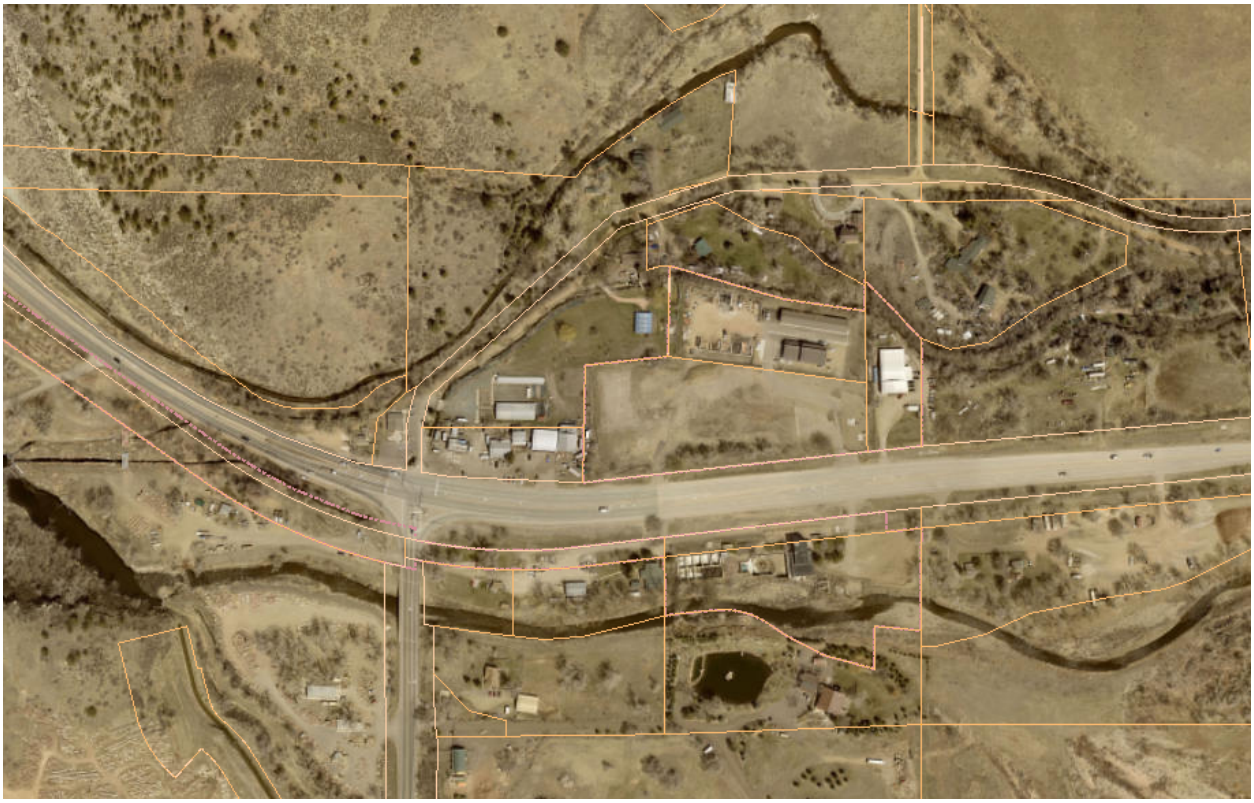
CASE NAME: TEBO Annexation Petition and Zoning Designation
TOWN STAFF: Andrew Bowen, Senior Planner
APPLICANT: James Dixon and Dillon Schmidt (Project Manager)
PROJECT ADDRESS: 4545 UTE HWY (Front Parcel) and 4602 HIGHLAND DR (Rear Parcel)
PROPERTY OWNER: Stephan D. Teboss
Legal Description: (Front Parcel) TRACT 2267-A LESS A-1 & A-2 & A-3 & LESS PT TO HWYTOTAL 1.20 ACS M/L PER LS-09-0123R0054471 & R0054728 & R0054550 & R0127169COMB HERE 2017 PER DEED # 1429342 5/20/94& SUBSEQUENT SALE PER REC # 1447002 7/18/94

(Rear Parcel) TRS 2267A1 & 2267A3 1955 COM 8X4554542 - SEE R0054572 FOR LAND

SITE VICINITY MAP



STREET VIEW (SNIP)

1. REQUEST SUMMARY

A petition for annexation and zoning designation has been submitted for two the parcels mentioned above.

In conversations with the Applicant, the proposed development patterns for the site are commercial on the front parcel (CEC), with high-density housing (R3) on the rear parcel. This request is reflected within the application packet and the request for zoning designation.

No Development Plan and/or Agreement are to be considered at this time, but the Applicant has submitted a preliminary sketch plan to provide context. The application packet has been declared complete by both staff and the Town Attorney. Copies of both Submittal Checklists and submittal documents are attached to this packet.

2. LMC REFERENCES

The following LMC Articles and Sections were used for this review:

- Sec. 16-15-20. - General Rezoning
- Chap. 15 - Annexation

3. HISTORY

Both parcels have been within the Town's planning area for several years and have been used commercially. Town staff and the Applicant have met several times within the last four months to discuss annexation and the highest and best use for both parcels.

On July 15th, the BOT unanimously approved Resolution 2024-55, which declared that the application packet was in "Substantial Compliance" and initiated annexation proceedings.

As required by Sec. 15-1-220, Step 12, the PCDC must meet to consider the annexation application and hold a public hearing regarding the zoning request. As noted, the proposed zone districts for the subject property are commercial on the front parcel (CEC) and high-density housing (R3) on the rear parcel.

4. APPLICATION NEIGHBOR NOTICES AND REFERRALS

Both Neighbor Notices and Referrals were sent out on July 24, 2024, upon completion of planning staff's completeness review. This referral call included the following:

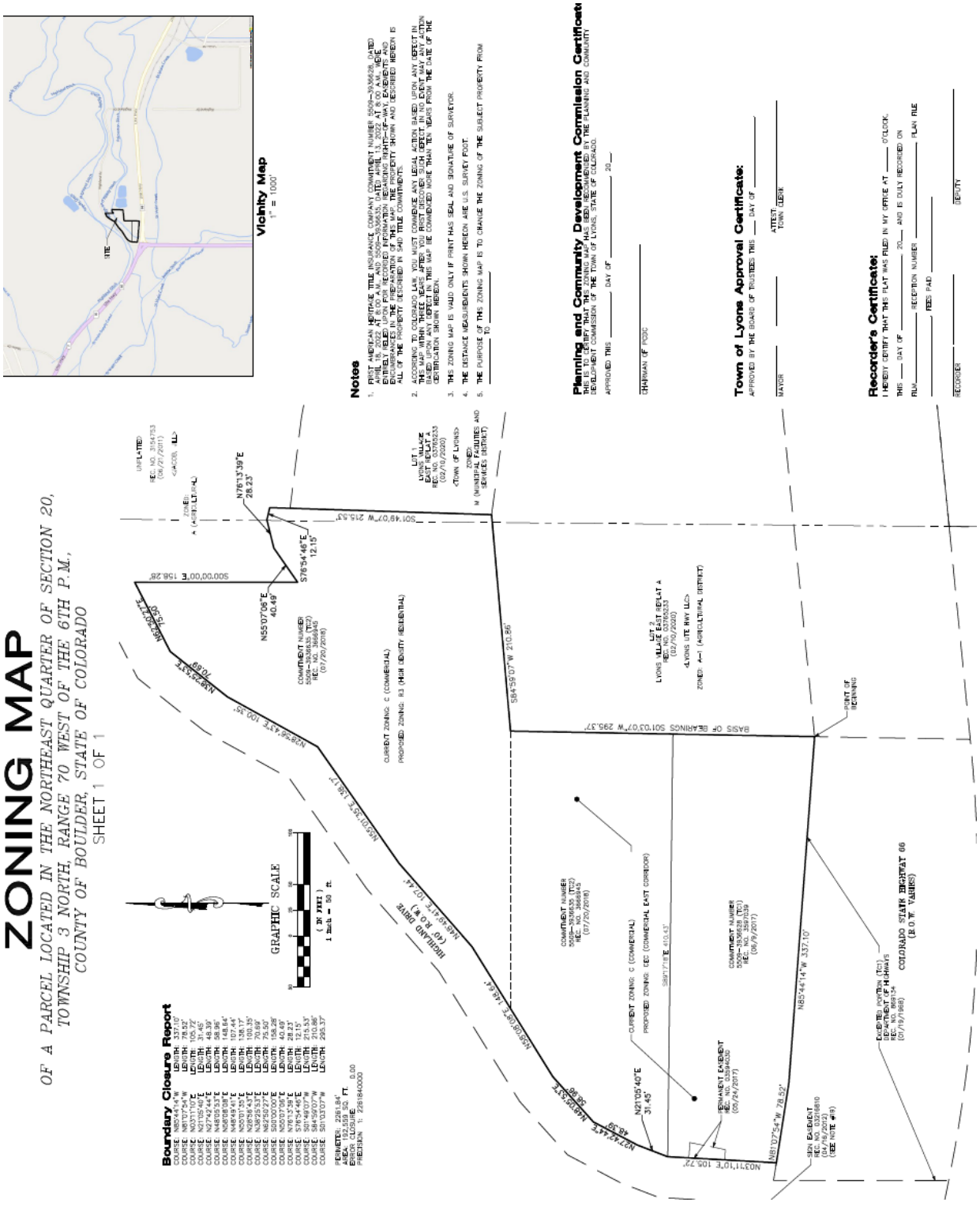
- Neighbor notices (Certified Mail)
- County and Special District Referrals
- All Boards & Commissions
- Technical Agencies

Note: All referrals will be attached to the final staff report to the BOT

5. PROPOSED PROJECT TIMELINE

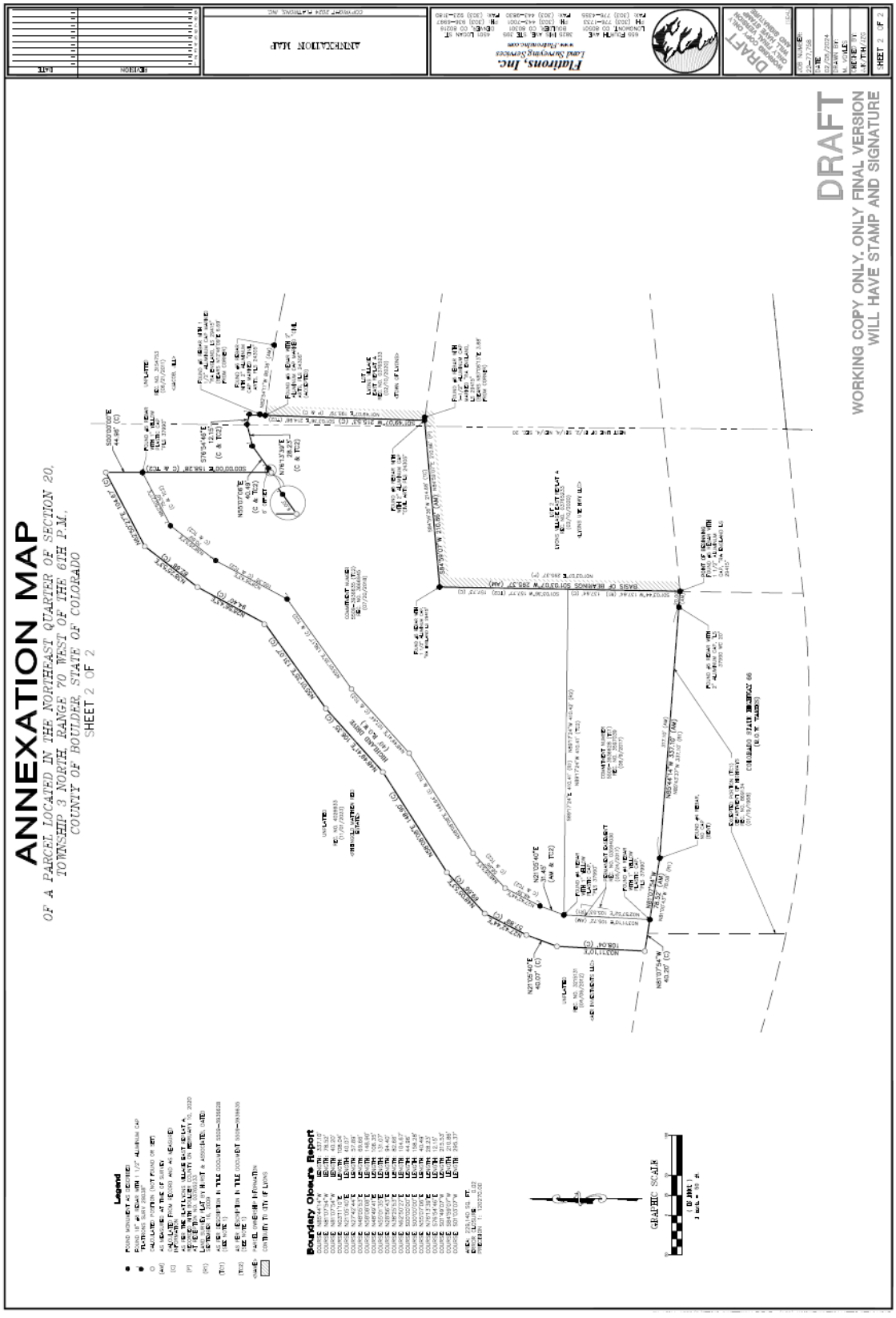
As noted, the Applicant has no immediate plans for the site, but does plan on developing the front parcel as commercial and the rear parcel as high-density residential. It is anticipated that a gas station and a plaza will be developed sometime in the future.

6. PROPOSED ZONING MAP



As shown above the requested zoning for the lots is CEC (Front) and (R3) Rear.

7. PROPOSED ANNEXATION MAP



8. REQUIRED FINDINGS

All findings are *Italicized* with staff's response in Green.

Annexation Petition

Sec. 15-1-310. - Annexation review criteria.
"It shall be the general policy of the Board of Trustees with respect to annexations and the consideration of annexation petitions that:

Annexation is a discretionary act. With the exception of an initiated petition for the annexation of an enclave, the Board of Trustees shall exercise its sole discretion in the annexation of territory to the Town.

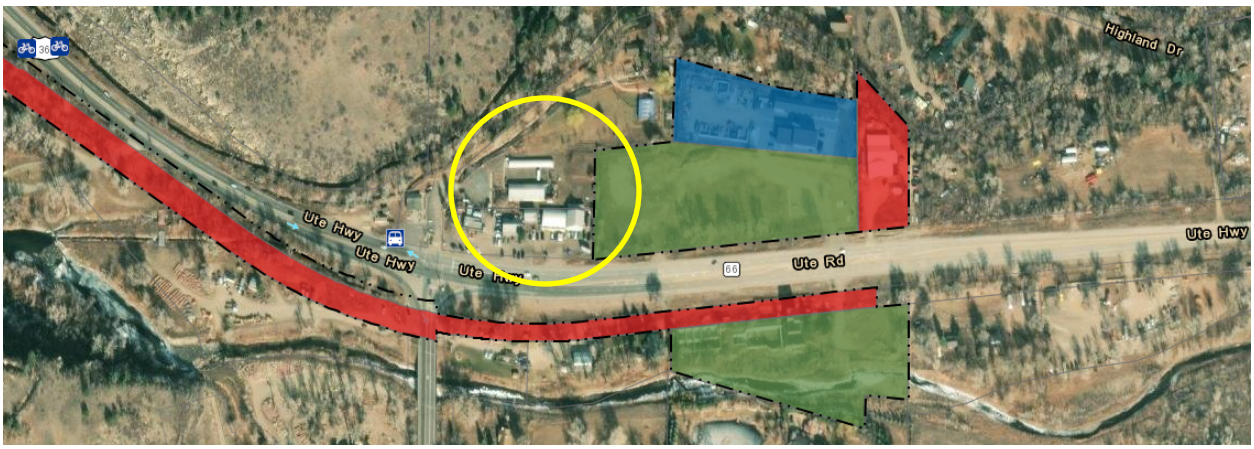
1) The property is eligible for annexation if:

a. Not less than one-sixth (1/6) of the perimeter of the area proposed to be annexed is contiguous with the Town. Contiguity is not affected by the existence of streets, alleys, rights-of-way, public lands (except County-owned open space) or water bodies between the Town and the land proposed to be annexed. The one-sixth contiguity of the perimeter may be achieved by the annexation of one (1) or more parcels in a series, which can be considered simultaneously for the purpose of the public hearing.

CAN BE MET. This petition for annexation meets the (1/6) continuity rules as required by this Criterion.

b. A community of interest exists between the territory proposed to be annexed and the Town.

CAN BE MET. The neighboring properties to the east of the subject parcels are within Town limits (shown below). This annexation is an important anchor point for the Eastern Corridor and is vital for the economic and housing development of the Eastern Corridor.



Note: It is anticipated that this annexation will lead to future annexations.

c. *The territory proposed to be annexed is urban or will be urbanized in the near future and is integrated or is capable of being integrated with the Town. Existence of Subparagraph a. above is a basis for a finding of Subparagraphs b. and c., unless the Board of Trustees at a public hearing finds that at least two (2) of the following exist:*

i. *Less than fifty percent (50%) of the adult residents of the area proposed to be annexed use any of the recreational, civic, social, religious, industrial or commercial facilities of the Town and less than twenty-five percent (25%) of these adult residents are employed in the annexing Town;*

NA. This Criterion is Not Applicable. While there are current tenants and existing uses on both parcels, to staff's knowledge all commercial tenants live outside of Town limits.

ii. *At least one-half (½) of the land proposed to be annexed is agricultural, and landowners constituting at least one-half (½) of the total area express, under oath, an intention to devote the land to such agricultural use for at least five (5) years; and*

NA. This Criterion is Not Applicable. While the rear parcel is zoned Agricultural (Boulder County), there is limited agricultural use on the property. All ditch companies were notified of this annexation petition.

iii. *It is physically impractical to extend to the proposed area those urban services the Town provides to all its citizens and upon the same conditions. This standard does not apply to the extent that any portion of an area proposed to be annexed is provided with, or will within the reasonably near future be provided with, service by a quasi-municipal corporation (such as a special district).*

CAN BE MET. The subject properties may receive Town Utilities and will be required to do so.

2) *No land held in identical ownership may be divided into separate parcels for annexation without written consent of the landowner unless the parcels are separated by a dedicated street, road or other public way. (This applies even when the federal government owns the land, although federal and state public lands may be ignored for purposes of contiguity.)*

NA. Both parcels are held under single ownership.

3) *No land in identical ownership that comprises at least twenty (20) acres and that has improvements with an assessed value in excess of two hundred thousand dollars ($200,000.00) for ad valorem tax purposes may be included in the annexation without written consent of the owner unless the parcel is located entirely within the outer boundaries of the Town as they exist at the time of annexation.*

NA. This Criterion is Not Applicable as the subject property is far less than twenty acres.

4) *No annexation resolution pursuant to Section 15-1-330 of this Chapter and no annexation petition or petition for an annexation election is valid when annexation proceedings have been initiated for the annexation of part of such territory by another Town. In that case, other provisions apply. See Section 31-12-114, C.R.S.*

NA. This Criterion is Not Applicable. The subject properties lie solely in the Lyons plan area per the 2012 IGA.

5) *If an annexation will result in the detachment of area from a school district and its removal to another school district, the annexation petition or petition for annexation election must be accompanied by a resolution of the board of directors of the school district to which such area will be attached, approving the annexation.*

NA. This Criterion is Not Applicable. If residential property is ever developed on-site, all referral and fees will be required by the Saint Vrain School District.

6) *The parcel annexed must not have the effect of extending the Town's boundary more than three (3) miles in any direction in any one (1) year. This three-mile limit may be exceeded if the limit would have the effect of dividing a parcel of property held in identical ownership if at least fifty percent (50%) of the property is within the three-mile limit. In such event, the entire property held in identical ownership may be annexed in any one (1) year without regard to such mileage limitation. Such three-mile limit may also be exceeded for the annexation of an enterprise zone.*

NA. This Criterion is Not Applicable. As noted, this property is contiguous to Town limits

7) *Prior to completion of any annexation within the three-mile area, the Town shall have in place a plan for that area that generally describes the proposed location, character and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities and terminals for water, light, sanitation, transportation and power to be provided by the Town and the proposed land uses for the area. Such plan shall be updated at least once annually.*

CAN BE MET. The subject properties are referenced and are further in-line with the Lyons Thrive Comprehensive Plan. Staff are currently working on updating this plan.

8) *If a portion of a platted street or alley is to be annexed, the entire width of the street or alley must be included within the area annexed.*

CAN BE MET. The portion of Highland Drive to be annexed is the entire width of the street.s

9) *The Town may not deny reasonable access to landowners or owners of easements or franchises adjoining a platted street or alley that the Town has annexed but that is bounded on one (1) or both sides by unincorporated property.*

NA. This Criterion is Not Applicable. No access will be severed as part of this request.

10) *Annexed areas will not divide tracts of land to prevent further annexation of adjoining parcels (for example, leaving a "gap" or a "strip" of land between property to be annexed and the adjoining property).*

NA. No subdivision of land has been proposed as part of this petition for annexation. As stated before this annexation will open opportunity for future annexation.

11) *The land to be annexed and the uses proposed for the land shall contribute to the orderly growth of the Town and shall generally conform to the goals and policies of the Comprehensive Plan.*

CAN BE MET. As stated before, both parcels have been within the Town's planning area for several years and have been used commercially. The redevelopment of this parcel is integral to the economic and housing development of the Eastern Corridor.

The requested zoning of CEC (Front) is consistent with the zoning characteristics of both the area and the HWY 36 Corridor. Further, both zoning proposals are consistent with the Lyons Thrive Comprehensive Plan and are the best districts under the Town's regulatory framework.

12) *Certain public facilities and amenities are necessary and must be constructed as part of any territory annexed to the Town in order that the public needs may be served by such facilities. These facilities include, but not by way of limitation, arterial streets, bridges, public parks and recreation areas, school sites, fire and police station sites and storm drainage facilities. The annexation of lands to the Town shall be shown not to create any additional cost or burden on the then-existing residents of the Town to provide such public facilities in any newly annexed area.*

PENDING. All referrals will be included in the BOT's packet. The developer will be responsible for all connections and development fees.

13) *The petitioner for annexation shall be responsible for paying the Town's full cost for processing the annexation petition, from initial discussion with the Planning Commission before submittal of the petition, through the approval and recording of the final annexation documents, unless otherwise approved by the Board of Trustees."*

WILL BE MET. All appropriate fees will be paid in full by the applicant. As required per the Town's review process an escrow account has been established to pay all associated review fees.

Zoning Designation

"For the purpose of establishing and maintaining sound, stable and desirable development within the Town, the official zoning map shall not be amended except:

1) *To correct a manifest error in an ordinance establishing the zoning for a specific property.*

NA. This Criterion is Not Applicable.

2) *To rezone an area or extend the boundary of an existing district because of changed or changing conditions in a particular area or in the Town generally.*

CAN BE MET. The requested zoning of CEC (Front) is consistent with the zoning characteristics of both the area and the HWY 36 Corridor. Further, both zoning proposals are consistent with the Lyons Thrive Comprehensive Plan.

3) *The land to be rezoned is inconsistent with the policies and goals of the Comprehensive Plan.*

NA. This Criterion is Not Applicable.

4) *The proposed rezoning is necessary to provide land for a municipal-related use that was not anticipated at the time of the adoption of the Comprehensive Plan, and the rezoning will be consistent with the goals and policies of the Comprehensive Plan.*

NA. This Criterion is Not Applicable.

5) *The area requested for rezoning has changed or is changing to such a degree that it is in the public interest to encourage development or redevelopment of the area, and the rezoning will be consistent with the goals and policies of the Comprehensive Plan.*

CAN BE MET. As stated before, both parcels have been within the Town's planning area for several years and have been used commercially. The redevelopment of this parcel is integral to the economic and housing development of the Eastern Corridor.

6) *A rezoning to a Planned Unit Development overlay district is requested to encourage innovative and creative design and to promote a mix of land uses in the development.*

NA. This Criterion is Not Applicable.

9. STAFF ANALYSIS

In General

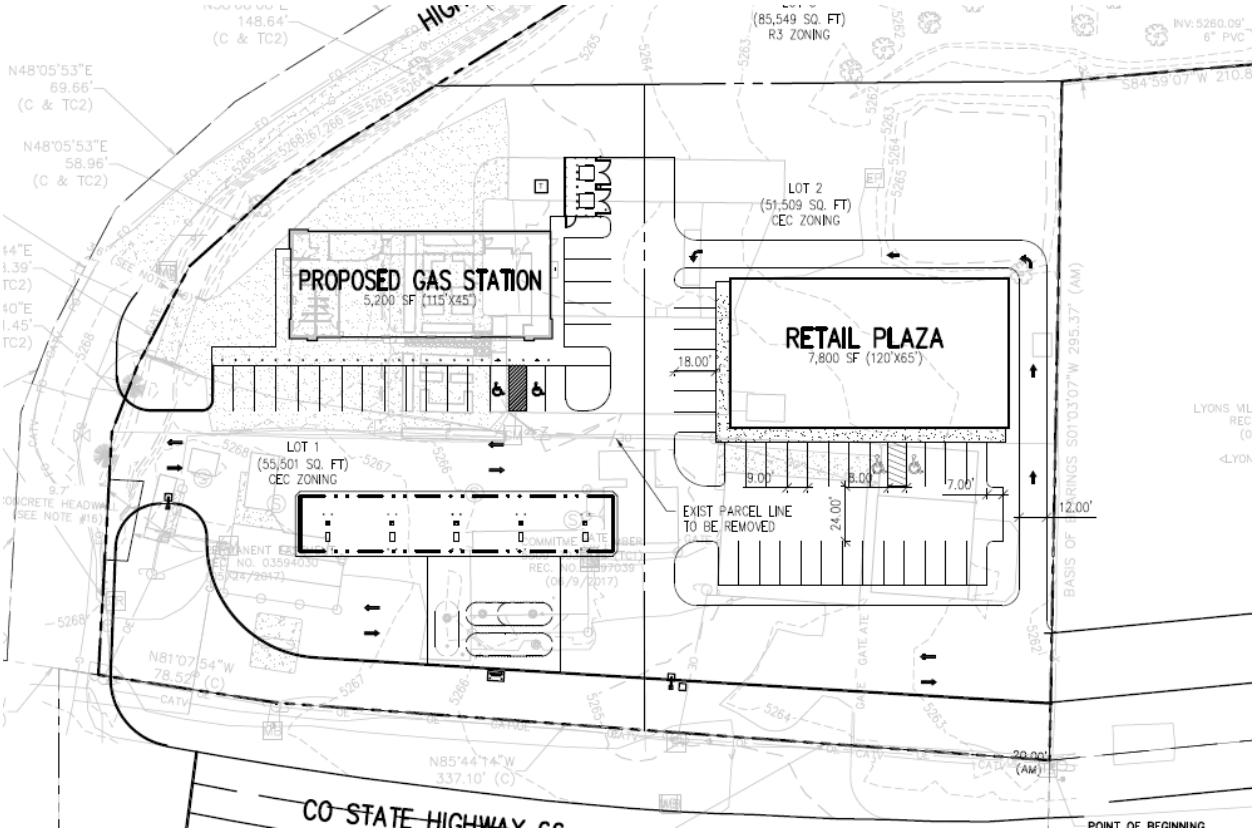
Both parcels are annexable per the LMC's applicable State Statutes and code sections. The subject parcels are also called out within Lyon's Thrive Comprehensive Plan, Future Land Use Plan, and the 2012 IGA. The request is consistent with the Town's planning efforts.

Future Planning for the Eastern Corridor (East Saint Vrain Sub-area) and Lyons Thrive

As mentioned, both the Annexation and proposed Zoning Designations conform to the Lyons Thrive Comprehensive Plan. It is important to note that the future zoning of this district is called out to be Mixed Use. Lyons Thrive states the following about said district:

> *"Primary Land Uses*
> *A mix of retail, office, restaurants, and other commercial uses which may include attached residential units such as townhomes, rowhouses, and smallscale multi-family residential buildings.*
>
> *Supporting Land Uses*
> *Light industrial, manufacturing, public facilities, civic uses, recreation, and parks. MU Density/Intensity Varies; typical building heights range from one to three stories; residential development up to 16 units per acre.*
>
> *Characteristics*
> *This category is predominantly located along Highways 36 and 66 and acts as a gateway to Lyons, with high visibility from tourists visiting Rocky Mountain National Park. A horizontal or vertical mix of uses is encouraged, particularly on larger sites. Site layout and building design should be pedestrian- and bicycle-friendly and well-connected to nearby uses and destinations. Highway 36 and 66 frontages should be reserved for commercial uses. The adaptive reuse of historic and/or vacant buildings is encouraged.*
>
> *Examples*
> *Mixed-Use areas include frontages along Highway 36, entering Lyons from the east, and areas adjacent to Downtown."*

While the Applicant has no firm plans, a conceptual plan (below) has been submitted that shows a gas station as an anchor tenant/use with a small shopping center to the east.



There was concern from the PCDC that this use would not be consistent with the future planning schematic of this sub-area, and staff shares this concern. The primary issue raised is that this use will cause an inconsistency in the future district. The same concern was mentioned about allowing for the rear property to be zoned R3.

However, no Mixed Use District currently exists, although staff is currently researching like codes and drafting a framework to start the process. Therefore, this application must be processed through the current LMC and staff supports that the proposed districts of CEC (front) and (R3) are the most appropriate designations and best align with the Future Land Use map.

Housing
R3 zoning is not common within Lyons and is limited to just a few parcels. This designation of R3 zoning offers the opportunity for the Town to bolster housing and create density which may help lead to the community's goal of creating more workforce housing. It is for this reason that staff and the PCDC support the rear lot's proposed zoning designation.

Utilities
As noted in the findings, the applicant has access to and will be required to tap into the Town's utility network.

Streets
A concern was raised by the PCDC that a possible liability of Highland Drive could be created in accepting this annexation. Highland Drive is a Boulder County-owned street, but the portion adjacent to the subject properties will be annexed. The developer will be responsible for bringing the street up to Town standards beforess acceptance.

Future Circulation
The PCDC also expressed concern that this property if developed may impact future connectivity and circulation. While no firm plans have been provided, the conceptual plan does show future connectivity to the property to the east. The applicant has also stated that both property owners have been in conversations about shared access.

Note: The closure of some curb-cuts and shared access will likely be required by CDOT as part of the Driveway/Access Permitting process when development is proposed.

Future Tax Revenue
As requested by the PCDC, staff is working to provide an estimation of tax revenue collected if these properties were annexed.

10. STAFF RECOMMENDATION

Staff recommends that the PCDC advise the BOT to approve both the Petition for Annexation and Request for Zoning Designation with one (1) Condition.

1. An Annexation Agreement shall be approved by the BOT prior to the recordation of any Annexation Documents.

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