

**Town of Lyons, Colorado
Board of Trustees
BOT Agenda Cover Sheet
Agenda Item No: XI. 6.
Meeting Date: October 21, 2024**

TO: Mayor Rogin and Members of the Board of Trustees

FROM: Cassidy Davenport, Planner I

DATE: 10/21/2024

ITEM: Discussion and Direction Regarding an Easement and Sale of the Property at 2186 Apple Valley Road

<input type="checkbox"/>	ORDINANCE
<input type="checkbox"/>	MOTION / RESOLUTION
<input checked="" type="checkbox"/>	INFORMATION

I. REQUEST OR ISSUE: Staff requests that the BOT review the attached information regarding conservation easements when considering the process for creating a conservation easement on Town-owned property at 2186 Apple Valley Road.

Note: No specific recommendations or changes are being suggested at this time.

II. PROJECT HISTORY: The Town of Lyons owns 2186 Apple Valley Road and is considering selling the parcel. The property runs along North St. Vrain Creek, and in considering future owners, the BoT is considering whether preserving public access to this creek via a conservation easement is feasible before a sale.

Before inquiring about a conservation easement, the Town of Lyons staff asked Boulder County if they were interested in purchasing the property. Boulder County is not interested at this time. Town of Lyons staff has also requested information on the process of creating an easement, the cost, and what activities can take place on a conservation easement if one is created. Boulder County provided answers to the questions, which are summarized below and in a PowerPoint Presentation:

- a. The property can have a conservation easement, and Boulder County is willing to work with the Town of Lyons. The process would likely take several months and include multiple meetings between the Town and County, including initial intent and later drafts of the easement. It would also need to go to the Boulder County Commissioners. The process ends with Boulder County holding the easement to the property and occasional visits from Boulder County to the property.
- b. The cost of a conservation easement would include closing costs, the cost of a title, and a Phase 1 Environmental Site Assessment. Costs could vary and depend on the size of the land (which is small in comparison to other conservation easements),

- who the Town hires, etc.
- c. If the drafted easement allows for these activities, the public can access the creek or fish. Conservation easements do not necessarily require that the land remain for the private use of the landowner; that is just the typical scenario where a private landowner wants to conserve their land but does not want to allow the public access.
- d. Boulder County also suggested looking into a public access easement which they believe may be able to achieve the same goals with fewer costs, etc.

III. **RELATIONSHIP WITH OTHER PLANS:**

I. "Conservation Easement" is mentioned twenty-seven (27) times in the Lyons Thrive Comprehensive Plan including the following:

- a. Goal NE-1: Promote the responsible stewardship of natural systems, processes, and resources in Lyons and the surrounding region. Policy NE-1.1: Environmentally sensitive areas Consider opportunities to restore and conserve natural features, including but not limited to mature tree canopy, native vegetation, geologic formations, and waterways, through the use of **conservation easements**, overlays, and other tools as appropriate. (See Natural Areas, Wetlands, and Waterways map, Appendix D.)
- b. Policy NE-1.2: Wildlife habitat. As development occurs, consider clustering, open space dedication, **conservation easements**, and other techniques to minimize impacts in wildlife movement corridors, riparian habitat, and areas with critical or important wildlife habitat. (See Critical Wildlife Habitats map, Appendix D.)
- c. Lyons and surrounding areas of Boulder County include many sensitive natural areas, as identified by Boulder County. The following types of sensitive natural areas have been identified within - or within the vicinity of - the Lyons Planning Area, significant natural communities, critical wildlife habitat, waterways and riparian areas, rare plant areas, and designated open space and conservation easements. (See also, Goal NE-1, NE-2, and NE-3, and accompanying policies.)
- d. Conservation Easement as a Future Land Use Category on page 69.
- e. As a section titled Conservation Easements (Overlay) starting on page 81 which shows the private properties that have entered into a deed restricted conservation easement with Boulder County.
- f. Conservation Easement on a map key on page 68, 91, 97, 103, 104, 109, 115, 119, 183, 185, 186.
- g. South St. Vrain: Ownership. 89 percent of the land is privately owned, though 17 percent of that land is under a deed-restricted conservation easement. The Town of Lyons owns a single ten-acre parcel just south of the Lyons Dog Park.
- h. Future Land Use Considerations (South St. Vrain): Conservation Easements. Private landowners are encouraged to explore conservation easements as a means to provide long-term protection of environmentally sensitive lands and wildlife corridors. Interested landowners should contact the Boulder County Parks and Open Space Department to learn more.
- i. North St. Vrain: Sensitive Lands. Future growth is limited by conservation easements, a wildlife migration corridor, archaeologically sensitive areas, steep slopes, floodplains, and a high to severe risk from wildfires.
- j. Future Land Use Considerations (North St. Vrain): • Conservation Easements. Private landowners are encouraged to explore conservation easements as a means to provide long-term protection of environmentally sensitive lands and wildlife corridors. Interested landowners should contact the Boulder County Parks and Open

Space Department to learn more.

- k. South St. Vrain Subarea: Development capacity. Development in the South St. Vrain subarea is limited by the floodplain, wildlife corridors, open space, conservation easements, and deed-restricted properties. The LPPA Master Plan estimated that 11 acres of land was developable and out of the floodplain. Development potential is further limited by the lack of water and sewer service in this area. If future development were to be pursued in the South St. Vrain subarea the LPPA Master Plan identified opportunities for up to 120 homes through the construction of small lot residential units in areas with the least impediments and dispersed accessory dwelling units on lots with existing homes.
 - l. Natural Environment, Sensitive Natural Areas. Open Space, Park Land, and Conservation Easements. These areas are owned by Boulder County, the Town of Lyons, or other public entities, and/or have conservation easements that limit future development.
- II. "Conservation Easement" is mentioned one time in the Lyons Municipal Code although it is in reference to land moving away from a conservation easement rather than towards it.
- a. Sec. 16-15-70. – Zoning modifications to (POS) Parks and Open Space District and conservation easement-protected land to be approved by voters.
 - i. No ordinance revising the zoning of any portion of land currently zoned as Parks and Open Space District (POS) to any different zoning shall be effective unless and until the ordinance is referred to the registered electors of the Town at a regular or special election and such ordinance is approved by a majority of the registered electors voting thereon.
 - ii. No POS-zoned or unzoned Town property that is restricted from commercial or residential development by conservation easement shall be transferred to zones which permit such development unless and until the ordinance is referred to the registered electors of the Town at a regular or special election and such ordinance is approved by a majority of the registered electors voting thereon.
 - iii. The following rezoning shall be exempt from this Section: Any rezoning of Parks and Open Space District (POS) property smaller than one-half acre (.5) acres in size; provided that simultaneous or serial rezoning of two (2) or more properties that together comprise a parcel of one-half (.5) or more acres in size shall not be exempt from this Section.

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III. RECOMMENDED ACTION / NEXT STEPS: Staff recommends that the BOT review all relevant information to decide whether to pursue a conservation easement or consider alternatives to preserving public access to the creek.

IV. FISCAL IMPACTS: The exact impact is unknown at this time; it varies depending on how the Board decides to preserve public access.

V. LEGAL ISSUES: All measures to preserve access will likely require the assistance of lawyers and legal experts.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES: Environmental issues are possible, given that this is about preserving access to a creek, how people treat the creek in the future, and

what activities are happening on or near it. The concerns about the creek will be present whether or not the conservation easement occurs.

VII. SUMMARY AND ALTERNATIVES: The BOT could advise Town Staff to pursue or not pursue the conservation easement or to continue investigating alternative ways to preserve access, such as a public access easement.