

RESOLUTION 2023-079

A resolution imposing a temporary moratorium on processing applications for development or uses in the General Industrial (GI), Transitional (T), Business (B), and Commercial (C) zoning districts of the unincorporated county within a three-mile radius of the Town of Lyons pending consideration of Land Use Code amendments

Recitals

- A. Under Colorado law, the Town of Lyons has identified a three-mile area around its municipal boundary that may be subject to future annexation, most of which is located in unincorporated Boulder County.
- B. The Board of County Commissioners (the “BOCC” or “Board”) adopted the original zoning map and regulations in Article 4 of the Boulder County Land Use Code (the “Code”) in or around 1985 and 1986. These zoning maps and regulations apply to development within this three-mile area.
- C. After discussions with Town of Lyons staff, the Community Planning & Permitting Director has determined that the existing zoning regulations and zoning map within a three-mile radius of the Town of Lyons may not adequately ensure that future development in that area will be consistent with the needs and desires of Boulder County and the Lyons community.
- D. Because of changes in development patterns, differing community needs, and population growth, residents of the Town of Lyons and the surrounding community are concerned about the potential negative community impacts of commercial, industrial and other intensive development within the three-mile radius, as shown in the attached Exhibit A.
- E. With appropriate permitting, the Code permits intensive development within the General Industrial (GI), Transitional (T), Business (B), and Commercial (C) zoning districts but does not allow for similar intensive development in other zone districts.
- F. Staff have identified a need to better understand and clarify the potential for and the effect of future development within a three-mile radius of the Town of Lyons in areas currently zoned GI, T, B, and C. Community members have also raised concerns with the level of intensity of uses currently allowed in these zoning districts.
- G. The Local Government Land Use Control Enabling Act, C.R.S. §§ 29-20-101 *et seq.*, provides the county with the broad authority to plan for and regulate the use of land to best protect and promote the health, safety, and general welfare of the present and future inhabitants of Boulder County and to guide future growth, development, and distribution of land uses within Boulder County.

H. Boulder County Community Planning & Permitting staff have begun to analyze whether the existing zoning map and regulations within a three-mile radius of the Town of Lyons are sufficient to protect and promote the public health, safety, and welfare, by appropriately balancing changes in development and growth with the present and future needs of Boulder County and the Lyons community.

I. Staff anticipates the time needed to analyze necessary amendments to the zoning map and regulations, as well as develop a plan to propose and adopt an amended map and regulations, is approximately six months in total. This timeframe assumes approximately two months for prerequisite studies, community outreach, and internal staff meetings; two months for drafting, referral to interested third parties, and public review of those drafts; one month to notice and conduct Planning Commission hearings; and one month for BOCC hearings.

J. In light of the foregoing, the Board determines that circumstances warrant the immediate enactment of a temporary moratorium on processing applications for proposed development and uses in the General Industrial (GI), Transitional (T), Business (B), and Commercial (C) zoning districts in within a three-mile radius of the Town of Lyons, as shown in the attached Exhibit A. This moratorium will remain in place during the county's planning and land use regulation and rezoning amendment process to protect and promote the public health, safety, and welfare, and to avoid development which may contravene the results and purpose of this study and process. Residential development and by-right agricultural uses as well as applications for development and uses in the Agricultural (A), Forestry (F), Rural Residential (RR), and Estate Residential (ER) zoning districts are exempt from this moratorium because they do not implicate the concerns regarding intensity of use identified by county staff, the Town of Lyons, and community members.

K. The Board further determines that it will schedule and hold a public hearing on this temporary moratorium and related matters as soon as practicable after this Resolution's adoption, for the purposes of receiving public comment on the moratorium and considering whether to terminate, extend, or otherwise amend the moratorium.

Therefore, the Board resolves

1. A temporary moratorium on processing applications for proposed development and uses in the General Industrial (GI), Transitional (T), Business (B), and Commercial (C) zoning districts within a three-mile radius of the Town of Lyons is reasonable and necessary to protect the public health, safety, and welfare of the county. This moratorium begins immediately on the date of this Resolution and ends at the close of business on March 5, 2024. The purpose of the moratorium is to allow time to formulate and publicly review necessary amendments to current county land use regulations and the zoning map governing development and uses in the General Industrial (GI), Transitional (T), Business (B), and Commercial (C) zoning districts in the

unincorporated county within a three-mile radius of the Town of Lyons. The Community Planning & Permitting Department is directed not to accept, process, or approve any applications, except as specified in paragraph 5 below, in these zoning districts submitted under Article 4 of the Land Use Code after the effective date of this Resolution.

2. Staff shall set and notice a public hearing to occur no later than 45 days from the date of this Resolution for the purpose of deciding whether the moratorium imposed by this Resolution should be terminated or otherwise amended.

3. Staff is directed to continue analyzing whether the existing county zoning map and regulations pertaining to the General Industrial (GI), Transitional (T), Business (B), and Commercial (C) zoning districts in the unincorporated area within a three-mile radius of the Town of Lyons are sufficient to protect the public health, safety, and welfare, and whether an amended zoning map and regulations will be necessary to adequately mitigate legitimate land use impacts of development in this area and better address the needs and desires of Boulder County and the Lyons community. Staff is directed to move expeditiously, such that the Board can end the temporary moratorium sooner if appropriate regulations are in place. Any change in the duration or other terms of the temporary moratorium shall occur at a duly noticed public hearing of the Board.

4. The Board reaffirms that any development conducted without all necessary county approvals may be in violation of the Boulder County Land Use Code or other applicable county regulations.

5. This temporary moratorium does not apply to the following:

- a. Any application for residential uses or development as defined in the Land Use Code.
- b. Any application for by-right agricultural uses and related development as defined in the Land Use Code.
- c. Any complete application for development currently being processed by the Community Planning & Permitting Department, which may continue to be processed and reviewed as provided in the Land Use Code.
- d. Any application for development already approved by the Community Planning & Permitting Department prior to the effective date of this Resolution where such approval is validly maintained thereafter.
- e. Development which possesses either a statutory or common law vested right.

f. Minor modifications to existing permits.

6. If a property owner believes certain activity is not subject to the temporary moratorium given the exceptions listed in Section 5 of this Resolution, the owner must submit a request for exemption in writing to the Community Planning & Permitting Director. Work eligible for an administrative exemption from the moratorium may only proceed upon written approval of the Community Planning & Permitting Director.

7. To the extent that a parcel lies partially within and partially outside of the three-mile radius of the Town of Lyons, it will be treated as fully outside of the three-mile radius.

[Signature Page to Follow]

A motion to approve the foregoing Resolution imposing a temporary moratorium was made by Commissioner Ashley Stolzmann, seconded by Commissioner Marta Loachamin, and passed by a 3-0 vote.

ADOPTED as a final decision of the Board on this 5th day of September 2023.

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

Claire Levy

Claire Levy, Chair

Ashley Stolzmann

Ashley Stolzmann, Vice Chair

Marta Loachamin

Marta Loachamin, Commissioner

ATTEST:

Cecilia Lacey

Clerk to the Board



Exhibit A

Zoning Districts Subject To Temporary Moratorium

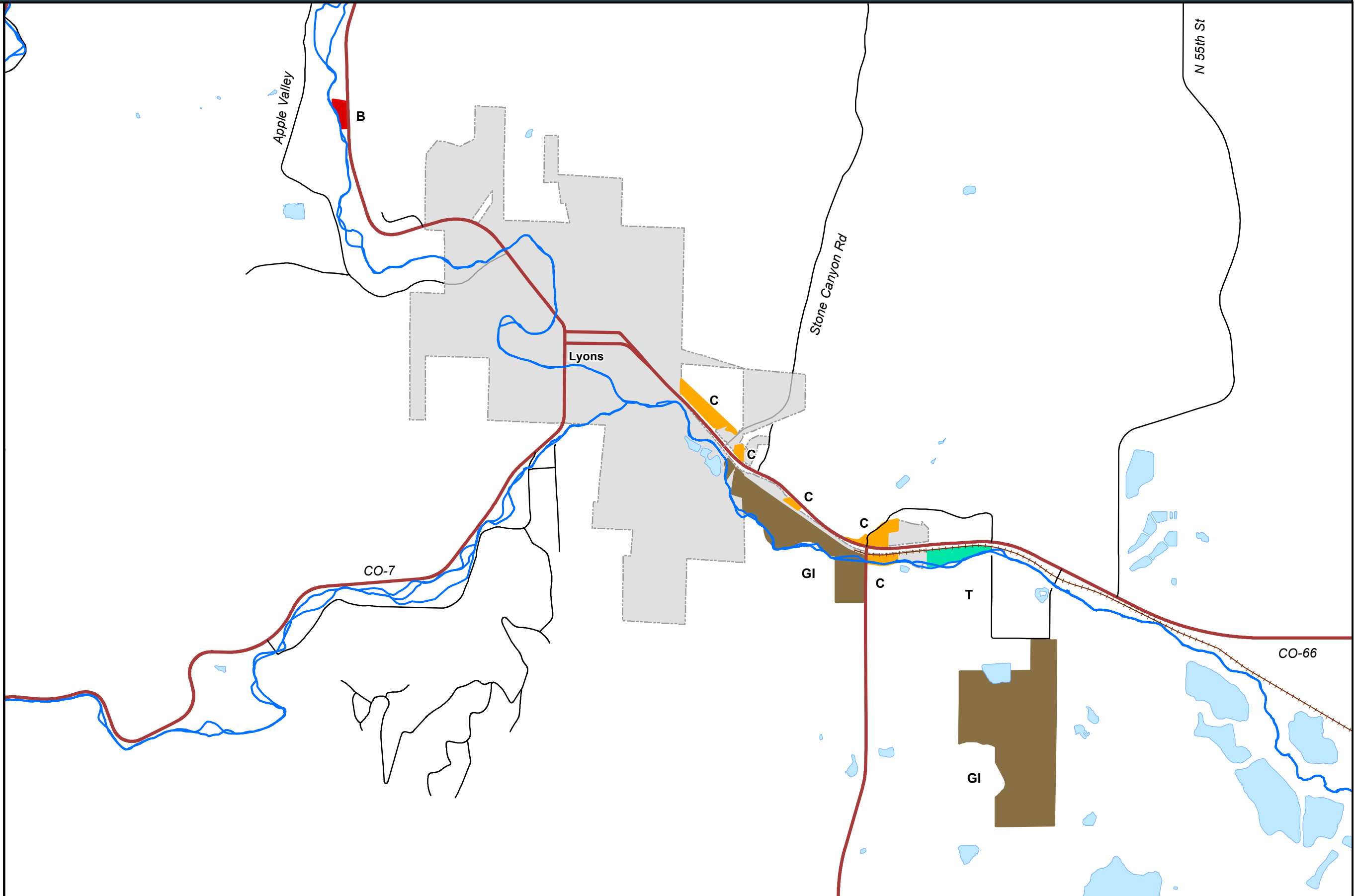
LEGEND

Roads

- State
- Minor
- Municipal
- Railroads

Zoning

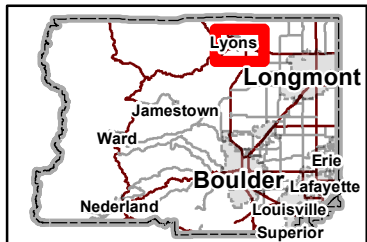
- Business
- Commercial
- General Industrial
- Transitional
- Municipalities



0 0.15 0.3 Miles



Area of Detail Date: 9/5/2023



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