



City of Boulder Planning & Development Services

CITY OF BOULDER LAND USE REVIEW RESULTS AND COMMENTS

DATE OF COMMENTS: **March 29, 2019**
CASE MANAGER: **Sloane Walbert**
PROJECT NAME: **PONDEROSA COMMUNITY STABILIZATION PROGRAM**
LOCATION: **4475 BROADWAY**
REVIEW TYPE: **Annexation/Standard**
REVIEW NUMBER: **LUR2019-00016**
APPLICANT: **DANICA POWELL
KURT FIRNHABER, CITY OF BOULDER**
DESCRIPTION: **Annexation and Initial Zoning for the Ponderosa Mobile Home Park.**

I. REVIEW FINDINGS

Additional information and revisions to the plan documents are required as indicated below. Revised plans must be submitted by 5/28/2019 or an extension requested for this application to remain active. Refer to 'Next Steps' comments below. Please contact staff with any questions or concerns.

II. CITY REQUIREMENTS

The section below addresses issues that must be resolved prior to project approval.

Access/Circulation

David Thompson, 303-441-4417

1. As a condition of annexation, the applicant will be required to:
 - a. dedicate public right-of-way on the north side of Cherry Avenue in order to accommodate an eight-foot wide tree planting area and a five-foot wide detached sidewalk. The right-of-way dedication shall extend one-foot beyond the edge of the detached sidewalk.
 - b. dedicate public right-of-way on the west side of Broadway in order to accommodate the public improvements planned with the City's Broadway Reconstruction Project. The width of the right-of-way dedication is 10.5 feet +/-.
 - c. dedicate public right-of-way for the new Cherry Ave / 10th Street intersection to be constructed with the Ponderosa Community Stabilization Project. The area of the right-of-way dedication must include the roadway intersection and sidewalks and extend one-foot beyond the edge of the sidewalks.
 - d. dedicate a public access easement to accommodate pedestrian access from the Cherry Ave / 10th Street intersection to the east property line. The width and limits of the easement would include the sidewalk on the north side of Cherry Avenue and the six-foot sidewalk between Cherry Ave and the east property line.
 - e. dedicate easements to accommodate the City's Fourmile Canyon Creek Mitigation Plan.

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2. As a condition of annexation, the applicant will be required to remove the site's ability to use Broadway as an access point into and out of the site. This requirement is consistent with the city's site access control standards that require a property that has frontage on more than one street to locate its access on the lowest category street and is also consistent with expected future public improvements for transportation and flood projects.

The roadway classification of Broadway is an arterial roadway while the classification of Cherry Ave and 10th Street is a local street. A local street is a lower category street compared to an arterial roadway. Removing the site's traffic volumes (trips) from Broadway will improve the operations and circulation of Broadway as well as reduce the occurrence of turning vehicles conflicting with either other vehicles, bicyclists or pedestrians using Broadway. Site access to Broadway shall be disconnected to vehicle traffic prior to either the first building permit being issued for the site, the first phase of either the site or public improvements or when required by the city to accommodate the improvements planned with the City's Broadway Reconstruction Project. Please see additional comments in Floodplain about the need to close this access point to accommodate planned flood mitigation work.

Building and Housing Codes

Kirk Moors, 303-441-3172

CODE COMPLIANCE OF EXISTING DWELLINGS

The last bullet of the Annexation Goals section of the written statement says, "Unit spacing and building code compliance: Many of the units have had nonpermitted additions or construction work that does not meet building codes or safety standards. In addition, many units are spaced too close together to meet fire protection or setback standards." The Short-Term Community Stabilization section lists, "Life safety upgrades, including electrical replacement and smoke detectors." How will the life/safety upgrades be determined? How will the building code compliance issues be resolved for the community members electing to stay in properties identified as having life/safety issues given the council direction to not displace any of the residents? Boulder Revised Code (B.R.C.) 9-2-20 (d) states: "Applicability of Ordinances That Are General in Nature: The establishment of a vested property right shall not preclude the application of City ordinances or regulations which are general in nature and are applicable to all property subject to land use regulation including, without limitation, the provisions of chapter 9-3, "Overlay Districts," section 9-9-17, "Solar Access," chapters 9-12, "Subdivision," 9-13, "Inclusionary Housing," and 9-14, "Residential Growth Management System," B.R.C. 1981, and the City's building, fire, plumbing, electrical and mechanical codes. Approval of a site specific development plan shall not constitute an exemption from or waiver of any other provisions of this code pertaining to the development and use of property." In addition, how will the Required Improvements and Financial Guarantees of B.R.C. 9-2-21 be met concerning the unpermitted building improvements described in the written statement?

Floodplain

Alysha Geiger, 303-441-4053

This property is impacted by 100-year, 500-year, conveyance zone and high hazard zone floodplains of Fourmile Canyon Creek. The City is currently designing a Transportation Capital Improvement project (Broadway Reconstruction Project)

that will also implement flood mitigation improvements that have been previously identified by the city in this area. The CIP project includes plans to install additional box culverts under Broadway to allow for the conveyance of the 50-year storm event along Fourmile Canyon Creek. As stated in the Access/Circulation comment additional right-of-way and/or easement dedications will be required as a part of this annexation to allow for the construction of these projects. These improvements will also preclude the ability for the current Broadway access point to remain in place. See additional comments in Access/Circulation about the closure of this access point.

Fourmile Canyon Creek has a mapped 100-year floodplain that identifies several spill flows, including one across the Ponderosa Mobile Home Park site. The creek channel is significantly undersized for major storm events and currently does not have adequate capacity to even convey a 10-year storm event.

Flood mitigation improvements to the creek channel upstream of Broadway, adjacent to the Ponderosa Mobile Home Park will reduce spill flows and convey flows to the Broadway crossing. The site plan for the Ponderosa Mobile Home Park should aim to accommodate and not preclude future improvements to Fourmile Canyon Creek flood mitigation efforts. As a condition of annexation, a 50-foot-wide flood conveyance easement will be required to be dedicated along the north property line to allow for the future flood mitigation and channel construction.

Legal Documents

Julia Chase, 303-441-3052

1. Annexation Map
 - a. Legal Descriptions:
 - i. Remove the separate legal descriptions for Parcels I and II and only keep the one for the total parcel. It should appear without the notation that it was "(prepared by surveyor per client request, total parcel)."
 - ii. In the 2nd paragraph, and in the first of three courses, fix the spelling of the word "chord".
 - b. Survey Notes. Please add a Survey Note #4 which reads as follows:

Parcel III: The deed recorded at Book 1169, Page 422 on 1/26/61 dedicated right-of-way to the public and the County of Boulder. However, this dedicated was never accepted as right-of-way by Boulder County per Boulder County staff.
 - c. Map: Revise the label for Parcel III so that is only includes the recording information but refer to Survey Note #4 for the additional information. For example:

PARCEL III
BK 1169, PG 422, REC NO. 667557 1/26/61 (SEE SURVEY NOTE #4)
2. Exhibit A

Legal Description

Revise the legal description on 8.5 x 11 paper to correct the spelling of "chord" in the 1st of 3 courses described in the 2nd paragraph.

Plan Documents

Sloane Walbert, 303-441-4231

1. Additional information is necessary regarding the proposed community benefit. There is conflicting information about the proposed affordability for the replacement homes. The written statement includes statements that "ninety percent or more of the replacement homes are anticipated to be deed restricted as permanently affordable to low and moderate income households" but goes on to state "100% affordable housing." What is the proposed amount and level of affordability? The annexation agreement will be need to specific in the affordable housing terms.
2. As part of annexation the city will need to acknowledge the nonconforming uses and nonstandard buildings and structures on the Property. Please include an exhibit that calls out any mobile homes or other structures that do not meet the setbacks and separation requirements of Title 9, B.R.C. 1981. The exhibit should also note that mobile homes are a prohibited use in the RM-2 zone district. The annexation agreement will include a covenant that these structures will be allowed to continue to exist and may be modified pursuant to Section 9-10-3, "Changes to Nonstandard Buildings, Structures, and Lots and Nonconforming Uses," B.R.C. 1981.

III. INFORMATIONAL COMMENTS

1. **Drainage**, Scott Kuhna, 303-441-4071

As a condition of annexation, the applicant is required to convey drainage in an historic manner, which does not adversely affect neighboring properties.
2. **Fees**, Scott Kuhna, 303-441-4071
 - a. Based on the application data supplied and the 2019 Schedule of Fees, the following fees will be due prior to the first reading of the annexation ordinance:

PLANT INVESTMENT FEES (PIF'S)

Stormwater	\$2.29/square foot of impervious area
Existing Impervious Area:	96,128 square feet
	\$220,133.12
 - b. Based on city records there are no outstanding utility main reimbursements (water and sewer) owed by this property.

3. **Legal Documents**, Julia Chase, 303-441-3052
Prior to the 1st Reading of the Annexation Ordinance, the applicant must sign the annexation agreement and provide an updated title commitment current within 30 days.
4. **Next Steps**, Sloane Walbert, 303-441-4231
Revisions to the plan documents are required. Please address the comments herein and resubmit **three (3) hard copies** and **one (1) digital copy** of the revised plans to the front counter of the at the Planning and Development Services Center. The application deadline is 10:00 a.m. on the first and third Monday of each month to be included in the following review track. Staff is happy to meet with you to discuss these comments in detail at your convenience.
5. **OS-O Area**, Luke McKay, 303-817-5302, mckayl@bouldercolorado.gov
OSMP has reviewed the phased site plans for the redevelopment of the OS-O area in Ponderosa Park and requests that it have an opportunity to review the landscaping plans for the OS-O area prior to breaking ground. Given the proximity to Fourmile Canyon Creek, OSMP recommends that the applicant only use native plants and species for landscaping the OS-O area.
6. **Review Process**, Sloane Walbert, 303-441-4231
The property requires annexation to be brought into the City limits and to allow for upgrades / repairs to the existing utility connections. The City's requirements for annexation and initial zoning are found in Sections 9-2-16 and 9-2-17, B.R.C. 1981. The annexation request must be reviewed for compliance with these requirements, the Colorado state statutes of 31-12-101, et seq. C.R.S., and for consistency with the Boulder Valley Comprehensive Plan (BVCP) and other ordinances of the city.

Staff has reviewed the annexation petition for compliance with C.R.S. 31-12-104 and C.R.S. 31-12-105, and finds that the application is consistent with those sections, as affirmed by the criteria below:

- Landowners of more than 50 percent of the area have petitioned to annex;
- The petition was filed with the City Clerk;
- There is a community interest between the property proposed for annexation and the City of Boulder;
- The subject property does not include any area included in another annexation proceeding involving a city other than the City of Boulder;
- The annexation would not remove the property from one school district and add it to another; and
- The property has, at least, one-sixth contiguity with the perimeter of the City of Boulder.

The property is eligible for annexation because it is a county enclave (unincorporated area of land entirely contained within the outer boundary of the city) and located in Area II of the BVCP. Area II refers to land now under county jurisdiction where annexation to the city can be considered consistent with Policies 1.07 Adopting Limits on Physical Expansion, 1.09 Growth Requirements, and 1.16 Annexation. Per Annexation Policy 1.16.b, the city will actively pursue annexation of county enclaves.

If a property is annexed, zoning is established according to the land use designation in the Land Use Map. Staff supports the proposed Residential Medium – 2 zoning.

Proposed annexations with additional development potential need to demonstrate community benefit consistent with BVCP policies to offset the negative impacts of additional development in the Boulder Valley. For proposed residential development, emphasis is given to the provision of permanently affordable housing. The long-term plan is to replace the mobile homes with permanently affordable, size restricted, fixed foundation housing.

An annexation agreement is required which establishes the terms and conditions of the annexation. Standard terms and conditions, such as right-of-way dedication requirements, affordable housing contributions, and fees, are established through city codes and policies. Annexations generally involve two public hearings. The first is conducted by the Planning Board, who will make a recommendation to the City Council whether or not the annexation should be approved, and the terms, conditions and zoning that should be applied. The City Council then holds a second public hearing before making their determination.

7. Fire

See comments concerning fire hydrants on LUR2019-00015

8. Historic Preservation

The city maps list the date of construction for the site as 1958. If demolition is proposed for a building over 50 years old, review by the historic preservation program is required. The application is available online at www.boulderhistoricpreservation.net. Contact Marcy Cameron at (303) 441-3209 with questions.

9. Wetlands

This property is impacted by high functioning wetland/stream and buffer areas of Fourmile Canyon Creek. Based on the proposed project a Standard Wetland Permit will be required and must be submitted with the TEC DOC submittal. Please see Section 9-3-9, "Streams, Wetlands, and Water Body Protection," B.R.C. 1981, Table 3-1, for activities that require wetland permitting.

Where improvements are proposed within a delineated wetland or wetland buffer area, as defined under the City's streams, wetlands and water body protection ordinance, the applicant shall satisfy and comply with all applicable regulations and requirements as set forth in Section 9-3-9, "Streams, Wetlands, and Water Body Protection," B.R.C. 1981, including any necessary identification, analyses, avoidance and mitigation measures, and improvements needed to address wetlands protection requirements.

Best management practices shall be applied to all phases of the project and shall conform to the requirements of the "City of Boulder Wetlands Protection Program: Best Management Practices" adopted July, 1995; and "City of Boulder Wetlands Protection Program: Best Management Practices - Revegetation Rules" adopted July, 1998.

Before final permit is approved, written clearance must be received from the US Fish and Wildlife Service that no Threatened or Endangered Species will be affected.

Before final permit is approved, written authorization from Section 404 Nationwide Permit must be received for file.

10. Utilities, Scott Kuhna, 303-441-4071

- a. As a condition of annexation, any existing structures requiring the use of a waste disposal system (not currently connected) shall be connected to the city's wastewater system in accordance with section 11-2-8, B.R.C. 1981 within 180 days of the second reading of the annexation ordinance or the existing structures must be demolished.
- b. As a condition of annexation, the applicant is required to abandon any existing septic system in accordance with Boulder County Health Department and State regulations (if applicable).
- c. The subject property is currently included in the Northern Colorado Water Conservation District (NCWCD) and Municipal Sub-district.

IV. FEES

Please note that current development review fees include a \$131 hourly rate for reviewer services following the initial city response (these written comments). Please see the P&DS Questions and Answers brochure for more information about the hourly billing system.