

**TOWN OF LYONS,
COLORADO**

ORDINANCE NO. 1016

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF LYONS APPROVING INITIAL ZONING OF PROPERTY KNOWN AS THE PLANET BLUEGRASS FARM ANNEXATION FROM BOULDER COUNTY RURAL RESIDENTIAL TO TOWN OF LYONS COMMERCIAL ENTERTAINMENT (CE-1), SUBJECT TO THE TERMS AND CONDITIONS OF THE ANNEXATION AGREEMENT BY AND BETWEEN THE TOWN AND PLANET BLUEGRASS ANNEX, LLC, AND AMENDING THE OFFICIAL ZONING MAP OF THE TOWN OF LYONS

WHEREAS, Planet Bluegrass Annex, LLC has filed that certain petition for annexation with the Town of Lyons (the "Petition") requesting the annexation of certain property commonly known as the Planet Bluegrass Farm annexation, including certain rights-of-way as more particularly described in the Petition, and which property is described with particularity in the annexation map on file with the Town Clerk and in **Exhibit 1** attached hereto and incorporated herein by reference (the "Property"); and

WHEREAS, on Monday, May 15, 2017, following the conclusion of a duly noticed public hearing, the Board of Trustees of the Town of Lyons adopted Ordinance No. 1014 (the "Annexation Ordinance") approving the annexation of the Property into the Town of Lyons pursuant to and in accordance with those certain terms and conditions set forth in the Annexation Agreement by and between the Town and Planet Bluegrass Farm, LLC, a copy of which is on file with the Town Clerk's Office (the "Annexation Agreement"), and subject to the requirement that the Annexation Ordinance be referred to the registered electors of the Town in accordance with applicable provisions of the Lyons Municipal Code; and

WHEREAS, as required by C.R.S. § 31-12-115(2), property annexed to the Town must be zoned pursuant to the Town's zoning regulations within ninety (90) days after the effective date of the Annexation Ordinance; and

WHEREAS, at the same public hearing held and concluded on May 15, 2017, the Board of Trustees considered establishing the initial zoning for the Property under Section 16-3-220 of the *Lyons Zoning Regulations*, specifically, the Board of Trustees considered rezoning the Property from Boulder County Rural Residential (RR) to Commercial Entertainment (CE-1) under the Town's zoning regulations, subject to the applicable terms and conditions set forth in the Annexation Agreement; and

WHEREAS, the Town's Planning and Community Development Commission (PCDC) considered the proposed initial zoning of the Property at a duly noticed public

hearing held on April 24, 2017, and subsequently forwarded its favorable recommendation to Board of Trustees; and

WHEREAS, public notice has been properly given of the proposed initial zoning of the Property by publication, in the *Lyons Recorder*, a newspaper of general circulation within the Town of Lyons, by posting of the Property, and notice has been given in accordance with applicable requirements of the *Lyons Zoning Regulations*; and

WHEREAS, a public hearing on the proposed initial zoning of the Property was held before the Board of Trustees at 432 5th Avenue, Lyons, Colorado, at which time evidence and testimony were presented to the Board of Trustees concerning the proposed initial zoning of the Property; and

WHEREAS, the administrative record for this case includes, but is not limited to, the Town of Lyons Comprehensive Plan, the Lyons Primary Planning Area Master Plan, and all other applicable ordinances, resolutions and regulations, together with all Town of Lyons policies that relate to the subject matter of the public hearing, reports, studies and all other submittals of the property owner, any evidence or correspondence submitted by members of the public at the public hearing, and the staff files and reports of the Town's planner pertaining to this application; and

WHEREAS, pursuant to Article 23 of Title 31, C.R.S., as amended, Board of Trustees has determined that the proposed zoning of the Property, subject to the conditions set forth herein, furthers the public health, safety, convenience and general welfare of the community; conforms with the Town's Comprehensive Plan and LPPA Master Plan, constituting the community's three-mile plan, as amended and updated; is compatible with surrounding uses; and otherwise meets the applicable criteria set forth in the *Lyons Zoning Regulations*; and

WHEREAS, approval of this Ordinance on first reading is intended only to confirm that the Board of Trustees desires to comply with state law and the *Lyons Zoning Regulations* by setting a public hearing in order to provide the owner of the Property and the public an opportunity to present testimony and evidence regarding the application. Approval of this Ordinance on first reading does not constitute a representation that the Board of Trustees, or any member of the Board of Trustees, supports, approves, rejects, or denies the proposed initial zoning.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF LYONS, COLORADO, as follows:

Section 1. Recitals Incorporated. The recitals contained above are incorporated herein by reference and are adopted as findings and determinations of the Board of Trustees.

Section 2. Initial Zoning of Property Approved. The Board of Trustees hereby grants and approves zoning of the Property from Boulder County Rural Residential to Commercial Entertainment (CE-1), and specifically subject to the terms and conditions of the Annexation Agreement, including the Keynotes to Conceptual Plan for the Planet Bluegrass Farm Annexation (attached as *Exhibit B* to the Annexation Agreement) and the Amendable Letter of Understanding (PBG Farm Annexation) (required by the CE-1 zone district and attached as *Exhibit C* to the Annexation Agreement). To the extent of any conflict between the standards and regulations of the CE-1 zone district, as set forth in Section 16-3-220 of the Lyons Municipal Code, and the Annexation Agreement, Board of Trustees specifically intends that the provisions of the Annexation Agreement shall control.

Section 3. Amendment of Official Zoning Map. Subject to this Ordinance becoming effective in accordance with Section 6 below, the Official Zoning Map of the Town of Lyons shall be amended to conform to and reflect the Property's Commercial Entertainment (CE-1) zoning. Town Staff is directed to change the zoning of the Property on the Town's Official Zoning Map and to make any technical corrections to the Official Zoning Map necessitated by the initial zoning of the Property established by this Ordinance. The Official Zoning Map shall not be changed or amended unless and until a majority of the registered electors of the Town voting at the special mail ballot election have approved the annexation of the Property to the Town.

Section 4. Severability. Should any one or more sections or provisions of this Ordinance enacted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance, the intention being that the various sections and provisions are severable.

Section 5. Repeal. Any and all ordinances, resolutions, or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance, resolution, or code or part thereof shall not revive any other section or part of any ordinance, resolution, or code provision heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance or code hereby repealed prior to the taking effect of this ordinance.

Section 6. Effective Date. Pursuant to C.R.S. § 31-11-111(2) and Section 15-1-340 of the Lyons Municipal Code, the Board of Trustees has submitted Ordinance No. 1014 (the "Annexation Ordinance") to a vote of the registered electors of the Town of Lyons. The effective date of this Ordinance shall be stayed and this Ordinance shall only be effective upon the final approval of the Annexation Ordinance by a majority of

the registered electors of the Town voting at the special mail ballot election ("Effective Date").

INTRODUCED AND PASSED ON FIRST READING THIS 1ST DAY OF MAY, 2017.

**INTRODUCED, PASSED, ADOPTED AND ORDERED PUBLISHED THIS ____ DAY
OF MAY, 2017.**

TOWN OF LYONS, COLORADO

Connie Sullivan, Mayor

ATTEST:

Debra K. Anthony, Town Clerk

Exhibit 1

A portion of the Northwest Quarter, Section 18, Township 3 North, Range 70 West of the 6th P.M., described as follows:

Beginning at a point on the West line of said Northwest Quarter, said point being a stone with a cross chiseled on top, from whence the West Quarter corner of said Section 18 bears South a distance of 1313.65 feet; thence South 86°20' East a distance of 396.00 feet; thence South a distance of 1096.47 feet to a point on a fenceline, said fenceline being the Northerly right of way boundary of the Old North St. Vrain Road; thence along said boundary fenceline the following courses and distances: South 80°56'15" East a distance of 97.07 feet; North 88°23'30" East a distance of 214.50 feet, North 71°31' East a distance of 101.32 feet, North 60°27'18" East a distance of 140.74 feet, North 45°05' East a distance of 286.37 feet, North 53°28'24" East a distance of 130.58 feet, North 59°48'08" East a distance of 155.21 feet, North 60°18'57" East a distance of 336.15 feet to a point on the Southerly right of way boundary of Colorado State Highway No. 66, thence along said right of way boundary 0.5 feet South of the right of way fenceline and approximately parallel to said fenceline, the following courses and distances; North 37°38'30" West a distance of 103.72 feet to a fence corner on the Northerly bank of North St. Vrain Creek, North 37°38'30" West a distance of 203.92 feet, North 41°56'30" West a distance of 121.28 feet, North 49°45' West a distance of 191.84 feet, North 58°39'30" West a distance of 160.58 feet, North 68°12' West a distance of 190.08 feet, North 77°09'30" West a distance of 137.92 feet, North 84°02' West a distance of 140.29 feet, South 89°26' West a distance of 121.08 feet, South 82°18'30" West a distance of 136.02 feet, South 76°31'10" West a distance of 145.00 feet, South 74°05'30" West a distance of 268.02 feet to a point on the West line of the aforementioned Northwest Quarter of Section 18; thence South a distance of 25.59 feet to the Point of Beginning.

County of Boulder,

State of Colorado.

Excepting therefrom that portion of subject property deeded to Department of Transportation, State of Colorado by Warranty Deed recorded April 7, 2006 at Reception No. 2768625.