



EAB Final Draft Input to the IGA Task Force

July 21, 2024

The Ecology Advisory Board has met and reviewed the Draft Lyons-Boulder County Intergovernmental Agreement. The following is the input of our 7 members as requested by the IGA Task Force Chair.

- 1) In a departure from the existing Boulder County/Lyons IGA, eight parcels are specifically identified and mapped in the Draft IGA as possible future sites of housing-only annexations. These are: the Boone, Carpenter, Connor, Hawkins and Harkalis parcels, and the Loukonen areas A, B, and C.

In our discussions, EAB members noted that these specifications are unusual, might be subject to legal challenges, and may be counterproductive. In the future, mixed-use or other development plans may be put forth. The IGA need not preclude such annexations with overly specific language allowing only sole-use for housing. We recommend removing such specifications from the IGA.

- 2) Text in the Draft also states: "...a final and unappealable annexation plan must be approved by Lyons, which shall include the affordability and density requirements listed in subsections a-g above." This sentence makes clear the intention to enforce the detailed housing specifications. EAB recommends this be removed.
- 3) Even though we disagree with inclusion of these future use details, EAB still evaluated certain ecological/environmental aspects of annexation of each parcel identified, as follows:

The Boone Parcel is a large (57 acre) parcel currently owned by the Boone estate heirs and is for sale. It includes an abandoned stone quarry that has been the subject of Boulder County solid waste dumping and noxious weeds and rubbish dockets; there is/was also a blacksmith shop and cistern. Most of the property would be newly mapped in the Draft as, for the most part, undevelopable but available for annexation to Lyons. The other, much smaller, portion of the property is to be mapped as annexable but for housing only.

EBA notes that the parcel is currently in the existing IGA's "Rural Preservation District" and is not-annexable. Lyons previously agreed to this for several reasons.

One is that the area is above the Town's "Blue Line": extending town utilities to this area would be much more expensive. A more general reason is that housing -only development at the periphery of our town would be urban sprawl instead of the compact, balanced, and economically-sustainable growth the existing IGA anticipates.

We also highlight that the anticipated use of the undevelopable portion of the land to provide road and utility access and passive recreation could require remediation of any environmental and groundwater issues at the quarry and blacksmith shop and cistern. The existing pond also provides a vital water source for waterfowl, migratory birds, and terrestrial mammals. Its ecological function would be significantly degraded by such development, which would hinder access to the water and further fragment the habitat. Finally, we stress that the Draft IGA language unwisely restricts its possible future uses.

EAB is opposed to Boone Property removal from the Rural Preservation District

- The Carpenter Parcel. This 5.3 acre agricultural property presently in the Rural Preservation area is also above blue line. There is one home on the parcel. With the new IGA, the landowner could request annexation but the housing specifications would require subdivision of the property. EAB considers such a change would not be beneficial to the Town. In general, the rural preservation area designation protects local drainages from urbanization and increased storm runoff, preserves habitat for wildlife, reduces urban warming effects, and reduces population exposure to wildfire. We see no justification or changed circumstances showing in the IGA to motivate changing this designation for this property.

EAB is opposed to Carpenter Property removal from the Rural Preservation District

- The Connor Parcel. This 30 acre property, in the same area as the above two, is also above the Blue Line. Again: EAB believes the rural preservation area has been a net asset for Lyons, has protected local drainages from urbanization and increased storm runoff, and preserved habitat for wildlife. We see no justification or changed circumstances showing in the IGA to motivate changing this designation for this property.

EAB is opposed to Connor Property removal from the Rural Preservation District

- The Walters property, 10 acres is newly defined in the Draft IGA as "undevelopable" but would be removed from the Rural Preservation District. An exception is allowed however for: "utility facilities, access, emergency access, passive recreation, and structures associated with those uses."

In this regard, according to the current Draft IGA text, “County agrees not to purchase lands for open space preservation” in the Potential Annexation Area (which Walters would now be a part of). Therefore, according to the Draft IGS, this property cannot be developed and cannot become county open space, but it would now be annexable into Lyons. This is an unworkable outcome; who would own this property?

EAB is opposed to Walters Property removal from the Rural Preservation District

- The Hawkins Parcel was already in the annexable area and remains so in the Draft IGA: but housing density restrictions are to be newly imposed. However, it is also within a high flood risk area according to town’s stormwater master plan. The parcel may be better suited to mixed-use or commercial/business use (if the stormwater hazard issue is addressed).

EAB is opposed to housing-only restrictions being placed on the Hawkins Parcel.

- The Harkalis Parcel (the “beehive” property) is currently in a form of commercial (apiary) use which is highly beneficial to our local ecology, including the recent establishment nearby of a town orchard. The property is already in the annexable area, but the Draft IGA imposes new restrictions as it requires housing-only.

EAB is opposed to housing-only use restrictions being placed on the Harkalis Parcel.

- The Loukonen Area A is adjacent to LVP. It is situated adjacent to a steep bank down to the creek wetlands and floodplain and is a documented major wildlife migration route (local elk herd, and deer). It is part of a much larger property that is already available for potential annexation.

If landowner wishes to subdivide and annex, there is already a pathway for such applications. Zoning is established at the time of annexation, so housing densities can be determined then.

EAB is opposed to the IGA pre-empting the local zoning procedures by placing high and medium density housing restrictions on the Loukonen Area A.

- The Loukonen Area B includes also part of CEMEX-owned property and is already annexable. It is in industrial/commercial use (warehouses, office spaces, storage for cut stone, etc.).

EAB is opposed to the IGA identifying the Loukonen Area B as only annexable for housing purposes, If landowner(s) wish to subdivide and annex, there is already a

pathway for such applications and mixed use or continued commercial/industrial uses may be desired by both parties.

- The Loukonen Area C is shown on the map as not developable but the text provides an exception for RV/tent camping, and associated access and parking. This area is within the regulatory floodplain and was heavily affected by the 2013 flood.

The river corridor in which this property sits has been designated a "critical wildlife habitat" by Boulder County and it includes Preble's Meadow Jumping Mouse (endangered species) habitat. RV park and campground development would fragment and/or remove this habitat. The present Draft IGA language also unwisely predetermines what sort of future use might be feasible and desirable. Instead of a commercial RV Park, for example, an Audubon Center or other educational facility might be an option, but such would be ruled out by the present language.

EAB is opposed to the Draft IGA text concerning development of the Loukonen Area C parcel.

4) Other Comments:

Conservation easements may be a sensitive topic for many residents and including for both the affected landowners and neighboring properties. Conservation easements, by definition, are legally binding and perpetual. They are established to remain in effect permanently. The present IGA Draft anticipates the establishment of more such town-owned and county-owned easements.

However, termination of such easements appears to also be anticipated. Thus: *"Lyons agrees that it will only annex lands in the PAA over which the County owns a conservation easement after the County releases the conservation easement or if the easement terminates upon annexation by its terms."*

EAB is concerned that the IGA bars some landowners from seeking annexation into town unless they first obtain removal of the conservation easements or covenants. The purpose of the IGA overall is to support such protections. Parcels with such protections are not developable, and it would be appropriate and useful to show these restrictions on the IGA map.

EAB further notes that Lyons municipal code currently excludes using town-owned, easement-protected property for housing without a town vote. This ordinance was itself voted into effect by the Lyons electorate, which again indicates the concern that residents have about removals of conservation protections.

There is clearly also a need to provide for more flexibility for future land use and annexation than the present Draft allows. There could be cases where annexation into town with easements still intact would benefit the property owner and the town.

EAB recommends removing the sentence quoted above and identifying the easement-protected parcels on the IGA map.

Finally, the Draft IGA states that “(f) Lyons agrees that the PAA cannot expand within Boulder County.”

EAB supports such language and recommends that it be retained. However, the current Draft IGA expands the PAA over the existing one, without the need for such changes being explained.

In this regard, reducing the Rural Preservation District is unavoidably associated with environmental and ecological costs to the town. These include habitat loss, ecosystem fragmentation and degradation, restriction of wildlife migration, and reduction of valuable ecosystem services such as runoff detention and flood reduction. These environmental and ecological concerns motivating the 2012 IGA rural land protection are even more pressing today than they were over a decade ago. Therefore:

EAB urges that the Draft IGA be revised to either not expand the existing PAA or to explain and justify each expansion.

Respectfully submitted on behalf of EAB, July 21, 2024
Robert Brakenridge, Ecology Advisory Board Vice Chair