving open space fund the amount of \$2.3 million for the right to terminate this easement.¹ Such a large payment for the right to develop on open space may be just the tip of this revolving fund’s iceberg. It is anathema to the notion that Mr. Stewart’s old department is protecting the public’s open space; it makes it even more imperative that the County Commissioners create a fiduciary bulwark for protecting open space.

Mr. Stewart’s and staff’s arguments is also unsupportable legally. Once granted to the public in perpetuity,² the 1982 Kanemoto Estates conservation easement became subject to the charitable trust doctrine, supervised by the Colorado Attorney General for the benefit of the people of Colorado.³ It should not be terminated at the behest of any local government, including the City of Longmont or even the CE’s holder, Boulder County, unless its continued purpose is “impossible” to fulfill, which is certainly not the case here.

Ms. Hippely, in trying to show the Planning Commission that extinguishment is consistent with the BCCP, pointed to two provisions in the BCCP encouraging “cluster development” and discussing an appropriate growth rate. These two provisions do not counter the four BCCP goals encouraging the maintenance of existing open space referenced in our earlier comments (3/8/23, included in Planning Commission’s Kanemoto Estates Outlot A CE Termination 3.15.23 PC Packet), nor those of neighborhood resident Norm Gee, OD, who provides 35 BCCP references in his comments showing that extinguishment is inconsistent with the BCCP (included in Planning Commission’s 3.13.23 Comments Received). Moreover, while Longmont and Boulder

¹ This amount of the developer’s contribution was made public on May 2, 2023 after this firm appealed the decision by the County’s CORA Team to keep it from being disclosed.

<https://www.longmontleader.com/local-news/developer-would-pay-23-million-to-end-conservation-easement-6970424>.

² Land use document executed around the same time as the easement show that this CE was intended to be perpetual. Subdivision Plat, Film 1207, Rec. No. 494790 (dedication of improvements “to the use of the public forever”); Subdivision Agmt., 4/21/82 (“preservation of Outlot A, for agricultural purposes”).

³ McLaughlin, Nancy and Weeks, W. William, *In Defense of Conservation Easements: A Response to the End of Perpetuity*. Wyoming Law Review, Vol. 9, p. 34, 38-40 (2009); *Hicks v. Dowd*, 157 P.3d 914, 921 (Wyo. 2007); Restatement (Third) of Trusts § 28; and IVA William F. Fratcher, Scott on Trusts, § 364 (4th ed. 1989) (“A charitable trust is enforceable at the suit of the Attorney General”); *Mitchellville Comty. Ctr., Inc. v. Vos (In re Clement Trust)*, 679 N.W.2d 31, 37 (Iowa 2004) (same).

Exhibit H

County *used to* operate under the Longmont Area TDR Intergovernmental Agreement (1996 TDR IGA), which identified certain receiving sites, including Kanemoto Estates, for development, the 1996 TDR IGA has since expired and cannot serve as a basis for unconditionally extinguishing a County CE.

It is also inappropriate to apply the 1996 TDR IGA since the Kanemoto Estates' CE was created in 1982.⁴ Because it predates any agreement for Longmont development, the CE was never intended to be used as a vehicle for Longmont growth and should, like all open space, be used as pocket where growth is limited and wildlife and open vistas are maintained. If communities could relinquish open space by after-the-fact IGAs that anticipated future growth, no open space in the County would be safe.

This raises the question of why the County has so far failed to impose any conditions on the extinguishment of open space in order to protect the nearby neighborhoods. Indeed, in those rare circumstances when groups like the Nature Conservancy or Trust for Public Land lose one of their conservation easements, they demand concessions from the developer. Boulder County should demand concessions here too, and these might include:

- A wildlife corridor;
- Less density in Outlot A, where the CE exists;
- Putting a park where the proposed development abuts neighboring subdivisions;
- Transit improvements at Airport Road and the Diagonal to counter one of the County's worst traffic fatality flash points even before this development;
- More trees; and/or
- Greenhouse gas reductions.

Finally, why do County staff get to decide which open space parcels should be extinguished, or which County land should be bought with revolving fund dollars? Shouldn't this be within the purview of a public board, with public oversight, to make these critical decisions?

In short, the decision to extinguish open space where a developer has paid the County Parks & Open Space Department \$2.3 million to do so is untenable. It would create a slippery slope, leaving all of the County's open space ripe for a future developer's "contributions."

2. Staff failed to find that terminating the Kanemoto Estates CE is consistent with the County's land use regulations, an express condition in the easement that must be met before this body acts.

The CE's termination clause requires that the Planning Commission and Boulder County County Commissioners "determine[] that the proposed and/or allowed development and/or land use resulting from such termination or transfer is consistent with the *current* Boulder County Comprehensive Plan *and Boulder County Land Use Regulations...*". Kanemoto Estates NUPUD (Outlot A) CE 00494792 (1982) (emphasis added).

⁴ It should never have been included as a "receiving site" in the first place. Boulder's Land Use Code states that "a subdivided lot ... recorded prior to 1994" should not be considered for a TDR/PUD receiving site. Code, § 6-700(J)(3).

Exhibit H

County staff acknowledged that they failed to do this. Hannah Hippely, Staff Planner, Boulder County Community Planning and Permitting, testified to the Planning Commission on March 15, 2023 as follows:

“Staff does find this application to be consistent with the Boulder County Comprehensive Plan. I just want to note again that the other portion of the conservation easement terms are that we would find a project consistent with the Boulder County Land Use Regulations. In an instance where development were to occur in the unincorporated county, say if the project wasn’t proposing to annex, we would in this instance probably have done a lot more detailed analysis of our NUPUD regulations, that sort of thing, and presented that to you.

However, because this property is proposing to annex into the City of Longmont, and will be administered by their development code, through the various processes I have listed here, analysis of the County Land Use Code is not necessary. So we are also able to find number two – the second term of the conservation easement – to be met.”

Public video recording of Planning Commission meeting, March 15, 2023, addressing Kanemoto Estates Conservation Easement Termination, at 3:51:30 – 3:52:30 (emphasis added).

County staff had no right to refuse to comply with an express term of the CE’s termination – which required an analysis of whether extinguishing the CE is consistent with Boulder County’s land use regulations. It is perfectly reasonable for a termination clause to require such an analysis of the government codes currently in effect, as the CE requires, regardless of whether a planned development may in the future be subject to another government’s regulations. The plain language of the CE’s termination provision requires an analysis of consistency with *Boulder County’s* land use regulations, not Longmont’s, and this was not done.

Even if Boulder County staff had performed a consistency analysis involving the Boulder County land use regulations, such analysis would have shown that extinguishing the CE is inconsistent therewith. For instance, the County’s land use code requires the “[p]romotion of the...safety...of present or future inhabitants of the County through such means as lessening traffic congestion, reducing waste caused by road constructions, *fostering agricultural* and other industries, *ensuring that unincorporated lands outside of the community service areas remain rural in nature, open and rural land preservation, and environmental protection.*” Boulder County Land Use Code (the “Code”), § 1-300(B) (2022) (emphasis added). Thus, the purpose of the Code is fulfilled by preserving the easement which reduces traffic and construction, promotes environmental protection, fosters agricultural activities, and preserves open land. Extinguishing the CE for commercial development is inconsistent with the land use regulations.

In short, the Commission should instruct staff to analyze the issue of whether terminating the CE is consistent with the Boulder County land use regulations, as the CE requires. Once this is done, the Planning Commission will need to make a new determination in light of Staff’s analysis.

3. Conclusion.

It is premature for the Boulder County Commission to extinguish the Kanemoto Estates agricultural conservation easement. The Commissioners should vote NO on this proposal in order to adhere to the express requirements in the easement, preserve the character of this critical area, promote conservation values and act fairly to the current residents.

Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Randall M. Weiner". The signature is fluid and cursive, with a long horizontal stroke at the end.

Randall M. Weiner
Weiner & Cording
Attorneys for KARES

Exhibit H

From: [Annmarie Jensen](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates Agricultural Easement
Date: Wednesday, June 21, 2023 11:37:44 AM

I am writing on behalf of ECHO in support of the termination of the agricultural easement on this property. This plan and its design are consistent with Longmont's long term plan, Envision Longmont, and consistent with the county's desire to allow municipalities to expand into existing infrastructure instead of to sprawl. This project will provide much needed workforce and affordable housing for the City of Longmont, and I would like to ask that you convey this to the Commissioners. I would also ask the commissioners to seek assurances from the developer that they keep the project attainable and affordable, and not change their plans for this site in the future. Thank you.

Annmarie Jensen (she/her/hers) checkout ECHOColorado.com
720-999-4765

Join our newsletter

<https://com.us4.list-manage.com/subscribe?u=e2393c68bf789651589c43bc0&id=b4b8c649a6>

Exhibit H

From: [Ron Stewart](#)
To: [Hippely, Hannah](#); [Levy, Claire](#); [Loachamin, Marta](#); [Stolzmann, Ashley](#)
Subject: [EXTERNAL] Kanemoto Estates Conservation Easement termination
Date: Wednesday, June 21, 2023 7:53:55 AM

June 21, 2023

Members of the Boulder County Board of Commissioners:

I am writing to support the termination of the Kanemoto Estates Conservation Easement. I feel the termination is consistent with long standing planning objectives shared by Boulder County and the City of Longmont and is in the current best interest of both entities.

In the 1990's I served as a Boulder County Commissioner and one of my areas of emphasis was the development of intergovernmental agreements with communities throughout Boulder County. The goal was to adopt growth management agreements that allowed for urban level growth within the cities and towns adjacent to other urban lands such as the neighborhoods around Kanemoto Estates and for open space areas surrounding the areas of development. These agreements furthered the goals and policies of the Boulder County Comprehensive Plan.

With some communities, including Longmont, we also developed IGAs that called for the Transfer of Development Rights to both direct future urban development and to assist with the preservation of open space. We were successful in developing IGAs with all communities in Boulder County and those IGAs helped shape the landscape of Boulder County today.

The termination of the Kanemoto Estates Conservation Easement is totally consistent with all the agreements that existed with Longmont over the years. Kanemoto Estates is within Longmont's planning area and has been for decades. Termination of the easement will allow Longmont to determine appropriate development for the parcel. Further, termination will help with further open space preservation through the use of Transferable Development Rights. The inclusion of Kanemoto Estates in the Longmont Planning Area in those IGAs and the designation of this property as a Transferable Development Right Receiving Site indicate that, for decades, future development of this area was contemplated by both the County and the City of Longmont, and that the determination of land uses and the eventual site plan were deemed to be the ultimate responsibility of the City.

Exhibit H

Furthermore, at least three other conservation easements in Longmont's Clover Basin Neighborhood were terminated under the TDR IGA to allow development adjacent to other urban development in the neighborhood.

I encourage you to support the docket before you for the termination of the Kanemoto Estates Conservation Easement.

Thank you,

Ron Stewart
Longmont

Exhibit H

From: [Steve Emmett-Mattox](#)
To: [Commissioner Levy](#); [Commissioner Loachamin](#); [Commissioner Stolzmann](#)
Cc: [LU Land Use Planner](#)
Subject: [EXTERNAL] Comments on the Kanemoto Estates Conservation Easement Termination
Date: Tuesday, June 20, 2023 4:09:18 PM
Importance: High

Dear Commissioners,

I am writing to express my opposition to and provide some comments on the proposed termination of the Kanemoto Estates Conservation Easement. I am a Boulder County resident currently residing in Longmont (2 years) and I previously lived in Niwot (15 years).

I am opposed to the termination for several reasons:

1. The County holds conservation easements for conservation purposes. Allowing the termination of this easement for a (another) new development in Boulder County / Longmont is completely counter to this purpose. Land that has been conserved has innate, inherent value. I value all of our conserved areas, and the species and ecosystems they support, merely because they exist. The existence of open space and protected areas in Boulder County and Longmont improves the lives of the residents immeasurably. Any loss of the remaining open space in our community is significant and will be deeply felt. I live near a large open space area now, and daily I enjoy the wonderful quality of life that open space provides the residents of this County. I want to be able to rely on the County to maintain its existing conservation easements as conservation easements, and not give in to pressures to develop, no matter what.
2. A conservation easement should never be terminated, but if it is, only in unusual, urgent and substantially persuasive circumstances. This is not one of those instances. There is no urgent need for more development.
3. Terminating the easement for a price, allowing it to be bought out, sets (or continues?) a dangerous precedent. With housing values so expensive already in Boulder County and the Front Range, developers will be willing to pay more and more to develop the remaining precious open space. Don't let this happen. Moreover, the County needs to sufficiently budget for maintaining its existing open space and pursuing future priority opportunities. It should not rely on developer buy-outs in order to achieve this. Since I have lived here, I have voted in favor of every open space tax at every government level. I don't expect, nor want, my tax dollars to be supplemented by the sale of open space properties.
4. The developer who wants to develop the Kanemoto property uses words like "diversify" and "affordable housing" but nowhere makes any commitment to ensure either a diverse community or affordable housing. These are words merely being used to persuade and are meaningless unless tied to specific, strong, and enforceable commitments.
5. Developing this land will significantly increase the City's and County's greenhouse gas emissions. Converting a natural area to concrete and new housing will increase vehicle emissions, pave over a landscape that already sequesters and stores atmospheric carbon (and could probably be restored to sequester even more carbon), and pollute our air (already among the worst) through construction over several years. The impacts of this development will be significant and permanent. A commitment to climate neutrality is not consistent with terminating this easement and allowing development of the land. We must preserve all of our remaining open spaces and restore them to healthy ecosystems.

For these reasons I urge you to deny the request to terminate the Kanemoto Conservation Easement

Exhibit H

and take a stand against the continued development of our remaining green spaces. I want my elected officials to be staunch protectors of open space and strong climate champions. And I easily imagine that my fellow County residents feel the same way. For too long, development has always found a way to get a green light. When will it end? The climate emergency is real, and it is an emergency. Every action and decision we take that allows increases in emissions exacerbates the problem at a time when we need to find ways to substantially reduce emissions. Every ton of CO2 matters. Every inch of open space matters.

I appreciate all that you do on behalf of the County and its residents, and I would be glad to sit down and discuss this further with you. In other words, how can I support you to make the decision to deny the termination request?

Thank you for your consideration,

Sincerely,

Stephen Emmett-Mattox

5833 Grandville Ave, Longmont, CO 80503

720-300-3139

Exhibit H

From: [Anna Gayer](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Estates conservation easement
Date: Thursday, June 22, 2023 1:19:00 PM
Attachments: [PastedGraphic-8.tiff](#)

Dear Planning Board,

As a real estate professional, I understand the meaning of extinguishing a 40 year old CE, that was given to us, the community, in perpetuity. This is a dangerous and unprecedented action, that can set a precedent in the future to destroy the pastoral and environmental benefits of a CE and other Open space.

Giving up Open space is not the answer to the housing shortage. Never mind, that we dont have the water to keep expanding housing for people in CO.

Sincerely,

Anna



Exhibit H

From: [Beth Eldridge](#)
To: [Annmarie Jensen](#)
Cc: [Hippely, Hannah](#)
Subject: [EXTERNAL] Re: Kanemoto Estates Agricultural Easement
Date: Friday, June 23, 2023 2:31:46 PM

I second Annmarie's support to terminate the agricultural easement for this property, with assurance that the developer keeps the project attainable and affordable. We deeply need housing for local workers and low to moderate income people.

Thank you,
- Beth Eldridge

On Wed, Jun 21, 2023 at 11:37 AM Annmarie Jensen <annmariejensencolorado@gmail.com> wrote:

I am writing on behalf of ECHO in support of the termination of the agricultural easement on this property. This plan and its design are consistent with Longmont's long term plan, Envision Longmont, and consistent with the county's desire to allow municipalities to expand into existing infrastructure instead of to sprawl. This project will provide much needed workforce and affordable housing for the City of Longmont, and I would like to ask that you convey this to the Commissioners. I would also ask the commissioners to seek assurances from the developer that they keep the project attainable and affordable, and not change their plans for this site in the future. Thank you.

Annmarie Jensen (she/her/hers) checkout ECHOCOLORADO.COM
720-999-4765

Join our newsletter
[https://com.us4.list-manage.com/subscribe?
u=e2393c68bf789651589c43bc0&id=b4b8c649a6](https://com.us4.list-manage.com/subscribe?u=e2393c68bf789651589c43bc0&id=b4b8c649a6)

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"Whether you know it or not – you are already there. You are the beauty... the power... the passion... the knowledge... the fire... the calm... the heart and the soul... You are the star of your being... all you have to do is let yourself shine." - Sark

Exhibit H

From: [David Emerson, Habitat St Vrain](#)
To: [Hippely, Hannah](#); [LU Land Use Planner](#)
Subject: [EXTERNAL] Support for Kanemoto Estates Conservation Easement Termination
Date: Friday, June 23, 2023 7:20:07 AM

To whom it may concern;

I am writing as both the Executive Director of Habitat for Humanity of the St Vrain Valley and as a resident of Longmont (1152 Twin Peaks Circle) to express my support for the termination of the conservation easement of Outlot A of Kanemoto Estates pursuant to the terms of the conservation easement. I understand this is on the July 6th County Commissioners' agenda for consideration. I want to thank staff and the County Commissioners for their work in assessing developments and projects such as these. We understand that any action is unlikely to appease everyone in the community. As a leader of an organization who serves various service workers in the Longmont area, we want to make sure their voice is heard as it relates to projects such as these. The individuals who would have an opportunity to buy one of the homes in this concept are often not represented at meetings such as these, yet this neighborhood represents an excellent way to provide much needed affordable homeownership options to those who serve Longmont every day. We know based on several studies and our own experience talking to individuals that many of the individuals working in Longmont cannot afford to live in Longmont. Many are commuting from outside the County. Habitat for Humanity's own research shows that the top two industries our homeowners come from are Education and Healthcare. We also know from our various research that affordable homeownership has positive impacts on mental and physical health, children's education, civic engagement, and employment stability.

We support this decision as it is consistent and supported by regional plans and is an action previously taken by four other market rate residential developments just to the west. We thank you for your support and consideration on this matter.

Sincerely,

David C Emerson

Executive Director

Habitat for Humanity of the St Vrain Valley

(303) 946-5190 (Direct)

Exhibit H

From: [Joe STASIAK](#)
To: [Boulder County Board of Commissioners](#); [LU Land Use Planner](#)
Cc: [Joe STASIAK](#)
Subject: [EXTERNAL] Kanemoto Estates Conservation Easement Termination, Public Comment, Public Hearing, July 6, 2023
Date: Wednesday, June 28, 2023 9:25:19 AM

Dear Boulder County Commissioners:

I oppose the termination of the Kanemoto Estates Conservation Easement (KE CE) and ask that you vote NO on the proposed termination of the KE CE. My wife, our children, and I have lived in Longmont for 15 years.

During my experience over the past year with some Boulder County employees, some City of Longmont employees, and the Boulder County Planning Commission, I have discovered that the word “conservation,” along with the traditional definition of “preservation,” “protection,” and “forever,” has been redefined as a means to profit, densification, and urbanization.

However, recent (and past) inquiries to Boulder County employees and City of Longmont employees as to whether a property/land under a conservation can have homes built on it or be developed has also predominately resulted in the response of: No, property/land under a conservation easement cannot have homes built on it, nor can it be developed.

FYI, the KE CE is also home to many species of wildlife. There are recent pictures of large animals with full racks of antlers, hawks hunting/mating/nesting, plus sightings of owls and other important wildlife.

To my and many other citizens dismay, we have witnessed attempts to confuse the real issue (the protection of a 40-year-old conservation easement that states “to accomplish the purpose of preserving agricultural land”) with a different and unrelated housing situation in order to profit from an agenda to questionably terminate the KE CE.

I trust that you have reviewed the plethora of documents already submitted to the Boulder County Planning Commission substantiating not only a resounding opposition by residents of more than twenty surrounding neighborhoods, but, also the significant laws, regulations, statutes, plans, and Boulder County Comprehensive Plan that the citizens have cited that terminating the KE CE appears to be in direct conflict with.

In order **to reclarify that “conservation” in Boulder County means “conserve, protect, and preserve”** (versus densification and urbanization), I ask that you vote NO on the proposed termination the KE CE (BCCP: Significant Land of National Importance, BCCP: View Protection Corridor) to prevent annexation for urbanization by the City of Longmont and *to restore trust in Boulder County’s decisionmakers – the Boulder County Board of County Commissioners.*

Thank you for your time,

Joe Stasiak

1911 Clover Creek Drive

Longmont, CO 80503

Exhibit H

From: [Kelly LoGiudice](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates Agricultural Easement Termination
Date: Thursday, June 22, 2023 7:56:49 AM

Dear Hannah L. Hippely, AICP,

I am writing in support of the termination of the agricultural easement which is critical for the property to become annexed into Longmont and transformed into Somerset Village. It is important that we keep Longmont a diverse community where people of all income levels can thrive and the intent of the Somerset Village plan is to deliver a sustainable neighborhood in alignment with Envision Longmont; with workforce and family housing targeted at 100% attainable (80-120%AMI) including a segment of affordable homes collaborating with Habitat for Humanity. An early childhood education center; community center and energy conserving design are also elements of the plan. All of those things are important to keeping affordable housing available in our community. I will work to hold the developers to their commitments to affordable and attainable housing throughout this process.

Thank you for your time

Kelly LoGiudice
1212 Trout Creek Circle
Longmont, CO 80504
Cell: 484-844-7973
Kellyspirit@gmail.com

Exhibit H

From: [Lawrence MacDonnell](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Conservation Easement
Date: Thursday, June 22, 2023 3:07:22 PM

As a general matter, conservation easements are perpetual. CEs provide an excellent way to allow an existing use such as agriculture to continue while ensuring that the land is never transformed into residential or other development. I was surprised to learn that this CE seems to have contemplated being expunged at some point when there were development demands for the land. It's disappointing that the county accepted the easement just so long as it wasn't wanted for development. There will always be demands to put open spaces to other uses. Why did the county accept this land as open space if it didn't intend to keep it protected?

Larry MacDonnell

Sent from my iPad

Exhibit H



ELEVATING BUSINESS. EMPOWERING COMMUNITY.

June 23, 2023

Hannah Hippley, AICP, Long Range Planning Division Manager
Boulder County Community Planning & Permitting
2045 13th Street
Boulder, CO 80302

Dear Hannah,

The Longmont Economic Development Partnership (LEDP) is writing to share our support for the termination of the agricultural easement on the Kanemoto Estates property. As you know, this property is within the Longmont Planning Area (LPA) and releasing the easement for this property is consistent with the Boulder County Comprehensive Plan's philosophy that growth should be directed to municipalities. Terminating the easement is an important initial step to help achieve mutually beneficial community goals in the areas of sustainability, housing, economics, and growth management.

The City and the County have long recognized the benefits of well-managed growth within municipal service areas. Since this project is within the LPA, urban services, as well as adequate facilities and services, can be efficiently provided. This 38-acre property represents an exciting opportunity to develop a sustainable neighborhood that achieves shared goals of the Longmont Economic Development Partnership (LEDP), the City of Longmont, and Boulder County.

The Longmont EDP champions an economic development strategy (Advance Longmont 2.0) centered around growth, prosperity, and inclusion; we work to support innovative projects and initiatives that build a resilient local economy and support our community needs. One significant community need is attainable housing. We understand that the project being contemplated would contribute much needed workforce housing, in addition to other community supported uses. While we understand the property still needs to be annexed and would still need to go through the development process, the termination of the easement is a critical first step in the process and we hope the County takes this important step. Please reach out if you have any questions.

Sincerely,

A handwritten signature in black ink that reads 'Erin Fosdick'.

Erin Fosdick
CEO & President

CC: Jack Bestall, Cameron Grant

Exhibit H

From: [Mary Hill](#)
To: [Hippely, Hannah](#); [Mary Hill](#)
Subject: [EXTERNAL] Somerset Village -- Support
Date: Wednesday, June 21, 2023 2:26:36 PM

Dear Ms. Hippeley, Long Range Planning Division Manager, Boulder County Community Planning and Permitting

I am writing to express my support for the Somerset Village is to deliver a sustainable neighborhood in alignment with Envision Longmont; with workforce and family housing targeted at 100% attainable (80-120%AMI) including a segment of affordable homes collaborating with Habitat for Humanity. An early childhood education center; community center and energy conserving design are also elements of the plan.

With best regards

Mary C Hill
1445 N Franklin Ave
Louisville CO 80027
mchill@hillsmith.com

Exhibit H

From: [Norm Gee](#)
To: [Boulder County Board of Commissioners](#); [LU Land Use Planner](#)
Subject: [EXTERNAL] Opposed to Kanemoto Termination
Date: Thursday, June 29, 2023 8:24:13 AM

Dear Boulder County Commissioners, June 30, 2023

I am **opposed** to the termination of the Kanemoto Estates Conservation Easement (CE) on the following grounds.

As per the 2007 amendment to the Colorado Planning Act 30-28-106. A majority of the BCCP, the master plan, is now binding statute after it's inclusion into the Subdivision, Zoning, PUD, regulations of the BCLUC. Compromising these sections is a violation of Law.

The first paragraph of the Boulder County Land Use Code:
1-300 States, "The code shall be in accordance with and shall serve to implement the goals and policies of the BCCP." There are 152 references to the BCCP in the BCLUC. The overwhelming emphasis throughout the BCCP is for Conservation and Preservation of Agricultural lands in Boulder County by limiting urban growth to compact Community Service Areas.

6-800 NUPUD/CEs are granted in perpetuity and must comply with the Current BCCP and BCLUC.

6-700 The TDR/IGA expired in 2016. TDRs are now non-enforceable. However, if the TDR/IGA were reactivated:
TDRs are forbidden on Nationally Significant Agricultural Lands. i.e. the Kanemoto property.
Maximum allowed units in a TDR is limited to 200. Not the 426 units projected by Bestal collaborative.
Subdivided lots before August 17, 1994 as not allowed in TDR receiving sites.
Proving that the placement of the protected 1982 NUPUD/CE Kanemoto property into the Longmont CSA in 1997 was a gross legal error.

6-100 Development Plans and PUDs must conform to the BCCP. "To accomplish the preservation of those lands identified within the BCCP as agricultural lands of National, Statewide and Local importance..."

6-400 "The mechanism to preserve these resources is a Conservation Easement..... which may not be developed."

6-700 In addition the last southern mile of Airport road is a BCCP View Protection Corridor protected by the BCLUC. Boulder County has allowed the northern half of this VPC to be corrupted with numerous housing developments. The BCLUC forbids TDR receiving sites in VPCs. "TDRs shall not be located on Nationally Significant Agricultural Landsor **corridors** as identified in the BCCP" The Kanemoto property is located on both NSAL and within the Airport Road VPC.

Exhibit H

Although the legal grounds to prevent the Kanemoto CE termination are overwhelming, the Boulder County Planning Commission ignored every single legal position without comment and voted to terminate the CE. Boulder County has a history of selling off the Landed Treasures of Colorado by ignoring their fiduciary responsibility to preserve and protect, gaining multi-million dollar payments in return,

The following items further define and support the previous sections of Law from the BCLUC.

1) The Kanemoto CE contract only allows termination under conformance with the Current Boulder County Comprehensive Plan (BCCP) and Boulder County Land Use Code (BCLUC). The numerous sections of the BCCP included in the BCLUC are Statutory Law in Boulder County. The Kanemoto CE was established in 1982 utilizing the NUPUD/CE designation (pg Ag-2) which under the BCCP requires Boulder County to Conserve and Preserve (pgs CG-3, AG-4, GE-10, OS-1) the CE indefinitely (pg AG 1.13). After an exhaustive review of the BCCP there are over 35 references requiring Boulder County administrators to preserve agricultural properties especially those protected by the NUPUD/CE designation (pg PPA-2, 2.03, 2.04). You are all familiar with the BCCP and BCLUC Law. There is no need to list the 35 plus references here.

2) The transfer of the 1982 CE into the Longmont CSA/LPA in 1997 was a Legal Violation of the previously established NUPUD/CE. The Kanemoto Conservation easement is protected under the preexisting conditions of the BCCP. These legal protections have not changed since 1978 (pg IN-1) and in fact have been reinforced several times since 1978.

3) Contrary to the Jan 3, 2023 statement by Mr. Sheehan of POS there is no reference in Provision A of the Kanemoto contract allowing for termination by MERGER. In fact the Colorado Legislature in 2019 forbids Merger of CEs when a tax consideration has been employed. **HB19-1264, C.R.S. 38-30.5-107**. The BCCP encourages the issuance of a Tax benefit as a method of securing CEs. (pg OS-7) By legal convention a court will likely assume a tax benefit was received *unless proven otherwise*. The Boulder County Commissioners will need to demand a tax document from the original owner, Colorado Dept of Revenue or IRS to prove no tax benefit was gained in the original CE transaction. Otherwise termination by Merger is forbidden.

4) The IGA TDR expired in 2016. Using the Kanemoto property as a TDR receiving site is non-enforceable. Failure to renew the TDR for 7years is either negligence or proof that Boulder County had no intention of continuing the TDR process. Which is it?

5) The Kanemoto Property is designated by BOTH Boulder County (Docket DC-18-002) and the USDA as Prime Farm Land (BCCP Map 31) which places it in the category of Nationally Significant Agricultural Land. The BCCP disallows the placement of Nationally Significant Agricultural Lands into TDR receiving sites. (PPA

Exhibit H

3.04) The BCCP also requires Boulder County administrators to conform to State and National programs preserving agricultural properties. (pg AG-5, AG 1.07)

6) Paragraph 3 of the Kanemoto CE contract requires that both Provision A **AND** Provision B must apply. There is no severability clause, so both Provision A **AND** B are required to manipulate any change in the contract. Provision B of the Kanemoto Contract does not provide for any termination of the Conservation Easement. It only allows for a *Transfer* of the Conservation Easement. Conservation Easements can only be *Transferred* to entities authorized by the State of Colorado Department of Conservation as having a recognized Conservation mission. Since the CE can only be *Transferred* to a qualified entity, the use of the term Terminate in paragraph 3 is understood to only apply when the CE is *impossible* to maintain. This is explained in the IRS code 170(h), the Boulder County POS CE Program Policies and Practices, Restatement (Third) of Trusts (2003), Uniform Law Commission, Uniform Trust Code, Restatement (Third) of Property Servitude. (2000). In these references Judicial review and Cy Pres doctrine are required. If any ambiguity is perceived with interpretation of the *terminate vs transfer* contract language, Colorado Contract Law requires the only resolution is by a Jury Trial. It can not be interpreted or clarified by a judge or other governmental administrative body.

7) The POS Policies and Practices has evolved to support the BCCP. There are 33 reference to CE perpetuity in the POS document which also requires Judicial Review concerning any form of CE Termination to prevent conflict with State and National law or: pg 6 #5. *Jeopardize Boulder County's 'qualified holder' status under State of Colorado and IRS regulations or undermine the public's confidence in the County as a holder of **perpetual** conservation easements;*

8) The BCCP has also designated the one mile strip of Airport Rd from Rt 119 north to Pike Road as a *View Protection Corridor*. (Map 33) It is apparent that Boulder County has thoroughly Corrupted the northern 1/2 mile of this VPC. The views have been permanently obstructed by multiple housing developments. This is an undisputed violation of the approximately 15 BCCP provisions requiring the preservation of scenic views along this corridor. (pgs TR-6 TR 8.03, ER-5 ER 1.04 etc.) In addition to this Kanemoto proposal for a high density development with multiple story buildings, Boulder County has continued violating the VPC with the recent approval of the Westview Acres subdivision.

9) The BCCP applies a geologic building constraint (pg GE 2, Map 15) to the Kanemoto property due to *High Soil and Bedrock Swell Potential*. Building approval **requires** evaluation by a professionally registered geologist. (pg NH 2.01.04). Has Boulder County received a report detailing the building constraints required for this property. Is this land suitable for safe housing construction? If no clearance has been received approval to build on this property is forbidden.

10) We are all aware of the absolute devastation caused by the recent Marshal Fire. Rather than continue with a focus on high density development, would it not be wise to reconsider the housing setback requirements? The housing in Colorado is much too congested.

Exhibit H

11) Continuing research through the Boulder County Clerk's office has revealed a very significant number of missing Boulder County CEs over the last few decades. Due to the issues mentioned above there will be retroactive research to determine if this great number of terminated CEs were properly managed or if their termination was motivated purely to create a multimillion dollar tax base and to feed multimillion dollar funds into Boulder County POS. The residents of Boulder County are questioning whether this may be a legal Breach of Trust concerning the fiduciary responsibility of Boulder County to protect and preserve the Landed Treasures of Boulder County.

Thank You,
Norman C. Gee
1908 Redtop Ct.
Longmont, CO. 80503

Exhibit H

From: [Pamela Hora](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Letter of support for Kanemoto Estates Agricultural Easement Termination
Date: Thursday, June 22, 2023 10:32:24 PM

Dear Hannah,

As a resident of Longmont and Boulder County, I am writing to voice my support of the termination of the Kanemoto Agricultural Easement to allow the property to be annexed into Longmont and develop as Somerset Village, consistent with Longmont's Envision Longmont Plan. The lack of affordable and attainable housing in our County is a serious problem and it is important for the County to do their part to help solve the problem. Housing, developed at a density that will allow it to be affordable or at least attainable, does not belong in the unincorporated areas of the County. Therefore, it is important for the County to work cooperatively and collaboratively with the incorporated communities toward solving the problem. Terminating the agricultural easement on the Kanemoto Estates property so that the land can be annexed into Longmont and developed as a well-planned community with affordable and attainable housing would both help address the lack of affordable/attainable housing problem and be consistent with the Housing Element of the Boulder County Comprehensive Plan.

Thank you,
Pamela Franch Hora, AICP
2220 Frontier Street
Longmont, CO 80501

Exhibit H

From: [Rebecca Shannon](#)
To: [Hippely, Hannah](#)
Cc: [David Emerson](#)
Subject: [EXTERNAL] Kanemoto Estates Agricultural Easement Termination
Date: Thursday, June 22, 2023 4:37:50 PM

Hello,

My name is Rebecca Shannon. I reside at 5591 Bowron Pl in Gunbarrel and commute to downtown Longmont during the week. For those of us living and working in Boulder County, there is much to love about our home and many concerns about preserving what we love about it. I appreciate that your final decision will please some while disappointing others.

When I moved to Boulder as a single woman in 2007, I was able to purchase a condo (my first home) for less than \$200,000. There are no similar options today—home prices have essentially doubled putting home ownership out of reach for most “regular folks.”

Longmont and Boulder County need more workforce housing, we all know this. We need a range of housing options close to where people already work. I have worked for 7 years to preserve and expand access to affordable homeownership along with my colleagues at St. Vrain Habitat for Humanity. What we know is that the individuals and families who partner with St Vrain Habitat are already living or working here in Boulder County; they are the bus drivers who carry kids to & from school, they are the staff at nearby supermarkets, they are the health care providers we rely on. Without access to affordable housing close to their workplace, people are forced to commute from farther away, or double-up in overcrowded living situations. There is ample research showing that affordable homeownership has positive impacts such as improvements in mental and physical health, children’s education, increased civic engagement and employment stability. As a community, we’re all better off when our neighbors are thriving, not merely surviving. The proposed Somerset Village will bring relief not just to the families and individuals who would live there, closer to where they work, but it could also relieve some of the traffic we all complain about.

You are being asked to decide whether to preserve or terminate an agricultural easement. As I understand it, the proposed termination conforms with the Boulder County Comprehensive Plan. Somerset Village also fits Longmont’s goals with 100% attainable housing; built-in energy efficiency reducing its carbon footprint and expanded early childhood education and care. In addition, the developers will contribute \$2.3M to Boulder County Parks & Open Space to acquire additional open space in the County.

In my opinion, this piece of land seems a logical place to add well-designed affordable housing, central to where workers are needed and where there is sufficient capacity and options for transportation. The regional housing plan has a 12% goal for affordable housing with 1/3 of those units being available for sale (not rent). The Somerset Village development provides an excellent opportunity to advance both of those public mandates. I encourage you to approve the vacation of this easement, clearing a path for increased affordable homeownership within Longmont and Boulder County.

Thank you.

--

Rebecca Shannon
5591 Bowron Pl, Longmont CO 80503

Exhibit H

From: [Sarah Larrabee](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Whoever heard of EXTINGUISHING AN EASEMENT?
Date: Monday, June 26, 2023 11:52:27 PM

I am 75 years old and was planning to create a land trust. Why would I do something like that if I thought it could be ignored in future generations?

The only thing you are extinguishing is
common sense
the common good
trust in representative government
representative government itself- meaning your jobs
the ethics of legacy- leaving things better than you found them for those who follow
truth- keeping your word
respect for plants and animals who depend on this land for sustenance
life

Our planet is experiencing death by a thousand cuts-
It's up to us to stop the cutting and begin the healing.

Please do not "extinguish" the easement- or any of the other aforementioned assets to life!

Sarah B. Larrabee, Realtor
*Creating healthy, vibrant communities
through home ownership, land stewardship
and regenerative agriculture*
303-579-2515

Exhibit H

From: [Steve Emmett-Mattox](#)
To: [Commissioner Levy](#); [Commissioner Loachamin](#); [Commissioner Stolzmann](#)
Cc: [LU Land Use Planner](#)
Subject: [EXTERNAL] Comments on the Kanemoto Estates Conservation Easement Termination
Date: Tuesday, June 20, 2023 4:09:18 PM
Importance: High

Dear Commissioners,

I am writing to express my opposition to and provide some comments on the proposed termination of the Kanemoto Estates Conservation Easement. I am a Boulder County resident currently residing in Longmont (2 years) and I previously lived in Niwot (15 years).

I am opposed to the termination for several reasons:

1. The County holds conservation easements for conservation purposes. Allowing the termination of this easement for a (another) new development in Boulder County / Longmont is completely counter to this purpose. Land that has been conserved has innate, inherent value. I value all of our conserved areas, and the species and ecosystems they support, merely because they exist. The existence of open space and protected areas in Boulder County and Longmont improves the lives of the residents immeasurably. Any loss of the remaining open space in our community is significant and will be deeply felt. I live near a large open space area now, and daily I enjoy the wonderful quality of life that open space provides the residents of this County. I want to be able to rely on the County to maintain its existing conservation easements as conservation easements, and not give in to pressures to develop, no matter what.
2. A conservation easement should never be terminated, but if it is, only in unusual, urgent and substantially persuasive circumstances. This is not one of those instances. There is no urgent need for more development.
3. Terminating the easement for a price, allowing it to be bought out, sets (or continues?) a dangerous precedent. With housing values so expensive already in Boulder County and the Front Range, developers will be willing to pay more and more to develop the remaining precious open space. Don't let this happen. Moreover, the County needs to sufficiently budget for maintaining its existing open space and pursuing future priority opportunities. It should not rely on developer buy-outs in order to achieve this. Since I have lived here, I have voted in favor of every open space tax at every government level. I don't expect, nor want, my tax dollars to be supplemented by the sale of open space properties.
4. The developer who wants to develop the Kanemoto property uses words like "diversify" and "affordable housing" but nowhere makes any commitment to ensure either a diverse community or affordable housing. These are words merely being used to persuade and are meaningless unless tied to specific, strong, and enforceable commitments.
5. Developing this land will significantly increase the City's and County's greenhouse gas emissions. Converting a natural area to concrete and new housing will increase vehicle emissions, pave over a landscape that already sequesters and stores atmospheric carbon (and could probably be restored to sequester even more carbon), and pollute our air (already among the worst) through construction over several years. The impacts of this development will be significant and permanent. A commitment to climate neutrality is not consistent with terminating this easement and allowing development of the land. We must preserve all of our remaining open spaces and restore them to healthy ecosystems.

Exhibit H

For these reasons I urge you to deny the request to terminate the Kanemoto Conservation Easement and take a stand against the continued development of our remaining green spaces. I want my elected officials to be staunch protectors of open space and strong climate champions. And I easily imagine that my fellow County residents feel the same way. For too long, development has always found a way to get a green light. When will it end? The climate emergency is real, and it is an emergency. Every action and decision we take that allows increases in emissions exacerbates the problem at a time when we need to find ways to substantially reduce emissions. Every ton of CO2 matters. Every inch of open space matters.

I appreciate all that you do on behalf of the County and its residents, and I would be glad to sit down and discuss this further with you. In other words, how can I support you to make the decision to deny the termination request?

Thank you for your consideration,

Sincerely,
Stephen Emmett-Mattox
5833 Grandville Ave, Longmont, CO 80503
720-300-3139

Exhibit H

From: [Steve Pomerance](#)
To: [Boulder County Board of Commissioners](#)
Cc: [LU Land Use Planner](#)
Subject: [EXTERNAL] abandoning Kanemoto Estates conservation easement
Date: Wednesday, June 21, 2023 10:38:25 AM

To the Commissioners:

This email is regarding the sale of the Kanemoto Estates conservation easement for \$2.3 million.

I think that this is inappropriate for 2 reasons:

- 1) The people who live in the nearby area have come to count on the County preserving the land that it acquires for conservation purposes. Selling it off destroys that expectation, and creates a high level of uncertainty and fear. So it will not only affects these folks, but also all the thousands of others who count on the County to preserve what it has said it intends to keep from development when the County bought such easements.
- 2) Cutting a deal for a sizable chunk of money like this makes it look like the County is in the real estate business, and that if a developer offers enough, anything is for sale. That does not look good, whether it is true or not. And it will potentially lead to a push to solve budgetary issues by just selling off even more land. Not something that you want to start, IMO.

Regards,
Steve Pomerance

Exhibit H

June 22, 2023

To the Boulder County Board of County Commissioners,

I strongly oppose the Kanemoto Estates Conservation Easement. Longmont is becoming a sprawl of housing developments and I think keeping the easement intact and not building is the right choice. Boulder has a green belt around it to keep the integrity and character of that town. I think Longmont needs to do the same. Please help us keep some nature and more safety and less congestion in our town by opposing the development and keeping the easement.

Please feel free to contact me with any further questions.

Kind regards,

Susan Roth

3421 Bluestem Ave, Longmont, CO 80503

303-638-8236

Exhibit H

From: tom2001d@gmail.com
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates Agricultural Easement Termination
Date: Wednesday, June 21, 2023 4:11:25 PM

I am in support of the Kanemoto Estates Agricultural Easement termination. Longmont needs additional attainable and affordable housing. Boulder county can purchase a different easement with the \$2.3 million from the developer. The immediate need is housing and not open space. Longmont will be a better community if it has people that live in the city that they work in.

Tom DeBie
Sent from my iPhone

Exhibit H

From: [Hunter Daboll](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates Agricultural Easement Termination
Date: Wednesday, June 28, 2023 2:05:25 PM

Hello Ms Hippely,

I'm writing to you to express my support for the annexation of Kanemoto Estates to create Somerset Village. It is my opinion that Longmont clearly needs an increase in attainable housing - a need which this development would contribute towards addressing. I myself would be interested in considering the purchase of a development in this village if the project progresses on schedule.

Many thanks for your work,
W. Hunter Daboll
Longmont Resident



Exhibit H

May 25, 2023

Boulder County Commissioners
1325 Pearl Street
Boulder, CO 80302

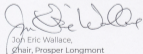
Dear County Commissioners,

Prosper Longmont is writing to you to voice our support for the release of the agricultural easement on the Kanemoto Estates property. This property is within the Longmont Planning Area (LPA) and was previously designated as a receiving site, through the County's Transfer of Development Rights (TDR) program. This 38-acre property represents a rare opportunity to develop a sustainable neighborhood that achieves mutual goals of the City of Longmont and Boulder County, including well-managed growth within municipal service areas.

Prosper Longmont is a coalition of private, public, non-profit, and education sector leaders advocating for a Longmont that thrives and whose residents and workers prosper through a balanced approach to the creation of attainable housing that ensures the needs of our current generation are met without compromising our future. We believe the release of this easement, as well as the subsequent annexation and development of this sustainable neighborhood will support our coalition's objective to create housing that is equitable and attainable for all of Longmont's residents and workers. The Somerset Village plan targets 100% middle-tier dwellings (80-120% AMI), which directly supports the City's housing goals and the community's needs.

Prosper Longmont supports the release of the agricultural easement and the subsequent annexation of this property to the City of Longmont, which would facilitate the development of Somerset Village. This project represents a significant opportunity for Longmont and Boulder County to achieve a shared vision of responsible growth and sustainable development.

Sincerely,



Jon Eric Wallace,
Chair, Prosper Longmont

H32

Exhibit H

From: [Churchill, Jennifer](#)
To: [Hippely, Hannah](#)
Subject: FW: [EXTERNAL] Contact County Commissioners [#3075] - [Name: Williams, Maribel] Re: Kanemoto estates conservation easement
Date: Thursday, March 23, 2023 8:18:17 AM

FYI

From: Boulder County Board of Commissioners <no-reply@wufoo.com>
Sent: Wednesday, March 22, 2023 5:29 PM
To: Boulder County Board of Commissioners <commissioners@bouldercounty.org>
Subject: [EXTERNAL] Contact County Commissioners [#3075] - [Name: Williams, Maribel] Re: Kanemoto estates conservation easement

Name *	Maribel Williams
Email *	mhwrphbuddy@yahoo.com
Address or General Area (optional)	<input type="checkbox"/> 3885 Birchwood Dr Boulder, CO 80304 United States
Phone Number (optional)	(303) 442-7528
Subject *	Kanemoto estates conservation easement
Comments, Question or Feedback *	Please vote to continue the conservation easement for the Kanemoto property in Longmont. I personally have had land placed in conservancy and EXPECT it to remain So defined FOREVER!!!!!!!
Please check box below *	<ul style="list-style-type: none">I acknowledge receipt of the Open Records Notification

Exhibit H

From: [Churchill, Jennifer](#)
To: [Hippely, Hannah](#)
Subject: FW: [EXTERNAL] Contact County Commissioners [#3071] - [Name: Murphy, Jana] Re: Kanemoto Estates
Date: Wednesday, March 22, 2023 2:18:00 PM

FYI...

From: Boulder County Board of Commissioners <no-reply@wufoo.com>
Sent: Wednesday, March 22, 2023 10:11 AM
To: Boulder County Board of Commissioners <commissioners@bouldercounty.org>
Subject: [EXTERNAL] Contact County Commissioners [#3071] - [Name: Murphy, Jana] Re: Kanemoto Estates

Name *	Jana Murphy
Email *	jana.murphy@colorado.edu
Address or General Area (optional)	<input type="checkbox"/> North Boulder Boulder
Subject *	Kanemoto Estates
Comments, Question or Feedback *	I do not approve of the idea of vacating the Kanemoto Estates conservation easement for the purpose of building housing. I value the open space between Boulder and Longmont and do not wish to have the corridor infilled with housing and buildings. I think a conservation easement should be permanent. Once open spaces are built upon, they will never revert to their natural state. Please reject the proposal to build on this conservation easement.
Please check box below *	<input type="checkbox"/> I acknowledge receipt of the Open Records Notification

Exhibit H

From: [Churchill, Jennifer](#)
To: [Hippely, Hannah](#)
Subject: FW: [EXTERNAL] Contact County Commissioners [#3074] - [Name: Lowell, Greg] Re: Extinguishment of conservation easement
Date: Wednesday, March 22, 2023 2:15:56 PM

FYI...

From: Boulder County Board of Commissioners <no-reply@wufoo.com>
Sent: Wednesday, March 22, 2023 12:25 PM
To: Boulder County Board of Commissioners <commissioners@bouldercounty.org>
Subject: [EXTERNAL] Contact County Commissioners [#3074] - [Name: Lowell, Greg] Re: Extinguishment of conservation easement

Name *	Greg Lowell
Email *	lowellgregory@gmail.com
Address or General Area (optional)	<input type="checkbox"/> 411 raymond court Lyons, CO 80540 United States
Phone Number (optional)	(603) 707-7629
Subject *	Extinguishment of conservation easement

Comments, Question or Feedback *

It is with some alarm that I read of plans to extinguish the agricultural conservation easement on the along Airport Road near the Diagonal Highway to facilitate a densely-packed, 400-unit residential development called "Somerset Village." I was involved in purchasing and negotiating conservation easements back in New Hampshire. My paramount concern was to always ensure that not only did the seller received fair value, but that I upheld the trust of the tax-paying public who had entrusted me with their funds to negotiate conservation easements that would uphold the values of land conservation and open space they believed in. To extinguish this easement is not only wrong, but also betrays the trust of your Boulder County constituents, who regularly support the County's efforts to preserve important lands through their taxes. Please do not approve this easement extinguishment and take the very real risk of losing taxpayer support for future easement purchases. Thank you.

Please check box below *

- I acknowledge receipt of the Open Records Notification

Exhibit H

From: [Churchill, Jennifer](#)
To: [Hippely, Hannah](#)
Subject: FW: [EXTERNAL] Contact County Commissioners [#3076] - [Name: MARVEL, DON] Re: Termination of the Kanemoto Estates Conservation Esasement
Date: Thursday, March 23, 2023 2:09:15 PM

FYI...

From: Boulder County Board of Commissioners <no-reply@wufoo.com>
Sent: Thursday, March 23, 2023 1:59 PM
To: Boulder County Board of Commissioners <commissioners@bouldercounty.org>
Subject: [EXTERNAL] Contact County Commissioners [#3076] - [Name: MARVEL, DON] Re: Termination of the Kanemoto Estates Conservation Esasement

Name *	DON MARVEL
Email *	dmarvel1379@gmail.com
Address or General Area (optional)	<input type="checkbox"/> 2666 Elmhurst Circle LONGMONT, Colorado 80503 United States
Phone Number (optional)	(505) 228-5942
Subject *	Termination of the Kanemoto Estates Conservation Esasement
Comments, Question or Feedback *	I oppose this termination that the commissioners are considering !
Please check box below *	<ul style="list-style-type: none">I acknowledge receipt of the Open Records Notification

Exhibit H

From: [Churchill, Jennifer](#)
To: [Hippely, Hannah](#)
Subject: FW: [EXTERNAL] Contact County Commissioners [#3070] - [Name: Hau, Barbara] Re: Termination of the Kanemoto Estates' conservation easement
Date: Wednesday, March 22, 2023 2:08:04 PM

FYI...

From: Boulder County Board of Commissioners <no-reply@wufoo.com>
Sent: Wednesday, March 22, 2023 8:42 AM
To: Boulder County Board of Commissioners <commissioners@bouldercounty.org>
Subject: [EXTERNAL] Contact County Commissioners [#3070] - [Name: Hau, Barbara] Re: Termination of the Kanemoto Estates' conservation easement

Name *	Barbara Hau
Email *	bhau1379@gmail.com
Address or General Area (optional)	<input type="checkbox"/> 2666 Elmhurst Circle Longmont , CO 80503 United States
Phone Number (optional)	(303) 772-1863
Subject *	Termination of the Kanemoto Estates' conservation easement

Comments, Question or Feedback *

I oppose the Termination of the Kanemoto Estates' conservation easement which was established decades ago in order to facilitate a densely-packed, 400-unit residential development called "Somerset Village. This significant agricultural land buffer adjacent to the City of Longmont should NEVER be traded for compensation to be paid by the developer into the county's open space fund. Consider, would a similar size conservation easement termination be approved for development of 400 residential units if it were a parcel adjacent to the City of Boulder?

Please check box below *

- I acknowledge receipt of the Open Records Notification

Exhibit H

From: [Churchill, Jennifer](#)
To: [Hippely, Hannah](#)
Subject: FW: [EXTERNAL] Contact County Commissioners [#3072] - [Name: Cohen, Barbralu] Re: conservation easement
Date: Wednesday, March 22, 2023 2:17:15 PM

FYI...

From: Boulder County Board of Commissioners <no-reply@wufoo.com>
Sent: Wednesday, March 22, 2023 11:26 AM
To: Boulder County Board of Commissioners <commissioners@bouldercounty.org>
Subject: [EXTERNAL] Contact County Commissioners [#3072] - [Name: Cohen, Barbralu] Re: conservation easement

Name *	Barbralu Cohen
Email *	blu@boulder.net
Address or General Area (optional)	<input type="checkbox"/> 2455 Topaz Dr. Boulder, CO 80304 United States
Phone Number (optional)	(303) 564-2796
Subject *	conservation easement
Comments, Question or Feedback *	Please do not uphold the planning board's vote to extinguish the 40-year-old Kanemoto Estates agricultural conservation easement, near Airport Road and the Diagonal. The funding of future open space purchases should not come at the expense of historic agricultural land. Thank you!
Please check box below *	<input type="checkbox"/> I acknowledge receipt of the Open Records Notification

Exhibit H

From: [Lynn Donnelly](#)
To: [LJ Land Use Planner](#)
Cc: [Beyond Clovercreek](#)
Subject: [EXTERNAL] Kanemoto Estates Conservation Easement Termination
Date: Friday, May 26, 2023 2:37:17 PM

To Whom It May Concern:

I am strongly against the termination of the Kanemoto Estates Conservation Easement Termination for the following reasons:

- 1) Boulder County spends taxpayer money to buy open space and yet gives up property like this that it already has. How will the money (2.3 million, I believe) be spent that the county will or has already received for this easement???
- 2) Boulder County claims to want to keep farm land & open space but these actions declare otherwise.
- 3) The plans for this property with 400+ homes will greatly increase the traffic on Airport Road and the Diagonal

I fail to understand how the development of this property on Airport Road fulfills Boulder County's Conservation Easement Program Vision of "contributes significantly to maintaining the rural character of Boulder County, providing scenic open space for the public, continuing agricultural uses, protecting important historic and cultural features and protecting relatively natural habitat, such as forest land, wetlands, riparian corridors and other wildlife habitat."

I fail to understand how the development of this property on Airport Road fulfills Boulder County's Conservation Easement Program Goals of

- "Protecting natural resources, agricultural lands and scenic open spaces that meet Comp Plan goals and POS goals:
- Managing uses in designated areas to protect open space values for public benefit and
- Reducing density and development where additional development is incompatible with Comp Plan and POS goals."

For the last hearing I was told most of my questions could be answered in the 125 page document you sent me. They were not!

I would also like to know if taxpayers paid for this easement & if so how you intend to reimburse taxpayers if you cancel the easement?

If the land was donated & received tax credits how is that adjusted now if you cancel the prior easement agreement?

Why should we have any conservation easements anywhere in the county if they can be overridden at any time?

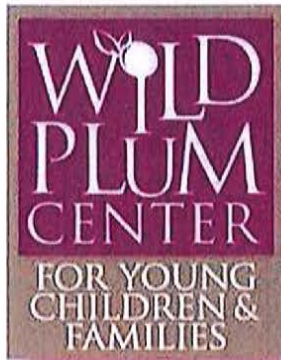
Why should taxpayers continue to buy open space when the county doesn't conserve conservation areas it already has in its possession?

A disappointed & and disenchant Boulder County taxpayer,
Lynn Donnelly



TLC Learning Center

611 Korte Parkway • Longmont CO 80501 • 303-776-7417 • www.LearningWithTLC.org



KANEMOTO ESTATE ANNEXATION LETTER OF SUPPORT

July 15, 2022

Honorable Mayor Peck and City Council:

This is written to support the application to annex the Kanemoto Estates property into the City of Longmont.

The city does not have much developable land within the city boundary; and the 38-acre property represents a rare opportunity to develop a neighborhood that achieves the community's Envision Longmont goals as proposed in the Somerset Village plan for the property.


This project gives solutions to affordable and attainable housing, as well as, much needed capacity for childcare slots for working families. Dependent on City of Longmont affordable pricing standards and application of development standards and incentives; a range of affordable and middle tier for sale and rental dwelling unit types are planned to be developed onsite. The Somerset Village Plan targets 20% for Affordable dwellings (60-80%AMI) and 40% for Middle Tier dwellings (80—120%AMI). A general store and early childhood education center are planned to include offices for service providers, with one of the existing homes used for this purpose. The addition of high-quality, affordable, and available childcare is much needed in the City, in particular for those families at and below the AMI levels mentioned above. The childcare center that is planned within this project both addresses affordable childcare slots, while having it close in proximity to where children and families live.

The Somerset Village plan is based on a 'suburban scaled' single family residential pattern - similar to the Clover Creek subdivision to the north. There are four-plexes and apartments (50) in the southern portion of the property away from Clover Creek - however, these also reflect the single-family pattern of Coal Creek. The apartments are planned as efficiency units (500sf) and are tucked over on-grade parking and will be no greater than 28' in height (similar to single family homes). This is not a beneficial site for commercial and non-residential uses limited to quasi-institutional types: a) an Early Childhood Development Center; b) a 'general store/sandwich shop'; and c) a community center.

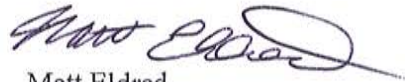
Exhibit H

For these reasons, we highly support the use of the Kanemoto Estates Property for the Somerset Village plan and look forward to working with developers of this property to serve Longmont children and families with both housing needs, as well as, high-quality childcare needs.

Sincerely,



Amy Ogilvie
Executive Director
Wild Plum Center



Matt Eldred
Executive Director
TLC Learning Center

July 27, 2022

KANEMOTO ESTATE ANNEXATION LETTER OF SUPPORT

Honorable Mayor Peck and City Council
City of Longmont
350 Kimbark St. Longmont, CO 80501

This letter serves as our written support for the application to annex the Kanemoto Estates property into the City of Longmont. This development represents an excellent opportunity to add for sale affordable and attainable housing to a section of the City that currently has little to none. We have reviewed the concept plan and find it has several strengths as follows:

- 1.) Exceeds the affordable housing requirement: Securing land and redevelopment opportunities is one of Boulder County Regional Housing Partnership's five main strategies. As developable land becomes more constrained and projects pay out of their affordable requirement through fee in lieu our ability to reach a 12% affordable goal will require projects that exceed that level. This project as proposed would provide 20% affordable and 40% attainable housing.
- 2.) Provides affordable and attainable homes that are for-sale product: The Boulder County Regional Housing Partnership also articulates a desire to include for-sale product in our affordable housing mix. It is our estimation that in Longmont we are well short of that guideline at least in terms of new construction or redevelopment. The Somerset Village proposal would add for-sale to the mix at several levels.
- 3.) Geographically located in an area lacking affordable for sale housing: While there appears to be affordable for rent housing to the north of this project this is an area of Longmont that lacks affordable for sale product and therefore would be a welcome addition to complement other product types in the area.

We also believe the proposal supports the goals and strategies outlined in Envision Longmont. While not an exhaustive list we site three areas below:

- Envision Longmont 1.2e Mix of Housing Types: This plan supports this Guiding Principle as it brings in a mix of housing (types, sizes, price points and density) and it promotes the construction of housing documented to be in short supply.
- Envision Longmont Guiding Principle 1.2f Higher Density Housing: This plan proposes Paired Homes and Fourplexes; a density that is higher than the surrounding area, but not materially so which allows for a more graduated approach.

- Envision Longmont Guiding Principal 1.2g Integration of Uses: The plan proposes complimentary uses. Specifically, an early childhood center which provides a service that is not found in that immediate area and supports the development.

We also see alignment in terms of developing new dwelling units in an area of change, increasing city share of residential near employment, creation of a vehicle-free walkable environment and providing community support facilities

For these reasons we would urge Council to support this plan and use all means including a Master Development Agreement that would capture all benefits and expectations in a way that allows the plan to move forward with confidence.

Sincerely,

David Emerson

David C Emerson
Executive Director

Exhibit H

March 3, 2023

Boulder County Planning Commission
Boulder County Courthouse
3rd Floor Hearing Room
1325 Pearl Street
Boulder, CO 80302

Delivery via email (hhippely@bouldercounty.org; planner@bouldercounty.org)

**RE: Statement of Opposition to the Termination of the Kanemoto Estates
Agricultural Conservation Easement**

Boulder County Planning Commission,

Our office represents Keep Airport Road Environmental & Safe (“KARES”), a coalition of Longmont citizens residing in the vicinity of Kanemoto Estates. KARES is gravely concerned about the proposed termination of the 1982 Kanemoto Estates agricultural conservation easement (the “CE”), which many of KARES’ members have relied on for up to forty years. Beyond preservation of the CE, KARES’ members are concerned about the negative impact this termination and subsequent development will have on their environment, neighborhood safety, and the character of the community. The Boulder County Planning Commission has the authority to protect the public interest and stand up to any particular developer or city, to assure that the past promise of agricultural conservation is kept.

Significantly, this CE contains an explicit provision prohibiting termination unless doing so would be consistent with the Boulder County Comprehensive Plan, which it most decidedly is not. In addition, extinguishment of the CE would be inconsistent with the intent of the Colorado State Legislature’s recently passed statute to preserve conservation easements across the State. Finally, extinguishment would be an ill-planned invitation to terminate all variety of conservation easements throughout Boulder County.

In short, conservation easements are generally perpetual, and this Commission has the opportunity to stand with longstanding community members against ceaseless development pressures in the County in order to preserve this forty-year old CE.

1. Terminating the Kanemoto Estates CE would violate an express term in the easement prohibiting termination unless it is consistent with Boulder County’s Comprehensive Plan.

Termination of the CE would be inconsistent with the Boulder County Comprehensive Plan (“BCCP”) and thus inconsistent with the language of the easement. Under its own terms, termination of the CE may occur only when the Boulder County Planning Commission and

Exhibit H

Boulder County Board of Commissioners have determined that the proposed and/or allowed development and/or land use resulting from such termination or transfer is *consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use Regulations...*” Kanemoto Estates NUPUD (Outlot A) CE 00494792 (1982) (emphasis added). The proposed development is inconsistent with the BCCP and thus this Commission may not terminate the CE.

To begin, the BCCP has been accepted and executed by the Boulder County Commissioners and is the law of the County, not merely a volume of suggestions. Moreover, the BCCP’s environmental stewardship and responsibility goals repeatedly highlight the value of preserving agricultural conservation easements. By way of example, the following goals discuss this BCCP value:

1. The County recognizes the goal of conserving and preserving productive agricultural land, as it is a limited resource of both environmental and economic value. Boulder County Comprehensive Plan, Goal 3 (2022).
2. It is the policy of Boulder County to promote and support the preservation of agricultural lands and activities within unincorporated areas of the county. *Id.* at Policy AG 1.01.
3. It is the policy of Boulder County to encourage the preservation and utilization of those lands identified as agricultural lands of national significance. *Id.* at Policy AG 1.02.
4. It is the policy of Boulder County to participate in national programs directed toward the preservation of agricultural land. *Id.* at Policy AG 1.03.

Termination of the CE is thus inconsistent with each of these four goals and thus inconsistent with the BCCP, an express prerequisite to termination of the CE.

Second, other local land use regulations, specifically the Land Use Code (the “Code”), requires the “[p]romotion of the...safety...of present or future inhabitants of the County through such means as lessening traffic congestion, reducing waste caused by road constructions, *fostering agricultural* and other industries, *ensuring that unincorporated lands outside of the community service areas remain rural in nature, open and rural land preservation, and environmental protection.*” Boulder County Land Use Code, 1-300(B) (2022) (emphasis added).

Preserving this open space, as opposed to extinguishing the CE for commercial development, fulfills the purpose of the Code by reducing traffic and construction, promoting environmental protection, fostering agricultural activities, and preserving open land.

Meaningfully, the land in question has a Federal designation as a Nationally Significant Agricultural Land by the United States Department of Agriculture. BCCP, Map X. This means that the land has not been highly utilized in the past, but it still remains well suited to long-term, intensive crop production because of its particularly fertile soil. *See, e.g.*, Farm Land Info, High Quality Agricultural Land (last visited Feb. 24, 2023); United States Department of Agriculture Natural Resources Conservation Service, Web Soil Survey (last visited Feb. 24, 2023). The BCCP emphasizes protecting and preserving lands precisely like Kanemoto Estates, a productive

agricultural land of national significance. Consistency with the BCCP and Code would require preservation of the CE. Critically, the BCCP, PPA 3.04, states that the “...density transfer process should not be located on Nationally Significant Agricultural Lands.” As a relevant aside, preserving agricultural land also sequesters carbon in place, a value that is becoming increasingly important in our society.

To conclude, termination of the CE would not be consistent with the BCCP’s and Code’s guidance and regulations, and is thus prohibited under the CE’s express terms.

2. Termination of the Kanemoto Estates Conservation Easement would be contrary to statewide goals for conservation easements, and Boulder County should strive to be a leader in enforcing the State’s goals for conservation easements.

Colorado has a long history of valuing its natural and cultural resources, and the State has enacted a number of laws and policies aimed at protecting them, including the Conservation Easement Act. The State’s constitution expressly includes a provision that recognizes the importance of preserving natural resources for the benefit of present and future generations. Colo. Const. Art. 27. Additionally, the State has established a number of programs aimed at protecting land and water resources, including the Colorado Open Lands Program, the Colorado Wildlife Habitat Protection Program, and the Colorado Scenic and Historic Byways Program. These programs all rely on conservation easements to protect important resources, and are predicated on the idea that such easements are permanent and binding.

The Colorado Conservation Easement Act (“CCEA”), enacted in 1976, sets forth specific requirements for the creation and enforcement of easements within the state. C.R.S. § 38-30.5-107. It requires that any modification or termination of an easement be done through judicial proceedings and in a manner that ensures the protection of the easement’s conservation values. *Id.* The 2019 amendment to the CCEA formally synced the enabling act with the IRS tax code § 170(h), which requires that conservation easements must be protected in perpetuity. This has effectively raised the standard for terminating conservation easements. *Id.* (Stating that easements can only be terminated when its conservation purposes are “impossible.”) While this statute was amended decades after the CE was executed, its passage evidences a strong indication that the State Legislature wants conservation easements preserved, not extinguished, unless its preservation is impossible.

Agricultural conservation preserved by the CE is not impossible to achieve. Maintaining and preserving open agricultural space on Airport Road will be achieved through keeping the CE in place. Documents executed at the same time the CE was executed confirm that agricultural conservation was intended in perpetuity. *See, e.g.*, Kanemoto Estates Subdivision Plat, reception no. 494790 (“...does hereby dedicate and set apart...public improvements and places as shown on the accompanying plat to the use of the public forever, and does hereby dedicate those portions of said real property which are indicated as easements on the accompanying plat as easements for the purpose shown hereon....”). The easement on the plat is succinctly described as an “Agricultural Preserve.” *Id.*

Conservation easements are intended to permanently limit certain uses of a property in order to protect its natural, cultural, or historic resources. After all, what is the point of a conservation easement that is extinguished when the forces for development turn up the pressure? Under the 2019 Amendment to the CCEA, new conservation easements require termination only after judicial proceedings. To allow the CE's termination under the development pressure of a particular locality and developer undermines the very purpose of the easement and will discourage landowners from entering into such agreements in the future.

3. Neighbors of Kanemoto Estates are vehemently opposed to exposure to the environmental, safety, and social consequences of future development on this land, so the conservation easement should be kept in place.

Known for its natural beauty, Boulder County should not sacrifice its scenic open spaces for unchecked commercial development. The clearing of vegetation, followed by the construction of a mini-City on the outskirts of Longmont with increased traffic, density, and sprawl, will of course create significant environmental impacts. Waste from construction and air pollution from vehicles will damage the environmental nature of this important section of the County. Such conservation would be particularly important after the land is annexed to Longmont to prevent its increased urban sprawl. Additionally, the construction process will result in more erosion, soil compaction, and the release of pollutants into nearby waterways like the Saint Vrain Creek. To be clear, KARES' members acknowledge that this decision is not about the type of development that will occur, but about the County keeping a forty year old promise and preventing the CE's termination where it is inconsistent with existing law, specifically the BCCP.

4. Community opposition is strongly against development.

Additionally, the community is vehemently opposed to the termination of the easement because of social and economic consequences. Agricultural land provides important benefits, including the preservation of local heritage and culture and the maintenance of open space and scenic views. Once Kanemoto Estates is lost to development, there will be a permanent loss of these benefits.

Construction can also pose significant safety risks. The neighborhoods bordering Kanemoto estates are dense with children and elderly people. The sheer scale of the proposed development will cause increased traffic congestion, noise pollution, and the release of hazardous materials. These all pose health risks to those neighbors who are more vulnerable to the effects of pollution and traffic accidents. Longmont neighborhoods and Boulder County residents west of 75th and north of Nelson Road have also expressed opposition. Colorado Highway 119 (CO 119) from Boulder to Longmont (the Diagonal Highway), just adjacent to Kanemoto Estates, has the highest number of vehicle crashes in Boulder County. (CDOT CO 119 Safety & Mobility Project, 2022).

The neighborhood residents' heartfelt concern about the loss of scenic values in the area is grounded in the BCCP and would perpetuate problematic development previously authorized on the northern half of this View Protection Corridor (VPC), including the recently approved Westview Acres subdivision. The BCCP mandates the minimization of impacts to views in

VPCs. *See* BCCP, at OS-2 (“Conserve...scenic corridors...prevent urban sprawl...”); OS-5, OS 1.02.01 (...avoid, minimize, or mitigate impacts on views from view protection corridors...”); TR-4 (“...minimize adverse scenic and environmental impacts,...”); TR-5 (“...improvements may be prohibited...that cause unacceptable impacts to the natural environment, including scenic views and rural character...”); TR-6, TR8.03 (“...Preserve View Corridors...Prevent the disruption of scenic views...”); CW-5 and ER-4 (“...Boulder County shall protect...scenic, visual...resources...”); ER-5 (“...Scenic vistas shall be preserved...”). Thus, termination of the Kanemoto Estates CE would not just conflict with residents’ wishes, but in this additional respect (visual impacts) would be inconsistent with the BCCP.

5. It is unfair to unsuspecting residents to extinguish this CE.

Extinguishment of the CE would be unfair. County residents who checked the land use records over the past 40 years or were informed about the CE before they bought property reasonably concluded that the land in question would be protected in perpetuity. Some residents telephoned the City of Longmont before purchasing their homes and were told that no homes would be built on Kanemoto Estates due to the conservation easement. After all, most people told about an agricultural conservation easement expect it to protect that land perpetually. This was a considerable factor for many residents neighboring Kanemoto Estates. To allow their investment in their largest economic asset to be degraded by extinguishing the CE would be manifestly unfair to them.

6. The CE predates any agreement for Longmont development and this area was not intended to be used as a vehicle for Longmont growth.

To begin, the Kanemoto property was issued a NUPUD (PPA 2.04) and Conservation Easement (PPA 2.03) in 1982 because it was NEVER intended to be within the Longmont Community Service Area. It lay outside the Longmont Community Service Area in an area that prohibited urban development under the BCCP.

As stated in the BCCP, it “is expected that land within municipal Community Service Areas will be developed in an urban pattern, urban services will be provided by the municipalities, and the area will eventually be annexed. **Conversely, land outside CSAs and their transition areas will remain rural; urban services will not be extended there, and zoning will *prohibit urban development* and densities. Most of the land outside the CSAs will continue to be used for agricultural activities, environmental resource protection, low-density residential development and other activities consistent with the rural character of the county.** Plains Planning Area – 2 (emphasis added). *See also* PPA 1.01 (Geographic Scope and Vision for Plains Planning Area. **Land located outside CSAs** and east of the Forestry zoning district, should be designated as the Plains Planning Area, and **should remain rural**. Urban services should not be extended into the Plains Planning Area, and **zoning should continue to prohibit urban development and densities**. Land uses within the Plains Planning Area should continue to be related to **agricultural activities**, environmental resource protection, **low density**

residential development and other activities consistent with the rural character of the county.”).¹ Accordingly, the transfer of the Kanemoto CE/NUPUD into the Longmont CSA/LPA and its designation as a TDR receiving site in 1996 was unlawful and in violation of the BCCP.

It is both unfair and inconsistent with the BCCP to permit the extinguishment of the CE in an area that was located outside the Longmont CSA and subsequently labeled as a NUPUD.

7. Conclusion.

Those living near Kanemoto Estates, the greater Southwest Longmont neighborhoods, and surrounding Boulder County residents strongly oppose the termination of the Kanemoto Estates’ agricultural conservation easement. The environmental, safety, economic, and social consequences are too great for Boulder County to undertake termination proceedings without careful historical examination and consideration. Pursuant to its own terms, termination of the conservation easement in question can occur only when consistent with all county land use regulations, including the comprehensive plan and the land use code. KARES has demonstrated that the proposed termination is broadly inconsistent with both of these. Additionally, the State legislature has been taking active steps to raise the standard for the termination of conservation easements. As a leader in the State of Colorado, Boulder County should strive to be consistent with the legislature’s goals and only terminate conservation easements when the conservation purposes are impossible to fulfill. The conservation goals of Kanemoto Estates, a Federally designated Nationally Significant Agricultural Land, are not impossible to fulfill.

Each day somebody drives by this scenic open space, they are reminded why Boulder County has codified the protection of conservation easements. Boulder County Planning Commissioners should vote NO to extinguish the Kanemoto Estates agricultural conservation easement in order

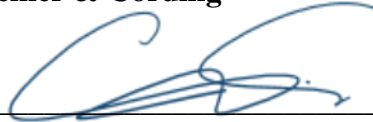
¹ By designating the CE as an after-the-fact NUPUD, the County acknowledged that the land was subject to the severe NUPUD restrictions set forth in the BCCP: “[In the]1978 Comprehensive Plan, the county adopted a non-urban planned unit development process (**NUPUD**)...offered landowners a **development density of two dwellings** per 35 acres....In return, at least **75% of the total acreage had to be deeded to the county in the form of a conservation easement which restricted activity on the easement to agriculturally related or other rural land uses**....in 1994 through the adoption of the Plains Planning Area Element....That Element refocused the county’s policies and intentions for managing unincorporated Plains lands by emphasizing that land uses “...should **continue to be related to agricultural activities...and other activities consistent with the rural character of the county.**” BCCP, AG-2 (emphasis added). This NUPUD designation prevents development under the BCCP. PPA-5 PPA-2.03 (“...Conservation Easements....should continue to be the....development control... preventing...development of lands committed for agricultural activities...”); PPA-2.04 (“...NUPUD...should only be supported...as a means of preserving and conserving large tracts of land...possessing significant....features, including...significant agricultural land...”).

Exhibit H

to adhere to the BCCP and Code, preserve the character of this critical area, promote conservation values, and act fairly to the current neighborhood residents.

Respectfully,

Weiner & Cording

A handwritten signature in blue ink, appearing to be 'AC', is written over a horizontal line.

Annmarie Cording
Randall M. Weiner

Attorneys for KARES

Exhibit H

From: [Greg Warson](#)
To: [Hippely, Hannah](#)
Cc: [Greg Warson](#)
Subject: [EXTERNAL] Bestall Collaborative - Airport Rd, Longmont
Date: Monday, February 27, 2023 3:28:44 PM

Hannah, I am writing to OPPOSE the subject proposed high-density development along Airport Road in Longmont. The Bestall Collaborative proposed development will dramatically change the ethos and landscape of this section of Boulder County. I am a local homeowner and would be very disappointed to see Boulder County proceed with this proposal.

To stay informed, would you please add me to the notice list of an Boulder County meetings regarding this proposed easement.

Greg Warson
3751 Florentine Circle
Longmont, CO 80503

Exhibit H

From: [Thomas Darwish](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Bestall Collaborative high-density development
Date: Tuesday, February 21, 2023 5:08:09 PM

Hello Hannah - I wanted to send a quick email to voice my concern. I would like for you to support retaining the Kanemoto Estates Easement and to not develop the open space property on airport road. Appreciate you taking our concerns into consideration.

Kind regards,
Thomas Darwish
Niwot, CO

Exhibit H

From: [Nick Metrowsky](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Bestall Collaborative in SW Longmont
Date: Monday, February 20, 2023 9:29:16 AM

Dear Boulder County Planners & Commissioners:

I oppose this property from being change from rural designation to high density housing. Its location would create traffic issue sat Airport and Colorado 119. The entrances to the property, will be on Airport Road, close to the Airport and CO 119 intersections. It would add at least 400 cars to the road. It could cause backs ups on CO 119, in both directions, especially from the west, as additional cars will try to make left turns on to Airport Road. CO 119 is already congested as it is, this plan will make it worse. It would also add pollution, with idling cars and trucks.

The property is zones rural and has two houses on the property. It should remain that way. It would go against the City of Longmont's and Boulder's County long term open space planning, of limiting growth and development between Longmont, Niwot and Boulder, along the CO 119 corridor.

Longmont's current government is blindly approving infill high density housing throughout the city. If the project is approved, then it will not stop development on the east side of Airport Rad, south of Pike Road a;ll the way to Hover. Destroying the entire rural feel from just wets of Airport Road eastward. It also means Longmont may want to develop south of CO 119 from Hover to Airport Road, which is all rural right now, with the exception of High density housing now being built just south of Oskar Blues.

Finally, adding 400 more homes, will then require adding more schools, and that will result in increasing taxes. I already expect my property taxes to go up 25% nest year, adding this may force them up by 33%, especially if each resident has one child that is of school age.

So, this plan is bad fro the carbon footprint, bad for traffic, bad fro taxes and bad for the rural landscape. It should not be approved by Boulder County.

Best Regards,

Nick Metrowsky

PS I live southeast of Airport and Nelson Road

--

Nick Metrowsky | <http://www.sgsosu.net>
3624 Oakwood Drive | E-Mail: njmetrowsky@gmail.com
Longmont, CO 80503-7560 | Phone: (720)340-4546

Exhibit H

From: [Theresa Merritt](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Bestall Collaborative Opposition
Date: Friday, February 24, 2023 2:47:05 PM

Dear Ms Hippely,

I would like to inform your office I oppose the extinguishing of the Kanemoto Estates Easement in Boulder County. I am a Boulder County resident as well as a resident of Longmont and I feel the Bestall Project would harm wildlife and the impair current residents ability to enjoy the wild spaces we still have left. It would also worsen traffic congestion and the overall quality of life we enjoy.

Please place me on the notice list of any Boulder County meetings regarding this conservation easement.

Thank you,
Theresa Merritt

Exhibit H

From: [Jennifer](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Bestall Collaborative proposal opposition
Date: Tuesday, February 21, 2023 9:41:57 PM

Hannah, as lifelong residents of Longmont/Niwot (since 1956 and 1965) and proponents and financial supporters of Boulder County open space and easements, we oppose the proposed Bestall collaborative high density housing in Southwest Longmont. Please protect our open space and easements, and keep us posted on the meetings regarding this property and proposal.

With sincere gratitude,
Jennifer Sleek
and Stein Klevdal

7676 Monarch Road
Longmont Co 80503

Sent from my iPhone

Exhibit H

From: [Jennifer Evans](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Conservation Easement SW Longmont
Date: Tuesday, February 21, 2023 6:30:51 PM

Hello,

I'm writing to voice my opinion against the high-density development planned for the area south of the Clover Creek neighborhood and east of Airport Road. Changing a conservation easement in order to accommodate a high-density development goes against the whole point of an easement! And seriously, the fact that three-story structures being built in that location is even being discussed is patently ridiculous!

Longmont doesn't need to develop every single open space it sees!!

Thank you.

Sincerely,
Jennifer Evans

Sent from my iPhone

Exhibit H

From: [Mercedes Hernandez](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Housing plan
Date: Wednesday, February 22, 2023 12:14:27 AM

Hello Ms. Hippely,

I am writing as a Boulder county and Longmont resident.

I am not in agreeance with the development plan in place near Airport road and the Diagonal.

Please add me to the mail list for any communication or

Meetings involving this plan.

The roads in Longmont are not set up for another one of these developments. This is poor planning and will end up causing chaos.

Sincerely

Mercy Hernandez

Please excuse any typos Sent from my iPhone

Exhibit H

From: [Michele Osentoski](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Conservation Easement
Date: Tuesday, February 21, 2023 2:18:49 PM

To Whom It May Concern,

Regarding: Kanemoto Conservation Easement off Diagonal Hwy and Airport Rd in the Southwest section of Longmont

After reading Boulder County's Park & Open Space article on What is a Conservation Easement and then hearing what is planned for the Kanemoto Conservation Easement - over 400 residences, some being 3 story condominiums, I am APPALLED that the county would even consider re-zoning this land. The land was put into a conservation easement to protect against this exact kind of development! And now the county is going to re-zone it to build a bigger tax base?! What good is a conservation easement if the county doesn't protect it as it agreed to do?! What's going to happen to all the open space voters have approved and paid for over the years? Is Boulder County going to re-zone that too?!

PLEASE do NOT re-zone the Kanemoto Conservation Easement in Longmont!

Michele Osentoski

micheleoz55@gmail.com
303-875-9400 cell

Exhibit H

From: [Kirsty Sarris](#)
To: [LU Land Use Planner](#); [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates CE Termination
Date: Friday, March 3, 2023 4:44:50 PM

To the Boulder County Commissioners,
I am emailing with my concerns about the possible termination of the Kanemoto Estates conservation easement termination.

As a resident of Boulder County for 20 years, and having lived in my current home for almost 18 years, I am observing a troubling trend in the way that Boulder County are relating to conservation easements at large. The Kanemoto Estates conservation easement was put in place to preserve the land for agricultural/rural land use. To remove the easement and allow an dense urban development demonstrates a lack of regard for the wishes of previous and current residents in the area.

Although the City of Longmont planners and Boulder County seem to think that the Kanemoto Estates location warrants high density urban development, neighboring communities are not in agreement and, to put it bluntly, it seems that the government officials have no real interest in listening to existing Longmont residents if it means they cannot pursue their agenda to urbanize Longmont.

Outside of the differing ideologies between the residents and government, there are a lot of practical reasons why the Kanemoto Estates is a poor location for urban development. The one I will highlight is the increase in traffic. Highway 119 has the highest number of vehicle crashes in Boulder County, and I personally know a young girl and her friend that survived (but with severe injuries) a horrendous car crash on highway 119. This proposed development will increase the amount of traffic on an already hazardous stretch of road. Airport Road is already suffering from large amounts of fast moving traffic, and it should be noted that our children have to cross this road on their walk to school. I am not in favor of increasing traffic, which leads to more aggressive driving, which then becomes a risk to our children.

Additionally, the proposed access points for the new development are on a hill. I am concerned about fast moving cars that have to stop at the traffic lights in the winter on a hill and I anticipate multiple accidents.

I'm not against development, I know it's part of the world we live in, but I am against disrespecting the wishes of former generations that desired to preserve spaces through conservation easements to keep Boulder County beautiful and preserve its heritage. I am against a culture of governments failing to listen to existing residents' desires in order that development agendas can be pushed through. I am against making strange urban pockets on the edge of suburban/agricultural living where there are no amenities to support those densely populated areas.

In light of these things I ask that you would keep the Kanemoto Estates conservation easement in place.

Thank you for your time,
Kirsty Sarris
1922 Clover Creek Dr.

Longmont, CO 80503

Exhibit H

From: [Seth Lytton](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Estates Conservation Easement Termination Hearing
Date: Thursday, March 2, 2023 10:41:15 PM

Hello,

I would like to state my opposition to the planned termination of the Kanemoto Estates conservation easement. I have lived in Longmont my entire life. I grew up in north Longmont and worked many years to be able to afford a home in Colorado, so I understand the desire to lower home prices. Where I disagree with the city and county is on how we should go about solving that problem.

The reason that so many people want to live in Colorado is that we have open space and easy access to nature. The reason we have those things is because of policies like conservation easements that conserve these open spaces for future generations. Endless expansion around the edges of the city at the expense of open space is not the right way to decrease home prices.

There are many reasons for increased home prices, but the one that seems to get almost no attention is the fact that investment companies are able to outbid the average homeowner with cash offers and then turn properties into permanent rentals or Airbnb's. They have no incentive to sell, ever. They can effectively remove the opportunity for home ownership for large swathes of the population. This is especially pervasive at the lower end of the market, which this development is supposedly targeting [1, 2, 3]. Building additional units doesn't solve this problem and making them smaller and more affordable just makes it cheaper for investors to buy them and turn them into rentals.

I understand that the city wants to provide people the opportunity to live in Longmont for an affordable price, but urban planners have known for years that sprawling development around the edges of a sparsely populated city center is a recipe for increased traffic and a decrease in quality of life. The focus on affordability should start with common sense restrictions on the number of properties that can be rented in the city. Once those limits are in place, the effort should go toward growing the city center and increasing density in existing neighborhoods with walkable amenities.

It would also be an option to give incentives to first time home buyers and Colorado natives who want to stay in the state. Some programs like this do exist, but they are under-funded and the income caps are so low that they exclude most people.

Finally, I think that we need to acknowledge that at some point, continued growth isn't in the best interest of the existing Longmont residents. Just because someone wants to move here, doesn't necessarily mean that they will be able to.

As I've said, I understand the frustration that surrounds the ever-increasing home prices along the Front Range, and for all of the reasons above, I think the continued expansion into open space and farm land is the wrong solution and causes more problems than it solves. It has a detrimental impact on the environment, the already severe traffic, the already full schools, and the surrounding residents. This easement was put in place for a reason, to maintain open spaces and access to nature. Please don't give up on that goal by selling the easement to a development company.

Exhibit H

Thank you for your time,

Seth Lytton

1 - <https://slate.com/business/2021/06/blackrock-invitation-houses-investment-firms-real-estate.html>

2 - <https://www.nytimes.com/2022/04/23/us/corporate-real-estate-investors-housing-market.html>

3 - https://www.nytimes.com/2023/02/24/realestate/florida-condo-deconversions-lawsuit.html?nl=todaysheadlines&emc=edit_th_20230225

Exhibit H

From: [Greg Petrosky](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Estates Conservation Easement
Date: Friday, March 3, 2023 11:48:31 AM

Hello,

I am a resident of Clover Creek and would like to express my concerns and opposition to the proposed termination of the Kanemoto Estates conservation easement.

Terminating conservation easements for the purpose of high density housing is inconsistent with the Boulder County value of maintaining visionary open space, land use, and sustainability policies. These areas increase the quality of life for current residents and provide habitat and hunting grounds for birds of prey, coyotes and foxes.

While many make the argument that Longmont is in need of additional housing, there are already over 2300 housing units under construction in the city, with an additional 1000 units approved and 2700 under review according to the city's Active Development Log. The development that will replace the Kanemoto conservation easement is inappropriately disparate from the surrounding single family homes and horse properties it will border. It will not be in close proximity to activity centers and public transit as required by the Longmont City Code.

Furthermore, Airport road cannot safely support the additional traffic and the proposed access point through Clover Creek is dangerous to residents on foot, joggers, and children at play and at the school bus stop.

Please consider the above points when deciding on how to proceed with this decision on the future of the Kanemoto Estates conservation easement. I ask that Boulder County decline the request to terminate the easement in order to maintain its allure as a place that values protected, pristine agricultural land and wildlife habitat.

Sincerely,

Greg Petrosky

Exhibit H

From: [Kit Fuller](#)
To: [Hippely, Hannah](#)
Cc: [Boulder County Board of Commissioners; opinion@timescall.com](#)
Subject: [EXTERNAL] Kanemoto Estates conservation easement
Date: Saturday, February 25, 2023 9:09:17 PM

Dear Hannah and Boulder County Commissioners and staff,

Thanks to a letter to the editor published in the Longmont Times Call (Feb 19, 2023) I have learned that a development proposal has been submitted by Bestall Collaborative for a 40 acre plot that has a conservation easement called the Kanemoto Estates easement.

Where can I find out more about this proposal?

What laws protect Boulder County open space?

Isn't open space supposed to be in perpetuity — in other words, forever?

Thank you for your attention to my questions.

IMPORTANT — Please note my strong opposition to any proposed development that would occupy Boulder County open space land.

Thank you.

Kit Fuller
2112 Creekside Drive
Longmont, CO 80504

Exhibit H

From: [Howard Marans](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates Easement
Date: Tuesday, February 21, 2023 6:25:04 PM

I would like to voice my opposition to vacating this easement and allowing the associated project development to go forward.

Howard Marans
6443 Legend Ridge Trail
Niwot
714-904-8625

Exhibit H

From: [Karon Warner](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates Easement
Date: Wednesday, February 22, 2023 9:06:48 AM

To Boulder County Planning

Hannah Hippely,

My husband and I are residents of SW Longmont. My husband is a Boulder native. We have seen so much development in the last 5 years especially. We feel very strongly that the high density housing of Bestall Collaborative on Airport and 119 in Longmont should not be allowed. We have relied on conservation easements to know the boundaries of possible growth. To know they could just be voted away is disturbing at best. The traffic is already at what seems to be peak capacity. Growth is a good thing, but please lets do it with some common sense. This proposal has way too high a population density. I hope the planning committee will not allow the Kanemoto easement to be extinguished.

Please put us on a list to be notified of any Boulder County meetings regarding the consideration of the Kanemoto Estate easement.

Thank you for considering the above opinions and hopefully agreeing with the many residents here who oppose this development,

Jim and Karon Warner

4216 Heatherhill Cir

Longmont, CO 80503

kwarner@fullnet.net

Exhibit H

From: [Bob Cutler](#)
To: [Hippely, Hannah](#)
Cc: [Bob Cutler](#)
Subject: [EXTERNAL] Kanemoto Estates Easement
Date: Wednesday, February 22, 2023 12:01:09 PM

Hello,

I understand that Kanemoto Estates Easement has a conservation easement, and that for this development to proceed the Boulder County Planning Department and then the Boulder County Commissioners must agree to that extinguishment."

I am in opposition to extinguishment and wish to be placed on the notice list of any Boulder County meetings regarding this conservation easement."

Thank you, Bob CUTler

--

Bob Cutler

1830 Lombardy Street

Longmont, Colorado 80503

303-819-7695

Exhibit H

From: [Susan Edwards](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates
Date: Wednesday, February 22, 2023 8:25:36 AM

I opposed the extinction of this zoning---I'm not calling for zero building but feel for conservation use, to keep parcels at 1 acre and not high density as proposed---we have enough high density building in Longmont and Boulder county

Have a great day
Susan Edwards
303 910 2932
636 Barbary Dr
Longmont CO 80503

Exhibit H

From: [Anastasia Way](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates
Date: Sunday, March 5, 2023 1:44:17 PM

Hi Hannah,

My name is Stacey Way and I live in southwest Longmont. I am against the conservation easement for Kanemoto Estates because of the dangers that intersection presents and the beauty the undeveloped area provides. What's the best way to voice my opinion and participate in the process to prevent this development,

Stacey Way

Get [Outlook for iOS](#)

Exhibit H

From: [Kathy English](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] No to Kanemoto Easement development
Date: Wednesday, February 22, 2023 8:35:16 AM

We must preserve our open space! Please no high density housing at diagonal highway and airport road!
Kathy English

Sent from my iPhone

Exhibit H

From: [Jennifer S](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Oppose building sw Longmont
Date: Tuesday, February 21, 2023 6:17:20 PM

I am writing to oppose yet another open space going away to make room for more housing. The wonderful thing about Longmont when I moved here w my family was its open spaces. We moved from Westminster almost 6 years ago bc everywhere poss houses, apartments ext huge tall ones at that were taking over wonderful open spaces.

Longmont seemed different!

There are so many apartments and new developments and townhouse that have already been built since we moved here, we can't take losing another wonderful open space. This one has many wildlife creatures that would lose their sanctuary. This is referring to the new proposed, high-density development in Southwest Longmont just off the Diagonal Hwy and Airport Road will bring "...over 400 residences on the 40-acre plot and includes three story condominium buildings".

Please [add.me](#) to the list of opposed.

Thanks Jennifer Sikora

Exhibit H

From: [Susan Voynow](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Opposed to development of land in SW Longmont!
Date: Wednesday, February 22, 2023 10:14:41 AM

Sent from my iPhone

Exhibit H

From: [Gina](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Opposing plans to build on open space
Date: Tuesday, February 21, 2023 2:14:43 PM

Hi! As long-time residents of Southwest Longmont, we want to go on record that we are in opposition of the current plan to build a high density residential project on what is now important open space in the area. Please also keep us in the loop of any development meetings pertinent to the space.

Thank you!

Gina and Shawn Vanderwood
4006 Arezzo Drive
Longmont, CO 80503

Sent from my iPhone

Exhibit H

From: [Doris Ogden](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Opposition on notice list for development/airport road.
Date: Monday, February 20, 2023 9:06:26 PM

I Doris Ogden, have opposition and wish to be placed on Notice List of any Boulder county meetings regarding this Conservation easement. Please keep Open space there, Open. Thank you.

Sent from my iPhone

Exhibit H

From: [Sue Skeie](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Opposition to Building in Longmont
Date: Wednesday, February 22, 2023 6:42:51 PM

Please protect the open spaces in Longmont. When is your next meeting? This needs to stop. Will it help to go to Longmont city council meetings?

Thank you for your time.

Exhibit H

From: [Patricia Sullivan](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Opposition to Kanemoto Estates Easement alteration
Date: Sunday, February 19, 2023 2:20:50 PM

I would like to go on record to oppose the extinguishment or altering of the Kanemoto Estates Easement. Although it may be tempting to submit to the business ventures of the Bestall Collaborative (note Bestall could also be read as Be stall), Longmont 's charm has always been to provide rural buffer zones around residential neighborhood, and to create a "rural ambiance" allowing residents to experience the openness of Colorado.

Please reconsider Bestall Collaborative's proposal—reign it in—and those of us who live here will benefit.

Thanks in advance,
Patricia E. Sullivan
947 Gay St
Longmont 80501

Exhibit H

From: [Rick and Karen Dauer](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Opposition to new development
Date: Wednesday, February 22, 2023 3:18:59 PM

Hello Hannah,

I wanted to express my opposition to the proposed easement change on the Kannomoto property, which is south of the Clover Creek neighborhood and located on the east side of Airport Rd. I am also in opposition to the proposed development on that 40 acre parcel due to the density. I urge the city to maintain the current zoning on this parcel.

Please advise me of any future meetings regarding this development.

Thank you,
Karen Dauer
4019 Milano Lane
Longmont CO 80503

Exhibit H

From: [Char Schmoker](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Protect/conserv Open Space
Date: Wednesday, February 22, 2023 10:34:10 AM

Hello,

I am reaching out to urge you to use whatever influence you might have to protect some open space near my home. According to a recent op/ed letter in the Times-Call, this land (east of Airport Road, north of the diagonal highway, and south of the Clover Creek subdivision in Longmont) is part of a Boulder County conservation easement (Kanemoto Estates Easement).

Once open space is developed, I cannot imagine a scenario in which it will ever be "open" again. It is already intended to be open space, so all we as a community need to do is protect this long-established intention.

My family has photographed all manner of wildlife just outside our back fence, including bobcats, deer, coyotes, and a mountain lion. They likely use the creek south of the open space as a corridor. This open space is valuable to these creatures, too.

Open space benefits anyone and everyone who enjoys its peacefulness. We are increasingly in need of a mental and spiritual break from the congestion of life. People love Colorado for its natural beauty, not for the suburban development. It's critical that we continue to protect this beauty as our population grows.

Please help protect our open space with any chance you get!

Cordially,
Char Schmoker

Exhibit H

From: [Patricia](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] S. Longmont development
Date: Friday, February 24, 2023 4:58:02 PM

Hello,

I am a Niwot resident and former resident of S. Longmont. I was disturbed to hear that there may be a major development near the Diagonal and Airport Rd. in a field that is currently one of a shrinking number of natural fields used by wildlife. I have often seen raptors in that area and assume they need places to hunt in the area near their nests. While snakes, mice and voles aren't charismatic wildlife, they are important to the raptor population of Boulder County.

There is already a good amount of open space dedicated to agricultural practices, but we also need natural grasslands to support the wild critters on the prairie.

That area of S. Longmont is already being built up with several recent projects. It is getting more and more congested. I urge you to protect that area from development and look at adding homes in the urban centers.

Thank you,
Patricia Olson
Niwot

Exhibit H

From: [Christine Santucci](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Strongly Oppose development at Airport & Diagonal
Date: Tuesday, February 21, 2023 7:33:38 PM

Please know that I strongly oppose any development on the corner of Airport & the Diagonal. This would destroy the rural charm of our Southwest Longmont neighborhood. Is there some way that the City of Longmont together with Boulder County could acquire this land for our commitment to Open Space & the quality of what it means to truly LIVE IN LONGMONT.

Christine Santucci
Chrissy.santucci@gmail.com
80503

Sent from C. Santucci I Phone

Exhibit H

From: [s_barber](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Time Sensitive: Concerns from Neighbors about the Proposed Development of the 40-acre Bestall Collaborative Property on Airport Road, Longmont
Date: Friday, February 24, 2023 1:44:01 PM

Dear Hannah Hippely,

We live at 5240 Bella Vista Drive, 80503, in Southwest Longmont. We understand that a high density development is being planned by the Bestall Collaborative for a 40-acre tract of land on the East side of Airport Road, next to the Clover Creek subdivision, a project that will include at least 400 residences, including three-story condominiums.

This proposed development is clearly and blatantly inconsistent with land use designation currently in place for this property as well as for the rest of the surrounding areas.

This 40-acre property holds the designation by Boulder County as a Conservation Easement, the “Kanemoto Estates Easement” which is in place to prevent high density projects such as this one.

We are strongly opposed to the extinguishment of this Conservation Easement for the land use designation currently in place for this rural 40-acre tract, an extinguishment which we understand is being considered by Boulder County Planning Department as well as the Boulder County Commissioners.

We strongly feel that the current Conservation Easement Land Designation Use – up to one unit per acre, typically lower -- should stay in place, thus preserving the character of this 40-acre property amidst rural neighborhoods on and surrounding Airport Road. In other words, this easement should not be extinguished. Clearly, the Bestall Collaborative development will severely impact adjacent neighborhoods, the most serious result, an increase in traffic congestion -- Airport Road is a main artery and busy conduit from the Diagonal Highway into Longmont. Moreover, this development will also tax precious water and other land resources.

Please keep us updated on all County business regarding this proposed development by placing our names and contact details on the notice list of any Boulder County meetings and hearings with respect to this property and its current conservation easement as well as the County’s consideration of extinguishment of the property’s conservation easement. We, as well as our neighbors would like to attend and stay current with such meetings and hearings. Such meetings and hearings will give us the opportunity to listen as well as to speak up and be heard by our County officials.

Thank you for your attention. Please confirm that you received this email.

Sincerely,

Exhibit H

Joseph Lee 310.980-7452

Susan Barber Lee 310.980-7438 sbarberphd@yahoo.com

Exhibit H

From: [Karen Kronauer](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] KARES - Conservation Easement
Date: Tuesday, March 7, 2023 5:04:42 PM

Hello -

I am writing on behalf of myself and several of my neighbors to express that we are very much opposed to the development of the Kanemoto Conservation Easement property.

There are several primary reasons for this:

1 - the intent of a conservation easement is just that - to conserve and preserve a piece of property in a rural, farm, or very low density status. To instead allow a high density development to take place is a dereliction of duty by the county and city to their constituents. When a conservation easement is put into place, it is meant to remain there.

2 - the Diagonal Highway is a high traffic accident corridor, the highest in Boulder County. To add hundreds or thousands of cars at Airport Road and the Diagonal is especially worrisome. Just three days ago my husband and I were traveling in the Diagonal, driving toward Longmont. A car turned off Airport Road into our lane, heading the opposite direction toward Boulder. Fortunately we, and the other cars around us, were able to quickly pull into other lanes, thus avoiding a head on collision. This is the second time in 5 months that our group of neighbors has experienced a similar situation.

3 - perhaps most importantly - the property currently under the Conservation Easement is an exceptionally beautiful piece of land. It provides view corridors for all traveling beside it. It provides land for wildlife to roam on. It increases the value of homes in Longmont because people can feel they are in a semi rural area, with open space. Developing a piece of land like this is permanent; there is no going back. What would be lost - a gorgeous property - is lost forever.

We know there is a need for housing, but this piece of land is not the place to do so.

Thank you,

Karen Kronauer and neighbors

Jefferies, Wesley

From: Brian Jeffries <b57.jeffries@gmail.com>
Sent: Friday, March 3, 2023 3:08 PM
To: LU Land Use Planner
Subject: [EXTERNAL] Termination of the Kanemoto Estates conservation easement

Categories: Wesley

March 3, 2023

Boulder County Planning Commission
planner@bouldercounty.org

Re: Commission Hearing March 15, 2023, Termination of the Kanemoto Estates Conservation Easement

Dear Members of the Boulder County Planning Commission:

I oppose the termination of the Kanemoto Estates conservation easement.

Reasons for my opposition include:

1. The easement provides an excellent zone of transition from rural Boulder County into Longmont. The erection of multistory buildings as proposed by the developer will destroy this gentle transition and reinforce an image of Longmont sprawl.
2. Eliminating the easement to support the development of over 400 dwelling units so close to the overburdened Diagonal Highway does not support an orderly fix to that congestion. A traffic study associated with the proposed project conservatively estimates an additional one thousand (1000) daily vehicle trips feeding the Diagonal. Until remedies to the congestion on the Diagonal that consider all current developments underway at the southwest edge of Longmont are completed, it is premature to facilitate such further dramatic growth in traffic on the Diagonal.
3. This parcel does not represent a site that constitutes a unique location for the development of high-density housing stock in the City of Longmont. Substantial properties exist within the current city limits of Longmont that could support the number of dwelling units proposed by the developer. With the availability of other lands within Longmont, there is no pressing need to sacrifice the rural character of this tract to development.
4. Boulder County should honor the premise of its open space program and related conservation easements. Voters have regularly agreed that Boulder County is a special place worthy of protection from sprawl. Relinquishing this easement would amount to trading conservation for condos. That would not be consistent with the protections the voters have continuously endorsed by the willingness to pay specific taxes to prevent sprawl.

Exhibit H

Brian Jeffries
4027 Milano Ln
Longmont, CO 80503

Exhibit H

From: [Ian Eddy](#)
To: [LU Land Use Planner](#); hhippley@bouldercounty.org
Cc: [Ian Eddy](#)
Subject: [EXTERNAL] Comments - Kanemoto Estates Conservation Easement Termination
Date: Tuesday, March 7, 2023 3:05:15 PM

Re: Hearing March 15, 2023

As newer residents in the southern section of the Clover Creek development we wish to object to the proposed termination of the Kanemoto Estates conservation easement.

When we moved to Colorado from a largely rural state, we were drawn to this particular area of the Clover Creek development because the adjacent land to our south was open (Kanemoto Estates) and with splendid mountain views and most comforting of all - its eastern and northern areas were protected under conservation easement and would not be developed in perpetuity. There is great value in open land, especially rural in nature and we understood that Boulder County was steadfast in its support of rural open space and has laws and legislation to that effect . Termination of this easement should not be allowed and this open, rural space should be preserved and if there is development allowed in the remaining un-conserved area, it should be of low density variety more fitting to the rural areas of Boulder County.

Sincerely,
Ian and Jenny Eddy

Ian Eddy
44icer@gmail.com

Exhibit H

From: [Joe STASIAK](#)
To: [LU Land Use Planner](#)
Cc: [Joe STASIAK](#)
Subject: [EXTERNAL] Comments - Kanemoto Estates Conservation Easement Termination
Date: Friday, March 3, 2023 5:15:40 PM

To: planner@bouldercounty.org, Community Planning & Permitting Department, Boulder County Planning Commission:

I oppose the termination of the Kanemoto Estates Conservation Easement (NUPUD) for many reasons. I will list a few:

The IGA Policy and TDR process has expired.

Terminating the Kanemoto Estates Conservation Easement is in direct conflict with many elements, goals, objectives, and policies in the Boulder County Comprehensive Plan.

The termination of the Kanemoto Estates Conservation Easement for the express purposes of annexation and development of significantly higher density than rural to include commercial properties is in direct conflict with the NUPUD (Non-Urban Planned Unit Development Process,) development density of two dwellings per 35 acres.

Any claims by the applicant (Jack Bestall and Lefthand Ranch LLC via Jack Bestall) to improving access to Primary Employment appears to be unsubstantiated hearsay and/or speculation.

There is a myriad of safety concerns that terminating the Kanemoto Estates Conservation Easement for the express purposes of annexation for high density development that have already been brought to the attention of the applicant (Jack Bestall and Lefthand Ranch LLC via Jack Bestall) and the City of Longmont. One of the safety concerns is a significant increase in traffic during the construction and after completion due to the addition of 426 residential units' vehicle traffic plus the addition of commercial properties' vehicle traffic.

One of the safety concerns: adjacent to Kanemoto Estates, Colorado Highway 119 (CO 119) from Boulder to Longmont (the Diagonal Highway) has the highest number of vehicle crashes in Boulder County. (CDOT CO 119 Safety & Mobility Project, 2022). There have been several fatalities recently, including (Times-Call) "Beloved owner of Lefty's Pizza, Craig 'Lefty' Harris, dies" in the Longmont-bound lane of the Diagonal Highway – he and his wife owned Lefty's for over 27 years. Also, (CDOT, DenverPost, etc) "(In 2022) Colorado saw highest number of traffic deaths since 1981 last year". I have participated in CDOT meetings and City of Longmont meetings regarding traffic studies - neither has factored in the cumulative effect of the hundreds (thousands considering the new developments in process or planned for the northmost mile of Boulder County CO 119) of residential units being added near to the first mile of Colorado Highway 119 (CO 119) and associated intersections.

I recognize that the Envision Longmont Plan intends to increase the quantity and types of available housing, however, according to discussions that I have had over the past year with a diverse number of longtime Longmont and Boulder County residents, terminating Kanemoto Estates Conservation Easement to enable annexation is not an acceptable means nor location to accomplish a density other than rural.

Querying residents who have lived near Kanemoto Estates Conservation Easement for more than five years produced a common theme - usual and customary due diligence on the part of ordinary citizens by asking the builder or telephoning the City of Longmont about the possibility of Kanemoto Estates Conservation Easement having density of homes greater than the rural density that is observed only produced confirmation of virtually no homes or a rural density development. There was an attempt some years back to develop Kanemoto Estates Conservation Easement with rural density housing - I am not aware of any outcry or opposition by any longtime residents that border Kanemoto Estates Conservation Easement for a rural density compliant NUPUD development. It is unfair to ordinary citizens to have the City of Longmont and Boulder County amend and/or modify the designation and perpetuity of Conservation Easements by non-obvious means after ordinary citizens have made purchases of their homes near the Conservation Easement based upon the documented perpetuity of the Conservation Easement.

Exhibit H

I oppose the termination of the Kanemoto Estates Conservation Easement (NUPUD) and request that the Boulder County Planning Commission disapprove the request for termination of the Kanemoto Estates Conservation Easement not only based upon the aforementioned criteria but also to enable the Boulder County Planning Commission to take this prime opportunity to reclaim ordinary citizens' trust in the Boulder County government.

Thank you,

Joe Stasiak

191 Clover Creek Drive

Longmont CO 80503

Exhibit H

From: [Maria Madera](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Estates Conservation Easement Termination
Date: Monday, March 6, 2023 4:51:38 PM

I oppose the termination of the Kanemoto Estates Conservation Easement...
I have been a resident of Longmont for 25 years and Boulder County 25 years as well. Seeing this change to high density urbanization by Boulder County and the City of Longmont is disturbing.

I request that Boulder County decline the request to terminate the Kanemoto Estates Conservation Easement.

--

Regards;
Mary Madera - Mendoza
720-985-4422

Exhibit H

From: [Padma Wick](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Estates Development
Date: Sunday, March 5, 2023 4:01:41 PM

Terminating the Kanemoto Estates Conservation Easement conflicts with the Boulder County Comprehensive Plan in many, many details. The City of Longmont's desire and Boulder County's support to Urbanize Longmont (by forfeiting Boulder County rural land protected under a CE) does not represent the sentiment of the directly affected residents that these governments are supposed to serve.

Residents of the area will see a huge influx of traffic at an already dangerous point on Hwy 119, pressure on nearby schools, and a complete change to the nature of our community. The interest of the surrounding community is not being taken into account.

Sincerely,
Padma Wick
4213 Frederick Circle
Longmont 80503

Exhibit H

From: [Amanda Meader](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] RE: Kanemoto Estates proposed development-CE Termination
Date: Monday, March 6, 2023 12:52:38 PM

I understand the City of Longmont and County of Boulder over recent years has changed course and have been on an urbanization path for our community.

I would like to have my opposition to this new development officially documented. **I am not in support of sacrificing our open space and/or choosing the fast track to terminating the public's protected conservation easements.**

Reasons for my opposition include:

1. The easement provides an excellent zone of transition from rural Boulder County into Longmont. The erection of multistory buildings as proposed by the developer will destroy this gentle transition and reinforce an image of Longmont sprawl.
2. Eliminating the easement to support the development of over 400 dwelling units so close to the overburdened Diagonal Highway does not support an orderly fix to that congestion. A traffic study associated with the proposed project conservatively estimates an additional one thousand (1000) daily vehicle trips feeding the Diagonal. Until remedies to the congestion on the Diagonal that consider all current developments underway at the southwest edge of Longmont are completed, it is premature to facilitate such further dramatic growth in traffic on the Diagonal.
3. This parcel does not represent a site that constitutes a unique location for the development of high-density housing stock in the City of Longmont. Substantial properties exist within the current city limits of Longmont that could support the number of dwelling units proposed by the developer. With the availability of other lands within Longmont, there is no pressing need to sacrifice the rural character of this tract to development.
4. Boulder County should honor the premise of its open space program and related conservation easements. Voters have regularly agreed that Boulder County is a special place worthy of protection from sprawl. Relinquishing this easement would amount to trading conservation for condos. That would not be consistent with the protections the voters have continuously endorsed by the willingness to pay specific taxes to prevent sprawl.

Thank you

Amanda A Meader, MBA, PMP
Renaissance Community President
RenaissanceHOAVP@gmail.com
Mobile: 303-884-8152

Exhibit H

From: [Deb Kelly](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Estates
Date: Saturday, March 4, 2023 2:22:12 PM

Dear planners

This email is voice our objection to the development of Kanemoto Estates, we have seen significant development in recent years. I feel it is important to keep agriculture areas and replacing with high density housing is not in the best interest of the community.

Deb & Tony Kelly

Exhibit H

From: [Anastasia Way](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] KARES against Kanemoto
Date: Sunday, March 5, 2023 1:49:42 PM

This is a terrible idea. Please do not allow the conservation easement for Kanemoto estates. That intersection cannot support the traffic as it is. I have had two neighbors fatally killed there.

It was conservation land for a reason. I beg you to keep it that way.

Anastasia Way

Hippely, Hannah

From: Greg Warson <gwarson@gmail.com>
Sent: Monday, February 27, 2023 3:28 PM
To: Hippely, Hannah
Cc: Greg Warson
Subject: [EXTERNAL] Bestall Collaborative - Airport Rd, Longmont

Hannah, I am writing to OPPOSE the subject proposed high-density development along Airport Road in Longmont. The Bestall Collaborative proposed development will dramatically change the ethos and landscape of this section of Boulder County. I am a local homeowner and would be very disappointed to see Boulder County proceed with this proposal.

To stay informed, would you please add me to the notice list of an Boulder County meetings regarding this proposed easement.

Greg Warson
3751 Florentine Circle
Longmont, CO 80503

Exhibit H

From: [Amanda Meader](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] RE: Kanemoto Estates proposed development-CE Termination
Date: Monday, March 6, 2023 12:52:38 PM

I understand the City of Longmont and County of Boulder over recent years has changed course and have been on an urbanization path for our community.

I would like to have my opposition to this new development officially documented. **I am not in support of sacrificing our open space and/or choosing the fast track to terminating the public's protected conservation easements.**

Reasons for my opposition include:

1. The easement provides an excellent zone of transition from rural Boulder County into Longmont. The erection of multistory buildings as proposed by the developer will destroy this gentle transition and reinforce an image of Longmont sprawl.
2. Eliminating the easement to support the development of over 400 dwelling units so close to the overburdened Diagonal Highway does not support an orderly fix to that congestion. A traffic study associated with the proposed project conservatively estimates an additional one thousand (1000) daily vehicle trips feeding the Diagonal. Until remedies to the congestion on the Diagonal that consider all current developments underway at the southwest edge of Longmont are completed, it is premature to facilitate such further dramatic growth in traffic on the Diagonal.
3. This parcel does not represent a site that constitutes a unique location for the development of high-density housing stock in the City of Longmont. Substantial properties exist within the current city limits of Longmont that could support the number of dwelling units proposed by the developer. With the availability of other lands within Longmont, there is no pressing need to sacrifice the rural character of this tract to development.
4. Boulder County should honor the premise of its open space program and related conservation easements. Voters have regularly agreed that Boulder County is a special place worthy of protection from sprawl. Relinquishing this easement would amount to trading conservation for condos. That would not be consistent with the protections the voters have continuously endorsed by the willingness to pay specific taxes to prevent sprawl.

Thank you

Amanda A Meader, MBA, PMP
Renaissance Community President
RenaissanceHOAVP@gmail.com
Mobile: 303-884-8152

Wendell Gene Pickett

3813 Florentine Circle
Longmont, CO 80503
303.589.7860

March 8, 2023

RE: Letter of Support
Kanemoto Estate Annexation – Agricultural Conservation Easement Termination

Dear Boulder County Planning Commission:

I am writing to support this project and asking that you move this project forward. As a nearby neighbor, I believe this is additive to our area neighborhood as this project fills many long times needs of the community further diversifying the community housing stock and introducing 80+ new attainable housing units, meeting a critical market shortfall. The project also creates a variety of housing opportunities given the variety sizes and types of modern energy efficient leading-edge products striving to meet Longmont's Envision Longmont Goals.

I have been involved in the Longmont for over 30 years and my family has lived approximately a ½ mile from the project for the past 14 years. I served and eventually Chaired the Longmont Housing Authority and lead the development and construction of the Fall River Project. I support this project because it provides an opportunity for many of our grown kids to return to Longmont and many employees who cannot live in here to have that opportunity.

Thank you for considering my opinion, please move this forward.

Sincerely,

Wendell Gene Pickett , Citizen



TLC Learning Center

611 Korte Parkway • Longmont CO 80501 • 303-776-7417 • www.LearningWithTLC.org

March 8, 2023

To whom it may concern,

I am writing today in support of the Kanemoto Estate Annexation and housing development project. This development represents an excellent opportunity to add for sale affordable and attainable housing to a section of the City that currently has little to none. In addition, the preservation of open space, walking trails, and an imbedded early learning center will serve the new housing project, as well as, the surrounding area.

In reviewing this project, it is clear that it exceeds the affordable housing requirement, provides affordable and attainable homes that would be for-sale product, is located geographically in an area lacking affordable for sale, and would have a childcare center as a part of the build-out for families living within the project and on the West side of Longmont.

I believe the proposal also supports the goals and strategies outlined in Envision Longmont plan and is in-line with Longmont's goal of providing affordable, attainable, for sale homes for residents. Specifically, an early childhood center, which provides services that, is not found in that immediate area and supports the development.

For these reasons, I would urge Council to support this plan and use all means including a Master Development Agreement that would capture all benefits and expectations in a way that allows the plan to move forward with confidence.

Many thanks to Bestall Collaborative Limited and others who are leading this project to serve Longmont citizens and those who desperately need affordable housing and childcare. I look forward to seeing this project move ahead and come to fruition.

Sincerely,

Matt Eldred
Executive Director
TLC Learning Center

Exhibit H

From: [Heidi Lawrence](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Estates
Date: Wednesday, March 8, 2023 3:44:22 PM

To whom it may concern -

I am writing to express my opposition to the proposed development of the area to the South of the Clover Creek neighborhood. This area is East of Airport Road, South of Pike Road and shares an immediate border with the Clover Creek neighborhood.

It is expected that construction, disruption, and an increase in traffic will occur within the Clover Creek community and surrounding neighborhoods before, during, and remain after the years of providing utilities to and constructing 300+ housing units plus retail.

In addition, this development negatively affects the cul-de-sac feel of this section of the Clover Creek neighborhood which currently has no through traffic streets at all.

Furthermore, my neighbors and I oppose the approval of this annexation for the following reasons:

- the development reduces the safety of the surrounding neighborhoods,
- the development wastes protected conservation easement agricultural land,
- the density is significantly higher than the surrounding neighborhoods,
- the development poses additional traffic and safety hazards on Airport Road, Clover Creek community, and surrounding neighborhoods. As reported in a recent CDOT meeting, CO 119 has the highest number of vehicle crashes and fatalities in Boulder County and this will likely increase as the developments directly east, north, southwest, and proposed south add traffic.
- the development stresses the capacity in the existing sanitary sewer mains, since this use has a significantly higher demand than what is being shown on Envision Longmont. This area currently shows this neighborhood as Rural Neighborhood, which anticipates low density. Increasing density may require additional sewer and water capacities, causing further disruptions to the Clover Creek neighborhood streets on the South side of Pike.

Additionally, traffic will likely reroute to additional streets within the Clover Creek community and surrounding neighborhoods due to development-related construction, residents/visitors at the development, and retail patrons/employees at the development for the foreseeable future.

I have lived in the Clover Creek neighborhood for over 10 years. Fountain Court and all the surrounding streets on the South side of Pike Road are currently closed off to through traffic, with only 2 streets offering an exit to Pike road. This current road layout creates a peaceful and safe environment for its inhabitants. A disruption to this is absolutely not wanted, increases our traffic, and destroys the open area directly South of the neighborhood, which features a walking path which encircles the neighborhood.

My neighbors and I are opposed to the removal of the conservation easement that currently exists on the property under review. Take this project somewhere else!

-Heidi Lawrence

Fountain Court - Longmont CO

Exhibit H

From: [Ron Stewart](#)
To: [LU Land Use Planner](#)
Cc: [Sheehan, Jack](#)
Subject: [EXTERNAL] Kanemoto Estates Conservation Easement Termination
Date: Monday, March 13, 2023 10:14:44 AM

Please forward my comments below to the Planning Commission. Thanks

March 13, 2023

Members of the Boulder County Planning Commission:

I am writing to support the termination of the Kanemoto Estates Conservation Easement. I feel the termination is consistent with long standing planning objectives shared by Boulder County and the City of Longmont and is in the current best interest of both entities.

In the 1990's I served as a Boulder County Commissioner and one of my areas of emphasis was the development of intergovernmental agreements with communities throughout Boulder County. The goal was to adopt growth management agreements that allowed for urban level growth within the cities and towns adjacent to other urban lands such as the neighborhoods around Kanemoto Estates and for open space areas surrounding the areas of development. These agreements furthered the goals and policies of the Boulder County Comprehensive Plan.

With some communities, including Longmont, we also developed IGAs that called for the Transfer of Development Rights to both direct future urban development and to assist with the preservation of open space. We were successful in developing IGAs with all communities in Boulder County and those IGAs helped shape the landscape of Boulder County today.

The termination of the Kanemoto Estates Conservation Easement is totally consistent with all the agreements that existed with Longmont over the years. Kanemoto Estates is within Longmont's planning area and has been for decades. Termination of the easement will allow Longmont to determine appropriate development for the parcel. Further, termination will help with further open space preservation through the use of Transferable Development Rights. The inclusion of Kanemoto Estates in the Longmont Planning Area in those IGAs and the designation of this property as a Transferable Development Right Receiving Site indicate that, for decades, future development of this area was contemplated by both the County and the City of Longmont, and that the determination of land uses and the eventual site plan were deemed to be the ultimate responsibility of the City.

Furthermore, at least three other conservation easements in Longmont's Clover Basin Neighborhood were terminated under the TDR IGA to allow development adjacent to other urban development in the neighborhood.

I encourage you to support the docket before you for the termination of the Kanemoto Estates Conservation Easement.

Thank you,

Ron Stewart
Longmont

Hippely, Hannah

Subject: FW: [EXTERNAL] Kanemoto Estates Opposition

Dear Boulder County Planning Commission and Boulder County Commissioners,

I am **opposed** to the termination of the Kanemoto Estates Conservation Easement (CE) on the following grounds.

- 1) The Kanemoto CE contract only allows termination under conformance with the Boulder County Comprehensive Plan (BCCP). The BCCP is Statutory Law in Boulder County. The Kanemoto CE was established in 1982 utilizing the NUPUD/CE designation (pg Ag-2) which under the BCCP requires Boulder County to Conserve and Preserve (pgs CG-3, AG-4, GE-10, OS-1) the CE indefinitely (pg AG 1.13). After an exhaustive review of the BCCP there are over 35 references requiring Boulder County administrators to preserve agricultural properties especially those protected by the NUPUD/CE designation (pg PPA-2, 2.03, 2.04). You are all familiar with the BCCP Law. There is no need to list the 35 plus references here.
- 2) The transfer of the 1982 CE into the Longmont CSA/LPA in 1996 was a Legal Violation of the previously established NUPUD/CE. The Kanemoto Conservation easement is protected under the preexisting conditions of the BCCP. These legal protections have not changed since 1978 (pg IN-1) and in fact have been reinforced several times since 1978.
- 3) Contrary to the Jan 3, 2023 statement by Mr. Sheehan of POS there is no reference in Provision A of the Kanemoto contract allowing for termination by MERGER. In fact the Colorado Legislature in 2019 forbids Merger of CEs when a tax consideration has been employed. **HB19-1264, C.R.S. 38-30.5-107**. The BCCP encourages the issuance of a Tax benefit as a method of securing CEs. (pg OS-7) By legal convention a court will likely assume a tax benefit was received *unless proven otherwise*. The Boulder County Commissioners will need to demand a tax document from the original owner, Colorado Dept of Revenue or IRS to prove no tax benefit was gained in the original CE transaction. Otherwise termination by Merger is forbidden.
- 4) The IGA TDR expired in 2016. Using the Kanemoto property as a TDR receiving site is non-enforceable. Failure to renew the TDR for 7years is either negligence or proof that Boulder County had no intention of continuing the TDR process. Which is it?
- 5) The Kanemoto Property is designated by BOTH Boulder County (Docket DC-18-002) and the USDA as Prime Farm Land (BCCP Map 31) which places it in the category of Nationally Significant Agricultural Land. The BCCP disallows the placement of Nationally Significant Agricultural Lands into TDR receiving sites. (PPA 3.04) The BCCP also requires Boulder County administrators to conform to State and National programs preserving agricultural properties. (pg AG-5, AG 1.07)
- 6) Paragraph 3 of the Kanemoto CE contract requires that both Provision A **AND** Provision B must apply. There is no severability clause, so both Provision A **AND** B are required to manipulate any change in the contract. Provision B of the Kanemoto Contract does not provide for any termination of the Conservation Easement. It only allows for a *Transfer* of the Conservation Easement. Conservation Easements can only be *Transferred* to entities authorized by the State of Colorado Department of Conservation as having a recognized Conservation mission. Since the CE

Exhibit H

can only be *Transferred* to a qualified entity, the use of the term Terminate in paragraph 3 is understood to only apply when the CE is *impossible* to maintain. This is explained in the IRS code 170(h), the Boulder County POS CE Program Policies and Practices, Restatement (Third) of Trusts (2003), Uniform Law Commission, Uniform Trust Code, Restatement (Third) of Property Servitude. (2000). In these references Judicial review and Cy Pres doctrine are required. If any ambiguity is perceived with interpretation of the *terminate* vs *transfer* contract language, Colorado Contract Law requires the only resolution is by a Jury Trial. It can not be interpreted or clarified by a judge or other governmental administrative body.

7) The POS Policies and Practices has evolved to support the BCCP. There are 33 reference to CE perpetuity in the POS document which also requires Judicial Review concerning any form of CE Termination to prevent conflict with State and National law or: pg 6 #5. *Jeopardize Boulder County's 'qualified holder' status under State of Colorado and IRS regulations or undermine the public's confidence in the County as a holder of **perpetual** conservation easements;*

8) The BCCP has also designated the one mile strip of Airport Rd from Rt 119 north to Pike Road as a *View Protection Corridor*. (Map 33) It is apparent that Boulder County has thoroughly Corrupted the northern 1/2 mile of this VPC. The views have been permanently obstructed by multiple housing developments. This is an undisputed violation of the approximately 15 BCCP provisions requiring the preservation of scenic views along this corridor. (pgs TR-6 TR 8.03, ER-5 ER 1.04 etc.) In addition to this Kanemoto proposal for a high density development with multiple story buildings, Boulder County has continued violating the VPC with the recent approval of the Westview Acres subdivision.

9) The BCCP applies a geologic building constraint (pg GE 2, Map 15) to the Kanemoto property due to *High Soil and Bedrock Swell Potential*. Building approval **requires** evaluation by a professionally registered geologist. (pg NH 2.01.04). Has Boulder County received a report detailing the building constraints required for this property. Is this land suitable for safe housing construction? If no clearance has been received approval to build on this property is forbidden.

10) We are all aware of the absolute devastation caused by the recent Marshal Fire. Rather than continue with a focus on high density development, would it not be wise to reconsider the housing setback requirements? The housing in Colorado is much too congested.

11) Continuing research through the Boulder County Clerk's office has revealed a very significant number of missing Boulder County CEs over the last few decades. Due to the issues mentioned above there will be retroactive research to determine if this great number of terminated CEs were properly managed or if their termination was motivated purely to create a multimillion dollar tax base and to feed multimillion dollar funds into Boulder County POS. The residents of Boulder County are questioning whether this may be a legal Breach of Trust concerning the fiduciary responsibility of Boulder County to protect and preserve the Landed Treasures of Boulder County.

Thank You,
Norman C. Gee
1908 Redtop Ct.
Longmont, CO. 80503

Hippely, Hannah

From: Lynn Donnelly <lynn_donnelly@yahoo.com>
Sent: Friday, March 10, 2023 4:36 PM
To: LU Land Use Planner
Cc: Beyond Clovercreek
Subject: [EXTERNAL] KanemotoEstates

To Whom It May Concern:

I fail to understand how the development of this property on Airport Road fulfills Boulder County's Conservation Easement Program Vision of "contributes significantly to maintaining the rural character of Boulder County, providing scenic open space for the public, continuing agricultural uses, protecting important historic and cultural features and protecting relatively natural habitat, such as forest land, wetlands, riparian corridors and other wildlife habitat."

I fail to understand how the development of his property on Airport Road fulfills Boulder County's Conservation Easement Program Goals of

- "Protecting natural resources, agricultural lands and scenic open spaces that meet Comp Plan goals and POS goals:
- Managing uses in designated areas to protect open space values for public benefit and
- Reducing density and development where additional development is incompatible with Comp Plan and POS goals."

I would appreciate it if you could explain this at the public hearing if you can.

I would also like to know if taxpayers paid for this easement & if so how you intend to reimburse taxpayers if you cancel the easement?

If the land was donated & received tax credits how is that adjusted now if you cancel the prior easement agreement?

Why have any conservation easements anywhere in the county if they can be overridden at any time?

Why should taxpayers continue to buy open space when the county doesn't conserve conservation areas it already has in its possession?

A disappointed & and disenchanting Boulder County taxpayer,
Lynn Donnelly

Exhibit H

From: [Jackie Evensen](#)
To: [Hippely, Hannah](#)
Cc: [Jack Bestall](#)
Subject: [EXTERNAL] Annexation hearing for Bestall Collaborative Wednesday
Date: Monday, March 13, 2023 12:06:13 PM

Hi Hannah,
Here is a letter to support the annexation.

12:03 PM (0 minutes ago)



Jackie Evensen <jackie@jackieevensen.com>

to hippely, Jack



Good afternoon,

I am writing this letter in support of the Kanemoto Estates annexation on Airport Road. As a West Longmont resident, local Realtor in town and volunteer with the LDDA on specific events, I welcome new ideas and strategies to make life better for the residents of Longmont.

Jack Bestall's project upon its completion would add many things to a section of the city that currently has little affordable for sale units, rental units and a childcare center. Annexation would move the project forward and work toward meeting the Envision Longmont's plan of 20% attainable housing, a reduced carbon footprint and early childhood education. A neighborhood with a built in childcare option for residents would be fantastic for young families trying to put down roots in Longmont. The incorporation of walking paths integrating into the Longmont trail system is also a great addition and benefit.

For these reasons, I would urge Council to support this plan and use all means including a Master Development Agreement that could capture all of the benefits and expectations to move forward.

Bestall Collaborative is a great addition to our city and I look forward to seeing this and other projects come to fruition.

Sincerely,
Jackie Lagasse Evensen
Realtor
Live West Realty

--



**Jackie Lagasse-
Evensen**
REALTOR® | SRES



o: 303-800 9601
m: 720-774-4475
w: www.livewestrealty.com
e: jackie@jackieevensen.com

address
1938 Pearl St. Suite 200
Boulder, CO 80302

*"My priorities are simple.
They're yours."*

Exhibit H

From: [Peter](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates Conservation Easement Termination
Date: Monday, March 13, 2023 8:09:21 PM

Hi Hannah Hippely,

hopefully, this is the proper forum for us to object to the Termination of the Kanemoto Estates Conservation Easement. While we would have liked to be available for the zoom meeting and object, virtually, to the planned termination of this Easement, neither my wife nor I will be able to attend in person or virtually. However, we do want to go on record that we strongly object to this termination.

The Conservation Easement under consideration is pretty much the only remaining property in this area that has not already been developed. Therefore, it should continue to remain open space. The possible addition of about 400 housing units to this property is just way too large an addition. The potential traffic that will be added, once completed, will create major congestion on Airport Road, Clover Basin and the Diagonal. Further, it will totally destroy the current rather peaceful and natural setting that exists.

Please note that the city of Longmont already has approved a small development that is basically on the opposite site of the Kanemoto Estate on Airport Road. That development will only add about 20 housing units and that will, of course, also impact the traffic density in this area. If we now add the 400 Kanemoto Estate housing units to this area, the overall picture of a fairly tranquil and peaceful neighborhood will be totally destroyed. Therefore, Boulder County must not permit the Termination of the Kanemoto Estates Conservation Easement.

Sincerely,

Bonnie and Peter Zurfluh
1423 Venice Lane
Longmont, CO 80503

Exhibit H

From: [Gene Smerchek](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Estates
Date: Tuesday, March 14, 2023 11:09:54 AM

Does Boulder County have no shame? Such hypocrisy. First, the attempt on the Rainbow Farm's conservation easement.. And now, Kanemoto Estates? Isn't it somewhat hypocritical that Boulder County recently spent millions to purchase open space along the Peak to Peak highway in order to remove three lots that could have been developed. Come on Boulder County! You made the rules, now live by them.

Gene Smerchek, Allenspark

Exhibit H

From: [Maryanne Himmelsbach](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates
Date: Monday, March 13, 2023 8:19:41 PM

Dear Hannah

I listened to the Neighborhood Meeting on January 26th regarding removing a conservation easement on the Kanemoto Estates for development of a mixed housing community. My impressions are:

1. This is a very high density development, over 400 dwellings on a relatively small parcel of land.
2. All traffic to and from this development will be handled by one street, Airport Road.

The fact that one road will contain all traffic to and from this development sounds like a traffic nightmare and log jam for all neighborhoods off Airport Road. The high density of this development suggests that noise and privacy will be a concern for future residents.

This does not seem beneficial to the community,
Maryanne Himmelsbach

Exhibit H

From: [Mo Fauvel](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto development
Date: Tuesday, March 14, 2023 6:08:42 AM

Mo Fauvel <drfauvel@gmail.com>

Mar 13, 2023, 8:07 AM (21 hours ago)



to Susan, sbarberphd, tsmithxxl, linneas



I, too, have deep reservations on developments like this. My biggest concerns are, again, it is mostly a rental development. I feel the ratio should be reversed so that units would be 80% attainable and 20% rental for purposes of future Longmont development. Second, concern is the density: 400 units on 40 acres really does not seem a plus to me- no personal space yards, where does everyone park? Thirdly, between the huge rental development underway behind Home Depot and this development, that's over a thousand units! Does Longmont truly have the kind of job prospects to afford all this? Please share this with other planning members and city council and keep me in the loop on future city meetings regarding this. Thank you.

Materials to accompany public comments from Randall Weiner, Weiner & Cording, on behalf of KARES (3/15/1923).

Boulder County Comprehensive Plan (“BCCP”) Elements Which are Relevant to the Proposed Kanemoto Estates Conservation Easement Termination

<https://assets.bouldercounty.gov/wp-content/uploads/2018/10/bccp-boulder-county-comprehensive-plan.pdf>

Both the original 1978 version and the current updated version of the BCCP were designed to limit urban growth to restricted areas and preserve and conserve Agricultural Lands.

There are 27 separate chapters/sections, 4 appendices and 17 maps. Most chapter/sections are referred to as Elements. As many as 15 of those Elements reinforce the fact that preservation of Boulder County Agricultural Lands, and specifically conservation easements in the Plains Planning Area, is consistent with the BCCP.

I Introduction Page IN-1

The Boulder County Comprehensive Plan (BCCP) reflects Boulder County’s tradition of serving as a leader in environmental and land stewardship... The BCCP was developed to respond to the....principle that the county will make decisions affecting the future of the county’s lands..... Since its initial adoption in 1978.....*the Plan has changed very little*; the county’s vision is to channel growth to municipalities, to **protect agricultural lands**, and to **prioritize preservation** of our environmental and natural resources in making land use....decisions.

II Guiding Principles pg GP-1

5) Maintain the rural character and function of the unincorporated area of Boulder County by protecting environmental resources, *agricultural uses*, open spaces, vistas, and the distinction between urban and rural areas of the county.

III Countywide Goals pg CG-1 & 3 & AG-4

1. Cluster Development. Future urban development should be located within or adjacent to existing urban areas in order to **eliminate sprawl and strip development**, to assure....urban services, to **preserve agriculture**, forestry and open space land uses,....

pg CG -2

2. Appropriate Rate of Growth. Existing communities should grow at whatever rate they consider desirable, **within the limits of what is acceptable to the citizens of areas potentially affected by that growth**,.....

pgCG-3

2. Foster a Diverse Agricultural Economy. Agricultural enterprises and activities are an important sector of the Boulder County economy and the county shall foster and promote a diverse and sustainable agricultural economy as an integral part of its activities **to conserve and preserve agricultural lands in the county.**

3. Conserve & Preserve Land. Productive **agricultural land is a limited resource** of both environmental and economic value and **should be conserved and preserved.**

pg CG-5

2. Open Space. Conserve. Boulder County **conserves the rural character of the unincorporated county** by protecting and acquiring lands and waters embodying significant open space values and functions.

I Agricultural Element. Covers 6 pages of the BCCP

pg AG -1

A. Introduction Agricultural Land is a non-renewable resource. Once public and private decisions are made that result in the conversion of agricultural land and/or water to non-agricultural uses, this vital resource is almost always irretrievably lost.

pg AG-2

....in the 1978 Comprehensive Plan, the county adopted a non-urban planned unit development process (**NUPUD**)....offered landowners a **development density of two dwellings** per 35 acres....In return, at least **75% of the total acreage had to be deeded to the county in the**

form of a conservation easement which restricted activity on the easement to agriculturally related or other rural land uses....in 1994 through the adoption of the Plains Planning Area Element....That Element refocused the county's policies and intentions for managing unincorporated Plains lands by emphasizing that land uses "...should **continue to be related to agricultural activities...and other activities consistent with the rural character of the county.**"

pg AG-3

B. Agricultural Objectives **The objective of the subsequent policies is the preservation of the agricultural lands** in the county, and their related uses, **by whatever means are available** to the county and effective in achieving this end...

It remains the intent of the Comprehensive Plan and attendant land use codes to promote and assist in the **preservation of agricultural lands** for agricultural and other rural purposes....They include the recognition of agricultural lands as an **important nonrenewable resource....**the belief that **compact urban development is the most efficient and appropriate way to retain agricultural lands** and rural character....

pg AG-4

Goal 2. Foster a Diverse Agricultural Economy.... promote a diverse and sustainable agricultural economy as an integral part of its activities to **conserve and preserve agricultural lands** in the county.

Goal 3. Conserve & Preserve Land. Productive agricultural land is a limited resource of both environmental and economic value and should be conserved and preserved.

POLICIES AG 1.01 Agricultural Land Preservation. It is the policy of Boulder County to promote and support the preservation of agricultural lands and activities within the unincorporated areas of the county, and to make that position known to all citizens currently living in or intending to move into this area.

AG 1.02.01. & 1.03It is the policy of Boulder County to **encourage the preservation** and utilization of those lands identified in the Agricultural Element as **Agricultural Lands of National, Statewide, or Local Importance** and other agricultural lands for agricultural or rural

uses. The Boulder County Comprehensive Plan “Significant Agricultural Lands” map shall include such lands located outside of the boundaries of any municipality.....

BCCP Map 31 designates the **Kanemoto property as a Significant Agricultural Land of National Importance**. Agricultural Lands of National Importance are U.S. Department of Agriculture **Prime Farm Lands**. Boulder County Docket DC-18-0002

Link below will take you to the USDA soil maps where the Kanemoto property is designated as Prime Farmland except where the two houses have been built. You may need to zoom in on area CO643. Then click on the property sections and read Map Unit Data drop down list on the left side of page.

<https://casoilresource.lawr.ucdavis.edu/gmap/>

AG 1.04 Development Review. In reviewing applications for new development, Boulder County shall consider potential impacts on existing adjacent agricultural uses and shall use its regulatory authority to mitigate those impacts which would be detrimental to the continuation of existing agricultural operations and activities and the establishment of new agricultural operations and activities. **New development should be sited in such a way so as to minimize and/or prevent future conflicts.**
pg AG-5

AG 1.07 State, Federal, and Local Programs. The county shall continue to actively participate in state, federal, and local programs directed **toward the identification and preservation of agricultural land.**

Position statement from USDA Prime Farmland website.

Prime farmland is of major importance in meeting the Nation's short- and long-range needs for food and fiber. Because the supply of **high-quality farmland is limited, the U.S. Department of Agriculture recognizes that responsible levels of government**, as well as individuals, should encourage and facilitate the wise use of our Nation's prime farmland.

https://efotg.sc.egov.usda.gov/references/public/LA/Prime_and_other_Important_Farmland.html

AG 1.12 Land Unification. The county shall continue to **discourage the fragmentation of large parcels of agricultural land and to**

encourage the assemblage of smaller parcels into larger, more manageable and productive tracts.

AG 1.13 Policy and Code Management. **The county shall continue to monitor the application of these policies** and attendant Boulder County land use codes, **as to their effectiveness in preserving agricultural land and *perpetuating* agricultural uses** in Boulder County.....

AG 2.01 Utility Infrastructure. The county **shall discourage the placement of new utility infrastructure upon agricultural lands.** The county supports using existing easements or other public rights-of-way to **minimize the impacts to agriculturally productive land.**

AG 2.01.03. **Any agricultural lands and water resource systems disturbed by infrastructure construction shall be restored to their former productivity.**

IV Economic Element
pg EE-2

EC 1.03 Agriculture. **Boulder County acknowledges the importance of agriculture** and its cultural, environmental, health, economic, and resilience-related benefits to the community. **Boulder County recognizes the integral role of agricultural history in the county and supports innovation and diversification in the agricultural economy.**

IX Natural Hazards Element
pg NH-4

NH 2.01.04 (Also Policy GE 1.05) The county shall **require the evaluation of all geologic hazards and constraints where such hazards or constraints may exist in unincorporated areas of the county** as related to new intensive uses. Such evaluations shall be conducted by either a member of the American Institute of Professional Geologists, a member of the Association of Engineering Geologists.....

VII Geology Element
pg GE-2

Geologic Constraint: A geologic condition which can **cause intolerable damage to structures**, but does not present a significant threat to health, life, or limb.

Map 15. Geologic Hazards and Constraint Areas. Kanemoto Estates has a Geologic building constraint due to a **High soil and bedrock swell potential**. Has it been properly evaluated and approved by a geologist for site development?

pg GE-8

GE 4.02 Priorities for Most Effective Performance Technologies and Practices. Areas where the county has an interest in assuring that the most effective performance technologies and practices are applied include....**j) Agricultural land preservation.....o) Visual impacts and preservation of scenic views.**

pg GE-10

GE 4.11 Agricultural Land Restoration and Reclamation. **Agricultural land preservation and conservation is a core goal and value of the BCCP.** Oil and gas operations will be required to restore and reclaim all on and off-site agricultural lands impacted by any activity.....

X Open Space Element

pg OS-1 (See Agriculture Goal 3 above. **To Conserve and Preserve Agricultural Lands**)

What's in a Word? Protect v. Preserve v. Conserve Open space lands are **“protected” from development** but protection can be carried out in different ways. **“Conserve”** suggests responsible and sustainable use of natural resources whereas **“preserve” implies maintaining the landscape in its original, or pristine, state.** In the Open Space Element policies, **“conserve”** is used for policies relating to working landscapes such as **agricultural properties** while **“preserve”** is used for policies relating to **broader protection.**

pg OS-2

Open space is defined as “lands intentionally left free from development.” Open space serves one or more of the following values or functions

Conserve and *enhance* agricultural lands, especially agricultural lands of local, statewide, and *national importance*.

Boulder County Parks & Open Space **Mission Statement** To **conserve** natural, cultural and **agricultural resources** and provide public uses that reflect sound resource management and community values.

XIII Sustainability Element
pg SU-1

Goal 6. Foster & Promote Resources of Open & Rural Lands. The **preservation** and viability of the increasingly **precious resources** of open and rural lands, whether **devoted to agriculture**, forestry, open space, or plant and wildlife habitat, as well as the sustainability of uses that provide for the **long-term preservation** of such lands, should be fostered and promoted....

pg SU-8

SU 1.09 TDR Program Criteria. In establishing this new TDR program, the county, through an open public process, will develop criteria....and should take into consideration the following attributes:

- Location as an enclave within or adjacent to BCCP-designated Environmental Conservation Areas, United States Forest Service or other publicly held lands, **or lands with a *conservation easement protecting them from further development***

I Plains Planning Area
pg PPA-1

Introduction....recommend a rational organization of land uses which will **protect and preserve** some of the county's remaining **rural land**....

pg PPA-2

It is expected that land within municipal Community Service Areas will be developed in an urban pattern, urban services will be provided by the municipalities, and the area will eventually be annexed. **Conversely, land outside CSAs and their transition areas will remain rural; urban services will not be extended there, and zoning will *prohibit urban development* and densities. Most of the land outside the CSAs will continue to be used for agricultural activities, environmental resource protection, low-density residential development and other**

activities consistent with the rural character of the county.

[NOTE: The Kanemoto property was issued a NUPUD (PPA 2.04) and Conservation Easement (PPA 2.03) in 1982 because it was NEVER intended to be within the Longmont Community Service Area. As stated above, Urban Development is Prohibited.]

In April of 1978, the Boulder County Comprehensive Plan (BCCP) was adopted. A primary component of the Plan included policies calling for the establishment of a **minimum 35 acre-lot size in most unincorporated areas outside CSAs**, consistent with Senate Bill 35. Recognizing that this was authorizing a dramatic shift in land use regulations that would have its greatest direct impact on the farming community, the Plan's policies also called for the creation of the **NonUrban Planned Unit Development, or NUPUD**. This land use option, requiring discretionary review an action by the county Commissioners, permitted density bonuses on parcels of 35 acres and larger so that the farmer would have an economic incentive, through a limited subdivision process to keep a major part of his or her land in agricultural production while conveying small land parcels to other interests. Accordingly, **land use regulations and a comprehensive rezoning were adopted to implement the Plan's policy direction.**

pg PPA-3

ISSUES Loss of Agricultural Lands & Open Space. Land valuable for agriculture, wildlife habitat, flood control and other natural resources may be jeopardized. In addition, the county has **consistently lost agricultural operations and farmland to both development pressures and annexations.**

pg PPA-4

POLICIES

PPA 1.01 Geographic Scope and Vision for Plains Planning Area. **Land located outside CSAs** and east of the Forestry zoning district, should be designated as the Plains Planning Area, and **should remain rural**. Urban services should not be extended into the Plains Planning Area, and **zoning should continue to prohibit urban development and densities**. Land uses within the Plains Planning Area should continue to

be related to **agricultural activities**, environmental resource protection, **low density residential development** and other activities consistent with the rural character of the county.

PPA 1.03 Guidelines for Land Use Proposals...

b) **Preservation** and utilization of **agricultural lands**, or when applicable, the preservation of other environmental resources

d) **Minimizing** potential **negative impacts** on surrounding lands, **including agricultural land**, attendant agricultural uses, and established neighborhoods and other adjoining or nearby development and land uses.

pg PPA-5

PPA 2.03 Conservation Easements. **Conservation easements** pursuant to CRS 38-30.5-101 through 110, as amended, or other legally accepted methods between the county and landowners, should continue to be **the acceptable development control, for the purpose of preventing additional parcel division or development of lands committed for agricultural activities**, environmental and historic resource protection, and other activities consistent with the rural character of the county.

PPA 2.04 **NUPUD** and NCNUPUD Proposals. NUPUD & NCNUPUD proposals should only be supported in the Plains Planning area as a **means of preserving and conserving large tracts of land identified in the Boulder County Comprehensive Plan as possessing significant environment features, including but not limited to significant agricultural land and sensitive or important ecosystems.**

PPA 3.04 **Location Limits** for Proposals. Except as provided for in PPA 3.05, land use proposals requesting additional density as receiving sites through the **density transfer process should not be located on Nationally significant agricultural land**, sensitive areas, critical wildlife habitats or corridors, designated open space, or other lands and locations as from time to time identified.

IV Longmont, Lyons Subregion Specific to the Longmont Community Service Area.

pg LO-2

LO 1.02 Designation and **Protection of Agricultural Land Uses**. It is the policy of Boulder County to designate the character and form of land

uses within the Subregion (**outside of the adopted Community Service Areas**) as being agricultural in nature and to **project continual agricultural usage** throughout the planning period. Future land use decisions that occur outside of designated Community Service Areas shall be consistent and harmonious with the agricultural character of the land and with the provisions of the Agricultural Policies of the Plan, including those **specifying non-urban residential density**

LO 1.03 Resolving Conflicts Between Existing Zoning and Future Land Use. Many land use and zoning decisions have been made in the past 12 years without the use of a comprehensive plan to guide in the formulation of such decisions. With the development of the goals and policies of the Boulder County Comprehensive Plan, it is clear that many past decisions now conflict with the underlying plan **objective of channeling urban growth into Community Service Areas while preserving the surrounding agricultural land.** To rectify these obvious conflicts between existing zoning and future land use, it is the policy in this subregion to modify the existing zoning pattern to **reflect the present and future use of the county's agricultural lands.**

7) View Protection Corridor from BCCP

Map 33. About one mile of Airport Road from Pike Rd south to Rt. 119 was designated as a **View protection Corridor.** An approximately one half mile section from Pike Road south has been severely compromised. Both the Kamemoto property and the West View Acres property are along this corridor.

pg PH-3

1992: Establishment of view protection overlay district

1994: Established Natural Resources View Protection Overlay District
pg OS-2

Conserve rural character of the unincorporated county, **scenic corridors,** and community buffers to ensure community identity and **prevent urban sprawl**

pg OS-5

OS 1.02.01. To the extent possible, the county shall **avoid, minimize, or mitigate impacts on views from view protection corridors**

including, but not limited to, those shown in mapping that accompanies this element.

Pg TR-4

TR 6.01 Manage Rural Roads to Preserve Rural Character.

• **minimize adverse scenic and environmental impacts,**

pg TR-5

TR 6.03 **Prohibit Improvements with Unacceptable Impacts.** After considering reasonable mitigation, transportation system facilities and access improvements may be prohibited. This may include improvements on public and/or **private lands that cause unacceptable impacts to the natural environment, including scenic views** and rural character....

pg TR-6

TR 8.03 **Preserve View Corridors. Prevent the disruption of scenic views** by transportation improvements. Promote overlooks, trails, and turnouts on recreational routes and in unique scenic areas.

pg CW-5

6. Protect Natural Landmarks. Boulder County shall continue to protect prominent natural landmarks and other **unique scenic, visual and aesthetic resources** in the county.

pg ER-3

However, the single criterion for designation shall be **its visual and scenic prominence as a landscape feature**. They provide a record of Boulder County's natural heritage.

pg ER-4

Boulder County shall continue to protect prominent natural landmarks and other **unique scenic, visual and aesthetic resources** in the county.

pg ER-5

ER 1.04 Scenic Vistas. **Scenic vistas shall be preserved as much as possible in their natural state.**

pg GE-7-8

GE 4.02 Priorities for Most Effective Performance Technologies and Practices. Areas where the county has an interest in assuring that the most effective performance technologies and practices are applied include, but may not be limited to:

o) Visual impacts and preservation of scenic views

pg SMM-4

b) Ensure that facilities or operations are planned, located, designed, and operated **to prevent and divert unacceptable** air, water, noise and **visual pollution**.

pg SU-7

Goal 10. **Protect Natural Assets**. The county's rich and varied natural features, **scenic vistas**, ecosystems, and biodiversity should be protected from further intrusion, disruption, consumption and fragmentation. SU 1.02 TDR Program Objectives. This TDR program should consider facilitating the attainment of any or all of the following objectives:

- **preserving vacant lands** identified in the Comprehensive Plan as **having significant** environmental, agricultural, **visual** or cultural **values**;
- **protecting and securing scenic corridors and vistas**;

pg SU-9

SU 1.12 **Structure Size Limitation** Analysis. An analysis should be conducted to determine whether the regulation of structure size is appropriate to meet the stated goals of the Comprehensive Plan...locations within the unincorporated areas relative to existing development patterns, **established rural character, scenic/natural/resource values, visual impacts....**

pg PPA-3

Exhibit H

From: [vic pizzo](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Estates Conservation Easement Termination (bouldercounty.gov)
Date: Tuesday, March 14, 2023 9:08:14 AM

To the Longmont City Council, Planning Department, and Boulder County at large:

I would like to know the origin of the idea that the City of Longmont **MUST** build new housing and even expand into County land in the process. Historically, development has occurred in response to the free market seeing a need and working with local government elements to expand housing opportunities to meet those needs. However, here we see a City housing authority (abetted by County bureaucrats) deciding in and of themselves how many units of what kind **MUST** be built to meet some plan that they themselves have devised. Where is the authority to engage in such activity? Are there some graven stone tablets somewhere that the City has obtained from a Higher Authority? Has the City Council not considered the quaint idea that many, many citizens (who they are *supposed* to represent) might not find the current plans anathema?

More simply, what are we doing, building frenetically with no real mandate to do so? Is it just the easy tax money, or some mis-begotten idea that growth itself is good? Do we need to impose a mini-Detroit on pristine open land, or an assortment of such out-of-place developments on any accessible plots of land within the City? Cannot the City planners develop integral City land in a more rational way, or are they driven by some unspeakable - and irrational - urgency? Is it all about the perception of **easy** money?

Be aware also, of the proposed, incipient desecration of virgin land that should - to any reasonable, sentient mind - remain agrarian, to sustain the enjoyment of future generations of Longmont citizens and their children. There are sizeable plots of land within the City or immediately integral to it, with much better transportation access, that could be developed by the free market - in conjunction with inspired City planning - to provide a steady, commensurate supply of new housing.

Moreover, developing any part of Longmont with such total disregard for traffic impacts is intolerable and must be vociferously opposed. In particular, the Airport/Colorado 119 intersection is a major concern. Already 119 has been identified as the most perilous route in Boulder County, yet the City plans to dump traffic associated with upwards of 400 new housing units into a known dangerous situation. Such behavior is simply unconscionable and must not be tolerated by the citizenry.

The City must avoid any "nimby" tendencies in their planning, given most planners do not reside anywhere near the proposed monstrosity on South Airport. The voters will not soon forget the traffic impacts imposed by woefully poor planning and will hold those who are responsible for it to task - You can bet on that!

Exhibit H

From: [smith.lakota](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Boulder County Planning Commission NOT TERMINATE a Conservation Easement for Lefthand Ranch LLC, Development
Date: Monday, March 13, 2023 7:38:44 PM

March 13, 2023

I am requesting the Boulder County Planning Commission **NOT TERMINATE** a conservation easement which would open the door to annexation and development of a large neighborhood on a parcel just outside of Longmont.

The easement in question sits southwest of Longmont, on unincorporated Boulder County land, about a half mile north of the Colo. 119 and Airport Road intersection. The applicant and owner of Kanemoto Estates, Lefthand Ranch LLC, is proposing to annex the 40 acres into the city of Longmont. This development would be considered a mixed residential community that would be called Somerset Village, which as planned, includes single family and paired homes, four-plexes and flats along with community amenities. The Kanemoto Estates subdivision was approved by the county in 1982, creating two parcels of 3.9 and 5.6 acres, each with one house, and a 29-acre out-lot that was granted a conservation easement, according to county documents.

The out-lot was placed into a conservation easement, which typically designates an area to be open space in **PERPETUITY**. However, this easement included language to allow for termination should the county later decide that future development of the property would be appropriate with the comprehensive plan, according to county documents. This development is **NOT APPROPRIATE WITH THE CURRENT COMPREHENSIVE PLAN**.

To proceed with the development as proposed, the conservation easement must be terminated. Lefthand Ranch wants to develop the property within Longmont's jurisdiction, so the property would have to be annexed by the city. This will not proceed if the easement is discontinued. Decisions on the annexation, zoning and redevelopment of the site would be made by the city once a decision on the conservation easement termination has been made by the county. As this zoning does not meet the current conservation easement, termination should not be approved.

Please note that neighbors are raising concern over the loss of open space and worries about the consequences of continued development in the county. Randall Weiner, an attorney representing a coalition of Longmont citizens residing near the area known as Keep Airport Road Environmental and Safe, or KARES, sent a letter to the Boulder County Planning Commission arguing against the termination. In his letter, Weiner argues that the termination would not be consistent with the Boulder County Comprehensive Plan and that ending the conservation easement would be an invitation to terminate other conservation easements in Boulder County.

"Known for its natural beauty, Boulder County should not sacrifice its scenic open spaces for commercial development," the letter said. "The clearing of vegetation, followed by the construction of a mini-city on the outskirts of Longmont with increased traffic, density and sprawl will of course create significant environmental impacts." Weiner also noted that identifying the Kanemoto Conservation Easement as a future development sight in 1996 was **ITSELF UNLAWFUL AND IN VIOLATION OF BOULDER COUNTY'S COMPREHENSIVE PLAN**.

Thank you for your time and consideration of **NOT APPROVING** the conservation easement.

Regards,

Wayne Smith

2807 Lake Park Way

Exhibit H

Longmont, CO 880503
(303) 776-5986
lakota2807@yahoo.com



Virus-free. www.avast.com

Exhibit H

From: Annmarie Jensen <annmariejensencolorado@gmail.com>
Sent: Tuesday, March 14, 2023, 7:15 PM
To: Jack Bestall <jack@bestallcollaborative.com>
Subject: Letter of support

To BOCO Planning Commission,

As an advocate for affordable housing, I encourage you to support vacating the conservation easement for Somerset Village. As Longmont tries to meet its sustainability goals, and its goal of 12% affordable housing, we know that large lot, suburban style development cannot be the only way that a City grows. We need a variety of housing options, and we need options that are near transit, as this project is, that allow people to get out of their cars. If we are to meet our climate goals, we need housing options that allow us to get out of our cars. It seems that some neighbors want only single family residential development, but this is the most costly type of development in terms of both emissions and public infrastructure. The state agencies responsible for development have determined that single-family residential development frequently does not pay its own way.

<https://energyoffice.colorado.gov/sites/energyoffice/files/documents/FINAL%20Land%20Use%20Research%20Report%207.19.22%20-%20For%20Release.pdf>

It costs more for the services and infrastructure to such development than the development pays in taxes. So, that type of development is subsidized by other taxpayers. Somerset Village is an opportunity to be creative, to create, in very close proximity to other developments, some affordable housing, and allow people to access transit, in an attractive neighborhood. The conservation easement needs to be vacated for this project to go forward, and the easement does not appear to contribute substantially to our open space, wildlife corridors, or agricultural purpose. This area already has a lot of development and this project is precisely the kind of development that Longmont needs. ECHO asks for your support.

Annmarie Jensen (she/her/hers) checkout ECHOCOLORADO.COM
720-999-4765

Exhibit H

From: [Janette Fetter](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto conservation easement
Date: Tuesday, March 14, 2023 4:32:28 PM

Hello,

I am an owner in the Cover Creek neighborhood. I have many concerns about the development of Kanemoto property.

First, the influx of traffic this proposed development would bring to the area. Cover Basin and Airport have anyway seen a few children hit by cars. The extra traffic to Airport Rd would be taxing to the already heavily used commuter road. Not to mention putting more traffic onto the Diagonal, which is the most accident-prone road in Boulder County.

Second, as an owner in the neighborhood next to the proposed development, there has been talk of diverting traffic into our neighborhood. I am concerned about the safety of the neighborhood children. Many walk and play in the area because of our community parks and community pool, not to mention the location to the local schools, but adding extra traffic through this area would make it harder for those children to have the free reign to safely play in an already potentially hazardous environment. I say this because a bus stop that didn't exist until last year, when the bus driver decided to make an extra stop because they didn't want the elementary kids crossing Pike to get to their scheduled pick up location. This bus driver saw and knew of the already potential hazard of kids crossing Pike Rd.

Third, when many of our neighbors bought their houses, including ourselves, in this surrounding community, they did it knowing the Kanemoto property couldn't be developed on. This was a welcomed plus, knowing that conservation of that land would make our property values higher, making the area less burden by heavy traffic, and as someone who values nature conservatory, make a small area more of a safe haven to our wildlife. For living in suburbia, it isn't everyday one gets to see a fox, a bob cat, hawks training their fledglings, and occasionally a lynx, just to name a few of the rarer wildlife.

Please keep this area as an open space and do not allow such a high population development to land in one of the last remaining open areas to disappear.

Thank you
~Janette Fetter

Sent from my T-Mobile 5G Device
Get [Outlook for Android](#)

Exhibit H

From: [Goldstein, Andrew](#)
To: [Milner, Anna](#); [Hackett, Richard](#); [Hippely, Hannah](#); [Sheehan, Jack](#); [LU Land Use Planner](#)
Subject: FW: [EXTERNAL] Question for Today's Planning Commission Meeting Related to Kanemoto Estates
Date: Wednesday, March 15, 2023 11:38:04 AM

For Kanemoto Estates

All the best,
Andrew

From: Charlene Hamlet <cjham3@gmail.com>
Sent: Wednesday, March 15, 2023 11:36 AM
To: #CPPZoom <CPPZoom@bouldercounty.org>
Cc: Tennille Abrams <tabrams32@gmail.com>
Subject: [EXTERNAL] Question for Today's Planning Commission Meeting Related to Kanemoto Estates

In addition to the obvious environmental impacts, Lefthand Ranch's proposed plan to add 426 homes would create a tremendous safety risk not only for Kanemoto Estates/Somerset Village, but for surrounding communities as well. Firstly, an influx of approximately 850+ vehicles utilizing the intersection of Hwy 119 and Airport Rd is not feasible without significant supporting infrastructure. Secondly, emergency evacuation of nearly 900 households (Somerset Meadows & Somerset Village alone) via Airport Rd would not be possible and likely result in loss of life. It took many of our neighbors in Superior nearly three hours to evacuate during the Marshall Fire with multiple escape routes. I personally do not care to experience that again in my lifetime, so I implore the decision makers to reject Lefthand's desire to terminate the conservation easement and hold them to the originally approved plan of one acre lots on 9.5 acres of land. Should Lefthand's proposal be approved, what measures will the County and City take to ensure our collective safety?

Thank you,
Charlene Hamlet
Somerset Meadows

Exhibit H

From: [ML](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Estates conservation easement termination
Date: Wednesday, March 15, 2023 12:34:36 PM

Dear Planning Commission,

I am dismayed to learn you are considering removing the conservation easement on the Kanemoto estate. I am opposed to this for several reasons. First, it will devalue the homes in the area by adding more people, traffic, crime etc. to the area.

Second, it will add a large impact to the area roads with more traffic and wear and tear on the roads. And, as is very apparent the roads in the area are in poor shape so additional traffic will accelerate the destruction of the roads. (Please drive down Pike or Fordham roads to see what I mean). Also, there is a school bus stop on Pike near airport and I have seen cars run the red lights of the bus. Additional traffic on Pike will make it less safe for our kids as the number of idiot drivers increases.

Third, if the open space is gone, will there be anything in the area to replace it?

Finally, I am disappointed that the government of the city of Longmont and county of Boulder would betray our desires and tax money to give up the conservation easement that makes this a desirable area to live. If all it takes is money to move the government the way the special interests want, then we all suffer.

I urge the planning commission to deny the zoning change and maintain the commitment made to the citizens of Boulder county when the conservation easement was created.

Regards,

Matt Linden
3623 Wildrose Place

Exhibit H

From: [Marilyn Gleim](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Kanemoto Conservation Easement
Date: Wednesday, March 15, 2023 8:44:43 AM

Planning Commission:

We own property and live in Clover Creek Subdivision. We have many concerns regarding the development of the Kanemoto property. The increase in traffic alone should be reason enough to not go ahead with this development! Clover Basin and Airport have had many accidents and the Diagonal Highway is the most accident prone road in Boulder County. These roads would be severely, adversely affected with the increase in traffic this would cause.

Also, we received notice there could be traffic diverted through this subdivision. Please consider the children in the two Clover Creek subdivisions who walk to the playground and swimming pool along this major street, not to mention having to cross Pike Rd.

We moved here years ago because we understood Boulder County and Longmont City valued open space. There are few areas around here that could be considered open space for the wildlife and people to enjoy. Another development here would be very harmful to the nature of this area.

Thank you for your consideration,

Richard & Marilyn Gleim

Exhibit H

From: [Jason Woods](#)
To: [LU Land Use Planner](#)
Subject: [EXTERNAL] Public Comment on Kanemoto Estates Conservation Easement Termination
Date: Wednesday, March 15, 2023 5:53:49 PM

I would like to leave a comment on the docket item: Kanemoto Estates Conservation Easement Termination. The Planning Commission meeting has gone longer than I expected and I will not be able to call in.

The proposed development is not consistent with the current Boulder County Comprehensive Plan and Boulder County Land Use Regulations because it does not meet the criteria of:

Countywide Goals Element:

Design of the Region:

2. Appropriate Rate of Growth.

Specifically, "Existing communities should grow at whatever rate they consider desirable, within the limits of what is acceptable to the citizens of areas potentially affected by that growth...".

The citizens of the Kanemoto Estates area do not consider the rate of growth acceptable. The most recently proposed project density is 10.5 du/ac. The proposed density is close to 100% more dense than the residential areas adjacent to the proposed development. This density increase is not an acceptable rate of growth for the citizens of this area.

I request that the conservation easement remain in place until Longmont agrees to keep the project density in line with adjacent residential areas.

Thank you,
Jason Woods

Exhibit H

From: [Clint Carroll](#)
To: [Hippely, Hannah](#)
Cc: [LU Land Use Planner](#); [Loachamin, Marta](#)
Subject: [EXTERNAL] Kanemoto Estates Proposed Development
Date: Thursday, March 16, 2023 9:44:35 AM

Dear Hannah,

I hope it's not too late to submit my comments on the proposed termination of the Kanemoto Estates conservation easement. I would like to add my voice to the opposition of this proposed easement termination and development.

My reasons are threefold:

1. Open Space and Easements are there for a reason. To quote one of my Cherokee Elders about development and land clearing: "Where does it stop?" For all the reasons already stated by my neighbors, this termination would violate the spirit of the easement in its establishment, as well as the Boulder County open space plan.
2. Traffic and congestion. To add my voice to the many others in our neighborhood, this would increase congestion to an already-congested area, impacting safety.
3. If Boulder County and the City of Longmont are serious about their stated commitments to the environment and social justice, then instead of terminating an established easement for more development, they should consider consultation with Arapaho people regarding the rematriation (returning) of land to its rightful caretakers. I would be happy to help in this regard, being married to a Northern Arapaho person with strong connections to her nation on the Wind River Reservation.

I am a proponent of affordable housing for all the social justice issues it represents, but I think we need to be deliberate about development and the sacrifices it entails regarding home and habitat for non-human beings. This plan seems poorly thought-out, and I think we can do a better job fulfilling a need for affordable housing that also fully considers the wellbeing of the land and "Land Back" for Indigenous peoples.

Sincerely,
Clint Carroll
Clover Creek resident
Longmont, CO

Clint Carroll, Ph.D.

(Cherokee Nation Citizen)

Associate Professor
Associate Chair of Graduate Studies
Department of Ethnic Studies
University of Colorado Boulder
Ute, Cheyenne, and Arapaho Territories
Ketchum 164 • 339 UCB • Boulder, CO 80309
[Profile](#) | [Book](#)

he / him / his

Exhibit H

From: [LU Land Use Planner](#)
To: [Hippely, Hannah](#); [Sheehan, Jack](#)
Subject: FW: [EXTERNAL] Kanemoto Estates comment
Date: Thursday, March 16, 2023 12:51:32 PM

-----Original Message-----

From: Patricia <wildmare10@comcast.net>
Sent: Thursday, March 16, 2023 12:43 PM
To: LU Land Use Planner <planner@bouldercounty.org>
Subject: [EXTERNAL] Kanemoto Estates comment

Hello,

I missed the meeting yesterday, but thought I would share my comment. I hope it's not too late. I am disturbed that a conservation easement would be terminated for this proposed development. What good is a conservation easement if it can just be wiped away for development? Why will future residents bother with a conservation easement if they know it can be terminated? It feels like a major violation of trust with landowners and the public who enjoy the benefits of these easements though undeveloped spaces and for the wildlife that need land to survive in this world/county.

Thank you,
Patricia Logan-Olson
7992 Centrebridge Dr.
Niwot, CO 80503

Exhibit H

From: [Edward Arnold](#)
To: [Hippely, Hannah](#)
Subject: [EXTERNAL] Kanemoto Estates: conservation easement termination
Date: Wednesday, March 22, 2023 12:09:21 PM

I find it a bad precedent for Boulder County to terminate conservation easements. Do we really need to cover every square foot of the County with development?

The only condition under which I would favor this sort of thing, would be if the County has financed, and/or extracted concessions from the developer, to provide a substantial portion of very low-income housing in the proposed development. Our huge homeless population must not be forgotten.

Edward R. Arnold

Exhibit H

From: [LU Land Use Planner](#)
To: [LU Land Use Planner](#)
Subject: FW: [EXTERNAL] Opposition to Termination of Kanemoto Estates Outlot A conservation easement - KARES Member
Date: Thursday, June 29, 2023 10:46:20 AM

From: Keith Klesner <keith.klesner@gmail.com>
Sent: Thursday, August 25, 2022 7:33 PM
To: Boulder County Board of Commissioners <commissioners@bouldercounty.org>
Cc: kares.longmont@gmail.com
Subject: [EXTERNAL] Opposition to Termination of Kanemoto Estates Outlot A conservation easement - KARES Member

Attn Claire Levy

Greetings,

I am writing to express opposition to termination of a conservation easement of Boulder county land known as the Kanemoto estates as part of a community group in Longmont called KARES.

Specifically, I am referring to Kanemoto estates Outlot A which is 29 acres protected by a Boulder County non-urban planned unit development (NUPUD) conservation easement. The easement currently prohibits development of Outlot A.

In early 2022 my family purchased a home in Longmont's Clover Creek neighborhood adjacent to this rural property with beautiful trails and open space. I literally said to my spouse, Boulder County values its open space and heritage, I trust in the institutions to uphold that conservation easement. IN fact we paid a premium to be located to such a special place. I am extremely concerned of a potential loss of this conservation land. I ask Boulder County to protect this conservation which since 1982 has served to protect the agricultural heritage and rural environment.

Furthermore, Longmont has many commercially zoned corporate campuses and light industrial parcels which are underutilized and better suited to residential mixed use development with better access to transportation, amenities and the urban centers. If this longtime easement is terminated, Longmont sprawl will continue without needed brownfield redevelopment within the City of Longmont.

Please keep me apprised of any further actions on this application as I want to stay engaged and offer community input.

Sincerely,
Keith Klesner, PE
M 3032531403
3311 Bluestem Ave, Longmont, CO 80503

CC: KARES (Keep Airport Road Environmental & Safe)